

The Honourable Anthony Roberts MP

Minister for Planning
Minister for Homes



Minister's office reference

Professor Mary O'Kane
Chair
NSW Independent Planning Commission
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SYDNEY NSW 2000

Dear Professor O'Kane

STATEMENT OF EXPECTATIONS FOR THE INDEPENDENT PLANNING COMMISSION

I am pleased to provide you with this Statement of Expectations (SoE) for the Independent Planning Commission (the Commission). This SoE applies for the period from 1 July 2022 to 30 June 2024, or until otherwise amended.

As Minister for Planning, I am responsible for administering the *Environmental Planning and Assessment Act 1979* (the Act) which includes provisions for planning administration (including for the Commission), land use plan making and implementation, development assessment and consent, and infrastructure and environmental impact assessment. This SoE should be read within the context of those provisions and the objects of the Act.

This letter describes my expectations in relation to the purpose, functions and roles of the Commission, as well as key governance and performance objectives to improve the effectiveness of the Commission in determining contentious State significant development applications and providing independent expert advice, when required.

Providing independent decision-making and advice

The Commission plays an integral role in upholding the integrity of the NSW planning system, by fulfilling its primary purpose of providing independent decision making on contentious State significant development applications and providing advice on other planning matters as requested.

Objectives

I expect the Commission to undertake its functions and roles in such a way that builds trust in the NSW planning system. The approach taken should be based on the following objectives:

- independent and objective decision making
- openness and transparency in the operations of the Commission
- delivering robust and timely determinations within the legislative and Government policy framework to best serve the people of NSW
- encouraging effective community and other stakeholder participation to inform Commission determinations and advice.

Functions of the Commission

My expectations for the main functions of the Independent Planning Commission are that it:

- determine State significant development and modification applications for which it is the consent authority
- conduct public hearings for development applications and other planning and development matters, when requested
- provide independent expert advice on any planning matters, when requested.

Undertaking Functions and Roles

Of principal importance to the successful undertaking of these functions are the interactions between myself as the Minister and the Government as the entity responsible for determining policy for the State; the Planning Secretary, who I expect to coordinate whole-of-government planning assessments prior to matters being provided to the Commission; and the Commission who I expect to make decisions based on the legislation and policy frameworks and informed by the Planning Secretary's assessment. I expect these roles to be respected so that duplication of functions is avoided.

I encourage the Commission to seek guidance from the Planning Secretary to clarify policies or identify policy issues that may have implications for State significant development determinations. I also understand that the necessary working arrangements have been established through a Memorandum of Understanding between the Commission and the Planning Secretary that supports administrative consistency and clarifies roles and responsibilities. I expect both the Commission and Planning Secretary to adhere to the terms of this Memorandum of Understanding.

Role of Chair

I recognise the role of the Commission's Chair as essential to the success of delivering the matters set out in this SOE. As the agency head, I expect leadership from you that enables fulfilment of the Commission's functions as well as instilling a culture of excellence and continuous improvement across the organisation.

I recognise the legal and administrative responsibilities for the Chair set out in Part 2 of the Act and also encompassing the selection of Panels and being a member of the Commission, oversight of Panel decisions, and conducting performance evaluation of Commissioners.

I expect the Chair to be responsible for the Commission in:

- establishing and maintaining a strong governance framework, consistent with the NSW Audit Office's guidelines
- maintaining a workplace culture of high performance and integrity
- operating effectively and efficiently
- advising individual Panel chairs and members on the implementation of this SOE
- being accountable for its actions and performance.

Key Performance Indicators and Reporting

Based on consultation between Department and Commission, I have identified key performance indicators to ensure ongoing timeliness and quality of decisions. The Commission is expected to monitor and report on these indicators in its Annual Report to Parliament (and quarterly on the Commission's website for State significant determinations).

Timeframes for Decision-Making

State Significant Development Determinations

I expect the following timeframes to be met (as an annual rolling average) for time from the date of the provision of the Assessment Report by the Department of Planning and Environment (the Department) to determination by the Commission. The timeframes exclude:

- any time where the Commission has requested further information from the Department or the Applicant
- the period from 20 December to 26 January every year
- any time the Department is considering, as the Commission's delegate, an application to amend a development application or modification application before the Commission for

determination (including any time needed to publicly exhibit any amendments to a development application or modification application).

Determination within:

- 32 calendar days for *routine* determinations (no public meeting or hearing) and modifications with political donations
- 50 calendar days for determinations subject to a *public meeting*
- 12 weeks (84 calendar days) for determinations subject to a *public hearing*.

Gateway and Rezoning Reviews

Advice to be provided to the Planning Secretary within:

- 5 weeks (35 calendar days) including any meetings and preparation of the advice (unless otherwise agreed with the Planning Secretary and excluding any time where the Commission has requested further information from the Department, Council or the Applicant).

Mining and Petroleum Gateway Certificates

Timeframes specified in *State Environmental Planning Policy (Resources and Energy) 2021*.

In meeting these timeframes, I acknowledge that the Department also has an obligation to ensure the Commission is made aware of upcoming matters, provide adequate assessment documentation and respond to information requests in a timely manner, in accordance with the Memorandum of Understanding between the Department and the Commission.

Qualitative Indicators

I also expect the Commission to provide ongoing monitoring of performance from a qualitative perspective, including consideration of stakeholder feedback about the Commission's transparency, accessibility and independence as a decision-making body; and examination of the legal robustness of determinations.

I look forward to seeing the Commission continuously working towards achieving best practice in the determination of State significant development projects and its other roles as required.

Yours sincerely



The Hon Anthony Roberts MP
Minister for Planning

cc: Mr Michael Cassel, Secretary, Department of Planning and Environment