

Appendices

Appendix 1: Response from the Planning Assessment Commission



Margaret Crawford
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Audit Office of NSW
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SYDNEY NSW 2001

17 January 2017

Dear Ms Crawford

RESPONSE FROM THE PLANNING ASSESSMENT COMMISSION

The Planning Assessment Commission welcomes the audit report and the thorough and professional way the NSW Auditor-General's audit team conducted themselves during the audit process.

The audit finds that the Commission is made up of expert and well trained members who have the capabilities and commitment to take good quality, high level planning decisions on complex and challenging proposals, and who do so independently, irrespective of the level of influence and external pressure from the many interested parties involved.

The Commission appreciates the audit's recognition that it has sound processes in place to ensure its decisions are impartial and transparent to the community, and that it has in place best practice probity and conflict of interest arrangements, which are subject to continuing improvement initiatives. The Commission agrees to recommendation 1 to publish on its website summary conflict of interest declarations specific to development applications and how any conflicts have been handled.

The audit found that the Commission accesses all relevant information necessary to make its decisions and that it consults with relevant parties as required.

As the consent authority, the Commission is required to consider the matters raised in section 79C of the Environmental Planning and Assessment Act 1979, and it does so. The Commission agrees that it could document this practice more explicitly in its reports, and supports recommendation 2.

The Commission values public consultation enormously. It actively pursues the public interest and areas of community concern. However, the Commission accepts that it is not always possible to satisfy everyone through its public consultation arrangements, and that its decisions may not be welcomed by some members of the public or development proponents. The Commission agrees to the recommendation 3 (a) and (b) enhancements to its consultation processes, although it notes that standard speaking times have been put in place by the Commission in response to concerns from members of the public and the Ombudsman that it was unfair to allow some speakers more speaking time than others.

The Commission has a simple and effective standard process that the audit agrees is applied in making its decisions.

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The Commission's determination reports can range in length from 2 pages to well over 100 pages and are commonly 30-60 pages long, reflecting the level of complexity and controversy associated with individual development applications. The Commission makes no apology for this because its decisions must cover all the relevant considerations, while also telling a clear story about why a particular decision is taken. However, it acknowledges that this can be challenging where several Departmental assessment reports and Commission review and determination reports are involved, which mean that the relevant considerations may be covered in different reports and changes to conditions may not always be explicitly written into all reports.

The audit points to the success of the Commission's Fact Sheets in presenting to the public the reasoning behind the Commission's more complex and controversial decisions, and makes a number of suggestions for enhancements to its reports. The Commission trialled a new standard report format in 2016 and agrees to the further enhancements proposed in recommendation 4.

The Commission also agrees to recommendation 5, which could relieve public concerns about the Commission's independence and provide another mechanism to improve the timeliness of Commission decisions over more complex matters.

The Government has announced its intention to make a number of changes to Planning Assessment Commission arrangements as part of its proposed amendments to the Environmental Planning and Assessment Act 1979. These proposed changes include:

- renaming it as the "Independent Planning Commission";
- increasing community engagement and involving the Commission earlier in the planning process for mining proposals; and
- providing a statement of reasons as part of the Commission's determination reports.

If passed through the Parliament, these amendments will involve the Commission consulting members of the public before the Department's final mining assessment report is prepared and enable them to question development proponents and the Department either directly or through the Commission at its public hearings, consistent with recommendation 5. They will also reinforce the Commission's independence, consistent with recommendation 5; improve the level of community involvement in public meetings, consistent with recommendation 3; and increase the clarity of the Commission's determination reports, consistent with recommendation 4.

Kind regards,



Lynelle Briggs AO
Chair
Planning Assessment Commission