

Annual Report 2009/2010

NSW Planning Assessment Commission



Planning
Assessment
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Letter to the Minister

November 2010

The Hon Tony Kelly MLC
Minister for Planning
Minister for Infrastructure
Minister for Lands

Dear Minister

It is with pleasure that I submit to you the Annual Report for the NSW Planning Assessment Commission for the financial year 2009-10.

This report outlines the extent of the activities of the Commission during the year. In brief, the Commission determined 17 major development applications under delegation, provided independent advice to you on 19 occasions on major development applications and planning matters, and undertook expert review and conducted public hearings for four major developments.

Yours Sincerely

A handwritten signature in blue ink that reads "Gabrielle Kibble". The signature is written in a cursive style with a large initial 'G'.

Gabrielle Kibble
Chairman
NSW Planning Assessment Commission

Chairman's Statement

The past year has been both challenging and rewarding. During the 2009/10 financial year the Planning Assessment Commission has:

- Determined 17 major development applications under Ministerial delegation;
- Provided independent advice on 19 major development applications and planning matters to the Minister;
- Undertaken expert review and conducted public hearings on four Part 3A major developments;

The Commission has expanded its workload compared to last year. Monitoring results also confirm that the Commission has operated efficiently in undertaking its functions. On average the Commission determined development applications that were delegated to it within 11 days of receipt of referral.

On average the Commission provided advice to the Minister within 18 days following referral where a public hearing was not held and 41 days where a public hearing was conducted.

I wish to thank my fellow Commission members and the Panel Secretariat for their highly committed and professional approach to their work during the year.

We look forward to continuing to provide a high level of independent expert advice to the Minister and a transparent, fair and thorough public hearing process to stakeholders so as to achieve well balanced and quality outcomes for the challenges of the year ahead.



Gabrielle Kibble
Chairman
NSW Planning Assessment Commission

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Introduction

The NSW Planning Assessment Commission (Commission) is a statutory body established under the Environmental Planning and Assessment Act 1979 and was established as part of the NSW Government's planning reforms in November 2008.

The Commission is independent of the Government, the Minister and the Department of Planning. Commission members are appointed by the Minister for Planning, however they are not subject to the direction or control of the Minister, except in relation to the Commission's administrative procedures.

The Commission's functions include the determination of project applications when those matters are delegated to it by the Minister for Planning, and the provision of independent expert advice to the Minister on a range of planning and development matters. The Commission plays an important role in improving transparency and independence in the planning and decision making process of the government of NSW. The existence of such a body provides an additional level of expert scrutiny in the review or determination of some major development proposals, particularly those where a potential or perceived conflict of interest exists.

Functions of the NSW Planning Assessment Commission

The functions of the Commission are detailed under section 23D of the Environmental Planning and Assessment Act 1979 (EP&A Act) and include acting as a consent authority under delegation, providing independent expert advice to the Minister in relation to planning matters and undertaking expert review of major development.

Determination

In November 2008 the Minister for Planning delegated to the Commission the power to act as a consent authority in determining certain project applications under section 75J and 75JA of the EP&A Act. These applications include those having a reportable political donation, applications within the electoral district of the Minister for Planning and applications in which the Minister has a pecuniary interest.

The Commission does not determine project applications which have been declared critical infrastructure.

In addition, the Minister may delegate his determination role to the Commission outside the standing delegation on a case-by-case basis.

Independent advice

Section 23D of the EP&A Act allows the Minister to request the Commission to provide independent advice on a range of planning and development matters, environmental planning instrument(s), and the administration of the implementation of the provisions of the Act. Furthermore, if directed by the Minister, the Commission can act as a Joint Regional Planning Panel, an independent hearing and assessment panel, or a planning assessment panel.

Expert review of major development/ planning matters

The EP&A Act provides that the Commission can review all or any environmental aspects of a proposed development which is the subject of a development application or an activity (or part thereof) referred to in section 112(1). In addition, it can review a proposal to constitute, alter or abolish a development area under section 132 or 133 of the Act. The Minister may also request the Commission to review any planning matters. Such expert review may include the holding of public hearings.

Planning Assessment Commission Members

Commission members are appointed by the Minister and selected from a broad range of disciplines with experience in planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering, tourism or government and public administration.

The Commission consists of the Chair and up to eight members. The following nine persons are currently appointed as members of the Commission:

[Gabrielle Kibble AO \(Chair\)](#)

Current Chair of the Heritage Council and former administrator of Wollongong Council, former head of the Department of Planning

[Donna Campbell](#)

Former Director of Legal Services at the Environment Protection Authority, with 25 years of government experience in environmental planning law

[John Court](#)

Chemical engineer and environmental expert with extensive experience in the planning system

[Lindsay Kelly](#)

Former NSW Government architect

[Garry Payne AM](#)

Former Director-General of the Department of Local Government

[Dr Neil Shepherd AM](#)

Former head of the Environment Protection Authority, Ministry for the Environment and National Parks and Wildlife Service

[Professor Kevin Sproats](#)

Former professor of urban governance and Pro Vice Chancellor of the University of Western Sydney with over 40 years experience in planning and urban development

[Janet Thomson](#)

Respected planner with more than 30 years experience at all levels of government

[Richard Thorp](#)

Leading architect and current president of the NSW Architects Registration Board

From time to time, the Minister may appoint casual members to the Commission in order to carry out specific tasks. A casual member is not required to have expertise in an area referred to above but should have expertise in the area relevant to that specific task.

Between 1 July 2009 and 30 June 2010, 7 casual members were appointed by the Minister to assist in expert reviews of 3 major developments. These casual members were:

- Mr Lindsay Gilbert
- Dr Lloyd Townley
- Professor Jeffery Bennett
- Mr Greg Freeman
- Emeritus Professor Jim Galvin
- Dr Col Mackie
- Dr John Tilleard

Year in Review

Between 01 July 2009 and 30 June 2010, the Commission determined 17 applications under delegation, provided independent advice to the Minister on 19 development applications/planning matters and undertook expert reviews with public hearings on four major developments.

Determination

- Concept plan for residential development, Bennelong Parkway, Wentworth Point
- Dick Smith Warehouse and Distribution centre, Hoxton Park
- Big W Warehouse and Distribution centre, Hoxton Park
- Stage 1 Infrastructure Hoxton Park
- Hoxton Park redevelopment concept plan
- Mixed use development Block 2, CUB site
- Commercial Buildings Blocks 1 & 4, CUB site
- Basement Construction, CUB site
- Costco, Auburn
- Residential development, Bonar & Loftus Street, Arncliffe
- Main Park CUB site
- Newcastle Private Hospital
- Mixed use development, Redfern RSL
- Knauf glass wool insulation manufacturing facility, Mayfield West
- Adaptive reuse of heritage listed building, Breakfast Point
- Student Housing, Kensington
- Multi-Unit Housing, Pymble

Independent advice and review

- Rippon Grange Private Hospital, Wahroonga
- Queanbeyan Local Plan 2009 (Googong)
- Draft Cessnock LEP Amendment Golden Bear
- Eastern Creek Waste Project
- Draft Cessnock LEP Amendment 124 Kitchener
- Draft Cessnock LEP Amendment 121 Bellbird North
- Draft Fairfield LEP Amendment 122
- Mixed tourist/ residential/ marina development, Trinity Point, Lake Macquarie
- Honeysuckle Central project, Newcastle
- Cronulla Marina Project
- Jacfin Warehouse Project, Erskine Park
- Draft Riverstone West Precinct Plan
- Parklea Markets Concept Plan Authorisation
- Residential subdivision, Dolphin Point, Shoalhaven
- Commercial, retail and hotel development, Walker and Berry Streets, North Sydney
- Raby, Catherine Field
- Redevelopment of Sunbeam factory, Campsie
- Redevelopment of Stamford Plaza (Ashington), Double Bay
- Sandon Point concept plan modification and project application

Expert Review with Public Hearings

- Riverside development, Tea Gardens
- Ardmore Park Quarries, Greater Argyle LGA
- Orange Waste Project
- Bulli Seam Coal Project
- Bickham Coal Project

The following sections provide a brief summary of these activities.

Determinations

The Planning Assessment Commission has the power to act as a consent authority in determining certain project applications, including applications which have a reportable political donation, that are within the electoral district of the Minister for Planning and in which the Minister has a pecuniary interest.

The Commission does not determine project applications which have been declared critical infrastructure.

In addition, the Minister may delegate his/her determination power to the Commission outside the standing delegation on a case-by-case basis.

D003/09 Multi-unit Housing Development at 3-5 Pymble Ave, Pymble

16 July 2009 - 24 July 2009

The proposal was to construct a residential building and associated infrastructure at 3-5 and 5A Pymble Ave in Pymble. The subject site was a small part of a larger site identified for multi-unit housing redevelopment. The Director General (DG) of the Department of Planning (Department) referred the application to the Planning Assessment Commission (Commission) for determination as the applicant, Meriton Apartments Pty Ltd, had disclosed a reportable political donation, thus meeting the terms of the delegation.

The Commission considered the application and associated documents including the DG's report, the recommended conditions of approval, the Environmental Assessment Report (EA), the amendments made to the plans in response to submissions to the EA, and the draft statement of commitment. The key issues considered included built form and urban design, environmental and residential amenity, partial site development and isolation, landscape design, transport and accessibility, construction impacts, ESD measures and developer contributions.

The Commission was satisfied that the issues raised through the submission process were fully considered by the Department and modifications were made, where possible, to mitigate impacts on adjacent landowners. In particular, the Commission was of the opinion that the proposal was not reasonably likely to have significantly adverse effects on the ability to develop the remainder of the site in the manner described in the Ku-ring-gai Reference Plan or the Ku-ring-gai Sites Report. The Commission agreed with the Department's recommendation and approved the application with conditions.

D004/09 Student Housing, Kensington

28 July 2009 - 25 September 2009

A section 96 application was lodged with Randwick City Council by New College Post Graduate Village Pty Ltd on behalf of the University of NSW, seeking to delete Condition 81 of the development consent DA 241/2007/C. Condition 81 required the applicant to meet the full costs of relocating the overhead power lines and telecommunication cables in the vicinity of the development underground.

The application was referred by Council to the Minister for Planning (Minister) seeking approval to refuse the application. Council recommended refusal as deletion of Condition 81 would result in a development that is not substantially the same development as that which was approved and the applicant has not provided an adequate justification for the proposed modification.

The Commission was delegated, under section 116E(4), (5) and (6) of the Environmental Planning and Assessment Act 1979 (EP&A Act), to negotiate the determination of this application. The Commission considered the application and associated documents including the DG's report. The Commission recommended a modified condition of consent, as the Commission considered that the underground location of overhead wires would allow for the implementation of Council policy and it would improve the amenity on Anzac Parade.

The modified condition of consent required the applicant to meet the full cost of locating the overhead cables and lines from the corner of Day Avenue to the property boundary on Anzac Parade. The applicant was also required to remove all subsequent redundant power poles in direct liaison with the relevant service utility authorities. In addition, all wires and cables were to be relocated underground to the satisfaction of the relevant service authority prior to the issuing of an occupation certificate for the development.

D005/09 Adaptive reuse of heritage listed building at Breakfast Point

20 August 2009 - 27 August 2009

The project application was for the adaptive re-use of the existing heritage listed blacksmith's workshop for commercial use, at 112 Peninsula Drive in Breakfast Point. The application was referred to the Commission for determination as the project met the terms of Ministerial delegation.

The key issues raised in submissions related to provision of parking, construction impacts and heritage conservation. The proposed works were considered to be sympathetic in nature, making good use of a former disused industrial building and in keeping with the original fabric of the building.

The Commission considered the application and all associated documentation, including the DG's report. The Commission granted approval for the adaptive reuse, subject to certain conditions. The conditions were imposed to:

- ensure the site was appropriately managed for the proposed use,
- adequately mitigate the environmental and construction impacts of the development,
- reasonably protect the amenity of the local area, and
- protect the public interest.

D006/09 Knauf Insulation

9 October 2009 - 14 October 2009

The proposal was to construct and operate a glass wool insulation manufacturing facility with a capacity of up to 72,000 tonnes a year. The facility was to be constructed on 23 hectares of land in the Steel River Industrial Estate in Mayfield West in the Newcastle Local Government Area. A reportable political donation was disclosed to the Department and consequently the project met the terms of delegation and was referred to the Commission.

The Commission considered the application and associated documents including:

- the DG's assessment report,
- recommended conditions of approval, and
- the proponent's EA Report and Preferred Project Report (PPR).

The key issues were air quality, odour, soil and water, traffic and economics.

The Commission was satisfied that the issues raised through the submission process were fully considered by the Department in their assessment and supported the Department's recommended conditions of approval.

D007/09 Mixed use development, Redfern RSL

15 December 2009 - 22 December 2009

The proposal included the demolition of an existing two storey Redfern RSL Club and ancillary structures and the construction of an 18 storey mixed use building including retail, RSL club, commercial offices, residential apartments and basement car parking. The proposal also requested permission for strata subdivision. The proponent disclosed a reportable political donation, and consequently, the project met the terms of delegation and was referred to the Commission.

The Commission considered the application and examined all associated documents and plans provided by the Department. Key issues considered in the assessment report included:

- built form and urban design impacts,
- amenity and acoustic impacts,
- development contributions,
- traffic and car parking,
- public domain,
- wind impacts,
- geotechnical impacts, and
- construction and operational impacts.

The Commission was satisfied that the issues raised through the submission process were fully considered by the Department in their assessment and supported the Department's recommended conditions of approval. In addition, the Commission considered the proposed minimum six metre southern boundary setback for the subject application to be reasonable and recommended that it be applied to future development on adjacent sites in order to ensure acceptable building form and amenity.

D008/09 Newcastle Private Hospital

23 December 2009 - 15 January 2010

The proposal was for the development of an additional hospital building and associated car parking for the Newcastle Private Hospital at New Lambton Heights in the Newcastle Local Government Area. The project included remediation of contaminated soils onsite. The proposal was delegated to the Commission because the proponent disclosed a reportable political donation.

The Commission considered the application and associated documents including the DG's assessment report and statement relating to compliance with environmental assessment requirements contained within the report. The key issues relating to the proposal included remediation, noise, heritage and traffic.

The Commission was satisfied that the issues raised in submissions were fully considered and approved the project subject to the recommended conditions of approval. Furthermore, the Commission noted that the conditions of approval required the proponent to comply with obligations in the statement of commitments made by the proponent and referred to in the report.

D009/10 Main Park, Carlton & United Brewery (CUB) site

19 January 2010 - 22 January 2010

The proposal was to develop the Main Park and associated infrastructure at the former Carlton & United Brewery (CUB) site. When constructed, the park would be dedicated to the City of Sydney Council. The proponent disclosed a reportable political donation, thus the proposal met the terms of delegation and was referred to the Commission.

The Commission considered the application and associated documentation including:

- the DG's assessment report,
- public submissions on the Environmental Assessment,
- the proponent's Preferred Project Report and Statement of Commitments, and
- the Department's recommended conditions of approval.

The key issues identified were:

- consistency with the concept plan,
- park design and embellishment,
- infrastructure and timing of intersection upgrades,
- environmentally sustainable design (water sensitive urban design),
- heritage, and
- the voluntary planning agreement.

The Commission was satisfied that the issues raised in submissions were fully considered by the Department in its assessment and supported the recommended conditions of approval.

D010/10 Residential development at Bonar & Loftus Street, Arncliffe

24 February 2010 - 03 March 2010

The proposal was for the development of four apartment buildings containing a total of 305 residential apartments, excavation and dewatering of the site, basement level car parking for 443 vehicles and associated landscaping.

The proponent disclosed a reportable political donation so the proposal was referred to the Commission.

The Commission considered the proposal and examined associated documents including documents and plans provided by the Department. The key issues identified were height, residential amenity, traffic/ parking/ access, section 94 contributions, SEPP 65, flooding, public/ private interface and landscaping.

The Commission was satisfied that the issues raised through the submission process were fully considered by the Department's assessment. However, the Commission raised concerns regarding the practicality of reducing the number of car spaces permitted on the site and also assurance that the proposed monetary contribution to the underground State Rail power line would be used for this purpose.

The Commission concluded the proposal should be approved, with two changes to the Department's proposed conditions of approval.

The Commission added text to Condition B2 Infrastructure Contribution to the effect that if the monetary contribution provided for undergrounding the State Rail Power line is not used within 5 years for this purpose it would be returned to the proponent. The Commission also amended Condition E3 Car parking to increase the maximum number of car spaces permitted on the site to 450.

D011/10 Costco, Auburn

15 April 2010 - 23 April 2010

The proposal was to demolish all existing buildings at 17-21 Parramatta Road Auburn, and construct a three storey Costco wholesale retail warehouse building, including loading docks, basement car and bicycle parking, landscaping, signage and infrastructure works, storm water management works, and utilities.

The application was referred to the Commission as a reportable donation statement had been made to the Department by an objector to the proposal, and therefore the application met the terms of delegation.

The Commission considered the application and associated documentation including the Minister's approval of a concept plan for the project under section 75O of the EP&A Act. The key issues for this application were:

- the Centres Policy and economic impacts,
- setback from Haslams Creek,
- traffic and access,
- built form, and
- section 94 contributions.

In deciding whether to approve the project application, the Commission considered all the issues raised in the DG's assessment report. Although the current zoning of the site did not permit shops or commercial premises, the proposal was permitted under Council's draft LEP 2000 (Amendment No.22). This draft LEP is seeking to establish a new large format retail centre within a defined area along Parramatta Road that includes the site.

The Commission was satisfied that the relevant issues had been fully considered by the Department in their assessment and determined that the project application should be approved subject to the recommended conditions.

D012/10 Basement Construction, Carlton & United Brewery (CUB) site

20 May 2010 - 26 May 2010

The proposal was for the redevelopment of the former Carlton & United Brewery (CUB) site, specifically the bulk excavation and construction of basement car parking. The proposal was referred to the Commission as the proponent disclosed a reportable political donation.

The Commission considered the application and associated documentation including a copy of the DG's assessment report. The key issues identified in the report were:

- parking,
- accessibility,
- safety and security, and
- heritage.

In addition, the panel members were briefed by senior Departmental staff. Following the Commission's examination of the documents and plans provided by the Department, the Commission was satisfied that the issues raised through the submission process were fully considered in the Department's assessment and that the impacts could be suitably managed to ensure a satisfactory level of environmental performance. Therefore the Commission supported the Department's recommended conditions of approval.

D013/10 Commercial buildings Block 1 and Block 4, Carlton & United Brewery (CUB) site

20 May 2010 to 26 May 2010

The proposal was for the development of the former CUB site, specifically for:

- the construction of a new 10-15 storey commercial building accommodating retail floor space, commercial floor space and a child care centre,
- five levels of basement car parking,
- the excavation of the basement for blocks 1, 4 and the brewery yard,
- the demolition of the rear ground floor bar of the Australian Hotel,
- the demolition of the rear 1-storey bathroom and additions of the heritage terrace group known as 18 -12 Abercrombie Street, and
- construction of the surrounding public domain.

The proposal was referred to the Commission as the proponent disclosed a reportable political donation.

The Commission considered all relevant matters including the DG's assessment report. The DG's assessment report concluded that the impacts of the proposal were addressed in the Environmental Assessment, the PPR, Statement of Commitments and the Department's recommended conditions of approval and could be suitably managed to ensure a satisfactory level of environmental performance.

The Commission was briefed by Departmental staff, particularly on construction, heritage and traffic impacts. The Commission was concerned about the proposed height of the commercial building. The Department confirmed that the height was consistent with the approved Concept Plan. The Commission was satisfied that the issues raised through the submission process had been fully considered by the Department's and supported the recommended conditions of approval.

The DG's report concluded that the impacts of the proposal were addressed in the Environmental Assessment, the PPR, Statement of Commitments and the Department's recommended conditions of approval and could be suitably managed to ensure a satisfactory level of environmental performance.

D014/10 Mixed use development, Block 2, Carlton & United Brewery (CUB) site

20 May 2010 - 18 June 2010

The proposal was for the construction of a mixed use retail, commercial and residential building on Block 2 of the CUB site. The building would have ancillary retail uses and consist of two towers located above a podium accommodating 593 residential apartments, retail floor space comprising a food court, specialty retail and supermarket, and commercial floor space.

In addition there was to be construction of terraces rising from the plaza to the podium level two of the new block two, installation of a heliostat system, construction of the surrounding public domain, and stratum subdivision of the proposal.

The proposal was delegated to the Commission as the proponent disclosed a reportable political donation.

The Commission considered all relevant matters including the DG's assessment report, which identified the key issues as being consistency with the approved concept plan (as modified), urban design and built form, environmental and residential amenity, and heritage.

The Commission met with Departmental staff twice, raising concerns about the proposed development. These concerns included:

- compliance with SEPP 65 guidelines,
- acceptable amenity for future residents,
- the green wall's long term viability,
- cost and responsibility for maintenance, and
- compliance with the BCA.

During consideration of the proposal the Commission decided that it would benefit from additional architectural advice and subsequently Richard Thorp, a member of the Commission, was added to the Panel. Despite the Department addressing the Commission concerns, the Panel continued to have concerns regarding compliance with SEPP 65 guidelines and the modified concept plan approval and the viability of the green wall.

Based on careful consideration of the proposal and the Department's recommended conditions of approval, the Commission considered that the proposal could be approved provided three additional conditions were inserted into the approval. These changes were:

- the proposed two key apartments located in the eastern tower between levels 5 and 28 be amended to 2 bedroom apartments,
- all planting is to be centrally irrigated,
- the proponent is to provide details of proposed plantings demonstrating their long term viability,
- an architectural quality statement which sets out the required architectural quality of the plantings over the effective life of the building, and
- a Building Management Statement or Strata Management Statement that requires the ongoing maintenance of all plantings be the responsibility of the body corporate.

Following the Department amendments to the conditions of consent, the Commission also amended condition B26 regarding the BASIX certificate and condition F1 regarding the procurement of a positive covenant on the title of land.

D015/10
Hoxton Park Redevelopment concept plan

D016/10
Stage 1 Infrastructure Hoxton Park

D017/10
Big W Warehouse and Distribution Centre, Hoxton Park

D018/10
Dick Smith Warehouse & Distribution Centre, Hoxton Park

31 May 2010 to 3 June 2010

The proposal was for the establishment of an industrial park for warehouses and light industry and the provision of associated infrastructure on 50.17 hectares of land adjacent to the M7 at Hoxton Park. The proponent disclosed reportable political donations so the proposal was referred to the Commission for determination.

The Commission considered the proposal and reviewed all relevant documentation, including the DG's assessment report. A briefing meeting was held with the Department and with Liverpool Council. Particular concerns addressed in these meeting included: the ownership details of the site, flooding, traffic, and visual impacts.

Following the Commission's examination of the documents and plans provided by the Department, the Commission was satisfied that the impacts of the proposal were fully considered by the Department's assessment and supported the recommended conditions of approval.

In addition to the above concept plan, the Commission also determined the Hoxton Park Redevelopment Stage 1 infrastructure, Hoxton Park Big W warehouse and distribution centre and Hoxton Park Dick Smith warehouse and distribution centre under the general terms and delegation.

The key issues identified were flooding, traffic and access and visual amenity. The Commission approved these projects subject to certain conditions, implemented in order to:

- prevent, minimise, and/or offset adverse environmental impacts,
- set standards and performance measures for acceptable environmental performance,
- require regular monitoring and reporting, and
- provide for the ongoing environmental management of the project.

Following the Commission's examination of the documents and plans provided by the Department, the Commission were satisfied that the impacts of the proposal were fully considered by the Department in their assessment and supported their recommended conditions of approval.

D019/10 Concept Plan for residential development at Bennelong Parkway Wentworth Point

17 June 2010 - 22 June 2010

The concept plan was for a residential development comprising three separate buildings over a single podium with basement parking, public open space including a neighbourhood park and pedestrian site link, and road works including the extension of Amalfi Drive and associated landscaping and site facilities.

The application was for a concept plan which falls outside the general terms of delegation issued by the Minister, even though the proponent disclosed a reportable political donation. On 15 June 2010 the Minister for Planning delegated his determination role to the Commission.

The Commission considered all relevant matters including the DG's assessment report, which identified the key issues as built form and height, building separation and privacy, and overshadowing and residential amenity.

The Commission noted the proposal was consistent with the Sydney Regional Environmental Plan Policy No 24 (Homebush Bay Area) and the Auburn Draft Local Environmental Plan 2009 and would assist in meeting the housing targets in the Sydney Metropolitan Strategy and the Draft West Central Subregional Strategy. The Commission noted the elevation description in recommended condition A3(a) was incorrect and the condition should be made clearer to ensure there was no argument about the intention. Hence the condition was amended to reduce the number of storeys to a maximum of 5.

The Commission was satisfied that the issues raised through the submission process were fully considered by the Department's assessment and supported the Department's recommended conditions of approval as amended by the Commission.

The Commission considered all relevant matters including the DG's assessment report, which identified the key issues as being built form and height, building separation and privacy and overshadowing and residential amenity.

Independent Advice

The Planning Assessment Commission, if requested by the Minister, can provide independent advice on a range of planning and development matters, environmental planning instruments and the administration of the implementation of the provisions of the EP&A Act. Furthermore, if directed by the Minister, the Commission can act as a Joint Regional Planning Panel, an independent hearing and assessment panel, or a planning assessment panel.

A013/09 Residential Subdivision, Dolphin's Point, Shoalhaven

25 June 2009 - 9 July 2009

The proposal was for 132 lots of residential subdivision and one residual lot for a conservation reserve, and included the provision of roads and public reserves. The Minister referred the application to the Commission for advice on the Direction General's recommendation to approve the residential subdivision. In addition to reviewing the DG's assessment report, the Commission was briefed by senior staff of the Department, and considered all other relevant documentation.

The Commission noted the key issue in this project was urban design and council raised several concerns in this regard. The Commission considered that it was a reasonable condition to require consultation with Council regarding revised architectural and landscape plans.

Although the Commission questioned the demand for residential development in this area, they recognised the issue as being outside the ambit of this review and agreed that the proposal complied with the relevant sub-regional strategy for the area. The Commission concluded that the Department had undertaken a rigorous and thorough assessment of the project application and believed the recommendations in the DG's assessment report were reasonable. In particular, the Commission believed that the Department's recommended layout of the proposal, resulting in a total of 104 lots and a 6.2 hectare conservation reserve, provided a sound resolution to the environmental issues raised by the proposal.

A014/09 Parklea Markets Concept Plan Authorisation

1 July 2009 - 29 July 2009

The proposal was to significantly expand uses on the site of the Parklea Markets. The proposal was referred to the Commission for advice on the Department's recommendations that the Parklea Markets proposal be declared a major project under Part 3A of the Environmental Planning and Assessment Act 1979 (EP&A Act) and the concept plan be authorised. In forming their conclusion, the Commission took into consideration of the proponent's economic consultants' submissions, other documentation provided by the Department and subsequent briefings by senior staff of the Department.

The key issues were the scale of development, range of proposed uses and traffic and parking.

The Commission concluded the proposal had the potential to become an 'out of centre development' which could undermine the viability of existing commercial centres and severely impact on the amenity of the adjoining residential area. The Commission did not support the use of a concept plan authorisation as the appropriate mechanism for addressing the planning matters and accordingly did not support the Department's recommendation.

However, it identified two possible options for progression of the proposal: either to request further information from the proponent regarding economic justification for the proposed range of uses, or the lodgment by the proponent in consultation with the Department of a joint rezoning and development application with Council for Stage 1 of the proposal.

A015/09 Draft Riverstone West Precinct Plan

15 July 2009 - 30 July 2009

The key elements of the draft Riverstone West Precinct Plan included 16ha of land for a business park, 72 ha for general industrial uses, 16ha for light industrial uses, 76ha for environmental conservation, and 39ha for private recreation.

The draft plan was referred to the Commission for advice as to the reasonableness of the proposal. The Commission considered the Riverstone West Precinct Planning Report and a number of other reports and documentation relating to the proposal and were briefed by the Department. The Commission noted that a formal opinion on the proposed State Environment Planning Policy Amendment had not been received, and the areas of the proposed Development Control Plan were yet to be finalised.

The key issues identified were European heritage, flood and fill and permissible uses in environmental conservation zone.

The Commission concluded that the Department undertook a thorough assessment of the proposal and that the proposed planning outcomes for the Riverstone West Precinct were reasonable. In addition the Commission was of the view that the Department had adequately considered all relevant issues including those raised in submissions.

The Commission recommended further studies be undertaken in parallel with adoption of the present planning package for the precinct on aspects of air quality. The Commission acknowledged that the success of the proposal was dependent on effective implementation of controls as presented by the Department and considered that this was achievable given the majority of the site and adjoining lands were in single ownership.

A016/09 Jacfin Warehouse Project

6 August 2009 - 21 September 2009

The proposal was to develop a warehouse on land in the Erskine Park employment area, involving construction of a single storey warehouse, the extension of a road to the site including a small bridge to cross an unnamed creek, construction of car spaces, associated stormwater management system and landscaping works and a "buffer area" between the northern site boundary and the internal access road.

The proposal was referred to the Commission for a review of the recommendation to approve the application subject to certain conditions. The Commission considered the application and associated documents including the DG's assessment report as well as being briefed by the Department, Penrith City Council and the applicant.

The key issues identified by the Commission included equity issues, relevant planning controls and their development, extent of the biodiversity corridor on Jacfin land, access to the Jacfin land, stormwater and water treatment on the site and the offset proposal.

The Commission concluded that the approval of the application should be deferred until the applicant submitted amending plans addressing certain matters relating to the provision of a biodiversity corridor on the site, access to the site and the provision of stormwater controls on the site.

The Commission was of the opinion that the recommended changes were too significant to be implemented through the placing of additional conditions on the project application consent.

The Commission concluded that the application should be returned to the Department and the Commission report be forwarded to the applicant with a request for the project application plans to be amended to implement the recommendations of the Commission prior to the approval of the application.

A018/09 Cronulla Marina Project

12 August 2009 - 20 August 2009

The proposed development included a reconfiguration and redevelopment of the Cronulla Marina, including the extension of the existing marina to accommodate 79 vessels, relinquishment of 42 swing moorings, relocation of four houseboat moorings and the upgrading of slipways and associated infrastructure.

The proposal was referred to the Commission to review the Department's recommendation to grant project approval with conditions. The Commission considered the application and associated documents.

The Commission considered the assessment of the project application in the DG's assessment report was comprehensive and thorough, particularly on marina design, navigational issues including safety and access, and environmental issues. However, three of the issues raised in public submissions were not explicitly addressed in the DG's report:

- the over-development of Gunnamatta Bay,
- loss of public open space, and
- lack of community consultation.

The Commission sought further information from the Department on these issues. Following the additional information provided by the Department, the Commission was satisfied that the issues had been adequately addressed and the Department's recommendation was reasonable.

A019/09 Honeysuckle Central project

14 August 2009 - 26 August 2009

The project application was for subdivision, bulk excavation and construction of 3 x 8 storey buildings in Honeysuckle in Newcastle. The proposal involved the development of a mixed use complex in the Honeysuckle precinct on the southern side of Newcastle Harbour and the northern side on the Great Northern railway line including: the subdivision of land into three Torrens title lots, excavation, construction of 3 x 8 storey buildings comprising 21,370 square metres of Gross Floor Area, 356 car parking spaces, commercial and/or retail services on the ground floor, landscaping, and the construction of utility services and associated infrastructure.

The proposal was referred to the Commission for a review of the recommendation made by the Department.

The Commission considered the application, the DG's assessment report and associated documents. The Commission considered the key issue in this project was urban design, and noted that the Department was generally satisfied with the proposal in this regard as it was consistent with the applicable development standards, was generally consistent with the scale and design of surrounding buildings and would provide an interesting and consistent façade along Honeysuckle Drive.

The Commission considered the Department's recommendations as being reasonable, however it did have concerns in relation to the practical outcome of Condition B6, which required the proponent to consult with Council regarding revised architectural and landscape plans. Accordingly, the Commission recommended the Minister endorse the Department's proposed conditions on the basis that Condition B6 be amended by the Department to provide for the proponent's plans together with Council's comments to be submitted to the Department for determination if after a reasonable period of time agreement could not be reached between the parties.

A020/09 Trinity Point, Lake Macquarie

18 August 2009 - 27 August 2009

The concept plan was for a mixed tourist/residential/marina development at Trinity Point Drive in Trinity Point at Lake Macquarie. The proposal included:

- 188 marina berths and associated workshop/maintenance and club facilities,
- 150 accommodation units,
- restaurant, café, function centre, shops and office, and
- parking, landscaping and a boardwalk.

The proposal was referred to the Commission for a review of the recommendations made by the Department. The Commission considered the application, the DG's assessment report and associated documents, made site inspections and visited key neighbouring communities.

The Commission considered the Department had correctly identified the key issues of the proposal as being residential land use, visual impact and design of the marina and land based buildings, public access and the boatlift facilities.

The Commission noted the Department had considered several other issues relating to flooding and climate change, Aboriginal cultural heritage, ecological impacts, foreshore recession, water quality, acoustic issues, water cycle management, traffic and access, waste management, ground water protection, and natural hazards.

The Commission concluded that the Department had satisfactorily addressed these issues and that the recommendations were adequate and reasonable.

A021/09 Draft Fairfield LEP Amendment 122

16 September 2009 - 25 September 2009

The Draft Fairfield Local Environment Plan (LEP) Amendment 122 involved the reclassification of public land to operational land in order to permit construction of an access road, and the rezoning of a portion of the land in order to allow sale of that land to fund the construction of the access road. The proposal was referred to the Commission for a review of the Department's recommendation which was to make the LEP.

The Commission reviewed the Department's LEP file, the Council's revised section 69 report, the Department's recommendations to make the plan in a revised form, and other associated documentation.

The Commission was concerned that approval of the proposed rezoning of public land for commercial use would set a precedent for alienating public land for private purposes. In the Commission's view, the proposed rezoning could not be justified on the grounds of raising funds for the construction of the access road. The Commission also questioned the need for the proposed access road on traffic grounds. Given these concerns, the Commission was not convinced that the LEP Review Panel's recommendation to make the LEP was justified.

A022/09 Draft Cessnock LEP Amendment 121 Bellbird North

28 September 2009 to 9 November 2009

Cessnock City Council requested that their LEP be amended to rezone land so as to allow for 3500 residential lots. The draft LEP Amendment was referred to the Commission to assess the Department's recommendation to make the LEP. The Commission considered the application and associated documents and were briefed by senior staff of the Department as well as conducting a site visit.

The key issues identified with the proposal included filling of wetlands, flooding, traffic generation, loss of vegetation, visual impact, impact on vineyard operations/loss of vineyard lands, road upgrades and funding, reliance on private transport, protection of Endangered Ecological Communities, protection of riparian zones and infrastructure capacity.

The Commission recommended that land currently zoned 1(v) Vineyard be removed from the draft LEP and that appropriate buffer distances be established to protect the vineyard zoned land where necessary, making the LEP consistent with the Lower Hunter Regional Strategy. Although this would reduce the yield from the release area by over 500 lots, the Commission considered that it would not result in an undersupply of residential land in the short to medium term as there were a number of release areas currently in the process of being rezoned in the Cessnock area, so the end result would be a substantial increase in the number of residential lots. Furthermore, the Commission noted the draft Cessnock DCP provided for the Bellbird North release area to be released in stages with none of the vineyard lands proposed for Stage 1.

In addition, the Commission recommended that vineyard land should only be considered for residential development if there proved to be an undersupply of residential lots from other land identified in the Strategy for urban release.

The Commission otherwise found the Department's recommendations to make the draft LEP reasonable and, in particular, the Commission agreed with the Department's recommendation to remove from the LEP the proposed 1(c) Rural-Residential/Rural Small Holdings precinct in the south western corner of the site. The land covered by this precinct was not part of the draft LEP exhibited for public comment.

A023/09 Draft Cessnock LEP Amendment 124 Kitchener

12 October 2009 - 9 November 2009

Cessnock City Council had requested that the LEP be amended to rezone land in Kitchener from 1(a) Rural to 2(c) Residential to create a precinct for 900 residential lots. The proposal also added land into the Release Area map to ensure satisfactory arrangements had been made with regard to State Designated Public Infrastructure.

The LEP Amendment was referred to the Commission to assess the recommendation made by the Department to make the LEP. The Commission was briefed by senior Departmental staff and undertook a site visit. Furthermore the Commission considered the draft LEP, Local Environmental Study and supporting documentation and community submissions.

The key issues identified were:

- location of the release area,
- impact on native vegetation and threatened species, and
- the biodiversity of the site.

The Commission was concerned with the treatment of certain issues relating to the rezoning of the site and was of the view that additional work needed to be undertaken on the proposed LEP to ensure the best outcome in relation to the significant vegetation on the site. In suggesting this, the Commission noted the Flora and Fauna Report found that the removal of vegetation from the site had the potential to isolate communities, as the site was part of a habitat connection between forest communities.

The Commission concluded that the LEP should not be made at present and should be returned to the Department and Council, and that the Department should also be requested to consider a sequence for the release of housing areas around Cessnock.

A024/09 Eastern Creek Waste Project

23 October 2009 - 18 November 2009

The proposed development was to establish a new waste facility at the former Pioneer quarry site at Eastern Creek. The facility would include a waste recovery centre for recycling building materials and green waste and a non-putrescible landfill (in the former quarry void). The proposal was referred to the Commission in order to review the Department's recommendations. The Commission considered the DG's assessment report and the recommended conditions of consent and relevant documents, met with senior Departmental staff for a briefing, visited the site, and reviewed other supporting documentation.

The key issues identified were waste, leachate management, traffic and access and amenity issues concerning air quality and noise.

The Commission considered that the Department had carried out a thorough assessment of key issues raised in submissions and the recommendation in the DG's assessment report was reasonable.

Given the urban setting and the nature of the proposed facility, the Commission considered it was of paramount importance to minimise or prevent impacts on the adjacent community. Odour was a particular concern to the Commission, given the proximity of the operation to residences, therefore it recommended that:

- the draft conditions of consent be modified in order to require highly protective measures be employed in the open composting of green waste,
- audits of odour performance be conducted after start-up and periodically thereafter, and
- composting revert to an enclosed and controlled mode of operation if odour could not be satisfactorily managed.

A025/09 Draft Cessnock LEP Amendment Golden Bear

30 October 2009 - 24 November 2009

Cessnock City Council proposed amendments to the LEP to permit permanent residential development as part of two separate but adjacent golf course and tourist accommodation developments in the Cessnock Vineyards District. The separate developments were known as the Golden Bear and Vintage Balance Lands. The draft LEP Amendment was referred to the Commission in order to review the recommendations made by the Department. The Commission was briefed by senior Department staff, considered supporting reports and documentation and conducted a site visit.

The key issues identified were impact on agricultural value, rural character, potential loss of agricultural land, potential land use conflict, potential precedent for other similar proposals, and needs of residents for access to infrastructure.

The Commission concluded that the recommendation by the Department to proceed with the LEP Amendments was contrary to sub-regional planning strategies and to good planning practice and may have prejudiced the future viability of the vineyards as a tourist region.

The Commission noted the Department was reviewing the Lower Hunter Sub-regional Strategy, with completion by 2011. The Commission recommended that the development of tourist facilities in the vineyard area should be addressed by the Department in conjunction with the Council. This would ensure that a strategy would be developed to protect the intrinsic attributes of the area whilst enabling the development of tourist facilities in appropriate locations - an approach preferable to considering the issue of individual Part 3A applications as raised in the Department's report.

The Commission further recommended that residential land releases in the area should be addressed in view of the changes in the status of some areas identified for development in the current strategy. A staging process should be developed for the release of land for residential development in this area, especially in the context of the demand for land in the Cessnock area.

A027/09 Queanbeyan Local Plan 2009 (Googong)

13 November 2009 - 01 December 2009

The Commission was requested to review the Department's recommendation to make the Queanbeyan LEP (Googong) 2009. The purpose of the draft LEP was to provide for a new town to be developed at Googong for about 5500 residential lots with associated commercial, retail, open space and infrastructure developments. The Commission considered the draft LEP and the supporting reports and documentation and were briefed by the Department.

The Commission noted the high quality work carried out in developing the draft LEP. In addition the Commission noted that Googong had been identified as suitable for development as a new town according to the Independent Review Panel's recommendations and to the Queanbeyan Residential and Economic Strategy. The site is outside the 20 ANEF noise contour for aircraft noise.

The Commission also observed that Clause 6.3 of the draft LEP required the preparation of a comprehensive development control plan that would ensure that development proceeded in a logical and cost effective manner, with provision for necessary infrastructure. Environmental issues were also addressed through the creation of environment protection zones in the LEP and the requirement that the development control plan must provide for stormwater and water quality management controls.

The issue of water supply was resolved via the Cross Border Water Supply Memorandum of Understanding and the Commission noted that the Department was in active negotiation with the ACT Government regarding infrastructure services.

The Commission was of the view that the Department's report was thoroughly canvassed and addressed all relevant strategic planning and environmental issues arising from the proposed rezoning. Accordingly, the Commission considered the Department's recommendation reasonable.

A028/10 Rippon Grange Private Hospital, Wahroonga

13 May 2010 - 21 May 2010

The proposal was to construct a 5 storey private hospital at Rippon Grange Hospital in Wahroonga. The hospital was to have 124 beds and 2 levels of basement parking for 79 vehicles and 13 at-grade parking spaces. The hospital would provide rehabilitation, psychiatric and post-natal services. The proposal included the adaptive reuse of Rippon Grange house (a local heritage item), demolition of buildings with low heritage value, restoration of federation gardens, regeneration and protection of the Blue Gum High Forest (BGHF) area, road upgrading and other servicing works.

The proposal was referred to the Commission in order to review the recommendations made by the Department. The Commission was briefed by senior Departmental staff; reviewed the DG's report, the recommended conditions of consent and relevant documents and visited the site.

Issues raised in submissions received by the Department included design and amenity, traffic, parking and access, impact on cultural heritage, potential impact on the BGHF, design suitability for hospital use, overdevelopment of the site given site constraints, bulk and scale, inconsistency with neighbourhood character, visual impacts, privacy, overshadowing, waste management and bushfire risk.

The Commission concluded the Department had carried out a thorough assessment of the issues raised in submissions and that these issues had been satisfactorily addressed. The recommended reduction in height and bulk of the buildings as well as the increase in set back, and a more articulate façade, would improve the overall design of the buildings and further reduce the potential impacts. The Commission considered that the assessment report was comprehensive and the conclusion to recommend approval with conditions was logical and reasonable.

A 029/10 Kings Forest Concept Plan

13 May 2010 – current

The concept plan for Kings Forest included:

- a mixture of residential precincts (comprising 4500 dwellings),
- a mixed use town centre and neighbourhood centre,
- community and education facilities,
- a business park,
- a golf course,
- active and passive open space areas,
- environmental protection areas,
- an access network of roads,
- public transport routes and pedestrian/cycle paths,
- landscape and vegetation management,
- water management areas and lakes, and
- utility services infrastructure.

The proposal was referred to the Commission in order to review the reasonableness of the Department's recommendation.

A030/10 Amendment to Sydney LEP 2005 to Sharpies site, 216-228 Elizabeth Street, Surry Hills

22 June 2010 – current

The proposal was to amend the Sydney LEP 2005 in relation to land known as Sharpies site at Surry Hills, in order to make the site available for commercial and residential use. The planning proposal was to amend the Central Sydney LEP to increase the maximum height limit from 15m to 29m and to increase the maximum Floor Space Ratio to 6.5:1 for commercial and residential uses. The proposal was referred to the Commission to advise whether the Commission supports an amendment to the Sydney LEP 2005 and, if the Commission supports such an amendment, recommend that the amendment be subject to any requirements of a Gateway determination.

R003/09 Sandon Point concept plan modification and project application

17 September 2009 - 16 October 2009

The proposed modification to the Sandon Point concept plan and project application involved:

- a reduction in the number of townhouses and the relocation of the proposed townhouse precincts,
- correction of an inconsistency with earlier modifications to ensure Asset Protection Zones were within the residential zone, and
- a number of minor correction of errors and inconsistencies to the concept plan approval/modification conditions.

The proposed modifications were referred to the Commission to review the Department's recommendation, which was to grant approval. The Commission considered the project application and associated documents, the DG's assessment report, the recommended conditions of approval and other relevant documents, and visited the site and surrounds.

The Commission considered the assessment of the concept plan modification and project application in the DG's assessment report was comprehensive and thorough, however the Commission did identify several issues requiring clarification including ongoing maintenance of riparian corridor and floodways, rainfall intensity assessment, and water sensitive urban design systems.

The Commission met with Departmental staff to explore these issues, and the Departmental officers agreed to undertake further investigation and provide the Commission with formal advice.

Following the Department's submission of additional information the Commission was satisfied the issues it had raised were adequately addressed, except for the long term maintenance or repair of the riparian corridor in the event that Council deferred acceptance of responsibility for that function.

The Commission considered the conditions should be re-examined by the Department and be modified as necessary to ensure that there was continuous responsibility for maintenance and repair of the riparian zone. In addition, the Commission recommended the Department ensure that Council and the proponent clearly understood the interface of responsibilities relating to upstream and downstream aspects of the changes to Woodland Creek on the proponent's site.

R004/09 Proposed redevelopment of Stamford Plaza (Ashington), Double Bay

23 September 2009 to 25 September 2009

The proposed redevelopment of Stamford Plaza in Double Bay consisted of the demolition of the existing building with retention of the existing two level basement, and the construction of a mixed use development, including three towers of six, eleven and 16 floors respectively. The total gross floor area would be of 19,545 square metres, and the development would comprise a boutique hotel and accompanying hotel facilities, retail, car parking and a publicly accessible ground floor open air piazza with pedestrian links through to Cross Street, Georges Centre, Transvaal Avenue and Galbraith Walkway. The Minister for Planning requested that the Commission undertake a review of the recommendation for refusal by the Department.

The Commission was familiar with the site and its location and were thoroughly briefed by senior staff of the Department. It also reviewed the DG's assessment report and the proponent's shadow studies. The DG's assessment report raised concerns with the height, scale and massing of the proposal.

The Commission carefully considered all relevant reports and documentation, and identified the key issues as:

- built form, height and urban design impacts,
- the suitability of the proposal,
- environmental and residential amenity,
- redistribution of floor space,
- view impacts, and
- impacts on the adjoining Transvaal Heritage Conservation Area.

In addition, the Commission noted the Department had considered other issues relating to:

- the public domain,
- transport access and parking,
- design quality,
- potential changes to the proposal, and
- the principles of ecologically sustainable development.

The Commission considered the Department's recommendation for refusal was reasonable as it was supported by thorough evaluation including specialist advice from the Government Architect and a detailed list of reasons for refusal. The Commission recognised the strategic nature of the site and considered that Council should investigate the potential for future development on the site and appropriate planning controls for the site and the surrounding area. In this regard, the Commission recommended the Minister request Council to undertake studies to determine possible future use for the site, resolve issues surrounding the definitions of Gross Floor Area and Floor Space Ratio and investigate the future planning controls for the area and the role of tourist development in Double Bay.

R006/09 Redevelopment of Sunbeam factory, 60 Charlotte Street, Campsie

30 October 2009 - 16 November 2009

The concept plan for the redevelopment of the Sunbeam factory was for bulky goods retailing, multiple unit residential development and seniors living. The indicative building envelopes were for 13 buildings over five lots, with heights from three to eight storeys and roads, services, and landscaping.

The proposal was referred to the Commission in order to review the Department's recommendation for a concept plan and project application. The Commission considered the application and the DG's assessment report and supporting documentation, was briefed by senior Departmental staff, and reviewed community submissions.

The Commission considered that, although the outcome proposed for the site was not the most desirable, the Department's assessment and recommendations were reasonable given the circumstances under which the proposal was assessed. Such circumstances refer to the policy of employment generating land uses in metropolitan Sydney and the consistent inclusion of a bulky goods component in the scheme.

Nevertheless the Commission recognised the significant opportunities that existed in the redevelopment of a site of this scale in this location. It appeared however, that the drive to create jobs had resulted in a less than optimal mix of proposed landuses and the subsequent design for the site.

The Commission considered this site presented an ideal opportunity for a high quality, well designed residential development in the area and that there was also a good case for a supermarket and range of neighbourhood scale uses on the site in the vicinity of the Charlotte and Harp St intersection. The Commission was also of the view that there would be a case for allowing the early development of some of the residential components of the proposal after it had been remediated and whilst layout and design options for the remainder of the site were examined.

As a result of the conclusions drawn above, the Commission recommended that it would be appropriate for the Department to undertake further negotiations with the proponent with a view to removing the bulky goods component of the proposal.

R007/09 Raby, Catherine Field

27 November 2009 - 24 December 2009

The Commission concluded Raby should be listed on the State Heritage Register and that the appropriate curtilage for Raby was that identified by heritage consultants, Godden Mackay Logan, as it adequately reflected the heritage significance of the property, its buildings and landscapes.

The Heritage Council resolved to recommend that the entire remaining 'Raby' property be listed on the State Heritage Register with an indicative curtilage. The recommendation was referred to the Commission in order to provide advice as to an appropriate listing curtilage.

The Heritage Council was of the opinion that the current curtilage did not adequately provide for the heritage significance of the property or conservation of the main house or its historic features. The Commission supported the Heritage Council's recommendation to list Raby on the State Heritage Register, however the Commission considered the recommendation of the Heritage Council to define the curtilage as the whole of the site was excessive and could not be justified on heritage grounds.

The Commission concluded Raby should be listed on the State Heritage Register and that the appropriate curtilage for Raby was that identified by heritage consultants, Godden Mackay Logan, as it adequately reflected the heritage significance of the property, its buildings and landscapes.

R009/10 Commercial, retail and hotel development at Walker & Berry Streets, North Sydney

22 January 2010 - 8 February 2010

The proposal was for a commercial/retail and hotel development on two adjoining sites in North Sydney. A commercial tower was proposed for 77-81 Berry Street and a hotel was proposed for the site at 88 Walker Street. Construction would necessitate demolition of existing buildings on both sites. The proposal was referred to the Commission to assess the Department's recommendation to approve the development subject to certain conditions.

The Commission reviewed the DG's assessment report, the proponent's plans and photomontages, and submissions from the community and Council. In addition, the Commission was briefed by senior staff from the Department and undertook a site inspection.

The Commission considered the DG's report provided a comprehensive and thorough assessment of the proposal and that the proposed conditions were reasonable in ameliorating potential adverse impacts of the proposal. In particular, the Commission considered that it was appropriate to apply the height restrictions in the draft Comprehensive North Sydney LEP.

The Commission agreed the proposal would still impact on the harbour views enjoyed by the south facing apartments in the Beau Monde building from level 15 and above, despite the additional six metre setback from the Beau Monde building provided by the proponent. However, the Commission agreed that it would be unreasonable to require the proposal to be further modified to overcome those impacts given the strategic importance of the proposal and its ability to contribute to achieving the Metropolitan strategy objectives for economic growth, job creation and the maintenance of North Sydney as a prime sub regional centre.

The Commission concluded that the Department's recommendation to approve, subject to conditions, the Part 3A major project application from Eastmark Holdings Pty Ltd for a commercial, retail and hotel development in North Sydney was reasonable.

The strategic importance of the proposal and its ability to contribute to achieving the Metropolitan Strategy objectives for economic growth, job creation and the maintenance of North Sydney as a prime sub regional centre.

Technical Reviews

The Planning Assessment Commission can review, if requested by the Minister, all or any environmental aspects of a proposed development which is the subject of a development application or an activity (or part thereof). In addition, it can review a proposal to constitute, alter or abolish a development area.

The Minister may also request the Commission to review any planning matters. Such expert review may include the holding of public hearings.

A017/09 Ardmore Park Quarries, Greater Argyle LGA

6 August 2009 - 1 September 2009

Ms Gabrielle Kibble (Chair)
Professor Kevin Sproats
Ms Donna Campbell

The proposal was to develop a new sand and hard rock quarry at the 'Ardmore Park' property near Bungonia, in the Goulburn Mulwaree Local Government Area. The proposal was referred to the Planning Assessment Commission for a review of the recommendations made by the Department. It was also requested that in undertaking their review, the Commission allow the proponent, Council, the Bungonia Progress Association and several local landowners to address the Commission.

The Commission held a meeting on 18 August 2009 to hear from 16 parties including Multiquip, Goulburn Mulwaree Council, Bungonia Progress Association and numerous individuals. Key issues raised in the meeting included traffic and transport, air quality, noise and water.

The Commission thoroughly considered the presentations and submissions made at the meeting, and reviewed the DG's assessment report and supporting documentation for the proposal. The Commission considered that the DG's assessment report provided a comprehensive and thorough assessment of the environmental impacts of the proposal and that the Department's recommendations for approval of the quarry were reasonable, subject to an additional condition that requires the proponent to acquire the property close to the site unless the proponent is able to demonstrate that the noise levels are below the Department's acquisition criteria. The Commission also recommended that the Community Consultation Committee be established early and comprise representatives of Bungonia and landholders along the transport route.

R002/09 Riverside Development at Tea Gardens

9 March 2009 to 23 July 2009

Dr Neil Shepherd (Chair)
Ms Barbara Crossley
Mr Peter Dundon
Dr Judy Smith

The Minister for Planning issued a request in March 2009 for the Commission to undertake an expert review of the proposed development including a request to conduct public hearings. The terms of reference focused the review on two main areas: the ecological constraints of the site and the hydrological issues associated with groundwater, and the SEPP14 wetland and flooding.

The proponent sought approval for the concept plan and stage 1 project application for a mixed residential, commercial and tourist development at the Riverside site. The concept plan proposed a residential development to accommodate about 1045 dwellings in various lot sizes, an extension of the existing Myall Quays shopping centre, a 2ha extension of the existing lake, creation of three new freshwater detention basins and numerous additional ponds, an additional channel connecting to the Myall River to enhance water quality management, an open space network including 127ha of land for public recreation, storm water management, wildlife corridor, conservation areas and community facilities, and associated infrastructures, road works and landscaping.

The project application involved the creation of 348 residential lots, extension of the lake, creation of new freshwater detention basins and ponds and the channel, and construction of roads, community and recreation facilities.

Twenty eight submissions were referred to the Commission by the Department. The Commission also invited written submissions through a public hearing independent of the Department's exhibition notice. As a result, the Commission received submissions from 19 parties.

A public hearing was held on 7 April 2009 at the Hawks Nest Golf Club. 7 parties made presentations to the Commission at the hearing. Key issues raised included risk to SEPP 14 wetland, risk to other groundwater dependent ecosystems including endangered ecological communities and threatened species habitat, loss of koala habitat and inadequate corridors for wildlife movement, acid sulphate soils, sewage treatment capacity, Aboriginal archaeology, proposed expansion of the commercial and retail centre and the capacity of the proposed community title arrangements to meet future infrastructure maintenance and repair requirements.

Following consideration of all available information and the submissions made at the public hearings the Commission agreed that the site was substantially more ecologically constrained than the Environmental Assessment suggested. The potential impacts of the proposals in both the concept plan and project application should be regarded as unacceptable.

The Commission was unable to reach a consensus position on how the development of the site should be approached. Consequently there were two reports prepared by the Commission, one being the report of three of the four members and the other being the report of a single member. Most of the material was common to both reports, with the key difference being the approach to managing the ecological constraints of the site.

The majority report took the view that it was entirely reasonable within the context of Part 3A to provide firm guidance as to what the Commission may consider a reasonable approach to the ecological constraints of the site for any revised project proposal. It was of the view that this approach was both consistent with the Commission's task under Part 3A and was likely to lead to the best outcome for the site.

The recommendations of the majority report were that the proposal was not considered acceptable in its current form and should either be refused or reviewed to produce a proposal consistent with the recommendations. The standard of information needs to be improved in any future application and that relevant agencies be required to take an integrated approach to considering the various aspects of the development of the site, with the ecological constraints be considered as the highest priority

The recommendations of the minority report were that the proponent reconsider the design of the project giving proper regard to the ecological constraints of the site, any future design needs to consider the nationally listed Grey-headed Flying Fox and that baseline ecological data to support any revised proposals be of sufficient quality to enable accurate assessment of the potential ecological impacts of any future development on the site.

R005/09 Orange Waste Project

28 September 2009 to 2 March 2010

Ms Gabrielle Kibble (Chair)

Mr John Court

Mr Greg Freeman

In February 2009, Orange City Council lodged a Project Application under Part 3A of the Environmental Planning & Assessment Act 1979 (EP&A Act) for the Orange Resource Recovery and Waste Management Facility. This project was spread over two sites: the existing Ophir Rd Resource Recovery Centre (RRC) site in the Orange Local Government Area (LGA) and the Euchareena Rd site, Molong in the Cabonne LGA. The Minister issued a request in September 2009 for the Commission to undertake an expert review on the suitability of the sites, the environmental impacts of the proposal and the public interest. The request included a direction to hold a public hearing.

Over 200 submissions were referred to the Commission by the Department of Planning, including four from Government agencies. The Commission also invited written submissions through notices of the public hearing independent of the Department's exhibition notice. The Commission received submissions from 39 parties.

A public hearing was held in December 2009 in Molong. Thirty eight parties made presentations to the Commission at the hearing. Key issues raised included:

- traffic and transport,
- apiculture issues,
- water,
- heritage,
- greenhouse gases,
- odour,
- site suitability and selection, and
- public interest.

Following discussion with the Commission, receipt of submissions and the public hearing, the proponent lodged an amended proposal with the Department in January 2010. The amendment relocated the shredder to the Ophir Rd site to allow for the bulk transfer of organic waste to the Euchareena Rd site for composting and also significantly reduced the proposed heavy vehicle traffic on Euchareena Rd.

The Commission recommended the amended proposal be approved subject to several recommendations relating to the sites suitability, traffic, air quality, groundwater, apiculture issues, heritage, auditing and public interest. The recommendations made by Commission would, if adopted, improve the biosecurity aspects of the proposal and would substantially reduce the traffic impacts for the Molong Community.

R008/09 Bulli Seam Coal Project

13 November 2009 – current

Dr Neil Shepherd (Chair)
Emeritus Professor Jim Galvin
Dr Col Mackie
Professor Jeffery Bennett
Dr John Tilleard

The Minister issued a request in November 2009 for the Commission to undertake an expert review of the proposed development, specifically on the significance and acceptability of the potential subsidence related impacts of the project on significant natural features, built infrastructure and the values of Sydney's drinking water catchment, and for recommendations as to appropriate measures to avoid, control, or offset these impacts. The terms of reference included a request to conduct public hearings and provide comment on issues raised in submissions and public hearings.

The Bulli Seam Operations Project relates to the continuation of longwall mining operations at the Appin Mine and West Cliff Colliery within existing coal leases and new mining leases and extends the life of the mine by approximately 30 years. The Colliery is located about 25km north-west of Wollongong in NSW. It is owned and operated by Illawarra Coal Holdings Pty Ltd (ICHPL), a wholly owned subsidiary of BHP Billiton Pty Limited.

A026/09 Bickham Coal Project

3 November 2009 – 3 May 2010

Dr Neil Shepherd (Chair)
Mr Lindsay Gilbert
Dr Lloyd Townley

The Bickham Coal Company Pty Limited proposed to develop a new open-cut coal mine approximately 13 kilometres southeast of Murrurundi in the Upper Hunter Valley. The proposed mine would extract a total of 36 million tonnes of coal over 25 years.

The Minister for Planning referred for Bickham Coal project to the Commission for advice on the water-related risks of the project, whether these risks could be suitably managed to an acceptable level of performance (having regard to the recommendations in the Strategic Assessment of Coal Mining in the Upper Hunter Valley, Department of Planning 2005), and the adequacy of the Water Resource Assessment and the draft Water Management Plan.

The Minister also directed the Commission to advise on any other significant issues raised in submissions, whether the project should proceed to a merit assessment under Part 3A of the Environmental Planning and Assessment Act (EP&A Act) and, if so, to provide the Director-General of Planning with any requirements for the preparation of an Environmental Assessment.

The Commission formed the view that it would be difficult to provide the requested advice without the conduct of public hearings. At the Commission's request the Minister varied the initial direction to include the conduct of public hearings.

A public hearing was held on the 17 and 18 March 2010 in Scone. 39 parties made presentations to the Commission at the hearing. Key issues raised included:

- groundwater and surface water risks,
- impact on the existing equine industry,
- health related issues,
- employment benefits,
- variations in the proposal,
- community consultation, and
- access to emergency services for the community of Scone.

The Commission examined the Water Resource Assessment and the draft Water Management Plan, received submissions, held public hearings, met with government agencies, local government and industry groups and conducted field inspections.

The Commission found although there was strong evidence to support the prohibition of open-cut coal mining in the Upper Hunter Valley Shire, the evidence lacked the rigour of a comprehensive study of competing land uses backed by a robust cost-benefit analysis. The Commission concluded that there was sufficient residual concern generated by its assessment of the water-related risks to warrant that the Bickham project proposal not be recommended for further merit assessment under Part 3A. Furthermore, there was strong evidence from the non-water-related issues raised in submissions that the Bickham project proposal had significant adverse effects on other industries and investments that would outweigh any advantages in proceeding to merit assessment under Part 3A.

Key issues raised included groundwater and surface water risks, the existing equine industry, health related issues, employment benefits, town of Murrurundi, variations in the proposal, community consultation and access to emergency services for the community of Scone.

Summary of Affairs

Freedom of Information Request

The Commission received 3 Freedom of Information applications (FOI) and one review of determination application this year. Of the 3 FOI applications, full access was granted to one, partial access was granted to the second and the third was refused. The original determination was supported in the review application.

Consultants

One consultant was engaged during the year.

Overseas Travel

No overseas travel was undertaken during the year.

Commission Expenditure

The total expenditure by the Planning Assessment Commission for the financial year was \$1,428,320 excluding cost of administration supports provided by the Department of Planning.

Further Information

The Commission's website (www.pac.nsw.gov.au) includes a register of matters that have been referred to the Commission.

Contact

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