



## Guidelines

# Public Submissions

The Commission encourages fair and meaningful community participation in its planning decisions. This document outlines our public submission process and provides guidance to the public on how they can make a submission.

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## THE COMMISSION'S ROLE AND DECISION-MAKING PROCESS

### What is the role of the Independent Planning Commission?

The Independent Planning Commission's primary role is to make determinations on state significant development (SSD) applications that meet the following criteria:

- 50 or more 'unique' public objections have been made to the Department of Planning, Housing and Infrastructure (DPHI) at the time that it exhibited the proposed development
- a reportable political donation has been made by the applicant
- an objection to the proposed development has been made to DPHI by the relevant local Council

The Commission also provides advice on planning matters as requested by the Minister for Planning or the Planning Secretary (i.e. the Secretary of DPHI). The Commission's role is defined in the [Environmental Planning and Assessment Act 1979](#)

The Commission plays an important role in strengthening transparency and independence in the decision-making processes for major developments in NSW.

### How does the Commission operate?

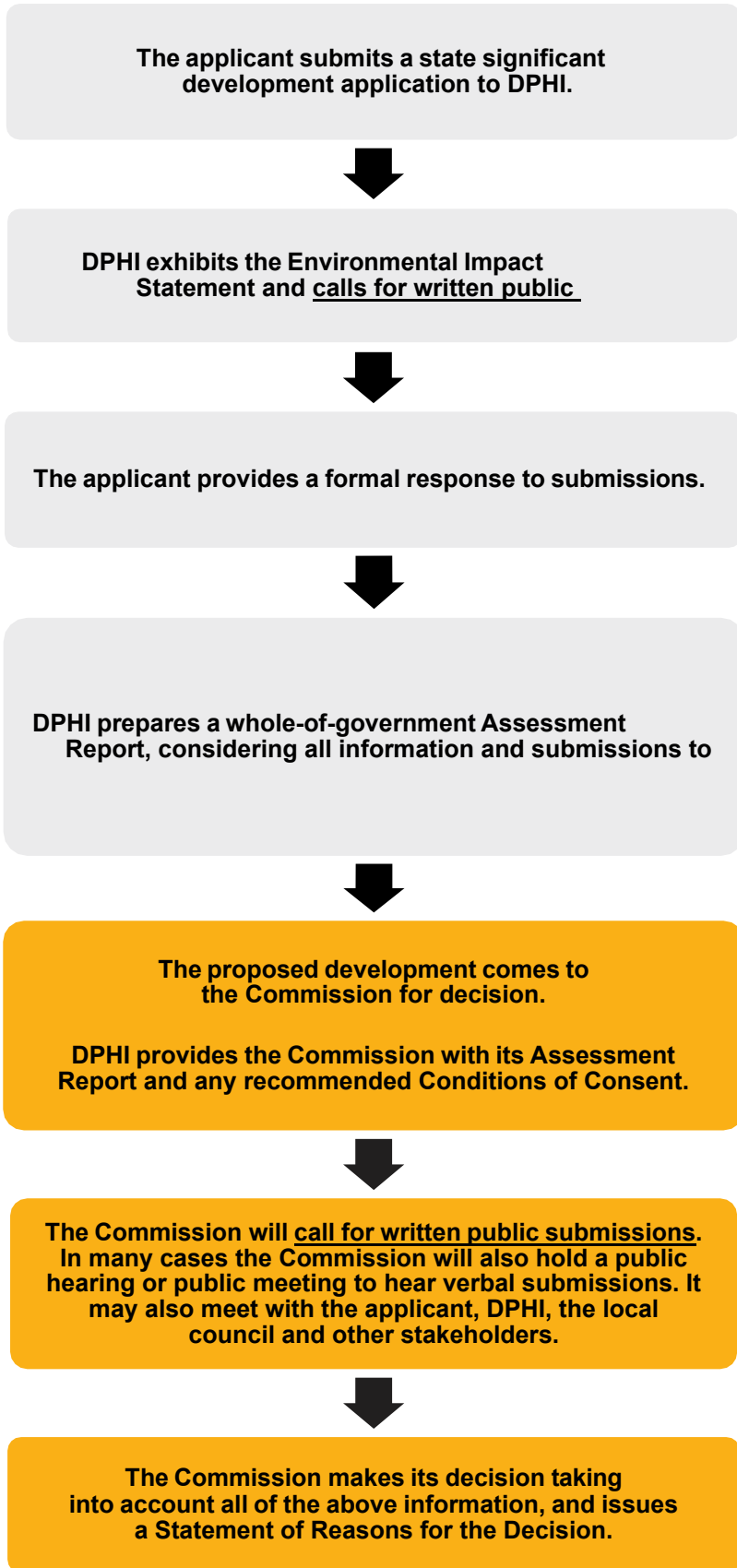
The Commission is the independent decision-making body for certain state significant and other development in NSW. It is not subject to the direction or control of the Planning Minister, except in relation to procedure and other matters authorised under the *Environmental Planning and Assessment Act 1979*.

Before a proposed development comes to the Commission for determination, DPHI will conduct a whole-of-government assessment of the application on behalf of the Commission. The Commission Chair will appoint a Panel, typically comprising between one and three Commissioners, that will carry out some or all of the following:

- hold meetings with the applicant, DPHI, the local council and others
- hold a public meeting where appropriate, or a public hearing if directed to by the Minister
- take and consider public submissions on the proposed development
- make a determination in line with legislation and with consideration of policy to either conditionally approve or refuse the development

- prepare and publish a Statement of Reasons for Decision outlining how the community's views were taken into account.

**Public submissions made during the state significant development process**



If at least 50 public unique submissions are received by DPHI, the Commission becomes the consent authority for that development application.

All public submissions provided to DPHI at this stage are made available to the Commission.

If you are currently making a submission to the Commission, you are here in the process.

The Commission is assisted by public submissions that respond to the DPHI Assessment Report and recommended Conditions of Consent as these documents contain the most up-to-date information on the proposed development.

## What can the Independent Planning Commission consider when making its determination?

The scope of what the Commission can consider in making its determination is limited to relevant planning matters. There are some matters that the Commission must take into account; other matters that are relevant to the scope and purpose of the planning law that the Commission may choose to take into account; and matters that the Commission is not allowed to consider.

Matters that the Commission must take into account where relevant include:

- provisions of rules and regulations that apply to the land to which the proposed development relates
- the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality
- the suitability of the site for the development
- the public interest, which include the benefits of the proposed development and consideration of intergenerational equity and the principles of Ecologically Sustainable Development
- any submissions made in accordance with the [Environmental Planning and Assessment Act 1979](#) or the regulations.

This list derives from the [relevant planning law](#) and the Commission must comply with it.

## What can't the Independent Planning Commission consider?

Some issues that are commonly raised in public submissions but that the Commission cannot consider in its determination include:

- **The reputation of the applicant, including its financial status and any past planning regulation breaches**  
The Commission's determination only relates to the proposed use of the relevant land. The law states that who carries out the proposed use is irrelevant to the Commission's decisions. Anyone who owns the land, or has the permission of the landowner, can use the land in the way that is approved, regardless of who they are.
- **Whether the applicant is a 'fit and proper' person**  
This is not a matter for the Commission's consideration. For other parts of government with jurisdiction in these matters, the 'fit and proper person' test is a consideration for separate regulatory approvals, such as mining leases or environment protection licenses granted to the applicant. These would arise after development consent has been granted.

- **The merits of government policy or requests for policy changes**

The Commission is required to make decisions in accordance with the law and with consideration of relevant government policy and does not itself have a policy-making role. However, given government policy covers such a wide range of matters, and there are sometimes competing policy aims, the Commission may have to give a particular policy more or less weight than another in making its determinations. The reasoning for this weighting is described in the Statement of Reasons.

- **Speculative submissions on property values not backed by expertise or evidence**  
Speculative submissions on the impact of the proposed development on property values that aren't accompanied by expertise in valuations or specific evidence cannot be considered.
- **Any other issues that are not relevant planning considerations**  
Matters must be relevant planning considerations that relate to the type or specific features of the proposed development and the scope of planning law.

## WHAT ARE THE ASSESSMENT REPORT AND CONDITIONS OF CONSENT?

The Assessment Report and recommended Conditions of Consent are developed by DPHI on the Commission's behalf and serve as the starting point for consideration by the Commission of a proposed development.

The Commission is particularly assisted by submissions that respond to these documents as they contain the most current information on the proposed development and have taken into consideration any public submissions already made to DPHI during its assessment.

These documents can be found on the case page for the proposed development on the Commission's website.

### Assessment Report

Before a state significant development application comes to the Commission for determination, DPHI will have conducted a whole-of-government assessment of the development application. This means that DPHI has consulted all relevant government agencies and prepared an Assessment Report incorporating their views and advice.

The Assessment Report includes the key issues raised by the community in public submissions made to DPHI and an explanation of how these issues have been addressed. It also contains the most recent information about the proposed development.

DPHI may also seek the views of subject matter experts to inform its assessment. These views are typically

provided as reports and appended to the Assessment Report.

Given the Assessment Report incorporates the views of all relevant government agencies, responds to public submissions and contains the most up-to-date information about the proposed development, the Commission uses the Assessment Report as the starting point for its consideration of a proposed development.

### **Conditions of Consent**

DPHI generally provides the Commission with suggested Conditions of Consent to use in case it approves the proposed development. As the Commission is independent, it is not required to follow any recommendation from DPHI to approve or refuse an application, or what conditions to impose - the Commission is free to make its own decisions on those matters.

If the Commission determines that a proposed development should proceed, it will impose Conditions of Consent that must be complied with by the applicant if the applicant chooses to carry out the development. If the Commission decides that a proposed development should not proceed, it will refuse consent and no conditions will be imposed.

Conditions of Consent are designed to minimise, mitigate or avoid adverse impacts of a development. They seek to address a range of diverse matters, from placing limitations on noise or operating hours to requiring the applicant to consult with experts, such as for the ongoing management of biodiversity.

The Conditions of Consent imposed by the Commission often incorporate some or all of the conditions that were recommended by DPHI and conditions developed in response to issues raised in public submissions made to the Commission. However, the inclusion of conditions and their wording is a matter for the Commission's independent judgment.

Conditions must be lawful and able to be complied with by the applicant. The Commission has no role in enforcing conditions but will always seek to impose conditions that work in practice.

## **HOW TO MAKE A SUBMISSION**

### **How will my submission be taken into account?**

**The Commission's public submission process is critical in helping Commission Panels understand the individual and collective impacts of a proposed development.**

It is a necessary part of the Commission's process of independently determining each development application on its individual merits, and in accordance with legislation and current government policy.

Although the Panel has access to the public submissions made to DPHI during its exhibition of a proposed development, the Commission's public submission process is the only opportunity for the

community and interested experts to provide specific information directly to the decision-makers that responds to DPHI's Assessment Report and any recommended Conditions of Consent.

Issues, concerns and substantive arguments raised in written submissions and at public meetings or hearings are considered by the Panel against relevant legislation, policy and planning instruments. Submissions will also be analysed as a whole to better understand the issues of most concern to the community.

The Commission will set out how it took the community's views into account in its Statement of Reasons for Decisions, which is published at the time of determination.

### **What should be included in my submission?**

The Commission is most assisted by submissions that are relevant and specific to the proposed development and relate to the list of matters that the Commission can consider. Such submissions may:

- clearly describe the individual or cumulative impacts of the proposed development
- quantify impacts or provide other relevant information or evidence
- provide new or unique information or new views on the issues
- respond to the DPHI Assessment Report and recommended Conditions of Consent, including whether the assessment of impacts and the recommended conditions adequately address the issues that the community have previously identified
- propose further conditions that could be imposed to address issues if consent is granted to the proposed development, or
- provide a view on the applicable policies and planning instruments that apply to the land.

Any submissions that contain inappropriate language or make defamatory or potentially defamatory allegations may be redacted, not published, or referred to the appropriate authorities.

All duly made and accepted submissions are submissions to the Panel for the sole purpose of informing the Panel in its deliberations. Although people making submissions are permitted to refer to already published submissions made by other people, the purpose of a submission is to give the person's views on the matter under consideration by the Panel – not to comment on other submissions.

### **How do I lodge a submission?**

**Entering your submission as text in the 'Make a Submission' online form is the Commission's primary and preferred method of receiving written submissions.**

Please use the online form to make your submission. When making a submission this way, if necessary you can also upload attachments in various file formats,

including .word, .jpeg or .pdf\*. Those with any issues using the online format can also submit their submission by post.

The Commission also accepts submissions made in other formats, including video and audio recordings uploaded in .avi, .mov, .mp3, .mp4, .mpeg and .wmv file formats. The Commission may accept a postal submission from a person if they can demonstrate that they are unable to use the online form. Any submission made by post must be **received** by the Commission prior to the relevant deadline for submissions. Submissions sent but not received by the deadline for submissions will be treated as late submissions and may not be accepted by the Commission.

You are also required to make your submission directly to the Commission. The Commission reserves the right to not accept submissions unless the submission is received directly from the person making the submission – submissions made via a third party may not be accepted as a duly submission.

Verbal submissions can be made at public meetings or hearings directly to the Commission Panel. Public meetings and hearings are recorded with transcripts published on the Commission's website.

\*If you wish to provide your submission or supplementary documents as a .pdf attachment please provide the document as an unlocked .pdf file. Alternatively, if you created a protected or locked .pdf of your submission using Adobe, please select the Adobe security setting option to 'enable copying of text, images and other contents'. Selecting this box in your Adobe security settings will assist the Commission in storing your submission as text and more quickly accessing its content when reviewing specific issues during its deliberations. Please note that a protected or locked .pdf file cannot be edited even when this option to allow copying has been selected.

### **Can I send a form letter or sign a petition instead?**

The Commission is assisted by unique submissions that raise relevant planning considerations and address the specific impacts of the proposed development. Multiple non-unique submissions, typically lodged as form letters, email campaigns, petitions, or online submissions that indicate support/object but do not contain any substantive text, do not provide the Commission with additional useful information to aid its decision. Non-unique submissions are not the purpose of the submissions process and will be treated accordingly in the Commission's deliberations and Statement of Reasons.

The Commission reserves the right to not publish form letters, email campaigns, petitions and other such types of multiple non-unique submissions. Alternatively, the Commission may choose to publish only a representative example of multiple non-unique submissions it has received.

The number of submissions for or against a proposed development is not a specific consideration in the Commission's process – it is the substance of the submissions that assists the Commission in making its determination. The raw number of public submissions received is only a relevant consideration at an earlier stage in the planning process in relation to whether the proposed development will be decided by the Commission. This is triggered when DPHI receives 50 or more 'unique' objections as part of its public submission process.

### **Will my submission be made public?**

**In line with the Commission's [Transparency Policy](#), written and verbal submissions provided to the Commission are considered public documents and are made publicly available on the Commission's website. The Commission reserves the right to not publish your submission or to make any redactions to your submission prior to publication that it sees fit.**

The 'Make a Submission' form also collects general information that helps the Commission to process your submission, including whether you are making a submission on behalf of an organisation or in another capacity, whether you support, object or are simply commenting on the proposed development, and to capture key issues that you are concerned about.

For those submissions lodged through the online 'Make a Submission' portal, only the submission itself and – if you consent – your name and/or suburb is placed on the website. For all other submissions, including those received by post, any personal details you include in the submission will be published.

If you wish to provide your submission or supplementary documents as an attachment, please do not include any private information in your attachment as this will not be redacted. If the file name of your submission contains personal information such as your name, this will be displayed in the URL of your submission on-line. If you do not wish to have your name shown, please save your document without any identifying features in the document name. Please refer to the Privacy section below for further information.

When dealing with the Commission, your personal information is protected under the *Privacy and Personal Information Protection Act 1998*. Your personal information relates to you personally and includes any information or opinion made about you. Personal information includes your name, address, phone number, email address or any information from which your identity can be reasonably ascertained.

The Commission's [Privacy Statement](#) explains the way we obtain and use your personal information. This Statement covers all members of the public that submit information to us, applicants and proponents, as well as anyone else that engages with us.

If your name and/or suburb is supplied to the Commission but not published along with your submission, please note that the Commission may subsequently be required by law to disclose any

personal information it has, even in respect of such submission published without identifying information.

### **Can I request that my submission be kept confidential?**

Only in exceptional circumstances will the Commission consider accepting wholly or partially confidential submissions, i.e. submissions that are not made public on the website.

If you believe your submission fits one of the categories of confidential materials listed in the Commission's [Transparency Policy](#), please write to the Commission setting out why your submission should be confidential – including what category of confidential material it fits and why the Commission should be satisfied that it would be in the public interest to restrict publication of your submission. Any such request must be received at least three business days before the end of the relevant submission period in order to allow the Commission to make a decision on your request in a timely manner.

Do not provide any submission which you wish to request confidentiality to the Commission until the Commission confirms to you if it will keep that specific submission confidential. If you have not first requested and obtained the Commission's agreement to keep your submission confidential, any submission received may be published by the Commission without further notice to you.

Please also note that any submission (or request for confidentiality) received by the Commission is capable of being a state record and may be disclosed without further notice to you by operation of law (for example, under the *Government Information (Public Access) Act 2009* or pursuant to a Court process, such as a notice to produce or a subpoena).

### **Sending multiple copies of a submission**

Please do not send multiple copies of the same submission to the Commission. The Commission will not accept duplicates of the same submission.

### **How long do I have to make a submission?**

**The closing date for submissions is advertised on the Commission's website on the case page for the proposed development.**

The Commission determines when to close written public submissions on a proposed development on a case by case basis. The closing date could range from 5pm on the next business day after the last day of a public hearing or meeting to seven days after the final day of any public hearing or meeting.

Only in exceptional circumstances will the Panel choose to accept a late submission. However, please check the Commission's website for the closing date and time, and do not rely on third party or media information about deadlines.

### **Submissions on additional material**

The Commission may receive additional material from an applicant, DPHI or another stakeholder

during or after a period in which the Commission is accepting submissions.

The Commission may decide, at its discretion, whether it will extend or reopen a submission period and invite submissions to be made on that additional material. Usually, this discretion will be exercised when the additional material contains substantive new information in respect of which the Commission would be assisted by public submissions.

If additional material is published on the Commission's website, it does not automatically mean that the Commission will invite, accept or take into account submissions about that additional material.

Submissions will only be considered on additional material where the Commission has published a statement that:

- identifies the additional material in respect of which submissions are being accepted;
- specifies a period, usually no more than seven days, during which submissions on the additional material will be accepted;
- specifies how those submissions are to be made; and
- sets out any further requirements for those wishing to make submissions on the additional material.

If you have already provided a submission to the Commission on that proposed development, you will be notified that submissions have been re-opened.

### **When will my submission be made public?**

The Commission aims to publish all duly made submissions within seven calendar days of receipt – however in circumstances where significant numbers of submissions are being received on a matter, this period may be longer



#### **For more information**

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