

# 2014 - 2015 ANNUAL REPORT

NSW Planning Assessment Commission



Planning  
Assessment  
Commission



# LETTER TO THE MINISTER

December 2015

The Hon. Rob Stokes, MP  
Minister for Planning  
GPO Box 5341  
SYDNEY NSW 2001

Dear Minister,

It is with pleasure that I submit to you the 2014-15 Annual Report of the NSW Planning Assessment Commission.

The report has been prepared pursuant to clause 268W(1)(a) of the *Environmental Planning and Assessment Act 1979*. It outlines the extent of the activities of the Commission during the reporting period.

Briefly, the Commission determined 59 applications, held 22 public meetings, provided advice on 2 planning matters, and completed expert reviews on 10 State Significant Development projects including the holding of public hearings.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Lynelle Briggs', with a stylized flourish at the end.

Lynelle Briggs AO  
Chair  
NSW Planning Assessment Commission

# CHAIR'S STATEMENT

It was an honour to be appointed to the Chair of the Planning Assessment Commission in November 2014. I would like to take this opportunity to thank the previous and inaugural Chair, Ms Gabrielle Kibble AO, for establishing the Commission and providing outstanding leadership of the Commission over the past six years.

I understand the importance of the Commission's role as the key independent planning body in NSW and I am looking forward to the challenge of leading the Commission into the future. I am committed to ensuring that the Commission continues to display its expertise and impartiality in providing planning advice and reviews, and determining development applications.

The past year has been a period of transition following Ms Kibble's retirement, as the Commission has also farewelled 3 other permanent Commission Members and 3 casual Members, while welcoming 3 new Members and an additional 6 casual Members. This transitional period for the Commission also coincides with a restructure of the Department of Planning and Environment following the appointment of Carolyn McNally to the new role of Secretary of the Department.

I am aiming to ensure that the Commission continues to add value and rigour to the planning assessment process; undertakes reviews and completes determinations with both thoroughness and efficiency; and works well with stakeholders from all walks of life.

A large proportion of the reviews and determinations during the past year have involved resource projects (i.e. mining, gas and quarries), infrastructure projects and industrial projects. The addition of new Members has refreshed the Commission in that regard, bringing in new skills and widening our diversity of experience, particularly within these key areas of the Commission's work.

I also believe that the integrity of the Commission is of the utmost importance and it is essential that the public has confidence in its operations. During the past year, the Commission has reviewed and updated its policies relating to conflicts of interest and meeting procedures to ensure that the Commission maintains an independent and impartial approach to its functions.

I would like to take this opportunity to farewell the Commission Members that have left the during this year and thank them for their contributions, including Ms Donna Campbell, Ms Jan Murrell, Mr Garry Payne AM, Mr David Furlong, Mr Bob McCotter, and Mr Richard Thorp.

I wish to thank my fellow Commission Members and the Panel Secretariat for their highly professional and committed approach to their work during the year. Over the next year, we look forward to continuing to bring a high level of independence and expertise to the planning assessment process, while ensuring that determinations are made within appropriate timeframes.

Lynelle Briggs

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# OVERVIEW OF THE COMMISSION

## PURPOSE

The NSW Planning Assessment Commission is an independent statutory body that was established in 2008 as part of broader planning reforms aimed at improving the planning assessment process.

## AIMS AND OBJECTIVES

The Commission is committed to improving the transparency, certainty and independence in the planning and decision-making process of the NSW planning system.

The Commission provides an additional level of expert scrutiny in the review and determination of the State's key development proposals, particularly those where:

- there is a high level of community interest
- a political donation has been made
- a potential for a perceived conflict of interest exists, or
- where complex environmental issues arise.

## VALUES

### Expertise

The Commission members are highly experienced professionals and bring a significant level of expertise from a broad range of disciplines, including planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering, tourism, government and public administration.

### Independence

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

## STAKEHOLDERS

There are a number of key stakeholders involved in the Commission's work, including the broader community of NSW, the Government and the proponents of developments.

The Commission considers the role of consultation with the community to be particularly significant in its work. The Commission regularly holds public meetings and public hearings within local communities, which give members of the public a unique and important opportunity to express their views on proposed developments in an open forum. The Commission also accepts, and takes into consideration, written submissions on proposals.

The Commission's work is referred from either the Minister for Planning or the Department of Planning and Environment. The Commission often requests an initial briefing from the Department and may also request further information, if necessary. The Commission may also seek further information or meetings with other relevant government agencies, particularly local councils.

The Commission often holds meetings with the proponents of development and their relevant consultants, which allows the Commission an opportunity to gain a better understanding of the background of proposals and to seek further details about particular aspects of proposals that may require clarification.

# FUNCTIONS OF THE COMMISSION

## 1. DETERMINATION

The Commission determines State Significant Development and infrastructure applications and transitional Part 3A applications, where Ministerial delegation applies and when referred by the Department of Planning and Environment.

## 2. REVIEW

The Commission carries out a review of any aspect of a State significant development including the holding of a public hearing, as requested by the Minister for Planning or Secretary of the Department of Planning and Environment.

## 3. ADVICE

The Commission provides independent expert advice on a range of planning and development matters, when requested.

## CHANGING FOCUS

The focus of the Commission's role has evolved over the years from a predominantly advisory function to a more significant role in the review and determination of a large number of development proposals

The chart in **Figure 1** (below) shows a comparison of the number of determinations, reviews and advice that the Commission has undertaken since the 2008-09 financial year.

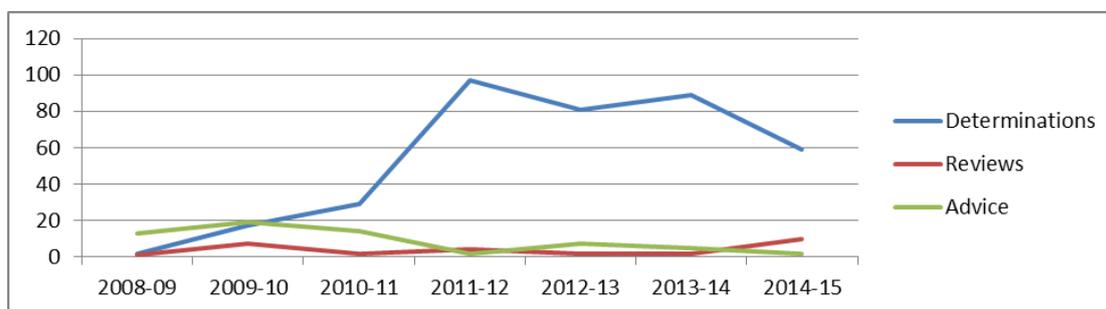


Figure 1: Range of Commission's work from 2008-09 to 2014-15

When the Commission was established in 2008, the majority of its work involved providing advice on various planning matters (13 in total in 2008-09), and it undertook only 2 determinations and 1 review.

In 2011, the then Minister for Planning issued a new delegation that greatly expanded the determination function of the Commission. From 2011-12 to 2013-14, the number of determinations referred to the Commission increased significantly, and ranged from 81 to 97 per year.

In late 2011, the NSW Government also commenced its transition from the old development assessment system (Part 3A) to the new State Significant Development (SSD) system, which transferred many development applications back to local councils. Over time, this transition to the SSD system has resulted in a decrease in the number of determinations that are referred to the Commission, especially from cities.

# YEAR IN REVIEW

## YEAR OF TRANSITION

### Internal changes

The 2014-15 financial year has been a year of transition for the Commission, with the introduction of a new Chair, 3 new Members and an additional 6 casual Members. Towards the end of the financial year, the Commission also commenced an expansion of the number of staff in the Commission's Secretariat that supports the Members in their work to deal with its higher ongoing workload.

While the Commission has lost some very experienced Members, the engagement of new Members and Secretariat staff has refreshed the Commission and brought a range of different skills and experience, particularly within the key areas of the Commission's work.

### Broader changes

The internal changes at the Commission have coincided with broader changes in the NSW planning system during the 2014-15 financial year, including a restructure of the Department of Environment and Planning, a change of Premier and a new Minister for Planning, the Hon Rob Stokes, MP.

There is now a strong focus in the planning system on improving the efficiency of the development assessment process, and reducing the time taken to determine development applications. The changes have also resulted in a renewed focus on community consultation in the NSW planning system. The Commission plays an important role in consultation through its public hearings, public meetings and consideration of written submissions from the public.

## STATISTICS

### Workload

In the 2014-15 financial year, a total of 78 matters were referred to the Commission, including:

- 66 development proposals for determination;
- 10 development proposals for review; and
- 2 planning matters for advice.

### Determinations

A total of 59 development proposals were determined by the Commission, while a further 5 were still in progress at the end of the financial year and 2 were placed on hold. The Commission refused 3 proposals, approved 20 with changes to the conditions of consent, and approved 29 as recommended.

### Reviews

While the number of determinations has decreased from recent years, the number of reviews has increased significantly. The Commission completed a total of 10 reviews during the 2014-15 financial year, which compares with only 8 reviews completed in the preceding 3 years.

### Public Meetings and Hearings

Notwithstanding the decrease in determinations from previous years, the Commission held a total of 22 public meetings and 7 public hearings during the 2014-15 financial year, which is approximately the same as in previous years. This illustrates the renewed focus on community consultation, as a higher proportion of projects are now subject to a public meeting or public hearing.

# YEAR IN REVIEW

## TIMEFRAMES

During the 2014-15 financial year, the Commission has worked hard to deliver its work in a timely manner, while still maintaining its independence and providing an appropriate level of community consultation.

The Commission's average processing time for determinations was 22 working days. Some minor proposals did not require any public meetings or agency consultation and only required a few days to complete. In contrast, some of the major proposals required a public meeting and various other meetings with government agencies, and required months to complete.

The Commission's average processing time for reviews was 70 working days, which included a public hearing for all reviews. Despite the substantially higher number of reviews undertaken during the 2014-15 financial year, the Commission has completed the reviews in a shorter amount of time than in recent years. By way of comparison, the average processing time in 2012-13 was 112 working days and in 2013-14 it was 82 working days.

## RANGE OF PROJECTS

The projects that are referred to the Commission for review and determination are increasingly focused on resources (i.e. mining, gas and quarries), infrastructure and other industry, while there has been a relative decrease in the number of urban development projects (i.e. residential, retail and commercial).

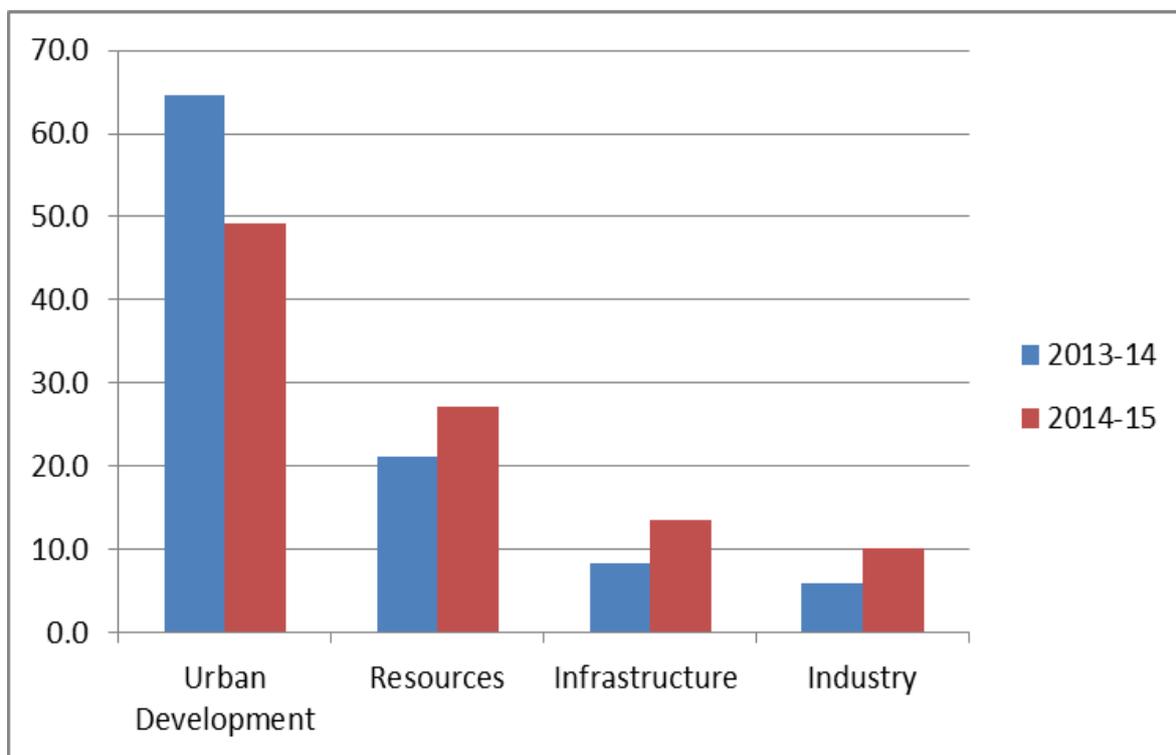


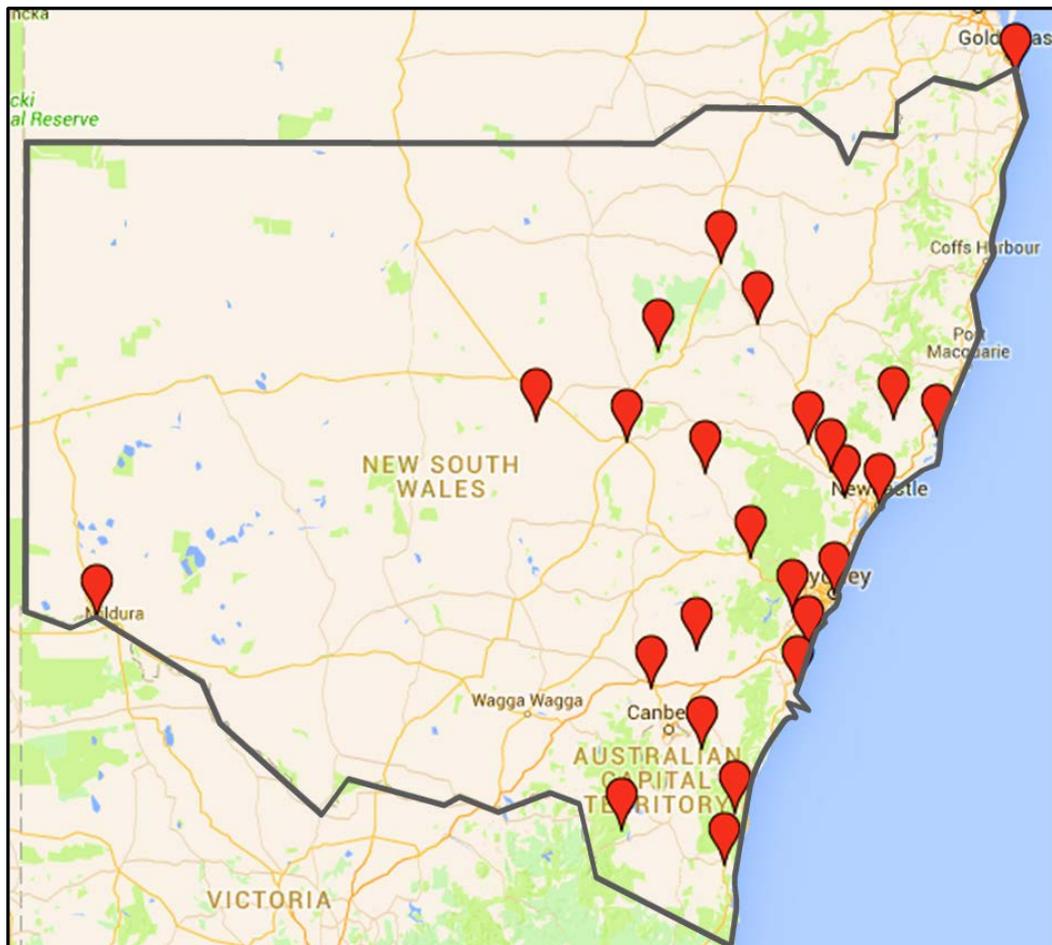
Figure 2: Comparison of types of development proposals 2013-14 and 2014-15

Figure 2 (above) shows that in 2014-15 financial year, over half (51%) of the projects that Commission determined related to resources, infrastructure and industry, while urban development projects accounted for 49%. As a comparison, in 2013-14 urban development projects accounted for nearly two-thirds (65%) of the Commission's determinations, while resources, infrastructure and industry projects accounted for only 35.3%.

# YEAR IN REVIEW

## LOCATION OF PROJECTS

The Commission's work has been located in a wide variety of locations ranging from the far northeast to the far southwest of the state of NSW. **Figure 3** (below) illustrates the location of the various projects that the Commission reviewed, assessed or determined in the 2014-15 financial year.



**Figure 3:** Location of Commission's work in 2014-15

The types of development proposals that are illustrated in **Figure 2** (above) include:

- a residential development in Tweed near the border with Queensland;
- a sand mine near Mildura in the far southwest of the state;
- wind farms near the border with the Australian Capital Territory;
- various coal mines in the Hunter Valley, the Blue Mountains, the Illawarra Region, Narrabri and the Midwestern Region of the state;
- an ethanol plant in Nowra and a tourist development in Bega on the south coast;
- a solar plant in Nyngan in the west of the state; and
- various residential and industrial developments in Sydney and surrounds.

## OTHER WORK

The Commission has reviewed and updated its policies relating to conflicts of interest and meeting procedures to ensure that the Commission maintains an independent and impartial approach to its functions.

# MAJOR ACTIVITIES

This section of the Annual Report provides a summary of some of the major activities that the Commission undertook during the 2014-15 financial year, including a range of different development types in various locations across NSW.

## DETERMINATIONS

### COMMERCIAL: *Royal Randwick Racecourse Hotel*

Applicant:	Australian Turf Club
Description of proposal:	8 storey hotel building accommodating 170 serviced apartments, associated, conference and meeting room facilities, a new trackside bar and basement parking within the Royal Randwick Racecourse
Capital investment value:	\$43.1 million
Key issues considered:	Built form, urban design, landscaping and traffic
Processing time:	24 working days
Determination:	Approved with amended conditions



Figure 4: Artist's impression of Royal Randwick Racecourse Hotel

### OPEN-CUT COAL MINING: *Drayton South Coal Project*

Applicant:	Anglo American Metallurgical Coal Pty Ltd
Description of proposal:	Construction and operation of an open cut mine located near Muswellbrook
Capital investment value:	\$485 million
Number of submissions:	52 verbal submissions
Key issues considered:	Impacts on equine, tourism and viticulture industries.
Processing time:	68 working days
Determination:	Refused

# MAJOR ACTIVITIES

## DETERMINATIONS

### RESIDENTIAL: 100 Bennelong Parkway, Sydney Olympic Park

Applicant:	Karimbla Construction Services
Description of proposal:	Residential development in two separate buildings containing 331 dwellings and a childcare centre at Sydney Olympic Park
Capital investment value:	\$92 million
Key issues considered:	Design, solar access, safety in relation to adjacent railway line
Processing time:	8 days
Determination:	Approved with amended conditions



Figure 5: Artist's impression of 100 Bennelong Parkway

### INDUSTRIAL: Veolia Waste Transfer, Banksmeadow

Applicant:	Veolia Environmental Services
Description of proposal:	Construction and operation of a waste transfer terminal and associated rail infrastructure to process up to 500,000 tonnes waste per year for transfer to various processing facilities.
Capital investment value:	\$25 million
Number of submissions:	30 verbal submissions
Key issues considered:	Noise, traffic and environmental management procedures.
Processing time:	9 days
Determination:	Approved with amended conditions

# MAJOR ACTIVITIES

## DETERMINATIONS

### **WIND ENERGY:** *Gullen Range Windfarm Modification, Southern Tablelands*

Applicant:	Goldwind Australia Pty Ltd
Description of proposal:	Approval of location for 69 wind turbines and consequential changes to ancillary infrastructure, including access roads and cabling.
Capital investment value:	\$250 million (total project value)
Number of submissions:	19 verbal submissions
Key issues considered:	Proximity to existing residences, visual amenity, noise and health impacts.
Processing time:	50 days
Determination:	Approved with amended conditions



**Figure 6:** *Gullen Range Windfarm*

### **MARINA:** *Trinity Point Marina Modification 2, Lake Macquarie*

Applicant:	Johnson Property Group
Description of proposal:	Amendments to the marina layout and design, staging, public access and boat size limits.
Capital investment value:	\$108 million (total project value)
Number of submissions:	61 verbal and written submissions
Key issues considered:	Public access to marina, native vegetation impacts, environmental monitoring, complexity of assessment process.
Processing time:	9 days
Determination:	Approved with amended conditions



**Figure 7:** *Site of Trinity Point Marina*

# MAJOR ACTIVITIES

## REVIEWS

### INFRASTRUCTURE: *Port Waratah Terminal 4, Newcastle*

Applicant:	Port Waratah Coal Services Limited
Description of proposal:	Construction and operation of new coal export terminal with the capacity to export up to 70 million tonnes of coal per annum.
Capital investment value:	\$4.8 billion
Number of submissions:	130 verbal submissions
Key issues considered:	Biodiversity impacts, contamination, air quality impacts, remediation works.
Processing time:	112 days
Recommendation:	Approvable, subject to recommendations



Figure 8: Port Waratah Terminal 4 site

### UNDERGROUND COAL MINING: *Mandalong Extension Project, Central Coast*

Applicant:	Centennial Coal
Description of proposal:	Extension of underground mine to the south, including extraction of 126 million tonnes of thermal coal over 25 years.
Capital investment value:	\$265 million
Number of submissions:	31 verbal and written submissions
Key issues considered:	Subsidence-related impacts on built infrastructure, water quality impacts and noise impacts.
Processing time:	78 days
Recommendation:	Approvable, subject to recommendations

### OTHER MINING: *Dubbo Zirconia Project*

Applicant:	Australian Zirconia Limited
Description of proposal:	Development of an open cut zirconium and rare earth mine and associated infrastructure.
Capital investment value:	\$1 billion
Key issues considered:	Air quality, water impacts, transport, long term landform and land use.
Processing time:	114 days
Recommendation:	Approvable, subject to recommendations

# PAC MEMBERS AND SECRETARIAT

The *Environmental Planning and Assessment Act 1979* (EP&A Act) provides that the Commission consists of up to nine members including a Chair.

Commission members are appointed by the Minister for Planning 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.

## COMMISSION MEMBERS

There are currently nine Members on the Commission:

### Lynelle Briggs AO (Chair)

Former Australian Public Service Commissioner, former Deputy Secretary in the Federal Department of Transport and Regional Services, and former CEO of Medicare. She is a member of the boards of Maritime Super and the Royal Australian College of General Practice, and chairs various reviews and committees.

### Paul Forward

Former Chief Executive of the Roads and Traffic Authority, former Chair of AUSTROADS, former Executive Director at Sydney Water, and former Lecturer in Economics at UNSW.

### Garry West

Former member of the NSW Parliament for 20 years and responsible for various portfolios. He is the independent chair of the Joint Regional Planning Panel (Northern Region).

### David Johnson

Former Acting Commissioner in the Land & Environment Court and a former Principal and founding director of a specialist consulting firm in Sydney. He is a part-time university lecturer in environmental science.

### Abigail Goldberg

Former CEO of Metro Transport Sydney, General Manager of South Sydney Development Corporation and Assistant Director of the Urban Design Advisory Service. She is an Associate of the UTS Centre for Excellence in Local Government.

### Annabelle Pegrum AM

Former Chief Executive of the National Capital Authority from 1998-2008. She is an Adjunct Professor in architecture of the University of Canberra and a Life Fellow of the Australian Institute of Architects.

### Robyn Kruk AM

Former Secretary of the Commonwealth Department of Sustainability, Environment, Water, Population and Communities, former Director General of the NSW Department of Premier and Cabinet and former Director General of National Parks and Wildlife Service.

### John Cook

Former Chief Mining Engineer (Minerals) in the NSW Department of Mineral Resources and has served on a number of boards in the mining and waste industries. He was a founding member of the Waste Management Association of Australia.

### Dr David Chessell

Former senior Commonwealth Treasury official, and represented Australia at the IMF. He co-founded Access Capital Advisers and economic consultancy firm Access Economics.

# PAC MEMBERS AND SECRETARIAT

## CASUAL MEMBERS

The Minister may also appoint casual members 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 a specific task. Casual members make an important contribution to the work of the Commission.

There are currently twelve casual members, including:

- Brian Gilligan
- Joe Woodward PSM
- Alan Coutts
- Gordon Kirkby
- Dr Andrew Stoeckel
- Mr Geoff Carmody
- Ross Carter
- John Hann
- Dr Maurice Evans
- Andrew Hutton
- Dr Marcus Lincoln-Smith
- Steve O'Connor

## FORMER MEMBERS

During the 2014-15 financial year, 4 members left the Commission, including:

### **Gabrielle Kibble AO (Former Chair)**

Former head of the Department of Planning.

### **Donna Campbell**

Former Director of Legal Services at the Environment Protection Authority.

### **Jan Murrell**

Former Commissioner in the Land and Environment Court of NSW.

### **Garry Payne AM**

Former Director-General of the Department of Local Government

The following 3 casual members have also left the Commission during the 2014-15 financial year:

- David Furlong
- Bob McCotter
- Richard Thorp.

## MEMBER OPERATIONS

The Commission provides induction programs for new Members to explain the Commission's organisational policies and the internal functioning of the Commission. The Commission also holds quarterly meetings of its Members.

## SECRETARIAT STAFF

The Commission does not directly employ staff. The technical and administrative staff that support the operation of the Commission are employed by the Department of Planning and Environment.

# OPERATIONS AND PROCEDURES

The NSW Planning Assessment Commission is a statutory body established under the EP&A Act in November 2008.

## DELEGATION

On 14 September 2011, the Minister issued an instrument of delegation to the Commission delegating some of the Minister's powers and functions to the Commission including the power to determine certain major development applications and modifications if the application:

- was made by a private proponent where a reportable political donation has been declared
- was objected to by the relevant council or
- has more than 25 objection submissions.

An application is referred to the Commission for determination after the Department of Planning and Environment has completed its assessment report and recommendation and has made it available on the Department's website.

The Commission has in place meeting procedures to ensure its decision making process is transparent and to ensure the delivery of consistent and robust decisions. A copy of the procedures is available on the Commission's website.

## COMMUNITY AND STAKEHOLDER ENGAGEMENT PROCEDURES

If an application receives more than 25 objection submissions, the Commission will hold a public meeting to hear public views on the Department's assessment report and recommendation before determining the application. In circumstances where there are less than 25 objection submissions, the Commission may decide to meet with the relevant Council, proponent and/or residents/community groups or hold a public meeting if it considers additional public input will benefit its decision making process. The meeting is generally held in the local area where the proposed development is located.

In addition to public meetings, the Commission may be requested by the Minister for Planning (or the Secretary) to hold formal Public Hearings under section 23D (1)(b)(iii) of the EP&A Act. Public Hearings may occur in conjunction with any planning or development matter. Similar to a public meeting, the purpose of a Public Hearing is to provide interested parties, particularly those who are potentially affected by the proposal, with an opportunity to present their views to the Commission. After the Public Hearing the Commission provides a report to the Minister or Secretary detailing its findings and recommendations.

Further detail regarding the Public Hearing process, including its impact on appeal rights, is available on the Commission's website.

## INTERNAL POLICIES

The Commission has the following internal policies, which are all publicly available on the Commission's website:

- Code of Conduct;
- Policy on Meeting Records; and
- Policy on Personal Interests.

# SUMMARY OF AFFAIRS

## BUDGET AND FINANCES

The total expenditure by the Commission for the 2014-15 financial year was \$2.05 million. During the year, the Commission engaged several experts to assist on 12 projects and 4 legal proceedings, with a total expenditure of \$380,427. No overseas travel was undertaken during the year.

## GIPAA REQUESTS

The Commission received three formal requests to access information under the *Government Information (Public Access) Act 2009* (GIPA Act). The requests related to:

1. The Shell Clyde Terminal Conversion;
2. The Warkworth Coal Mine; and
3. The proposed Watermark Coal Mine.

The Commission provided the relevant documents in accordance with the GIPA Act.

## COMPLAINTS

In November 2014, the Commission received one formal complaint alleging that Commission Members had accepted a gift at a public meeting. The Commission investigated the matter and found that the alleged gift was a book that directly related to one of the speaker's submissions at the public meeting. It is not unusual for speakers to provide the Commission with photographic documents or research papers to support their verbal submission.

The book was recorded and filed in accordance with the Commission's administration procedures. Consequently, the book is not considered a gift, and there was no breach of the Commission's Code of Conduct. The Commission provided a written response to the complainant concerning the alleged breach of conduct and the findings of its investigation.

## PRIVACY

The Commission's website ([www.pac.nsw.gov.au](http://www.pac.nsw.gov.au)) includes the Commission's Privacy Statement, which explains how the Commission obtains and uses personal information. In the 2014-15 reporting period, the Commission received no review application about privacy.

## FURTHER INFORMATION

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

## CONTACT

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