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## Guide to Public Hearings

### 1. Introduction

Since it commenced in 2008 The Planning Assessment Commission (the Commission) has held public hearings when carrying out reviews of applications for large developments around the state, such as coal mines, waste facilities and marinas.

These public hearings are provided for under section 23D (1)(b)(iii) of the *Environmental Planning and Assessment Act 1979*. Public hearings usually occur in conjunction with a review and are subject to the terms of reference, or request, made by the Minister for Planning (or the Secretary of the Department of Planning and Environment). The terms of reference will usually specify the topics to be considered both in the review and at the public hearing.

Individuals sometimes ask the Commission to hold a public hearing. It is important to understand that the Commission does not choose whether to hold a formal public hearing; that decision is taken by the Minister (or the Secretary), under the *Environmental Planning and Assessment Act 1979*.

### 2. Purpose

The purpose of this document is to establish clear guidelines for the NSW Planning Assessment Commission when conducting public hearings.

### 3. Public Hearings

#### 3.1. What is a Public Hearing?

A public hearing is a hearing where each registered party is allocated a period of time to publicly make its comments on the matter which is before the Commission.

A public hearing may affect certain appeal rights, namely, the right to appeal on the basis of the merits of decision made by the Commission. Merit appeal rights may be extinguished if the application the subject of the public hearing is later determined by the Commission, see section 23F of the *Environmental Planning and Assessment Act 1979*.

### **3.2. What is the purpose of a Public Hearing?**

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.

## **4. Procedures for holding a Public Hearing**

### **4.1. When is a Public Hearing held?**

Public hearings are generally scheduled as soon as practicable after the request for a public hearing is received, or as directed in the request. Consequently public hearings can occur at any stage in the planning process.

### **4.2. Notification of the Public Hearing**

The Commission will give reasonable notice of a public hearing, this includes:

1. Publishing a notice of the public hearing in the local newspaper(s) at least 2 weeks prior to the hearing;
2. Publishing the details of the hearing on the Commission's website ([www.pac.nsw.gov.au](http://www.pac.nsw.gov.au));
3. Writing to any parties who have made a submission on the application to the Department of Planning and Environment, inviting them to register to speak at the hearing.

### **4.3. Location of the Public Hearing**

Public hearings will generally be held in the area in which the application is located, unless a suitable venue is not available.

### **4.4. Timing of the Public Hearing**

The Commission will select a day, or days, that it believes will accommodate the greatest number of interested parties. Hearings will generally be held during the day, but may sometimes include an evening session.

The Commission accepts that not all interested parties, who wish to speak, may be able to attend the public hearing due to other commitments. The Commission seeks to provide alternative options for these parties to participate and, therefore, accepts written submissions from those who are unable to attend the public hearing.

The Commission will endeavour to hear all interested parties.

In order to ensure that all registered parties have an opportunity to speak during the hearing, each party is allocated a set period of time. Individual speakers are allocated 5

minutes to speak, while registered groups are allocated 15 minutes. Time extensions are not generally available.

#### **4.5. Speakers and Attendance**

Public hearings are open to the public to attend. Parties who wish to speak at the hearing have usually made a submission on the matter which is the subject of the public hearing. Parties must register to speak at the hearing prior to the advertised closing date (usually four working days prior to the hearing).

Those who have not already made a submission to the Department of Planning and Environment, may make a submission to the Commission, prior to the close of registrations for the public hearing.

#### **4.6. Where do I find the documents and information about the project**

The request to hold a public hearing and terms of reference for the review from the Minister or Secretary will be available on the Commission's website, which will also provide a link to the Department's website where all relevant documents relating to the project including public submissions received by the Department are available.

The public hearing schedule will also be available on the Commission's website within 2 working days after close of registration to speak.

#### **4.7. Records and documents**

As public hearings are not recorded by any electronic devices, where possible, copies of speech notes or presentations should be provided to the Commission Secretariat at or following the hearing, for record purposes.

Presentations and notes provided to the Commission may be made publicly available on the Commission's website, along with any submissions received by the Commission prior to the public hearing. As outlined in the Commission's Privacy Statement, the Commission will endeavour to protect the privacy of individuals by removing any personal contact details (other than names) from documents published on its website. Submissions of a confidential nature will also be withheld from the website, where this has been requested.

### **5. What happens next?**

#### **5.1. Following a public hearing**

Following a public hearing the Commission will continue with its review or advice to the Minister or Secretary, considering the issues raised during the public hearing and any additional information provided by the Proponent or Applicant and Government Agencies. In certain circumstances information from other interested parties may also be considered.

The Commission may agree to accept additional information from interested parties after the public hearing. The timeframe within which post hearing submissions are to be accepted will be notified at the conclusion of the hearing and/or on the Commission's web site. In

most circumstances the Commission will then proceed to finalise its review report and recommendations, or advice.

Once finalised the Review Report or Advice will be submitted to the Minister for Planning and/or the Secretary of the Department of Planning and Environment, depending on the request.

## **6. Frequently Asked Questions**

### **6.1. I have registered to speak at a Public Hearing, what should I expect?**

Public hearings are formal proceedings organised to provide interested parties with the opportunity to present their views to the Commission, in a public setting. The Commission does not provide information at the hearing. Prior to the public hearing a schedule will be distributed indicating the order in which speakers will be called and confirming the time limits for each speaker. The Commission will not usually ask questions, but may sometimes seek clarification from a speaker.

Representatives from the media may be present at the public hearing. The Commission does not allow audio recording at the hearing, however photographs and film footage can be filmed, if done so discretely (i.e. in a manner that is not disruptive or intrusive).

### **6.2. Can I attend a Public Hearing?**

Public hearings are open to the public so everyone is welcome to attend. It is not necessary to register to attend the public hearing, only those wishing to speak must register.

### **6.3. What is the difference between a Public Hearing and a Meeting?**

The Commission holds various different types of meetings. Some of these meetings are held in public and have a similar format to a public hearing. Public meetings are usually held when a controversial application is referred to the Commission for determination. For details about these meetings, please see the Commission's Guide to Public Meetings.

### **6.4. Can a Public Hearing be reopened?**

In certain circumstances additional information may become available after the completion of the public hearing, but before the review is finalised. In these circumstances the Commission will consider the significance of the information in relation to the matters raised at the public hearing. If the Commission determines that the information is critical to the application or to a particular submission, the Commission may give the relevant party the opportunity to comment on the information, either as part of the review process, or by reopening the public hearings.

If a public hearing is to be reopened, the Commission will provide additional notification of the public hearing.

Further consultation with various parties often occurs during a review and this does not constitute reopening of the public hearing – unless clearly specified by the Commission.

## 6.5. What happens after the Public Hearing and Review are completed?

Upon completion of the public hearing and its associated review (or advice) the Commission will provide a report and recommendations on its findings. The report is submitted to the Minister for Planning, or the Secretary of the Department of Planning and Environment depending on the terms of the Minister's direction, although the Commission usually submits its report to both parties. The Department of Planning and Environment will then continue with its planning process, taking the review or advice into consideration. The public hearing and review processes are only components of the assessment process under the *Environmental Planning and Assessment Act 1979*. Reviews are often subject to deadlines for completion, consequently it may not be possible for all parties to comment on all material submitted during the review process.

Where the Commission has also been delegated the authority to determine the application the subject of the public hearing, the Minister has directed that the same Commission members undertake both the public hearing and determination functions, when practical.

## 7. Definitions

<i>Application</i>	an application submitted to the Department, to be determined by the Minister, or his delegate.
<i>Applicant/Proponent</i>	the person who made an application.
<i>the Act</i>	<i>the Environmental Planning &amp; Assessment Act 1979.</i>
<i>Advice</i>	Advice to the Minister for Planning, or the Secretary, requested under section 23D of the Act.
<i>Commission</i>	the NSW Planning Assessment Commission.
<i>Council</i>	the council for the local government area in which the development, the subject of an application, is located and any other council whose area is potentially significantly impacted by the proposal.
<i>Department</i>	the Department of Planning and Environment.
<i>Minister</i>	the Minister for Planning.
<i>Public hearing</i>	a hearing requested by the Minister for Planning (or the Secretary) under section 23D of the Act.
<i>Public meeting</i>	a meeting held by the Commission to hear public views on the Assessment Report and Recommendation before a decision is made.
<i>Public submission</i>	a written submission by a member of the public relating to an application.
<i>Review</i>	a review requested by the Minister for Planning (or the Secretary) under section 23D of the Act.
<i>Secretary</i>	the Secretary of the Department of Planning and Environment.

Words and expressions used in these procedures have the same meaning as they have in the Act and the *Environmental Planning and Assessment Regulation 2000*.

## **8. Contact**

If you have any questions about the public hearing process, you can contact the Commission Secretariat on (02) 9383 2100 or email to [pac@pac.nsw.gov.au](mailto:pac@pac.nsw.gov.au). You may also visit the Commission's website at [www.pac.nsw.gov.au](http://www.pac.nsw.gov.au) where other information in relation to the Commission's roles and functions are available.

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