



## 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.**

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 (except, in limited circumstances set out below, officers of the Department of Planning, Housing and Infrastructure).
- 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.
- With the exception of site inspections/locality tours and meetings with the Department to seek advice on conditions under consideration by a Panel (both separately addressed below), all meetings between Panel members and external 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 under “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 under “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 the Commission agrees that 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
- written requests for advice (and any resultant written advice) from the Department regarding conditions under consideration by a Panel, should it determine to grant consent to an application (see below).

### **Seeking advice from the Department on conditions**

#### *Why be transparent?*

- As the Commission has no role in the implementation, monitoring or enforcement of conditions of development consent, the Commission routinely seeks advice from officers of the Department (in its capacity as the regulator) on the workability, enforceability and unintended consequences of conditions that a Panel may impose, should it decide to grant consent to an application..
- The Commission must balance its commitment to transparency in this regard against the risk of prejudice to its decision-making by early disclosure of the Panel’s deliberations before a final decision is made.

#### *How we’re transparent:*

- When the Commission seeks or obtains the Department’s advice on conditions in writing, the written request/advice will be published on the Commission’s website after the case has been determined.
- When a Panel meets with the Department to seek advice on conditions, minutes will be taken of the meeting and a copy of the minutes will 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.
- Unless lawfully directed otherwise by the Minister under section 2.7(2) of the Environmental Planning and Assessment Act 1979, the Commission will publish its Statements of Reasons as soon as is practicable after a Panel makes its final decision. Usually this will be on the day, or the first business day after, the Panel affixes its signatures to the Statement of Reasons and any instrument.

### 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 to the Commission are published on the Commission's website unless the Minister has directed otherwise.
- 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.

### Transparency and errors

The speed of the Commission's processes (set by the Minister's [Statement of Expectations](#)) and the Commission's commitment to transparency set out in this policy means that public submissions are only minimally reviewed by the Office of the Commission prior to their publication.

Accordingly, mistakes – including inadvertent publication of submissions and other documents – can happen. These are rare: the Commission processes thousands of submissions each year on its matters with great speed – with only minimal and immaterial errors.

Nonetheless, if errors of publication do happen, the Commission will advise affected parties and act in good faith at all times to rectify the issue.

The Commission also asks that stakeholders do not send to the Commission any submission that they wish to be kept confidential without first requesting and obtaining the Commission's specific agreement to keep all or part of the submission confidential.

#### For more information



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#### DOCUMENT GOVERNANCE

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