

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, 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 23 October 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.

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.

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. 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.