

Notifying planning decisions

Guidelines for local councils and other consent authorities

June 2018

Improving confidence in the planning system

Our planning system continues to improve as we implement updates to the *Environmental Planning & Assessment Act 1979* (EP&A Act). As part of recent improvements to the EP&A Act, from 1 July 2018 all consent authorities need to publicly notify their determinations. These guidelines are primarily aimed at local councils but may also be used by other consent authorities.

New requirements for publicly notifying determinations

From 1 July 2018 consent authorities under the EP&A Act need to publicly notify their decisions, as part of community participation reforms to simplify and increase transparency in the planning system. Section 2.22 establishes mandatory community participation requirements for agencies with planning approval functions under the EP&A Act, and Schedule 1 requires detail the following decisions need to be publicly notified:

- the determination of an application for State significant infrastructure (SSI) or an application to modify an SSI approval
- the determination of an application for development consent or exhibited modification application, including for State significant development (SSD)
- the granting of an approval, or the decision to carry out development, by a determining authority where an environmental impact statement was publicly exhibited under Division 5.1 of the EP&A Act.

For all of the above decisions, the following details are to be included in a public notification (under Schedule 1, clause 20(2)):

- the decision
- the date of the decision
- the reasons for the decision (having regard to any statutory requirements applying to the decision)
- how community views were taken into account in making the decision.

Existing notifications to applicants continue

Consent authorities are already required to notify applicants of the determination of their development applications (under section 4.18) and the determination of their application to modify a development consent (under clause 122 of the *Environmental Planning and Assessment Regulation 2000*). These provisions continue to apply and are not affected by the new requirements.

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Enhancing trust in the planning system

The new requirements are consistent with the community participation principles set out in section 2.23(2) of the EP&A Act and will enhance transparency by:

- explaining how decision-makers address key considerations in an assessment report
- summarising the reason(s) for why a development proposal has been refused
- explaining how the decision-makers have taken submissions into account in making their decision and in any conditions imposed.

Options for implementing notification requirements

The EP&A Act does not prescribe a form for consent authorities to notify determinations, only the content of what needs to be notified to the public.

This requirement is intended to make planning decisions more accessible to key stakeholders as well as the wider community. It is important to publish decisions in plain English and ensure there is one set of reasons on record for every decision, and that decisions are easy to access and published in a timely manner. It is also good practice to include details about who made the decision, such as whether a council decision was made under delegation.

Consent authorities have discretion to notify decisions according to their own established practices and to avoid duplication. Whether to publish a standalone document or include the new requirements in existing documentation may depend on matters such as whether the new requirements can readily integrate into existing templates and processes, how simple or complex the matter is, and whether or not the proposed development meets relevant development controls.

Consent authorities may choose to modifying existing templates such as notices of determination or the minutes of their meetings. Alternatively a format such as a “Statement of Reasons” could be used to publish decisions on the consent authority’s website, which captures all the information required to be notified. An example of this is the statement of reasons that has been used by the Sydney district and regional planning panels since late 2013. These can be found on the planning panels website.

Links to community participation plans

As well as publicly notifying reasons for planning decisions, all councils and other planning authorities will need to prepare a Community participation plan. This plan will clearly explain how and when the community will be involved when the public authority is exercising planning functions.

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A community participation plan may go into more detail about how the public authority will publish planning decisions, and may explain what details will be published depending on factors such as the complexity of the decision or the degree of community opposition.

Find out more

To find out more please contact the Department of Planning and Environment by:

- calling us on 1300 305 695 or
- emailing the Legislative updates team at legislativeupdates@planning.nsw.gov.au.