



Policy document

Public Meeting Guidelines

This Policy sets out the considerations that guide the Independent Planning Commission in relation to the conduct of a public meeting before determining a development application.

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 an independent consent authority for state significant development applications where 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- Objections by the relevant local Council and Council has not rescinded that objection following exhibition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 the 'About us' section on our website:

www.ipcn.nsw.gov.au.

Purpose of this document

The purpose of this document is to set out the considerations that will guide the Commission in relation to the conduct of a public meeting before determining an application. It should be noted these guidelines relate only to public meetings. The Commission has separate guidelines for its conduct of public hearings, which are available on the Commission's website.

Public meeting

A public meeting provides the Commission an opportunity to hear the community's views on the Department of Planning and Environment's whole-of-government Assessment Report (including any recommended consent conditions) before determining an application. The Commission cannot require anyone to attend or give evidence at a public meeting.

The Commission can decide whether or not to hold a public meeting as it is not mandatory to do so before it makes a determination. If a public meeting is held, it does not affect people's merit appeal rights.

When will a public meeting generally be held?

There is no statutory requirement for the Commission to hold a public meeting before determining an application. In deciding whether to hold a public meeting, the Commission will ordinarily take the following matters into account:

- Where an application received **fewer than 50 unique objections from the public** when it was exhibited by the Department of Planning and Environment:
 - If the relevant council and government agencies are not opposed to the proposed development and the Commission considers that the Assessment Report has adequately addressed the issues raised in public and agency submissions, the Commission is generally not likely to hold a public meeting.
 - If a relevant council or public agency is opposed to the proposal, the Commission may still consider that holding a public meeting is not warranted and may instead consider holding stakeholder meetings with relevant persons before determining the application.
- Where an application received **50 or more unique objections from the public** when it was exhibited by the Department of Planning and Environment:
 - The Commission will generally hold a public meeting to hear the community's views on the Assessment Report and any recommended conditions of consent
 - However, in some circumstances the Commission may decide not to hold a public meeting and instead consider holding stakeholder meetings with relevant groups or individuals.
- Where a public hearing has been requested to be held in relation to an application:
 - The Commission will generally not hold a separate public meeting, regardless of the number of submissions on the application, as the public hearing will serve as a forum to hear the community's views.

Multiple public meetings and specific subject matter meetings

In exceptional circumstances, the Commission may decide to hold more than one public meeting on a proposed development.

The Commission may also choose to hold a public meeting on a key issue relating to a development.

Appeal rights

A public meeting held by the Commission does not affect any rights of appeal to the Land and Environment Court in respect of any future determination of that application.

What is the difference between a public hearing and a public meeting?

Public hearing

A public hearing is only held if a formal request is made by the Minister for Planning. If such a request is made, the Commission must hold the public hearing. The Commission has powers to require certain people to attend the public hearing and to give evidence.

When the Commission holds a public hearing in relation to a development application for which it is the consent authority, merit appeal rights in respect of any future determination of that application are extinguished.

For further information, please see the Commission's *'Public Hearing Guidelines'*.

In summary

Public meetings have a lot of similarities to public hearings but when the Commission is not directed to hold a public hearing in relation to a development application for which it is the consent authority:

- the merit appeal rights for both the applicant and objectors are not extinguished, as they would be if a public hearing were held;
- the Commission has a discretion to proceed to determination with or without a public meeting; and
- the Commission cannot require people to attend the public meeting and/or give evidence.

When a decision has been made by the Commission to hold a public meeting

When and where a public meeting will be held

Public meetings will be held as soon as practicable after the Department of Planning and Environment's Assessment Report is sent to the Commission.

The Commission may choose to conduct public meetings wholly in person, wholly remotely by electronic means (i.e. via telephone and/or videoconference) or some combination of the two.

Matters that the Commission may consider in deciding this may include:

- the likely numbers of participants at the public meeting

- the availability of a suitable site for the in-person component of the public meeting
- the availability of reliable telecommunications for the remote component of the public meeting
- external factors such as any public health orders or related guidance.

Timing of the public meeting

The Commission will select a day, or days, that it believes will accommodate the greatest number of interested parties. Meetings will generally be held during the day but may sometimes include an evening session.

Notification of the public meeting

The Commission will give a minimum of two weeks' (14 days) notice of a public meeting.

The Commission will give notice of the public meeting via an advertisement published on its website and social media channel/s. It will also issue a media release to news outlets in the local area where the development is proposed. The Commission will notify via direct email all persons (including public authorities) who had previously made a submission to the Department of Planning and Environment during its consultation period/s, the local council (both elected representatives and civic management), and state and federal MPs in the area.

The notice of the public meeting will include:

- the subject matter of the meeting
- details of the meeting, including time, date and format
- the place at which the public meeting is to be held, or if the meeting is to be held remotely, information on how you may hear or view the meeting
- information on how to make written submissions to the Commission in relation to the subject-matter of the meeting, together with the date before which such submissions must be received
- details of how to apply to speak at the meeting, together with the last day on which it is possible to apply to speak at the meeting
- details of how proceedings can be viewed – i.e. in person or via a livestream
- the availability on the Commission's website of the Assessment Report and any other relevant case material.

Where do I find documents and information about the proposed development?

The Assessment Report and any recommended conditions of consent will be published on the Commission's website, which will also provide a link to the Department of Planning and Environment's website where the application and other relevant documents, including public submissions previously made to the Department, are published.

The public meeting schedule, listing the names and organisations of registered speakers, will be posted on the Commission's website after registrations close and at least 24 hours before the public meeting.

Attendance

Where a public meeting is conducted wholly in person, it will be open to the public to attend (subject to any capacity constraints at the venue).

If you wish to speak at a public meeting

If you wish to speak at a public meeting, you must complete the speaker registration form on the Commission's website prior to the advertised closing date. The Applicant and representatives of the Department of Planning and Environment will also have an opportunity to speak.

It is important that all applications to speak are received by the closing date, as the Commission will require time to schedule speakers and – if there is not enough time in the advertised public meeting dates for all to speak – prioritise the applications in accordance with the principles set out in this policy.

Although the Commission will try to hear from as many people as possible at the public meeting, it may not be possible for everyone who wishes to speak to have the opportunity to do so

The Commission may therefore use information provided by you in the speaker registration form to prioritise speakers or group speakers by the nature of their interest in the proposed development or according to a common issue or theme. Those people wishing to speak with a direct and immediate interest in the proposed development are likely to be given priority, for example, an owner or a tenant of a neighbouring property or any person whose consent is required for the application to proceed.

The Commission may also use the information provided in the form to help the Commission to allocate speaking time to individuals and groups.

At the public meeting

The Commission does not present information at a public meeting. The meeting is instead an opportunity for the Commission Panel to hear directly from interested individuals and groups about the issues of concern to them. While Commissioners may ask questions or seek clarification from registered speakers, this is generally not necessary.

The Commission may engage the use of a Counsel Assisting to assist the Commission Panel in the conduct of the public meeting. The Counsel Assisting may ask questions or seek clarification from speakers. No questions or cross-examination will be permitted from others in attendance.

What happens at a public meeting

When a public meeting relates to a development application for which the Commission is the consent authority, the public meeting process may involve:

- the **Panel Chair** giving a brief opening statement that describes the process and the Commission's role in determining the development application
- the **Applicant** providing a description of the proposed development
- the **Department of Planning and Environment** presenting the findings of its Assessment Report on the application
- **members of the public** presenting to the Panel in accordance with the times set out in the speaker schedule prepared by the Commission

Once all registered speakers have presented to the Panel, the Panel Chair may close the public meeting or adjourn the public meeting for a short period of time to allow the Commission members (with the assistance of Counsel Assisting where they have been engaged) to consider what they have heard.

After the adjournment, the Panel may ask follow-up questions of the Applicant or the Department of Planning and Environment, which can either be answered immediately at the meeting or taken on notice.

Participating in a public meeting

The Commission will either conduct a public meeting wholly in person, wholly remotely by electronic means, or some combination of the two.

In circumstances where a public meeting is conducted wholly in person, the Panel will hear presentations from registered speakers in a face-to-face public setting, typically at a suitable venue that is local to the proposed development. When a public meeting is conducted wholly electronically, registered speakers will present to the Panel via videoconference and/or telephone. The Commission might also conduct a public meeting using a 'hybrid' format with registered speakers presenting either in person at a local venue or by electronic means. This 'hybrid' approach aims to ensure greater accessibility to this important part of the Commission's decision-making process.

Registered speakers must ensure their presentations are factually accurate and otherwise contain expressions of opinion which they honestly hold. They must also refrain from making offensive, threatening or defamatory statements.

Where possible, registered speakers should provide a copy of their speech/presentation to the Commission for record keeping purposes.

The general running of the public meeting is within the discretion of the Panel Chair, including:

- stopping a person from speaking if he or she is making offensive, threatening or defamatory statements. This includes where a speaker names or singles out a particular person or group's view
- Permitting the substitution of speakers
- Granting additional time for a speaker at the public meeting
- Granting a late application to speak

During in-person public meetings, registered speakers are not permitted to interact with the audience during their presentation – for example, asking for a 'show of hands' or otherwise requesting the audience indicate their views.

Alcohol is also not permitted to be taken into a public meeting and anyone who is intoxicated and/or acting in a disorderly manner will be asked to leave.

When will the Commission cancel a public meeting

As public meetings are held at the discretion of the Commission, already scheduled public meetings may also be cancelled by the Commission in certain circumstances.

Usually, this will occur after the close of speaker registrations in circumstances:

- when there are fewer registrations to speak at the public meeting than anticipated; and
- the Panel determines that the balance of convenience rests with conducting alternative stakeholder engagement instead of a public meeting (usually this will be in the form of transcribed stakeholder meetings, with the transcriptions made publicly available in accordance with the Commission's *Transparency Policy*).

All registered speakers at a cancelled public meeting will be contacted by the Commission and offered alternative means of making submissions to the Panel.

Written submissions

The Commission will accept written submissions, including speaking notes, comments or any audio-visual material received up to one week (seven days) after the conclusion of the public meeting.

The making of submissions in writing includes:

- where a person chose not to, or was not able to, speak at the public meeting
- where individual circumstances prevented a registered speaker from attending the meeting

- where a person made an application to speak at the public meeting, but that application was unsuccessful
- where a person finds public speaking to be a difficult experience and therefore prefers to express their views in writing to the Commission

The time for written submissions may be extended on a case by case basis by the Chair of the Panel conducting the public meeting.

Written submissions can be submitted via the Commission's online 'Have Your Say' portal: www.ipcn.nsw.gov.au/have-your-say

Written submissions can also be addressed to:

Office of the Independent Planning Commission
Level 15, 135 King Street
SYDNEY NSW 2000

For more information about making a submission see the *Public Submission Guidelines* available on the Commission's website.

Whether a submission is made in writing or verbally at a public meeting will not affect the weight it is given by a Panel in making its determination.

Transparency

Meeting transcript

In the interests of openness and transparency, the public meeting proceedings will be recorded with a transcript published on the Commission's website within a reasonable time in accordance with Schedule 2 (25) of the *Environmental Planning and Assessment Act 1979*.

Media

Representatives from the media may be present at a public meeting held in person. Media representatives may record proceedings (both audio and video recording is allowed, as well as the taking of photographs) – unless otherwise directed by the Panel Chair – as long as this is done in a respectful manner and does not disrupt proceedings.

When a public meeting is conducted wholly remotely by electronic means and proceedings are livestreamed by the Commission, media outlets are permitted to record and rebroadcast audio and video for reporting purposes, unless otherwise stated by the Panel Chair.

Records and documents

Presentations, submissions and any other notes provided to the Commission on a proposed development will be made publicly available on the Commission's website. The Commission's Privacy Statement explains the way we obtain, use and manage your personal information. This Statement covers everyone who submits information to the Commission.

After the public meeting

Receipt of written material after a public meeting

The Commission will accept written submissions at least up to one week (seven days) after the conclusion of a public meeting. Anyone can send written submissions to the Commission during this time.

In certain circumstances, the Commission will accept written submissions later than one week (seven days) after the public meeting. Where the Commission proposes to accept late submissions, the Commission will advertise this opportunity, and the revised deadline, on its website.

Making a final determination

The Commission will determine the application after it is satisfied that it has sufficient information to make an informed determination.

Under the Minister's Statement of Expectations, the Commission is expected to determine state significant development applications that are the subject of a public meeting within an average of eight weeks (56 calendar days), as calculated on a 12-month rolling basis.

The Commission is required to publish a Statement of Reasons that explains how it took the community's views into account in making its determination.

The Department of Planning and Environment will then give notice of the determination in accordance with their notification policy.



For more information

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