



## THE ROLE OF THE INDEPENDENT PLANNING COMMISSION

The Independent Planning Commission was established on 1 March 2018 as a NSW Government Agency.

The key functions of the Commission include:

- Determination of applications for major developments as a consent authority, or under delegation from the Minister; and
- Providing independent expert advice on planning and development matters.

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. It provides an additional level of scrutiny in the provision of independent expert advice or determination of major development applications, particularly where:

- There is a high level of community interest;
- A political donation has been made;
- A potential or perceived conflict of interest exists; or
- Complex environmental issues arise.

## PURPOSE OF THIS DOCUMENT

The purpose of this document is to set out the considerations that will guide the Commission in relation to the holding of a public meeting before making a decision on an application.

It should be noted these guidelines relate only to public meetings and should not be confused with public hearings conducted by the Commission.

## WHAT IS THE DIFFERENCE BETWEEN A PUBLIC MEETING AND A PUBLIC HEARING?

### Public meeting

A public meeting is a meeting, similar to a “town hall” meeting (or other such meetings), to enable the Commission to hear public views on the Assessment Report and recommendations (including recommended consent conditions) before determining an application. The Commission cannot require anyone to attend or give evidence. The Commission can decide whether or not to hold a public meeting as it is not mandatory to do so before

making a decision. If a public meeting is held, it does not affect people’s merit appeal rights.

### Public hearing

A public hearing is only held if a formal request is made by the Minister for Planning or the Greater Sydney Commission (s 3.34(2)(e)). If such a request is made, the Commission must hold a public hearing, it is not discretionary. The Commission has powers to require certain people to attend the public hearing and to give evidence. If a public hearing is held, merit appeal rights to appeal to the Land and Environment Court are extinguished. The Commission is currently developing its *Public Hearing Guidelines*.

## DECISION TO CONDUCT A PUBLIC MEETING

### 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 making a decision whether to hold a public meeting, the Commission will ordinarily take the following matters into account:

- Where an application received **less than 25 objection** submissions:
  - In such a case, if the relevant council and public agencies are not opposed to the proposal, the Commission will consider whether the Assessment Report has adequately addressed the issues raised in public submissions and, if it has, the Commission is likely to conclude that a public meeting is not necessary;
  - However, 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 (but may instead consider meeting with the applicant, the relevant council, agency or other relevant persons before making a decision on the application).
- Where an application received **25 or more public objection** submissions:
  - In such a case, the Commission will generally hold a public meeting to hear public views on the Assessment Report before making a final decision on the application;
  - In exceptional circumstances, the Commission

may decide not to hold a public meeting, but may instead consider meeting with the applicant, the relevant council, agency or other relevant persons before making a decision on the application.

- Where a **public hearing has been requested to be held** in relation to an application:
  - In such a case, 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 public views on the Assessment Report before making a final decision on the application.

### **Multiple public meetings and specific subject matter meetings**

The Commission may decide to hold more than one public meeting on a particular project in exceptional circumstances.

There may also be situations where the Commission decides to hold a public meeting on a specific subject-matter for a particular development application, for example a meeting in relation to produced water or visual impact.

### **Appeal Rights**

A public meeting held by the Commission does not affect appeal rights.

## **WHEN A DECISION HAS BEEN MADE 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's Assessment Report is sent to the Commission. Meetings will generally be held in the area in which the subject-land is located, unless a suitable venue is not available.

### **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' notice of a public meeting. Notification will occur by one or more of the following means:

- In a newspaper circulating in the local area in which the development is proposed;
- On the Commission's website ([www.ipcn.nsw.gov.au](http://www.ipcn.nsw.gov.au)); and
- Social media.

The notice of the meeting will include:

- The subject matter of the meeting;
- Details of the meeting, including time, date and venue;
- The last day on which it is possible to make an application

to speak at the meeting;

- The Commission's contact details;
- The availability on the Commission's website of the Assessment Report, written submissions and the application form to speak at the meeting; and
- The specific subject matter of the meeting (only if applicable).

The Commission will also endeavour to give notice of the public meeting by direct means of communication to other persons such as the applicant, the relevant council, public authorities with an interest in the application, people that made public submissions in response to the Department of Planning and Environment's public exhibition of the application, and those who made a submission or spoke at a public hearing.

### **Where do I find the documents and information about the project/application?**

The Commission's website will provide a link to the Department's website where the application and other relevant documents, including public submissions, are published.

The meeting schedule will be posted on the Commission's website after registrations close and before the public meeting.

### **Attendance**

Public meetings are open to the public to attend.

### **If you wish to speak at a public meeting**

If you wish to speak at a public meeting, you must complete the application form on the Commission's website and return it to the Commission prior to the advertised closing date to [ipcn@ipcn.nsw.gov.au](mailto:ipcn@ipcn.nsw.gov.au) (usually four working days prior to the meeting).

The following information will be requested from you (as part of completing that application):

- Is your interest in the proposed development application a direct interest or an indirect interest? (see explanation in the application to speak form)
- Do you wish to speak in your personal capacity or as a representative?
- How long do you wish to speak for?

While 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 the information provided by you in the application to prioritise speakers or group speakers by the nature of their interest in the project or 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, such as the applicant (or a representative) and those directly affected

by the proposed development (for example, an owner or a tenant of a neighbouring property to the proposed development 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.

### **I cannot attend the public meeting in person, can I send in written comments or submissions?**

If you wish to speak or otherwise participate, but are not available to attend the public meeting, you may provide your speaking notes, submissions or comments in writing to the Commission before or on the day of the meeting, or up to **one week** afterwards, addressed to: Independent Planning Commission: Level 3, 201 Elizabeth Street, Sydney, NSW 2000, Phone: (02) 9383 2100, Email: [ipcn@ipcn.nsw.gov.au](mailto:ipcn@ipcn.nsw.gov.au).

### **I cannot attend the public meeting in person, can I participate by other means?**

There may be special circumstances where you are not able to attend the public meeting in person but still wish to participate in the public meeting.

If so, you should make a written request to the Commission staff setting out the special circumstances, within a reasonable time frame prior to the public meeting, so that Commission staff can use reasonable endeavours to arrange a phone, skype camera or other video link up to the meeting. Whether this is possible will depend on the technology available, the location of the public meeting and may vary from case to case.

As set out above, you may also provide your submissions or comments *in writing* to the Commission if you cannot attend in person.

## **AT THE PUBLIC MEETING**

The Commission does not provide information at the meeting. However, Commission members may actively engage in asking questions or seek clarification from the speaker/presenter on the subject matter of their oral submission. No questions or cross-examination will be permitted from other people attending the meeting.

The Commission may engage the use of a Counsel Assisting to assist the Commission in the conduct of the public meeting. As part of assisting in the conduct of the public meeting, Counsel Assisting may ask questions or seek clarification from speakers/presenters.

### **If you speak at a public meeting**

Members of the public who speak at the public meeting must ensure that any statements and presentations made during the meeting are factually accurate and otherwise contain expressions of opinion which the person honestly holds. They must refrain from making offensive, threatening or defamatory statements.

People who speak at the meeting should note that members of the Commission will have read the submissions made in response to the public exhibition of the application before the meeting. Therefore, each speaker's presentation should be concise and focus on the Assessment Report and its conclusions, not their original submission to the Department.

Where possible, a copy of the speech/presentation made by a speaker at the public meeting should be provided to the Commission staff after the meeting, for record purposes.

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

- Stop a person from speaking if he or she is making offensive, threatening or defamatory statements;
- Permit the substitution of speakers;
- Grant additional time for a speaker at the public meeting;
- Grant a late application to speak.

### **If you did not speak at the public meeting but wish to make comments in writing**

The Commission will accept written speaking notes, submissions or comments up to **one week** after the public meeting. This includes:

- 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.
- Where a person chose, or was not able, to speak at the public meeting for any other reason.

Any such document should be addressed to:  
Independent Planning Commission: Level 3, 201 Elizabeth Street, Sydney, NSW 2000, Phone: (02) 9383 2100, Email: [ipcn@ipcn.nsw.gov.au](mailto:ipcn@ipcn.nsw.gov.au).

### **Audio-visual recording and media**

The Commission will make an audio recording of the spoken presentations at the meeting. The audio-recording will be transcribed and published on the Commission's website within a reasonable time in accordance with Schedule 2 (25) of the *Environmental Planning and Assessment Act 1979*.

Representatives from the media may be present at the public meeting. Photographs and film footage can be filmed, if permission is granted by the Chair of the Commission (and in a manner that is not disruptive or intrusive).

### **Records and documents**

Presentations, submissions, comments and notes provided to the Commission may be made publicly available on the Commission's website. As outlined in the Commission's Privacy Statement, the Commission will use reasonable endeavours to protect the privacy of individuals by removing any personal contact details (other than names) from documents published on its website.

Written material of a confidential nature will also be withheld from the website, where this has been requested.

### **Appeal Rights**

As noted above, a public meeting held by the Commission does not affect appeal rights.

### **Questions**

If you have any questions about the public meeting, you should contact the Commission staff on (02) 9383 2100 or email to [ipcn@ipcn.nsw.gov.au](mailto:ipcn@ipcn.nsw.gov.au).

## **AFTER THE PUBLIC MEETING**

### **Receipt of written material after a public meeting**

As noted above, the Commission will accept written submissions or comments up to **one week** after the public meeting. Anyone can send written submissions or comments to the Commission during this time.

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

### **Making a final decision**

The Commission will make a decision on the application after it is satisfied that it has sufficient information to make an informed decision.

The Commission will publish its decision on the Commission website within five working days of making its determination. The Department will then give notice of the determination in accordance with the Department's notification policy.

## DEFINITIONS

<b>Application</b>	An application submitted to the Department where the application is to be determined by Commission as decision-making authority.
<b>Applicant/Proponent</b>	The person who made an application.
<b>the Act</b>	The Environmental Planning & Assessment Act 1979.
<b>Assessment Report</b>	The Secretary of the Department's Assessment Report on an application.
<b>Commission</b>	The NSW Independent Planning Commission.
<b>Council</b>	The council for the local government area in which the development is located, and any other council whose area is potentially impacted by the proposal.
<b>Department</b>	The Department of Planning and Environment.
<b>Minister</b>	The Minister for Planning.

Words and expressions used in these procedures have the same meaning as they have in the Act and the Environmental Planning and Assessment Regulation 2000.

## GENERAL ENQUIRIES AND SUGGESTIONS

The Commission is interested in hearing from you. If you would like to:

- Provide constructive comments on the procedures of the Commission;
- Request for information relating to the Commission's functions; or
- Seek more information about the Commission's operations and procedural matters.

### Contact:

Commission Secretariat  
Phone (02) 9383 2100 | Fax (02) 9383 2133  
Email: [ipcn@ipcn.nsw.gov.au](mailto:ipcn@ipcn.nsw.gov.au)

### Independent Planning Commission NSW

Level 3, 201 Elizabeth Street  
Sydney, NSW 2000

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