

GOR500003

14 November 2019

The Productivity Commissioner  
Sent By Email

Dear Commissioner

### **REVIEW OF INDEPENDENT PLANNING COMMISSION**

Thank you for the opportunity to provide feedback to the Productivity Commission in relation to the Review of the Independent Planning Commission (IPC). I wish to provide feedback on a number of issues noted in the Terms of Reference, which are based on the recent experience of Mid-Western Regional Council in its dealings with the IPC on the determination of the Bylong Coal project.

#### **1. Whether it is in the public interest to maintain an IPC.**

One of the main roles of the IPC as indicated on the IPC website is to build community confidence in the decision making processes for major development and land use planning state wide. It would be difficult to argue that building community confidence in any government decision making processes is not in the public interest and a key priority. Clearly, there is a role for an entity/statutory body such as the IPC, to demonstrate to the community that the relevant processes and legislative requirements have been appropriately followed in making these decisions.

From this perspective and particularly in relation to mining projects, I understood the role of the IPC was to ensure that appropriate steps were followed by NSW Department of Planning, Industry & Environment (DPIE) planning staff through all of the relevant steps in the mining development pathway, from the granting of mining leases through to issuing of development consents.

In the context of building community confidence in the planning system, it is in the public interest for a peer review to be conducted to demonstrate that due process has been followed by government officials and DPIE planning staff at all steps in the mining development pathway. This is a suitable role for the IPC.

#### **2. The Independent Planning Commission's operations and mechanisms by which State Significant Development is Assessed and Determined.**

In considering the operations of the IPC and the recent experience of the Bylong Coal Project, the feedback from members of the Mid-Western Region community is that the IPC should not be able to override a recommendation of DPIE planning staff unless it can be demonstrated that due process and legislative requirements have not been followed.

I am sure it is a great concern to the NSW Department of Planning, Industry & Environment that relevantly experienced and qualified professional planning staff after much scrutiny, recommended approval of the Bylong Coal Project with relevant conditions, yet after two IPC hearings and multiple peer reviews, the IPC decided to refuse the project.

The question the Productivity Commission may wish to consider is what this means for community confidence in the planning system. If the recommendations of DPIE planning staff are overturned by the IPC, how can the community be confident that other recommendations or decisions made by DPIE planning staff are appropriate.


In terms of future investment in the state of NSW, IPC decisions such as the Bylong Coal Project seriously undermine the reputation of NSW as a place to do business and attract international investment.

**3. Identify any proposed changes to the Independent Planning Commission's current functions, processes for making determinations and resourcing.**

The key issues that I would like to raise regarding the current functions, processes for making determinations and resourcing include:

- Ensuring IPC members are truly independent (including ensuring that the businesses that they own or are employed in have no past or present involvement in the matter);
- Ensuring IPC members have relevant skills and qualifications, particularly in the areas of greatest contention;
- Ensuring IPC members in conducting public hearings and reviewing submissions, can give appropriate weight to local versus non-local objectors; and
- Ensuring decisions are made in a timely manner, as waiting years to receive a decision creates uncertainty and unrest in a community and discourages investment.

Council has previously expressed to the NSW Government its disappointment in the IPC decision to refuse the Bylong Coal Project and concerns about the process followed. Whilst this review is welcomed, it will not assist the Bylong Coal Project but hopefully will restore some community confidence in the decision making for State Significant Development in the future.

Thank you again for the opportunity to provide feedback. If you have any questions or wish to discuss my response further, I can be contacted directly on 

Yours sincerely

