



## Policy document

# Transparency

**This Policy guides the Independent Planning Commission as it seeks to ensure its processes are undertaken with a high degree of openness and transparency and in line with ethical conduct.**

### Our role as the Commission

The Independent Planning Commission of NSW was established by the NSW Government on 1 March 2018 as an independent statutory body operating separately to the Department of Planning and Environment.

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

The key functions of the Commission include to:

- determine state significant development applications
- conduct public hearings for development applications and other matters
- provide independent expert advice on any other planning and development matter, when requested by the Minister for Planning or Planning Secretary

The Commission is the consent authority for state significant development applications when there are:

- more than 50 'unique' public objections
- reportable political donations

- objections by the relevant local Council and Council has not rescinded that objection following exhibition

For more information on our functions, please visit our website: [www.ipcn.nsw.gov.au](http://www.ipcn.nsw.gov.au).

### Transparency

One of the values of the Independent Planning Commission (**Commission**) is integrity – and that value is supported by ensuring that the Commission's processes are undertaken with a high degree of openness and transparency and in line with ethical conduct. The Commission also recognises the NSW Government's commitment to open government, as expressed in the object of the *Government Information (Public Access) Act 2009*, and providing public access to government information to 'maintain and advance a system of responsible and representative democratic Government that is open, accountable, fair and effective'.

Transparency underpins all the Commission's processes, including throughout the entire deliberative process the Commission undertakes in determining complex and contentious development applications, conducting public hearings and providing advice on request of the Minister for Planning or the Planning Secretary. Transparency for the Commission means providing as much clear, timely and exhaustive information to the public as possible.

The Commission's aim is that there is no material before the decision makers that the public cannot also see. There are limited exceptions to this, which are set out in this policy.

Transparency also ensures the Commission's processes are procedurally fair to all stakeholders.

This policy sets out the practical steps the Commission takes in its key processes, in roughly chronological order throughout a typical case, to ensure that it maintains the highest standards of transparency.

Please note that this policy does not apply to Court proceedings in which the Commission is involved. In those circumstances, the rules, directions and orders of the Court take precedence over the Commission's processes (see also our *Section 34 conciliation policy* linked [here](#)).

### **Appointment of Commission Panels**

*Why be transparent?*

- Transparency on Panel appointments at the earliest opportunity ensures that all stakeholders are aware of who the decision makers will be and whether they have any private interests that may, or may appear to, impact their decision making.
- If a concern is raised with the Commission about an appointment and that concern is found to be merited, raising those concerns early allows the Commission Chair to make any changes to the composition of the Panel.

*How we're transparent:*

- The Commission will publish a Conflict of Interest Register for each case setting out particulars of any actual, potential or perceived conflict of interest declared by any Panel member and the Chair's decision on each declaration (in accordance with the Commission's *Conflict of Interest Policy*).
- The Conflict of Interest Register will be updated as necessary throughout the course of a case while it is with the Commission for determination or advice.

### **Stakeholder meetings**

*Why be transparent?*

- To give all stakeholders confidence that no confidential discussions regarding matters before the Commission are taking place between the Panel and any interested parties, including Applicants or their representatives, those for or against the application or elected representatives and government officials.

- Transparency of stakeholder meetings ensures that all stakeholders – whether they are present in the meeting or not – can know what the Panel is told by any interested parties and – where appropriate – have an opportunity to correct any perceived errors or make other submissions about the content of what the decision makers have heard.

*How we're transparent:*

- Commission Panels do not speak about cases with any representatives of any Applicant except in transcribed stakeholder meetings, the transcripts of which are made available on the Commission's website.
- All meetings between Panel members and stakeholders are recorded and transcribed and the transcripts published on the Commission's website as soon as practicable after the meeting.
- In the rare circumstances where the transcription fails for technical reasons, the Commission will publish detailed notes of the meeting (including a list of all attendees) in lieu of a transcript.

### **Site inspections and locality tours**

*Why be transparent?*

- Transparency at site inspections and locality tours gives stakeholders confidence that Applicants are not making un-scrutinised submissions to the Panel.
- Transparency ensures that the Panel can also benefit from submissions (at the appropriate time) from stakeholders on what the Panel has observed during site inspections and locality tours and its relevance to the case.

*How we're transparent:*

- At the Panel and landholder's discretion, selected members of the public may be invited to attend site inspections and locality tours as independent observers (landholder consent is not required for independent observers at any virtual site inspection).
- All material (including images and video) provided in lieu of, or as a supplement to, a physical site inspection or locality tour will be published on the Commission's website with all stakeholders given the opportunity to make submissions.
- Notes, a transcript or a recording will be taken of all site and locality tours and published or linked on the Commission's website.

## Public hearings and public meetings

### Why be transparent?

- The Commission is legally obliged to conduct public hearings and public meetings in public, except in exceptional circumstances where the Commission has made a decision under clause 5 of Schedule 2 to the *Environmental Planning and Assessment Act 1979* to restrict publication of evidence given to the Commission.
- Transparent conduct of public hearings and public meetings ensures that fully informed submissions can be made to the Panel, which in turn enables the Panel to fulfil its legal obligation to consider duly made submissions in determining development applications.

### How we're transparent:

- The Commission will notify the public of the dates of all electronic, in-person or hybrid public hearings and public meetings and invite all interested stakeholders to apply to give verbal submissions.
- All public hearings and public meetings are able to be observed at the time they occur, either electronically or by physical attendance.
- All public hearings and public meetings are transcribed, with the transcript published and all stakeholders having the opportunity to make submissions to the Commission on the content of the transcript.
- Video recordings of electronic public hearings and electronic public meetings will be posted online as soon as practicable after the conclusion of a public hearing or meeting.
- If the Commission Panel wishes to follow up any matter raised at a public hearing or public meeting (or in other submissions) in detail, the Commission may:
  - write to the person, organisation or agency with whom they want to follow-up a matter, in accordance with the transparency measures set out at "[5] Correspondence" of this policy; and/or
  - conduct a transcribed stakeholder meeting with that person, organisation or agency in accordance with the transparency measures set out at "[2] Stakeholder meetings" of this policy.

## Correspondence:

### Why be transparent?

- To ensure that the Commission's engagement with external parties is procedurally fair to all stakeholders.

- Stakeholders are able to make more informed submissions on Commission matters if they are able to see what the Commission has received for consideration from other stakeholders.

### How we're transparent:

- Almost all external correspondence either sent or received relating to the substance of a Commission matter will be published on the Commission's website in a timely manner. The only exceptions to this are:
  - defamatory, rude or offensive material
  - material where confidentiality grounds apply, such as:
    - cabinet-in-confidence material
    - commercial-in-confidence material (the Commission rarely accepts such material on a confidential basis because it can't be shared consistent with the aims of this policy)
  - some types of personal information (see our *Privacy Statement*)
  - legally privileged material relating to advice from the Commission's legal advisors (this does not include copies of legal advice obtained by Applicants or other stakeholders)
  - applications to speak at public hearings or public meetings
  - routine email correspondence or file notes of communications with the Department on matters or processes that are not material to a specific case
  - complaints or enquiries about Commission processes
  - material that is already publicly available
  - material where the Commission has made an order restricting publication of evidence before it; or
  - advice from the Department of Planning and Environment specifically relating to the workability, enforceability, and unintended consequences of the Commission's proposed conditions (noting that such advice will always be published on the Commission's website, after the case has been determined).

## Decision making

### Why be transparent?

- The Commission is bound by law to give reasons for its decisions. This is also in line with its Community Participation Plan.

- Transparency in decision making ensures that all stakeholders understand how the Commission reaches its decisions.

*How we're transparent:*

- The Commission aims to have all materials received by its Panels and considered in the Panel's deliberative process published on the Commission's website.
- The Commission will list all material considered by a Panel in the Panel's Statement of Reasons for its decisions and in its advices.
- The Commission will describe in its Statements of Reasons and advices how it has taken into account community concerns and the public interest.

**Annual Reports, directions and policies**

*Why be transparent?*

- The Commission, as a NSW government agency, is bound by law to report on its operations.
- The Commission is committed to best practice in its operations and is accountable to the Minister for the expectations set out in the Minister's Statement of Expectations.
- The Commission is also committed to the continuous improvement of its processes and encourages feedback on its publicly available policies.

*How we're transparent:*

- The Commission publishes an Annual Report on its operations every year. The Commission also prepares reports every quarter on how it is achieving any timing KPIs set out in the Minister's Statement of Expectations. Copies of the Annual Report and quarterly reports are made available on the Commission's website.
- All directions made by the Minister for Planning to the Commission are published on the Commission's website.
- Commission policies (other than internal business processes) are made available on the Commission's website.

**Government information public access applications:**

*Why be transparent?*

- Like all NSW Government agencies, the Commission is subject to the requirements of the *Government Information (Public Access) Act 2009 (GIPA Act)*.

*How we're transparent:*

- The Commission has a strong commitment to disclosure of information and promptly and fully complies with its obligations under the GIPA Act.
- The Commission encourages and facilitates the disclosure of information through informal requests under section 8 of the GIPA Act.



**For more information**

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