

Bowdens Silver determination process (SSD-5765)



The Bowdens Silver Project (SSD-5765) is a proposed open-cut silver, lead and zinc mine located approximately 2km north of the village of Lue within the Mid-Western Regional Council local government area. The mine would extract and process up to a maximum of 30 million tonnes of ore over approximately 23 years. The Project was previously considered by the Independent Planning Commission, but the Commission's April 2023 decision was overturned by the NSW Court of Appeal in August 2024. As a consequence of the Court of Appeal's orders, the application for the Project is pending determination and is now back at the Commission to be decided by a newly appointed Commission Panel.



What happened in 2022-2023?

The Commission originally granted consent to the Project in April 2023 following a three-day public hearing at the direction of the former Planning Minister. The Commission heard 80 verbal submissions and received more than 1,900 written submissions from community members and stakeholders.

Why has the project gone back to the Commission?

The Commission's 3 April 2023 decision was successfully appealed in the NSW Court of Appeal, which found that the decision contained a legal error related to consideration of the impacts of a proposed transmission line to supply electricity to the Project. As a consequence, the Court ordered that the entire development consent was void and of no effect. In practical terms, it is as if the Commission had never made its 3 April 2023 decision and the whole application (not just the parts related to the electricity transmission line) is still pending determination by the Commission.

The Department of Planning, Housing and Infrastructure (DPHI) has sought and considered additional information from the Applicant and supplemented its previous assessment from 2022 with supplementary advice. With the benefit of this supplementary advice, a newly appointed Commission Panel is required to determine the entire application.

Why was the original approval challenged in court?

A successful legal challenge established that the Commission had not considered the impacts of a proposed transmission line that would supply electricity to the mine. At the time, the transmission line was intended to be assessed separately, based on advice from the Applicant and DPHI. The Court of Appeal later found that it should have been considered by the Commission as part of the impacts of the Project.

What happens now that the original consent is void

The Commission's April 2023 decision on the Bowdens Silver Project was declared void – not the development application. This means that the Commission's process restarts and that the application does not need to be resubmitted to DPHI. The Commission has appointed a new Panel to consider the existing application, material considered by the previous Panel, additional information provided by the Applicant, supplementary advice from DPHI and new submissions from the community.

Has the application been formally amended?

The Commission understands that the Applicant has updated parts of their environmental assessment but has not sought to amend the Application. DPHI requested [updated information](#) from the Applicant to address statutory instruments or relevant policies made or amended since the application was originally assessed by DPHI. The Commission is advised that the form of the development application has not changed.

Has the Department of Planning, Housing and Infrastructure's assessment changed?

DPHI has prepared [supplementary advice](#) for the Commission on the application, which is to be considered by the Panel together with DPHI's previous assessment report. This advice can be found on the Commission's website.

The Planning Secretary made a determination under new laws passed after the Court of Appeal's judgment confirming that the proposed transmission line does not form part of the application. Although development consent is not sought for the transmission line, the Commission is advised that its potential impacts have still been assessed as part of DPHI's supplementary advice.

Will the Commission's prior Statement of Reasons influence the newly appointed Panel?

No. A new Panel has been appointed to determine the application in its entirety. This Panel is independent of the previous one and will consider the case on its own merits, taking into account all relevant material, including new and previous submissions. The new Panel is not bound by the findings of the former Panel but may independently reach similar or differing conclusions.

Do I have to resubmit my original submission?

All relevant submissions previously made as part of the 2022-23 process will be provided to the new Panel, who have also viewed the [video recording of the 2023 public hearing days](#), but you are also invited to provide a submission in the 2026 process. The Panel will be particularly assisted by submissions that engage with DPHI's supplementary advice and any aspect of the assessment that has been updated since the 2022-23 process. The Commission will consider new submissions from the community related to any aspect of the application.

What are the next steps for the community?

Review DPHI's assessment report and supplementary advice

Our website has an existing case page for the Bowdens Silver Project to which new documents will be added and labelled as 2026. We have emailed those who provided their contact details either as part of the Commission's 2022-23 process, or in previous submissions to DPHI, to inform them that the case is now with the Commission and of the next steps in the process.

Update your contact details

A number of submissions made in the 2022-23 process did not include email contact details. If you wish to be kept updated on the progress of the Bowdens Silver determination you can update your contact details via our website.

Submissions and speaker registrations

We will accept any new written submissions regarding this application from all interested parties until 1 November 2026. You can make a written submission and/or register to speak at the public hearing via our website, where you can find further details of the public hearing and the submission process. All relevant submissions made in the 2022-23 process will also be considered by the Panel.

Public hearing

The public hearing, which first commenced in February 2023, will continue with the newly appointed Panel on 14 & 15 October 2026. A third day may be added if required. The new Panel will view the video of the 2023 public hearing days in full prior to 14 October 2026. At the public hearing, the Applicant will speak and members of the community will present their views on the application. Officers of the Department of Planning, Housing and Infrastructure (DPHI) will also be asked to provide further information about their assessment and supplementary advice. The hearing will be livestreamed on the Commission's YouTube channel.

Due to a public hearing being held, merit appeal rights in respect of the decision on this application are not available to either the applicant or objectors.

Determination

The Commission has been asked to make its decision within 85 days. Those who have engaged in the process will be notified of the decision by email and the Statement of Reasons for the Decision will be published on our website.

Community FAQs

Given the unique circumstances of this matter having been previously considered by the Commission and then returning to the Commission after a Court of Appeal decision, we understand that people have questions. Accordingly, the Commission invited questions about its processes in this case via an online form from 15-29 September 2026 to assist the community in understanding how to best engage in the Commission's process.

As many questions received related to the substance of the Commission's considerations rather than its procedures, to ensure that these are given due consideration by the Panel, all questions received via the form have also been provided to the Panel to be considered as a submission.

Several questions related to the purpose of the local drop-in sessions that were provided by Commission staff on 28 & 29 September 2026

Commission staff held three community drop-in sessions in late September to explain the Commission's process, assist people with website navigation and help people access their previous written and verbal submissions.

Holding drop-in sessions is not the Commission's standard practice, however the unique circumstances of this development application returning to the Commission for determination warranted providing additional assistance to submitters.

The written submissions period has been extended so that it now closes on 1 November 2026. Commission staff are available until then to provide procedural assistance during business hours either via email at ipcn@ipcn.nsw.gov.au or telephone on 02 9383 2100.

When a Commissioner is appointed, does the Cabinet or the Minister's Office have a say in this process?

To become a member of the Commission, you must be appointed to the Commission by the Minister. The Chair of the Commission then chooses which existing members of the Commission to appoint to specific Panels, but the Minister also has the power to direct the Chair in making these choices. The Minister has not made any specific direction in relation to the composition of the Bowdens Silver Panel.

How do I access my previous submission?

You can access your previous submission on our website by searching for your name in the relevant tab ('object', 'support' or 'comment') of the Bowdens Silver case page 'Public Submissions' tab. Many submitters either requested their name be withheld or made a submission through email/petitions or post, both of which means their names are displayed on the website as 'Name redacted' and will not be able to be found by searching for their name.

If you are affected by this issue and you would like to access your previous submission through us, please contact us at submissions@ipcn.nsw.gov.au or request assistance from a member of staff at the public hearing.

If you would like to view a verbal submission that you made during the 2022-23 public hearing dates, please see the timestamp of your presentation listed under your name [here](#) and the video recording in which you can skip ahead to your timestamp [here](#).

Has the application changed?

The 3 April 2023 determination of the Bowdens Silver application by the Commission was declared void and of no effect by the NSW Court of appeal on 16 August 2024. Therefore, the development application for the Bowdens Silver Project remains to be determined, and the Commission is now required to determine the application.

On 8 October 2026 DPHI [confirmed](#) in response to a question from the Commission that it "does not consider a formal amendment to the application in accordance with section 37 of the *Environmental Planning and Assessment Regulation 2021* is required as no change is proposed to the project, which remains in the form described in the environmental impact statement (EIS) (as previously amended)."

Several questions related to how the transmission line is considered

The transmission line that would provide power for the Bowdens Silver Project did not form part of the development application for the Bowdens Silver Project when it was first considered by the Commission. In finding the Commission's 2023 decision on Bowdens Silver to be void and of no effect, the NSW Court of Appeal established that impacts associated with the transmission line should nonetheless have been considered by the Commission.

The transmission line still does not form part of the development application for Bowdens Silver. The Commission's upcoming determination therefore will not decide whether or not to grant consent to the transmission line. Any subsequent decision about the transmission line will be subject to a separate planning pathway.

However, in accordance with the NSW Court of Appeal decision, the Commission must consider the impacts of the transmission line to the extent that it is a likely impact of the Bowdens Silver Project. These impacts have been assessed in DPHI's Supplementary Advice to the Commission ([found here](#)), which also contains more information about the transmission line, including its location.

Should you wish to provide the Commission with your views about potential impacts of the Bowdens Silver Project that include the transmission line, we welcome submissions that will assist the Panel in its deliberations. Any submissions on the transmission line can be made together with general submissions on the Bowdens Silver Project and do not need to be a separate submission.

Who decides what documents get assessed in this process?

Documentation forming part of the development application for the Bowdens Silver Project (SSD-5765) is as shown on DPHI's [Major Projects Portal](#). If DPHI requires further information during its assessment of a development application to assist with its assessment, it will seek additional information from the Applicant or elsewhere. Similarly, the Commission may ask for additional information from the Applicant, DPHI or others if it considers this is required to assist with its decision-making.

What support does the Panel have to get across the Assessment Report and get them ready for the case?

The Panel are supported by a team of planning and other staff of the Office of the Independent Planning Commission (OIPC), and Counsel Assisting who provides legal advice and assists in the running of the Public Hearing. The OIPC is also the main point of contact for the public and other government agencies. It coordinates and facilitates the Commission's advice and decision-making processes and in doing so is guided by the [policies and procedures](#) of the Commission.

The Panel has met with DPHI on their assessment, and with the Applicant on their application. The Panel may request further information from DPHI or the Applicant – in writing or verbally at the public hearing – in the course of its deliberations.

Several questions queried the period afforded to the applicant to prepare supplementary material compared with the time available for the community to review and respond and whether extending the submission period has been considered

In response to community concerns about the timeframe for making a submission, the Commission has extended its timeframe to receive submissions on the Bowdens Silver Project until 11:59pm, 1 November 2026.

Applicant timeframes in the planning system

The NSW planning system requires applicants to prepare an assessment of the environmental impacts of their applications. The Applicant is responsible for the content and timing of their development application.

Commission determination timeframes

The Commission does not control when cases are referred to it by DPHI. The Commission does not determine the timeframes it is required to meet when making a decision. The Commission is subject to a Statement of Expectations that includes the Minister's expectations in relation to timeframes for the determination of applications. For public hearing cases, the Commission is expected to determine the project within 85 calendar days from receiving the referral from DPHI. This timeframe is also stated in the Minister's direction to the Commission to hold a public hearing.

In the case of Bowdens Silver returning to the Commission for determination following the court appeal, the Planning Secretary has given the Commission 85 calendar days from receiving DPHI's Supplementary Report to hold the public hearing, consider all materials and make a determination.

Community consultation timeframes

Within its allocated determination timeframes, the Commission provides the community with opportunities to make verbal and written submissions on development applications it determines and offers assistance to community members on procedural matters to make the community consultation process more accessible.

Within the Commission's timeframe for the Bowdens Silver Project the community will have:

- 22 days to register their interest to speak at the public hearing
- 30 days to review DPHI's Supplementary Advice and prior materials and prepare a verbal submission to present at the hearing. The statutory notification requirement for a public hearing is 14 days.
- 48 days to review DPHI's Supplementary Advice and prepare and lodge a written submission. (For context, current timeframes for the exhibition of a State significant development application by DPHI is 28 days).

In the weeks following the hearing, the Panel is also holding separate meetings to hear from specific community groups, at their request.

The above timeframes ensure the Commission is able to read and consider all submissions as part of Panel deliberations, seek any additional information it considers necessary, and make its decision on or before 9 December 2026.

Previous community consultation on the development application for Bowdens Silver included:

- 56 days exhibition of the application by DPHI in June/July 2020
- 28 days exhibition of an amendment by DPHI in July/August 2021
- 14 days exhibition of an amendment by DPHI in March/April 2022
- 65 days for written submissions on the application and DPHI's Assessment Report by the Commission over the Christmas period in December 2022/February 2023. The Commission was granted a three-week extension by the Planning Secretary in 2023 because the case was received by the Commission on 22 December 2022, and it is the Commission's practice not to hold public hearings over the Christmas/New Year period.

Submissions received during 2022-23 are also being considered by the newly appointed Panel in its deliberations, which has watched the three-day hearing held in February 2023.

What safeguards ensure that the redetermination process is transparent, comprehensive and responsive to the concerns that led to the original consent being set aside?

The Commission undertakes its functions in accordance with its [Transparency Policy](#) and is required to determine the application in accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The successful appeal of the Commission's 2023 decision was in regard to a legal error related to consideration of the impacts of a proposed transmission line to supply electricity to the Project, as the court found that the Commission had not considered the impacts of the transmission line.

Under the EP&A Act, DPHI has assessed the Bowdens Silver application on the Commission's behalf. The Commission will publish a Statement of Reasons for Decision that explains how community concerns were taken into account in reaching its decision.

Several questions asked whether the Applicant's updated environmental assessments have been independently reviewed, particularly by the EPA, what further expert or agency review might occur, and how the community will be informed of and able to respond to any additional advice

When DPHI undertakes a whole-of-government assessment on behalf of the Commission it may also seek independent advice to inform the preparation of its assessment.

Should the Panel require any additional information during its decision-making process (including from NSW Government agencies, DPHI, the Applicant or other sources), the Commission will request such information and place the request and the response on its website in accordance with its [Transparency Policy](#).

In line with our [Public Submissions Guidelines](#), if the Commission receives substantive new material from an applicant, DPHI or another stakeholder, we may decide whether to extend or reopen a submission period and invite submissions to be made on that additional material. If we do so, you will be notified that submissions have been re-opened if have already provided a submission to the Commission or DPHI.

Which planning assessment framework will apply to the Bowdens (SSD-5765) application, given the transitional arrangements associated with the December 2025 amendments to section 4.15 of the EP&A Act?

The Commission is aware of the savings and transitional provisions that apply to the 2025 Planning System Reforms (including at clause 34 of Schedule 6 to the EP&A Regulation) and will take those into account to the extent they are triggered by the date this decision is made.

What matters does the Commission believe have to be resolved before it can approve this mine, and what matters can properly be left until later licensing?

All matters the Commission Panel identifies as relevant to the determination of the Application, consistent with the requirements of the EP&A Act, will be detailed in the Commission's Statement of Reasons for Decision.

Several technical and legal queries were received about the specifics of the development application, its assessment, and the Commission's considerations

These included questions about:

- *greenhouse gas emissions and climate change modelling*
- *the Tailings Storage Facility (TSF) and dust management*
- *water resources and geochemical risks (groundwater, bores & acid drainage)*
- *lead transport*
- *Broken Hill comparative studies and scientific evidence on lead impacts*
- *economic impacts*
- *legal processes, and*
- *concerns about deficient documentation and perceived errors.*

Questions also canvassed whether the assessment relies on the most up-to-date information and modelling, whether new studies and project changes have been properly incorporated and independently reviewed, and how the Commission will satisfy itself that predicted environmental and health impacts are reliable before making its decision.

These are topic areas that the Panel will consider as part of its deliberations, informed by the application and assessment materials and submissions made by the community and others. To make your views known to the Panel you will need to lodge a formal submission so it can be taken into consideration. You can do this on our website here: <https://www.ipcn.nsw.gov.au/form/make-a-submission-bowdens-silver>

To inform the Commission, the Panel may ask questions of the Applicant on these topics at the public hearing.

This factsheet is unable to provide advice, commentary or interpretation on the contents of the Applicant's Development Application, submissions received from other stakeholders, the potential impacts or benefits of the project or any other technical detail about the proposed project. Matters that are relevant to the determination of the Application will be detailed in the Commission's Statement of Reasons for Decision that will be published on our website at the time of the determination.