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If this document becomes inconsistent with legislation and changes in Council processes result, then the legislation and updated Council processes will prevail.

1. Community participation

Introduction

Blue Mountains City Council (BMCC) acknowledges the contribution community participation makes to delivering better planning results for the public. The public includes anyone who is affected by the planning system and includes individuals, community groups, peak bodies representing a range of interests, businesses, local government and State and Commonwealth government agencies.

The CPP is designed to make participation in planning clearer for the public. It does this by setting out in one place how and when the public can participate in the planning system, and by establishing participation objectives used to guide the approach to community engagement.

The Community Participation Plan (the CPP) describes how the public can participate in land use planning functions undertaken by BMCC, and satisfies the requirements of Division 2.6 Community Participation of the *Environmental Planning and Assessment Act 1979* (the Act). This section applies to the exercise of planning functions by the Council (and its delegates) including the Blue Mountains Local Planning Panel.

The CPP does not outline engagement strategies for the delivery of other Council services, functions or infrastructure. Community engagement on these activities is developed considering Council's Community Consultation Policy (adopted by Council in 2009 and under current review).

This CPP applies to the whole local government area and incorporates the notification requirements for development applications, currently contained in Blue Mountains Development Control Plan 2015 (for land within Local Environmental Plan 2015 (LEP 2015)) and the Better Living Development Control Plan (for land deferred from LEP 2015).



Integrated planning and reporting

This initial CPP will stand alone and will be incorporated into Council's Community Strategic Planning framework, as part of a future review of Community Engagement Strategy.

Objectives

The objectives were developed having regard for the community participation principles set out in Section 2.23(2) of the Act. In relation to Council's planning functions, the CPP has the following objectives:

- Inclusive participation that actively seeks representative public views on planning matters
- Accessible information that is easy to understand, avoids the use of jargon, and informs the public about planning matters that affect it
- Respectful engagement processes that acknowledge peoples' differences
- Early participation and consideration of public views in strategic planning
- Planning decisions that are open and transparent, with reasons for decisions given and explanation of how public views were considered
- The proponent for major development consults with affected people prior to lodging an application.

The participation methods outlined in this section are tailored to Council's planning functions, and the significance and likely impact of the exercise of different functions. There is a range of participation processes that vary how people will be informed, the way people can participate, and the time allocated for participation.





Land Use Planning Functions

Council's planning functions are principally defined by the *Environmental Planning and Assessment Act 1979*, and broadly categorised as policy/plan making or development/ environmental assessment.

Policy/Plan making

This function is informed by state planning policies and the strategic direction of the Blue Mountains Community Strategic Plan. Strategic policies and plans generally focus on guiding longer-term development, and include (beyond this CPP):

- **The Local Strategic Planning Statement:** this provides a clear connection between the Blue Mountains Community Strategic Plan, state plans and policies (including the Western City District Plan) and the Blue Mountains Local Environmental Plan, and sets to strategic direction for land use in the Blue Mountains.
- **Local Environmental Plan:** The local environmental plan provides local planning laws and specifies what development can take place, and the scale of that development, by location.

Planning proposals that are prepared to amend the local environmental plan and are subject to a gateway determination.

- **Development Control Plan:** The development control plan provides local guidelines to facilitate development permitted by the local environmental plan, encourage preferred development outcomes, and manage potential impacts.
- **Developer Contributions Plans:** Contribution plans levy development to fund enhanced public facilities.

Development Assessment

This function is primarily informed by the *Environmental Planning and Assessment Act*, state planning policies, the Blue Mountains local environmental plans and Development Control Plans. It involves the assessment of proposed development to use land, erect a building or undertake works. This section relates to public participation in regard to:

- Development applications for proposals that are required to obtain development consent.
- Applications to modify a development consent. There are three types of modification application (as listed under section 4.55 of the *EP&A Act*):
 - Involving minor error, misdescription or miscalculation
 - Involving minimal environmental impact.
 - Other modifications.
- A request for a review of determination in regards to a development consent
- Environmental assessments under Part 5 of the *EP&A Act*. These are undertaken for development that does not require development consent.



2. Exhibition timeframes

Protocols

- Council will publish on Council's website, plans and supporting documents lodged and approved as part of a development application.
- Relevant documentation will be available for viewing online during the development application notification period under the 'Applications on exhibition' section of Council's website.
- BMCC will exhibit a draft plan or development proposal for the specified minimum timeframe, and may extend the exhibition period if the matter is significant.
- BMCC may vary the consultation approach and timeframe for a draft plan based on the complexity of the draft plan and its potential impact.
- BMCC may increase the notification period to 30 calendar days for exceptionally complex development proposals.
- The notification period will apply from the date on which the notice was first published in the local newspaper.
- Timeframes are in calendar days and include weekends.
- A notification period will not close on a weekend or public holiday.
- Consultation and notification will not commence or end in the Christmas and New Year period (20 December to 10 January) or on a weekend or public holiday. A notification that encompasses this period will be extended by 21 days.



Timeframes

The *Environmental Planning and Assessment Act 1979* specifies mandatory exhibition times and procedures for plan making and some development applications as shown in the following tables.

Table 1: Minimum exhibition timeframes for plan making

Draft community participation plan	28 days
Draft local strategic planning statement	42 days – unless a shorter period is required to meet a legislated deadline
Planning proposal for local environmental plans subject to a gateway determination	28 days—unless a longer or shorter period is specified in a gateway determination (minor or low impact)
Planning proposal for reclassification	28 days
Draft development control plans	28 days
Draft contributions plan	28 days

Table 2: Minimum exhibition timeframes for development applications

Application for development consent (other than for complying development certificate, designated development or advertised development)	14 days
Nominated integrated development where an approval is required under s 58 of the <i>Heritage Act 1977</i> , ss 89, 90, 91 of the <i>Water Management Act 2000</i> or ss 43(a), 47 and 55 <i>Protection of the Environment Operations Act 1997</i> .	30 days
Application for designated development	30 days
Application for threatened species development	30 days
Application for Class 1 aquaculture development	30 days
Environmental impact statement obtained under Division 5.1	28 days

Table 3: Other exhibition timeframes

Revised plans—prior to determination	14 days
Application for review of consent	14 days
Application for modification of consent that is required to be exhibited by the regulations	14 days

3. Notification

Protocols

Written notice

- A written notice will be forwarded to the land owner at the address shown on the Council's ownership records at the date the notification letter was generated.
- If a notification letter is returned, Council is considered to have fulfilled its obligations.
- For the purpose of written notification:
 - Where the land is a lot within the *Strata Titles Act*, *Strata Titles Leasehold Act* or *Community Development Act*, a written notice to the Body Corporate is taken to be a written notice to the owner of each lot.
 - If the land is owned by more than one person, a written notice to one owner is taken to be a written notice to all the owners of that land.
 - The notice sent to the land owner will be at the address shown on Council's ownership records at the date the notice was generated.

Published notice

- A published notice (where required) will be included in the local paper as soon as practical after a development application is lodged.

Other participation channels

In addition to the basic notification, Council may communicate the exhibition of a draft plan through the following means, as appropriate:

- Social media posts and conversations
- Rates newsletters
- Letterbox/public place flyer
- Council email banner
- Public displays

Council may use a range of the following consultation methods to encourage and enable participation:

- Market research
- Citizen jury
- Workshops and focus groups
- Public meetings and information sessions
- Discussion papers
- Online via Council's Have Your Say website

Draft plans

BMCC will:

- Place a public notice in a local newspaper of the places, dates and times for inspection, and specifying the period during which submissions may be made
- Publicly exhibit a copy of the draft and a copy of any supporting documents on the dates and during the times set out in the notice
- BMCC may write to people who it considers may be directly affected, because of the nature or potential impact of the proposal, and if it is practical to carry out such notification.

Development applications

In relation to development applications (other than advertised or designated development applications) BMCC will:

- Give written notice to the owners of affected and/or adjoining land (refer to definition of 'adjoining' at the end of the CPP) unless:
 - The application is for internal works in an existing building and there will be no change or external impact as a result of that application;
 - The application involves the demolition of a structure (other than a heritage item);
 - It is a strata application involving the adjustment of boundaries;
 - In the opinion of Council, it is considered that the enjoyment of the adjoining land will not be detrimentally affected (refer to definition of 'affected').
- Publish a notice in the local newspaper where:
 - The application is for a significant development that is not expected to occur with any frequency in that land use zone;
 - The application is for a non-residential use, other than where the application comprises: ancillary works, change of use; first use or similarly minor works;
 - The application is for a multi residential development (including villas, townhouses) other than where the application comprises ancillary or similarly minor works;
 - More than 5 additional lots are proposed.
- Erect a site notice containing the same written information as the written notice.

Designated development and advertised development

- Council will give written notice to those public authorities that Council considers may have an interest in an application (other than concurrence authorities or other approval authorities).
- In the case of an application for advertised development (nominated integrated development, threatened species development and Class 1 aquaculture development) written notice will be given to such other persons as appear to own or occupy land, the use or enjoyment of which, in Council's opinion, may be detrimentally affected if the designated development is carried out. Where the area of affectation is large Council will advertise in the local press in lieu of individual notification for other than the properties in the immediate vicinity.

Amendment after notification

- Council will not re-notify an application that has been amended prior to determination, where in the opinion of Council, the amended, substituted or later application:
 - differs only in minor respects from the original application; or
 - is of a lesser impact; or
 - addresses impact issues.
- Such an application will be referred to as a replacement application.
- Where re-notification occurs, the application will be notified to any person who made a submission in respect of the original application, and to the owners of land that in the opinion of Council, could suffer increased adverse impacts as a result of the proposed amendment.

Review of determination & revocation of consent

- Revocation of consent
 - Council will notify any person who it considers would be adversely affected by the revocation, prior to the making of any such decision. The time period for notification will be determined on the basis of the revocation being considered.
- Review of determination
 - The Council will not notify an application seeking a review of determination except where an applicant proposes to make amendments to the development and such amendments are, in the opinion of the Council, likely to increase the environmental impacts of the development.
 - In these cases the application will be notified to any person who made a submission in respect of the original application, and to the owners of land, who in the opinion of Council could suffer increased adverse impacts as a result of the proposed amendment.
 - A notification period of 14 calendar days will apply.

Modifications

- Modification involving a minor error, misdescription or miscalculation - no notification
- Modification involving minimal environmental impact - no notification required unless the original consent was issued by the Court.
- All other modifications - notified as follows:

Designated development and other notifiable development

In the case of designated development and other notifiable development, a notice of the proposed modification will be:

- Published in a local paper
- Forwarded to any persons who made a submission in respect of the original application
- Forwarded to the owners or occupiers of land, who in the opinion of Council, could suffer increased adverse impacts as a result of the proposed amendment.



4. Notification content

Draft plans

All written notices for draft plans will include:

- A description of the draft that includes objectives and intended outcomes
- Identification of any land/stakeholders directly affected by the draft
- Contact details for inquiries
- Contact details for delivery of submissions
- In relation to local environmental plan amendments, confirm whether delegation for making the plan has been issued to Council.

Development applications

The written and published notice will contain:

- A description of the land (including the address) on which the development is proposed to be carried out;
- The name of the applicant and the name of the consent authority;
- A description of the proposed development;
- A statement that the application and the documents accompanying that application may be inspected on Council's website during the notification period;
- The dates of the notification period and a statement that any person may, during the notification period specified, make a written submission.
- The written notice shall also contain an A4 notification plan showing the elevations and site plan.

In the case of an application for integrated development, the following additional information will be included in the written and published notice:

- A statement that the development is nominated as integrated development;
- The approvals that are required and the relevant approval bodies for those approvals.

In the case of an application for designated development, the following additional information will be included in the written and published notice:

- A statement that the proposed development is 'Designated' development.

A notice for designated development will:

- Be published on at least two occasions
- Appear across two or three columns in the display section to the newspaper
- Be headed in capital letters and bold type "DEVELOPMENT PROPOSAL".

The information contained in any written or published notice for a modification to designated development will include:

- A brief description of the development consent, the land to which it relates and the modification sought
- A statement that written submissions concerning the proposed modification may be made to the Council within the time period specified.
- The notification period for a modification application relating to designated development is 30 calendar days.
- The notification period for a modification associated with other notifiable development is 14 calendar days.

5. Submissions

General advice – Development Applications

In determining an application the Council forms a decision based on the overall merits of the proposal. An extensive range of planning matters are considered and these are outlined in planning instruments such as Blue Mountains Local Environmental Plan 2015 and relevant State and/or Regional Environmental Plans.

Submissions, referral comments from agencies and compliance with planning instruments form part of the assessment.

In making a submission, view the development proposal in the context of the character of the streetscape. Consider amenity impacts such as accessibility, privacy and overshadowing, potential loss of views, landscaping, stormwater management, traffic and parking as well as other environmental, social and economic impacts in the locality. Also consider ways in which adverse impacts (if any) could be mitigated.

General advice – draft plans

For draft plans, written comments made at community consultation events or on an official Council online platform (for example Council's Have Your Say site) will be considered and treated as submissions. However, no commitment is made by Council to acknowledge or send follow up correspondence to submissions made through this means. Note, this approach is to respond to the increasing need to use more interactive and online forms of engagement for strategic planning projects.

Protocols

- Anyone may make a submission regardless of whether they received a notification
- Anonymous submissions will not be considered
- All submissions received within the notification period will be considered and addressed
- Submissions received will be acknowledged as soon as practicable
- Decisions will not be made before the close of the exhibition period.

Political donations

A person or an associate of that person who makes a submission on a development application is required to disclose political donations and gifts (if any) to a local Councillor or employee. This includes any donation or gift within 2 years before the submission is made up until the application is determined. Further details are provided on Council's website.

Submission lodgment

A submission to an application can be made by mail, email or via an online form.

Specified contentious development (where there are ten (10) or more unique submissions by way of objection) will be referred to the Local Planning Panel for determination. In determining whether there are ten (10) unique submissions the following will apply (from the Local Planning Panel website—Common questions about Local Planning Panels:

- For a submission to be counted it would need to be in substance unique, distinctive or unlike any other submission. By way of example, this would preclude form letters and petitions being counted more than once toward the total number of unique submissions. Similarly, a single submission signed by 10 people would count as one unique submission.
- One individual, or one household, could potentially submit multiple unique submissions. Separate unique submissions can be made in relation to the same issue.
- Council assessment staff are best placed to determine whether a submission is unique.
- Where an application has been notified twice, objections are counted from both notification periods as long as the objection is unique and has not been retracted by the original submitter.

To allow for proper consideration of submissions (and where the application is designated development, to retain any third party appeal rights), submissions should be received in the Council offices before the close of business on the last nominated date submissions are acknowledged. In the case of:

- Form letters, letters and emails–the acknowledgement will be sent to the name and address where that name and address is legible and complete
- Petitions (that is submissions received referencing more than one address) the acknowledgement will be sent to the organiser listed on the petition where that name and address is legible and complete.

Where a submission is acknowledged all other communications (e.g. advice of a Council meeting or the determination outcome of the development application) will follow to that submitter's name and address.

Submission confidentiality

Submissions are not confidential.

Submissions may be disclosed to any person requesting information under the *Government Information (Public Access) Act 2009*. Submissions are also uploaded on the NSW Department of Planning Portal where an application has been referred to a State Government authority. This site can also be accessed by the Applicant. In such cases, personal information (for example phone number, address, name, email address) is generally redacted. However, full (un-redacted) copies of all submissions are provided to a Planning Panel where the Panel is the determining authority, and/or to the Courts.

Copies of all submissions received in response to the public exhibition of a development application for designated development is sent to the Planning Secretary immediately after the relevant submission period. Note: This does not apply if the Planning Secretary has waived the requirement under cl 4.16(10) (b) of the *Environmental Planning and Assessment Act 1979*.



6. Definitions

Affected: is any property, as determined by the Council, the enjoyment of which may be detrimentally influenced by the proposed development. This will generally be adjoining properties. However, the need for notification will be determined by the potential for detrimental impact. This may include properties not directly abutting the proposed development but which may be visually affected or properties along a road where traffic impact is likely to be significant.

Whether land may be detrimentally affected is to be determined by taking into consideration the effect that a proposal would have on:

- views to and views from the land
- overshadowing
- privacy
- noise
- the quality and character of the adjoining streetscape
- light spillage.

Adjoining: means land which abuts or has a common boundary with or is directly opposite an application site or is separated from it only by a pathway, driveway or similar thoroughfare. See examples.



7. Advisory notes

Copying of documents

All plans and reports associated with a development application or complying development certificate application are subject to copyright. Documents published on Council's website are print restricted.

Under cl 56 of the Environmental Planning and Assessment Regulation 2000, Council will make available, subject to payment of the adopted fee (refer to Council's Fees and Charges), extracts of a development application relating to the erection of a building (other than State significant development, designated development or advertised development) as follows:

- sufficient to identify the applicant and the land to which the application relates, and
- a plan of the building that indicates its height and external configuration, in relation to the site, if relevant to that particular development.

Copies of Environmental Impact Statements which accompany a designated development are made available for purchase.

Notice of Local Planning Panel meeting

Where a development application or planning proposal is referred to the Local Planning Panel for determination, Council will notify the applicant and anyone who made a written submission, advising of the meeting date, time and venue.

Relevant documents will be available on Council's website at least five days before the meeting.

Notice of Sydney Western City Planning Panel meeting

Where an application is to be determined by the Sydney Western Sydney Planning Panel, the Planning Panels Secretariat will notify the applicant and anyone who made a written submission advising of the meeting date, time and venue.

Relevant documents will be available on the Planning Panels website **www.planningportal.nsw.gov.au/planningpanels** at least seven days before the meeting.

Post determination notification

Council will notify its development application determinations, and this includes any development application determined by the Local Planning Panel as a delegate of the Council, to the applicant and any other person if required to do so by the regulations (cl 4.18 of the *Environmental Planning and Assessment Act 1979*).

In the case of designated development, Council will also notify its determination to each person who made a submission, and advise anyone who made an objection of their appeal rights.

In the case of a modification to a consent, Council will notify only those who made a submission on the modification.

Council will regularly publish its determinations in a local newspaper. The validity of any determination so notified can't be questioned in legal proceedings unless proceedings are commenced in the Court before the expiration of three months from the date on which the public notice was given (cl 5.26 of the *Environmental Planning and Assessment Act 1979*).

Content of notification

All post Council determination notifications will contain the following mandatory requirements:

- 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.

In addition all notifications will contain a description of the land and the development, and advise that the determination is available for inspection free of charge at the Council offices during ordinary office hours.

Register of applications

Council is required to keep a register of applications under cl.4.58 of the *Environmental Planning and Assessment Act 1979*). This register is available in an electronic format and may be viewed on Council's website for all applications received after 1 January 2011.





Contact

Katoomba Office

2 Civic Place
Katoomba NSW 2780
Monday to Friday, 8.30am to 5pm

Springwood Office

104 Macquarie Road
Springwood NSW 2777
Monday to Friday, 9am to 5pm

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For local call cost:
Lower Mountains 4723 5000
Upper Mountains 4780 5000

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Locked Bag 1005
Katoomba NSW 2780

Email

council@bmcc.nsw.gov.au

Council Website

bmcc.nsw.gov.au

Have Your Say Website

bluemountainshaveyoursay.com.au