

# Community Engagement and Site Contamination



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# Community Engagement

## Procedural rights

Access to Information

Public Participation

Access to Justice



## Benefits of Community Engagement

Adds value to decision making

Helps to ensure community “buy in”

Transparency and accountability



## Access to Information – Public Register (Env Protection Act 1993)

- Licences - existing and new applications
- Notifications of actual and potential contamination of underground water
- Audit notifications and reports
- Assessment and remediation orders
- Approved voluntary site contamination assessment and remediation agreements
- Declarations of any special management areas or prohibitions or restrictions on taking water affected by contamination
- Historic and monitored sites



## Improving the Public Register

- Complete upload of all information
- Additionally include EPA reports/submissions on
  - Development plan amendments
  - Individual development applications
  - Environmental impact assessments for major and crown developments (environmental impact statements, public environment reports, development reports)



## Access to Information – Planning System

- Availability of information
  - Category 1- no documents, Category 2, 2A and 3 - copies of applications and supporting documents must be made available at no cost
  - Major, Crown projects – generally available
- Council DAPs, DAC – Agendas – no reqmts - amount of info varies- publicly available 1-5 days before meeting
- Council DAPs – Minutes – must be publicly available within 5 days of acceptance, DAC – no reqmts but usually on website within 24 hours of acceptance
- Register of applications for consent, approval or the assignment of building classifications
- Copies of key documents eg certificates of currency- must be preserved until building demolished/removed



## Improving Access to Planning Information

- Complete information on all current applications (includes category 1)
- Complete information on all past applications (subject to the exemption around building security) with no requirement to seek owner's permission
- CDAP and DAC Agendas
  - available online at least 5 business days prior to meeting
  - to include complete details of development applications and reports of Council or DAC planning officers recommending approval/rejection
- DAC and CDAP minutes - available on line with 2 days of adoption
- Reasons for decisions in significant matters
- Appeals – details to be incorporated into agendas or published online within a reasonable amount of time



# Public Consultation – Environment Protection Act 1993

- “ Normal” sites – no provisions
- “ Special Management” Areas
- Other
  - National Environment Protection (Assessment of Site Contamination) Measure –revised NEPM due- currently not an EPP under the Act so ? effect
  - EPA Guidelines
    - Environmental Management of On-Site Remediation Appendix J
    - Site Contamination Audit System - appropriate public consultation processes should be adopted in the assessment and remediation of contaminated sites



# Community Consultation and Risk Communication

When should consultation occur ?

As soon as an issue is identified where

- assessment or remediation affects the amenity of the locality
- contamination may impact on the adjacent community or
- the site has a controversial history

Consultation plans should

- have specific goals
- address community perceptions of risk – identify various stakeholder perspectives





## Community Consultation and Risk Management - Principles

- Accept and involve community as a legitimate partner
- Plan carefully
- Allow sufficient time for the consultation process
- Listen to the community's specific concerns
- Be honest, open and frank
- Collaborate and coordinate with credible sources
- Meet the needs of the community
- Communicate clearly and with compassion, kindness and respect
- Evaluate performance



## EPA Practice when notified of actual or potential site contamination

- Preliminary assessment of properties affected
- Advise relevant government agencies and utilities
- Copy of notification on Public Register, website and local media
- Risk assessment –may be further testing and/or health risk assessment
- Depending on urgency may be face to face advice, letter boxing of affected residents
- People not directly affected notified through media



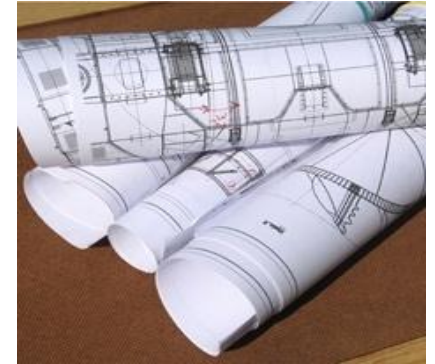
# Public Consultation – Development Act 1993

## Development Plan Amendments

General public are consulted for at least 8 weeks, public meeting

## Development Applications

- Standard- depends on categorisation
  - 1 – none, 2,2A– neighbours, 3 – neighbours and general public
- Major projects –general public – timeframes vary - minimum of 3 to 6 weeks depending on complexity of project (EIS, PER or DR)
- Crown- general public – at least 3 weeks (for projects worth \$4m or more)





## Access to Justice

Third party civil enforcement (Env Protection Act 1993)

- ERDC actions - seeking compliance with orders, payment of compensation
- can only be brought by persons whose interests are affected or by any other person with permission of ERDC

Third party merit appeals (Development Act 1993)

- ERDC actions - argue that the land is unsuitable for the proposed purpose in view of its contaminated condition
- can only be brought by category 3 representors

Law reform – open standing

Possible common law claims – negligence, nuisance