

INDEPENDENT PLANNING COMMISSION NSW

COMMUNITY PARTICIPATION PLAN

November 2019



New South Wales Government
Independent Planning Commission

CHAIR'S MESSAGE



The Commission has a tremendously important role to play in cultivating community confidence in the decision-making process for major development and land-use planning in New South Wales.

A key aspect of our work is to be a consent authority for State Significant Development under certain conditions. We are constituted to bring a high level of scrutiny to this important task.

We're strongly committed to working collaboratively with the community as we undertake that important role. Indeed, this has been reinforced with last year's changes to the *Environmental Planning and Assessment Act 1979*, which emphasise that planning authorities, including the Commission, will explicitly set out how they took into account the community's views as part of their determination process.

The Commission acknowledges and respects the fact that there will be differences of opinion on planning projects. We will embrace the values of inclusiveness and representation by breaking down barriers to participation in our decision-making processes, and seeking out and considering a diversity of views, including by facilitating speaking opportunities for individuals or groups who experience barriers to other forms of participation.

We welcome community input to development applications under consideration via written comments. We invite all those affected by development applications to raise their concerns directly with us at our public meetings and public hearings. And we will continue to encourage interested individuals and/or groups to have their say on projects by providing written comments to the Commission.

Significantly, in line with the new legislative requirements, the Commission now publishes a *Statement of Reasons for Decision* for every State Significant Development determination. This Statement clearly articulates how the Commission has carefully considered the community's views in coming to its decision. And we've gone one step further by adopting a similar approach to the advice we provide on other planning matters.

We're the first to recognise that not all our decisions will be popular.

Our hope, though, is that by encouraging and promoting greater community participation in our cases and early in our deliberations, and by maintaining a very high level of independence and transparency, we can build public trust in the Commission, its processes and the decisions it makes.

I extend my sincere thanks to everyone who provided constructive feedback on our draft Community Participation Plan. In adopting this revised Plan, I acknowledge the importance of ongoing stakeholder consultation to ensure the Commission's decision-making processes remain inclusive, representative and considerate of the diversity of views within the community.

A handwritten signature in black ink, appearing to read 'Mary O'Kane'.

Mary O'Kane
Chair

Independent Planning Commission NSW

The Independent Planning Commission NSW acknowledges Aboriginal and Torres Strait Islander peoples as the traditional custodians of our land and their continuing connection to land, sea and community and pays respect to them and their cultures, and to their Elders both past and present.



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ABOUT THE INDEPENDENT PLANNING COMMISSION NSW

The Commission was established as a standalone agency under Part 2, Division 2.3 of the *Environmental Planning and Assessment Act 1979* on 1 March 2018. It replaced the former Planning Assessment Commission.

We operate independently of other NSW government agencies, including the Department of Planning and Environment, and understand the important role we have to play in building community confidence in the decision-making processes for major development and land-use planning state-wide.

Our key functions are to:

- determine State significant development (SSD) applications where there is significant community opposition
- conduct public hearings for development applications and other planning and development matters
- provide independent expert advice on any planning and development matter, when requested by the Minister for Planning or Secretary of the Department of Planning and Environment

Our Members are appointed by the Minister for Planning for terms of up to three years (they cannot serve more than six years in total) based on their qualifications, considerable experience and expertise in a broad range of planning-related fields. One member is appointed as Chair of the Commission.

We are not subject to direction or control of the Minister for Planning or any government department or agency – except in relation to procedural matters as set out under the Act.

COMMUNITY PARTICIPATION

The Independent Planning Commission NSW recognises the importance of encouraging and promoting greater community participation throughout the planning system to achieving better outcomes for the people of NSW.

Community engagement and participation is an all-encompassing term which covers how we engage the community in our work under the *Environmental Planning and Assessment Act 1979*, including when we make decisions on major development applications. The level and extent of participation will vary depending on the community, the scope of the proposal under consideration and the potential impact of our decision.

The community includes anyone who is affected by a development application or planning matter under consideration by the Commission, including individuals, community or interest groups,

indigenous communities, applicants, peak industry bodies, businesses, local councils and State or Commonwealth government agencies.

Why is community participation important?

- It builds community confidence in the Commission's processes and the State's planning system more generally
- It provides access to community knowledge, ideas and expertise
- It provides the Commission with crucial information in order for it to make an informed decision

Our objectives

In engaging with communities across New South Wales and encouraging greater participation in our decision-making processes for major development, the Commission's objectives are to be:

- **Open, inclusive and informative:** we will boost community participation by keeping the community up-to-date, promoting participation opportunities and seeking the community's views; building strong partnerships with our community stakeholders; ensuring community engagement accurately captures the relevant views of the community; and conducting community engagement opportunities in a safe environment. We will ensure the community has the information it needs and the capacity to participate in a meaningful way. Embracing the values of inclusiveness and representation, the Commission will seek to break down barriers to participation and build the capacity and confidence of all groups to fully participate - including by reaching out to diverse groups of stakeholders who are representative of a full range of relevant interests.
- **Easy and accessible:** we will articulate clearly the purpose of any engagement and identify how and when the community can participate in the Commission's functions; ensure information prepared for the Commission is clear, concise and relevant; ensure that information is also easily accessible to and seek input from groups who might find it difficult to participate in standard engagement activities (e.g. young and older people; people with disabilities; Aboriginal and Torres Strait Islander peoples; people from a culturally and linguistically diverse background)
- **Fair, honest and transparent:** we will be honest and transparent by telling the community how it can influence the Commission's decision-making process and the outcome. We will explain clearly and concisely how the community's input was taken into consideration when a decision is made.

Our approach

The Commission's approach to community participation is reflected in our shared values of Independence, Expertise and Engagement:

Independence - We will build the community's confidence and trust in the Commission's independence by ensuring our processes are open and transparent, and encouraging and promoting greater community participation throughout the assessment and determination process.

Expertise - We will draw on the considerable experience, expertise and knowledge of our members in relevant fields to enhance the capabilities of the Commission to best serve the people of NSW. We will also commission expert advice as needed.

Engagement - We seek to encourage and promote greater community participation early in the planning assessment process. We acknowledge and respect there will be differences of opinion on planning projects and take seriously the concerns expressed to us by individuals and groups in affected communities

In line with the objectives above, we encourage open, inclusive and informative, easy and accessible, and fair, honest and transparent opportunities for community participation in the planning system, our functions and individual cases.

We acknowledge that not everyone will agree with every decision we make; however, this plan is designed to ensure the community can participate in a fair process and that the community's views are given proper and genuine consideration.

Aboriginal and Torres Strait Islander Communities

We recognise that Aboriginal and Torres Strait Islander may seek to interact and communicate in different ways, including particularly needing time or consultative processes with community leaders, community members and families. We will therefore adopt a flexible approach to setting times for communication and consultation and the format in which sensitive information is to be shared. We will also take care to understand what may be secret or confidential information and will respect such confidences by following agreed protocols and providing a safe cultural space for Aboriginal and Torres Strait Islander people to participate in our processes.

What is our Community Participation Plan?

Our Community Participation Plan (CPP) sets out clearly when and how you can participate in our processes, including when we make decisions on major development applications.

The CPP also establishes our community participation objectives which we use to guide our approach to community engagement.

Who does this Plan apply to?

Our CPP is a requirement of the Act (*see Division 2.6 and Schedule 1 of the EP&A Act*) which applies to the exercise of planning functions by all NSW planning authorities, including the Commission. We will review our CPP periodically or as required under the Act.

Our CPP does not apply to other NSW planning authorities, such as the Minister, Department of Planning, Industry and Environment (the Department), Greater Sydney Commission or local councils.

It also does not apply to the Secretary when exercising consent authority functions on our behalf (under section 4.6 of the Act) nor to the administrative functions undertaken by the Department on behalf of the Commission. The Department's CPP outlines how the community can participate in those processes.

OUR DETERMINATION AND ADVICE FUNCTIONS: HOW YOU CAN PARTICIPATE

The Commission is the consent authority for State significant development (SSD) applications (including modification applications) where:

- there have been 25 or more public objections to the application, or
- the local council has objected, or
- a reportable political donation has been made.

While we're the consent authority for these applications, it's important to note the Department carries out the following administrative functions for these applications on our behalf. This includes:

- charging the application fee
- publicly exhibiting the application, consulting with agencies on conditions etc, and
- preparing an assessment report for the Commission about the application. The Department's report is not binding on the Commission.

Please see the Department's Community Participation Plan for information about how you can participate in the administrative functions it undertakes on behalf of the Commission.

Our statutory functions

We have the following detailed statutory functions:

Determination

The Commission is a consent authority under Part 4 of the Act for State significant or other specified development. As part of our determination process, we may hold a Public Meeting and/or conduct a Site

Inspection and Locality Tour (see below under ‘Other functions’). Please be aware the Department sends us all public submissions it receives during the exhibition period for a project. We will consider those as part of our determination.

Advice

To advise the Minister for Planning or the Secretary on any matter on which the Minister or the Secretary requests advice from the Commission.

Public hearing (including the multi-stage public hearing)

To hold a public hearing into any matter into which the Minister for Planning or, in limited circumstances, the Greater Sydney Commission requests the Commission to hold a public hearing.

If such a request is made, the Commission must hold a public hearing, it is not discretionary. Unlike a public meeting, we have no power to decide to conduct a public hearing under the Act, even when we are the consent authority.

The Minister may also request the Commission to hold a public hearing across more than one stage, a ‘multi-stage public hearing’, on an SSD.

When the Commission, at the request of the Minister, holds a public hearing (including a multi-stage public hearing) in relation to an SSD application for which it is the consent authority, merit appeal rights in respect of any future decision on that application are extinguished. For more information, please see our [‘Public Hearing Guidelines’](#) and [‘Guidelines for a public hearing held in multiple stages’](#), which are available on our website.

Planning panels

Any function of a Sydney district or regional planning panel or a local planning panel in respect of a particular matter that the Minister for Planning requests the Commission to exercise (to the exclusion of the panel) or, if a Sydney district or regional planning panel has not been appointed for any part of the State, any function that would be conferred on such a panel if it had been appointed.

Delegated functions

Any functions under the Act that are delegated to the Commission, and any other function conferred or imposed on it under that or any other Act.

Other functions

Public meetings

A public meeting provides an opportunity for us to engage with the community and hear first-hand its views on the Department’s assessment report (or

an SSD as a whole), as part of our decision-making process for State significant development applications.

There is no statutory requirement for us to hold a public meeting before determining an application.

The Commission takes many things into consideration when deciding whether to hold a public meeting about a project. For more information, please see our [‘Public Meeting Guidelines’](#), which are available on our website. These guidelines also outline how you can apply to have your say at our meetings.

The holding of a public meeting does not affect appeal rights under the Act.

In the interest of openness and transparency, our public meetings – as is with the case with our public hearings – are audio recorded with a transcript published on our website.

Site Inspections and Locality Tours

When determining a State significant development application or carrying out any of its other functions, we may decide to undertake a site inspection and/or locality tour. There is no statutory requirement for us to do so.

The purpose of the site inspection and locality tour is to assist a Commission panel understand the physical attributes of the project site and its locality.

The Chair of the panel appointed to a matter will decide whether a site inspection and/or locality tour are warranted and who should attend and observe. Neither is a forum for those present to make comments and/or submissions to the Commission.

For further information, please see the Commission’s [‘Site Inspection and Locality Tour Guidelines’](#)

Statements of reason for decisions

As a consent authority for SSD in NSW, the Commission is required under the Act to give public notice of its determinations. When the Commission determines a development or modification application, it will publish a Statement of Reasons (SoR) for Decision. The SoR will include:

- the Commission’s decision
- date of the decision
- the reasons for the decision (having regard to any statutory requirements applying to the decision), and
- how community views were taken into account in making the decision - including how issues raised at public hearings, public meetings and in written comments and/or submissions have been considered.

When and how you can participate

The table below sets out when and how the community can participate in the Commission's functions.

Our statutory function	What we might do	How you can participate
Determination	Seek written comments Hold a public meeting <i>(See our ‘Public Meeting Guidelines’)</i> Site Inspection and locality tours <i>(See our ‘Site Inspection and Locality Tour Guidelines’)</i>	Provide written comment on a specific development application via online form on the Commission’s website within seven days of a public meeting Have your say by applying to speak In certain circumstances, act as an independent observer to Commission’s site inspection and/or locality tour (see below)
Advice	Seek written comments	Provide written comment on a specific development or planning matter via online form on the Commission’s website
Public hearing and multi-stage public hearing <i>(See our ‘Public Hearing Guidelines’ and ‘Guidelines for a public hearing held in multiple stages’.)</i>	Public hearings are held at the request of the Minister or, in limited circumstances, the Greater Sydney Commission Seek written comments Compel a person/s to attend a public hearing and to give evidence	Have your say by applying to speak at the public hearing Provide written comment via online form on the Commission’s website within seven days of a public hearing The Commission may use its powers under the Act to have you attend a public hearing and to give evidence
Planning panels	From time to time, the Minister may ask the Commission to exercise any function on behalf of a Sydney District, local or regional planning panel in respect of a particular matter. The Commission may decide to hold a public meeting or seek written comments. Where necessary, the Commission might refer the project to the Department for assessment	Provide written comment via online form on the Commission’s website
Delegated functions		Refer to the Department’s CPP for information on how you can participate in its processes
Other functions		
Public meeting <i>(See our ‘Public Meeting Guidelines’)</i>	Invite expressions of interest from individuals/ groups to speak at public meeting Seek written comments	Have your say by applying to speak Provide written comment via online form on the Commission’s website
Site inspection and locality tour <i>(See our ‘Site Inspection and Locality Tour Guidelines’)</i>	Inspect a project site and/or surrounding areas which might be impacted by a project	The Commission may decide to invite individuals and/or groups who are directly affected by a project to attend a site inspection and/or locality tour as an independent observer. Site inspections and locality tours are not forums for those present to make comments and/or submissions to the Commission.

OUR PROCESSES: HOW YOU CAN HAVE INPUT

What we've already done

The changeover from the Planning Assessment Commission to the Independent Planning Commission in March 2018 presented an opportunity for us to reflect on our policies and procedures, with a view to how we could do things better – ensuring we always maintain our community focus.

To that end, we have undertaken considerable consultation and engagement with our key stakeholders, including state and local government, industry bodies and environmental action groups, to seek their input on how we could improve our processes to build community confidence in the decisions we make.

As a direct result of their constructive feedback, the Commission has adopted several new policies and made significant changes to others with the aim of being more open and transparent. Notably, we have introduced new:

- Public Hearing Guidelines
- Guidelines for a public hearing held in multiple stages
- Public Meeting Guidelines
- Site Inspection and Locality Tour Guidelines
- Policy on Meeting Records, and an Additional Information Policy, which is available on the Commission's website.

We have also published on our website information about how the Chair of the Commission nominates Members to constitute the Commission for each case.

Some of the important practical changes we have made, include:

- The use of 'Counsel Assisting' to assist the Commission in the conduct of Public Hearings and Public Meetings, where it is deemed necessary. This may include Counsel Assisting asking questions or seeking clarification from speakers/presenters
- Recording all public hearings and public meetings with transcripts published on our website contemporaneously
- Recording meetings between the Commission and third parties with transcripts published on our website
- Inviting local community representatives to attend Site Inspections and Locality Tours as independent observers where appropriate (see '*Site Inspection and Locality Tour Guidelines*')
- Updating and making publicly available our policies and guidelines, including:
 - Public Hearing Guidelines and Public Meeting Guidelines
 - Site Inspection and Locality Tour Guidelines
 - Conflict of Interest Policy and Managing Conflict of Interest
 - Complaints Management Policy

Do you have an idea for us?

We will continue to brief our key stakeholders on changes to the Commission's policies and procedures and what those changes might mean for them and the wider community, as well as seek their feedback on whether further refinement of our processes is needed.

However, if you have any thoughts on how we might do things better, we would love to hear from you. Please give us a call or send us an email.

Our contact details are below:

Independent Planning Commission NSW
Level 3, 201 Elizabeth Street
SYDNEY NSW 2000

Phone: (02) 9383 2100 | Email: ipcn@ipcn.nsw.gov.au

CORRESPONDING WITH THE COMMISSION

What you should know before writing to us:

- Once we receive your correspondence or email, it becomes a formal record. All documents provided to us are public documents and can be made publicly available on our website (Please refer to our '[Privacy Statement](#)', available on our website, for further details)
- Your correspondence may be used for statistical reporting purposes
- We receive large volumes of correspondence and do not respond to all correspondence. This includes:
 - submissions or comments made on a project that we are considering. All correspondence providing comments on a project will be referred to the relevant Commission members, for their consideration as part of the project
 - correspondence where we are not the primary recipient but marked as carbon copy (CC) or blind copy (BC)
 - unsolicited advertisements
 - correspondence containing offensive language or content. We will forward any correspondence containing threatening content or advocating illegal activities to NSW Police Force;
 - correspondence containing allegations of corruption. We will forward any correspondence containing substantial evidence of corruption to the Independent Commission Against Corruption.

What you can expect

- If you are registering to speak at a public meeting or public hearing that we have advertised:
 - Your registration is not automatically accepted, it must be processed and confirmed by us
 - If you have not received confirmation from us within two (2) business days of your email, please follow up to ensure we've received your registration
 - We will release a schedule of registered speakers on our website approximately 24 hours prior to each meeting/hearing
- If you are providing a submission or comments on a planning matter before the Commission
 - The issues raised in submissions and comments are considered by the Commission and where relevant they may be discussed in the Commission's report on the matter.
 - You will not receive a direct response to your correspondence.

ENQUIRIES AND COMPLAINTS

We will aim to reply to general enquiries or complaints within 10 working days. If additional time is required to consider your enquiry or complaint, we will contact you to advise when you can expect a response.

For more information about how we handle complaints, please read our '[Complaints Management Policy](#)', which is available on our website.

KEEP UP TO DATE WITH WHAT WE'RE DOING

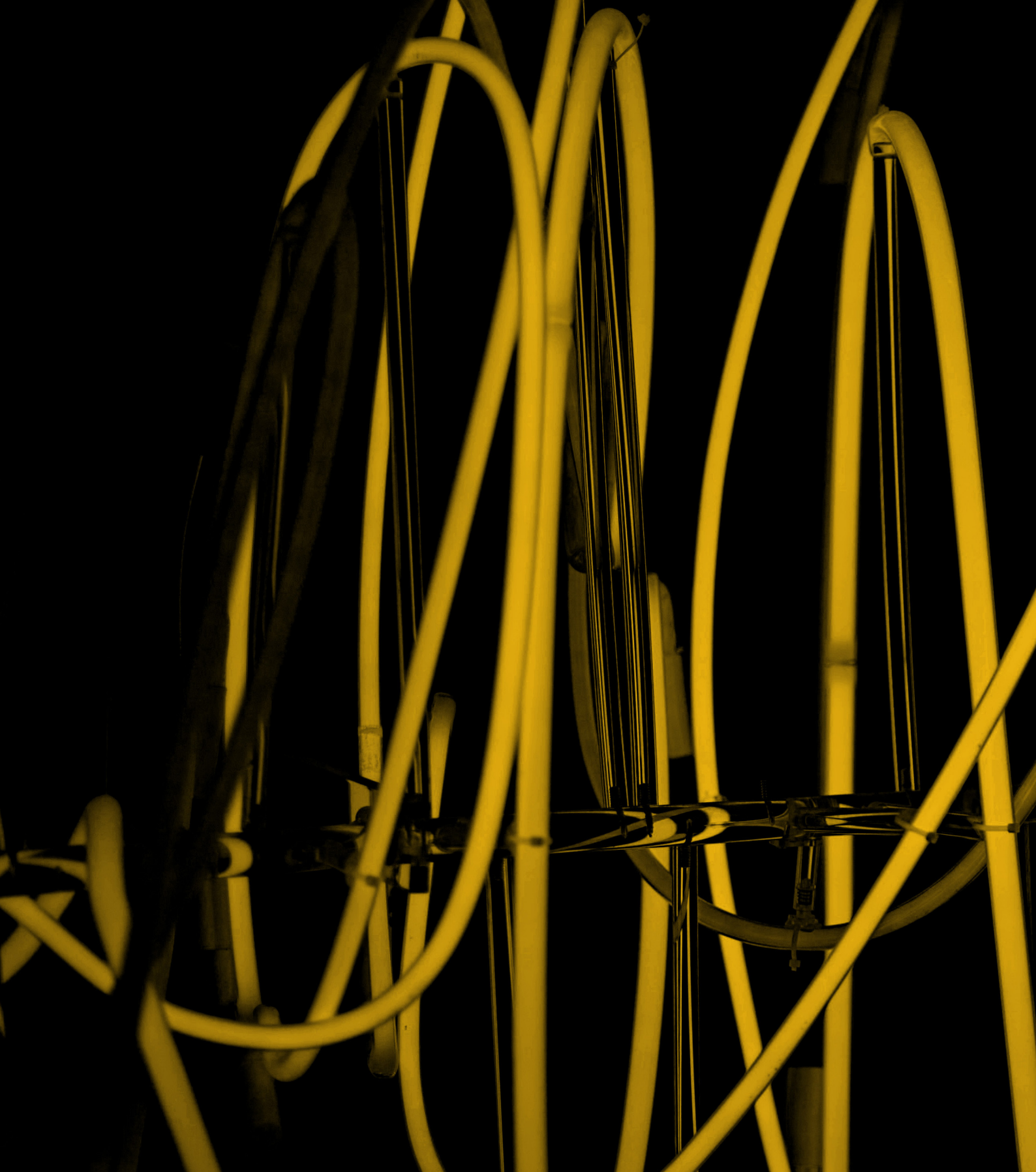
We provide regular updates on our projects, including our decisions on state significant development applications, via our website: www.ipcn.nsw.gov.au/whats-new

If you would like to be notified when we have completed a particular project, you can visit the relevant project page on our website and use the subscription form.

For the very latest news and information from the Commission, you can also follow us on our social media channels:

 @IPCNSW

 @IPC_NSW



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