

Planning and Development (Community Consultation) Guidelines 2020

Notifiable instrument NI2020–595

made under the

Planning and Development Act 2007, section 138AF (Community consultation guidelines)

1 Name of instrument

This instrument is the *Planning and Development (Community Consultation) Guidelines 2020*.

2 Commencement

This instrument commences on 1 January 2021.

3 Guidelines

Under section 138AF of the *Planning and Development Act 2007*, I make the guidelines set out in the schedule.

4 Revocation

This instrument revokes the *Planning and Development (Community Consultation) Guidelines 2017* [NI2017-569].

Ben Ponton
Chief Planning Executive
9 September 2020



PRE-DA COMMUNITY CONSULTATION GUIDELINES FOR PRESCRIBED DEVELOPMENTS

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We wish to acknowledge the traditional custodians of the land we are meeting on, the Ngunnawal people. We wish to acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region.

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CONTENTS

INTRODUCTION1

IMPLEMENTATION REVIEW – NOVEMBER 20192

PURPOSE OF THE GUIDELINES3

GOALS OF CONSULTATION3

BENEFITS OF CONSULTATION4

MINIMUM CONSULTATION REQUIREMENTS4

MINIMUM DOCUMENTATION REQUIREMENTS6

TIPS FOR UNDERTAKING AND PARTICIPATING IN CONSULTATION7

CONCLUSION9

INTRODUCTION

Pre-development application (DA) community consultation is an opportunity for proponents of significant developments to engage with the community in the early stages of a proposal and for members of the community to provide constructive feedback on what they think about a development.



Early engagement is vital in bringing the community on the development journey and creating a sense of ownership and pride in the future of Canberra. It can provide a developer with useful insights into issues and concerns the community may have about a proposal while the development is in the conceptual stage. It can also allow for genuine feedback that can be incorporated into the design of a proposal prior to a DA being lodged.

Pre-DA community consultation does not form part of the statutory public notification process that is undertaken during the DA process by the planning and land authority in accordance with the [Planning and Development Act 2007](#) (the Act). Development proposals in Canberra must also meet the other requirements of the Act, the [Planning and Development Regulation 2008](#) (the Regulation) and the Territory Plan, Canberra's key statutory planning document, before it can be approved.

Pre-DA community consultation is required under Section 138AE of the Act for prescribed developments. A prescribed development (under Section 20A of the Regulation) is a development proposal for one or more of the following:

- a building for residential use with 3 or more storeys and 15 or more dwellings
- a building with a gross floor area of more than 5000m²
- if the development proposal is for more than 1 building—the buildings have a total gross floor area of more than 7000m²
- a building or structure more than 25m above finished ground level
- a variation of a lease to remove its concessional status
- the development of an estate
- a development proposal that is required to consult with the design review panel (DRP) under sections 138AL (1) and (2) of the Act.

Note: Developments that are required to consult with the DRP must undertake this prior to pre-DA community consultation. The DRP's comments must also be presented to the community during consultation.

Some developments are excepted from the requirement for pre-DA community consultation. This includes developments in industrial zones and land in certain areas. More information about excepted developments is available in section 20A(2) and schedule 1B of the Regulation.

Section 138AF of the Act allows the planning and land authority to make these guidelines. Specifically, the guidelines specify how a developer must or may undertake pre-DA community consultation.

IMPLEMENTATION REVIEW – NOVEMBER 2019

The Pre-DA Community Consultation Guidelines (the guidelines) were first introduced by the Chief Planning Executive on 8 November 2017. At this time, the ACT Government also committed to undertake an implementation review (the review) after 12 months to determine if the guidelines and pre-DA consultation were meeting their aims.

The review, which was finalised in December 2019, looked at a sample of DAs that undertook pre-DA consultation since the guidelines were introduced and included consultation which targeted the users of the guidelines, including members of the community and industry.

The results and recommendations of the review included:

- That pre-DA consultation is generally implemented in accordance with the minimum requirements of the guidelines.
- Opportunities to update the triggers and exceptions of pre-DA consultation have been identified to ensure the scope of development captured meets the aims and intent of the guidelines. This includes:
 - » Adding estate development plan DAs within existing suburbs and all developments that are required to be reviewed by the National Capital Design Review Panel to the prescribed development types requiring pre-DA consultation
 - » The areas currently excepted from pre-DA consultation be reviewed and limited only to greenfield areas with no existing communities.
- Opportunities to encourage proponents to utilise a range of more innovative consultation methods and tools to attempt to reach more diverse views from the community.
- A need to better inform participants of what to expect from the consultation process and to clarify what aspects of the proposal can be influenced.
- A need to implement stronger enforcement methods to ensure consultation has been undertaken in accordance with the minimum requirements of the guidelines and that all suggestions have been considered and responded to.

The results and recommendations of the review reinforce the purpose of the guidelines as an opportunity for the community to provide feedback early in the design process for significant developments.

The review also emphasised that the result of pre-DA consultation does not necessarily mean that all interested parties will be satisfied with the outcome; rather, the aim is to ensure development proposals are fully explored, concerns have been identified and alternatives have been considered.

The recommendations of the review are now in force, as displayed in section 20A and schedule 1B of the Regulation and in these guidelines.

PURPOSE OF THE GUIDELINES

The aim of the guidelines is to promote a shared understanding of how consultation processes in relation to significant developments should be managed.

They aim to:

- encourage partnerships and innovation between industry and the community
- provide clear guidance to proponents on the expected level of community consultation for prescribed developments
- ensure proponents engage with the community as early as possible in the design process
- provide a minimum level of certainty to the community about what they can expect from
- pre-DA community consultation
- achieve high quality design outcomes
- ensure genuine consultation and engagement occurs.

The guidelines are not intended to stipulate a consultation methodology or be overly onerous. They encourage flexible, innovative and genuine engagement with the community. While the methods of consultation noted in the guidelines are based on generally recognised practices and procedures, it is acknowledged that other methods may be equally appropriate.



GOALS OF CONSULTATION

An effective consultation program does not necessarily mean that all interested parties will be satisfied with the outcome. Rather, it is about ensuring that a proposal has been fully explored, concerns identified, and alternatives considered.

BENEFITS OF CONSULTATION

Simply distributing information does not ensure effective consultation and communication. A well-considered and clearly articulated consultation plan will facilitate genuine engagement. It may involve targeted approaches to key stakeholders as well as public engagement.

Benefits of good consultation on development proposals include:

- information exchange between stakeholders and the developer
- sharing of different ideas, perspectives and viewpoints
- opportunities to identify specific areas of misunderstanding, difference and agreement within the community
- an informed understanding about the impacts of the proposed development
- a demonstrated commitment to transparency and accountability
- fostering a sense of ownership and involvement in the process by the parties consulted, who appreciate having their views and alternative options considered and responded to.

MINIMUM CONSULTATION REQUIREMENTS



The planning and land authority require, at a minimum, the developer undertake the following:

1. Consult over a two-week period, at a minimum.

The appropriate consultation period will vary between projects, depending on the proposal's significance. The planning and land authority recommend proponents undertake a longer and more comprehensive consultation process for major or complex proposals.
2. Notify how consultation will occur for the proposal on the ACT Government's [pre-DA community consultation webpage](#). The listing on the webpage must:
 - » be completed before the consultation starts, with adequate notice provided before consultation commences
 - » be active for the entire consultation period (minimum of two weeks)
 - » include details of the proposal (such as the locality, developer's name and project name)
 - » include details of where the community can get information on the proposal (including a link to an external website/webpage and contact details)
 - » detail how the community can provide feedback (including online methods)
 - » state when the consultation will end.

3. Ensure the following groups are informed of the intended consultation process and are given adequate notice prior to consultation commencing:

- » people living in areas immediately surrounding the development
- » the wider community (as appropriate)
- » the local community council.

Proponents are strongly encouraged to use the range of consultation methods mentioned in the 'Tips for Undertaking and Participating in Consultation' section to achieve this.

Who is advised will depend on the type of proposal and should be reasonable and proportionate to the development. For example, a larger sub-section of the community should be consulted about a multi-storey, mixed-use tower development compared to a small 3 storey residential development.

4. Ensure people from a diverse demographic (age, gender, race, religion, physical abilities, etc., as appropriate) can view and comment on the proposal. It is expected that developers will ensure all interested people have an opportunity to fully understand the proposal and be genuinely engaged. In some circumstances, it may also be appropriate to seek specific input from the traditional owners of the land.

5. Conduct face-to-face engagement session(s) that are accessible to a diverse cross-section of the community. The location, timing, number and type of sessions should be considered. Sessions should also be tailored to accommodate people from a diverse demographic, including those with special needs.

The number of face-to-face sessions will depend on the type of the proposal and will be proportionate to the significance of the development. For example, a major multi-storey, mixed-use proposal should have at least two face-to-face sessions – an initial session introducing the proposal and a follow-up session which could detail how initial feedback has been considered.

6. Make available to the community conceptual drawings with appropriate dimensions and measurements, including, at minimum:
 - » a site plan (showing parking areas, access and egress, waste areas and communal open spaces)
 - » indicative floor plans
 - » elevations
 - » shadow diagrams, if there are likely to be shadow impacts
 - » landscape plans
 - » proposed materials and finishes
 - » perspective drawings and other visual images from a range of angles and scales.

7. Make the following details available to the community:
 - » a plain English statement explaining the proposal
 - » high-level responses to key Territory Plan rules and criteria
 - » a response against the relevant zone objectives
 - » key design elements of the proposal.

8. Make the documentation required by points 6 and 7 be available for the public to view online, on the proponent's website or another appropriate location.
9. For DAs to remove the concessional status of a Crown lease, the proponent should make available to the community details of any future development or redevelopment proposals or possible change of use of the site (if available).

It is noted that the type of pre-DA community consultation required will depend on the extent of interest in the concessional lease.

10. Developers are strongly encouraged to undertake two or more phases of consultation for large or significant developments. The first phase may involve early discussions around a concept idea where less information is provided, with detailed information provided in a follow up phase.

For phased consultation, it is expected the proponent complies with points 1 to 5 and makes consultation information, including the information required by points 6 and 7, be available for public inspection across all phases of consultation.

MINIMUM DOCUMENTATION REQUIREMENTS



Where pre-DA community consultation is required, the proponent must submit a consultation report to the planning and land authority as part of the DA documentation that, at a minimum:

1. Attaches a completed approved form, including the checklist declaring that consultation was undertaken in accordance with these guidelines and that the proposal was notified on the ACT Government's pre-DA community consultation website prior to the start of consultation and for the entire consultation period.
2. Provides accurate details of the nature and extent of consultation undertaken, including:
 - » how consultation was undertaken
 - » who was consulted
 - » how long material was available for public inspection
 - » when face-to-face consultation occurred.
3. Demonstrates that the consultation process targeted a diverse demographic (age, gender, race, religion, physical abilities, etc., as appropriate), including how these demographics were targeted.
4. Provides copies of what the community was shown during the consultation process, including the minimum plans, drawings and written statements detailed in points 6 and 7 of the 'Minimum Consultation Requirements' above.
5. Provides a summary of how the community responded to the proposal, including the main comments and areas of concern.
6. Provides a response to the main comments and concerns from the community and highlights how the submitted design has been changed as a result of consultation, or a justification for why changes were not made.
7. States whether the proposal submitted to the planning and land authority for assessment is substantially the same as that shown to the community. If not, provide detailed reasons for how and why the proposal is different. Where there are significant changes that do not respond to community feedback, further pre-DA consultation is recommended and may be required.
8. For DAs to remove the concessional status of a Crown lease, the consultation report must also encompass the requirements of the Social Impact Assessment Guidelines.

The consultation report and all supporting documentation will be made publicly available through the statutory notification period for the DA.

The approved form for pre-DA consultation must be attached to the consultation report, including completion of the submission requirements checklist.

TIPS FOR UNDERTAKING AND PARTICIPATING IN CONSULTATION

To provide additional clarity around what is expected of both proponents and participants during consultation, a charter of participation has been developed. All parties are encouraged to familiarise themselves with the charter and keep its contents in mind during consultation.

CHARTER OF PARTICIPATION

CHARACTERISTICS OF SUCCESSFUL ENGAGEMENT

Participants are actively engaged, respect all involved, and seek collaborative outcomes in good faith.



COMMUNITY

- Participates and contributes constructively.
- Considers all information and evidence in order to provide informed input.
- Respects the views of others, even those that may disagree with their own.
- Recognises that the significance of a proposal influences the scope of engagement.
- Commits to ongoing engagement, where necessary, to achieve collaborative outcomes.
- Understands that some issues, such as land use zones or surrounding development proposals, may not be within the proponent's control.
- Focuses feedback on the proposal being consulted on.
- Recognises the impact feedback can have on the financial viability of a development.



PROPONENT

- Genuinely commits to engagement, recognising the value and importance of community contribution.
- Presents all plans and information in transparent, accessible and easy to understand formats.
- Provides different opportunities and ways of engaging to involve a diverse range of people.
- Informs participants of the scope of engagement, clearly identifying the process, objectives and level of involvement.
- Maintains an open mind and genuinely considers feedback, responds to key concerns and reflects these as design changes, where appropriate.
- Commits to ongoing engagement, where necessary, to achieve collaborative outcomes.



BEST PRACTICE

It is suggested that proponents design a tailor-made consultation strategy for their proposal.

The checklist available with the approved form, the International Association for Public Participation [IAP2 Public Participation Spectrum](#) and the [ACT Government community engagement guidelines](#) may provide valuable guidance.



TIMING

It is recommended community consultation occur as early as possible to allow the community enough time to genuinely engage and provide feedback. Proponents should avoid, or make allowances for, public holidays, school holidays and the summer holiday (Christmas) shutdown period. Consultation must be undertaken over at least a two-week period to ensure the public has adequate time to consider and comment on a proposal depending on its complexity and the issues involved.



TOOLS

A range of tools and materials may be used to alert the community about the proposal and seek feedback, such as:

- **Digital** – including websites, e-newsletters, social media, live streaming face-to-face sessions, teleconferences and virtual Q and As
- **Face-to-face** – including individual and group briefings for key stakeholders, public meetings, drop-in sessions and pop-up stalls in key public locations such as shopping centres or meeting rooms
- **Media** – including newspapers, television, radio, social media and community media (community noticeboards, etc.)
- **Activities during consultation sessions** – including hand-on exercises such as the use of models, drawings and other tools to encourage participants to construct and display their ideas
- **Other** – letterbox drops and signage, pamphlets and/or signs at shopping centres and clubs. Letterbox drops are considered an important way of communicating to many members of the community and may be more relevant to some developments and neighbourhoods.

This is not an exhaustive list of consultation tools. Proponents are encouraged to continue to innovate and adopt additional methods to target larger portions of the community. The choice of techniques will depend on a number of factors, including:

- the particular nature and location of the project, and the reasons for stakeholders being involved
- the nature of the stakeholder groups involved and their willingness to participate
- the likely impact that any development will have on the local community and environment.

CONCLUSION

Effective and on-going engagement with the community is an integral part of the proponent's consultation process. It facilitates the dissemination of information, enables input, may assist with the timely resolution of conflicts and can generate innovative and accepted solutions.

The ACT Government encourages community concerns be addressed as early as possible for any significant development project, rather than during the DA assessment process. This is to encourage participation, foster a sense of ownership in the shaping of the Territory and help deliver a more citizen-focused planning system with the goal of delivering good planning outcomes for both the community and industry.

