



## Guidelines

# PUBLIC SUBMISSIONS

The NSW Independent Planning Commission (the Commission) encourages fair and meaningful community participation in its planning decisions. This document outlines our public submission process and provides guidance on how you can make a submission.

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## The Commission's role and decision-making process

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### What is the role of the Commission?

Our main role is to make decisions on [State significant development \(SSD\)](#) applications (this is called making a 'determination') when:

- 50 or more members of the public object to the proposed development at the time that it exhibited the proposed development, or
- the relevant local Council has objected to the proposed development to DPHI, or
- the applicant has made a reportable political donation

We also give advice on planning matters to the Minister for Planning and the Planning Secretary (i.e. the Secretary of DPHI), but only when they ask us to give advice.

We play an important role in strengthening transparency and independence in decision-making for major developments in NSW. As the independent decision-making body for certain State significant and other development in NSW, we are 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](#).

### How does the Commission operate?

The Commission Chair will appoint a Panel of usually one to three Commissioners, that will do some or all of the following:

- hold meetings with the applicant, DPHI, the local council and other stakeholders
- 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
- decide to either conditionally approve or refuse the development
- prepare and publish a Statement of Reasons for Decision outlining how the community's views were considered.

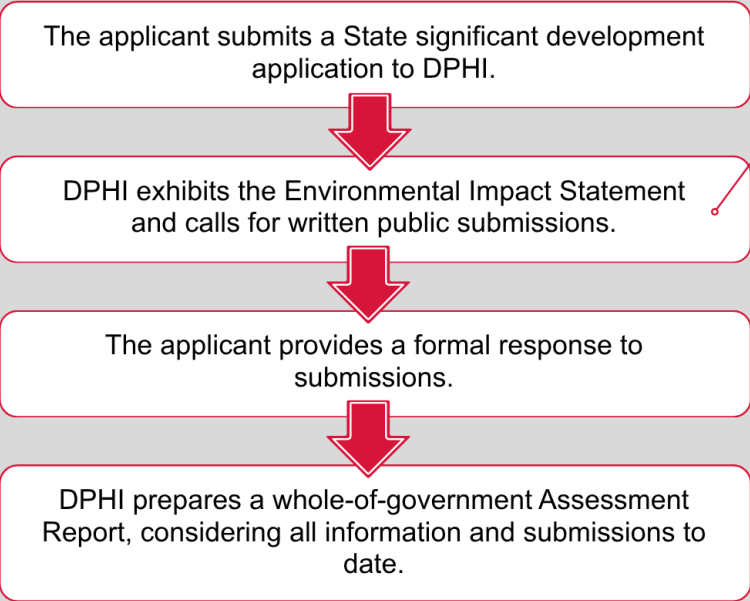
### When are public submissions made during the State significant development process?

See page 3.





## DEPARTMENT OF PLANNING, HOUSING & INFRASTRUCTURE (DPHI)

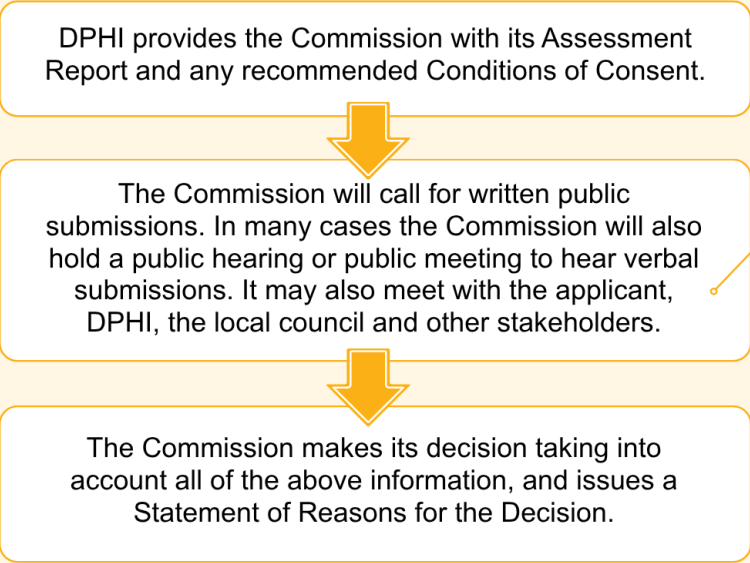


**Note:**  
If DPHI receives at least 50 public unique submissions, the Commission becomes the consent authority for the development application, (this is sometimes called the 'proposed development').  
  
All public submissions that were provided to DPHI at this stage are made available to the Commission.

**The proposed development comes to the Commission for decision.**



## THE NSW INDEPENDENT PLANNING COMMISSION



**Note:**  
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 we consider when making a decision on a proposed development?

What we can consider when making a decision depends on the law. There are some matters we must consider; other matters we may choose to consider if they are relevant; and matters that we are not allowed to consider.

Matters that we must consider include:

- provisions of rules and regulations that apply to the land where the proposed development will take place
- 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 includes 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 comes from the [relevant planning law](#) and we must comply with it.

## What can't we consider when making a decision on a proposed development?

What we can't consider	Why
The reputation of the applicant, including its financial status and any past planning regulation breaches	Our decisions only relate to the proposed use of the relevant land. The law states that who carries out the proposed use is irrelevant to our 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	The 'fit and proper person' test is a consideration for some regulatory approvals managed by other parts of government, 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	We are required to make decisions in accordance with the law and with consideration of relevant government policy. We do not have a policy-making role. However, given government policy covers such a wide range of matters, and there are sometimes competing policy aims, we may have to give a particular policy more or less weight than another in making decisions on proposed developments. This is explained in our Panels' Statements of Reasons.
Submissions on property values not backed by expertise or evidence	We cannot consider speculative submissions on the impact of the proposed development on property values that aren't accompanied by expert valuations or specific evidence.
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.



## The Assessment Report and Conditions of Consent

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DPHI writes an Assessment Report and recommended Conditions on our behalf, which we use as the starting point when considering a proposed development.

You can find these documents by searching for the proposed development on our [Cases webpage](#).

### What is an Assessment Report?

Before we receive a State significant development application asking us to make a decision on a proposed development, DPHI will conduct an assessment and prepare an Assessment Report.

The Assessment Report includes:

- the key issues raised by the community in public submissions sent to DPHI and an explanation of how these issues have been addressed
- the most recent information about the proposed development
- the views of subject matter experts if DPHI seeks their advice to inform its assessment. These views are typically provided as reports and are appended to the Assessment Report
- the views and advice of all relevant government agencies.

### What are the Conditions of Consent?

DPHI will generally provide draft recommended Conditions of Consent to us for our consideration. Although, when we decide to grant consent to a proposed development, we often impose some or all of DPHI's recommended draft conditions, we are not required to follow these recommendations and make our own decisions to approve or refuse a proposed development, which conditions to include, and how they are worded.

If we decide:

- a proposed development should proceed, we will set Conditions of Consent that the applicant must comply with if they choose to carry out the development.
- a proposed development should not proceed, we will refuse consent and not set any conditions.

Conditions are designed to minimise, mitigate or avoid a range adverse impacts of a development. We often set Conditions of Consent that respond to issues raised in public submissions, for example, by placing limitations on noise or operating hours, to requiring the applicant to consult with experts, such as in the ongoing management of biodiversity.

Conditions must be lawful and able to be complied with by the applicant. We have no role in enforcing the conditions that we impose.

## How to make a submission

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

Our role is to independently make a decision on whether to conditionally approve or refuse each proposed development on its individual merits.

Although the Panel can access the public submissions DPHI receives earlier in the planning process, our public submission process is the community's only opportunity to give specific feedback on DPHI's Assessment Report and any recommended Conditions of Consent.



**Our public submission process is critical in helping our Panels understand the impacts of a proposed development.**



The Panel considers issues, concerns and substantive arguments raised in written submissions and at public meetings or hearings against relevant legislation, policy and planning instruments. We also analyse submissions to better understand which issues the community is most concerned about.

We will explain how we took the community's views into account in our Statement of Reasons for Decisions, which we publish when we make a decision on a proposed development.

### What should I include in my submission?

Your submission should be relevant and specific to the proposed development and relate to the list of matters that we can consider.

All duly made and accepted submissions are submissions to the Panel for the sole purpose of informing the Panel in its deliberations.

What you should include in your submission	What you shouldn't include in your submission
<ul style="list-style-type: none"> <li>✓ Clearly describe the individual or cumulative impacts of the proposed development</li> <li>✓ Quantify impacts or provide other relevant information or evidence</li> <li>✓ Provide new or unique information or views on the issues</li> <li>✓ 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, or</li> <li>✓ Propose further conditions that could be imposed to address issues if consent is granted to the proposed development.</li> </ul>	<ul style="list-style-type: none"> <li>✗ Inappropriate language or allegations about individuals or entities (which may be redacted, not published, or referred to the appropriate authorities)</li> <li>✗ Commentary on other submissions. Although you are permitted to refer to already published submissions made by other people, the purpose of a submission is to provide your views to the Panel</li> <li>✗ Matters that we can't consider, such as anything about the applicant proposing the development, or issues with the law or government policy</li> <li>✗ Any false or misleading information</li> </ul>

### How do I make a submission?

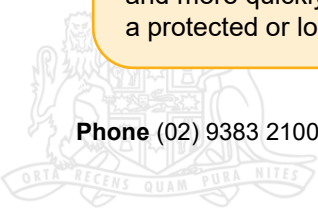
You can make a written submissions through our website by:

1. Searching for the proposed development on [the Commission's website](#)
2. Completing the 'Make a Submission' online form **before the closing date**
3. If necessary, uploading attachments in various file formats, including .word, .jpeg or .pdf\* or as an audio or video file, in.avi, .mov, .mp3, .mp4, .mpeg and .wmv file formats.

When we schedule a local meeting, a public meeting or a public hearing, you also have the option of registering to give a verbal submission directly to our Panel We will transcribe these verbal submissions and publish them on the Commission's website.

You must make your own submission directly to the Commission. We do not accept submissions made by email and we may choose not to accept submissions made via a third party.

\*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 us 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.



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

You must make your submission by the closing date advertised on the case page for the proposed development on our website.

Please check the closing date as some cases have less time to make submissions than others. Do not rely on third party or media information about closing dates.

### **What happens if my submission is late?**

Our Panels will only accept a late submission in exceptional circumstances.

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

The most helpful submissions are raise relevant planning considerations and address the specific impacts of the proposed development.

Multiple repetitive submissions that support or object a proposal, but do not contain any detail, do not provide us with useful information. These are typically sent as form letters, email campaigns, petitions, or online submissions. We may decide not to publish non-unique submissions or only publish a representative example.

The number of public submissions is only relevant earlier in the planning process when DPHI receives 50 or more objections, which triggers us becoming the decision-maker.

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

Yes - written and verbal submissions provided to us are public documents and are made publicly available on our website. Sometimes, there might be a reason why we chose not to publish your submission or to make any redactions to your submission prior to publication.

The 'Make a Submission' form on our website also collects general information that helps us 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.

Only your submission and – if you consent – your name and/or suburb are published on our website.

Please do not include any private information in any files uploaded with your submission, as these files may 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 personally identifying features in the document name.

When dealing with us, your personal information is protected under the Privacy and Personal Information Protection Act 1998. Personal information includes your name, address, phone number, email address or any information from which your identity can be reasonably ascertained.

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

We try to publish 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.

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

We will only consider accepting wholly or partially confidential submissions in exceptional circumstances.

If you believe your submission fits one of the categories of confidential materials listed in our Transparency Policy, please write to us setting out why your submission should be. Your request must be received at least three business days before the end of the relevant submission period to let us to make a timely decision on your request.

Do not provide any confidential submission to us until we confirm to you that we will keep that specific submission confidential. If you have not first requested and obtained our agreement to keep your submission confidential, we may publish your submission without further notice to you.

Any information you send to us could be classed as 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).

### **Is there any benefit to sending multiple copies of my submission?**

No - please do not send multiple copies of the same submission to us. We will not accept duplicates of the same submission.

### **Will I be able to make submissions on additional material?**

We may receive additional material from an applicant, DPHI or another stakeholder during or after a period in which we are accepting submissions.

We will decide whether to extend or reopen a submission period and invite submissions to be made on that additional material. Usually, we will only do this when the additional material contains substantive new information in respect of which we would be assisted by public submissions.

That means that if additional material is published on our website, it does not automatically mean that we will invite, accept or take into account submissions about that additional material.

Submissions will only be considered on additional material where we 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 us on that proposed development, you will be notified that submissions have been re-opened.

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