

Planning and Development: Community Participation Plan 2019

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Foreword: Community participation in the planning system

Orange City Council recognises community participation throughout the planning system is not only a civic right, but that it also delivers better planning results for the city of Orange.

Ultimately, our responsibility is to deliver on the objectives of various environmental planning documents and legislation, including the *Environmental Planning and Assessment Act 1979* ('the Act'), *Orange Local Environmental Plan* ('the LEP'), *Central West and Orana Regional Plan 2036*, and the forthcoming Local Strategic Planning Statement. The *Planning and Development: Community Participation Plan 2019* ('the Plan') is intended to be consistent with the principles of any in-force Community Engagement Strategy required under the *Local Government Act 1993*.

Lost already?

The **Glossary** section contains some quick definitions for terms commonly used throughout this Plan. Refer to page 26.

The planning system of NSW is shifting focus to enable more meaningful community participation earlier in the planning process. Because of this, the Plan places greater emphasis and weight on strategic planning and plan-making phases when trying to gauge community views on how land and natural resources will be used and protected into the future.

The Plan also consolidates and updates advertising and notification requirements for some types of development proposals, as previously found in Development Control Plans ('DCPs'). Council's policy for planning and development assessment procedures has been brought into alignment with the Plan.

In terms of engagement with the community when Council is proposing to undertake major activities or infrastructure projects, the Plan sets out when we will broadcast proposals for those types of activities, to ensure greater transparency in our role as a public authority.

The underpinning community participation objectives of the Plan can be found in **Chapter 1: What is the Plan and how will it be used?**. Throughout the Plan, references to the three major planning functions (strategic planning and plan-making; development assessment; and Council activities) are made. More information on these three planning functions is embedded in **Chapter 1**.

The level and extent of community participation will vary depending on the planning function, the scope of the proposal under consideration, and the potential impact of the decision. The Orange community is dynamic and diverse, so community participation needs to involve any individuals, groups, or businesses who are likely to be interested in or affected by planning decisions.

Why is community participation important?

- *It builds community confidence in the planning system*
- *Community participation creates a shared sense of purpose, direction, and understanding of the need to balance environmental changes against amenity considerations*
- *It provides decision-makers access to community knowledge, expectations, ideas, and expertise.*

Chapter 1: What is the Plan and how will it be used?

1.1 What is the Plan and why is it being made now?

The *Planning and Development: Community Participation Plan 2019* is a strategic document that sets the parameters for community participation in the environmental and land-use planning framework of the Orange Local Government Area ('LGA').

The NSW Department of Planning, Industry & Environment ('DPIE') requires a Plan to be in place for each LGA and finalised by 1 December 2019, in line with the Act reforms.

The Plan must incorporate statutory community participation objectives, which we will use to guide our approach to community engagement.

1.2 In what circumstances does the Plan apply?

This Plan is a requirement of the Act (see Division 2.6 and Schedule 1) and applies to the exercise of planning functions by certain authorities. A break-down of the type of functions that the Plan applies to is delineated in Table 1:

Table 1. What functions does the Plan apply to?	
Plan-making	<p>Strategic planning is an essential aspect of Council's planning functions, where the strategic direction for environmental planning and development is set. This involves planning for communities which integrates social, environmental, and economic considerations.</p> <p>Examples of this work include amendments to or the creation of the LEP, development control plans, contribution plans, specific land use strategies, and the like.</p>
Development Applications	<p>The Regional Planning Panel, the Council, the CEO of the Council, and delegated officers all make planning decisions on a range of developments (Development Applications). When making decisions on these developments, consideration is given to whether land use proposals are in accordance with the strategic priorities of Council, the NSW Government, relevant legislation, and the public interest.</p> <p>Proposals assessed may be in relation to residential, industrial/commercial, rural, and physical or social infrastructure developments. In these proposals, the planning assessment phase is just one aspect of the overall project lifecycle. At other phases of the project, separate community engagement may be undertaken by proponents/developers, or other government agencies.</p> <p>Note that this Plan does not apply to "Complying Development". Complying Development provisions are administered by DPIE and these types of development are not subject to local requirements for exhibition periods, and submissions cannot be considered on proposed Complying Development.</p>
Activities	<p>Council is oftentimes the determining authority for its own activities which relate to Council's role as a "public authority", e.g. Council could be the determining authority and the proponent when undertaking works in a public park.</p> <p>Sometimes, these activities are of such a scale that before the works can occur, an Environmental Impact Statement ('EIS') is required to be prepared in accordance with DPIE requirements. These EISs are subject to scrutiny from the public, and so this Plan applies to these types of scenarios.</p>

The Plan will be reviewed on a periodic basis to make sure it is fit for purpose. The Plan is likely to face its first review in synchronisation with when a Community Engagement Strategy is being created/amended (as required under the *Local Government Act 1993*). It should be noted that the Plan has been prepared with reference to current requirements in the Act and *Environmental Planning and Assessment Regulation 2000* ('the Regulation'), and that the parent requirements found in that Act and Regulation may change from time to time. We will endeavour to keep the Plan as up-to-date and relevant as possible in light of these broader, State-led changes. Nevertheless, the reader is encouraged to refer to the current legislation – please see **Links of interest** section of this Plan.

1.3 How to use the Plan

This Plan will be consulted by Council staff who undertake certain planning functions. The Plan is likely to help inform staff when analysing:

- What approaches should be taken in engaging the community,
- The level of emphasis that should be placed on community participation, relative to the planning function,
- At what point in time community participation is of most use to the community and to Council, and
- The method and duration of engagement and exhibition.

It is also envisaged that the Plan will be used by the community to help guide their expectations for when they are likely to be engaged – and why – in relation to certain planning functions. As a result, it is anticipated that the Plan will help community members:

- Feel empowered in understanding the different planning functions that they may be consulted on,
- Engage better and more meaningfully with the planning system,
- Understand how they can use their voice in the planning system, and
- Keep informed of the planning decisions being made in their area.

1.4 Community participation objectives

Table 2 on the following page illustrates the community participation objectives that underpin this Plan, as adapted from the Act. Some directions have been attributed to each objective.

These objectives have helped inform our approach to community engagement and will help inform future revisions of this Plan and our policy for planning and development assessment procedures, especially when analysing if our community engagement approaches are fit for purpose.

Table 2. Community participation objectives and directions

Objectives	Directions
Community participation is open and inclusive	<ul style="list-style-type: none"> • Encourage community participation by keeping the community informed, promoting participation opportunities, and seeking community input. • Build strong partnerships with the community. • Ensure community engagement accurately captures the relevant views of the community. • Conduct community engagement opportunities in a safe environment.
Community participation is easy	<ul style="list-style-type: none"> • Clearly set out the purpose of any engagement and how and when the community can participate in respect of a planning function. • Prepare information for the community that is relevant, concise, written in Plain English and easy to understand. • Use visual representations to make it easier to understand the possible impacts of a proposal. • Ensure information is accessible in order to attract input from groups who may find it difficult to participate in standard engagement activities (e.g. young and older people; people with disabilities; Aboriginal and Torres Strait Islander people; people from a culturally and linguistically diverse background).
Community participation is relevant	<ul style="list-style-type: none"> • Clearly establish the purpose for engagement and tailor engagement activities to match the context (e.g. location; type of application; stage of the assessment process; previous engagement undertaken), scale and nature of the proposal and its impacts, level of community interest, and community's preference about how they would like to participate. • Adjust engagement activities (if necessary and/or appropriate) in response to community input.
Community participation is timely	<ul style="list-style-type: none"> • Start community engagement as early as possible (subject to proper documentation being available), and continue this engagement for an appropriate period. • Ensure the community has reasonable time to provide input on proposals.
Community participation is meaningful	<ul style="list-style-type: none"> • Explain how community input was taken into consideration, and ensure the response to community input is relevant and proportionate. • Give genuine and proper consideration to community input. • Keep accurate records of engagement activities and community input. • Regularly review the effectiveness of community engagement. • Integrate community input into the evaluation process. • Comply with any statutory obligations. • Protect privacy and respect confidentiality.

Chapter 2: Strategic planning, plan-making and early engagement

Council must create and implement strategic plans for the LGA, under both the *Environmental Planning and Assessment Act 1979* and the *Local Government Act 1993*. These plans are informed by overarching State and Federal strategic plans, policies, and legislation, Census data, spatial and temporal trends, specialist studies, and local needs and expectations. For the remainder of this Chapter and the Plan, strategic plans that are referred to do not include strategic plans required by the *Local Government Act 1993*.

Strategic plans set the vision for our City into the future – how we will grow and change (spatially or otherwise), what we will preserve and value, what we need to provide for our residents, what our land and resource capabilities are, and how we can use these resources responsibly...

Some proponents for creation and implementation of strategic plans are private actors. For example, amendments to the LEP can be floated by bodies other than Council, despite Council being the Planning Proposal Authority. In these instances, proponents are encouraged to look more broadly at a locality and its development and cohesion. This helps prevent “spot rezonings” and encourages precinct planning for more predictable, and less ad-hoc outcomes across the Orange LGA.

In formulating some major strategic plans and particularly when undertaking research to help inform strategic plans, early engagement with communities that are likely to be impacted now and into the future is required. This could involve:

- Neighbourhood surveys,
- Focus groups,
- Open-invite night forums,
- Creation of podcast series,
- Seeking specific feedback from community groups and organisations.

How and when these methods might be used are at the discretion of Council, and will largely depend on the scale, complexity, and nature of the strategic plan being formulated or amended. Further guidance on this matter is contained in our policy for planning and development assessment procedures.

When a strategic plan has been drafted, the plan in its entirety will be exhibited to the public and submissions will be able to be made on the draft. Because most strategic plans can be somewhat abstract, we will endeavour during the exhibition process to make available diagrams, flowcharts, maps, and other visual guides to aid the community in understanding the plan. Council staff will also be available to answer questions on the intent of the proposal.

For more information on exhibition procedures and timeframes, see **Chapter 7: Details – Exhibition procedures and timeframes**. For more information on making a submission, see **Chapter 5: Feedback and making submissions**.

Chapter 3: Development Applications and community views

Development Applications ('DAs') can be made for land-uses and development types that are 'permissible with consent' in an environmental planning instrument, such as Council's LEP. For more information on this point, refer to Table 1 earlier in the Plan under **Chapter 1: What is the Plan and how will it be used?**.

Pre-DA community participation – the proponent's role

We are exploring options on how to incentivise proponents to hold community consultation sessions prior to lodging DAs. This could involve a streamlined scheme – meaning that where genuine consultation with a locality has occurred before lodging a DA, that DA may be given priority status in assessment. The proponent would need to submit evidence of the method for engaging the community, and how outcomes of the consultation were considered and implemented into the development's design. More guidance on this matter is contained in our policy for planning and development assessment procedures

In assessing DAs, assessing staff must have regard to underpinning land-use plans, policies, and other strategic documents. This is why the strategic planning and plan-making phase is so important in the planning process. See **Chapter 2: Strategic planning, plan-making and early engagement** for details on how Council hopes to enhance community participation in our strategic planning functions.

Assessment of DAs must also take into account community views, particularly those views expressed in a formal submission to Council during an exhibition phase for a Development Application. Not all DAs will be exhibited for public comment, but proposals which are likely to be of interest to the community and to nearby neighbours (mostly due to potential impacts) will usually be exhibited. Refer to **Chapter 7: Details – Exhibition procedures and timeframes** for guidance on the types of proposals that will be exhibited, how they will be exhibited, and for how long.

Community expectations

Where a lot of groundwork has gone into strategic plan(s), the community should have practical expectations about the types of individual development proposals that might follow from the making of those plans. If we can get the strategic planning framework right – and get as much input in this early phase as possible – we hope that resultant Development Applications will be mostly understood and accepted by the community.

In particular, our Development Control Plans are higher order plans which usually sets the criteria for individual development proposals with respect to built-form, operational matters, design, and the like. Sometimes, local planning provisions are overridden by State policies and plans.

It is important that submitters understand the planning context that applies to each and every Development Application, so that their expectations for a certain outcome are realistic and able to be communicated effectively to the assessing officer.

If you have not had the chance to have your say during the strategic planning phase, you may be more inclined to make submissions on individual DAs during their exhibition. Before making a submission on a DA, you should be familiar with what the submissions process involves – see **Chapter 5: Feedback and making submissions**.

Chapter 4: Major Council activities and transparency

Council, in undertaking its functions as a public authority, may from time-to-time propose to do activities or provide infrastructure that could have significant environmental impacts. More information on this point can be found under **Chapter 1: What is the Plan and how will it be used?**.

If an Environmental Impact Statement ('EIS') is required to be prepared before the activity can occur, the EIS will generally be placed on exhibition. See **Chapter 7: Details – Exhibition procedures and timeframes** for a break-down on what the exhibition phase involves and how long exhibition is likely to occur.

The EIS will outline what the activity is, what key environmental impacts need to be considered, the magnitude and likelihood of those impacts occurring as a result of the proposed activity, and how the activity is proposed to occur in such a way that mitigates or minimises those impacts.

The public can query, make submissions, and generally scrutinise the EIS during its exhibition. For information on how to make a submission on an EIS for Council activities, see **Chapter 5: Feedback and making submissions** below.

Chapter 5: Feedback and making submissions

If you have received a letter in the mail, or have become aware of a proposal through the local newspaper or Council's website, you may wish to make a submission.

5.1 Can I make a submission?

For proposals undergoing exhibition, anyone can make comments on these proposals through a written submission addressed to the CEO of Council. We can give no assurances that submissions received for non-exhibited proposals will be considered as part of the proposal's assessment. For a break-down of the differences between exhibition types and how things will be exhibited – or what proposals will not be exhibited – see **Chapter 7: Details – Exhibition procedures and timeframes**.

5.2 When can I make my submission?

The exhibition period is also the submissions period for a proposal. Any submissions received before or after this period may not necessarily be considered in the making of a decision. If early/late submissions are considered, they may not be explicitly mentioned in an assessment report.

5.3 What does my submission need to include?

Your submission must include the following:

- The reference numbers and address of the proposal to make it clear which proposal you are commenting on. These are the numbers that have prefixes such as 'DA' or 'PR' or 'F' in the exhibition material. The address of the subject site can be found in the exhibition material.
- A nominated contact person (you, or someone you trust). This contact person must be clearly defined with details such as NAME, POSTAL ADDRESS, TELEPHONE NUMBER, and EMAIL (if applicable). This is so Council can advise the contact person of the progress and outcome of the application.

Anonymous submissions or submissions using aliases may not be considered when assessing the proposal, as there is no accountability on the part of the submitter. Meaning that, the submitter cannot be asked for information to verify the contents of their submission nor be asked to attend a Council meeting, should a proposal end up being subject to a Council meeting.

5.4 Before making a submission

A submission may support a proposal, oppose it, request that amendments be made, or that conditions be imposed. If the matter is complex, you may engage a consultant to prepare and make a submission on your behalf. You are not obliged to lodge a submission simply because you have been alerted of a proposal as a neighbouring property owner.

Please be aware of the following before making a submission:

- In the context of making a submission, any information provided to, or collected by, Orange City Council is for the purpose of assessing a proposal.
- The information supplied to Council in a submission will be made publicly available.
- The intended recipients of the information are Council staff, the proponent, the public, and Councillors.
- The submitter's name and general address may be made publicly available.
- Notwithstanding the above, signatures, personal contact details, personal financial information, personal medical information, photographs depicting persons, and other sensitive information will not be made publicly available.
- The making of any submission is entirely voluntary.
- The person providing the information has a right to access the information to correct any personal information supplied.
- The submission will be placed in Council's file and a redacted version may appear on Council's website during the consideration of the proposal.
- Council's file on the proposal may be accessed by any person, subject to an information request being received and agreed to by Council.
- Comments of an abusive or offensive nature should be avoided.

Other parties may view comments within a submission as potentially offensive, slanderous, libellous, or defamatory. In this regard:

- The views expressed in submissions remain those of the submitter only and do not reflect the views or position of Council, or of any Councillor, staff member, or contractor.
- Submitters should not rely upon Council's redaction procedures.
- Council accepts no liability for, or responsibility to defend or protect the authors of, submissions in respect of any legal proceedings that may arise from the publication of submissions.

If in doubt, ask a friend or advisor to review your comments before making a submission.

If you decide to make a submission and object to the proposal, the reasons for your objection must be included in your submission. Your reasons should be based on planning matters relating to the impact on your amenity and environmental outcomes, and not irrelevant considerations. Council acknowledges that there may be peripheral concerns from neighbours to do with a proposal, but assessing officers are limited to considering ‘planning matters’. For example, speculation on devaluation of property or private market fluctuations are not relevant planning matters; however, concerns about noise, visual privacy, view loss or other environmental impacts are relevant planning matters and if raised in your submission, can be considered by assessing officers.

<i>What are ‘planning matters’?</i>	<i>What are not ‘planning matters’?</i>
<p><i>Council’s LEP sets the legislative framework for a lot of land use objectives and development standards. More fine-grain planning outcomes for particular types of development are contained in our Development Control Plans. If a proposal is also relying on the provisions of a State Environmental Planning Policy to justify the proposal, certain objectives and development standards in those State policies may override local plans and policies.</i></p> <p><i>It is important to read the proponent’s own planning report for cues as to what is a ‘planning matter’ that you can comment on. The following are all examples of planning matters, and using these topics to guide your submission is recommended:</i></p> <ul style="list-style-type: none"> • <i>Air/odour impacts</i> • <i>Biodiversity/ecological impacts</i> • <i>Infrastructure (access to goods and services) impacts</i> • <i>Land/soil suitability and capability</i> • <i>Noise/vibration impacts</i> • <i>Privacy impacts</i> • <i>Solar access impacts</i> • <i>Traffic impacts</i> • <i>Visual/streetscape impacts</i> • <i>Waste impacts</i> • <i>Water (surface and ground) impacts.</i> 	<p><i>Anyone wishing to make a submission on a proposal should be familiar with what is/is not a planning matter. The following are <u>not</u> planning matters, and cannot be given weight by assessing officers in their decision-making role:</i></p> <ul style="list-style-type: none"> • <i>Speculation on devaluation of property or private market fluctuations</i> • <i>Character assessments of the developer, future neighbours, or anyone else</i> • <i>Hearsay as to what other neighbours would or would not be concerned about</i> • <i>Assumed bad faith or non-compliance with road rules or other laws.</i>

5.5 Where to send my submission?

There are three ways you can send your submission in to Council:

1. Mail a copy of your written submission to:
CEO/General Manager
Orange City Council
PO Box 35
ORANGE NSW 2800
2. Bring a printed version of your written submission to the Customer Service Counter at 135 Byng Street (being the corner of Byng Street and Lords Place, opposite Robertson Park), Orange, with “Attention: CEO or General Manager” included in the title of the submission.
3. Email a copy of your written submission to council@orange.nsw.gov.au, making sure to quote the reference number for the proposal and “Attention: CEO or General Manager” in the subject heading or in the title of the submission attachment.

Engagement with Councillors

Correspondence with Councillors or other elected representatives regarding your concerns on a proposal is not a submission. This is because Councillors are not required to forward correspondence to the assessing officer and may have a variety of reasons for opting not to.

Note that if a submission is not received in any of the above three (3) modes, the submission is not considered a formal, written submission for the purposes of the Act and may not be taken into consideration in the assessment of a proposal. In particular, 'make a comment' or 'leave a reply' functions on Council's website or on Council's social media platforms such as Facebook page do not constitute formal, written submissions for the purposes of the Act.

How far away are we from accepting submissions online?

We are exploring ways to receive online submissions, such as through Council's website or the NSW Planning Portal. Setting up online receipt of submissions will be subject to an endorsed works program, and budget/staffing allocations. Until then, however, submissions can only be made in the above modes.

5.6 Acknowledgement of submissions received

Council will confirm submissions have been received at the end of the exhibition period, by sending out an acknowledgement letter to the nominated contact person (submitter). If you are a signatory to a petition, but not the nominated contact person, you will not receive an acknowledgement letter.

The acknowledgement letter will not express any opinion on either the submission or the subject proposal. If further clarification is sought from a submitter on the content of their submission, the assessing officer will be in touch separately.

5.7 How are submissions considered?

Council must balance several heads of consideration when making a planning decision. One of these heads of consideration is the need to consider submissions received in relation to a proposal. As noted earlier in this Chapter, there is a distinction between relevant and irrelevant issues which may be raised in submissions. Assessing officers' will turn their mind to and give greater consideration to relevant issues raised in submissions.

The number of submissions (or number of signatures attached to a submission) received in response to a proposal has no bearing on the outcome of the application. Rather, the quality and content of individual submissions will be considered.

Petitions and duplicate submissions

Adding a signature to a petition does not fortify the status of a submission. For example, a petition with pre-amble outlining only 3 planning issues, will be considered 1 submission containing 3 planning issues, regardless of the number of signatures attached.

Copy and paste submission letters outlining the same 2 planning issues will be considered duplicate submissions with duplicate planning issues. We will consider the merits and significance of the planning issues raised with the same regard, no matter how many duplications exist.

The content, individual perspective, and scope of planning issues raised in submissions will be what the assessing officers' turn their mind to in considering submissions. Therefore, different perspectives on the same issue are more likely to benefit the assessment process than duplication of the same perspective.

In the case of strategic planning and plan-making functions, if many and varied issues are raised through submissions, further consultation through working groups or forums may occur. The proposed plan may be revised, amended, postponed, or made as is, depending on the outcome of any further community consultation and the recommendations of Councillors through a Council meeting and any relevant advice from DPIE. Submitters may be invited to speak or make representations at a Council meeting (usually Council's Planning & Development Committee meeting), prior to determining whether or not the plan should be finalised.

For Development Applications, if relevant issues are raised through submissions and those issues have merit that could reasonably be negotiated with the proponent, Council will act as neutral negotiator in an attempt to resolve issues or to find a compromise prior to recommending any sort of determination on the proposal. In some circumstances and as outlined in our policy for planning and development assessment procedures, we may offer to undertake formal mediation sessions with interested parties and the proponent.

Where many and varied relevant issues are raised through submissions – and negotiation has been exhausted – the proposal will be assessed and either determined by the General Manager under delegation or referred to Council depending upon the issues (usually Council's Planning & Development Committee meeting) for determination by the Councillors. If the matter is to be determined by Council's Planning and Development Committee the determination recommendation could be either 'approval' or 'refusal', depending on other factors, such as whether or not the proposal as a whole complies with the legislation, strategic plans, and policies.

In the case of Council activities that are subject to advertisement (e.g. where an EIS is required), if many and varied issues are raised through submissions, the proposed activity may be revised, amended, postponed, or sent to a separate determining authority for their consideration.

Objecting to proposals

Community expectations should be realistic when objecting to proposals. If you make a submission on a proposal objecting to it in principle, this position needs to be clearly articulated why – see earlier points about "community expectations" (page 9) and "what are/are not planning matters" (page 12).

We encourage submitters to identify what their ideal result would be in relation to a proposal, but to also list other acceptable middle-ground results in case their ideal result cannot eventuate.

Chapter 6: Post-determination

Following a determination being made on a proposal, several different parties will be notified. Detailed post-determination notification to submitters will take place when proposals have attracted submissions during their exhibition.

6.1 Notices of determination

Strategic planning and plan-making

If Council determines that a plan should be made/amended, submitters will be advised in writing by letter that the plan has been made/amended.

In most circumstances, a media release will accompany the making of a plan or an amendment to a plan and these releases will be uploaded to <https://www.orange.nsw.gov.au/category/media-releases/> or, for matters relating specifically to the LEP, updates will be posted to <https://www.orange.nsw.gov.au/planning-directions-and-policies/local-environmental-plan/>.

Development Applications

Broadly, all DAs that have been determined will be listed as a monthly summary in a local newspaper. A 'notice of determination' will be sent to the proponent, as well as any submitters that commented on the DA. This notice will be sent to submitters in writing by letter.

The notice of determination will also be uploaded to the NSW Planning Portal website, which can be accessed by anyone through <https://www.planningportal.nsw.gov.au/> or, if uploads to the Planning Portal is not available, the notice of determination will be uploaded to Council's own website. See **Links of Interest** later in this Plan.

The notice of determination will set out:

- The result of the determination
- The reason for the determination (also known as 'Statement of Reasons')
- The reason for imposition of conditions (if the determination is an approval).

The Statement of Reasons will detail how community views were taken into account in making the decision, as well as touching on the statutory requirements that applied to making the decision.

Council activities

If Council determines that an activity – being an activity subject to an EIS – should be undertaken, submitters will be advised in writing by letter that the activity will be undertaken. Public notice of the determination must also occur, and that notice must include:

- The result of the determination
- The reason for the determination (also known as 'Statement of Reasons')
- The reason for imposition of conditions (if any apply).

The Statement of Reasons will detail how community views were taken into account in making the decision, as well as touching on the statutory requirements that applied to making the decision.

In most circumstances, public notice will occur by way of a media release through Council's website <https://www.orange.nsw.gov.au/category/media-releases/>.

Chapter 7: Details – Exhibition procedures and timeframes

We encourage open, inclusive, easy, relevant, timely, and meaningful opportunities for community participation in the planning system. Proponents for development are encouraged to carry out their own consultation with the community, prior to lodging a development application, as recommended by Division 2.6 of the Act – see comments under **Chapter 3: Development Applications and community views**.

The most common method for involving the community in the planning system is through inviting feedback on proposals during exhibition periods for:

- the preparation of a strategy or plan, such as an amendment to the LEP,
- the assessment phase of Development Applications, and
- the determination of certain Council activities.

The community will be invited to view documents and plans associated with proposals that are on exhibition. If clarification is needed on any of the exhibited material, Council staff will be available to answer enquiries in a prompt manner, usually face-to-face, over the phone, or by email. It should be noted, however, that Council staff are not proponents and so will not defend/advocate the proposal.

By routinely applying the below exhibition approaches for ‘advertised’ and ‘neighbour notified’ proposals, there can be acknowledgement that a process was fair with proper and genuine consideration given to community views and concerns, even where there may not be community-wide consensus on a decision or outcomes.

Safety

To achieve the best planning results, Council must ensure everyone can participate in a safe and open manner. All community members, stakeholders, and our staff have the right to participate in a respectful environment and behave in a manner that supports everyone’s right to present their point of view.

7.1 What is meant by exhibition types ‘advertised’ and ‘neighbour notified’?

The two key exhibition streams for proposals are advertisement, and neighbour notification. For advertised proposals, details will be:

- Advertised in a local newspaper of the region,
- Included in letters sent out to properties adjoining or forming the land to which the proposal relates (copies of the proposal documents themselves will not be included in the letter),
- Available online through Council’s website, meaning plans and supporting material will be uploaded to www.orange.nsw.gov.au/development-applications-in-progress/development-applications-on-exhibition/ and
- Available in hard copy for viewing at the Civic Administration Building located at 135 Byng Street, Orange (being the corner of Byng Street and Lords Place, opposite Robertson Park).

Social media coverage

*Council's Communications Team may, from time-to-time, broadcast proposals of interest through social media channels, such as Council's Facebook page. This type of broadcasting does not mean that a proposal is 'advertised' in accordance with this Plan. Whilst social media has developed to be a significant communication platform in society, please be aware that commenting on social media posts is not an acceptable format for making a formal, written submission. Comments on a social media post are just that – social commentary. If you would like to make a formal submission to Council on a proposal so that it comes to the attention of the CEO, please see **Chapter 5: Feedback and making submissions** earlier in this Plan.*

The other exhibition mechanism for engaging the community is discretionary neighbour notification of proposals by Council. This approach is used mostly for some types of Development Applications.

Neighbour notification of proposals is considered discretionary, as adjoining and adjacent neighbours of a proposed development may be alerted by a letter or other written notification that a proposal is with Council for assessment. More clarification on when this discretion will be exercised is contained later in this Chapter under section **7.3 Neighbour notified proposals**.

Neighbour notification involves the following elements:

- Letters being sent out to properties adjoining the land to which the proposal relates (copies of the proposal documents themselves will not be included in the letter),
- Proposal documents being available online through Council's website, meaning plans and supporting material will be uploaded to www.orange.nsw.gov.au/development-applications-in-progress/development-applications-on-exhibition/ and
- Ability to view proposal documents in hard copy at the Civic Administration Building located at 135 Byng Street, Orange (being the corner of Byng Street and Lords Place, opposite Robertson Park).

For neighbour notified proposals, the details of the proposal will not be advertised in a local newspaper.

Which neighbours are notified?

Only those properties that adjoin the site to which the proposal relates will receive a written notification of the proposal during the exhibition period, unless Council staff are of the opinion that the notification radius should be broadened due to extenuating circumstances. 'Adjoin' in this context means 'sharing a common boundary' and includes any properties that would adjoin the site, if it were not for an intervening road, creek, or the like.

Neighbour notification letters – for both 'advertised' and 'neighbour notified' proposals – will only be sent to the postal address that Council has for the identified property, i.e. wherever the rates notice for the property are sent to is where neighbour notification letters will also be sent.

Inherent to the exhibition phase is the ability for anyone to make a submission on the proposal. More information on how to make a submission is contained under **Chapter 5: Feedback and making submissions**.

7.2 Advertised proposals

Table 3 on the following page describes the types of proposals that will routinely be advertised. The rationale for inclusion of certain types of proposals in the below Table is embedded in public interest principles, i.e:

- What would broadly be of interest to the community?
- What types of proposals would have a notable impact on the dynamics of the local economy, environment, or social fabric?
- Is advertisement in the public interest, when considering the need to balance timely decision-making and planning outcomes against the ability for the community to have their say?

Council reserves the right to advertise any other type of proposal, even if the proposal is not listed in Table 3. The decision to do this would be based on the scale and nature of the proposal, and whether it is our view that it serves the public interest to advertise the proposal.

Please note that Table 3 has been compiled mostly using definitions found in the LEP Dictionary.

Table 3. Proposals – advertised exhibition

Occurring in all land zones	Occurring in residential land zones only	Heritage (all zones)
<i>Consent sought for the purposes of*:</i>		
Airstrip Air transport facility Attached dwelling Backpacker’s accommodation Boarding house Caravan park Correctional centre Development in relation to clause 4.6 of the LEP, where variation from a standard exceeds 10% Development in relation to ‘existing use rights’ Eco-tourist facility Educational establishment Extractive industry Freight transport facility Group home Health services facility Helipad Hostel Hotel or motel accommodation Mine/Mining Multi dwelling housing Place of public worship Recreation facility (major) Residential flat building Seniors housing Sex services premises Torrens subdivision which would create three or more additional lots than what has been planned for, per a prior endorsed subdivision concept plan (in a DCP)	Camping ground Centre-based child care facility Community facility Crematorium Emergency services facility Entertainment facility Function centre Information and education facility Neighbourhood supermarket Oyster aquaculture Pond-based aquaculture Recreation facility (indoor) Recreation facility (outdoor) Respite day care centre Shop top housing Tank-based aquaculture Veterinary hospital	Advertising structure (not building or business identification signage) in/on heritage item or heritage conservation area Conservation works which would otherwise be prohibited (clause 5.10(10) of LEP) Demolition (whole or part) of a building or object, and that building or object contributes to the significance of a heritage item Tree removal for tree that is or forms part of a heritage item, being a tree of significance or with trunk diameter greater than 300mm at breast height
Modifications to consent, made under s4.55(2) or s4.56 of the EP&A Act, are to be exhibited in the same manner that the original development application was exhibited.		
*Generally excludes consent sought for modest alterations/additions or other works to an already approved land use, except in the case of development relating to ‘existing use rights’.		

There may be other types of proposals that need to be advertised, per overarching legislation that we do not administer. Council wishes to advise that legislation is dynamic, and the requirements for exhibition/advertising are dynamic. That is to say, the below list is indicative of the types of proposals that – at the time of writing – would be required to be advertised:

- **Designated development.** The method of exhibiting designated development is contained in the Act and Regulation. Broadly, more in-depth reports from the proponent must accompany a Development Application of this type and these reports are subject to public scrutiny.
- **Nominated integrated development.** This refers to certain development types that require other approvals under different Acts or from different government bodies. In particular, some approvals that need to be obtained under the *Heritage Act 1977*, the *Water Management Act 2000*, and the *Protection of the Environment Operations Act 1997* are considered ‘nominated integrated development’.
- **Threatened species development.** This is development which is likely to significantly affect threatened species under the *Biodiversity Conservation Act 2016* or *Fisheries Management Act 1994*. Broadly, more in-depth reports from the proponent must accompany a Development Application of this type and these reports are subject to public scrutiny.
- **Other ‘advertised development’** as nominated in a State Environmental Planning Policy. The relevant State Environmental Planning Policy will generally set the parameters for exhibition of those types of development.
- **Strategic Plans** to be made or amended, such as:
 - the LEP,
 - contributions plans,
 - DCPs,
 - the Local Strategic Planning Statement, and
 - the Community Participation Plan (this Plan).
- **Certain public authority (Council) activities** which require an Environmental Impact Statement (EIS) to be prepared in accordance with Part 5 activities under the Act. The method of exhibiting an EIS is contained in the Act and Regulation. Broadly, EISs are in-depth reports from the proponent that must accompany a proposal, and these reports are subject to public scrutiny.

The *Local Government Act 1993* governs how other types of proposals and plans will be exhibited – such as Community Strategic Plans, Delivery and Operational plans, Annual Budgets, Plans of Management (for community land), and so on. To avoid confusion, it is a recognised action for future versions of the *Planning and Development: Community Participation Plan* to be merged with a Community Engagement Strategy required under the *Local Government Act 1993*.

Information on exhibition timeframes for the public to view proposals and make submissions is contained under section **7.5 Timeframes – advertised and neighbour notification exhibition** of this Chapter.

7.3 Neighbour notified proposals

When considering public interest principles and community participation objectives, the types of development applications that will routinely be neighbour notified are per Table 4 below.

Table 4. Proposals – neighbour notified exhibition		
Occurring in all land zones	Occurring in residential land zones only	Heritage (all zones)
<i>Consent sought for the purposes of*:</i>		
Artisan food and drink industry Cellar door premises Dual occupancy, whether or not subdivision will occur first and result in two dwellings being located on separate lots Exhibition home Exhibition village Highway service centre Innominate use Plant nursery Pub Recreation area Registered club Restricted premises Semi-detached dwelling Service station Small bar Temporary use of land, if the use would ordinarily be prohibited on that land	Bed and breakfast accommodation Environmental facility Home business Home industries Home occupation (sex services) Kiosk Neighbourhood shop Secondary dwelling Serviced apartments Short-term rental accommodation**	Building identification sign in/on heritage item Business identification sign in/on heritage item Demolition (whole) of a building or object, and that building or object contributes positively to a heritage conservation area Major alterations/additions to a heritage item or building in a heritage conservation area Tree removal in a heritage conservation area, being a tree with trunk diameter greater than 300mm at breast height
Modifications to consent, made under s4.55(2) or s4.56 of the EP&A Act, are to be exhibited in the same manner that the original development application was exhibited.		
*Generally excludes consent sought for modest alterations/additions or other works to an already approved land use.		
**Refer to DPIE proposed new land-use definition through the NSW Planning Portal.		

Other types of development applications could be neighbour notified, depending on the assessing officer's initial view as to the potential impacts of the development. When Council staff are considering whether or not to neighbour notify a proposal during the assessment phase, the following factors are likely to be considered:

- Is the proposed development 'out of character' for the neighbourhood?
- Is the proposed development inconsistent to a notable degree with local plans, such as the LEP or Development Control Plans? In particular, would there be issues in terms of privacy, overshadowing, visual bulk, noise, traffic generation, or other environmental matters that neighbouring properties are likely to want advanced notice on?
- Is it anticipated that the development would require the enforcement of stringent conditions and restrictions, in order to mitigate impacts that would otherwise be likely to occur as a result of the development?
- Is it in the public interest to notify the development, when balancing the likely impacts of the development against timely decision-making obligations under the Act?

Council may elect to elevate a proposal's exhibition status from simply being "neighbour notified" to "advertised development". The decision to do this would be based on the scale and nature of the proposal, and whether it is our view that it serves the public interest to advertise the proposal instead of simply undertaking neighbour notification.

Information on exhibition timeframes for the public to view proposals and make submissions is contained under **7.5 Timeframes – advertised and neighbour notified exhibition**.

7.4 Other proposals – no exhibition

Proposals that fall out of the above two categories will generally not be exhibited for public comment. These proposals will be assessed by staff, having regard to statutory assessment requirements.

Did you know...?

Council lists all of its incoming Development Applications as a weekly summary in a local newspaper (excluding "advertised" and "designated" Development Applications that will be formally advertised at a later time). Also, you can do a status search through our website of applications lodged, under assessment, or determined for particular properties, using the DA Tracking Portal: <https://www.orange.nsw.gov.au/lodging-a-development-application/track-your-da/>

Council staff are available during office hours to help clarify the details of any type of proposal. Contact details are contained under the **Questions?** section of this Plan.

7.5 Timeframes – advertised and neighbour notified exhibition

Mandatory minimum timeframes for certain proposals are contained in Schedule 1 of the Act. There may be other mandatory minimum timeframes in the Regulation and State Environmental Planning Policies.

We will always exhibit a proposal in accordance with mandatory minimum timeframes, but may elect to extend exhibition timeframes beyond the mandatory minimum when having regard to public interest principles and Council’s policy for planning and development assessment procedures.

Table 5 highlights the minimum exhibition timeframes as formulated by Council or otherwise in accordance with the Act and Regulation (current at the time of writing). This Table does not reference any State Environmental Planning Policies, some of which may include their own minimum requirements for exhibition.

Table 5. Minimum exhibition timeframes	
Plan-making	
Draft community participation plan	28 days
Draft local strategic planning statement	28 days
Planning proposals for Local Environmental Plan (amendments or new LEP), subject to a Gateway Determination	28 days, or any other period specified in the Gateway Determination
Re-exhibition of any of the above, which is required due to substantial changes being put forward in revised plans/documents received during the processing phase	14 days
Development Applications	
Development Application, being advertised	14 days
Development Application, being neighbour notified	14 days
Development Application, being designated development	28 days
Development Application, being nominated integrated development	28 days
Threatened species development	28 days
Modification of a Development Application, made under s4.55(2) or s4.56 of the EP&A Act	However long the original development application was exhibited for, but not exceeding 14 days
Re-exhibition of any of the above, which is required due to substantial changes being put forward in revised plans/documents received during the assessment phase	14 days
Activities	
Environment Impact Statement (including a Fauna Impact Statement, or Species Impact Statement) pursuant to Part 5 activities under the EP&A Act	28 days

Key points to note about exhibition include the following:

- The exhibition dates will be outlined in the local newspaper ad (for advertised proposals) and in neighbour notification letters. The closing time for an exhibition period will always be “close of business (5pm)”
- Timeframes are in calendar days and include weekends and public holidays
- The exhibition period will always be due to close on a weekday
- If the closing day is a weekday but that weekday is a public holiday, Council may extend the exhibition period to finish on the first available work day
- The period between 20 December and 10 January (inclusive) is not included in the calculation of a period of public exhibition. This means that extra days (at least 22 calendar days) will be added to the exhibition period if a proposal is exhibited at any point during the Christmas/New Year phase of 20 December to 10 January
- All exhibited material will exclude sensitive or private information, such as floor plans for residential accommodation, and proponent details such as phone numbers and signatures
- Determination of plans, applications, or activities will not be finalised until after the exhibition period has closed, and all relevant submissions have been considered, per statutory obligations.

There may be other aspects of exhibition that are not touched on in the above dot points. In this regard, the reader is encouraged to refer to the current legislation – please see the **Links of interest** section of this Plan.

Questions?

If you have questions regarding anything to do with the *Planning and Development: Community Participation Plan 2019*, please contact Council through any of the following channels:

Phone: 02 6393 8000

Email: council@orange.nsw.gov.au

Street address: Civic Centre
135 Byng Street
Orange NSW 2800

In person: Customer Service, 9am to 5pm, Monday to Friday

Postal address: Orange City Council
PO Box 35
Orange NSW 2800

Website: <https://www.orange.nsw.gov.au/contact/>

Links of interest

Throughout this Plan, reference is made to legislation and webpages. These resources can be found through the following links, or by typing into a search engine some key words:

‘Environmental Planning and Assessment Act 1979’

<https://www.legislation.nsw.gov.au/#/view/act/1979/203/full>

‘Environmental Planning and Assessment Regulation 2000’

<https://www.legislation.nsw.gov.au/#/view/regulation/2000/557/full>

‘Local Government Act 1993’

<https://www.legislation.nsw.gov.au/#/view/act/1993/30/full>

‘Orange Local Environmental Plan’

<https://www.legislation.nsw.gov.au/#/view/EPI/2012/55/full>

‘Orange Development Control Plans’

<https://www.orange.nsw.gov.au/planning-directions-and-policies/development-control-plan/>

‘Orange City Council Development Applications tracking’

<https://www.orange.nsw.gov.au/lodging-a-development-application/track-your-da/>

‘Orange City Council LEP updates’

<https://www.orange.nsw.gov.au/planning-directions-and-policies/local-environmental-plan/>

‘Orange City Council media releases’

<https://www.orange.nsw.gov.au/category/media-releases/>

‘NSW Planning Portal’

<https://www.planningportal.nsw.gov.au/>

‘Central West and Orana Regional Plan 2036’

<https://www.planning.nsw.gov.au/Plans-for-your-area/Regional-Plans/Central-West-and-Orana/Plan>

Glossary

Complying Development. Some types of development which require consent are not subject to a merits assessment, provided they meet a pre-determined checklist which is usually set by NSW Department of Planning, Industry & Environment in State Environmental Planning Policies. Private certifiers or Council can verify that development is Complying Development.

Contribution plans. Plans developed by councils for the purpose of gaining financial contributions from new development towards the cost of new and upgraded public amenities and/or services required to accommodate the new development.

Designated development. Proposed development that – due to its scale, nature, or likely impacts – will require a higher standard of reporting to be undertaken by a proponent, in accordance with Secretarial requirements of the NSW Department of Planning, Industry & Environment (see ‘Environmental Impact Statement’ below).

Determining authority. When Council proposes to undertake an activity as a public authority, it may also be the determining authority. The determining authority could be another government agency, however, such as NSW Office of Environment and Heritage, depending on the type of the activity and associated impacts.

Development Application. When a land-use or development requires consent under the Act (and its associated environmental planning instruments), one way to obtain this consent is through lodging a Development Application. The Development Application is assessed on its merits and considered against any statutory assessment requirements.

Development control plans (‘DCP’). These are plans that provide detailed planning and design guidelines to support the planning controls and objectives in a Local Environmental Plan.

Environmental Impact Statement. A statement prepared for a proposal, where the statement must meet Secretarial requirements of the NSW Department of Planning, Industry & Environment

Environmental Planning and Assessment Act 1979. The principal piece of legislation within which all planning functions exist. Referred to as ‘the Act’ throughout this Plan.

Local Environmental Plan (‘LEP’). This is an environmental planning instrument developed by councils. An LEP sets the planning framework for a Local Government Area.

Local Government Act 1993. This Act oversees how councils operate and what their obligations are, as a local government agency. Community engagement principles for certain council functions are stipulated in that Act and its regulations.

Planning proposal authority. Councils are generally the planning proposal authority wherever changes/amendments are being sought to the LEP.

Proponent. The applicant or person/group facilitating the plan to be made, development to be undertaken, or activity to be completed.

Proposal. Generally, wherever ‘proposal’ is used throughout this Plan, reference is being made to a plan-making proposal, development proposal, or activity proposal. See Table 1 for a break-down of these planning functions.

Public authority. Council, in some of its functions, is a public authority.