

ANNUAL **REPORT** 2010/2011

NSW Planning Assessment Commission



Planning
Assessment
Commission

LETTER TO THE MINISTER

November 2011

The Hon Brad Hazzard MP
Minister for Planning and Infrastructure
Governor Macquarie Tower
1 Farrer Place
Sydney NSW 2000

Dear Minister

I have pleasure in submitting the Annual Report for the NSW Planning Assessment Commission for the financial year ending 30 June 2011.

The report outlines the extent of the activities of the Commission during the year. In brief, the Commission determined 29 major development applications under delegation, provided independent advice or expert review on 14 planning matters and major development proposals, and undertook two public hearings about State significant developments.

Yours Sincerely



Gabrielle Kibble AO
Chair
NSW Planning Assessment Commission

CHAIR'S STATEMENT

The past year has been both challenging and rewarding. During the 2010/11 financial year the NSW Planning Assessment Commission has:

- determined 29 major development applications under Ministerial delegation;
- provided independent advice or expert review to the Minister on 14 major development applications and planning matters;
- conducted 2 public hearings as part of expert review of major developments.

The workload for the Commission has expanded 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 14 days of receipt of referral.

On average the Commission provided advice to the Minister within 20 days following referral where a public hearing was not held and 45 days where a public hearing was conducted.

The Commission has adopted a set of public meeting procedures as part of the decision making process for developments of state significance. These procedures will assist to improve the transparency and build public confidence in the NSW planning system. These procedures outline when and how the Commission will hold public meetings.

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 decision making process so as to achieve well balanced and quality outcomes for the challenges of the year ahead.



Gabrielle Kibble AO
Chair
NSW Planning Assessment Commission

CONTENTS



Introduction	5
Glossary	6
Functions of the NSW Planning Assessment Commission	7
NSW Planning Assessment Commission Members	8
Year in review	9
Determinations	10
Independent Expert Advice/Review	30
Expert Review with Public Hearings	42
Summary of Affairs	47



INTRODUCTION

The NSW Planning Assessment Commission is a statutory body established under the *Environmental Planning and Assessment Act 1979 (EP&A Act)* in November 2008.

The Commission is independent of the NSW Government, the Minister for Planning and Infrastructure and the Department of Planning and Infrastructure. Although Commission members are appointed by the Minister, 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 development applications when those matters are delegated to it by the Minister, 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 there is a high level of community interest, a political donation has been made or a potential or a perceived conflict of interest exists.

The Commission plays an important role in improving transparency and independence in the planning and decision making process of the government of NSW.

GLOSSARY

<i>EP&A Act</i>	<i>Environmental Planning and Assessment Act 1979</i>
Commission	NSW Planning Assessment Commission
Department	Department of Planning and Infrastructure (former Department of Planning)
DCP	Development Control Plan
DECCW	Former Department of Environment Climate Change and Water (now the Office of Environment and Heritage)
DG	Director General of Department of Planning and Infrastructure/Department of Planning
DG's Report	Director General's Assessment Report
EA	Environmental Assessment Report
FSR	Floor Space Ratio
GFA	Gross Floor Area
IHAP	Independent Hearing and Assessment Panel
LEP	Local Environmental Plan
LGA	Local Government Area
Minister	Minister for Planning and Infrastructure or former Minister for Planning
PDDS	Political Donations Disclosure Statement
PAP	Precinct Acceleration Plan
PPR	Preferred Project Report
SEPP	State Environmental Planning Policy
SoC	Statement of Commitments



FUNCTIONS OF THE NSW PLANNING ASSESSMENT COMMISSION

The functions of the Commission are detailed under section 23D of the *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

The Minister for Planning and Infrastructure has delegated to the Planning Assessment Commission the power to determine certain major development applications and modifications. The delegation applies to applications made by private proponents, having a reportable political donation, objected to by the relevant council and having more than 25 submissions objecting to the proposal.

Independent advice

Section 23D of the *EP&A Act* allows the Minister to request the Commission to provide independent expert advice on a range of planning and development matters, environmental planning instruments, 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) of the *EP&A Act*, when directed by the Minister. 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.

NSW 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 *EP&A Act* provides the Commission to consist of a chair and not less than three members and not more than 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 City Council and Liverpool City 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 a number of NSW Government agencies

Emeritus 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 – highly experienced 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.

During the reporting period four casual members were appointed by the Minister, in order to assist in expert reviews of two major developments. These persons were:

Dr Lloyd Townley

Emeritus Professor Jim Galvin

Dr Steve Perrens

Dr Graeme Batley

YEAR IN REVIEW

During the reporting period the Commission determined 29 applications under delegation, provided independent advice/expert review on 14 planning matters and major development proposals and undertaken two public hearings in relation to two state significant developments.

Determination

1. Channel 7 site, stage 1 early works, Epping
2. Hakoah Club, Hall St, Bondi Beach
3. Charbon Coal project proposed expansion
4. Channel 7 site, stage 1 residential development (buildings 4 & 5)
5. Channel 7 (buildings 4 & 5) modification 2
6. Channel 7 site buildings 1,2 and 3
7. 7 Parkview Drive, SOPA site
8. Gloucester gas concept plan
9. Gloucester gas project application
10. Blocks 5A and 5B, Carlton United Brewery site
11. Mixed use development, Walker Street, Rhodes
12. Warriewood concept plan and stage 1 project application
13. Cardinal Freeman Village, Ashfield
14. Sydney Adventist Hospital redevelopment, Hornsby
15. Refurbishment of spectator precinct, Randwick Racecourse
16. New stables facility, Randwick Racecourse
17. Young to Wellington gas pipeline
18. Sydney Adventist Hospital alterations and additions
19. Residential development at Killeaton St, St Ives
20. Mixed use development, 40 Walker St, Rhodes
21. Wollongong Private Hospital, Urunga Parade
22. Catherine Hill Bay subdivision proposal by Rose Group
23. Gwandalan subdivision proposal by Rose Group

24. Awaba coal project
25. Fish Market project
26. Monee Waters subdivision concept plan
27. Saltwater residential subdivision
28. Ashton coal mine modification 7
29. Ikea modification 4

Independent advice and review

1. Kings Forest concept plan
2. Proposed amendment to Sydney LEP 2005 for the Sharpies site
3. Yobarnie, North Richmond
4. Rezoning proposal at 2 Corea Street, Sylvania
5. Marsden Park industrial precinct
6. Riverlands Estate, Milperra
7. Monee Waters residential subdivision
8. Planning proposal for 126 Greville St Chatswood
9. Bulli seam operations
10. Catherine Field part precinct
11. Marsden Park precinct
12. Draft Queanbeyan LEP, South Tralee
13. Coca Cola preform and closure manufacturing facility
14. Concept plan authorisation for Eastlakes shopping centre

Expert review with public hearings

1. Kendall Bay marina
2. Wallarah 2 coal project

The following sections provide a brief summary of these activities.

DETERMINATIONS

D020-10 STAGE 1 EARLY WORKS – MOBBS LANE, EPPING (FORMER CHANNEL 7)

8 JULY 2010 - 14 JULY 2010

The proposal was to undertake early works for the residential development of the former Channel 7 site at 61 Mobbs Lane, Epping.

The DG of the Department referred the application to the Commission for determination as the applicant 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, public submissions, the recommended conditions of approval, the EA and the PPR.

The key issues related to traffic, the removal of vegetation, the adequacy of stormwater infrastructure, construction noise, the adequacy of proposed pedestrian footpaths/bicycle paths and parking, the safety of the pedestrian crossing at Mobbs Lane and the upgrading of service infrastructure.

The Commission was satisfied that the issues raised through the submission process were comprehensively considered by the Department and appropriate modifications were made to the proposal in the conditions of consent. The Commission agreed with the Department's recommendation, however, amended the recommended conditions relating to the impact of construction works so as to improve their clarity.

D021-10 HAKOAH CLUB, HALL STREET BONDI BEACH

26 JULY 2010 - 10 AUGUST 2010

The proposal was to erect a 113 room serviced apartment hotel, 45 residential apartments, a retail/recreation space including a through site link, three levels of basement car parking, building services and a plant area. The applicant had disclosed a reportable political donation, thus the application met the Ministerial terms of the delegation to the Commission for determination.

The main issues raised in public submissions included the design of the proposal, loss of views and the impact of traffic. In response to submissions received, the Department made several modifications to the proposal in order to improve the transition of building heights, bulk, scale, visual impact and privacy of adjoining dwellings.

After visiting the site, meeting with officers of the Department and carefully considering all the information available, including the DG's Report, the EA, the PPR and public submissions received, the Commission considered that the Department had adequately addressed all the issues raised in the 228 submissions and granted approval for the project subject to the recommended conditions.

D022-10 CHARBON COAL PROJECT – PROPOSED EXPANSION

24 AUG 2010 – 7 SEPT 2010

The proposal sought to increase the production of coal at the existing Charbon coal mine near Kandos in the Mid Western LGA. The increase in production was to allow for the processing of up to 5.2 million tonnes of coal and 1.5 million tonnes of run-of-mine coal. The proposal included transportation of the increased coal production via rail and public and private roads. The project was referred to the Commission as the proponent disclosed a reportable political donation.

The DG's Report identified the key issues to be the impact of noise, air quality and transportation on local residents and the affect of the proposal increase in production on local biodiversity. The Department considered the issues raised in the submissions received could be addressed through appropriate conditions of consent. The Department was satisfied the key issues were adequately addressed by the proponent in the EA, PPR, SoC and the its own recommended conditions of approval.

The Commission was briefed by Departmental staff on the proposal and sought additional information about how the proposal would impact adjoining properties. Following a review of the information provided the Commission was satisfied that the issues raised by submitters had been fully considered by the Department in its assessment and supported its recommendation to approve the application with conditions.

D023-10 CHANNEL 7 STAGE 1 BUILDINGS 4 AND 5

7 SEPTEMBER 2010 -15 SEPTEMBER 2010

This project was for the construction of stage 1 of the redevelopment of the former Channel 7 site and included the construction of two residential flat buildings of 134 units ranging in height from 3-6 storeys, with associated basement parking, landscaping and subdivision. The site had previously been declared a State Significant Site and a concept plan for the site had been approved.

A number of issues were raised in public submissions including the bulk and scale of the development, traffic, public transport, non-compliance with the approved concept plan, residential facilities, landscaping, the impact on privacy for residents and Council controls. In response to the issues raised in the submissions the proponent revised its proposal to reduce the number and mix of units, modify the building form and increase parking provision.

The Department found that the proposal was consistent with the previously approved concept plan for the site and would assist in meeting the housing targets set out in the draft *West Central Sub-Regional Strategy*. Any potential effects on residents had been satisfactorily addressed in the EA, PPR, Statement of Commitments and the Department's recommended conditions of consent.

After careful assessment of the documents provided to it, the Commission approved the proposal subject to the conditions recommended by the Department.

D024-10 7 PARKVIEW DRIVE, SYDNEY OLYMPIC PARK SITE

27 SEPTEMBER 2010 – 14 OCTOBER 2010

The proposal sought the demolition of most of an existing warehouse, the construction of a new 5-storey building, parking and landscaping on the Sydney Olympic Park site. The proposal was referred to the Commission as the proponent had disclosed a reportable political donation.

The DG's Report identified the key issues to be built form, the impact of traffic, loss of vegetation and noise generation from events to be held on the site. The Report also concluded that the project application for the 5-storey building was largely consistent with the previously adopted master plan for the site.

The Commission was satisfied that any consequences of the proposal were adequately addressed by the proponent in the EA, PPR and the SoC, and the Department's recommended conditions of approval.

D025-10 & D026-10 GLOUCESTER GAS CONCEPT PLAN & PROJECT APPLICATION

23 DECEMBER 2010 – 22 FEBRUARY 2011

The proposal was for a concept plan and project application to construct and operate the Gloucester gas project, involving the extraction, processing, transport and delivery of coal seam gas to the existing gas supply network in the Hunter region of NSW. The proposal was referred to the Commission due to political donation.

The key issues raised in submissions from the local council, agencies and the public included surface and groundwater; flora and fauna; hazards and health risks; noise and vibration; air quality; and heritage.

The Department was satisfied that the potential impacts of the proposed development had been adequately addressed in the proponent's EA, SoC and response to submissions, and the Department's recommended conditions of approval.

The Commission requested clarification on certain technical issues including groundwater and hydrology issues, the fracking process, odour impacts and the biodiversity offsets required. In addition, the Commission took steps to inform itself more fully about the project by visiting key locations of the project site and an existing coal seam gas extraction operation in Camden to better understand the extraction and processing facilities anticipated for the Gloucester Gas project.

The Commission was generally satisfied that the conditions recommended by the Department adequately addressed potential environmental impacts for the stage 1 project. However, some of the conditions should be strengthened or supplemented with additional measures to ensure the project meets regulatory environmental standards. The Commission also strengthened conditions to ensure future project applications achieve the same environmental benchmarks set for stage 1 project.

D027-10 BLOCKS 5A & 5B, CARLTON UNITED BREWERY SITE

21 OCTOBER 2010 – 17 NOVEMBER 2010

The application sought approval for the construction of two residential buildings of nine and 20 storeys in height comprising 319 units, retail floor space and construction of the surrounding public domain on the former Carlton United Brewery site in the City of Sydney LGA. The proposal was referred to the Commission for determination as the proponent disclosed a reportable political donation in relation to the proposal.

The Department's assessment identified the key issues as compliance with the approved concept plan (as modified), urban design, residential amenity and other issues including provision of child care places and crime prevention.

The Department's assessment report concluded the proposal was generally consistent with the aims and objectives of State Environmental Planning Policy No. 65 *Design Quality of Residential Flat Development* (SEPP 65) and the Residential Flat Design Code (RFDC), but did not strictly comply with the RFDC guidelines. To address these issues, the Department recommended certain modifications to the project. The Commission concurred with these modifications.

The Commission found that the previously approved concept plan contributed to the difficulty of individual building blocks to fully satisfy SEPP 65 and the RFDC. The Commission generally supported the Department's recommended modifications to address some of the residential amenity issues and accepted the Department's recommendations for approval with two additional conditions. These two conditions were to ensure the protection of residential amenity for future residents. The dual key apartments within Blocks 5A and 5B must not be subdivided into separate lots and the adjoining Block 2A and the main park were to be completed and issued with final occupation certificates prior to the issue of an occupation certificate for Block 5A.

D028-10 MIXED USE DEVELOPMENT, 52-58 WALKER STREET, RHODES

5 NOVEMBER 2010 – 15 NOVEMBER 2010

The project was for the development of 527 units, basement car parking, retail space, communal open space area and landscaping provision in the Canada Bay LGA.

The Department delegated the exhibition and assessment functions of the proposal to Canada Bay Council. The key issues identified related to height, bulk and scale of buildings; traffic, parking and access; provision of infrastructure to serve the Rhodes community; and residential amenity.

Following a review of the DG's assessment report, the Commission questioned Council about the variation to accept two hours solar access when SEPP 65 required three hours. Council explained that the area was covered by the Rhodes West DCP that required a minimum of two hours daylight access. The Department agreed that in this case it was acceptable to apply a site specific control that was developed in the local context and the Commission accepted this explanation as reasonable.

The Commission considered the council had carried out a thorough assessment of key issues raised in submissions and found the project should be approved subject to the recommended conditions.

D029-10 WARRIEWOOD CONCEPT PLAN AND STAGE 1 PROJECT APPLICATION

15 NOVEMBER 2010 – 18 JANUARY 2011

The proposal sought concept plan approval for a residential and childcare development consisting of 16 building envelopes ranging from 3-5 storeys in height providing 600 residential units, a childcare centre, retail floor space, a gymnasium and swimming pool for residents and associated works.

The proposal also sought approval for stage 1 of the proposal including construction of 7 buildings for 313 units with associated infrastructure and landscaping works. The proposal was referred to the Commission for determination as the proponent had reported a political donation.

The Department received over 500 submissions during the exhibition of the EA. Pittwater Council held concerns related to equity and precedent, departure from the orderly planning process, departure from community expectation, inadequate infrastructure and services and impact on resident amenity and the environment.

The Department recommended the proposal be approved, subject to modification to reduce negative impacts on the environment and further details about road upgrade works, flood levels, building design, and any effect on significant trees to be provided with the Stage 2 application.

The Commission met with Departmental staff, Pittwater Council and the proponent to discuss issues including strategic justification, development density, building height and traffic and parking. The Commission was not satisfied that the strategic study commissioned by the Department to support the proposal took into consideration of all undeveloped sites in the valley. The concept plan, if approved, would set a precedent of development density that could apply to all undeveloped sites in the valley. The Commission found there was insufficient strategic justification for the proposed density increase and that the implications for all undeveloped sites had not been adequately considered.

However, the Commission also noted that Council's standards were unnecessarily restrictive and that higher density development was sustainable.

The Commission considered there is a need for a comprehensive strategic study for all undeveloped site in Warriewood Valley including the future role of the Warriewood centre and the development potential around the centre. It recommended the study be a joint-operation between the Department and the Council.

The Commission found there is a need for diversity in the mix of housing stock in the Pittwater area to meet the housing demand generated by a growing population and changing household requirements. Having regard to such need, the Commission approved the concept plan subject to modifications restricting building height generally to three storeys and limiting development density to a maximum of 60 dwellings per hectare.

The Commission also approved the project application for Stage 1 subject to the modified concept plan and recommended conditions.

D030-10 FORMER CHANNEL 7 SITE, BUILDINGS 1, 2 & 3

23 DECEMBER 2010 – 17 JAN 2010

The proposal sought approval for the construction of three buildings providing a total of 28 townhouses with associated garage car parking and landscaping on the former Channel 7 site that was declared a State Significant Site in 2006. The project was referred to the Commission as the proponent had declared a reportable political donation.

The Department identified the key issues as compliance with the approved concept plan and state significant site controls, streetscape/urban design, and residential amenity. The Department concluded that the works as proposed in this project application were largely consistent with the approved concept plan (as modified) and the issues could be addressed through appropriate conditions of consent.

Prior to approving the project, the Commission removed the conditions requiring the proponent to permanently mark off street parking spaces as the spaces are provided in garages associated with each dwelling. They also amended a condition relating to noise from plant equipment to make clearer the obligations of the Certifying Authority.

D031-11 CARDINAL FREEMAN VILLAGE, ASHFIELD

17 JANUARY 2011 – 20 JANUARY 2011

The proposal sought approval for a concept plan comprising the redevelopment of an existing retirement village over five stages including 13 residential buildings of 3-5 storeys in height to accommodate approximately 225 independent living units (ILUs) and a 160 bed residential aged care facility with associated works.

The proposal also included a project application for stages 1 and 2 of the development. Stage 1 was for the construction of the Village Green precinct consisting of 54 ILUs and community facilities. Stage 2 was for the construction of the care precinct which included a 160 bed residential aged care facility and 46 ILUs. The proponent disclosed a reportable political donation in relation the project and the application was referred to the Commission.

The DG's Report identified the key issues as the effect of construction on village residents, the built form, future amenity, heritage, accessibility and traffic and S94 contributions. The Department was satisfied that potential impacts of the proposed development had been adequately addressed by the proponent. The issues raised in these submissions could be addressed through appropriate conditions of consent.

The Commission approved the proposal, but noted that whilst the development would increase the overall height of buildings on the site compared to existing conditions, both the location and topography of the site made it suitable for this level of development. The Commission also noted the development would assist in improving housing choice and enable the existing community to 'age in place', a requirement of the draft *Inner West Sub-Regional Strategy*.

D032-11 SYDNEY ADVENTIST HOSPITAL REDEVELOPMENT, HORNSBY

24 JAN 2011 – 31 JANUARY 2011

The proposal was for the redevelopment of the Sydney Adventist Hospital and consisted of the demolition of all existing buildings, on site excavation and construction of car parking for 139 vehicles over two levels, staged construction of a new 3-4 storey, 6237sqm hospital building and provision of landscaping and construction of associated infrastructure. The proponent reported a political donation in relation to the proposal and the project was referred to the Commission for determination.

The DG's Report identified the key issues as height, bulk and scale, urban design and public domain, noise, transport environmentally sustainable development and public interest. The Department considered the issues raised in the submissions could be addressed through appropriate conditions of consent and was satisfied that all consequences of the development had been adequately addressed by the proponent and its own recommended conditions of consent.

After careful examination of all the relevant documents, the Commission determined that the project should be approved subject to recommended conditions.

D033-11 REFURBISHMENT OF SPECTATOR PRECINCT, RANDWICK RACECOURSE

27 JANUARY 2011 – 7 FEBRUARY 2011

The project was for the refurbishment of the spectator precinct at Randwick Racecourse including:

- alterations and additions to the existing Queen Elizabeth II (QEII) stand;
- demolition and reconstruction of a new paddock stand;
- construction of a new 'link building' structure between the QEII and paddock stands;
- demolition of the Randwick Pavilion, the Tea House building and the escalator structures;
- construction of a parade ring;
- construction of a three storey building adjacent to the parade ring;
- adaptive reuse of the existing Swab Building; and
- associated services, infrastructure upgrades, civil and landscaping works.

The DG delegated the assessment of the proposal to Randwick City Council. It was referred to the Commission for determination as the proponent reported a political donation in relation to it.

The Assessment Report identified the key issues as built form and urban design; heritage; residential amenity; transport and accessibility; ecologically sustainable development; flooding and surface water management; the impact on existing operations during construction; contamination; public domain and safety; S94A contributions; and public interest.

The assessment concluded that the project was well designed and considered appropriate and compatible with the surrounding built form and character of Royal Randwick Racecourse. Council was satisfied any potential impacts of the proposal could be suitably mitigated and managed to ensure a satisfactory level of environmental performance.

D034-11 NEW STABLES FACILITY, RANDWICK RACECOURSE

27 JANUARY 2011 – 7 FEBRUARY 2011

Following a review of the documentations provided by the Department the Commission focused its consideration on 3 key issues. They were heritage, intensification of use and noise.

The Commission noted the site is not listed on the State Heritage Register, although the Australian Jockey Club nominated the site for listing in 2006. The Commission accepts that while some items of local heritage significance will be lost, the project will facilitate the ongoing viability of the site as a racecourse ensuring it retains its broader heritage significance and its social value and links to the development of the horseracing in Sydney.

The Commission was satisfied that large scale non-race events are not part of this project and that the the environmental effects of such an event would have to be considered in the assessment process for any future application for the event

The Commission sought clarification on how the effect of noise from the project would be managed. The recommended conditions required an additional noise study to be submitted - demonstrating noise and vibration from the site would satisfy the recommendations in the noise report.

After examination of all relevant documentation the Commission was satisfied that issues raised in submissions had been adequately addressed and approved the proposal subject to the recommended conditions.

This project sought approval to construct a new stables facility at Randwick Racecourse. The redevelopment included six two-storey stable buildings, with capacity for 100 horses each and accommodation for 10 strappers/stable hands, 12 two-storey mechanical horse walkers, tie-up stalls for 50 visiting horses, pony enclosures for up to 25 ponies, exercise facilities, parking for 110 vehicles and associated infrastructure, including relocation of the access road.

The DG delegated the exhibition and assessment of the proposal to Randwick City Council, and it was referred to the Commission for determination as the proponent reported a political donation in relation to it.

The Assessment Report concluded that the proposal was well designed and was considered appropriate and compatible with the surrounding built form and character of the Royal Randwick Racecourse. The DG's Report identified the key issues as those identified in the proposed refurbishment of the spectator precinct (D033-11). The additional considerations related to consequences made by changes to transport and accessibility; drainage, stormwater and groundwater management; waste management and landscaping.

The Commission sought clarification regarding the assessment of view loss. Council confirmed it had visited residences in Alison and Wansey Roads in order to apply established view loss planning principles. The Commission was satisfied that the DG's Report and recommended conditions of approval satisfactorily addressed issues in the submissions and concluded that the project should be approved subject to the recommended conditions.

D035-11 YOUNG TO WELLINGTON GAS PIPELINE

15 FEBRUARY 2011 – 10 MARCH 2011

The proposal was to construct and operate a 219 km high-pressure natural gas pipeline between Young and Wellington. The pipeline was to connect the Moomba-Sydney pipeline and the Wellington gas-fired power station. The project was to cross four local government areas, nine major watercourses and road and rail infrastructure. The pipeline was to be covered with specialised materials to protect against corrosion and was to be buried at a minimum depth of 750mm. As a result of the proponent having declared a reportable political donation, the project was referred to the Commission for determination.

The Director-General's assessment identified the key issues as hazard and safety; ecological impacts; Aboriginal cultural heritage; and construction noise.

The Department was satisfied that the proponent had provided a robust and conservative assessment of potential ramifications and that the project warranted approval.

The Commission met with senior Departmental staff and requested clarification regarding the proposed pipeline material and the suitability of the pipeline depth. The Commission also discussed the option of including a condition to provide for mediation to assist in resolving negotiations between landowners and the proponent during design and construction.

The Commission was satisfied that the Department's recommended conditions of approval would ensure any environmental effects would be appropriately minimised and managed. The Commission also imposed an additional condition to ensure the proponent would be required to appoint an independent mediator to facilitate negotiations, if agreement could not be reached with landowners.

D036-11 SYDNEY ADVENTIST HOSPITAL STAGED ALTERATIONS AND ADDITIONS

22 FEBRUARY 2011 – 3 MARCH 2011

The project was for staged alterations and additions to the Sydney Adventist Hospital, Wahroonga, including building demolition, expansion and refurbishment, building relocation and car parking provision. The site was previously declared a State Significant Site and a concept plan had been approved for the site. The proponent disclosed a reportable political donation so the proposal was referred to the Commission.

The DG's Report identified the key issues as compliance with the concept plan; built form and urban design; transport; open space & landscaping; amenity; heritage; environmentally sustainable development (ESD); bushfire protection; flora and fauna; construction management; and public interest. The Department considered the issues raised in these submissions had been adequately addressed by the proponent in its EA, PPR, SoC and the Department's recommended conditions of approval. The works as proposed in the project application were consistent with the approved concept plan and:

After consideration of the documents and plans provided by the Department, the Commission found the development to be consistent with the approved concept plan. The Commission also sought clarification on the timing of construction works for the project and whether there would be time limitations on the approval. The Department confirmed a condition of approval was recommended to ensure the project approval would lapse five years after the determination of the project application unless works are physically commenced.

The Commission was satisfied that the Department appropriately considered all relevant aspects of the project in its assessment and determined the project application should be approved, subject to the recommended conditions.

D038-11 RESIDENTIAL DEVELOPMENT AT KILLEATON STREET ST IVES

8 MARCH 2011 – 2 MAY 2011

The project sought approval for demolition, and construction of six residential buildings of 4-6 storeys in height comprising 298 apartments, with adaptive reuse of the monastery building for communal use, basement parking for 374 cars and landscaping works. The project was forwarded to the Commission for determination due to political donation.

The Department's assessment identified key issues as bulk and scale; impact on residential amenity; deep soil landscaping; visitor parking and impact on drainage design and trees.

The Department considered the issues raised in these submissions could be addressed through appropriate conditions of consent and was satisfied that potential consequences were addressed by the proponent in their EA, PPR, SoC and the Department's recommended conditions of approval.

Following the briefing with the Department and a review of the documentation, the Commission raised a number of concerns relating to building design and non-compliance with State Environmental Planning Policy No. 65 *Design Quality of Residential Flat Development* (SEPP 65). The Commission also noted departures from requirements in the Ku-ring-gai LEP and DCP relating to building height, building separation, solar access, balcony areas, deep soil landscaping and car parking; and sought clarification from the Department on these issues.

After careful consideration of all information available, the Commission accepted the Department's recommendation for approval with conditions. However the Commission imposed a number of additional conditions to ensure the development would provide for improved amenity for future residents, satisfy the principles of SEPP 65 and parking provision be consistent with Council's DCP.

D039-11 MIXED USE DEVELOPMENT, 40 WALKER STREET RHODES

15 MARCH 2011 – 21 APRIL 2011

This project sought approval for 735 residential dwellings contained within five buildings of 6-25 storeys high, 1050m² of retail space and three levels of basement car park accommodating 773 car parking spaces. The proponent declared a PDDS and the application was referred to the Commission for determination.

The DG delegated the exhibition and assessment functions for this project to Canada Bay Council. To address issues raised in public submissions, the proposal was amended through the PPR so as to reduce the area of retail space, relocate buildings, increase balcony depths, introduce home office units and provide privacy screenings.

The Commission met with staff from the Department and Council. Particular issues discussed included the status of the draft Canada Bay LEP 2008 (Amendment 1), the draft LEP for Rhodes Peninsula, the status of the remediation works on the site, solar access, and traffic and parking.

Council was satisfied that the potential impacts of the proposal were adequately addressed and recommended the project be approved subject to conditions. The Commission considered that the proposal was consistent with the state and regional strategies for the area and accepted Council's recommendation. The proposal was approved subject to recommended conditions.

D040-11 WOLLONGONG PRIVATE HOSPITAL URUNGA PARADE

22 MARCH 2011 – 18 APRIL 2011

The project involved the development of the Wollongong Private Hospital including demolition of existing buildings and ancillary structures, construction of a new eight storey private hospital and three basement levels of parking and construction of a new signalised intersection. The proponent disclosed a reportable political donation and consequently the project was referred to the Commission for determination.

The Director General's report identified the key issues as built form and urban design; transport; site suitability; residential amenity; heritage; ecologically sustainable development and public interest.

The Department considered the issues raised in these submissions could be addressed through appropriate conditions of consent and was satisfied that potential effects were adequately addressed by the proponent in its EA, PPR, SoC and the Department's recommended conditions of approval.

The Commission met with the Department to discuss the potential ramifications of the development on the Wollongong Public Hospital helipad, car parking and non-compliance with FSR requirements.

After consideration of all the relevant documentation, the Commission imposed extra conditions to ensure the operation and function of the existing Wollongong Public Hospital helipad remained viable following the construction of the Private Hospital and sufficient on-site parking was provided for staff.

D041-11 CATHERINE HILL BAY SUBDIVISION PROPOSAL BY ROSE GROUP

22 MARCH 2011 – 3 MAY 2011

The project, a proposed residential subdivision at Catherine Hill Bay in the Lake Macquarie LGA, consisted of two key components:

- bulk earth works and the provision of subdivision infrastructure
- a staged subdivision involving the subdivision of land in 7 stages to create 553 residential allotments, two retail allotments, 7 reserves for drainage and open space and a coastal walkway.

The site was the subject of a previous Independent Hearing Assessment Panel (IHAP) inquiry in 2007. In February 2011, the then Minister requested the Commission to provide advice on the Department's recommendations on the proposed subdivision. In March 2011, the former Minister delegated his power to the Commission to determine the application due to the high level of public interest in the proposal

During exhibition, 3560 public submissions were received by the Department objecting to the proposal. Key issues raised in submissions included impact on the heritage significance and existing character of the area; compliance with relevant strategic and statutory instruments; consistency with the IHAP recommendations on the concept plan; visual impact; bushfire issues; subdivision design; traffic, access and car parking; impacts on conservation areas and SEPP 14 wetlands; stormwater design and treatment; lack of public transport, services and employment; and cumulative effects.

In response to the issues raised, the proponent amended its plan via a PPR to include landscape buffers, road widening and road side parking and relocation of the retail area.

The Department's assessment concluded that the subdivision plan did not adequately address the previous IHAP recommendations and recommended it be amended to ensure consistency with coastal planning policies and best practice.

D042-11 GWANDALAN SUBDIVISION PROPOSAL BY ROSE GROUP

22 MARCH 2011 – 13 MAY 2011

Subject to these amendments and conditions, the Department was satisfied that potential effects had been adequately addressed.

The Commission met with the Department, Lake Macquarie City Council and the proponent to discuss the issues raised in submissions from the public and agencies. After careful consideration of issues raised in the documents provided, in submissions and at the meetings, the Commission considered the proposed subdivision could be approved with modifications. The recommended conditions needed to be strengthened and further conditions were required to ensure the protection of the coastal reserve, the visual catchment of the village and the scenic quality of the coast. Condition A7 of the approval sets out changes to be made to the plan and requires the plan to be amended to the satisfaction of the Commission.

As to the draft DCP, the Commission considered it had a number of deficiencies and recommended the following changes to be made:

- the IHAP design concept should be included in the DCP as the guiding principles for future development in the area;
- the staging plan should contain further detail;
- built form controls should be more detailed;
- an overall landscape concept for the site should be developed;
- a detailed stormwater management plan and water quality monitoring system should be included in the DCP and management and maintenance responsibilities should be clearly identified; and
- a circulation plan should be included.

This proposal involved the subdivision of the site into 190 lots. The site was the subject of a previous Independent Hearing Assessment Panel (IHAP) inquiry in 2007. The Commission was requested to determine the Gwandalan application and comment on the draft DCP that was submitted with the project.

The DG's Report identified the key issues as potential effects for threatened flora and fauna; road network including intersection operation and internal road design; public transport accessibility; landscaping and public open space; public access to the lake foreshore and connection to surrounding areas; stormwater management; geotechnical and mine subsidence; contamination; Aboriginal cultural heritage and bushfire.

The report concluded that subject to recommended conditions the potential environmental and social impact of the proposed subdivision could be minimised or managed to an acceptable level.

After careful consideration of all the relevant documentation, the Commission approved the proposal and imposed additional conditions to reduce potential environmental ramifications during the construction period.

The Commission considered that the draft DCP should provide further controls to manage stormwater runoff and maintain water quality and protect significant flora and fauna. The DCP should be in place before consent to dwelling construction could be granted. The Commission also agreed with Council that an additional objective should be included to promote housing choice and affordable housing.

D043-11 AWABA COAL PROJECT

5 MAY 2011 – 13 MAY 2011

The project sought to continue the existing operations at the Awaba mine until 2015 and also increase the annual extraction rate. The proposal also included the expansion of the underground mining operations to a new area. As a result of the proponent having declared a reportable political donation, the project was referred to the Commission for determination.

The DG's Report identified the key issues as subsidence; Aboriginal heritage; water resources; biodiversity; air quality; and noise. The DG's Report concluded that the project was in the public interest and should be approved subject to conditions. In coming to this conclusion the Department was of a view that subsidence impact was expected to be minimal and a low risk of a plug failure. The project was also expected to have minimal impact on surface water, groundwater, biodiversity and surrounding residences.

The Commission met with staff from the Department to seek clarification on the requirements for detailed management plans and ongoing improvements at the site as the proposal was only a relatively small expansion of the existing operations. The Department agreed some of these standard conditions were not necessary in this instance and subsequently revised the recommended conditions to address this. After careful consideration the Commission accepted the Department's recommendation to approve the project subject to recommended conditions.

D044-11 FISH MARKET PROJECT

18 MAY 2011 – 30 MAY 2011

This project sought approval for the redevelopment of the northern portion of the Sydney Fish Markets, including demolition and remediation works, construction of mixed use developments and associated works. The project was referred to the Commission for determination due to political donation declaration.

The DG's Report considered the key issues including transport and access; built form and urban design; public domain; contamination and remediation; noise, waste and odour; ecologically sustainable development measures; section 94 contributions; construction management and public interest. The Report found the proposal to be in the public interest as it would contribute to an improved public domain and provide greater amenity. These improvements would encourage a high level of patronage, supporting the local fishing and tourism industries.

The Commission was briefed on the project and the key issues discussed were heritage and parking. In response to the Commission's queries, the Department also provided further information on funding sources, the S94 contributions and the road upgrade and car parking issues.

After careful consideration of the documents and plans provided by the Department, the Commission found that the potential impacts of the proposal had been satisfactorily addressed through the recommended conditions and accepted the recommendation to approve the application.

D046-11 MOONEE WATERS SUBDIVISION

23 MAY 2011 - 14 JUNE 2011

This project sought the approval of a concept plan for a community title residential subdivision of 216 lots in two precincts. The proposal included the construction of associated roads and infrastructure and the dedication of conservation lands to Coffs Harbour council. The Minister requested the Commission to determine the project due to the public interest in the proposal.

In January 2011 the former Minister requested advice from the Commission on the reasonableness of the Department's recommendation for this concept plan application. The Commission found the Department had undertaken a rigorous and comprehensive assessment and that the recommendations in the report were reasonable. In May 2011 the current Minister delegated his powers and functions to determine this concept plan to the Commission and recommended the Commission should be constituted by at least two members who were not previously involved in this matter.

The key issues identified in the DG's Report included strategic context; access; flooding and climate change; impact on flora and fauna, including endangered ecological communities; Aboriginal cultural heritage; and bushfire risks. The Report concluded that it was not satisfied that the entire site was suitable for development, however considered the southern precinct could be developed, subject to meeting stringent requirements.

The Commission met with Departmental staff to discuss issues relating to the need for buffer zones and the size of these zones; the impact on flora and fauna; implications of servicing the site; water quality; and consistency with local and regional plans for the area.

Following the meeting with the Commission, the Department provided a supplementary report addressing the issues discussed at the meeting and amended the recommended conditions of approval to include additional restrictions and requirements on sewerage infrastructure and stormwater management.

After careful consideration of the documents provided including the supplementary assessment report and amended conditions of approval provided by the Department, the Commission agreed with the Department that the proposal should be partially approved subject to the conditions recommended by the Department.

D047-11 SALTWATER RESIDENTIAL SUBDIVISION

23 MAY 2011 – 3 JUNE 2011

The project was for the residential subdivision of a parcel of vacant land at South West Rocks for 269 residential lots, a medium density lot, and the dedication of land to Kempsey Shire Council for conservation, open space, internal roads and associated infrastructure. The Minister delegated his powers to determine the proposal to the Commission due the level of public interest in the proposal.

The DG's Report identified the key issues as strategic context; water cycle management, including flooding, stormwater and groundwater; biodiversity; traffic and access; and Aboriginal cultural heritage.

The Report concluded that the proposal was consistent with the regional strategy, would achieve a satisfactory level of environmental performance and was in the public interest.

The Commission met with the Department, Council and the proponent. The key issues discussed in these meetings included odour from the sewerage treatment plant, traffic and access arrangements, flooding, consultation with the local Aboriginal groups and public submissions. The Commission also visited the site in wet weather.

Following the meeting with the Commission, the Department provided a supplementary report which included additional information on odour and traffic as well as an additional condition which would ensure that, unless otherwise agreed to by officers of the Council, the development of Stage 3 would not occur until a new access road was constructed.

In its determination of the proposal the Commission considered that the issues raised through the submission process had been fully considered in the Department's assessment and that the effects could be managed to ensure a suitable level of environmental performance. The application was approved subject to conditions.

D050-11 ASHTON COAL MINE MODIFICATION 7

9 JUNE 2011 – 15 JUNE 2011

The Ashton coal mine project was approved in October 2002. The project included open cut and underground mining operations. The proposed modification was to extract an additional 100,000 tonnes of coal from the existing open cut pit, construct and operate 15 gas drainage wells and amend the wording of a condition relating to the first workings in the underground mine.

The application was referred to the Commission for determination as a political donation statement was lodged with the modification application.

The Department's assessment report identified the key issues were air quality, noise and blasting, geotechnical issue, soil and water, greenhouse gas emissions, Aboriginal heritage, biodiversity and transport and access. The report found the impact from the additional extraction would be minor and could continue to be managed in accordance with existing approval. As to the development of the 15 gas drainage wells, the Department found that some impact on Aboriginal cultural heritage could occur.

The Commission was satisfied with the Department's assessment and determined to approve the modification as recommended by the Department with two further conditions to ensure the proposal would not impact on known Aboriginal cultural heritage sites and objects and areas of potential archaeological deposits.

D053-11 CHANNEL 7 SITE BUILDING 4 & 5 MODIFICATION 2

16 JUNE 2011 – 20 JUNE 2011

The proposal sought modification to the finished floor levels, reducing building height by 0.05m; window arrangements; pedestrian entries; roof design and plant louvers; basement stairs, parbage store and ventilation louvers and variation to balcony louvers. The Department considered the proposed development remained consistent with the approved concept plan (as modified) and Parramatta City Council raised no objections to the proposal. There was no public submissions.

The proposal was referred to the Commission for determination due to political donation declaration. The Commission considered the DG's Report and associated documents and found the assessment report and recommended conditions satisfactory. The application was approved subject to conditions.

D054-11 IKEA MODIFICATION 4

20 JUNE 2011 – 21 JUNE 2011

The proposal was for a modification of the Commission's approval of the redevelopment of land at Tempe for the proposed IKEA store and office. The modification was for the extension of the approved construction hours for crane operations from 6.00pm and 6.00am Monday to Sunday until 30 June 2011 and from 11pm to 5am until 15 July 2011. The modification was required to ensure consistency with the operating hours specified in a separate approved issued by the Sydney Airport Corporation Limited for the operation of construction cranes.

The project was referred to the Commission as the proponent of the original concept plan had declared a reportable political donation. The Commission considered the DG's assessment report and recommended conditions to be satisfactory and approved the modification subject to conditions.

CURRENT PROJECTS

D045-11

STAR CITY MODIFICATION 7

23 MAY 2011 - CURRENT

The proposal was for a modification application of the Star City multi function entertainment facility. The original project was approved in January 2009 and seven modifications had been approved since that time. The current modification application sought approval for the expansion of an existing ballroom to create a multi-use entertainment facility to accommodate 3000 seated and 4000 standing persons and the associated design modifications to the existing buildings.

D048-11

TREACY STREET, HURSTVILLE

31 MAY 2011 – CURRENT

In March 2011, the former Minister requested the Commission to advise on the Department's recommendation on the proposed concept plan for a mixed use residential and retail development. The Commission's advice concluded that there was strategic merit in the proposal and Council should re-examine the development controls in the area before finalising the draft City Centre LEP.

Future development applications should not reduce the architectural integrity of the concept plan and the community should benefit from the proposed development via the contribution of an area within the development for community use in addition to S94 contribution.

On 28 May 2011, the new Minister for Planning and Infrastructure delegated his power to determine the

application to the Commission. He also requested the PAC Chair to nominate two members that were not previously involved in providing the advice on the application.

D049-11

DARGUES REEF GOLD MINE

8 JUNE 2011 – CURRENT

The Dargues Reef gold mine project sought approval for the development of a new underground gold mine and associated infrastructure at Majors Creek, approximately 13 km south of Braidwood in the Southern Tablelands. The project included extraction and processing of up to 355,000 tonnes of gold ore a year, for up to seven years. Processed ore would be transported from the site by road and the site would be progressively rehabilitated. Historically, extensive mining has occurred in the area and there are abandoned mine shafts and alluvial works on the site.

D051-11

BLOOMFIELD CONCEPT PLAN AT ORANGE

9 JUNE 2011 - CURRENT

The proposed concept plan sought approval for an urban structure plan to provide for land for agricultural research purposes, residential lots, roads and public domain, open space and commercial/retail development. The Bloomfield site was part of the Orange Agricultural Institute, and a portion of it had been identified as surplus land and was rezoned for residential, mixed use and infrastructure purposes in 2009.

D052-11

WARRIEWOOD MODIFICATION 1

14 JUNE 2011 – CURRENT

The proposal was to modify the Warriewood residential proposal to reduce one level of basement car parking with associated podium adjustments and amend the floor layout of units in Buildings A, B and C to include a study in some apartments.

D055-11

CHANNEL 7 SITE BUILDINGS 7 & 8

21 JUNE 2011 – CURRENT

The proposal sought project approval to construct a 6 storey building (42 units), a part 3, 5 and 6 storey building for 85 residential units with 172 basement parking and associated public and private landscaping works. The concept plan for the site was approved in August 2006.

D056-11

MONTEFIORE CONCEPT PLAN AND PROJECT APPLICATION

29 JUNE 2011 – CURRENT

The proposal sought concept plan approval (Stage 1 and Stage 2) for the expansion of the existing Montefiore Residential Aged Care facility in Randwick and project approval for Stage 1. Stage 1 included a building envelope of five levels at the south-eastern corner of the site providing residential

aged care accommodation and support services, a retail unit, parking facilities and a public square; Stage 2 included a building envelope of between 4-6 levels at the south-western corner of the site providing residential aged care accommodation and ancillary space, a new child care centre to replace the existing and associated car parking.

D057-11

CONCEPT PLAN FOR 88 CHRISTIE STREET, ST LEONARDS

30 JUNE 2011 - CURRENT

The proposed concept plan was for commercial and retail uses for an 18 storey building envelope at 88 Christie Street in St Leonards. The proposal sought concept plan approval for an 18 storey building envelope (plus plant) with six levels of basement parking for 294 cars, plus service and delivery vehicles, retail/business premises including a café and commercial lobbies at the lower and upper ground levels and commercial floor space on the upper ground level and levels 1-16.

INDEPENDENT EXPERT ADVICE/REVIEW

A029/10 KINGS FOREST CONCEPT PLAN

13 MAY 2010 – 16 JULY 2010

The concept plan sought approval for:

- 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
- access network of roads, public transport routes and pedestrian/cycle paths
- landscape and vegetation management
- water management areas and lakes
- utility services infrastructure.

The Commission was requested to review the reasonableness of the Department's recommendation.

The Commission met with senior staff from the Department for a briefing and clarification of issues on the Department's assessment report. A site inspection was carried out before a meeting with Tweed Shire Council staff to further understand the issues that were raised in Council's submission to the Department.

As a result of the consideration of all the documents relating to the proposed approval, a site inspection and the meetings with Departmental staff and Council, the Commission considered the concept plan provided for a carefully considered development of the site and should receive approval. The Commission was also generally satisfied that the Department's assessment, conclusion and recommendations were reasonable.

However, the Commission found there were certain issues which should be addressed in the approval

to ensure future planning and development of the site would meet the planning objectives identified in the concept plan. The Commission recommended additional conditions to be imposed on the concept plan approval including:

- preparation of the development code and a master plan for the site;
- preparation of a plan/program to address the provision of affordable housing on the site; and
- provisions in relation to the protection and monitoring of water quality, flooding and koala management.

A030-10 AMENDMENT TO SYDNEY LEP 2005 FOR THE SHARPIES SITE AT SURRY HILLS

22 JUNE 2010 – 6 JULY 2010

The proposal was to amend the Sydney LEP 2005 in relation to the 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 FSR to 6.5:1 for commercial and residential uses. The proposal was referred to the Commission to seek its view as to whether the Commission supported the proposed amendment. If the Commission supported the proposal, a recommendation was to be made that any amendment be subject to any requirements of a gateway determination.

The justifications for the amendment include:

- existing development on the site represented an underutilised and inefficient use of land and contributed to an incoherent urban form and provided poor urban amenity
- existing planning controls prohibited redevelopment of the site
- council was reluctant to progress the planning and redevelopment of the site
- no significant urban or environmental constraints to redevelop the site as proposed
- the proposal was consistent with the strategies and planning directions of the metropolitan and subregional planning strategies.

The Commission met with officers of the City of Sydney Council and the Department to gain an understanding of the history of the site and the status of the Council's draft comprehensive LEP. Following a review of the information provided by both the Council and the Department, particularly the 2005 Urban Design Study for city East and Surry Hills, the Commission formed the view that it supported the preparation of an amendment to the Sydney LEP 2005 in relation to the Sharpies site. It also recommended any amendment should be subject to the requirements of a gateway determination

under section 56 of the *EP&A Act*. However, the Commission emphasised that its support did not indicate its endorsement of the planning proposal prepared by the landowner's consultant as the Commission had not carried out a merit review of the proposal.

A031-10 YOBARNIE, NORTH RICHMOND

20 JULY 2010 – 27 AUGUST 2010

The Commission was requested to advise on the reasonableness of recommendations from the Department in relation to the 'Yobarnie' property at North Richmond. Landowners of the property had indicated that the site had potential for residential development of up to 2000 lots and requested that the site be listed on the Metropolitan Development Programme (MDP). The Minister requested independent advice from the Commission as the applicant made political donations.

Located on the site was a system of irrigation known as a 'Keyline system' which was first developed in the late 1940's. The design of this irrigation system was adopted by farmers in almost every country in the world. The Heritage Council had recommended that an interim heritage order be placed on the Yobarnie, the site.

The Department did not consider it appropriate to formally list the site on the MDP due to potential infrastructure needs and costs for the proposal. However, the site appeared to be consistent with the Draft North West Subregional Strategy. Therefore it suggested the proponent to investigate the infrastructure needed to support appropriate development on the site on the basis that it would be at no cost to the Government. The Department also agreed with the Heritage Council's recommendation to investigate the site for listing on the State heritage register.

The Heritage Council and the Department provided the Commission with a large amount of information regarding the potential of the site to accommodate residential development, its strategic context and heritage importance. Upon examination of relevant documents and a detailed site visit the Commission agreed with the Heritage Council that the property was potentially a property of State Significance.

The Commission found that the proposal for 2000 dwellings on the Yobarnie site would be additional to that required by Council and the draft *North West Subregional Strategy* and should not be investigated

for early land release. Accordingly, the Commission considered the Yobarnie should not be included in the MDP and that any future proposals for this should be considered in the context of the draft *North West Subregional Strategy*.

The Commission also recommended that:

- the owner of the site prepare a Conservation Management Plan (CMP) for the site
- the proponent be advised that any broader consideration of residential development on the site and infrastructure needs should await the outcome of agreement on the CMP and associated development proposals
- the appropriate way to proceed to develop the site for housing would be through the preparation of a rezoning application that is consistent with the draft *North West Subregional Strategy* and its submission to the relevant planning authority.

A032-10 REZONING PROPOSAL, 2 COREA ST SYLVANIA

30 AUGUST 2010 – 27 AUGUST 2010

The Commission was requested to advise:

- whether it supported an amendment to the existing controls in the Sutherland LEP 2006 applying to the land at Corea Street, Sylvania
- if it supported such an amendment, recommend that an amendment be made subject to any requirements of a gateway Determination under section 56 of the *EP&A Act*.

The site was zoned Zone 5 – *Multiple Dwelling A* under the *Sutherland Shire LEP 2006*. Villa and townhouses were permitted in the zone, but residential flats were prohibited. The key controls were a height limit of a maximum two storeys and an FSR limit 0.7:1.

The applicant sought to change the planning controls from Zone 5 to Zone 6 that would allow residential flat buildings with a maximum height of 6 storeys and an FSR 1.3:1. The planning proposal provided several strategic justifications to support the proposed changes including that the proposal would be consistent with the *Sydney Metropolitan Strategy*, *South Subregional Strategy* and Council's draft *Housing Strategy*.

In its consideration of the proposal, the Commission visited the site and met with Council and the Department. These discussions focused mainly on the previous unsuccessful attempts to rezone the site and the adverse effects of the increase in height.

The Commission considered the documents provided by the Department and did not support a change to the LEP. The Commission recommended generally that:

- there was insufficient evidence on planning or environmental grounds to support a change to the planning controls
- the *Sutherland Shire LEP* was gazetted in 2006 and would have taken into account the relevant social and environmental considerations in the area and various Council policies before setting the planning controls for the site

- the site had an existing approval for townhouses development based on planning/ environmental principles set out by the Land and Environment Court.

A033-10 MARSDEN PARK INDUSTRIAL PRECINCT

15 SEPTEMBER 2010 – 22 OCTOBER 2010

The Commission was requested to undertake a review of the Department's approach and proposed planning outcomes for the draft precinct planning package for the Marsden Park Industrial precinct.

The Commission was provided with copies of the Marsden Park post exhibition planning report including the proposed Indicative Layout Plan (ILP) the proposed Growth Centres SEPP amendment, the DCP, a submission summary, the Growth Centres Biodiversity Certification Assessment Report and the proposed Voluntary Planning Agreement and the associated exhibition documents. Staff from the Department briefed the Commission regarding the proposal.

The key issues identified in submissions related to drainage, the impact on Bells Creek Corridor, the impact on the Town and Country Caravan Park and the proposed DCP. The Department's consideration of these submissions resulted in some changes to the exhibited documents.

The Commission met with Departmental staff to discuss the identified issues as well as issues relating to the transmission lines, public transport, voluntary planning agreement, the SEPP amendment. The Commission supported the DCP provisions to encourage the use of alternative sources of energy and recommended the provision be strengthened to include solar power and other green initiatives in industrial areas. The Commission also supported the provision of improved public transport access to the precinct and the VPA to ensure the acceleration of the precinct development would be at no cost to the Government.

The Commission considered that the Department has undertaken a thorough assessment of the proposal and that the proposed planning outcomes for the Marsden Park Industrial Precinct were reasonable.

A034-10 RIVERLANDS ESTATE MILPERRA

5 NOVEMBER 2010 – 14 DECEMBER 2010

The Commission was requested to advise the general strategic merit of the proposed rezoning of the Riverlands Estate at Milperra to allow for low density residential on the southern portion of the site (currently occupied by the golf course) and a new golf course and golf club on the northern portion of the site.

The Commission met with senior staff from the Department and Council, carefully examined the proponent's planning proposal, the reports of the General Manager to Bankstown City Council on the proposal and the proponent's revised flood and traffic studies. In their deliberations the Commission focused on the strategic context of the site and the housing targets for the Bankstown LGA, flood constraints and the on/off site traffic effects of the proposed development.

The Commission considered the planning proposal had general strategic merit however further flood studies would be required. The Commission noted Council has prepared a modified planning proposal with a reduced residential area, avoiding areas of the site that are flood prone; and

A Council report would be prepared to recommend that the modified proposal should proceed for gateway determination. The Commission supported such a recommendation. In the Commission's view, if the flood study justified a larger residential area, it would be appropriate for Council to submit a revised planning proposal for this larger area.

A035 -11 MOONEE WATERS RESIDENTIAL SUBDIVISION

31 JANUARY 2011 – 23 FEBRUARY 2011

The concept plan sought approval for a community title residential subdivision of about 210 lots in two precincts (northern and southern). The proposal also included dedication of conservation areas to public ownership; public access within the conservation area; rehabilitation of degraded areas within the conservation area and provision of services, including water, electricity and sewer.

The Department's recommendation to the Minister sought partial approval for the development which would result in a modified concept plan comprising:

- a community title residential subdivision of approximately 98 lots in the southern precinct
- dedication of conservation area into public ownership
- rehabilitation of areas within the conservation area
- provision of services for the southern precinct and limited public access within the conservation area.

The Commission was requested to advise on the reasonableness of the Department's recommendation on the proposal. The request also asked the Commission to consult with both the proponent and Coffs Harbour City Council as part of its consideration of the Department's recommendation.

Based on an assessment of the proposal and consideration of the issues raised in the council, agencies and public submissions, the Department formed the view that development of the northern precinct should not proceed and only the southern portion of the development could be approved, subject to recommended conditions of approval.

The Commission reviewed the DG's Report, undertook a site inspection and met with both the proponent and Council to further understand the proposal and Council's concerns.

The Commission considered that the Department undertook a rigorous and comprehensive assessment of the proposal and that the recommendations in the DG's Report were reasonable.

In particular, the Commission considered the Department's recommendation to modify the concept plan by approving development in the southern precinct but refusing development in the northern portion of the site, provided a sound resolution to the environmental issues raised throughout the proposal.

A036-11 PLANNING PROPOSAL FOR 126 GREVILLE STREET CHATSWOOD

1 FEBRUARY 2011 – 10 MARCH 2011

The Commission was requested to advise whether it supported an amendment to the Willoughby LEP 1995 in relation to land at 126 Greville Street, Chatswood to amend zoning controls applying to the land, and if so, recommend an amendment be made subject to any requirements of a gateway Determination under section 56 of the *EP&A Act*.

The proposal was to rezone a site in the Willoughby LGA from 5(a) Special Uses – Acoustic Laboratory to allow for residential development including 14 buildings between 4 to 6 storeys in height for 220 units with an FSR of 0.8:1 in the R3 zone for medium density (0.67:1 across the site).

In considering the proposal, the Commission met with senior staff of the Department. The discussion focused on clarification on the advice being sought from the Commission, and the strategic context of the proposal and potential future land uses for the site.

The Commission also met with Council officers. Key issues discussed in this meeting included:

- the history of the proposed rezoning;
- development density, building design, bush fire, ecological issues, community issues;
- Council's view on the proposed medium residential development; and
- the status of the draft Willoughby LEP 2011.

After consideration the key issues discussed in the meetings and documents provided by the Department, the Commission concluded that there was strategic merit in amending existing zoning controls on the site to allow residential development and supported an amendment to the LEP.

A037 – 11 BULLI SEAM OPERATIONS

4 FEBRUARY 2011 – 22 FEBRUARY 2011

The DG of the Department wrote to the Commission requesting advice as to whether there are any environmental or other impediments to the Minister for Environment granting land owners consent for that part of the Bulli seam operations proposal in the Dharawal State Conservation Area (SCA).

The proposal included two kinds of mining development under the Dharawal State Conservation Area (SCA); development works consisting of underground main roads, gate roads, etc to allow access and a proposed Longwall 5E1.

In examining the proposal the Commission noted that the proponent, the former DECWW and the Department all agreed there were no significant streams, upland swamps or significant Aboriginal sites within the proposed mining area.

The Commission accepted that works in the southern coalfield would cause only negligible impact on conservation values, and found that the absence of streams, swamps and Aboriginal sites made it extremely unlikely that any significant environmental impact would occur if mining of the proposed new Longwall 5E1 proceeded.

In coming to this conclusion the Commission acknowledged that the Georges River formed part of the western boundary of the SCA and provided water for fauna and riparian ecosystems within the SCA. The Commission considered that the Georges River would be better protected under the conditions proposed by the Department than it was under current arrangements. The Commission therefore saw no reason to withhold land owner's consent on the basis of potential subsidence-related impact of the proposal on the conservation values of the 20ha of Dharawal SCA remaining within the project application Area.

A039 – 11 CATHERINE FIELD PART PRECINCT

14 FEB 2011 – 2 MARCH 2011

The Commission was requested to provide advice on the reasonableness of the Department's recommendation on the proposed acceleration of the Catherine Fields part precinct under the Government's Precinct Acceleration Protocol (PAP). The precinct, located in the Camden LGA within the South West Growth Centre, is approximately 1200 hectares. The part precinct (proposed to be accelerated) has an area of approximately 300 hectares.

The PAP consisted of two stages. Stage 1 was an assessment of the proponent's ability and commitment to finance and deliver infrastructure for the precinct. Stage 2 involved the provision of a package of requirements to the proponent for the provision of infrastructure. In May 2009, Cabinet had agreed to progress the Catherine Fields part precinct to stage 2 of the PAP process and to issue a draft requirements package that specified the infrastructure to be provided by the proponent if the precinct was accelerated.

In its consideration of the proposal, the Commission sought clarification from the Department for the release of only part of the Catherine Fields Precinct, even though the PAP process requires the whole precinct to be released. The Department confirmed that the part release of the precinct is reasonable as it is located between the Oran Park and Turner Road Precincts, which were rezoned in December 2007 as part of the first release Precinct in the South West Growth Centre.

The Commission concluded that whilst the proposed acceleration of the Catherine Fields part precinct would result in a change to the Government's initial preferred sequence of land release for the South West Growth Centre, it was consistent with the adopted South West Growth Centres structure plan. The part precinct is also a logical extension to the adjoining rezoned Oran Park and Turner Road precincts. On this basis, the Commission considered the Department's recommendation is reasonable.

A040-11 MARSDEN PARK PRECINCT

14 FEBRUARY 2011 – 2 MARCH 2011

The Commission was requested to advise on the reasonableness of the Department's recommendation on the proposed acceleration of the Marsden Park precinct in Sydney's Growth Centres under the Government's Precinct Acceleration Protocol (PAP). The precinct, located in the Blacktown LGA within the North West Growth Centre, has a total area of approximately 1900 hectares.

The PAP is a staged process. Stage 1 is an assessment of the proponent's ability and commitment to finance and deliver infrastructure for the precinct. Once stage 1 requirements are satisfied, the protocol moves to stage 2 in which the Department provides the proponent with a package of requirements for the provision of infrastructure. These requirements form the basis of a planning agreement between the proponent and the Government.

In May 2009, Cabinet agreed to progress the Marsden Park precinct to stage 2 of the PAP process and to issue a draft requirements package that specified the infrastructure to be provided by the proponent if the precinct was accelerated.

Whilst the proposed acceleration of the Marsden Park precinct would result in a change to the Government's initial preferred sequence of land release for the North West Growth Centre, the Commission recognised that it was consistent with the adopted North West Growth Centres structure plan. The precinct also adjoined the recently rezoned Marsden Park industrial precinct. On this basis, the Commission considered the Department's recommendations for the acceleration of the Marsden Park precinct to be reasonable.

A041-11 DRAFT QUEANBEYAN LEP (SOUTH TRALEE)

16 FEBRUARY 2011 – 5 APRIL 2011

The proposal involved the rezoning of a parcel of land in the South Jerrabomberra Valley, known as South Tralee, in the Queanbeyan LGA. The site was located south-west of Queanbeyan adjacent to the ACT/NSW border and approximately 10km south of Canberra airport. South Tralee was zoned part 1(a) Rural A and part 7(b) Environmental Protection. The Queanbeyan LEP (South Tralee) 2011 (the draft Plan) proposed to rezone the land for residential purposes to provide for approximately 2,500 dwellings, a neighbourhood centre, mixed use development, environmental conservation and private recreation.

The Commission was requested to provide advice on the appropriateness of the draft Plan being made having regard to relevant planning legislation and policy. The draft Plan was referred to the Commission for advice because the majority landowner and likely developer had made political donations.

South Tralee formed part of the first stage of land release in South Jerrabomberra as identified in Council's *Queanbeyan Residential and Economic Strategy 2031* and if developed would contribute to the Council's housing supply target of 10,000 dwellings in the Queanbeyan area over the next 25 years.

In its consideration of the proposal the Commission was provided with the Department's draft Section 69 planning report, as well as supporting information considered relevant to the assessment of the draft Plan. The Commission was also made aware of submissions on the draft Plan from the Australian Government's Department of Infrastructure and Transport. The Commission also reviewed the draft Plan in the context of relevant NSW government and Council strategic land use plans, directions and policies.

Following careful consideration of the relevant documents, the Commission concluded that the draft Plan should not be made at that stage. The

Commission found that the proposed land release would:

- create land use conflicts between the use of Canberra airport and future residential development; and
- compromise the outcomes of the Australian Government's National Airports Safeguarding Advisory Group which is pursuing a nationally agreed land use planning regime around airports and near flight paths. This includes the outcomes of the Australian and NSW Government Joint Study into Additional Aviation Capacity for the Sydney Region.

After its advice to the Minister, the Department sought clarification of the Commission's recommendations particularly the Commission's views on whether a departure from the relevant Australian Standard and Ministerial section 117 Direction would be appropriate in this instance. The Director General also sought advice on whether a revised boundary for South Tralee that excluded the rezoning of area within the 20 and 25 Australian Noise Exposure Forecast (ANEF) contour areas could be contemplated as an interim measure to allow the draft Plan to be made.

In response the Commission advised that it had given appropriate regard to the Australian Standard and the s117 Direction and that its advice had not been departure from their terms. The Commission also did not consider the amendment of the South Tralee boundary to exclude areas within the 20 and 25 ANEF contour to be a suitable interim measure.

A043-11 MIXED USE DEVELOPMENT 21-35 TREACY STREET, HURSTVILLE

25 MARCH 2011 – 21 APRIL 2011

The DG on behalf of the Minister wrote to the Commission requesting advice on the Department's recommendation on the proposed concept plan for a mixed use development at 21-35 Treacy Street, Hurstville in the Hurstville LGA.

The proposal sought concept plan approval for a mixed use development for 257 units with a maximum building height of 55m with basement car parking, retail uses at the lower levels; and associated public domain improvements and landscaping works.

The DG's Report identified the key issues in relation to the proposal as building height, bulk and scale; overshadowing; residential amenity; traffic, access and parking; and heritage.

The Commission met with senior staff from the Department for a briefing. Key issues discussed related to:

- departures from Council's existing building height and FSR controls;
- strategic context of the development; and
- status of the draft Hurstville LEP (Hurstville City Centre) 2010.

The Commission also met with senior Council staff, and discussed issues relating to the history of development proposals on the site, the strategic planning work for the Treacy Street precinct, the status of the draft Hurstville LEP (Hurstville City Centre) 2010 and Council's submission on the exhibited concept plan.

The Commission reviewed the DG's Report and public submissions, the Hurstville City Centre Master Plan 2004 and the draft City Centre LEP. Based on its review and discussion with Council and the Department, the Commission was generally satisfied that the assessment and recommendations presented by the Department were reasonable. It also concurred with the key issues that were identified and addressed in the DG's Report.

The Commission recommended that requirements be strengthened to ensure future development applications achieved the high level of architectural quality envisaged in the concept plan. The Commission also strongly recommended the developer work with Council to explore the opportunity of providing, at no cost to Council, a community space within the proposed development that could be used by Council for community organisations in order to ensure that the local community would benefit from the additional value captured in the development as a result of the increases in floor space and height.

A044-11 COCA COLA PREFORM AND CLOSURE MANUFACTURING FACILITY AT EASTERN CREEK

14 APRIL 2011 – 15 APRIL 2011

The Commission was requested to provide advice on the Department's assessment and recommendations on the proposed preform and closure manufacturing facility at Eastern Creek.

The proposal was to establish a preform and closure manufacturing facility for plastic bottle and lid making at Eastern Creek adjacent to the existing Coca-Cola Amatil facilities as it was part of the soft drink manufacturing operations. The site was located within the Western Sydney Employment Area.

The Commission met senior staff from the Department for a briefing and clarification of issues in the DG's Report, which canvassed the issues raised in submissions in detail and concluded that most of the issues were satisfactorily addressed through the proponent's PPR and amendments to its SoC. The Department's recommended conditions of approval would ensure the proposal could be developed with minimal environmental impact.

The Commission noted that the proposed facility:

- would provide better sustainability outcomes by streamlining and integrating production process in one location to minimise importation and transportation of products
- was consistent with development guidelines outlined in the Eastern Creek Employment Lands Precinct Plan
- Assisted in achieving the objectives set out in the *State Plan, Metro Strategy* and *Western Sydney Employment Area SEPP 2009*.

The Commission considered that the Department carried out a thorough assessment of the issues raised in the Council and submissions from agencies. The issues were satisfactorily addressed and the assessment report was comprehensive. The conclusion and recommendations were logical and reasonable.

EXPERT REVIEW WITH PUBLIC HEARINGS

R010/10 WALLARAH 2 COAL PROJECT

7 JULY 2010 – 30 NOVEMBER 2010

Ms Gabrielle Kibble AO (Chair)
Mr John Court
Emeritus Professor Jim Galvin
Dr Lloyd Townley
Dr Steve Perrens

The Wallarah 2 coal project involved the establishment of Longwall mining to the west of the F3 Freeway, north-west of Wyong. The proponent sought approval for the extraction of up to five million tonnes of coal per year for 28 years.

The project involved three above ground sites, shafts, administrative buildings and gas and water management facilities at Buttonderry, coal handling and storage facilities, rail loop and loading infrastructure and drift entry at a site on Tooheys Road and an air intake shaft within Wyong State Forest.

The Commission was directed to:

- review the EA for the Wallarah 2 coal project, taking into consideration any issues raised in submissions, the findings of the strategic review into the impacts of potential underground coal mining in the Wyong LGA, the Wyong water study and the accompanying international peer review
- hold public hearings during this review
- assess:
 - the potential subsidence-related impact of the project, paying particular attention to its ability to adversely affect the Central Coast's drinking water supply
 - any other potentially significant effects of the project
- recommend appropriate measures to avoid, minimise or offset these effects
- provide advice on the merits of the project as a whole.

The Commission was constituted by Ms Gabrielle Kibble AO (Chair), Mr John Court, Emeritus Professor Jim Galvin, Dr Lloyd Townley and Dr Steve Perrens. The Commission examined the EA and other relevant documents, received submissions, held public hearings on 28 October 2010 at Wyong, examined experts, undertook site inspections and held Commission meetings. The Commission also engaged Professor Jeffery Bennett to review the proponent's cost benefit analysis and also directed formal questions to the proponent and to a number of government agencies.

- The Commission examined the studies, findings and recommendations of the 2007 strategic review into the Impacts of *Potential Underground Coal Mining in the Wyong LGA*. The Commission also carefully considered the *Wyong Water Study* and the *Wyong Water Study: International Peer Review* which were commissioned in 2010 by the Department.

The Commission noted that as the mine plan had evolved over a decade of planning, subsidence, groundwater and surface water risks had been minimised. The proponent's predictions of conventional subsidence, primarily in the Dooralong Valley, were acceptable and would assure that consequences for groundwater and surface water would be minimal and manageable, provided adaptive mining management was practiced and the Commission's recommendations were implemented.

The key findings of the Commission were:

- there would be no significant adverse consequences for the Central Coast water supply, provided that no connectivity of surface water with the mining strata was caused by any major unidentified geological fault. In order to ensure early identification and addressing of any drawdown the Commission recommended close monitoring of the water table in the alluvial valleys

R011/10 CONCEPT PLAN AUTHORISATION – EASTLAKES SHOPPING CENTRE

2 SEPTEMBER 2010 – 17 SEPTEMBER 2010

- mine subsidence management should result in satisfactory outcomes for undermined houses and owners of structures using adaptive management, although a more wavy final landform may result if pillars do not collapse as predicted
- air quality predictions were considered adequate and within state and national limits, however, the Commission recommended that DECCW be satisfied as to the initiatives proposed to address air pollution
- ecological impact due to subsidence were manageable in the alluvial valleys, with confirmation of this by ecological studies required as soon as possible after mining commenced.

After detailed consideration the Commission concluded that the application may be approved subject to the imposition of a substantial number of conditions covering the full range of issues including subsidence, surface water management, ground water, air quality, flora and fauna, Aboriginal cultural heritage, noise, rail and road traffic, visual impact, ongoing community consultation and risk assessment.

The proposal sought concept plan approval for a mixed use commercial and residential proposal that would allow for the redevelopment and expansion of the existing out-dated Eastlakes shopping centre to provide about 16,000 sq.m of GFA for retail uses; 3,000 sq.m GFA for commercial and community purposes; residential development for 250-300 dwellings; and new access, parking and servicing arrangements.

The Commission was requested to undertake a review of the reasonableness of the Department's recommendation to declare the proposal as a Part 3A project and authorise the proponent to submit a concept plan for the proposal.

The site was located within the City of Botany Bay, less than 2km to the north-west of Sydney Airport. The site was identified as a Town Centre within the *East Sub-Region, Draft Sub-Regional Strategy*. The proposal was consistent with the Strategy which seeks to strengthen existing centres. In addition, the *Botany Strategy 2031* identifies Eastlakes as a major area for residential intensification and also provides for the revitalisation of the Eastlakes Centre.

The Commission was briefed by senior staff of the Department, Council and the proponent and inspected the site and surrounding locality.

The Commission found that the redevelopment of the shopping centre would be beneficial, however the surrounding area was already relatively densely populated with very limited parking and subject to substantial traffic congestion. It was concluded that these issues would be exacerbated by the introduction of additional residential development almost double the density permitted in the current LEP. As such the Commission did not support the recommendation to authorise the submission of a concept plan for the site.

R012/10 KENDALL BAY MARINA

7 OCTOBER 2010 – 20 APRIL 2011

Dr Neil Shepherd (Chair)

Mr John Court

Dr Graeme Batley

On 27 September 2010 the Minister requested the Commission to carry out a review of the Kendall Bay marina project for the development of 172-berth marina and associated infrastructure in Kendall Bay on the Parramatta River. The Minister requested the Commission to advise on:

- the suitability and long-term effectiveness of the proposed sediment protection system
- the environmental effects of the project, and whether these effects can be suitably managed or offset to ensure an acceptable level of environmental performance
- the issues raised in submissions.

The Commission was also directed to conduct a public hearing. Two days of public hearings were held in the local area on 23 and 24 February 2011. Two major constraining features were identified:

- the sediments in the Bay were heavily contaminated with a range of contaminants associated primarily with the operation of the former Mortlake Gasworks. The sediments were subject to a Remediation Order issued in 2004 by the Environment Protection Authority that prohibited activities that would disturb them
- residential development around the foreshore of the Bay meant that there was no direct vehicle access to the proposed marina. The proposed car park was some 230 m by footpath from the marina entrance and there was no buffer zone between the marina and residences.

To meet the requirement to avoid disturbance of contaminants in the sediments, the proponent proposed a Sediment Protection System (SPS) that would be placed over the bottom of the Bay in the area of the marina footprint and extend a short distance beyond it on all sides.

The Commission made several conclusions regarding the proposed SPS including:

- that the life expectancy of the proposed geotextile barrier was likely to be less than the 100 plus years claimed by the proponent
- the physical stability and integrity of the geotextile cover was questionable in the Kendall Bay environment
- the ability of the proposed SPS to prevent additional disturbance and migration of the contaminants in the bed sediments was highly questionable.

The Commission considered that a much thicker SPS would be necessary and that as the thickness of the sediment layers required for Kendall Bay was unknown, substantial further study and modelling would need to be undertaken to determine this.

The Commission also concluded that the 'do not disturb' strategy adopted in the Remediation Order was appropriate to manage the Bay sediments. However, the construction and operation of a commercial marina in Kendall Bay was considered incompatible with this 'do not disturb' strategy.

The Commission concluded that car parking provisions were inadequate in terms of the number and accessibility of spaces, and the proximity of the spaces to the marina.

Access to facilities for essential service vehicles was also considered inadequate. Given the site constraints, waste handling appeared certain to create major problems and adequate access for emergency vehicles was unresolved. Other significant environmental issues included visual effects, pollution and waste management.

The Commission concluded that the proposed marina would significantly impact large areas for both the residents and the many existing users of the public walkways and parks. Visually, the proposed marina would be unacceptable for the vast majority of residents and public facility users.

There were many other issues raised in submissions. Of these the Commission considered that potential effects on navigation and safety were of major concern. The proposal would create additional congestion in the main river channel, would alienate a large body of 'safe' water currently used by the public and schools and would increase ferry travel times sufficient to cause a reduction in services.

The Commission considered that the site-specific constraints of contaminated sediments, lack of direct access for vehicles and lack of any buffering for existing and proposed residential development would make Kendall Bay an unsuitable location for any commercial marina. Consequently the Commission recommended that the project be refused.



SUMMARY OF AFFAIRS

Government Information (Public Access)

On 22 June 2011 an informal request was received to access the Commission's advice to the Minister in relation to the proposed mixed use development at Treacy Street, Hurstville (A043-11). The application was being assessed.

Consultants

No consultant was engaged during the year.

Overseas Travel

No overseas travel was undertaken during the year.

Commission Expenditure

The total expenditure by the Commission for the financial year was \$1.6 million excluding cost of administration supports provided by the Department of Planning and Infrastructure.

Further Information

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

NSW Planning Assessment Commission

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