



31 March 2016

Executive Director, Resource Assessments & Business Systems
Department of Planning and Environment

On line submission at www.haveyoursay.nsw.gov.au

Dear Sir or Madam,

Re: Community Consultative Committee Guidelines: State Significant Projects

The Southern Sydney Regional Organisation of Councils (SSROC) is an association of sixteen Councils in the area south of Sydney harbour. SSROC provides a forum for the exchange of ideas between our member Councils, and an interface between governments, other Councils and key bodies on issues of common interest. We facilitate collaboration between councils on joint ventures, procurement, and projects including advocacy.

Together, our member Councils cover a population of over 1.6 million, or one third of the population of Sydney. As a result our member Councils are involved with a wide range of Consultative Committees and their governance.

SSROC has reviewed the draft Community Consultative Committee Guidelines ('the Guidelines') from the perspective of community engagement, as a Committee Consultative Committee is primarily a tool with which to engage with members of the community. Whilst the intentions are admirable, the key gap in the document appears to be a lack of clarity for potential members of a Committee in knowing how their input will be used and responded to, if at all.

As these Guidelines are for people who might be interested in putting themselves forward for a role on a Committee as well as Government and Commercial organisations, SSROC would have expected to see the following information headings on the first page:

- Purpose of this document;
- Who these Guidelines are for; and
- How, when, and why to use them.

The Guidelines would benefit from a small glossary; remembering that the reader may not be familiar with terms used. Whilst a footnote is included to explain the term 'the Company', other terms that require explanation in context are: 'stakeholder', 'the community', 'recognised environmental organisation' and 'proponent'.

SSROC would welcome an introductory statement that the NSW Government is committed to the principle of community participation in decision-making, perhaps linking to the International Association of Public Participation www.iap2.org.au, whose public participation spectrum (see figure 1 below) is particularly pertinent to these Guidelines.

IAP2'S PUBLIC PARTICIPATION SPECTRUM

The IAP2 Federation has developed the Spectrum to help groups define the public's role in any public participation process. The IAP2 Spectrum is quickly becoming an international standard.

		INCREASING IMPACT ON THE DECISION 				
		INFORM	CONSULT	INVOLVE	COLLABORATE	EMPOWER
PUBLIC PARTICIPATION GOAL		To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.	To obtain public feedback on analysis, alternatives and/or decisions.	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.	To place final decision making in the hands of the public.
	PROMISE TO THE PUBLIC	We will keep you informed.	We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision. We will seek your feedback on drafts and proposals.	We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.	We will work together with you to formulate solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.	We will implement what you decide.

Figure 1 IAP2's Public Participation Spectrum

source: International Association for Public Participation - IAP2 Federation available: <http://www.iap2.org.au>, accessed: 2 March 2016

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The Guidelines clearly lay out tasks and procedures. However, most importantly, they are not clear on what decision-making powers, *if any*, a Consultative Committee or a member of that Committee has. The essential key element about the decision-making is missing. As these are Guidelines for state significant projects, and how they proceed, any potential participant in a Committee needs to know that the advice they give, and expertise that they share will be acted upon or even noted.

The Guidelines contain a lot of detail on procedures for the Committee, but the roles and responsibilities of the Company are very brief and only cover process. There appears to be no requirement for any advice or guidance of the Committee to be acted upon, responded to or even noted by the Company. SSROC urges the Department of Planning and Environment to explicitly set out the purpose of the Committee and the requirement for the Company to respond and act upon its input.

The Guidelines would benefit from a reminder of the consequences of not following them.

References in the following more detailed comments are to the Community Consultative Committee Guidelines, State Significant Projects, Final Draft February 2016.

Page 2: Introduction

This section would benefit from a second paragraph in the introduction explaining why the Department is committed. SSROC suggests that that this commitment should be driven by the aim of achieving the best possible outcomes for the environment and current and future generations.

Second paragraph bullet points uses terms of community engagement ‘informed’ ‘consulted’ and even ‘involved’ as per the IAP2 framework. But the Guidelines themselves do not follow through so they will not “ensure that the community and stakeholders” are informed consulted and involved.

Page 2: Purpose of the Committee

This section clearly states that the Committee is not a decision-making body and is advisory only. But it does not say how that advice has to be treated or responded to. Therefore there is no clear reason to participate in a Committee. SSROC suggests the Guidelines should clearly state how the Committee’s advice is to be used.

Page 2: Column 2 “The Committee may:”

There are 10 things that a Committee ‘may’ do: this is weak and should be strengthened. ‘May’ implies that the Committee also may not do these things, which leaves it potentially lacking purpose. Subject to the Guidelines being altered to state how the Company must use the Committee’s advice, SSROC would prefer to see these items listed as responsibilities or terms of reference. But the Guidelines should also note that the level of effort involved in each of the 10 items will vary depending upon the project and the attitude of the community towards it.

Page 3: Column 2 – Establishment of the Committee”

First three paragraphs provide very useful context. However, from a community engagement perspective the model put forward in the Guidelines is one-way: it is at the most basic end of the public participation spectrum, and SSROC would strongly recommend that the Department move towards empowering the community. The Company’s responsibilities are not revealed until page 9, and are minimal, suggesting only token community input.

The final two paragraphs contain very clear high-level information about the Government’s decision to establish a Committee. These paragraphs should stand alone and precede the long section on purpose of a Committee. There is also ambiguity in “The Department will decide when the ... Committee should be established” since it is not clear whether this is simply a question of timing or whether there is an option for no Committee to be established. This sentence should be re-worded to eliminate this ambiguity.

Page 3: Column 2 – Members of the Committee

We note that representatives of environmental groups are included. In light of issues that a Committee might be addressing, SSROC suggests that the Government considers “cultural, environmental or other interest groups”.

Page 4 – Process charts.

The selection process charts on this and the following page are useful, and could perhaps include some guidance on timing, as there are several potential time impediments to establishing the Committee.

Page 5 – Column one – “The selection criteria for environmental representatives”
The requirement for “ability to represent the environmental concerns of the broader community” is likely to be difficult to achieve and open to challenge. It is like saying a proponent has to prove they have the ability to represent the concerns of all developers.

SSROC also urges that cultural and other (such as a health-related matter) organisational representation should be allowed to participate.

Page 6 – Column two – Item 6

SSROC suggests that ‘community complaints’ be broadened to ‘community and/or industry or government complaints’ so that the Company is required to report on those as well.

Page 7 – Column one - Conduct of Committee Members

SSROC would suggest that, unless the Department is providing training or documentation on ‘good meeting practice’, the first sentence should be deleted. The requirement is also covered in the next sentence and in the Code of Conduct.

Page 7 - Column two. Verbal warnings

This section could be improved by stating who issues the warnings and what right of reply the individual receiving the warning.

Page 8 – Column one. Declarations

This section could be improved by stating that the declaration should be made to the Independent Chairperson (as stated on the form in the toolkit).

Page 8 – Column one. Remuneration

This section would benefit from a reference to a reputable source for appropriate rates of remuneration.

SSROC notes and welcomes the requirement for reporting that a fee is being paid; better practice would be to report the total of fees and expenses, particularly as the Guidelines are silent on the amount that would be considered reasonable for a Chairperson to be perceived as independent.

Page 8 - Column two. Responsibilities of the Company

SSROC strongly recommends that the Guidelines should clearly state the Company’s responsibility to respond to the advice of the Committee and to its questions. In particular, the Company should be required to justify any rejection of advice, or failure to follow advice provided. They appear to have a responsibility only to ‘consult with’ but not to take on board any advice. This is very much as the weak end of the IAP2 spectrum, and SSROC urges the Department to move towards the stronger end and empowerment of the community.

Page 9, “Communication with the broader community”.

Only the Chair can speak publicly on behalf of the Committee, and may be remunerated for doing so. Again, while SSROC welcomes the requirement for the payment of a fee to be reported: better practice would be to report the total value, particularly in relation to the independent Chairperson.

SSROC appreciates the opportunity to comment on these Guidelines and the Government’s stated commitment to encouraging strong engagement on state significant projects. However SSROC suggests that the Guidelines in their current form suffer from a lack of clarity about decision-making.



Please note that due to the timing of this consultation, it has not been possible for this submission to be endorsed at a formal meeting of SSROC Delegates. Should any issues arise as a result of this that require alternation to the content of this submission, I will contact you.

For any enquiries regarding this submission, please feel free to contact me or Helen Sloan, Program Manager SSROC on 02 8396 3800 or email ssroc@ssroc.nsw.gov.au

Yours sincerely,

A handwritten signature in black ink that reads 'Namoi Dougall'. The signature is written in a cursive, flowing style.

Namoi Dougall
General Manager
Southern Sydney Regional Organisation of Councils