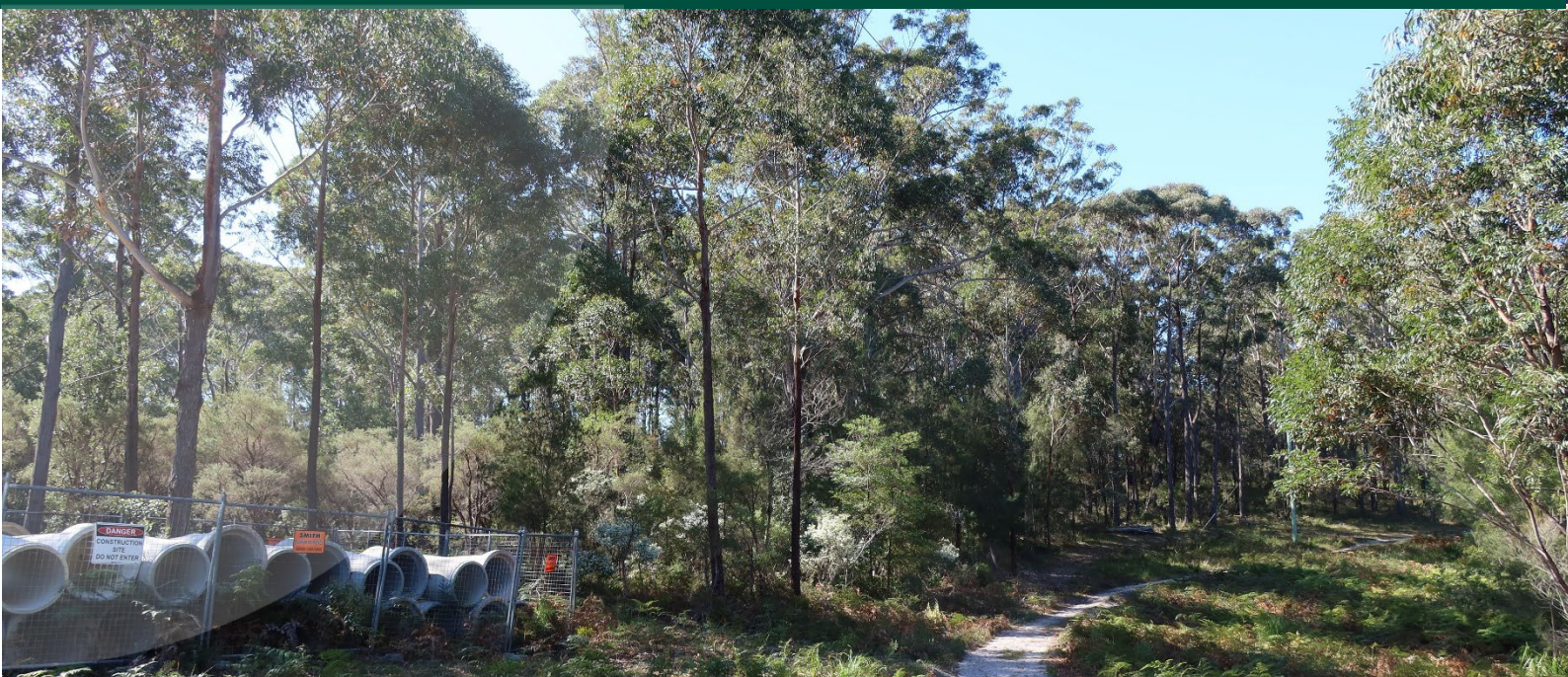


Committee on Environment and Planning



LEGISLATIVE
ASSEMBLY

Historical development consents in NSW



Report 3/58 – July 2026

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The motto of the coat of arms for the state of New South Wales is "Orta recens quam pura nites". It is written in Latin and means "newly risen, how brightly you shine".

Contents

Membership _____	iii
Chair’s foreword _____	iv
Findings and recommendations _____	vi
Chapter One – 'Historical development consents' and the NSW planning system _____	1
What is a 'historical development consent'? _____	1
When has a development consent been physically commenced? _____	4
Chapter Two – Issues with historical development consents raised during the inquiry _____	10
Environmental, climate change and natural disaster related impacts _____	12
Impacts on housing supply and land banking _____	14
Impacts on local planning _____	16
Chapter Three – Impacts of recent planning reforms _____	21
The Environmental Planning and Assessment Regulation 2021 _____	21
The <i>Environmental Planning and Assessment Amendment (Planning System Reforms) Act 2025</i> _____	25
Chapter Four – Further planning reforms to address historical development consents _____	32
Legal deadlines to complete developments once consent granted _____	32
Power to reassess development consents and consent conditions against contemporary planning standards _____	36
Strengthening the physical commencement test _____	38
Chapter Five – Managing existing historical development consents _____	44
Improving transparency in relation to the status of development consents _____	44
Facilitating the use of existing planning powers _____	50
Infrastructure planning and developer contributions _____	62
Appendix One – Terms of reference _____	65
Appendix Two – Conduct of inquiry and site visit report _____	66
Appendix Three – Submissions _____	69
Appendix Four – Witnesses _____	77
Appendix Five – Extracts from minutes _____	80

Explainers, case studies and tables

Explainer box 1: A brief overview of the development consent process under the NSW planning system _____ 3

Explainer box 2: How does the Court determine if a development consent has been physically commenced? _____ 5

Case study 1: Tweed Shire Council is unable to recover the costs of upgraded infrastructure to facilitate development _____ 20

Case study 2: Commencement of a development consent based on minor physical works _____ 29

Table 1: Jurisdictional comparison of statutory development lapsing provisions _____ 33

Membership

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Chair's foreword

In any reading of this report, it is important to note that the term “historical development consent” has no definition. It is not defined by time, style or consequence. Notwithstanding this, during this inquiry the use of that term, and community engagement with the inquiry, almost always related to development consents that had received approval some years earlier and were not yet completed.

Historical development consents come in many forms. On paper, a development consent has the potential to carry significant value – a value much higher than similar land that has no such consent. With this in mind, this inquiry was tasked with seeking to better understand the cause and effect of development consents being slow to be acted on and the impacts of any such delays.

It was not the specific intention of the inquiry, nor this Committee, to only explore historical residential development consents. Nor was it the intention to deliberately avoid historical commercial development consents. No matter the intention, the fact is that the submissions received and consequently the witnesses engaged were all of a residential development nature. This inquiry did not look to historical commercial development consents simply because the evidence did not call on us to do that.

In some instances, historical residential development consents are well known to the community, despite some years passing between the approval of the development and the current day. In other instances, developments receive approval but become lost, or forgotten by the community at large and then come as something of a shock when they resurface some years later.

The reason for a development not proceeding, shortly after consent is granted, varies enormously. No matter the reason, the passage of time often sees significant changes to the understanding of community needs, environmental considerations, flood and fire risks, financial outcomes of any such development, and the projected growth plans of affected local governments.

In making special note of the impact on local government, I draw attention to the reality that councils are required to guarantee the supply of certain services, like water and sewer, when they are the provider of such services, prior to granting any development approval or consent. In several instances this has led to local councils taking on significant debt to undertake or upgrade works, so that development consents can be granted, which should, in the normal course of things, lead to additional new ratepayers and developer contributions, that would essentially pay back the council for any such upgrades to services. When these developments do not go ahead, the councils and their ratepayers are held financially accountable to the debts taken on. This, I believe, is completely unsatisfactory.

During the progress of the inquiry the NSW Government introduced legislation that made changes to the conditions of new development consents. Some of those changes had a direct impact on this inquiry and the Committee's final findings and recommendations.

It is my view that some of the recommendations made in this report will be difficult for a government to implement. For example, trying to establish a list of existing consents, given by councils, long before the technology existed to store such consents on a digital database. It is a reality that there is currently no clear understanding of what may be out there, in the form of consents. I find this to be unfair on communities, potential developers, local councils and the environment at large.

During the course of the inquiry the Committee travelled extensively, particularly along the coastal communities of NSW. We met with dedicated and passionate residential groups that were desperately opposed to certain development consents. We also met with developers themselves, and associates of developers, that gave useful advice on the pathway between consent and actual development, and the many factors at play along that journey. And, as mentioned earlier, we had a number of enlightening sessions with local councils.

As a Committee we have been incredibly fortunate to have the support of excellent committee staff that work for the people and Parliament of NSW. Their work has been at the forefront of the community engagement, travel plans and coordination, management of submissions, liaising with stakeholders and witnesses to schedule hearings, and generally gathering the evidence in a way that makes a report like this possible.

We have also been very fortunate to have such interest from the community to make submissions, meet with us, both informally and formally, and enlighten us as to their lived experiences of what it means for a historical development consent to come into existence.

The people of NSW desperately need development to ensure that we can house our people and accommodate our businesses. We need places for people to live, work and grow. We need to bring all of the plans and ideas to fruition, such that we can reap the benefits. That's not to say that every proposal is a good proposal. But we can no longer be allowing development consents to sit idle whilst there is a housing crisis gripping our state.

Clayton Barr MP
Chair

Findings and recommendations

Finding 1 _____ **1**

'Historical development consent' is not a defined term under the NSW planning framework. It is used informally to refer to development consents that have been granted in the past, but have not been completed.

Finding 2 _____ **1**

It may not be practical or possible to define the term 'historical development consent' in legislation because it is an informal term used to describe a wide range of incomplete developments with diverse ages.

Finding 3 _____ **4**

Courts have broadly interpreted what can be considered as 'physical commencement' of a development consent. This has created uncertainty about how much work is needed for a development to be 'commenced' and remain valid indefinitely.

Finding 4 _____ **6**

There is no mechanism to confirm that a development consent has been physically commenced prior to its relevant lapsing date, other than litigation.

Finding 5 _____ **10**

Historical development consents that have been validly commenced but remain incomplete for long periods can create serious issues for local communities and councils. This includes impacts on local environments, natural disaster risk management, and future strategic planning.

Finding 6 _____ **14**

Holders of validly commenced consents, especially in regional and rural areas, may delay completing approved developments until it is more profitable, due to the fact that the consent will not lapse. If land values increase over time, there may be a financial incentive to delay completing developments, including at the later stages of concept developments. For residential developments, these delays can make existing pressures on local housing supply and delivery more acute.

Finding 7 _____ **16**

Local councils plan and pay for local infrastructure and services based on the developments that have been approved in their local government areas. This is particularly significant in regional areas, where councils are responsible for water supply and waste treatment.

Finding 8 _____ **16**

Councils often pay for infrastructure work in anticipation of developments that have received consent being progressed to completion. If the development remains unfinished for an extended period of time, current ratepayers are left to bear the costs of the infrastructure works intended for future ratepayers.

Finding 9 _____ **21**

Section 96 of the Environmental Planning and Assessment Regulation 2021 is intended to prevent consents granted since 15 May 2020 remaining valid indefinitely by minor works. As the reform is recent, the Land and Environment Court has not yet applied the narrower physical commencement test.

Recommendation 1 _____ **24**

That the NSW Department of Planning, Housing and Infrastructure monitor the application of section 96 of the Environmental Planning and Assessment Regulation 2021 by the Land and Environment Court and, after five years, review the provision to determine whether:

- section 96 is achieving its intended policy objective
- amendments are needed to achieve the policy objective.

Finding 10 _____ **26**

Because 'historical' development consents are not defined by age, the 25-year period prescribed by section 116A of the Environmental Planning and Assessment Regulation 2021 may not align with the policy objectives of the new power, as prescribed in section 4.56(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979*.

Recommendation 2 _____ **29**

That the NSW Department of Planning, Housing and Infrastructure collect data on any exercise by the Planning Secretary of the power under section 4.57(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979*.

Recommendation 3 _____ **29**

That, in five years' time, the NSW Department of Planning, Housing and Infrastructure use the data collected under Recommendation 2 to review section 4.57(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979* and section 116A of the Environmental Planning and Assessment Regulation 2021. The review should determine whether:

- the policy objective of section 4.57(1)(a)(ii) is being achieved
- the Act or Regulation should be amended to enable the exercise of section 4.57(1)(a)(ii) by reference to a prescribed period of inactivity, rather than the date the consent was granted
- section 116A of the Regulation should be amended to significantly reduce the prescribed period applicable to section 4.57(1)(a)(ii).

Recommendation 4 _____ **32**

That the NSW Government consider further planning reforms to prevent future problematic historical development consents, noting the suggested reforms discussed in this chapter.

Recommendation 5 _____ **45**

That the NSW Department of Planning, Housing and Infrastructure modify the NSW Planning Portal to include a centralised development application and consents tracker. The tracker database should:

- include all relevant development applications and consents that are in progress
- allow all consent authorities, including local governments, to input data into the database
- note the lapsing date and commencement status of development consents.

Recommendation 6 _____ **49**

That, after the centralised development application and consents tracker database has been established, the NSW Government require holders of any purported development consent not recorded in the database, and believed not to have lapsed, to provide details of the consent to the NSW Department of Planning, Housing and Infrastructure within a prescribed period.

Recommendation 7 _____ **53**

That the NSW Government amend section 4.57 of the *Environmental Planning and Assessment Act 1979* to introduce a definition or guidance on the meaning of 'expenditure incurred pursuant to the consent during the period between the date on which the consent becomes effective and the date of service of the notice under subsection (3) which expenditure is rendered abortive by the revocation or modification of that consent', under subsection (7).

Recommendation 8 _____ **57**

That the NSW Department of Planning, Housing and Infrastructure, in consultation with local government, review the application of the following planning controls:

- imposition of, as a condition of consent, a limited time period for completing a development
- issuing of development control orders, in particular, 'complete works orders'.

The review should identify obstacles and challenges to the exercise of these planning controls, and legal or policy options to address these issues.

Recommendation 9 _____ **62**

That the NSW Department of Planning, Housing and Infrastructure, in consultation with local government, consider introducing a planning mechanism to allow councils to recover costs from developers for infrastructure provided for their validly commenced development consents that remain incomplete after the date they would have otherwise lapsed.

Chapter One – 'Historical development consents' and the NSW planning system

Before starting this report, it is important to note that the inquiry terms of reference (available at Appendix One) do not specify what types of historical development consents the Committee could consider as part of the inquiry.

However, most of the evidence the Committee received, through submissions, site visits, public hearings and written answers to questions, related to residential development consents, with little evidence about other types of development consents.

The Committee was guided by the evidence it received. Consequently, this report focuses on the issue of historical development consents as they relate to residential developments.

What is a 'historical development consent'?

Summary

There is no formal definition for the term 'historical development consent' in NSW. Generally, it refers to a development consent granted more than five years ago that does not expire because work has nominally commenced on the site before lapsing, but has not been finished.

Finding 1

'Historical development consent' is not a defined term under the NSW planning framework. It is used informally to refer to development consents that have been granted in the past, but have not been completed.

Finding 2

It may not be practical or possible to define the term 'historical development consent' in legislation because it is an informal term used to describe a wide range of incomplete developments with diverse ages.

- 1.1 Under the *Environmental Planning and Assessment Act 1979* (the Act), most development consents will lapse five years after they have been granted, *unless* 'building, engineering or construction work' related to the consent has been physically commenced within those five years.¹ This means that a development consent that has been 'physically commenced' will never lapse and remain valid in perpetuity.² A brief overview of the development consent process is set out in Explainer box 1 below.
- 1.2 Inquiry participants used the term 'historical development consent' informally and in different ways. This reflects the issue that there does not seem to be

¹ *Environmental Planning and Assessment Act 1979* s 4.53(1), (4).

² [Submission 56](#), Blue Mountains City Council, p 2; [Submission 81](#), Environmental Defenders Office, p 6; [Submission 85](#), The Law Society of NSW, p 3; [Submission 243](#), Local Government NSW, p 7.

uniform agreement about when a development consent becomes 'historical'. As the Environmental Defenders Office (EDO) noted, there is no legal definition of 'historical development consent'.³

- 1.3 Throughout the inquiry, the terms 'zombie developments' and 'historical development consents' were used interchangeably. Because the Committee considers the terms 'zombie' development or consents to be slang, we will use the term 'historical development consents' in this report.
- 1.4 Even without a formal definition, 'historical development consent' was often used by stakeholders to describe developments that remained incomplete. This is because there is no requirement in NSW to complete a development once it has been granted consent. As a result, physically commenced development consents can stay incomplete without impacting the validity of the consent. This appears to be a central feature of what constitutes a 'historical' consent.
- 1.5 Some inquiry participants tried to define what a 'historical development consent' is. The Department of Planning, Housing and Infrastructure (the Department), for example, proposed two categories of consents that might be considered 'historical':
- Consents that have been granted in the past and that have been deemed 'physically commenced' by minor works, but have since remained dormant.
 - Consents that have been substantially progressed, but with some stages being incomplete or paused.⁴
- 1.6 The EDO used the following definition of 'historical development' in its submission:
- ... a development, frequently for residential subdivision and housing, that was given development consent years ago, and was not constructed, but which is not considered to have lapsed, and could therefore still be acted on many years after it was assessed and approved.⁵
- 1.7 The EDO noted that historical development consents can include consents granted under now-repealed provisions of the EPA Act, such as concept plans granted under previous Part 3A of the Act.⁶
- 1.8 However, we acknowledge that there are many reasons why a consent might take an extended period of time to progress, and that some development consents may appear dormant despite having been progressed by the consent holder. Mayor Russell Fitzpatrick, Bega Valley Shire Council, highlighted that certain consents in the Bega Shire were considered as being 'historical'

³ [Submission 81](#), Environmental Defenders Office, p 5.

⁴ [Submission 45](#), Department of Planning, Housing and Infrastructure, p 6.

⁵ [Submission 81](#), Environmental Defenders Office, p 5.

⁶ [Submission 81](#), Environmental Defenders Office, p 5.

development consents' by the community, even though they had been progressed.⁷

- 1.9 Some inquiry participants were uncertain that 'historical development consents' could or should be defined. The Property Council of Australia emphasised the difficulty of classifying when a development consent becomes 'historical'. The Council warned that a single 'one-size-fits-all' approach would be inappropriate as it is 'unlikely to capture the complexity of the development process'.⁸
- 1.10 Rachel Chick, Senior Solicitor, EDO, indicated that there was no clear benefit in defining 'historical development consents' without having a clear definition of the term in the Act.⁹
- 1.11 The Committee is also not convinced that establishing a formal definition of 'historical development consent' would be helpful without stronger supporting evidence. We note that a definition may not be necessary because, as highlighted by the Law Society of NSW, there is no uncertainty about the status of a lawfully commenced development under the planning framework.¹⁰

Explainer box 1: A brief overview of the development consent process under the NSW planning system

All 'work' and 'development' in NSW is subject to the *Environmental Planning and Assessment Act 1979* (the Act). Under this legal framework, a landholder wanting to carry out a development usually must apply for, and be granted regulatory approval, known as a 'development consent'.

What is 'development' and 'work' under the planning system?

'Development' generally describes activities on land that are subject to regulations, though not all development requires prior approval. Section 1.5 of the Act defines 'development' as any of the following:

- the use or subdivision of land
- erection of a building
- carrying out of a 'work'
- demolition of a building or work
- any other act, matter or thing that may be controlled by an environmental planning instrument.

'Work' is defined under section 1.4 as any 'physical activity in relation to land' specified by regulations. It refers to modifications made to land, though not to the way land is used or subdivided.

What is the process for getting a development consent?

Under the Act, a development cannot be progressed without a development consent if an environmental planning instrument specifies that particular kind of development requires a consent. Under Part 4 of the Act, development consents are granted and issued by consent authorities. The particular consent authority that is required to assess a development application depends on the location and type of the development.

⁷ Councillor Russell Fitzpatrick, Deputy Chairman, Country Mayors Association of NSW, and Mayor, Bega Valley Shire Council, [Transcript of evidence](#), 28 October 2025, p 40.

⁸ [Submission 86](#), Property Council of Australia, p 2.

⁹ Rachael Chick, Senior Solicitor, Environmental Defenders Office, [Transcript of evidence](#), 28 October 2025, p 7.

¹⁰ [Submission 85](#), The Law Society of NSW, p 4.

Generally, the consent authority is the local council, however, it can be a planning panel, the NSW Planning Secretary or Minister, or the Independent Planning Commission.¹¹ The Land and Environment Court of NSW (the Court) may also issue development consents as part of its proceedings.¹²

What happens after a development consent is granted?

If a development consent is granted, the development must be carried out in accordance with that consent and any conditions attached to the consent.¹³ The consent is attached to the land and can be used by subsequent owners of the land. A development approval can require certain works to be done, for example, clearing vegetation and pouring concrete foundations.

A development consent can also be withdrawn or modified after it has been granted. The Act regulates what modifications require approval, which depends on whether a modification is 'substantially the same' as the development granted under the original consent.¹⁴ This question can be determined by the Courts.

A development consent can also be modified or revoked in limited circumstances, without the consent holder making an application.¹⁵ The use of this revocation power will be discussed further in Chapter Three.

When has a development consent been physically commenced?

Summary

Determining whether a development consent has been 'physically commenced' is complicated since the legislative framework does not include specific guidance about what constitutes physical commencement. Currently, only a court can authoritatively determine whether a development consent has been physically commenced. While there was support for a formal mechanism to confirm physical commencement, there are practical challenges with this.

Finding 3

Courts have broadly interpreted what can be considered as 'physical commencement' of a development consent. This has created uncertainty about how much work is needed for a development to be 'commenced' and remain valid indefinitely.

- 1.12 Whether a development consent has lapsed under the Act depends on whether 'building, engineering or construction work relating to the building, subdivision or work' has physically commenced.¹⁶ The requirement for work to have physically commenced is often called the 'physical commencement test'.
- 1.13 Whether a consent has lapsed or is valid in perpetuity can often depend on whether relevant 'work' has been physically commenced. Therefore, what work counts towards the physical commencement test is key to the concept of historical development consents.

¹¹ *Environmental Planning and Assessment Act 1979* [s 4.5](#).

¹² *Environmental Planning and Assessment Act 1979* [s 8.14](#); *Land and Environment Court Act 1979* [s 39\(2\)](#).

¹³ *Environmental Planning and Assessment Act 1979* [div 4.3](#).

¹⁴ *Environmental Planning and Assessment Act 1979* [s 4.55](#).

¹⁵ *Environmental Planning and Assessment Act 1979* [s 4.57](#).

¹⁶ *Environmental Planning and Assessment Act 1979* [s 4.53\(4\)](#).

- 1.14 Physical commencement is a question of fact for the NSW Land and Environment Court (the Court) to determine, through litigation.¹⁷ This will depend on the circumstances of each development and the nature of the work that has occurred.

Explainer box 2: How does the Court determine if a development consent has been physically commenced?

In the case of *Hunter Brokerage Pty Ltd v Cessnock City Council; Tovedale Pty Ltd v Shoalhaven Council*,¹⁸ the NSW Court of Appeal outlined the three questions that determine if work being relied on satisfies the physical commencement test:

- 1 Is the work relied on 'building, engineering or construction' work?
- 2 Does the work relate to the approved development?
- 3 Was the work physically commenced on the land to which the consent applied before the lapsing date?

- 1.15 There has been a lot of caselaw about the meaning of 'physical commencement' under the Act. Courts have previously held that consents have been physically commenced by minor works. This includes preparatory works such as:

- borehole drilling and soil testing¹⁹
- the clearing of shrubs²⁰
- preliminary site investigations, including soil analysis and geotechnical assessments.²¹

- 1.16 The EDO referred the Committee to the case of *2 Phillip Rise Pty Ltd v Kempsey Shire Council*. In that case, the Court determined that a consent had been validly physically commenced because of borehole drilling and soil testing.²² The EDO argued that this case illustrated the need for reform to ensure physical commencement is clearly determined.²³

- 1.17 By including such minor or preparatory works, it is clear to us that courts have broadly interpreted what actions count as 'physical commencement' of a development consent. As a result, the physical commencement test established by caselaw arguably captures almost all actions that could be related to a development consent, even if they do not meaningfully progress the completion of that development.

¹⁷ Janet McKelvey, President, Environment and Planning Law Association (NSW), [Transcript of evidence](#), 29 October 2025, p 2; Alistair Knox, Chair, Environmental Planning and Development Committee, The Law Society of NSW, [Transcript of evidence](#), 5 November 2025, p 4.

¹⁸ [Hunter Brokerage Pty Ltd v Cessnock City Council; Tovedale Pty Ltd v Shoalhaven Council](#) [2005] NSWCA 169.

¹⁹ [2 Phillip Rise Pty Ltd v Kempsey Shire Council](#) [2023] NSWLEC 28.

²⁰ [Cando Management and Maintenance Pty Ltd v Cumberland Council](#) [2019] NSWCA 26; 237 LGERA 128.

²¹ [De Battista v Shoalhaven City Council](#) [2020] NSWLEC 164.

²² [2 Phillip Rise Pty Ltd v Kempsey Shire Council](#) [2023] NSWLEC 28.

²³ [Submission 81](#), Environmental Defenders Office, pp 6-7.

- 1.18 Blue Mountains City Council drew our attention to the subjective nature of the physical commencement test established by caselaw.²⁴ Blacktown City Council similarly highlighted that both consent applicants and authorities, like councils, have to rely on caselaw to determine what constitutes physical commencement, which the Council described as being time consuming and costly.²⁵ Given the wide scope and subjectivity of the test under caselaw, there is significant uncertainty among stakeholders about the level of works that are needed to prevent a consent from lapsing.
- 1.19 We note that regulatory changes were made in 2020 to narrow the physical commencement test established by the courts. These reforms are discussed in more detail in Chapter Three.

Determining when a consent has commenced

Finding 4

There is no mechanism to confirm that a development consent has been physically commenced prior to its relevant lapsing date, other than litigation.

- 1.20 Stakeholders described how the uncertainty about physical commencement contributes to historical development consent issues. Generally, it is the consent holder who must establish that the consent has not lapsed because it has been physically commenced, and a consent authority is not required to certify that a development consent has been physically commenced.
- 1.21 Janet McKelvey, President, Environment and Planning Law Association (NSW) (EPLA), highlighted that this means the only way a consent holder can formally confirm that their development consent has been physically commenced prior to its lapsing date is litigation. She explained that this requires the consent holder to initiate proceedings under the Act against the consent authority (usually the council) to get a declaration from the Court that the consent has been physically commenced.²⁶ As a result, both the consent holder and consent authority cannot know whether a consent has lapsed without expensive legal action.
- 1.22 Inquiry participants told the Committee that this is a particular issue for local councils, which are usually the relevant consent authorities. As EPLA submitted, a consent authority is usually asked to consider whether a development consent has been commenced when the consent holder is trying to act on that consent.²⁷ However, Blue Mountains City Council explained that any advice provided by a council about whether a consent has lapsed could be challenged in court. Because of the risk of litigation, the Council suggested that it would be unwise for councils to give that advice.²⁸

²⁴ [Submission 56](#), Blue Mountains City Council, p 3.

²⁵ [Submission 242](#), Blacktown City Council, p 3.

²⁶ Janet McKelvey, President, Environment and Planning Law Association (NSW), [Transcript of evidence](#), 29 October 2025, p 2.

²⁷ [Submission 84](#), Environment and Planning Law Association (NSW), p 3.

²⁸ Blue Mountains City Council, [Answers to supplementary questions](#), 11 November 2025, p 4.

- 1.23 Goulburn Mulwaree Council and Shoalhaven City Council informed us that they used to provide written confirmation to developers that their consents had been physically commenced.²⁹ However, Shoalhaven City Council advised that it stopped issuing confirmations after receiving legal advice.³⁰ Similarly, Goulburn Mulwaree Council's current practice is to simply advise developers that they should be able demonstrate commencement, if required.³¹ Byron Shire Council also described the problematic nature of developers requesting confirmation of commencement, that being that if a council contests the commencement of a consent, it often results in litigation, which is a drain on council resources.³²
- 1.24 Local government stakeholders highlighted how the uncertainty about commencement is impacting on local stakeholders. Without a formal mechanism to confirm commencement, Blue Mountains City Council and Hornsby Shire Council submitted that local councils, communities and developers are uncertain about whether development consents can progress, or not.³³ Hornsby Shire Council further noted it can be difficult for a developer to produce records of physical commencement before the lapsing date.³⁴

A mechanism to confirm physical commencement

- 1.25 To address this uncertainty, a number of organisations supported introducing a formal process, outside of litigation, to confirm that a development consent has been physically commenced.³⁵
- 1.26 Several local government stakeholders indicated that they supported introducing a mechanism for councils to confirm the physical commencement of a consent. Blacktown City Council, for example, suggested that a consent holder could be required to provide evidence of physical work they have done on-site in compliance with their consent.³⁶
- 1.27 Both Local Government NSW and Blue Mountains City Council recommended a formal process that would require a property owner to apply for a 'commencement certificate'.³⁷ EPLA also suggested that introducing a formal mechanism for confirming commencement of a consent, such as a certificate, would increase certainty and transparency.³⁸
- 1.28 Blue Mountains City Council further argued that a commencement certificate would be a logical and appropriate extension of existing requirements under the

²⁹ [Submission 42](#), Goulburn Mulwaree Council, p 1; [Submission 241](#), Shoalhaven City Council, p 80.

³⁰ [Submission 241](#), Shoalhaven City Council, p 8.

³¹ [Submission 42](#), Goulburn Mulwaree Council, p 1.

³² [Submission 83](#), Byron Shire Council, p 1.

³³ [Submission 56](#), Blue Mountains City Council, p 3; [Submission 78](#), Hornsby Shire Council p 1.

³⁴ [Submission 78](#), Hornsby Shire Council p 1.

³⁵ [Submission 56](#), Blue Mountains City Council, p 4; [Submission 78](#), Hornsby Shire Council p 2.

³⁶ Blacktown City Council, [Answers to supplementary questions](#), 11 November 2025, pp 1-2.

³⁷ Local Government NSW, [Answers to supplementary questions](#), 11 November 2025, p 3; Blue Mountains City Council, [Answers to supplementary questions](#), 11 November 2025, p 4.

³⁸ [Submission 84](#), Environment and Planning Law Association (NSW), p 3.

Act. This is because a consent holder is already required to provide notification to the consent authority when they commence building or subdivision work.³⁹

- 1.29 Will Langevad, Director, Environment and Planning Service, Blue Mountains City Council, emphasised that a confirmation mechanism is important to councils, as they confirm that a development can progress, and to developers, as they confirm that their consent has been secured.⁴⁰
- 1.30 EPLA submitted that introducing a formal mechanism would remove a layer of risk for developers in relation to the life of a consent. This is because seeking confirmation of commencement would either provide developers with certainty about the consent's validity, or otherwise give them an opportunity to resolve any issues prior to the consent's lapsing date.⁴¹
- 1.31 Both EPLA and Blue Mountains City Council suggested that a certificate confirming commencement could be issued by councils or private certifiers.⁴² However, EPLA acknowledged that any new mechanism would be an additional planning task for consent authorities and therefore could result in resourcing issues for some councils.⁴³
- 1.32 The Law Society of NSW suggested that any legal reforms consider a mechanism to determine if a specific consent should lapse or not, and that they take into account work that has already been commenced or completed.⁴⁴ It noted that councils could be given the power to determine whether a consent has commenced, via legislative amendments. However, the Law Society told us the power should be 'coupled with a right of appeal from that determination.' It further indicated that local councils would need to be appropriately resourced to support their use of the power.⁴⁵
- 1.33 It is clear to the Committee that there are issues arising from the uncertainty about whether a consent has commenced, or not. We also found that litigation is the only way for both consent authorities, specifically local councils and consent holders, to authoritatively confirm whether a consent has been physically commenced in time and is therefore valid.
- 1.34 The Committee acknowledges that this puts consent holders and authorities in a difficult position because the only current solution to resolving this uncertainty is potentially expensive litigation. We also recognise that a formal mechanism to confirm commencement outside of a court declaration may address this uncertainty.

³⁹ Blue Mountains City Council, [Answers to supplementary questions](#), 11 November 2025, p 5.

⁴⁰ Will Langevad, Director, Environment and Planning Service, Blue Mountains City Council, [Transcript of evidence](#), 28 October 2025, p 26.

⁴¹ [Submission 84](#), Environment and Planning Law Association (NSW), p 3.

⁴² [Submission 84](#), Environment and Planning Law Association (NSW), p 3; Will Langevad, Director, Environment and Planning Service, Blue Mountains City Council, [Transcript of evidence](#), 28 October 2025, p 26.

⁴³ [Submission 84](#), Environment and Planning Law Association (NSW), p 3.

⁴⁴ [Submission 85](#), The Law Society of NSW, p 7.

⁴⁵ The Law Society of NSW, [Answers to questions on notice](#), 25 November 2025, p 3.

- 1.35 However, as highlighted by both EPLA and the Law Society of NSW, this mechanism may create additional resource burdens for local councils, which already have extensive planning responsibilities. While this work could be done by private certifiers, there would still be a need for additional support and/or training for local councils to undertake any new certification tasks.
- 1.36 Separately, any new certification or confirmation process by a consent authority would impact on a landholder's real property rights, so it would need to be subject to review by a court. Therefore, while the introduction of a formal mechanism may reduce the need for litigation to provide consent holders with certainty about the status of developments, it may also create a new avenue for litigious challenges to development consents.
- 1.37 Given these practical challenges, the Committee has not recommended that a formal mechanism be introduced into the State's existing planning framework. However, we consider that the Government should investigate options to address the issues raised in relation to the uncertainty about when a development consent has been commenced.

Chapter Two – Issues with historical development consents raised during the inquiry

Finding 5

Historical development consents that have been validly commenced but remain incomplete for long periods can create serious issues for local communities and councils. This includes impacts on local environments, natural disaster risk management, and future strategic planning.

- 2.1 Throughout the inquiry community and environmental groups, and local councils raised serious concerns about the various impacts of historical development consents. The concerns expressed fell into the following categories:
- impacts on local environments and biodiversity, and more generally, developments being out of step with contemporary community expectations and environmental standards
 - greater exposure to climate change and natural disaster risks
 - hindering the capacity of local councils to develop and implement strategic plans for their regions
 - impacts on housing supply and the issue of 'land banking'.⁴⁶
- 2.2 In particular, strong local opposition to identified historical development consents was reflected across the large number of submissions that the Committee received from members of the public and local community organisations.⁴⁷

⁴⁶ See, e.g., [Submission 35](#), Huskisson Heritage Association; [Submission 40](#), Manyana Matters Environmental Association; [Submission 58](#), Kingscliff Ratepayers and Progress Association; [Submission 60](#), Friends of CRUNCH; [Submission 67](#), Dalmeny Matters; [Submission 69](#), Friends of Coila; [Submission 239](#), Voices of South West Rocks Community; [Submission 246](#), Evans Head Residents for Sustainable Development; [Submission 17](#), Gunnedah Shire Council, p 1; [Submission 20](#), Wollondilly Shire Council, p 1; Samuel Johnson, Coastal Wetlands Community Organiser, Nature Conservation Council of NSW, [Transcript of evidence](#), 28 October 2025, p 2; Jasper Brown, Senior Solicitor, Environmental Defenders Office, [Transcript of evidence](#), 28 October 2025, p 6.

⁴⁷ The following are submissions received from individual members of the public: [Submission 1](#), Graeme Batterbury; [Submission 3](#), Kaye Gartner; [Submission 4](#), Greg Watts; [Submission 5](#), Sarah Moore; [Submission 8](#), Juliet Green; [Submission 9](#), Gregory McKittrick; [Submission 10](#), Nadine Ebb; [Submission 11](#), Shanelle Dawson; [Submission 12](#), Gabrielle Griffin; [Submission 13](#), Sarah Denny; [Submission 14](#), Name suppressed; [Submission 15](#), Luke Houghton; [Submission 18](#), Steve Garthwin; [Submission 19](#), Jennifer Cuthbertson; [Submission 22](#), Dr Peter Quiddington; [Submission 23](#), Carol Isaacs; [Submission 24](#), Isabel Trumpf; [Submission 25](#), Robbie Collins; [Submission 26](#), Renee Koonin; [Submission 27](#), Jaclyn Cunningham; [Submission 28](#), Dr Katherine Goodnow; [Submission 29](#), Daniel Snow; [Submission 30](#), Joshua Hamlyn-Edwards; [Submission 31](#), Arielle Valdez-Baltgalvis; [Submission 33](#), Name suppressed; [Submission 79](#), Mr David Mehan MP, Member for the Entrance; [Submission 82](#), Jan Barham; [Submission 87](#), Holly Galbraith; [Submission 88](#), Judith Paterson; [Submission 89](#), Dr Vanessa Barbay; [Submission 90](#), Poppy Collins;

- 2.3 The concerns expressed to us are outlined below, highlighting how developments that are left incomplete for extended periods can negatively impact local communities. The Committee acknowledges that historical development consents can exacerbate existing local environmental, housing and regional development issues.
- 2.4 However, we note that these impacts, particularly on ecology and housing supply, are the result of a number of contributing factors present in the state's planning system, including historical development consents. As a result, the Committee's recommendations have focused on the specific issues around the occurrence and management of historical development consents.

[Submission 91](#), Jorj Lowrey; [Submission 92](#), Elizabeth Howard; [Submission 93](#), Helene Garrett; [Submission 95](#), Janet Reynolds; [Submission 96](#), Robyn Neeson; [Submission 97](#), Sandra Lundbergs; [Submission 98](#), Elizabeth Hepburn; [Submission 99](#), Jayne Boughton Manning; [Submission 100](#), Russell Jennings; [Submission 101](#), Wendy Wait; [Submission 103](#), Name suppressed; [Submission 104](#), Sofie Rodda; [Submission 107](#), Murray Matson; [Submission 108](#), Dr Kym Kilpatrick; [Submission 109](#), David Lawson; [Submission 110](#), Robert Moore; [Submission 111](#), Judith Watt; [Submission 113](#), Bridget Ikin; [Submission 114](#), Natalie Roney; [Submission 115](#), Dr Peter Wynn; [Submission 117](#), Pascal Moser; [Submission 118](#), Alexandra Quirk; [Submission 121](#), Chris Cooney; [Submission 122](#), Bobbi Allan; [Submission 123](#), John Fink; [Submission 124](#), Nina Fitzgerald; [Submission 125](#), Josephine Beams; [Submission 126](#), Nicholas Payne; [Submission 127](#), David Bannister; [Submission 128](#), Paul Cooke; [Submission 129](#), Claudia Pigatti Caliar; [Submission 130](#), Dr Suzanne Allen; [Submission 131](#), Lisa Forbes-Harper; [Submission 133](#), Gregory McKittrick; [Submission 135](#), Penny Davidson; [Submission 136](#), Holly Officer; [Submission 137](#), Joseph Redner; [Submission 138](#), Deborah Sharp; [Submission 140](#), Dr Corinna Klupiec; [Submission 141](#), Angela Watson; [Submission 142](#), Patricia Jacobs; [Submission 143](#), Craig Garrett; [Submission 144](#), Julia Hudd; [Submission 145](#), Elisabeth Larsen; [Submission 146](#), Narelle Wright; [Submission 147](#), Jeffrey Harper; [Submission 148](#), Horst Tietze; [Submission 149](#), Narelle Jarvis; [Submission 150](#), Kylie Wellington; [Submission 152](#), Marie Quigg; [Submission 153](#), Paul Polewski; [Submission 154](#), Roger Hart; [Submission 155](#), Susan Jesson; [Submission 156](#), Dr Stan Bolden; [Submission 157](#), Veronica Kroon; [Submission 158](#), Penny Smith; [Submission 159](#), Kingston Anderson; [Submission 160](#), Juliet Fontaine; [Submission 161](#), Jennifer MacLean; [Submission 163](#), Valerie Thompson; [Submission 164](#), Celine Massa; [Submission 165](#), Lani Imhof; [Submission 166](#), Gaye Beathe; [Submission 167](#), Kate Liston; [Submission 168](#), Julia Mitchell; [Submission 169](#), Simone O'Brien; [Submission 170](#), Rachelle Longstaff; [Submission 171](#), David Rawlins; [Submission 172](#), Carly Wilson; [Submission 173](#), Lirhazel Evans; [Submission 174](#), Nicola Mortimer; [Submission 175](#), Karen Joynes; [Submission 176](#), Yasmin Bowers; [Submission 177](#), Sue Tolley; [Submission 178](#), Rob de Fegely AM; [Submission 179](#), Tracy Norris; [Submission 180](#), Rosslyn Elliott; [Submission 181](#), Patricia Warren; [Submission 182](#), Greg Shearer; [Submission 183](#), Nick Hopkins; [Submission 184](#), Jeffrey Davidson; [Submission 185](#), Name suppressed; [Submission 186](#), David Rowe; [Submission 187](#), Svea Pitman; [Submission 188](#), Nicole Laverack; [Submission 189](#), Lucy Little; [Submission 190](#), David Carnovale; [Submission 191](#), Maxwell Ryan; [Submission 192](#), Kerry Walker; [Submission 193](#), Susan Romane; [Submission 194](#), Julie Coburn; [Submission 195](#), Helen Marshall; [Submission 196](#), Karen Bertram; [Submission 198](#), Liesbeth Pajmans; [Submission 199](#), Sarah Sutton; [Submission 200](#), Darren Sutton; [Submission 202](#), Lisa Sandstrom; [Submission 203](#), Colin Sagar; [Submission 205](#), Shane O'Keefe; [Submission 206](#), Desiree Marshall; [Submission 207](#), Tegan Kitt; [Submission 208](#), Kathryn Core; [Submission 209](#), Julie Vint; [Submission 210](#), Sara Green; [Submission 211](#), Alison Worthington; [Submission 212](#), Celia Farquharson; [Submission 213](#), Phoebe Torzillo; [Submission 214](#), James Barrie; [Submission 215](#), Kornelia Sures; [Submission 216](#), Cr Cathy Grifff; [Submission 217](#), Jacob Shields; [Submission 218](#), Cr Sarah Ndiaye; [Submission 219](#), Rebecca Sleath; [Submission 220](#), Maria Lloyd; [Submission 221](#), Nicholas Chambers; [Submission 223](#), Lesley Dunn; [Submission 224](#), Alexis Farr; [Submission 225](#), Josephine Davey; [Submission 226](#), Peter Winkler; [Submission 227](#), Lizzie Buckmaster; [Submission 228](#), Andrew Dix; [Submission 229](#), Anne Jackson; [Submission 230](#), Sharon Mawson; [Submission 231](#), Christopher Osborne; [Submission 232](#), Anna Moegerlein; [Submission 234](#), Dale Viola; [Submission 235](#), Janene Theol; [Submission 236](#), Tahlia Kinrade; [Submission 237](#), Fay Jackson; [Submission 238](#), Jason Glasson.

Environmental, climate change and natural disaster related impacts

Summary

Historical development consents may not align with current environmental protection standards, natural disaster risks, and/or community expectations. The Committee heard that older development approvals may harm ecosystems, contribute to increased flood and bushfire risks, and add to cumulative environmental impacts across the State.

- 2.5 We heard significant opposition to existing historical development consents from members of the public, environmental advocacy organisations and local community groups. The opposition was largely driven by the stakeholders' views that the developments would cause harm to the environment and may result in increased natural disaster risks if they were progressed.
- 2.6 Many inquiry stakeholders drew our attention to individual incomplete developments in their regions as being examples of problematic historical consents.⁴⁸ While the Committee has noted these examples, we reiterate that it is outside the scope of this inquiry to reconsider any approved development consents.
- 2.7 One issue that was repeatedly raised was the ecological and environmental threats posed by these developments, particularly to vulnerable species. In many cases, historical development consents were approved in the past when there was less knowledge about local ecologies and potential environmental impacts. In these instances, the environmental context for the consents may have significantly changed since the time they were granted, and the environmental impacts of completing or progressing the incomplete developments are now better understood or substantially different.⁴⁹
- 2.8 Similarly, serious concerns were raised that approved historical development consents do not reflect the current understanding of climate change modelling and natural disaster risks, particularly in relation to flooding and bushfires. As a result, these developments may be particularly vulnerable to climate change and

⁴⁸ See: [Submission 35](#), Huskisson Heritage Association; [Submission 36](#), Lake Wollumboola Protection Association; [Submission 38](#), Blue Mountains Conservation Society; [Submission 40](#), Manyana Matters Environmental Association; [Submission 41](#), VOWW, KKEPS, and EcoNetwork Port Stephens; [Submission 44](#), Callala Matters; [Submission 46](#), Tura Beach Flora Reserve Committee; [Submission 49](#), Save Myall Road Bushland; [Submission 50](#), Clarence Environment Centre; [Submission 51](#), Our Future Shoalhaven; [Submission 53](#), Hallidays Point Community Action Group; [Submission 55](#), Blue Mountains Branch, National Trust (NSW); [Submission 57](#), Culburra Residents and Ratepayers Action Group; [Submission 58](#), Kingscliff Ratepayers and Progress Association; [Submission 59](#), Tomaree Ratepayers and Residents Association; [Submission 60](#), Friends of CRUNCH; [Submission 67](#), Dalmeny Matters; [Submission 69](#), Friends of Coila; [Submission 73](#), Friends of the Koala; [Submission 239](#), Voices of South West Rocks Community; [Submission 246](#), Evans Head Residents for Sustainable Development.

⁴⁹ [Submission 35](#), Huskisson Heritage Association, p 1; [Submission 40](#), Manyana Matters Environmental Association, pp 2-3; [Submission 44](#), Callala Matters, p 1; [Submission 50](#), Clarence Environment Centre, p 1; [Submission 51](#), Our Future Shoalhaven, p 5; [Submission 59](#), Tomaree Ratepayers and Residents Association, p 2; [Submission 60](#), Friends of CRUNCH, p 2; [Submission 239](#), Voices of South West Rocks Community, pp 12-13; [Submission 32](#), Tweed Shire Council, pp 1-2, 7; [Submission 42](#), Goulburn Mulwaree Shire Council, p 2; [Submission 66](#), Kiama Municipal Council, p 1; [Submission 77](#), Nambucca Valley Council, p 1; [Submission 83](#), Byron Shire Council, p 2.

natural disaster impacts, and may even contribute to the risks of these for local communities.⁵⁰

- 2.9 Several inquiry participants argued that the State's planning system should, but does not currently consider the 'cumulative' or 'combined' impacts of developments, and therefore the 'true impact' across the State is not well understood.⁵¹ Some stakeholders described these cumulative impacts of historical development consents as being 'death by a thousand cuts'.⁵²
- 2.10 At the core of local councils' and community groups' concerns is the issue that historical development consents are inherently out of step with contemporary standards and community expectations. This is because they were approved in the past, often some time ago, and were therefore not required to consider or comply with modern standards.⁵³
- 2.11 While historical consents are particularly problematic because they can be approved on the basis of long-outdated standards, it is arguable that all developments risk impacting local environments and may exacerbate risks relating to climate change and natural disasters. We agree with Tweed Shire Council's submission that it is impossible to know when a development no longer meets environmental and planning standards and community expectations until it is acted on.⁵⁴
- 2.12 The Committee notes that several stakeholders called for reforms requiring historical development consents to be reassessed against current environmental

⁵⁰ [Submission 35](#), Huskisson Heritage Association, p 1; [Submission 36](#), Lake Wollumboola Protection Association, pp 2, 4; [Submission 38](#), Blue Mountains Conservation Society, p 1; [Submission 40](#), Manyana Matters Environmental Association, p 4; [Submission 50](#), Clarence Environment Centre, p 1; [Submission 51](#), Our Future Shoalhaven, p 5; [Submission 55](#), Blue Mountains Branch, National Trust (NSW), p 1; [Submission 58](#), Kingscliff Ratepayers and Progress Association, pp 1-2; [Submission 60](#), Friends of CRUNCH, p 2; [Submission 67](#), Dalmeny Matters, pp 2-3; [Submission 239](#), Voices of South West Rocks Community, pp 8, 11; [Submission 246](#), Evans Head Residents for Sustainable Development, p 2; [Submission 32](#), Tweed Shire Council, p 8; [Submission 42](#), Goulburn Mulwaree Shire Council, p 2; [Submission 83](#), Byron Shire Council, p 2; [Submission 243](#), Local Government NSW, p 9.

⁵¹ [Submission 17](#), Gunnedah Shire Council; [Submission 40](#), Manyana Matters Environmental Association, pp 4-5; [Submission 41](#), VOWW, KKEPS, and EcoNetwork Port Stephens, p 2; [Submission 49](#), Save Myall Road Bushland, p 3; [Submission 246](#), Evans Head Residents for Sustainable Development, p 4; Peter Winkler, Vice-President, Manyana Matters Environmental Association, [Transcript of evidence](#), 30 October 2024, p 6; Colin Lidiard, Committee Member, Kingscliff Ratepayers and Progress Association, [Transcript of evidence](#), 30 October 2024, pp 4-5.

⁵² Cat Holloway, Member, Callala Matters, [Transcript of evidence](#), 30 October 2024, p 7; Manyana Matters Environmental Association, [Additional points](#), 30 October 2024.

⁵³ [Submission 65](#), Nature Conservation Council of NSW, p 1; [Submission 38](#), Blue Mountains Conservation Society pp 1, 6; [Submission 41](#), VOWW, KKEPS, and EcoNetwork Port Stephens, pp 1-2; [Submission 46](#), Tura Beach Flora Reserve Committee, p 1; [Submission 50](#), Clarence Environment Centre, p 1; [Submission 51](#), Our Future Shoalhaven, p 5; [Submission 55](#), Blue Mountains Branch, National Trust (NSW), p 1; [Submission 57](#), Culburra Residents and Ratepayers Action Group, p 1; [Submission 73](#), Friends of the Koala, p 1; [Submission 17](#), Gunnedah Shire Council, p 1; [Submission 20](#), Wollondilly Shire Council, p 1; [Submission 32](#), Tweed Shire Council, p 7; [Submission 34](#), Eurobodalla Shire Council, p 2; [Submission 42](#), Goulburn Mulwaree Shire Council, p 2; [Submission 61](#), Camden Council, p 2; [Submission 66](#), Kiama Municipal Council, p 1; [Submission 68](#), Penrith City Council, p 2; [Submission 78](#), Hornsby Shire Council, p 2; [Submission 80](#), Bega Valley Shire Council, p 1; [Submission 83](#), Byron Shire Council, p 1; [Submission 240](#), Country Mayors Association of NSW, p 4; [Submission 241](#), Shoalhaven City Council, pp 2, 6; [Submission 243](#), Local Government NSW, pp 6-7, 9; Matthew Gould, Mayor, Wollondilly Shire Council, [Transcript of evidence](#), 28 October 2025, pp 25, 27.

⁵⁴ [Submission 32](#), Tweed Shire Council, p 8.

and planning standards.⁵⁵ While we consider potential planning reforms in greater detail in the following chapters, we note that there is currently a federal pathway, under Parts 7 to 9 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth), to have development consents referred for reassessment against contemporary biodiversity protections. However, we appreciate that this pathway has its own complexities and is administered by another jurisdiction.⁵⁶

Impacts on housing supply and land banking

Summary

There are concerns that historical development consents allow developers to 'land bank' because approved developments can remain incomplete for an extended period of time. If land values increase over this time period, there may be financial incentives to land bank, which can exacerbate housing shortages. However, developments may be delayed for reasons unrelated to land banking, such as changing market conditions or financial risks.

Finding 6

Holders of validly commenced consents, especially in regional and rural areas, may delay completing approved developments until it is more profitable, due to the fact that the consent will not lapse. If land values increase over time, there may be a financial incentive to delay completing developments, including at the later stages of concept developments. For residential developments, these delays can make existing pressures on local housing supply and delivery more acute.

- 2.13 The issue of 'land banking' was another major concern repeatedly raised by inquiry participants. Like 'historical development consents', there is no agreed, single definition of the concept of land banking. However, inquiry participants generally used the term to describe situations where privately held land that is approved for development remains vacant or incomplete while the developer waits for the value of the land to increase in anticipation of selling it for a larger profit.⁵⁷
- 2.14 Many local government and community stakeholders argued that the NSW planning system may unintentionally allow the practice of land banking. This is because in NSW development consents do not lapse once they have been physically commenced, there is no requirement to complete the developments,

⁵⁵ [Submission 65](#), Nature Conservation Council of NSW, p 2; [Submission 36](#), Lake Wollumboola Protection Association, p 4; [Submission 38](#), Blue Mountains Conservation Society, p 1; [Submission 41](#), VOWW, KKEPS, and EcoNetwork Port Stephens, p 5; [Submission 46](#), Tura Beach Flora Reserve Committee, p 1; [Submission 62](#), Clarence Valley Conservation Coalition, p 2.; [Submission 83](#), Byron Shire Council, p 2.

⁵⁶ [Submission 32](#), Tweed Shire Council, pp 7, 12; See *Environment Protection and Biodiversity Conservation Act 1999* (Cth) [Pts 7-9](#).

⁵⁷ [Submission 51](#), Our Future Shoalhaven, pp 5, 12; [Submission 59](#), Tomaree Ratepayers and Residents Association Inc., p 1; [Submission 42](#), Goulburn Mulwaree Council, p 2; [Submission 78](#), Hornsby Shire Council, p 2; [Submission 240](#), Country Mayors Association of NSW, p 8; David Reynolds, Chief Executive, Local Government NSW, [Transcript of evidence](#), 28 October 2025, p 45.

and they are attached to the land, even if it is transferred to a new owner.⁵⁸
Goulburn Mulwaree Council submitted that developers exploit historical development consents 'as a foundation of land banking'.⁵⁹

- 2.15 Several community groups in regional coastal areas highlighted the prevalence of historical development consents for residential developments in their communities.⁶⁰ Mr David Mehan MP, Member for the Entrance, drew our attention to advice that only 40 per cent of development approvals in the Central Coast Local Government Area (LGA) actually get built. He noted past private members' statements he has given on the issue, which highlight the longstanding concerns about profit-driven development delays in his electorate.⁶¹
- 2.16 On the other hand, Judith Portelli, Manager, Development Assessment, Blacktown City Council, noted that land banked historical development consents were not a particular issue for the Blacktown LGA. This is because the region is a growing metropolitan city, so 'there's better value gained in doing more development' since land values have increased exponentially.⁶²
- 2.17 A number of inquiry participants were critical of the impacts of land banking on housing supply in NSW. The Country Mayors Association of NSW highlighted the perverse situation whereby existing housing shortages in NSW may financially incentivise land banking. It suggested that 'stalling strategies' like land banking 'could create a larger generation' of historical development consents.⁶³ Local Government NSW echoed this view, stating that existing 'stalled' residential development consents would become 'the next generation of "zombie developments"'.⁶⁴
- 2.18 Goulburn Mulwaree Council argued that the housing crisis being experienced in the State could be eased if consent authorities were empowered 'to force the activation of banked land that has the benefit of a development consent'.⁶⁵ Similarly, Local Government NSW argued that measures to incentivise action on

⁵⁸ [Submission 65](#), Nature Conservation Council, p 1; [Submission 40](#), Manyana Matters, p 5; [Submission 41](#), VOWW, KKEPS, and EcoNetwork Port Stephens, p 3; [Submission 51](#), Our Future Shoalhaven, pp 5, 12; [Submission 32](#), Tweed Shire Council, p 9; [Submission 42](#), Goulburn Mulwaree Council, p 3; [Submission 68](#), Penrith City Council, p 3; [Submission 78](#), Hornsby Shire Council, p 2; Peter Newton, President, Kingscliff Ratepayers and Progress Association, [Transcript of evidence](#), 30 October 2024, p 2; Colin Lidiard, Committee Member, Kingscliff Ratepayers and Progress Association, [Transcript of evidence](#), 30 October 2024, p 4; Will Langevad, Director, Environment and Planning Service, Blue Mountains City Council, [Transcript of evidence](#), 28 October 2025, p 34; Matthew Gould, Mayor, Wollondilly Shire Council, [Transcript of evidence](#), 28 October 2025, p 34; Councillor Khal Asfour, Vice-President, Local Government NSW, [Transcript of evidence](#), 28 October 2025, p 39.

⁵⁹ [Submission 42](#), Goulburn Mulwaree Council, p 3.

⁶⁰ [Submission 41](#), VOWW, KKEPS, and EcoNetwork Port Stephens, p 3; [Submission 67](#), Dalmeny Matters, p 1;

⁶¹ [Submission 79](#), Mr David Mehan MP, Member for the Entrance, p 1.

⁶² Judith Portelli, Manager, Development Assessment, Blacktown City Council, [Transcript of evidence](#), 28 October 2025, pp 35-36.

⁶³ [Submission 240](#), Country Mayors Association of NSW, p 8.

⁶⁴ [Submission 243](#), Local Government NSW, p 4.

⁶⁵ [Submission 42](#), Goulburn Mulwaree Council, p 3.

residential development approvals that are currently dormant could unlock more housing.⁶⁶

- 2.19 On the other hand, several inquiry participants recognised that development delays can also occur due to complex financial or market factors. They suggested that delays are not always profit-driven.⁶⁷
- 2.20 For example, stakeholders from the Property Council of Australia and Urban Taskforce Australia highlighted how market conditions and financial risks can change with time. They noted that the potentially significant timeframes in which a development may move through the NSW planning system, from application to consent and then completion, can lead to developments becoming financially unfeasible to progress in contemporary market conditions.⁶⁸
- 2.21 However, Tom Forrest, CEO, Urban Taskforce Australia acknowledged that property developers may slow down the delivery of housing supply to avoid driving down house prices and to maintain profitability.⁶⁹

Impacts on local planning

Summary

Historical development consents can make it difficult for councils to accurately plan for housing growth, infrastructure, and future service demand. Regional councils often invest in water and wastewater infrastructure based on expected demand that factors in approved developments. When these developments are delayed or remain incomplete, the significant costs of these investments may be borne by existing ratepayers.

Finding 7

Local councils plan and pay for local infrastructure and services based on the developments that have been approved in their local government areas. This is particularly significant in regional areas, where councils are responsible for water supply and waste treatment.

Finding 8

Councils often pay for infrastructure work in anticipation of developments that have received consent being progressed to completion. If the development

⁶⁶ [Submission 243](#), Local Government NSW, pp 10, 12.

⁶⁷ [Submission 59](#), Tomaree Ratepayers and Residents Association, p 1; [Submission 78](#), Hornsby Shire Council, p 2; [Submission 52](#), Urban Development Institute of Australia, p 3; [Submission 76](#), Urban Taskforce Australia, p 2; [Submission 79](#), Mr David Mehan MP, Member for the Entrance, p 1; Will Langevad, Director, Environment and Planning Service, Blue Mountains City Council, [Transcript of evidence](#), 28 October 2025, p 34; Daniel Thompson, Executive Director, Local Planning and Council Support, Department of Planning, Housing and Infrastructure, [Transcript of evidence](#), 29 October 2025, p 15.

⁶⁸ Anita Hugo, NSW Executive Director, Property Council of Australia, [Transcript of evidence](#), 28 October 2025, pp 10-11; Ross Grove, Western Sydney Regional Director, Property Council of Australia, [Transcript of evidence](#), 28 October 2025, pp 11, 14; Tom Forrest, Chief Executive Officer, Urban Taskforce Australia, [Transcript of evidence](#), 28 October 2025, pp 13, 15.

⁶⁹ Tom Forrest, Chief Executive Officer, Urban Taskforce Australia, [Transcript of evidence](#), 28 October 2025, p 16.

remains unfinished for an extended period of time, current ratepayers are left to bear the costs of the infrastructure works intended for future ratepayers.

- 2.22 Local councils were notably engaged with this inquiry, particularly regional councils. This is understandable as councils are usually responsible for approving developments, and for the medium and long-term development plans for their LGAs. Throughout the inquiry we heard that historical development consents, which have been physically commenced but remain incomplete, can seriously hinder councils' capacity to strategically plan for their regions.
- 2.23 Emily Harrison, Director, Community, Environment and Planning, Bega Valley Shire Council, described how historical consents can make strategic planning more difficult:
- One of the challenges we have seen is that when we are planning for residential growth in a regional area, we are looking at land that's available—private land—and when those DAs are approved for, say, some of the larger subdivisions that never go ahead, at the time we're counting on those in terms of our population projections and housing need. And then it's really hard to do further planning to know what we need, because we don't know if and when those developments will go ahead.⁷⁰
- 2.24 In its submission, Penrith City Council gave an example of how historical development consents can limit or undermine local councils' capacity for strategic planning. The Council explained that the LGA is subject to residential densities caps set by the NSW Government to manage flood evacuation capability. However, the Council tracks densities through the issuing of Construction Certificates, which are not required by consents that have only been physically commenced.⁷¹
- 2.25 Kiama Municipal Council noted that historical development consents can result in wasted resources and 'missed opportunities for economic growth'.⁷² Hornsby Shire Council, likewise, highlighted that vacant development sites in commercial centres can negatively impact neighbouring sites or reduce economic activity.⁷³
- 2.26 Tweed Shire Council explained that councils are largely unprepared or have not accounted for historical development consents as 'Active consents without delivery'. As a result, the consents 'almost certainly distort the image of development delivery and land use demand recorded in approvals-based reporting'.⁷⁴
- 2.27 Daniel Thompson, Executive Director, Local Planning and Council Support, Department of Planning, Housing and Infrastructure, acknowledged that the issues with strategic planning mainly impact local government, rather than the

⁷⁰ Emily Harrison, Director, Community, Environment and Planning, Bega Valley Shire Council, [Transcript of evidence](#), 28 October 2025, pp 40-41.

⁷¹ [Submission 68](#), Penrith City Council, p 3.

⁷² [Submission 66](#), Kiama Municipal Council, p 2.

⁷³ [Submission 78](#), Hornsby Shire Council, p 2.

⁷⁴ [Submission 32](#), Tweed Shire Council, p 9.

Department. This is because, he noted, most historical development consents 'are in regional areas where the council is the water and sewer authority.'⁷⁵

- 2.28 Another complicating factor is that local planning controls change with time. As Blue Mountains City Council highlighted, planning control changes over the life of a historical development consent can result in 'permissibility issues', where the consent becomes prohibited or non-compliant under a new planning instrument.⁷⁶ Anthony McMahon, CEO, Bega Valley Shire Council, explained that counting historical consents as part of future strategic planning 'might inflate what's actually achievable or realistically feasible.'⁷⁷
- 2.29 Councils undertake strategic planning to ensure that infrastructure is in place to support new developments. Hornsby Shire Council said that historical consents are problematic for councils in planning for the provision of infrastructure to meet future demand when it is uncertain if the development will be completed. The Council said that it is also problematic in terms of the administrative processes to ensure that relevant contributions are paid.⁷⁸
- 2.30 Particularly in regional NSW, infrastructure upgrades such as water and wastewater treatment plants are often required to facilitate the development of large-scale residential projects. Councillor Russell Fitzpatrick, Deputy Chairman, Country Mayors Association of NSW, and Mayor, Bega Valley Shire Council, stated that regional and, in particular, rural councils are usually responsible for operating the water and sewer networks in their LGAs. Because of this, 'All the strategic planning releases are done also around our [water and sewer] services.'⁷⁹
- 2.31 Gordon Clark, Manager, Strategic Planning, Shoalhaven City Council, informed us that the Council's infrastructure plans factor in an expectation that developable land will be developed, and that they make investment decisions about water and wastewater infrastructure based on the future development of that land.⁸⁰
- 2.32 Troy Green, General Manager, Tweed Shire Council, submitted that accounting for historical development consents makes it 'really difficult' for local government to carry out the necessary 'fit-for-the-future' infrastructure planning, as well as sustainable financial planning.⁸¹ Councillor Fitzpatrick echoed this view, telling the Committee that 'A lot of development hinges around how much capacity is

⁷⁵ Daniel Thompson, Executive Director, Local Planning and Council Support, Department of Planning, Housing and Infrastructure, [Transcript of evidence](#), 29 October 2025, p 16.

⁷⁶ [Submission 56](#), Blue Mountains City Council, p 6.

⁷⁷ Anthony McMahon, Chief Executive Officer, Bega Valley Shire Council, [Transcript of evidence](#), 30 October 2024, p 29.

⁷⁸ [Submission 78](#), Hornsby Shire Council, p 2.

⁷⁹ Councillor Russell Fitzpatrick, Deputy Chairman, Country Mayors Association of NSW, and Mayor, Bega Valley Shire Council, [Transcript of evidence](#), 28 October 2025, pp 42-43.

⁸⁰ Gordon Clark, Manager, Strategic Planning, Shoalhaven City Council, [Transcript of evidence](#), 30 October 2024, p 24.

⁸¹ Troy Green, General Manager, Tweed Shire Council, [Transcript of evidence](#), 30 October 2024, p 16. See also Emily Harrison, Director, Community, Environment and Planning, Bega Valley Shire Council, [Transcript of evidence](#), 28 October 2025, p 43.

already in the system'. As a result, developments in regional and rural areas may take 'decades because councils will need to upgrade their infrastructure.'⁸²

- 2.33 Using sewage treatment works as an example, Julie Briggs, Policy Advisor, Country Mayors Association of NSW, explained that a council cannot accommodate more housing if existing services have reached capacity, and because sewage treatment works can cost 'millions', upgrades can be delayed, which causes consequential delays in expanding housing in the LGA.⁸³
- 2.34 Councillor Fitzpatrick described the issues related to funding infrastructure planning as coming 'down to the question of who's going to pay for it, the developer or the current ratepayer.'⁸⁴
- 2.35 One additional challenge for councils posed by historical consents is that long delays in completion can make it hard to recover costs incurred for planning for future infrastructure developments. James Ruprai, Director, City Development, Shoalhaven City Council, explained that if developments do not progress as expected, councils cannot collect ongoing rates or other revenue. This means that the cost of the infrastructure and its maintenance is spread across the remaining rate base.⁸⁵
- 2.36 Tweed Shire Council highlighted an example of how historical development consents can lead to the cost burden for infrastructure planning ultimately falling on ratepayers. This is set out in the case study below.

⁸² Councillor Russell Fitzpatrick, Deputy Chairman, Country Mayors Association of NSW, and Mayor, Bega Valley Shire Council, [Transcript of evidence](#), 28 October 2025, p 42.

⁸³ Julie Briggs, Policy Advisor, Country Mayors Association of NSW, [Transcript of evidence](#), 28 October 2025, p 43.

⁸⁴ Councillor Russell Fitzpatrick, Deputy Chairman, Country Mayors Association of NSW, and Mayor, Bega Valley Shire Council, [Transcript of evidence](#), 28 October 2025, p 43.

⁸⁵ James Ruprai, Director, City Development, Shoalhaven City Council, [Transcript of evidence](#), 30 October 2024, p 24.

Case study 1: Tweed Shire Council is unable to recover the costs of upgraded infrastructure to facilitate development

Two large greenfield residential developments in the Tweed Shire LGA were approved in 2010. To facilitate the developments, Tweed Shire Council borrowed over \$130 million to build a new water treatment plant and upgrade existing wastewater treatment plants.⁸⁶ Troy Green, General Manager, explained that the Council chose to facilitate these developments by prioritising and borrowing money for the infrastructure upgrades.⁸⁷

It has been over 15 years since the consents were granted. The first lots of the Kings Forest Estate went on sale in early 2026.⁸⁸ This delay has left the Council to carry the financial burden of the infrastructure, servicing a \$130 million loan over 12 years.⁸⁹

The Council has not received contributions to recover the initial capital costs of the infrastructure. To cover the interest payments on the loan, the Council has had to increase their rates by 40 per cent to cover the infrastructure costs, despite the increase not covering current water usage.⁹⁰

- 2.37 Tweed Shire Council, as the relevant water authority for the area, submitted that it has invested significant funds into several large land development projects, which have not been completed. This has resulted in a financial burden with a flow-on effect on the rate base, which has further resulted in an increase in rates to cover loan repayments.⁹¹ The Council submitted that this has also impacted its strategic land use planning capacity, as it does not have the funds to build and operate new essential infrastructure required for future land releases.⁹²

⁸⁶ Tweed Shire Council, [Answers to supplementary questions](#), 28 November 2024, p 2.

⁸⁷ Troy Green, General Manager, Tweed Shire Council, [Transcript of evidence](#), 30 October 2024, p 16.

⁸⁸ E Farrow-Smith and H Ross, '[Kings Forest Estate finally for sale after land-banking saga spanning five decades](#)', *ABC News*, 9 January 2026, accessed 11 May 2026.

⁸⁹ Troy Green, General Manager, Tweed Shire Council, [Transcript of evidence](#), 30 October 2024, p 17.

⁹⁰ Troy Green, General Manager, Tweed Shire Council, [Transcript of evidence](#), 30 October 2024, p 17.

⁹¹ Tweed Shire Council, [Answers to supplementary questions](#), 28 November 2024, p 2.

⁹² Tweed Shire Council, [Answers to supplementary questions](#), 28 November 2024, p 2.

Chapter Three – Impacts of recent planning reforms

- 3.1 Two key planning reforms, the Environmental Planning and Assessment Regulation 2021 (the Regulation) and the *Environmental Planning and Assessment Amendment (Planning System Reforms) Act 2025* (the Planning System Reforms Act), were particularly significant to this inquiry. The reforms sought to address some of the issues concerning physical commencement and inappropriate historical developments discussed earlier in the report. In this chapter, the Committee discusses the reforms in detail. We also consider whether additional legal or regulatory reforms are needed to prevent the re-occurrence of historical development consents in the future.

The Environmental Planning and Assessment Regulation 2021

Summary

In 2020, section 96 of the Environmental Planning and Assessment Regulation 2021 was amended to clarify minor works that do not count as 'physical commencement', to ensure development consents could not remain valid in perpetuity based only on these minor works. However, these provisions do not apply to development consents granted before 15 May 2020, raising questions about how effective this amendment was, given its limited application.

Finding 9

Section 96 of the Environmental Planning and Assessment Regulation 2021 is intended to prevent consents granted since 15 May 2020 remaining valid indefinitely by minor works. As the reform is recent, the Land and Environment Court has not yet applied the narrower physical commencement test.

The new physical commencement test

- 3.2 As noted earlier, regulatory changes were made in 2020 in response to court decisions about what works count as physical commencement. These changes clarified when works do not meet the requirements for physical commencement under section 4.53 of the *Environmental Planning and Assessment Act 1979* (the Act).⁹³
- 3.3 The reform was first introduced by the Environmental Planning and Assessment Amendment (Lapsing of Consent) Regulation 2020, which amended the Environmental Planning and Assessment Regulation 2000. The provision then became section 96 of the Environmental Planning and Assessment Regulation 2021 (the Regulation), when the regulation was remade.⁹⁴

⁹³ [Submission 45](#), Department of Planning, Housing and Infrastructure, p 5.

⁹⁴ Environmental Planning and Assessment Regulation 2021 [s 96](#).

- 3.4 Section 96 makes clear that any of the following works is not enough to physically commence a development consent granted after 15 May 2020 and prevent it from lapsing:
- (a) creating a bore hole for soil testing
 - (b) removing water or soil for testing
 - (c) carrying out survey work, including the placing of pegs or other survey equipment
 - (d) acoustic testing
 - (e) removing vegetation as an ancillary activity
 - (f) marking the ground to indicate how land is to be developed.⁹⁵
- 3.5 As the Department of Planning, Housing and Infrastructure (the Department) noted, the section does not provide guidance on what amounts to physical commencement.⁹⁶ Instead, the provision changed the threshold for physical commencement under section 4.53 of the Act, which was previously set by courts. Recent development consents will now lapse after five years, where the listed works have been done, but no other works to physically commence the consent have occurred by the lapsing date.
- 3.6 The Department described these changes as helping limit the breadth of the physical commencement test to 'genuine physical commencement'.⁹⁷ However, it acknowledged that the narrowed commencement test does not address historical development consents that have already been commenced because it does not apply retrospectively.⁹⁸

There are mixed views about whether the reform will be effective in preventing consents from being physically commenced by minor works

- 3.7 As discussed in Chapter One, inquiry participants raised concerns about courts determining that minor works, which do not meaningfully progress a development, have 'physically commenced' a consent.⁹⁹ The Committee heard differing views about whether section 96 of the Regulation would prevent future consents from being determined as physically commenced, and therefore not lapsing, based only on minor works.
- 3.8 The Law Society of NSW (the Law Society) observed that section 96 'specifically excludes some types of insubstantial works previously permitted by the court to constitute commencement'.¹⁰⁰ Section 96, therefore, effectively excludes the

⁹⁵ Environmental Planning and Assessment Regulation 2021 [s 96\(1\)](#).

⁹⁶ [Submission 45](#), Department of Planning, Housing and Infrastructure, p 14.

⁹⁷ Department of Planning Housing and Infrastructure, [Answers to supplementary questions](#), 13 November 2025, p 1.

⁹⁸ [Submission 45](#), Department of Planning, Housing and Infrastructure, p 5.

⁹⁹ [Submission 83](#), Byron Shire Council, p 2; [Submission 47](#), Currie Country Social Change Aboriginal Corporation, p 4; [Submission 56](#), Blue Mountains City Council, pp 2-3; [Submission 80](#), Bega Valley Shire Council, p 1.

¹⁰⁰ [Submission 85](#), The Law Society of NSW, p 2.

minor works previously determined by the courts to meet the physical commencement test. This means that more substantial or significant physical works must occur before a development consent is considered valid in perpetuity.

- 3.9 Any consents commenced prior to 15 May 2020 are only required to meet the relatively low bar for physical commencement, as established by caselaw.¹⁰¹ It means these consents can still be preserved indefinitely through minor works now excluded by the legislation.¹⁰²
- 3.10 While some argue the regulatory changes may hamper activation of consents, which could lead to more lapsed development consents, the Law Society noted that the changes could also be seen as a sensible response to an 'overly permissive' test, which may 'appropriately' encourage timely completion of developments.¹⁰³ However, Alistair Knox, Chair of the Law Society's Environmental Planning and Development Committee, suggested that there is a delicate balancing act to achieving this policy intent while also protecting people's property rights.¹⁰⁴
- 3.11 We heard concerns from some community groups and local government stakeholders that the regulatory changes would not achieve the intent of the reform. Both Camden and Blacktown City Councils argued that the new test is not adequate to prevent a development consent from being deemed commenced by minor preparatory works.¹⁰⁵
- 3.12 Emily Harrison, Director, Community, Environment and Planning, Bega Valley Shire Council, argued that while section 96 was more restrictive than the previous definition, it was not strong enough because a developer could still commence a consent despite having no real intent to complete it in the short term.¹⁰⁶
- 3.13 On the other hand, Janet McKelvey, President, Environment and Planning Law Association (NSW) (EPLA), submitted that the regulatory changes mean that minor works will no longer be enough to commence a consent.¹⁰⁷ The Committee agrees that, by explicitly excluding previously accepted minor works, it is likely to prevent consents granted since 15 May 2020 from remaining valid in perpetuity, simply as a consequence of minor physical works.
- 3.14 Tom Forrest, Chief Executive Officer, Urban Taskforce Australia, suggested that, because the changes to the physical commencement test only came into effect

¹⁰¹ [Submission 84](#), Environment and Planning Law Association (NSW), p 2.

¹⁰² Jasper Brown, Senior Solicitor, Environmental Defenders Office, [Transcript of evidence](#), 28 October 2025, p 6.

¹⁰³ [Submission 85](#), The Law Society of NSW, p 3.

¹⁰⁴ Alistair Knox, Chair, Environmental Planning and Development Committee, The Law Society of NSW, [Transcript of evidence](#), 5 November 2025, pp 7-8.

¹⁰⁵ [Submission 61](#), Camden Council, p 2; Blacktown City Council, [Answers to supplementary questions](#), 11 November 2025, p 1.

¹⁰⁶ Emily Harrison, Director, Community, Environment and Planning, Bega Valley Shire Council, [Transcript of evidence](#), 28 October 2025, p 44.

¹⁰⁷ Janet McKelvey, President, Environment and Planning Law Association (NSW), [Transcript of evidence](#), 29 October 2025, p 7.

recently, there has not been adequate time to assess the effectiveness of the reform.¹⁰⁸

- 3.15 The Committee agrees with Urban Taskforce Australia that there has not been adequate time chance to assess the impacts of the regulatory reforms. As discussed in Chapter One, a declaration from the Land and Environment Court (the Court) remains the only way to determine whether the regulatory reforms are limiting the commencement of development consents issued after 15 May 2020.¹⁰⁹ The Court advised us that, as of 25 November 2025, there have been no proceedings filed since 15 May 2025 that would apply to section 96.¹¹⁰
- 3.16 On balance, the Committee agrees with stakeholder views that, to date, there is no compelling evidence that section 96 will achieve the policy objective of restricting consents from becoming valid in perpetuity based on minor works.

Data should be collected on the narrowed test to determine if it's achieving its objective

Recommendation 1

That the NSW Department of Planning, Housing and Infrastructure monitor the application of section 96 of the Environmental Planning and Assessment Regulation 2021 by the Land and Environment Court and, after five years, review the provision to determine whether:

- **section 96 is achieving its intended policy objective**
- **amendments are needed to achieve the policy objective.**

- 3.17 Given the concerns about physical commencement, it is important to understand how the new physical commencement test, under section 96, will impact the lapsing of development consents in NSW. For this, data on the application of the provision is needed. However, the Committee heard that the Department does not currently collect data on whether a consent has physically commenced.¹¹¹
- 3.18 We heard support from some inquiry participants for data to be collected on the impact of the regulatory changes. Urban Taskforce Australia, for example, suggested that there should be longitudinal assessments of the impacts of the regulatory changes before considering any further reform.¹¹² Similarly, Tweed Shire Council suggested that there should be a proper investigation into the

¹⁰⁸ Tom Forrest, Chief Executive Officer, Urban Taskforce Australia, [Transcript of evidence](#), 28 October 2025, p 13.

¹⁰⁹ Alistair Knox, Chair, Environmental Planning and Development Committee, The Law Society of NSW, [Transcript of evidence](#), 5 November 2025, p 4.

¹¹⁰ Registrar Sarah Froh, Director and Registrar, The Land and Environment Court NSW, [Response to written questions](#), email, 25 November 2025, p 1.

¹¹¹ Department of Planning Housing and Infrastructure, [Answers to supplementary questions](#), 13 November 2025, p 2.

¹¹² [Submission 76](#), Urban Taskforce Australia, p 6.

benefits and drawbacks of increasing the bar and reducing the timeframe for physical commencement.¹¹³

- 3.19 The Committee therefore recommends that the Department of Planning, Housing and Infrastructure (the Department) monitor the application of section 96 by the Land and Environment Court. The provision should be reviewed to determine if the reform is achieving its intended policy objective. We submit that a timeframe of five years is sufficient for the Department to undertake the review.
- 3.20 If the review finds that section 96 is not achieving its intended objectives, the Department should consider whether the definition of physical commencement should be amended to address this. Clay Preshaw, Acting Executive Director, Planning Systems Reform, Department of Planning, Housing and Infrastructure, acknowledged that the definition of 'physical commencement' could be further tightened through changes to regulations, if it's considered appropriate.¹¹⁴

The Environmental Planning and Assessment Amendment (Planning System Reforms) Act 2025

- 3.21 Significant amendments were made to the *Environmental Planning and Assessment Act 1979* (the Act) during this inquiry. In 2025, the Parliament passed the Environmental Planning and Assessment Amendment (Planning System Reforms) Bill 2025 (the Bill). During debate on the Bill, the Hon. Paul Scully MP, Minister for Planning and Public Spaces, stated that some of the changes to the Act would 'broaden the powers of the New South Wales Government to intervene in so-called "zombie" consents, which are historic consents that legally commenced decades ago.'¹¹⁵
- 3.22 The Bill became the *Environmental Planning and Assessment Amendment (Planning Systems Reforms) Act 2025* (the Planning Reforms Act) on assent. The Planning Reforms Act included amendments to address historical development consents, although it did not meaningfully change the lapsing provisions under section 4.53 of the Act.¹¹⁶
- 3.23 Of particular relevance to this inquiry, the Minister highlighted the Planning Reforms Act's expansion of the revocation and modification power in section 4.57(1)(a)(ii) of the Act.¹¹⁷ He described the new expanded power to revoke or modify a development consent based on an existing environmental planning instrument (EPI):

¹¹³ [Submission 32](#), Tweed Shire Council, p 3.

¹¹⁴ Clay Preshaw, Acting Executive Director, Planning Systems Reform, Department of Planning, Housing and Infrastructure, [Transcript of evidence](#), 29 October 2025, p 13.

¹¹⁵ New South Wales, Legislative Assembly, [Parliamentary Debates](#), 17 September 2025 (Paul Scully, Minister for Planning and Public Spaces).

¹¹⁶ Department of Planning, Housing and Infrastructure, [Answers to supplementary questions](#), 13 November 2025, p 2.

¹¹⁷ *Environmental Planning and Assessment Act 1979* [s 4.57\(1\)\(a\)\(ii\)](#).

... where development is inconsistent with environmental planning instruments or outcomes, it will be possible to revoke a development consent and pay compensation to the landowner.¹¹⁸

- 3.24 While the Planning Reforms Act implemented a number of significant planning reforms, the Planning Secretary's new expanded power to revoke, modify or issue a complete works order for a development consent based on an existing EPI is the most relevant to the inquiry and is the Committee's focus in this report.
- 3.25 Section 4.57 gives the Planning Secretary and local councils that are the relevant consent authority the power to revoke or modify a development consent in limited circumstances. As discussed, the Planning Reforms Act expanded the Planning Secretary's existing power under section 4.57(1)(a). The reform now allows the Planning Secretary to revoke or modify a consent based on an *existing* EPI, whereas previously this power could only be used in relation to a *proposed* EPI.¹¹⁹ This reform came in effect on 15 December 2025.¹²⁰
- 3.26 Alistair Knox from the Law Society of NSW told us that the Law Society supported this reform as an initial response to the issues caused by historical development consents.¹²¹

The expanded power to revoke or modify is time limited

Summary

There is a time restriction on the expanded power, so that the Planning Secretary can only revoke or modify a development consent based on an existing Environmental Planning Instrument if it was granted more than 25 years ago. As 'historical' development consents are not defined by age, incomplete development consents granted less than 25 years ago fall outside the expanded power. While there was support for a time limit, it is unclear why 25 years was selected or if it meets the policy objectives.

Finding 10

Because 'historical' development consents are not defined by age, the 25-year period prescribed by section 116A of the Environmental Planning and Assessment Regulation 2021 may not align with the policy objectives of the new power, as prescribed in section 4.56(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979*.

- 3.27 It must be noted that the expanded power can only be used for a consent that was granted 'at least the prescribed period before' the Secretary proposes to use the power.¹²² The Planning Reforms Act inserted section 116A into the Regulation

¹¹⁸ New South Wales, Legislative Assembly, [Parliamentary Debates](#), 17 September 2025 (Paul Scully, Minister for Planning and Public Spaces).

¹¹⁹ *Environmental Planning and Assessment Act 1979* (as at 1 November 2025) [s 4.57\(1\)\(a\)](#).

¹²⁰ Commencement Proclamation, [Environmental Planning and Assessment Amendment \(Planning System Reforms\) Act 2025](#), 15 December 2025.

¹²¹ Alistair Knox, Chair, Environmental Planning and Development Committee, The Law Society of NSW, [Transcript of evidence](#), 5 November 2025, p 3.

¹²² *Environmental Planning and Assessment Act 1979* [s 4.57\(1\)\(a\)](#).

to set the prescribed period at 25 years.¹²³ This means that a consent can only be revoked or modified by having regard to an existing environmental planning instrument if the consent is granted at least 25 years before the power is used.¹²⁴

- 3.28 The time limitation on the exercise of the Planning Secretary's expanded power was introduced as an amendment to the Bill. Speaking about the amendment during debate on the Bill, the Minister explained that it was introduced after concerns were expressed that the expanded powers would undermine certainty in the planning system.¹²⁵ The Urban Development Institute of Australia NSW held this view, submitting that the introduction of legislation to enhance the revocation or modification power would make the planning system more uncertain and hamper future investment.¹²⁶
- 3.29 The Minister stated that the intent of the expanded power was 'to address long dormant, outdated consents without creating unnecessary concern for valid approvals.'¹²⁷
- 3.30 Inquiry participants from the property development industry supported the 25-year limitation even if they had not specifically advocated for that timeframe. Tom Forrest, Urban Taskforce Australia, for example, confirmed that his organisation did not specify a 25 year period in its advocacy on the issue, but was pleased with the outcome.¹²⁸ Similarly, Ross Grove, Western Sydney Regional Director, Property Council of Australia, noted that the Council had reservations about the expansion of the powers, but did not seek any specific time limitation on their exercise.¹²⁹
- 3.31 Witnesses from the Department provided more context on why the exercise of the new power was limited to consents that are at least 25 years old. Clay Preshaw, Acting Executive Director, Planning Systems Reform, told us that many historical development consents about which people have raised concerns to the Department were granted before 2000.¹³⁰ Daniel Thompson, Executive Director, Local Planning and Council Support, echoed this observation, stating that the most contentious consents that the Department regularly hears about were granted from the 1980s to the 2000s.¹³¹
- 3.32 The Department explained that the 25-year threshold was chosen 'having regard to the need for certainty for consent-holders, stakeholder concerns, and the

¹²³ [Environmental Planning and Assessment Amendment \(Planning System Reforms\) Act 2025](#) sch 2[12].

¹²⁴ Environmental Planning and Assessment Regulation 2021 [s 116A](#).

¹²⁵ New South Wales, Legislative Assembly, [Parliamentary Debates](#), 15 October 2025 (Paul Scully, Minister for Planning and Public Spaces).

¹²⁶ [Submission 52](#), Urban Development Institute of Australia NSW, p 4.

¹²⁷ New South Wales, Legislative Assembly, [Parliamentary Debates](#), 15 October 2025 (Paul Scully, Minister for Planning and Public Spaces).

¹²⁸ Tom Forrest, Chief Executive Officer, Urban Taskforce Australia, [Transcript of evidence](#), 28 October 2025, p 11.

¹²⁹ Ross Grove, Western Sydney Regional Director, Property Council of Australia, [Transcript of evidence](#), 28 October 2025, p 11.

¹³⁰ Clay Preshaw, Acting Executive Director, Planning Systems Reform, Department of Planning, Housing and Infrastructure, [Transcript of evidence](#), 29 October 2025, p 14.

¹³¹ Daniel Thompson, Executive Director, Local Planning and Council Support, Department of Planning, Housing and Infrastructure, [Transcript of evidence](#), 29 October 2025, p 15.

current age of known historical development consents.¹³² Clay Preshaw informed us that 'multiple stakeholders' suggested various timeframes, but 'it was decided that 25 years would capture some of the more obvious historical consents that are causing concern.'¹³³

- 3.33 The Committee recognises the need to balance community concerns about the negative impacts of historical development consents with the need for planning certainty in relation to existing consents. While we understand the time limitation is intended to ensure the power addresses the issue of 'historical' consents without undermining planning certainty, it is unclear to us why 25 years was determined to be the appropriate timeframe to achieve this balance. As noted in Chapter One, there is no formal definition of 'historical development consent' and the term is applied to a broad range of consents with differing ages.
- 3.34 Because 'historical developments consents' are not determined by the age of the consent, there may be incomplete development consents that were granted less than 25 years ago that could appropriately be subject to the power. Samuel Johnson, Coastal Wetlands Community Organiser, Nature Conservation Council of NSW, observed that some historical development consents that are strongly opposed by local communities and/or would not be approved under contemporary standards, will remain active without any means to revoke or modify them.¹³⁴
- 3.35 A witness from the Property Council of Australia pointed out that the Department's submission to this inquiry appeared to define 'historical development consents' as 'preserved consents that exist beyond the timeline that's provided in a consent for commencement.'¹³⁵ As discussed in Chapter One, we agree that the only universal trait of these consents is that they are valid in perpetuity because they were physically commenced before their lapsing date (usually five years from granting).
- 3.36 The Committee is concerned that the prescribed 25-year restriction may not be effective in achieving the intended objective of the reforms. As discussed earlier in the chapter, the new physical commencement test under the Regulation clearly reflects the policy position that it is inappropriate for development consents to remain valid in perpetuity on the basis of the minor works listed in section 96. The below case study is an example of a development consent which is inconsistent with this policy position, but is not subject to the Planning Secretary's expanded power because it was granted less than 25 years ago.

¹³² Department of Planning, Housing and Infrastructure, [Answers to questions on notice](#), 13 November 2025, p 1.

¹³³ Clay Preshaw, Acting Executive Director, Planning Systems Reform, Department of Planning, Housing and Infrastructure, [Transcript of evidence](#), 29 October 2025, p 15.

¹³⁴ Samuel Johnson, Coastal Wetlands Community Organiser, Nature Conservation Council of NSW, [Transcript of evidence](#), 28 October 2025, p 2.

¹³⁵ Ross Grove, Western Sydney Regional Director, Property Council of Australia, [Transcript of evidence](#), 28 October 2025, p 11.

Case study 2: Commencement of a development consent based on minor physical works

In the case of *Cando Management and Maintenance Pty Ltd v Cumberland Council*,¹³⁶ the Court was asked to consider whether a development consent for the construction of nine townhouses granted in 2004 had lapsed. A company had purchased the property in 2012 and sought to rely on the existing consent. It therefore had to prove that works had physically commenced or else the consent would have lapsed in 2009. On appeal, the Court held that the minor works of removing trees and shrubs on the property (which was a condition of the consent) were enough to commence the consent. This is because the work was determined to be construction work that was necessary for the development to be progressed. This means that minor works, like the removal shrubs, are enough to validly commence a consent and prevent it from lapsing.

How the expanded power could be used

Summary

Data on the exercise of this power should be collected and reviewed after five years to assess its effectiveness and determine whether the prescribed period should be shortened.

Recommendation 2

That the NSW Department of Planning, Housing and Infrastructure collect data on any exercise by the Planning Secretary of the power under section 4.57(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979*.

Recommendation 3

That, in five years' time, the NSW Department of Planning, Housing and Infrastructure use the data collected under Recommendation 2 to review section 4.57(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979* and section 116A of the *Environmental Planning and Assessment Regulation 2021*. The review should determine whether:

- **the policy objective of section 4.57(1)(a)(ii) is being achieved**
- **the Act or Regulation should be amended to enable the exercise of section 4.57(1)(a)(ii) by reference to a prescribed period of inactivity, rather than the date the consent was granted**
- **section 116A of the Regulation should be amended to significantly reduce the prescribed period applicable to section 4.57(1)(a)(ii).**

3.37 For a number of reasons, the rationale for imposing a time limitation to the exercise of the expanded power is not clear to the Committee. Firstly, as we have already discussed, 'historical development consent' is not a defined concept and therefore cannot be characterised by the age since the granting of an incomplete development consent.

¹³⁶ [Cando Management and Maintenance Pty Ltd v Cumberland Council \[2019\] NSWCA 26](#).

- 3.38 Secondly, the Government has a compensation liability under subsection 4.57(7) of the Act for any exercise of the expanded power.¹³⁷ The issue of compensation liability is discussed further in Chapter Five. We agree with Clay Preshaw's argument that, because it would raise the question of compensation, the expanded power is likely to be used sparingly, and only in the most difficult circumstances, or for the most high-risk developments.¹³⁸
- 3.39 Additionally, any revocation or modification decision can be appealed under Division 8.4 of the Act. Some submission makers acknowledged that this right of appeal may complicate how the revocation or modification power under the Act could be used.¹³⁹
- 3.40 Finally, as noted by Samuel Johnson, the Planning Secretary can exercise this power at their discretion.¹⁴⁰ Therefore, regardless of the age of the consent, the Committee considers that the Secretary would only exercise the power only where it is appropriate and would achieve the intended policy objective.
- 3.41 Because the Planning Reforms Act only commenced in December 2025, there is no evidence on the impact of the reforms or how the discretionary power is being, or will be used. There are no criteria to guide when the power should be used by the Planning Secretary, for example, in circumstances where the consent has been inactive for a long time.
- 3.42 In discussing a potential test to determine whether a historical development consent should be reassessed by the Planning Secretary under this new power, EPLA emphasised that any test should use 'readily identifiable facts'. They gave the following examples:
- if the development site is not occupied for a prescribed period
 - if no works have occurred, other than what was required to prevent the consent lapsing
 - where a 'species' classified as threatened under the *Biodiversity Conservation Act 2016* is identified as being present on the development site since the consent was granted
 - where a species classified as extinct, extinct in the wild or collapsed is discovered on the development site.¹⁴¹
- 3.43 Given our concerns about whether the expanded power, as it is currently set out in the Act, will achieve its intended policy objective, the Committee recommends that the Department collect data on any exercise of the power by the Secretary.

¹³⁷ *Environmental Planning and Assessment Act 1979* s 4.57(7).

¹³⁸ Clay Preshaw, Acting Executive Director, Planning Systems Reform, Department of Planning, Housing and Infrastructure, [Transcript of evidence](#), 29 October 2025, p 14.

¹³⁹ [Submission 78](#), Hornsby Shire Council, p 2; [Submission 56](#), Blue Mountains City Council, p 7.

¹⁴⁰ Samuel Johnson, Coastal Wetlands Community Organiser, Nature Conservation Council of NSW, [Transcript of evidence](#), 28 October 2025, pp 3-4.

¹⁴¹ Environment and Planning Law Association (NSW), [Answers to supplementary questions](#), 21 November 2025, pp 1-2.

Once enough data is collected, the Department should review the effectiveness of expanded power set out in both section 4.57(1)(a)(ii) of the Act and section 116A of the Regulation. We believe five years is enough time to assess whether the power is being appropriately utilised.

- 3.44 As part of the review, particular consideration should be given to whether a limitation based on the age of a consent should remain in place. If the policy objective of the power is to address inappropriate historical development consents, the Committee submits that it may be better to determine how and when the power is exercised based on periods of inactivity.
- 3.45 If the limitation on the expanded power is to remain based on the age of the consent, the review should also determine whether the current prescribed period of 25 years should be significantly shortened. The Committee considers that the prescribed period of time under section 116A of the Regulation should be shortened so that the Planning Secretary's expanded power can address a broader range historical development consents. This will ensure that the reforms are better equipped to achieve their intended policy objective.
- 3.46 We recognise the concerns of inquiry participants that wide use of the expanded power may undermine certainty in the NSW planning system. However, as discussed above, the Committee submits that there are appropriate safeguards in place. Also, the Secretary is required to give notice to a person who may be negatively affected by a decision, and that person has an opportunity to show cause that the power should not be used.¹⁴² Further, we note that more recent consents are more likely to have been considered against a current or recent EPI. Therefore, it is unlikely that a recent consent would be an appropriate subject of the power without strong and compelling reasons.

¹⁴² *Environmental Planning and Assessment Act 1979* [s 4.57\(3\)](#).

Chapter Four – Further planning reforms to address historical development consents

Recommendation 4

That the NSW Government consider further planning reforms to prevent future problematic historical development consents, noting the suggested reforms discussed in this chapter.

- 4.1 It is still unclear what impacts the recent planning reforms discussed in the previous chapter will have on historical development consents. Several inquiry participants supported other legal reforms to address the issue of historical consents remaining dormant or incomplete for extended periods.
- 4.2 Some of the reforms suggested to the Committee are considered in detail below. Without discounting the potential impacts of the planning reforms already in place, we recommend that the Government consider further planning reforms to prevent future problematic historical development consents. As part of this process, we recommend that the Government considers the reforms proposed by inquiry stakeholders in this chapter.
- 4.3 In investigating potential options for further reform, the Committee emphasises that any future changes to the planning framework to address historical development consents should *not* apply retrospectively. This is to balance the need for preventing further problematic historical consents with preserving certainty and confidence in the existing planning landscape.

Legal deadlines to complete developments once consent granted

Summary

There was support for introducing a statutory deadline for completing developments. Supporters argued a deadline would bring NSW in line with other jurisdictions and address the key issue of uncertainty regarding historical development consents. Stakeholders also discussed the challenges of how a statutory time limit could be established and applied.

- 4.4 Inquiry participants argued that development consents should be legally required to be completed within a certain timeframe.¹⁴³ Dr Amelia Thorpe submitted that the current framework in NSW goes beyond what is necessary by indefinitely extending the validity of consents.¹⁴⁴ Community, environmental, legal and

¹⁴³ Environmental Defenders Office, [Answers to questions on notice](#), 12 November 2025, p 2; [Submission 61](#), Camden Council, pp 2-3; [Submission 66](#), Kiama Municipal Council, p 2; [Submission 83](#), Byron Shire Council, p 2; [Submission 240](#), Country Mayors Association of NSW, p 9; [Submission 80](#), Bega Valley Shire Council, p 2; [Submission 77](#), Nambucca Valley Council, p 1; [Submission 59](#), Tomaree Ratepayers and Residents Association Inc, p 4; [Submission 97](#), Sandra Lundbergs, p 2; [Submission 130](#), Dr Suzanne Allen, p 4; [Submission 190](#), David Carnovale, p 3; [Submission 246](#), Evans Head Residents for Sustainable Development, p 3; [Submission 81](#), Environmental Defenders Office, p 13; [Submission 247](#), Yamba Community Action Network Inc, p 2; [Submission 18](#), Steve Garthwin, p 1; [Submission 39](#), Blue Mountains Conservation Society, p 6; [Submission 159](#), Kingston Anderson, p 1.

¹⁴⁴ [Submission 222](#), Dr Amelia Thorpe, p 3.

government stakeholders broadly agreed with the sentiment expressed by Peter Winkler, Vice President, Manyana Matters Environmental Association, that there 'shouldn't be an opportunity for someone to start something and wait 20 years or 40 years to continue it.'¹⁴⁵

- 4.5 Some stakeholders highlighted that NSW is unique in that it permits consents to last in perpetuity once they have been commenced. Victoria, South Australia, the Northern Territory, the Australian Capital Territory and, to an extent, Queensland, each have completion dates in their planning acts.¹⁴⁶ In Queensland, Victoria and South Australia, lapsing dates can be extended on application and decision-makers consider whether the developer is intending to complete the development or 'warehouse' it.¹⁴⁷
- 4.6 The table below sets out the different statutory requirements for the lapsing of development consents in these state and territory jurisdictions. We note that completion deadlines can already be set in NSW as a condition of consent. This is discussed in further detail in Chapter Five.

Table 1: Jurisdictional comparison of statutory development lapsing provisions

Jurisdiction	Relevant legislation	Commencement requirements	Completion requirements
Australian Capital Territory	Planning Act 2023 sections 211 and 214	N/A – see 'substantially progressed' under completion requirements	An approval will generally 'end' (that is, lapse) after five years . However, a person can apply to extend this end date, if the development: 'has started and is substantially progressed' and - would still be approved on the date of this application. A development approval can be extended multiple times but for no more than two years in total .
Northern Territory	Planning Act 1999 section 3 and Part 5, Division 4	Where the permit is conditional on certain works being done, it has a 'base period' of two years (unless otherwise specified with the permit) to 'substantially commence' that work before it lapses.	If the relevant works were 'substantially commenced', the permit lapsing date is automatically extended for a further two years . The landowner can apply for an extension of time at any point before the permit lapses. There are no limitations on the number of times a landowner can apply for an extension.

¹⁴⁵ Peter Winkler, Vice-President, Manyana Matters Environmental Association, [Transcript of evidence](#), 30 October 2024, p 10.

¹⁴⁶ [Submission 32](#), Tweed Shire Council, p 3; [Submission 45](#), Department of Planning, Housing and Infrastructure, p 15.

¹⁴⁷ [Submission 45](#), Department of Planning, Housing and Infrastructure, p 16.

Jurisdiction	Relevant legislation	Commencement requirements	Completion requirements
Queensland	Planning Act 2016 section 65 and Part 5, Division 4	Unless it is for a 'material change of use' or 'reconfiguring' a lot, a development approval will lapse at the end of its 'currency period' – that is, if it is not 'substantially started' within two years , or a different period, if stated. Before it lapses, a person can apply to extend the currency period. There are no limitations on this extension of the currency period.	A consent authority can impose, as a condition of the approval, that the development or a part of it 'be completed within a stated period'. The approval lapses if the development is not completed within this period.
South Australia	Planning, Development and Infrastructure Act 2016 sections 126, 141 and 142 Planning, Development and Infrastructure Regulations 2017 cl 67	An approval will remain operative and then lapse after a period of time prescribed by the 'designated authority' (that is, the consent authority). Otherwise, it will be the time period prescribed under the regulations. Under the regulations, an approval will lapse if 'substantial work' is not 'lawfully commenced' within two years .	Once 'lawfully commenced', an approval has a further three years before it lapses, that is, is no longer 'operative'. If an approval is commenced but not substantially completed within the prescribed lapsing period, the designated authority can apply for a court order to deal with the development.
Victoria	Planning and Environment Act 1987 section 68	A permit will 'expire' (i.e. lapse) if - The development or any stage of it does not 'start' within a time specified or three years, if none is specified. - Any required plan of subdivision or consolidation is not certified within two years.	A permit will lapse if the development or any stage of it is not completed within five years after the permit is issued, or after a subdivision/consolidation plan is certified.

4.7 The Department identified statutory time limits for the completion of a development consent as being one option to address the issue of historical development consents. The Department discussed a possible model in which a statutory deadline for approved works under a consent is imposed, and if the works are not completed by that date, then the consent lapses.¹⁴⁸

4.8 Other inquiry participants supported time limits on consents to prevent long completion times. Some councils argued for the inclusion of sunset provisions in consents granted under the planning framework.¹⁴⁹ Tweed Shire Council, for

¹⁴⁸ [Submission 45](#), Department of Planning, Housing and Infrastructure, p 14.

¹⁴⁹ [Submission 66](#), Kiama Municipal Council, p 2; [Submission 83](#), Byron Shire Council, p 2; [Submission 61](#), Camden Council, p 2.

example, suggested that set completion dates would prevent historical development consents from occurring in the future.¹⁵⁰ Khal Asfour, Vice-President, Local Government NSW, argued for a completion requirement in consents, which developers would have to consider when planning their developments.¹⁵¹

- 4.9 Similarly, Blue Mountains City Council suggested that there are clear benefits to consent authorities setting completion dates in consents.¹⁵² The Law Society of NSW outlined factors that could be considered as part of a new regime for determining the completion timeframe of a development consent. Alistair Knox suggested that 'carefully calibrated and prescribed criteria developed after industry and community consultation' could be used to help determine a 'development consent period' that factors in the size, scope and complexity of a development.¹⁵³
- 4.10 The Environment and Planning Law Association (NSW) (EPLA) also highlighted a legal completion requirement as being one possible mechanism that would 'provide greater certainty and transparency regarding historical development consents.' Under the model suggested by EPLA, once a development consent is commenced, it triggers the imposition of a time limit for completion that is measured from the commencement date. EPLA argued that time limits would address the possibility of consents being dormant for an extended period of time. EPLA suggested that it may also balance developers' desire to bank consents for extended periods with instilling confidence in planning authorities that they can implement their strategic plans.¹⁵⁴
- 4.11 Dr Thorpe recommended changes to the Act so that extensions of lapsing dates for development consents should be time limited and only granted as exceptions. This would mean that a developer would have to make an application to extend the validity of a consent, and that the extension would only be granted when there is a clear and strong justification.¹⁵⁵
- 4.12 We have acknowledged in earlier chapters that there are a range of reasons why developments may not be completed for an extended period of time. Anita Hugo, NSW Executive Director, Property Council of Australia, cautioned that restricting the time between commencement and completion of a development may have unintended consequences, particularly on apartment construction.¹⁵⁶
- 4.13 While acknowledging there is scope to consider mandating completion dates, Emily Harrison, Bega Valley Shire Council, suggested that it would be a challenge

¹⁵⁰ [Submission 32](#), Tweed Shire Council, p 3.

¹⁵¹ Councillor Khal Asfour, Vice-President, Local Government NSW, [Transcript of evidence](#), 28 October 2025, p 44.

¹⁵² [Submission 56](#), Blue Mountains City Council, p 5.

¹⁵³ Alistair Knox, Chair, Environmental Planning and Development Committee, The Law Society of NSW, [Transcript of evidence](#), 5 November 2025, p 2.

¹⁵⁴ [Submission 84](#), Environment and Planning Law Association (NSW), pp 3-4.

¹⁵⁵ [Submission 222](#), Dr Amelia Thorpe, p 4.

¹⁵⁶ Anita Hugo, NSW Executive Director, Property Council of Australia, [Transcript of evidence](#), 28 October 2025, p 10.

to ensure that this does not disincentivise development.¹⁵⁷ Similarly, Andrew Pickles, SC, Member, EPLA, warned that time limits for developments would have significant consequences on both the community and developers, in terms of the ability to bring developments to market. He highlighted the difficulty in determining the appropriate time limit for a consent, saying it would be 'anyone's guess'.¹⁵⁸

- 4.14 Separately, witnesses from the Department noted that it may be challenging to apply statutory completion deadlines or sunset clauses to staged developments.¹⁵⁹ More specifically, Clay Preshaw told us that it would be difficult to legislate for deadlines without interfering with the staging of a development that has been approved with multiple stages. The question of whether each stage would need a separate commencement test would be hard to determine.¹⁶⁰
- 4.15 Rachel Chick, Senior Solicitor, Environmental Defenders Office (EDO), identified 'panic clearing' of land by developers as being another possible unintended consequence. She said that it is a risk when there is a timeframe put on completion or commencement, though she suggested that the risk may be reduced by the considered design of the legislation.¹⁶¹
- 4.16 The Committee acknowledges that there are certain risks to consider when considering the imposition of statutory completion timeframes. The Committee also acknowledges that extensive consultation with affected stakeholders would need to be undertaken for this reform to be usefully implemented. However, we recognise the potential benefits of introducing completion timelines into the planning framework, noting that they would bring NSW into line with other Australian jurisdictions and that they would likely restrict the occurrence of dormant developments.

Power to reassess development consents and consent conditions against contemporary planning standards

Summary

Stakeholders argued that allowing historical development consents to be reassessed against contemporary standards would ensure that these developments align with community expectations and existing scientific knowledge. Possible triggers for a reassessment were also proposed by inquiry participants.

¹⁵⁷ Emily Harrison, Director, Community, Environment and Planning, Bega Valley Shire Council, [Transcript of evidence](#), 28 October 2025, p 40.

¹⁵⁸ Andrew Pickles, President, Environment and Planning Law Association (NSW), [Transcript of evidence](#), 29 October 2025, p 7.

¹⁵⁹ Clay Preshaw, Acting Executive Director, Planning Systems Reform, Department of Planning, Housing and Infrastructure, [Transcript of evidence](#), 29 October 2025, p 16; Daniel Thompson, Executive Director, Local Planning and Council Support, Department of Planning, Housing and Infrastructure, [Transcript of evidence](#), 29 October 2025, p 17.

¹⁶⁰ Clay Preshaw, Acting Executive Director, Planning Systems Reform, Department of Planning, Housing and Infrastructure, [Transcript of evidence](#), 29 October 2025, p 17.

¹⁶¹ Rachel Chick, Senior Solicitor, Environmental Defenders Office, [Transcript of evidence](#), 28 October 2025, p 8.

- 4.17 Another approach to address historical consents that was suggested by inquiry participants was to introduce a power into the NSW planning framework to require consents to be reassessed against contemporary standards.¹⁶² For example, the Department suggested that amendments to the Act to provide for the reassessment of commenced, but incomplete consents was one option to address 'past and future' historical development consents.¹⁶³ The Department also noted that reassessment or revocation of a consent may result in less people being exposed to natural hazards in NSW.¹⁶⁴
- 4.18 Inquiry participants discussed a range of issues or factors that could trigger the reassessment of an approved consent.
- 4.19 The Department submitted that a consent could be reassessed in circumstances where:
- new planning information identifies significant flooding, bushfire and environmental concerns
 - work has commenced but has not been completed within a certain period that is defined by the type and scale of the development.¹⁶⁵
- 4.20 The Nature Conservation Council of NSW (NCC) also recommended introducing a legislative mechanism to allow local and State government to reassess a development where circumstances have changed since the approval was granted.¹⁶⁶ Similarly, Dr Thorpe called for legislative reforms to require reassessment of a consent where planning controls or the local context have changed since the approval of a development.¹⁶⁷
- 4.21 Samuel Johnson, Coastal Wetlands Community Organiser, NCC, said that it would be up to the Government to define what should trigger reassessment.¹⁶⁸ However, he argued that consents should only be reassessed when there is clear evidence that the consent is contrary to existing laws and does not meet current standards, for example, where threatened species exist but the environmental impact assessment process was never undertaken or is less than what is required today.¹⁶⁹

¹⁶² Cat Holloway, Member, Callala Matters, [Transcript of evidence](#), 30 October 2024, p 7; Peter Winkler, Vice-President, Manyana Matters Environmental Association, [Transcript of evidence](#), 30 October 2024, p 6; [Submission 63](#), National Parks Association of NSW, Milton Branch, p 6; [Submission 81](#), Environmental Defenders Office, pp 3,11; [Submission 83](#), Byron Shire Council, p 2; [Submission 241](#), Shoalhaven City Council, p 9; [Submission 42](#), Goulburn Mulwaree Council, p 3; [Submission 222](#), Dr Amelia Thorpe, p 4; [Submission 35](#), Huskisson Heritage Association Inc, p 1; [Submission 38](#), Blue Mountains Conservation Society Inc, p 1; [Submission 169](#), Simone O'Brien, p 1; [Submission 177](#), Sue Tolley, p 7; [Submission 190](#), David Carnovale, p 3.

¹⁶³ [Submission 45](#), Department of Planning, Housing and Infrastructure, p 15.

¹⁶⁴ [Submission 45](#), Department of Planning, Housing and Infrastructure, p 8.

¹⁶⁵ [Submission 45](#), Department of Planning, Housing and Infrastructure, p 15.

¹⁶⁶ [Submission 65](#), Nature Conservation Council of NSW, p 2.

¹⁶⁷ [Submission 222](#), Dr Amelia Thorpe, pp 1, 4.

¹⁶⁸ Samuel Johnson, Coastal Wetlands Community Organiser, [Transcript of evidence](#), 28 October 2025, p 3.

¹⁶⁹ Samuel Johnson, Coastal Wetlands Community Organiser, [Transcript of evidence](#), 28 October 2025, pp 3-4.

- 4.22 Other stakeholders suggested that consents should be reassessed:
- where activities would have a substantially greater impact than what was identified at the time of the approval¹⁷⁰
 - if it is in the public interest¹⁷¹
 - after a specific period of time.¹⁷²
- 4.23 Alistair Knox suggested that the mechanism for reassessment could be via the issuing of a notice to a consent holder. The notice would give the consent holder an opportunity to have the consent reassessed under current planning laws or else accept the lapsing of the consent.¹⁷³
- 4.24 However, EPLA advised caution in considering this approach. Janet McKelvey spoke about the risk of a consent holder prematurely clearing land to minimise the risk of their consent being reassessed and refused because of a change in the threatened status of an affected species.¹⁷⁴ Andrew Pickles, SC suggested that the reassessment of historical consents would be complicated as it would require significant additional resourcing for councils to do the work.¹⁷⁵
- 4.25 The Committee considers that empowering local councils and the State Government to reassess consents may address risks created by historical development consents. However, we recognise that this approach would also require substantial amendments to the Act and additional resources for councils and the State Government. In addition, it would require comprehensive consultation with industry and community stakeholders to ensure that there are no unintended consequences. Further, the Committee considers that the reassessment power should be used in limited circumstances and only where there is compelling justification to do so.

Strengthening the physical commencement test

Summary

Given the concerns that the existing physical commencement test may not be strong enough to prevent historical development consents, stakeholders recommended further amending the test. A number of proposals were raised, including reverting to the 'substantial commencement' test, amending the Regulation to set out a positive definition of commencement, requiring a genuine commitment to complete a development, and shortening or tiering the lapsing period.

¹⁷⁰ [Submission 81](#), Environmental Defenders Office, p 13; [Submission 83](#), Byron Shire Council, p 2.

¹⁷¹ Samuel Johnson, Coastal Wetlands Community Organiser, [Transcript of evidence](#), 28 October 2025, pp 3-4.

¹⁷² Environmental Defenders Office, [Answers to questions on notice](#), 12 November 2025, p 1.

¹⁷³ Alistair Knox, Chair, Environmental Planning and Development Committee, The Law Society of NSW, [Transcript of evidence](#), 5 November 2025, p 2.

¹⁷⁴ Janet McKelvey, President, Environment and Planning Law Association (NSW), [Transcript of evidence](#), 29 October 2025, p 8.

¹⁷⁵ Andrew Pickles, President, Environment and Planning Law Association (NSW), [Transcript of evidence](#), 29 October 2025, p 8.

- 4.26 As discussed in the previous chapter, the Committee heard concerns that the current physical commencement test under section 96 of the Regulation is not strong enough to prevent future occurrences of historical development consents based on minor works. Both Local Government NSW and Tweed Shire Council argued that increasing the bar for physical commencement may help to reduce the risk of historical developments arising in the future.¹⁷⁶
- 4.27 Clay Preshaw, Acting Executive Director, Planning Systems Reform, Department of Planning, Housing and Infrastructure, acknowledged that there is scope to strengthen or tighten the requirements of physical commencement through regulations if it is appropriate.¹⁷⁷ Daniel Thompson, Executive Director, Local Planning and Council Support, Department of Planning, Housing and Infrastructure, similarly suggested that section 96 could be 'tightened up ... beyond what we have at the moment'.¹⁷⁸
- 4.28 Inquiry participants called for changes to the commencement test to encourage the completion of developments, and suggested the following reforms:
- requiring 'substantial commencement', rather than 'physical commencement'
 - inserting a positive definition of physical commencement, rather than listing what does *not* constitute physical commencement
 - requiring evidence of a genuine commitment to progress and complete a development
 - decreasing the lapsing period or introducing tiered lapsing periods.
- 4.29 The Committee has considered these suggestions in detail, below.
- 4.30 Stakeholders from the property development industry told us that the current definition of physical commencement is adequate. OzyHomes, a property developer, argued that a higher threshold for physical commencement would mean that many consents across NSW will effectively be deemed to have lapsed.¹⁷⁹
- 4.31 The Property Council of Australia cautioned against changes to the definition of 'physical commencement' as it would undermine the certainty and industry confidence in consents that have already been physically commenced.¹⁸⁰ Urban Development Institute of Australia also warned that changing the definition would create uncertainty at a time when the feasibility of development is already compromised.¹⁸¹

¹⁷⁶ [Submission 243](#), Local Government NSW, p 9; [Submission 32](#), Tweed Shire Council, p 15.

¹⁷⁷ Clay Preshaw, Acting Executive Director, Planning Systems Reform, Department of Planning, Housing and Infrastructure, [Transcript of evidence](#), 29 October 2025, p 13.

¹⁷⁸ Daniel Thompson, Executive Director, Local Planning and Council Support, Department of Planning, Housing and Infrastructure, [Transcript of evidence](#), 29 October 2025, p 13.

¹⁷⁹ [Submission 245](#), OzyHomes, p 5.

¹⁸⁰ [Submission 86](#), Property Council of Australia, p 3.

¹⁸¹ [Submission 52](#), Urban Development Institute of Australia NSW, p 3.

- 4.32 The Committee acknowledges these concerns and recognises that there are risks associated with changing the current commencement test. However, we consider that investigating further reforms to strengthen the physical commencement test may help to address issues associated with historical development consents, including improving certainty for stakeholders about when a consent has been commenced.

Restoring the requirement of 'substantial commencement'

- 4.33 Many stakeholders suggested changing the test so that it requires more substantial works to be completed to satisfy the requirements of commencement.¹⁸² Dr Thorpe argued that commencing construction should not be enough for a consent to last beyond five years. Substantial works should, instead, be required, and these works should be 'actively and substantially ongoing'.¹⁸³
- 4.34 The EDO also recommended tightening the requirement for physical commencement to require 'more substantive works' within a certain timeframe to prevent a consent from lapsing.¹⁸⁴
- 4.35 Tweed Shire Council described the current physical commencement test as being relatively low compared to other jurisdictions, which require more substantial commencement.¹⁸⁵ The Council further advised that the NSW planning framework previously required 'substantial commencement' before it was replaced by 'physical commencement'.¹⁸⁶
- 4.36 The Department acknowledged that consideration could be given to reintroducing and defining the test of 'substantial commencement' as one option for addressing historical development consents. It submitted that the substantial commencement test could require more substantive work to be done to prevent a consent from lapsing, and that it would help ensure that a developer has 'a genuine commitment ... to complete the development'.¹⁸⁷
- 4.37 However, inquiry participants also expressed concerns about the possible risks of changing the test to require 'substantial' work. As Daniel Thompson from the

¹⁸² [Submission 80](#), Bega Valley Shire Council, p 1; [Submission 81](#), Environmental Defenders Office, p 6; [Submission 61](#), Camden Council, p 2; [Submission 63](#), National Parks Association of NSW, Milton Branch, p 6; [Submission 241](#), Shoalhaven City Council, p 9; [Submission 243](#), Local Government NSW, pp 11-12; Peter Winkler, Vice-President, Manyana Matters Environmental Association, [Transcript of evidence](#), 30 October 2024, p 10; Matthew Gould, Mayor, Wollondilly Shire Council, [Transcript of evidence](#), 28 October 2025, p 25; [Submission 222](#), Dr Amelia Thorpe, p 1; [Submission 53](#), Hallidays Point Community Action Group, p 6; [Submission 59](#), Tomaree Ratepayers and Residents Association Inc, p 4; [Submission 69](#), Friends of Coila, p 5; [Submission 70](#), Better Planning Network Inc, p 2; [Submission 171](#), David Rawlins, p 1; [Submission 247](#), Yamba Community Action Network Inc, p 2.

¹⁸³ [Submission 222](#), Dr Amelia Thorpe, pp 1, 4.

¹⁸⁴ Environmental Defenders Office, [Answers to questions on notice](#), 12 November 2025, p 2.

¹⁸⁵ [Submission 32](#), Tweed Shire Council, p 3.

¹⁸⁶ [Submission 32](#), Tweed Shire Council, pp 14-15.

¹⁸⁷ [Submission 45](#), Department of Planning, Housing and Infrastructure, p 14.

Department cautioned, you would have to be 'very careful' about what the parameters for 'substantial commencement' are.¹⁸⁸

- 4.38 Janet McKelvey, President, EPLA, explained why NSW should not return to a substantial commencement test and why she did not support changes to the test to require more substantive works.¹⁸⁹ She said that a qualitative test like 'substantial commencement' could lead to inconsistent decisions¹⁹⁰, and the previous test of substantial commencement 'was done away with historically for good reason'.¹⁹¹ Unlike the concept of 'substantial commencement', Janet McKelvey suggested that the concept of 'physical commencement' is better understood based on existing caselaw.¹⁹²
- 4.39 The Committee agrees that requiring substantial works to prevent lapsing could prevent historical development consents from occurring in future. This is because developers would have to demonstrate that they are progressing developments in a meaningful way for the consents to remain valid. However, this approach may pose legal and other challenges, as the definition of what is a 'substantial work' is subjective, which may cause unnecessary confusion and uncertainty for consent holders.

Amending the test to include a positive definition of commencement

- 4.40 In Chapter One, the Committee discussed the uncertainty expressed by stakeholders about the current definition of 'physical commencement'. As noted above, the Department recognised that the test, under section 96 of the Regulation, only lists what does not count as physical commencement, rather than what does constitute commencement. Blacktown City Council described the law governing commencement as being 'too vague and uncertain' because it does not clearly identify exactly what works constitute the physical commencement of a development consent.¹⁹³
- 4.41 Some inquiry participants told us that the test should include a clear and positive definition of what works, or kinds of works, would 'physically commence' a consent and prevent it from lapsing.¹⁹⁴ The Country Mayors Association of NSW argued that there should be an 'unambiguous' definition of commencement.¹⁹⁵

¹⁸⁸ Daniel Thompson, Executive Director, Local Planning and Council Support, Department of Planning, Housing and Infrastructure, [Transcript of evidence](#), 29 October 2025, p 13.

¹⁸⁹ Janet McKelvey, President, Environment and Planning Law Association (NSW), [Transcript of evidence](#), 29 October 2025, p 7.

¹⁹⁰ Janet McKelvey, President, Environment and Planning Law Association (NSW), [Transcript of evidence](#), 29 October 2025, p 5.

¹⁹¹ Janet McKelvey, President, Environment and Planning Law Association (NSW), [Transcript of evidence](#), 29 October 2025, p 2.

¹⁹² Janet McKelvey, President, Environment and Planning Law Association (NSW), [Transcript of evidence](#), 29 October 2025, p 7.

¹⁹³ [Submission 242](#), Blacktown City Council, p 3.

¹⁹⁴ [Submission 56](#), Blue Mountains City Council, p 4; [Submission 242](#), Blacktown City Council, p 3; [Submission 34](#), Eurobodalla Shire Council, p 2; [Submission 69](#), Friends of Coila, p 5.

¹⁹⁵ [Submission 240](#), Country Mayors Association of NSW, p 9.

Similarly, Hornsby Shire Council called for 'specific requirements to demonstrate physical commencement'.¹⁹⁶

- 4.42 The Committee considers that amending the test under section 96 of the Regulation to provide a positive definition of 'physical commencement' would provide greater clarity for consent holders, consent authorities and communities. However, significant work would be needed to ensure that any positive definition was flexible enough to capture an appropriately wide range of physical works.

The test could require the demonstration of a genuine commitment to complete a development

- 4.43 One issue raised by stakeholders with the current physical commencement test was that it does not require a developer to demonstrate a genuine commitment to complete a development. Blue Mountains City Council told us that physical commencement is often only tenuously demonstrated by work that is not a substantial proportion of the overall development.¹⁹⁷
- 4.44 Some inquiry participants advocated for a requirement that consent holders 'genuinely' complete or progress a development to prevent a consent from lapsing.¹⁹⁸ Julie Briggs, Policy Advisor, Country Mayors Association of NSW, argued for a 'genuine test about their commitment to actually delivering on the development that has been approved'.¹⁹⁹ This would require a developer to provide evidence that a development is progressing towards completion, which could be assessed by the relevant council.
- 4.45 Separately, Blue Mountains City Council suggested that including certain indicators in the commencement test would 'demonstrate a commitment to the approved development and an intention to complete it as approved.' The Council proposed the following as possible indicators:
- when there has been expenditure of 10 per cent of the estimated development costs
 - if a proportion (e.g. 10 per cent) of the approved works have been completed
 - if specific elements of the approved works have been completed (for example, site preparation).²⁰⁰
- 4.46 Other stakeholders recommended an expenditure test to demonstrate the intention to complete a development. Penrith City Council, for example, recommended requiring a threshold amount of required construction costs to facilitate development completion.²⁰¹ Shoalhaven City Council, on the other

¹⁹⁶ [Submission 78](#), Hornsby Shire Council, p 2.

¹⁹⁷ [Submission 56](#), Blue Mountains City Council, p 3.

¹⁹⁸ Cat Holloway, Member, Callala Matters, [Transcript of evidence](#), 30 October 2024, p 7.

¹⁹⁹ Julie Briggs, Policy Advisor, Country Mayors Association of NSW, [Transcript of evidence](#), 28 October 2025, p 45.

²⁰⁰ [Submission 56](#), Blue Mountains City Council, p 4.

²⁰¹ [Submission 68](#), Penrith City Council, p 3.

hand, recommended requiring a percentage of the total value invested in the consent.²⁰²

- 4.47 This option may address a problem with the existing framework by encouraging developers to progress construction towards completion. However, the Committee notes that this would place an additional administrative burden on developers and a compliance burden on consent authorities, particularly local councils.

Shortening the lapsing period or introducing a tiered approach

- 4.48 Another possible reform suggested by some stakeholders was to reduce the time period before lapsing, or to create a tiered approach to lapsing dates that allowed consent holders to apply for extensions.²⁰³ Blue Mountains City Council submitted that there are clear benefits to the application of shorter lapsing timeframes, noting that this used to be the case under the Act when it was first introduced.²⁰⁴
- 4.49 Penrith City Council also recommended reducing the lapsing period to two years rather than the current five years, with the option for an extension of no more than 12 months.²⁰⁵ Other stakeholders also supported a reduced period of two years in which a consent must be commenced before it lapses.²⁰⁶
- 4.50 The Law Society of NSW suggested that a mechanism could be added to the planning framework to determine whether a particular consent should lapse or not. This would take into account work that has already been undertaken and also consider how to manage projects that are partially completed. It could also include factors that would provide a right to apply for an extension of the completion period.²⁰⁷
- 4.51 The Committee notes that reducing the lapsing period to two years or introducing tiered approaches to lapsing may limit the number of historical development consents that occur in the future. However, we submit that these approaches only deal with timeframes for lapsing and therefore do not impact the threshold of physical works that are currently sufficient to prove commencement of a consent and prevent it from lapsing. The Committee cautions against any mechanism that only concerns time periods for lapsing while not addressing the other fundamental factors that permit historical development consents to stall and not progress towards completion.

²⁰² [Submission 241](#), Shoalhaven City Council, p 9.

²⁰³ [Submission 38](#), Blue Mountains Conservation Society Inc, p 1; [Submission 59](#), Tomaree Ratepayers and Residents Association Inc, p 4; [Submission 70](#), Better Planning Network, p 2.

²⁰⁴ [Submission 56](#), Blue Mountains City Council, pp 4-5.

²⁰⁵ [Submission 68](#), Penrith City Council, p 2.

²⁰⁶ Peter Newton, President, Kingscliff Ratepayers and Progress Association, [Transcript of evidence](#), 30 October 2024, p 2; [Submission 222](#), Dr Amelia Thorpe, p 4; Local Government NSW, [Answers to supplementary questions](#), 11 November 2025, p 3.

²⁰⁷ [Submission 85](#), The Law Society of NSW, p 7.

Chapter Five – Managing existing historical development consents

Improving transparency in relation to the status of development consents

Summary

Greater transparency and better public information about historical development consents is needed. While there are various practical challenges to creating and maintaining a centralised database of historical development consents, there is broad support for a register. Requiring the holders of unrecorded development consents to provide details of consents will help ensure that any register that is established is comprehensive and accurate.

- 5.1 A key issue raised across community, environmental, government and legal stakeholders during the inquiry was the uncertainty about the number of historical development consents that are currently operating.²⁰⁸
- 5.2 Tweed Shire Council said 'whether a consent is a danger of recommencing is often beyond the knowledge of even the local council.'²⁰⁹ Judith Portelli, Manager, Development Assessment, Blacktown City Council, indicated that she did not know if the Council maintained records in relation to historical development consents. She remarked that it would be 'up to an applicant to approach us ... we don't go looking for them.'²¹⁰
- 5.3 Despite good record keeping and local knowledge, a witness from Blue Mountains City Council noted that the Council could never really be sure about the number of historical development consents operating in the local government area (LGA).²¹¹ Will Langevad, Director, Environment and Planning Service, Blue Mountains City Council, recounted an example of only learning about a 1962 consent when the consent holder approached the Council to confirm that the development had been commenced by a single course of bricks.²¹²
- 5.4 The Department of Planning, Housing and Infrastructure (the Department) acknowledged that communities and neighbouring properties are often unaware

²⁰⁸ [Submission 243](#), Local Government NSW, pp 9, 10; [Submission 32](#), Tweed Shire Council, pp 2, 16; Colin Lidiard, Committee Member, Kingscliff Ratepayers and Progress Association, [Transcript of evidence](#), 30 October 2024, p 4; Samuel Johnson, Coastal Wetlands Community Organiser, Nature Conservation Council of NSW, [Transcript of evidence](#), 28 October 2025, p 3; Alex Williams, Manager, Development and Building Services, Blue Mountains City Council, [Transcript of evidence](#), 28 October 2025, p 29.

²⁰⁹ [Submission 32](#), Tweed Shire Council, p 2.

²¹⁰ Judith Portelli, Manager, Development Assessment, Blacktown City Council, [Transcript of evidence](#), 28 October 2025, p 36.

²¹¹ Alex Williams, Manager, Development and Building Services, Blue Mountains City Council, [Transcript of evidence](#), 28 October 2025, p 29.

²¹² Will Langevad, Director, Environment and Planning Service, Blue Mountains City Council, [Transcript of evidence](#), 28 October 2025, p 26.

of historical development consents 'and [become] concerned once works or notification of proposed works is given.'²¹³ A number of councils and community advocacy groups described residents being distressed or complaining when work restarts on a site that they had not been aware was subject to a valid consent.²¹⁴

A central 'register' or 'tracker' of historical development consents

Recommendation 5

That the NSW Department of Planning, Housing and Infrastructure modify the NSW Planning Portal to include a centralised development application and consents tracker. The tracker database should:

- **include all relevant development applications and consents that are in progress**
- **allow all consent authorities, including local governments, to input data into the database**
- **note the lapsing date and commencement status of development consents.**

- 5.5 There is a clear need for better transparency and public information about historical development consents. Both Local Government NSW and Manyana Matters Environmental Association submitted that governments cannot properly address the issues caused by historical development consents without having a better picture of the number of historical development consents that are in progress.²¹⁵ Tweed Shire Council agreed, stating that 'the extent of the problem (at least with respect to existing historical developments) needs to be better understood' before reforms to address the problem can be considered.²¹⁶
- 5.6 Local Government NSW was concerned that a member of the public could not 'easily and quickly understand what development consents remain in force and potentially affect their local area.'²¹⁷ Tweed Shire Council was similarly concerned that prospective buyers could not, when purchasing a property, properly factor in potential developments using available register and title searches.²¹⁸
- 5.7 Daniel Thompson, Executive Director, Local Planning and Council Support, Department of Planning, Housing and Infrastructure, recognised that there may be a public information gap, despite consents being recorded and published via the NSW Planning Portal. This is because 'the completion of the consents is

²¹³ [Submission 45](#), Department of Planning, Housing and Infrastructure, p 8.

²¹⁴ [Submission 32](#), Tweed Shire Council, pp 2, 16; [Submission 61](#), Camden Council, p 2; [Submission 68](#), Hornsby Shire Council, p 1; [Submission 41](#), VOWW, KKEPS, and EcoNetwork Port Stephens, p 1; [Submission 243](#), Local Government NSW, p 9; Matthew Gould, Mayor, Wollondilly Shire Council, [Transcript of evidence](#), 28 October 2025, pp 30-31; Shoalhaven City Council, [Answers to supplementary questions](#), 25 November 2024, p 2.

²¹⁵ [Submission 243](#), Local Government NSW, p 10; [Submission 40](#), Manyana Matters Environmental Association, p 7.

²¹⁶ [Submission 32](#), Tweed Shire Council, p 16.

²¹⁷ [Submission 243](#), Local Government NSW, p 9.

²¹⁸ [Submission 32](#), Tweed Shire Council, p 2.

something that's not readily available and not always well recorded.'²¹⁹ He also acknowledged that education and awareness is 'something we [the Department] can work with our councils on.'²²⁰

- 5.8 The Department submitted that a 'register of historical development consents' was one option for capturing information about historical development consents and making the information publicly available and accessible. It noted that a register could require local councils to track 'physically commenced subdivision development applications' to improve community awareness of development applications in their LGAs.²²¹
- 5.9 The Committee heard broad support for a statewide register or database of historical development consents.²²² For example, Alex Williams, Manager, Development and Building Services, Blue Mountains City Council, said that establishing a public register of historical development consents would have 'public trust, accountability and transparency benefits' without retrospectively impacting property rights.²²³
- 5.10 However, some inquiry participants expressed reservations. Tweed Shire Council, for example, remarked that any register 'would be limited and associated limitations of reliability would apply.'²²⁴ The Law Society of NSW did not support a register and told us that a notification of commencement regime, coupled with an awareness campaign would be more effective in educating the public about the existence of historical development consents.²²⁵
- 5.11 Noting the stakeholder views expressed in the previous paragraph, we are not recommending any formal mechanism to confirm the commencement of consents for the reasons discussed in Chapter One. The Committee is of the view that a central register has the potential to capture valuable data and other information about historical development consents and make this information transparently available and accessible to the public. For this reason we have recommended that a register or centralised development application and consents tracker be established to track all applications and consents currently in progress.

²¹⁹ Daniel Thompson, Executive Director, Local Planning and Council Support, Department of Planning, Housing and Infrastructure, [Transcript of evidence](#), 29 October 2025, p 12.

²²⁰ Daniel Thompson, Executive Director, Local Planning and Council Support, Department of Planning, Housing and Infrastructure, [Transcript of evidence](#), 29 October 2025, p 20.

²²¹ [Submission 45](#), Department of Planning, Housing and Infrastructure, p 14.

²²² Colin Lidiard, Committee Member, Kingscliff Ratepayers and Progress Association, [Transcript of evidence](#), 30 October 2024, pp 4-5; Alex Williams, Manager, Development and Building Services, Blue Mountains City Council, [Transcript of evidence](#), 28 October 2025, p 28; Matthew Gould, Mayor, Wollondilly Shire Council, [Transcript of evidence](#), 28 October 2025, p 30; Shoalhaven City Council, [Answers to supplementary questions](#), 25 November 2024, p 1.

²²³ Alex Williams, Manager, Development and Building Services, Blue Mountains City Council, [Transcript of evidence](#), 28 October 2025, p 28.

²²⁴ Tweed Shire Council, [Answers to supplementary questions](#), 28 November 2024, p 5.

²²⁵ The Law Society of NSW, [Answers to questions on notice and supplementary questions](#), 25 November 2025, pp 3-4.

Information that could be captured in a register or tracker

- 5.12 Several stakeholders suggested that the register should set out information about the development 'status' or timeline of a consent.²²⁶ The latter would be new information that is not currently captured by local governments.²²⁷
- 5.13 Blue Mountains City Council strongly advocated for a formal process to confirm commencement through a private certification system, and noted that a 'commencement certificate' issued as part of the process could be recorded in a register.²²⁸ While we would invite the Department to consider this suggestion, for reasons we have discussed, the Committee is not recommending any formal mechanism to confirm commencement, including a private certification process.
- 5.14 Currently a court determination is the only way to authoritatively confirm commencement of a development consent. Therefore, we suggest that there is value in including information about whether a consent has been subject to a court determination in a register, or tracker. Even an unconfirmed status would inform the public that a consent could still be acted upon.

Challenges in establishing and maintaining a register, or tracker

- 5.15 A number of inquiry participants submitted that developing a register of historical development consents would be challenging.²²⁹ Clay Preshaw, Acting Executive Director, Planning Systems Reform, Department of Planning, Housing and Infrastructure, cautioned that there would be distinct administrative and resourcing challenges, depending on the scope of the register. He said:
- ... at the most extreme level, what you could be trying to achieve is a register of all the development consents that have ever been issued in the history of New South Wales, and then details about whether those were ever acted on—as in commenced—and whether they were then completed. That's information that clearly we [the Department] don't have available on any particular register that I'm aware of.²³⁰
- 5.16 Rachael Chick, Senior Solicitor, Environmental Defenders Office (EDO), suggested that the information that may be captured by a register would be hard to locate, because it is 'everywhere, over all local government areas and with the planning department.'²³¹ She said that the older the consent, the more unlikely it is that anyone other than the consent holder would have copies or records of it.

²²⁶ Shoalhaven City Council, [Answers to supplementary questions](#), 25 November 2024, p 2; Rachael Chick, Senior Solicitor, Environmental Defenders Office, [Transcript of evidence](#), 28 October 2025, p 8; Will Langevad, Director, Environment and Planning Service, Blue Mountains City Council, [Transcript of evidence](#), 28 October 2025, p 30.

²²⁷ NSW Department of Planning, Housing and Infrastructure, [Answers to supplementary questions](#), 13 November 2025, p 1.

²²⁸ Will Langevad, Director, Environment and Planning Service, Blue Mountains City Council, [Transcript of evidence](#), 28 October 2025, pp 27-28.

²²⁹ See e.g. Shoalhaven City Council, [Answers to supplementary questions](#), 25 November 2024, p 1.

²³⁰ Clay Preshaw, Acting Executive Director, Planning Systems Reform, Department of Planning, Housing and Infrastructure, [Transcript of evidence](#), 29 October 2025, p 12.

²³¹ Rachael Chick, Senior Solicitor, Environmental Defenders Office, [Transcript of evidence](#), 28 October 2025, p 7.

However, she remarked that maintaining a central database 'would be pretty doable' once the information is obtained and digitally preserved.²³²

- 5.17 The difficulties with collecting comprehensive information about historical development consents was echoed by Mayor Matthew Gould, Wollondilly Shire Council, who told us that the while the Council has good records of consents dating back to 2000, prior to that 'it becomes far more spotty' because '[the records are] not necessarily computerised', if they exist at all.²³³
- 5.18 Will Langevad, Blue Mountains City Council, noted that while the Council maintains extensive electronic and physical records of consents, they simply confirm the existence of a granted consent and do not indicate whether the consent has been commenced, or not.²³⁴
- 5.19 Another major issue that was highlighted by Local Government NSW is that councils lack the 'information or resources to track all development consents from approval through to physical commencement and then to completion.'²³⁵ Khal Asfour, Vice-President, Local Government NSW, described resourcing and the cost burden as being 'the number one issue for local government, especially for regional councils' towards establishing a tracker or register.²³⁶ Though the Country Mayors Association of NSW supported the idea of a public register, Mayor Russell Fitzpatrick, Deputy Chairman, acknowledged that councils were not resourced to do the work of collecting the information .²³⁷
- 5.20 The Committee recognises that, regardless of scope, establishing a public register, or tracker and using it to capture information about the commencement and/or completion status of consents will require a great deal of time and resources, which is beyond the capacity of most local councils. For this reason, we agree with Shoalhaven City Council's recommendation that the Department be primarily responsible for developing the register, but that it consults extensively with councils as part of the process.²³⁸
- 5.21 Several witnesses supported modifying the existing NSW Planning Portal to incorporate a register, or tracker of historical development consents.²³⁹ While

²³² Rachael Chick, Senior Solicitor, Environmental Defenders Office, [Transcript of evidence](#), 28 October 2025, p 7.

²³³ Matthew Gould, Mayor, Wollondilly Shire Council, [Transcript of evidence](#), 28 October 2025, p 30.

²³⁴ Will Langevad, Director, Environment and Planning Service, Blue Mountains City Council, [Transcript of evidence](#), 28 October 2025, pp 26-27.

²³⁵ [Submission 243](#), Local Government NSW, p 10.

²³⁶ Councillor Khal Asfour, Vice-President, Local Government NSW, [Transcript of evidence](#), 28 October 2025, p 42.

²³⁷ Councillor Russell Fitzpatrick, Deputy Chairman, Country Mayors Association of NSW, and Mayor, Bega Valley Shire Council, [Transcript of evidence](#), 28 October 2025, p 41.

²³⁸ Shoalhaven City Council, [Answers to supplementary questions](#), 25 November 2024, p 2. See also the evidence of Peter Winkler calling for the Government to lead an audit of historical development consents: Peter Winkler, Vice-President, Manyana Matters Environmental Association, [Transcript of evidence](#), 30 October 2024, p 6.

²³⁹ Alex Williams, Manager, Development and Building Services, Blue Mountains City Council, [Transcript of evidence](#), 28 October 2025, p 28; Will Langevad, Director, Environment and Planning Service, Blue Mountains City Council, [Transcript of evidence](#), 28 October 2025, p 30; Judith Portelli, Manager, Development Assessment, Blacktown City Council, [Transcript of evidence](#), 28 October 2025, pp 36-37; Rachael Chick, Senior Solicitor, Environmental Defenders Office, [Transcript of evidence](#), 28 October 2025, p 8; compare this with: Environmental Defenders Office, [Answers to questions on notice and supplementary questions](#), 12 November 2025, p 3.

acknowledging that a range of information can currently be captured by the Planning Portal, David Reynolds, Chief Executive, Local Government NSW, did caution that there would be challenges with capturing the necessary additional information via the Portal.²⁴⁰

- 5.22 Clay Preshaw, Acting Executive Director, Planning Systems Reform, Department of Planning, Housing and Infrastructure, described a number of practical challenges in adapting the Planning Portal to include the commencement and completion status of consents.²⁴¹ He detailed the complexity of implementing changes to the Portal because it must be adapted to each council's individual information management systems. This would need additional resources that, again, may be beyond some councils' capacities.²⁴²
- 5.23 Information about developments being held across the various levels of government is a key barrier to improving community awareness. The Committee submits that a central database is needed to act as a 'one-stop shop' for public information on development consents. While adapting the Portal would require significant work by the Department, the Portal is already relied on by the public for online access to important information about developments.
- 5.24 For this reason, the Committee recommends that the Department modify the Planning Portal so it can also serve as a central development application and consents register, or tracker. The update should be co-designed with local councils to enable them and other consent authorities to easily and efficiently input data into the register.

Collecting the necessary information for the register, or tracker

Recommendation 6

That, after the centralised development application and consents tracker database has been established, the NSW Government require holders of any purported development consent not recorded in the database, and believed not to have lapsed, to provide details of the consent to the NSW Department of Planning, Housing and Infrastructure within a prescribed period.

- 5.25 As discussed earlier in this chapter, maintaining a centralised database of historical development consents is made difficult by inconsistent record keeping. This poses a particular challenge for any public body seeking to collect the information. One potential solution suggested by inquiry participants was to place the burden on consent holders to provide the information.
- 5.26 Manyana Matters recommended that holders of historical development consents should be required to report the consents to the Department, and that they should be penalised by having their consents cancelled by default if they fail to do

²⁴⁰ David Reynolds, Chief Executive, Local Government NSW, [Transcript of evidence](#), 28 October 2025, p 41.

²⁴¹ Clay Preshaw, Acting Executive Director, Planning Systems Reform, Department of Planning, Housing and Infrastructure, [Transcript of evidence](#), 29 October 2025, p 12.

²⁴² Clay Preshaw, Acting Executive Director, Planning Systems Reform, Department of Planning, Housing and Infrastructure, [Transcript of evidence](#), 29 October 2025, p 19.

so.²⁴³ Similarly, Colin Lidiard, Committee Member, Kingscliff Ratepayers and Progress Association, suggested that landowners and ratepayers should be required to register, with the relevant local council, the details of any historical consents that were approved prior to the digitisation of development records by the council.²⁴⁴

- 5.27 Alex Williams, Blue Mountains City Council, submitted that establishing the register using an 'opt-in system' may mean it is not relied on as a 'trustworthy source' for informing the public about historical consents. He indicated his preference for a process whereby consent holders are given a specified period of time to produce information or evidence that they have a consent which has been commenced.²⁴⁵ He acknowledged that there is 'reticence to any tinkering with property rights going back', but argued that a register of commenced consents, including historical ones, would 'have benefit for all stakeholders'.²⁴⁶
- 5.28 Rachael Chick, EDO, likewise, suggested that there was a general presumption against laws that operate retrospectively. This is because retrospectively questioning the validity of consents that have already been approved raises procedural fairness issues for consent holders. However, she argued that these concerns must be balanced against other concerns, and said that, currently, the planning system is 'very heavily weighted to the private interests of the consent holder'.²⁴⁷
- 5.29 The Committee recognises that retrospective impacts on the validity of consents should be avoided unless it is absolutely necessary. This is in recognition of consent holders' property rights. However, because the holders of historical development consents may have the only records of their consents, we consider that compelling consent holders to provide information about development applications and consents for the central register, or tracker is the only way to ensure that the information is comprehensive, accurate and current.
- 5.30 We therefore call on the Government to require all holders of purported development consents, which are not already recorded in the database and which are believe not have lapsed, to provide details about those consents within a prescribed period of time. The information should include details of the consent and also note that the granting and/or commencement status of the consent is unverified.

Facilitating the use of existing planning powers

- 5.31 A key issue that came up during the inquiry is that powers already exist under the Act that may address issues related to historical development consents. While stakeholders called for a range of reforms to ensure developments are

²⁴³ [Submission 40](#), Manyana Matters Environmental Association, p 6.

²⁴⁴ Colin Lidiard, Committee Member, Kingscliff Ratepayers and Progress Association, [Transcript of evidence](#), 30 October 2024, p 4.

²⁴⁵ Alex Williams, Manager, Development and Building Services, Blue Mountains City Council, [Transcript of evidence](#), 28 October 2025, p 28.

²⁴⁶ Alex Williams, Manager, Development and Building Services, Blue Mountains City Council, [Transcript of evidence](#), 28 October 2025, p 32.

²⁴⁷ Rachael Chick, Senior Solicitor, Environmental Defenders Office, [Transcript of evidence](#), 28 October 2025, p 7.

progressed to completion,²⁴⁸ the Committee found that some of those mechanisms are already available under the current planning framework.

5.32 Existing powers include:

- the revocation and modification power, which was recently expanded (as discussed in Chapter Three)
- imposing completion deadlines as a condition of consent
- issuing development control orders to compel developers to complete developments.

5.33 The Committee received no evidence that these powers are currently being used by councils. The Law Society of NSW suggested that it is unrealistic to expect councils to use these powers, because potential legal challenges would carry serious financial and legal risks.²⁴⁹

Compensation under section 4.57 of the *Environmental Planning and Assessment Act 1979*

Summary

Local councils have existing planning powers to revoke or modify consents that could address some issues related to historical development consents. However, these powers are not being used because they may result in councils being liable for an unclear amount of compensation and risk potentially costly legal challenges. Providing clear guidance and defining the scope of compensation that councils could be liable for may encourage councils to use these powers more widely.

The Act's revocation and modification power carries compensation risks

5.34 As discussed in Chapter Three, section 4.57 of the Act empowers the Planning Secretary or a local council who is the consent authority to revoke or modify an existing development consent by having regard to a proposed environmental planning instrument.²⁵⁰ However, a person with a development consent who is impacted by the use of this power is entitled to compensation.

5.35 Subsection 4.57(7)(b) entitles a person aggrieved by the revocation or modification of a development consent by a council to recover from that council:

... compensation for expenditure incurred pursuant to the consent during the period between the date on which the consent becomes effective and the date of service of the notice under subsection (3) which expenditure is rendered abortive by the revocation or modification of that consent.²⁵¹

²⁴⁸ [Submission 32](#), Tweed Shire Council, p 3; [Submission 42](#), Goulburn Mulwaree Council, p 3; [Submission 45](#), Department of Planning, Housing and Infrastructure, pp 11-16; [Submission 61](#), Camden Council, p 3; [Submission 84](#), Environment and Planning Law Association (NSW), pp 3-5; [Submission 85](#), The Law Society of NSW, pp 5-7.

²⁴⁹ [Submission 85](#), The Law Society of NSW, pp 5-6.

²⁵⁰ *Environmental Planning and Assessment Act 1979* [s 4.57\(1\)](#).

²⁵¹ *Environmental Planning and Assessment Act 1979* [s 4.57\(7\)](#).

- 5.36 As noted in Chapter Three, the Committee received no evidence of consents being revoked under this section. The Department submitted that the failure to use the power may indicate that it is difficult to use.²⁵² It also identified the statutory entitlement to compensation as one possible barrier to the use of the revocation or compensation power.²⁵³
- 5.37 The Department submitted that the provision may result in significant amounts of compensation having to be paid out to developers.²⁵⁴ Mayor Matthew Gould, Wollondilly Shire Council, described the power as being 'almost useless ... because it's cost prohibitive.'²⁵⁵
- 5.38 Daniel Thompson, Executive Director, Local Planning and Council Support, Department of Planning, Housing and Infrastructure, acknowledged that there is an unwillingness to take on the compensation risk because the revocation and modification power is untested.²⁵⁶ Many inquiry participants, and in particular, local councils, told us that the risk of a significant and unknown compensation liability essentially prevents them from using the power.²⁵⁷
- 5.39 Bega Valley Shire Council described the power as being 'theoretical only', and not a practical or viable means for councils to modify or revoke a consent.²⁵⁸ Likewise, Andrew Pickles SC, Member, Environment and Planning Law Association (NSW) (EPLA), suggested that councils are not using the power because of the fear of being liable for compensation. He observed that councils would likely not want take on the risk without knowing what a potential amount of compensation payable would be.²⁵⁹
- 5.40 The Committee's attention was also drawn to the absence of any funding mechanism to cover potential compensation liabilities.²⁶⁰ Tweed Shire Council said that without this funding mechanism, the power is a 'toothless threat'.²⁶¹
- 5.41 Local Government NSW highlighted the additional issue that a decision made under section 4.57 can be appealed in the Land and Environment Court.²⁶² Alex Williams, Manager, Development and Building Services, Blue Mountains City

²⁵² [Submission 45](#), Department of Planning, Housing and Infrastructure, p 10.

²⁵³ [Submission 45](#), Department of Planning, Housing and Infrastructure, p 10.

²⁵⁴ [Submission 45](#), Department of Planning, Housing and Infrastructure, p 10.

²⁵⁵ Matthew Gould, Mayor, Wollondilly Shire Council, [Transcript of evidence](#), 28 October 2025, p 29.

²⁵⁶ Daniel Thompson, Executive Director, Local Planning and Council Support, Department of Planning, Housing and Infrastructure, [Transcript of evidence](#), 29 October 2025, p 13.

²⁵⁷ [Submission 61](#), Camden Council, p 3; [Submission 78](#), Hornsby Shire Council, p 2; [Submission 80](#), Bega Valley Shire Council, p 1; [Submission 243](#), Local Government NSW, pp 9-10; Rachael Chick, Senior Solicitor, Environmental Defenders Office, [Transcript of evidence](#), 28 October 2025, p 9; Daniel Thompson, Executive Director, Local Planning and Council Support, Department of Planning, Housing and Infrastructure, [Transcript of evidence](#), 29 October 2025, p 13; [Submission 240](#), Country Mayors Association of NSW, p 7.

²⁵⁸ [Submission 80](#), Bega Valley Shire Council, p 1

²⁵⁹ Andrew Pickles SC, Member, Environment and Planning Law Association (NSW), [Transcript of evidence](#), 29 October 2025, p 7.

²⁶⁰ [Submission 32](#), Tweed Shire Council, p 10;

²⁶¹ [Submission 32](#), Tweed Shire Council, p 10.

²⁶² [Submission 243](#), Local Government NSW, p 8.

Council, told us that councils are reluctant to exercise this power because of the risk of litigation, as well as the compensation liability.²⁶³

- 5.42 As Judith Portelli, Manager, Development Assessment, Blacktown City Council, explained, this risk of litigation means that any decision to revoke or modify a consent would need to be defended carefully.²⁶⁴
- 5.43 The Committee acknowledges that the entitlement to compensation and the risk of litigation may be significant barriers to councils exercising the power under section 4.57 of the Act. However, as stated by the Law Society, development consents are valuable property rights. The Law Society argued that reforms which might unreasonably interfere with a consent holder's private property rights should result in certain compensation, like that provided for under section 4.57(7).²⁶⁵
- 5.44 Property development stakeholders echoed the importance of upholding private property rights. Urban Taskforce Australia, for example, emphasised the importance of property rights and the need for certainty around those rights.²⁶⁶ OzyHomes submitted that it is reasonable for compensation to be paid for 'costs thrown away' where a consent is revoked.²⁶⁷
- 5.45 We recognise that an appropriate balance needs to be struck, between ensuring that the section 4.57 power can be practically used for its intended purpose, and the need to recognise and compensate consent holders for impacts on their property rights. For this reason, the Committee has focused on addressing the issue of the uncertainty of the potential amount of compensation payable under subsection 4.57(7).

Uncertainty about the amount of compensation payable

Recommendation 7

That the NSW Government amend section 4.57 of the *Environmental Planning and Assessment Act 1979* to introduce a definition or guidance on the meaning of 'expenditure incurred pursuant to the consent during the period between the date on which the consent becomes effective and the date of service of the notice under subsection (3) which expenditure is rendered abortive by the revocation or modification of that consent', under subsection (7).

- 5.46 Part of the issue with exercising the power under section 4.57 of the Act is that local councils are unsure about the amount of compensation that they may be liable for. A number of inquiry participants told the Committee that uncertainty is a key problem with the provision. For example, Tweed Shire Council noted that the extent of the compensation that could be owed in the relevant circumstances

²⁶³ Alex Williams, Manager, Development and Building Services, Blue Mountains City Council, [Transcript of evidence](#), 28 October 2025, p 29.

²⁶⁴ Judith Portelli, Manager, Development Assessment, Blacktown City Council, [Transcript of evidence](#), 28 October 2025, p 38.

²⁶⁵ [Submission 85](#), The Law Society of NSW, pp 1, 5, 7.

²⁶⁶ [Submission 76](#), Urban Taskforce Australia, pp 1,

²⁶⁷ [Submission 245](#), OzyHomes, p 8.

is uncertain.²⁶⁸ Similarly, Councillor Khal Asfour, Vice-President, Local Government NSW, said that one of the main barriers to using the power is a lack of clarity and certainty.²⁶⁹

- 5.47 EPLA noted that the uncertainty exists because the power has not been used, to date, and therefore, because there have been no court decisions that provide guidance on how the compensation provision could be interpreted.²⁷⁰ Janet McKelvey, President, EPLA, told us that the power is not being used because 'nobody knows quite what 4.57(7) really would lead to in terms of what constitutes expenditure that is rendered abortive'.²⁷¹
- 5.48 Similarly, the Law Society of NSW suggested that the possible scope of compensation under section 4.57 was 'uncertain and untested'.²⁷² Roslyn McCulloch, Chair, Environmental Planning and Development Committee, Law Society of NSW, said that any council looking to use the power would not know what they were getting themselves into. She informed us that a fellow committee member described 'what compensation might be payable' under subsection 4.57(7) as being 'nebulous'.²⁷³
- 5.49 We heard that the wording of the compensation provision is unclear. The compensation provision may, for example, include land-related costs, such as purchase costs²⁷⁴ and finance costs²⁷⁵. However, it could also include larger costs associated with the loss of the consent. As noted by the Department, it is foreseeable that an aggrieved person who has suffered a financial loss due to the section 4.57 power would seek to remedy that loss through claims in common law and equity.²⁷⁶
- 5.50 The Department of Planning, Housing and Infrastructure submitted that the words 'expenditure incurred pursuant to the consent ... that has been rendered abortive' in subsection 4.57(7) of the Act is not defined, and that it could be interpreted generally to mean money spent to give effect to the development, which is then lost due to the modification or revocation.²⁷⁷
- 5.51 Clay Preshaw, Acting Executive Director, Planning Systems Reform, Department of Planning, Housing and Infrastructure, acknowledged that the wording of subsection 4.57(7) constitutes 'rather confusing legal words'. However, his

²⁶⁸ [Submission 32](#), Tweed Shire Council, p 2;

²⁶⁹ Councillor Khal Asfour, Vice-President, Local Government NSW, [Transcript of evidence](#), 28 October 2025, p 39.

²⁷⁰ Environment and Planning Law Association (NSW), [Answers to supplementary questions](#), p 3.

²⁷¹ Janet McKelvey, President, Environment and Planning Law Association (NSW), [Transcript of evidence](#), 29 October 2025, p 9.

²⁷² The Law Society of NSW, [Answers to questions on notice](#), p 2.

²⁷³ Roslyn McCulloch, Deputy Chair, Environmental Planning and Development Committee, The Law Society of New South Wales, [Transcript of evidence](#), 5 November 2025, p 3.

²⁷⁴ [Submission 32](#), Tweed Shire Council, p 10.

²⁷⁵ Roslyn McCulloch, Deputy Chair, Environmental Planning and Development Committee, the Law Society of New South Wales, [Transcript of evidence](#), 5 November 2025, p 3.

²⁷⁶ Department of Planning, Housing and Infrastructure, [Answers to supplementary questions](#), 13 November 2025, p 5.

²⁷⁷ Department of Planning, Housing and Infrastructure, [Answers to supplementary questions](#), 13 November 2025, p 4.

understanding was that the compensation provision is intended to meet administrative costs in terms of what has been spent.²⁷⁸ The Department also argued that any claim for compensation under the provision would need to be reasonable and link back to expenditure incurred which is associated with the consent. The person seeking compensation for the impact of any revocation or modification would have the onus of proving that they should be compensated.²⁷⁹ However, the Department recognised that the compensation provision could be interpreted to include more than what is specifically required by the provision.²⁸⁰

- 5.52 Other inquiry participants believed that the compensation amount under subsection 4.57(7) would be limited or would not include future losses. OzyHomes argued that the provision is more limited than the statutory entitlement to compensation under the *Land Acquisition (Just Terms Compensation) Act 1991*.²⁸¹ Roslyn McCulloch, Law Society of NSW, also observed that a development consent is not the same as 'actual land', so it would not 'fall within the just terms Act [sic]'. She noted this is 'probably why the current definition of compensation doesn't include any increase in value of land'.²⁸²
- 5.53 Andrew Pickles SC, Member, EPLA, explained that the compensation is for expenditure incurred, not the loss of the development right.²⁸³ Likewise, Tom Forrest, Chief Executive Officer, Urban Taskforce Australia, said that the compensation would only cover costs 'that you had engaged in in pursuing the delivery of the outcome.' He argued that affected persons could not be compensated for the loss of value from 'any change in the development consent'.²⁸⁴
- 5.54 These differing views on how compensation under section 4.57 of the Act may be applied illustrates the uncertainty felt by stakeholders about the interpretation of the provision. This was highlighted by witnesses from the Law Society, one who observed 'Just the fact that there is a difference of opinion between the lawyers indicates that there's not certainty about what those words mean'.²⁸⁵
- 5.55 Local councils indicated that they wanted more clarification about the scope of the compensation provision.²⁸⁶ Tweed Shire Council, for example, suggested that

²⁷⁸ Clay Preshaw, Acting Executive Director, Planning Systems Reform, Department of Planning, Housing and Infrastructure, [Transcript of evidence](#), 29 October 2025, p 14.

²⁷⁹ Department of Planning, Housing and Infrastructure, [Answers to supplementary questions](#), 13 November 2025, p 4.

²⁸⁰ Clay Preshaw, Acting Executive Director, Planning Systems Reform, Department of Planning, Housing and Infrastructure, [Transcript of evidence](#), 29 October 2025, p 14.

²⁸¹ [Submission 245](#), OzyHomes, p 8.

²⁸² Roslyn McCulloch, Deputy Chair, Environmental Planning and Development Committee, The Law Society of New South Wales, [Transcript of evidence](#), 5 November 2025, p 4.

²⁸³ Andrew Pickles SC, Member, Environment and Planning Law Association (NSW), [Transcript of evidence](#), 29 October 2025, p 3.

²⁸⁴ Tom Forrest, Chief Executive Officer, Urban Taskforce Australia, [Transcript of evidence](#), 28 October 2025, p 11.

²⁸⁵ Roslyn McCulloch, Deputy Chair, Environmental Planning and Development Committee, The Law Society of New South Wales, [Transcript of evidence](#), 5 November 2025, p 5.

²⁸⁶ [Submission 243](#), Local Government NSW, pp 9-10; [Submission 56](#), Blue Mountains City Council, p 7; [Submission 78](#), Hornsby Shire Council, p 2.

clarifying whether the purchase price of land after a consent has been granted would be included in the compensation payable may help reduce some of the uncertainty in relation to subsection 4.57(7).²⁸⁷

- 5.56 On the other hand, EPLA suggested that it may not be necessary to define 'expenditure incurred' as set out in subsection 4.57(7) of the Act. The Association noted that 'expenditure' usually means money that is expended rather than the value of a lost right, so it is unlikely to extend beyond the costs actually incurred at the time a consent is revoked or modified. However, EPLA cautioned that this 'can only be confirmed by a Court.'²⁸⁸
- 5.57 Daniel Thompson, Department Planning, Housing and Infrastructure, acknowledged that there may be 'some potential' to tighten up, or amend subsection 4.57(7).²⁸⁹ However, the Department informed us that it does not intend to amend the provision to clarify the amount of compensation that may be payable, as it noted this depends on the facts and circumstances of each consent.²⁹⁰
- 5.58 The Committee accepts that determining the potential compensation that is payable is a nuanced exercise that will differ with each relevant consent and affected individual. Despite this, we submit that more clarity within the provision, or formal guidance on how compensation would be determined, is needed if the power under section 4.57 of the Act is to be exercised to address the impacts of historical development consents.
- 5.59 It is clear that the power is not currently being used and the Committee suggests that this will remain the status quo without reforms to the compensation provision as a starting point. For this reason the Committee recommends that section 4.57 of the Act be amended to introduce a definition or guidance on what 'expenditure incurred pursuant to the consent' during the relevant timeframe means under subsection (7). The planning framework would benefit from greater clarity on how this compensation would be determined. Any amendments to achieve this clarity should be subject to consultation with relevant legal experts, to ensure that the context of individual consents can be factored in.

²⁸⁷ Tweed Shire Council, [Answers to supplementary questions](#), p 7.

²⁸⁸ Environment and Planning Law Association (NSW), [Answers to supplementary questions](#), 21 November 2025, p 3.

²⁸⁹ Daniel Thompson, Executive Director, Local Planning and Council Support, Department of Planning, Housing and Infrastructure, [Transcript of evidence](#), 29 October 2025, p 13.

²⁹⁰ Department of Planning, Housing and Infrastructure, [Answers to supplementary questions](#), 13 November 2025, p 5.

Using existing planning controls under the Act

Summary

Local councils are underutilising the existing powers that are available to them under the planning framework to address historical development consents. A range of reasons as to why councils are not using the powers or view them as not being fit-for-purpose were raised during the inquiry. A review of the existing planning powers would ensure that they are fit-for-purpose, as it would identify possible obstacles and challenges to their use.

Recommendation 8

That the NSW Department of Planning, Housing and Infrastructure, in consultation with local government, review the application of the following planning controls:

- **imposition of, as a condition of consent, a limited time period for completing a development**
- **issuing of development control orders, in particular, 'complete works orders'.**

The review should identify obstacles and challenges to the exercise of these planning controls, and legal or policy options to address these issues.

- 5.60 As noted above, local government stakeholders called on the Committee to recommend giving additional powers to councils to address historical development consents. However, others highlighted that there are existing planning powers available to local councils for them to encourage consents to be progressed toward completion.
- 5.61 In particular, inquiry stakeholders recommended reforms that essentially overlap with the following existing powers under the Act:
- setting completion deadlines as a condition of granting consents, under section 4.17(d)
 - issuing development control orders, under section 9.34 and Schedule 5, Part 1.
- 5.62 For example, Local Government NSW called for councils to be empowered to be able to set completion dates for developments.²⁹¹ However, the Act already enables consent authorities to set completion deadlines as a condition of approving a consent.²⁹²
- 5.63 This suggests to us that the powers, as currently provided for by the Act, may not be fit-for-purpose. For this reason, the Committee recommends that the Department review the application of current planning controls, in consultation with local government. The review should identify any obstacles and challenges

²⁹¹ [Submission 243](#), Local Government NSW, p 11.

²⁹² [Environmental Planning and Assessment Act 1979](#) s 4.17(1)(d).

to the exercise of the planning controls, as well as legal and policy options to address the issues identified.

- 5.64 During the inquiry, participants discussed possible reasons why current planning controls are being underutilised. These are discussed in the next section.

Development time limits as a condition of consent

- 5.65 Section 4.17(d) of the Act gives consent authorities the power to impose a condition that would limit the period during which a development may be carried out.²⁹³ Janet McKelvey, President, EPLA, explained that this provision of the Act therefore already provides a power to impose time-limits on consents.²⁹⁴
- 5.66 However, Janet McKelvey highlighted that imposing time limits as a condition of a consent is different to the consent lapsing. She explained that a consent cannot be acted upon after a time limit that has been imposed as a condition of the consent has passed. But this does not mean that the consent 'lapsed', because lapsing is a separate issue and a separate function of the Act.²⁹⁵ This distinction is important when considering using time limits as a condition of consent, because this consent condition mechanism would not lapse a physically commenced consent – instead, it only makes the valid consent inoperative.
- 5.67 The Committee understands that the power to impose time limits as a condition of a consent is rarely used. Witnesses from EPLA remarked that time limits are narrowly applied to developments like quarries, pubs and advertising signs.²⁹⁶ The Law Society of NSW informed us that their members had knowledge of the power being used only in limited circumstances, for example, for certain industrial works. Usually, consent conditions limit a consent's time period for a particular purpose, rather than being a means to prompt the completion of a development.²⁹⁷
- 5.68 We did not receive evidence to explain why councils are reluctant to exercise the power to impose time limits on other types of consents. Andrew Pickles SC, Member, EPLA, did not know why councils do not impose time limits on consents despite having the power to do so.²⁹⁸ The Law Society of NSW similarly could not comment on why consent authorities are not imposing completion deadlines under section 4.17(1)(d).²⁹⁹

²⁹³ [Environmental Planning and Assessment Act 1979](#) s 4.17(1)(d).

²⁹⁴ Janet McKelvey, President, Environment and Planning Law Association (NSW), [Transcript of evidence](#), 29 October 2025, p 2.

²⁹⁵ Janet McKelvey, President, Environment and Planning Law Association (NSW), [Transcript of evidence](#), 29 October 2025, p 4.

²⁹⁶ Janet McKelvey, President, Environment and Planning Law Association (NSW), [Transcript of evidence](#), 29 October 2025, p 2; Andrew Pickles SC, Member, Environment and Planning Law Association (NSW), [Transcript of evidence](#), 29 October 2025, p 2.

²⁹⁷ The Law Society of NSW, [Answers to questions on notice](#), 25 November 2025, p 2.

²⁹⁸ Andrew Pickles, Member, Environment and Planning Law Association (NSW), [Transcript of evidence](#), 29 October 2025, p 7.

²⁹⁹ The Law Society of NSW, [Answers to questions on notice](#), 25 November 2025, p 2.

- 5.69 The Department noted that Queensland's planning framework includes discretionary sunset provisions that prescribe when works must be completed under a development consent to prevent it from lapsing.³⁰⁰ Comparing other jurisdictions, Andrew Pickles SC remarked that the power in NSW to impose time limits as a consent condition was 'no different to Queensland in the sense that it's a voluntary power that could be exercised, but it's not something that councils have been in the habit of doing.'³⁰¹
- 5.70 EPLA drew our attention to how the complexity of the NSW planning system affects consent authorities' capacity to impose conditions that require the completion of a development. EPLA explained that if a time limit is imposed, the likelihood of meeting the deadline is not determined by the planning process, but instead by the priorities and finances of the developer.³⁰²
- 5.71 Blacktown City Council expressed doubts that consent holders would adhere to completion deadlines, even if a deadline for completion was a condition of a consent. The Council observed that developers may complete developments quickly to get returns on their investment, while those that could not complete developments within the set timeframe would instead sell the land with the consent.³⁰³
- 5.72 Because the powers already exist, Andrew Pickles remarked that 'It's probably a question of tweaking them', or perhaps 'a question of whether or not the power is exercisable'. He noted that even amending the Act could send a message to councils that the power exists and is available to them.³⁰⁴ On the other hand, the Law Society suggested that section 4.17(d) did not require amending, and that, instead, an education campaign could be more effective in raising awareness of the existing power.³⁰⁵
- 5.73 Another issue that was drawn to our attention was in relation to the enforcement of consent conditions. As Blacktown City Council remarked, local councils would be reluctant to enforce a completion deadline in court where it can be further appealed. The Council further suggested that any reforms 'should focus on making applicants and landowners more responsible for the development consents they obtain', and argued that consent authorities should not bear the onus of enforcing consents to ensure they are completed.³⁰⁶

Complete works orders

- 5.74 A 'complete works order', also known as a 'development control order 13' (or DCO 13), may be issued under the Act. A complete works order may be issued to

³⁰⁰ [Submission 45](#), Department of Planning, Housing and Infrastructure, p 15.

³⁰¹ Andrew Pickles, Member, Environment and Planning Law Association (NSW), [Transcript of evidence](#), 29 October 2025, p 5.

³⁰² Environment and Planning Law Association (NSW), [Answers to supplementary questions](#), 21 November 2025, p 4.

³⁰³ Blacktown City Council, [Answers to supplementary questions](#), 11 November 2025, p 3.

³⁰⁴ Andrew Pickles, Member, Environment and Planning Law Association (NSW), [Transcript of evidence](#), 29 October 2025, p 8.

³⁰⁵ The Law Society of NSW, [Answers to questions on notice](#), 25 November 2025, p 2.

³⁰⁶ Blacktown City Council, [Answers to supplementary questions](#), 11 November 2025, p 3.

a developer where work on a development has commenced but remains unfinished, to order that authorised works be completed within a specified time.³⁰⁷

- 5.75 EPLA outlined the process for issuing and enforcing these orders. It involves a draft being issued to a developer, who then has the opportunity to make submissions in response. The developer could respond that they cannot afford to comply, and the consent authority may then choose not to issue the final order. EPLA also explained that there is a personal penalty for failing to comply with a complete works order, but to enforce the order would require a council to initiate proceedings in the Land and Environment Court.³⁰⁸
- 5.76 In its submission, EPLA referred to the use of the order as a possible 'complete remedy' to historical consents, but conceded that it may be 'a little used power'.³⁰⁹ Janet McKelvey, President, EPLA, could not recall an example of a complete works order being issued in her 20 years of legal practice.³¹⁰
- 5.77 Blue Mountains City Council told us that it had not, to date, issued an order to require a consent to be completed by a specified time.³¹¹ From its own experience, the Council said that developers or landowners would often appeal complete works orders, and that the potential for having to contest multiple appeals could place significant demands on council resources. The Council concluded that the cumulative result of this was that local councils may be disincentivised to use the orders.³¹²
- 5.78 On the other hand, the Department submitted that complete works orders have been used where development sites that remain dormant are causing, or could potentially cause harm to the environment or public safety.³¹³ However, the Department suggested that the orders' limited use, primarily in instances where there are health, environmental or safety risks, highlights the significant resource burden that issuing complete works orders places on councils.³¹⁴ The Department also cautioned that a development control order may not result in a development being completed. Instead, it may result only in the clean-up or securing of a site, due to progress on works frequently being paused due to financial issues.³¹⁵
- 5.79 The Property Council of Australia argued that the power to direct landowners to complete works should be used 'sparingly' and limited to circumstances where it

³⁰⁷ [Environmental Planning and Assessment Act 1979](#) sch 5 cl 13.

³⁰⁸ Janet McKelvey, President, Environment and Planning Law Association (NSW), [Transcript of evidence](#), 29 October 2025, pp 5-6.

³⁰⁹ [Submission 84](#), Environment and Planning Law Association (NSW), p 4.

³¹⁰ Janet McKelvey, President, Environment and Planning Law Association (NSW), [Transcript of evidence](#), 29 October 2025, pp 5-6.

³¹¹ Blue Mountains City Council, [Answers to supplementary questions](#), 11 November 2025, p 3.

³¹² Blue Mountains City Council, [Answers to supplementary questions](#), 11 November 2025, pp 1, 3.

³¹³ [Submission 45](#), Department of Planning, Housing and Infrastructure, p 12.

³¹⁴ [Submission 45](#), Department of Planning, Housing and Infrastructure, p 10.

³¹⁵ [Submission 45](#), Department of Planning, Housing and Infrastructure, p 10.

is needed to protect public health and safety, like those circumstances described by the Department.³¹⁶

- 5.80 Blacktown City Council stated that complete works orders were 'a genuine and legitimate tool ... to protect the public interest and integrity in the planning system.'³¹⁷ However, the Council submitted that the current planning framework does not specify or define the circumstances in which complete works orders may be issued, and it was not aware of any existing caselaw to guide councils on how the orders could be used.³¹⁸
- 5.81 Noting these issues, Blacktown City Council informed us that it had recently started serving complete works orders 'under limited circumstances'. The Council referred to circumstances relating to environmental and health hazards, but, notably, also suggested that it would issue the orders only where 'Council has credible reasons to believe the consent has been activated solely to prevent it from lapsing'.³¹⁹
- 5.82 Blue Mountains City Council detailed other challenges for councils in issuing complete works orders:
- using the power to compel the completion of a development could cause financial hardship if the order is issued to new owners of an existing, physically commenced consent
 - it may be inappropriate to issue an order when increasing costs or other issues make it difficult to complete a development
 - some developers secure consents with no intention of completing the development in the short term, so there is a high risk of litigation to appeal the order
 - it would impose an administrative burden on councils to trace records of consents.³²⁰
- 5.83 Because of these challenges, Blue Mountains Council cautioned that consent authorities must weigh up the costs of using the power with the public benefit of doing so.³²¹
- 5.84 The Committee recognises that the power to issue complete works orders could be an effective tool for addressing the issues caused by historical development consents. However, it is clear that there are challenges in exercising this power for councils that will need to be considered if it is to be made more effective and widely used.

³¹⁶ Property Council of Australia, [Answers to supplementary questions](#), 12 November 2025, p 1.

³¹⁷ Blacktown City Council, [Answers to supplementary questions](#), 11 November 2025, p 2.

³¹⁸ Blacktown City Council, [Answers to supplementary questions](#), 11 November 2025, pp 2-3.

³¹⁹ Blacktown City Council, [Answers to supplementary questions](#), 11 November 2025, p 2.

³²⁰ Blue Mountains City Council, [Answers to supplementary questions](#), 11 November 2025, p 2.

³²¹ Blue Mountains City Council, [Answers to supplementary questions](#), 11 November 2025, p 3.

- 5.85 EPLA submitted that amendments to the power would probably not be effective because incomplete developments usually result from financial issues or bankruptcy. In those circumstances, the order would not work if the owner could not afford to complete the development. Also, if an order was to be appealed, there would need to be compelling reasons for a court to maintain the order.³²²
- 5.86 Andrew Pickles SC, Member, EPLA, noted that there could be many reasons for a developer not completing a development. He suggested that simply ordering them to complete the development would not necessarily result in them completing the work and could instead lead to prosecution for breaching the order.³²³
- 5.87 The Committee agrees that it is doubtful whether legislative amendments to the Act's provisions relating to complete works orders would make the orders more effective in addressing issues caused by historical development consents. The Committee notes Blue Mountains City Council's view that it is not legal reforms, but more resources that are needed.³²⁴
- 5.88 Separately, Blacktown City Council highlighted that the issue may be one of awareness and greater certainty about legal challenges. The Council suggested that the power would be more widely used if councils better understood the position of the courts when orders are appealed. The Council told us that it welcome any guidance from the NSW Government on the use of complete works orders.³²⁵
- 5.89 As noted earlier, the *Environmental Planning and Assessment Amendment (Planning System Reforms) Act 2025* (the Planning Reforms Act) amended the Act to give the Minister for Planning and Public Spaces or the Planning Secretary the power to issue complete works orders.³²⁶ With this new power, the Planning Secretary would be ideally placed to issue complete works orders to address issues related to historical development consents, where appropriate. This is because the Department is better resourced than local councils to deal with legal challenges of the issuing of an order, which may pave the way for legal precedent and greater clarity about the court's interpretation of complete works orders.

Infrastructure planning and developer contributions

Recommendation 9

That the NSW Department of Planning, Housing and Infrastructure, in consultation with local government, consider introducing a planning mechanism to allow councils to recover costs from developers for infrastructure

³²² Environment and Planning Law Association (NSW), [Answers to supplementary questions](#), 21 November 2025, p 3.

³²³ Andrew Pickles SC, Member, Environment and Planning Law Association (NSW), [Transcript of evidence](#), 29 October 2025, p 6.

³²⁴ Blue Mountains City Council, [Answers to supplementary questions](#), 11 November 2025, p 3.

³²⁵ Blacktown City Council, [Answers to supplementary questions](#), 11 November 2025, pp 2-3.

³²⁶ [Environmental Planning and Assessment Amendment \(Planning System Reforms\) Act 2025](#) Sch 1 cl 150; see also *Environmental Planning and Assessment Act 1979* s 9.35(1)(a1), Sch 5 Pt 1 item 13.

provided for their validly commenced development consents that remain incomplete after the date they would have otherwise lapsed.

- 5.90 In Chapter Two, the Committee considered how historical development consents can cause issues for councils in terms of infrastructure planning and delivery. The Committee heard that development consents that remain incomplete for extended periods can make it difficult for councils to recover the costs of infrastructure they fund to facilitate developments in their local government areas. These issues occur when councils pay for infrastructure upgrades or additions, but the costs for the works cannot be recovered because the approved residential developments are incomplete.
- 5.91 This is because the cost of infrastructure upgrades is regulated by the planning framework, through 'developer contributions' or 'local infrastructure contributions'. Councils fund infrastructure upgrades as the service providers and recover the funds through these contributions, as provided for under Division 7.11 of the Act.³²⁷
- 5.92 Councils charge local infrastructure contributions when a new development occurs to help fund the local infrastructure that is needed to support the development.³²⁸ Infrastructure contributions are charged as conditions of consent on development applications.³²⁹ Councils prepare contributions plans that specify what infrastructure is provided and approximately how much it costs. These costs are then charged to developers when their developments create infrastructure needs.³³⁰
- 5.93 OzyHomes, a developer, explained that the contributions are often paid just before the issue of a construction certificate, because it is not in a developer's interest to pay the contributions early. It submitted that the contributions are 'very expensive' so there is 'no point' paying them 'unless the project is definitely proceeding'. Early payment could inhibit new developments as it is 'onerous' to have high start-up costs without revenue coming in.³³¹
- 5.94 Without clear mechanisms to compel developments be completed, Tweed Shire Council supported using other controls to incentivise land being brought to market where the public infrastructure to facilitate developments is already in place.³³²
- 5.95 The Committee acknowledges that historical development consents can place a significant financial burden on councils where they have not recovered contributions from developers for infrastructure that has been funded in

³²⁷ *Environmental Planning and Assessment Act 1979* Pt 7 div 7.11.

³²⁸ Department of Housing, Infrastructure and Planning, [Local infrastructure contributions](#), last updated 27 May 2025, accessed 9 June 2026.

³²⁹ Department of Planning, Housing and Infrastructure, [Guide to infrastructure contributions](#), guide version 2, May 2025, p 6.

³³⁰ Department of Planning, Housing and Infrastructure, [Guide to infrastructure contributions](#), guide version 2, May 2025, p 7.

³³¹ [Submission 245](#), OzyHomes, p 7.

³³² Tweed Shire Council, [Answers to supplementary questions](#), 28 November 2024, p 3.

anticipation of the developments. This is particularly worrying for regional councils, that are often responsible for providing essential infrastructure like waste and water services.

- 5.96 We acknowledge that the contributions may be cost-prohibitive for developers, particularly if they are paid early in the development cycle. However, the current regime essentially allows developers to wait for infrastructure that is needed for their developments to be provided by councils without any real pressure to contribute toward the costs of the infrastructure.
- 5.97 This may incentivise some developers to promise the delivery of developments to secure infrastructure, even if they do not intend to complete the development or they intend to sell the land with the consent for a higher value. As discussed in Chapter Two, these financial burdens limit councils' capacity to fund other services within their LGAs, and the costs of the infrastructure are passed on to existing ratepayers who do not benefit from the works.
- 5.98 For this reason, the Committee has recommended that the Department consult with local councils to develop a mechanism to allow councils to recover the cost of infrastructure works to facilitate a development consent which has been physically commenced but remains incomplete after the date it would otherwise have lapsed. We hope that, in consulting with local councils, as well as industry stakeholders, a mechanism can be designed which balances the need to ensure that infrastructure costs are fairly recovered, with not making developments unreasonably cost-prohibitive.
- 5.99 One possible lever suggested by Tweed Shire Council is a form of land tax, which could be applied on lots that remain incomplete after a specified time period. If the lots are not developed by a certain time, the developer would be required to make contributions, which, the Council argued, would disincentivise the practice of land-banking.³³³

³³³ Tweed Shire Council, [Answers to supplementary questions](#), 28 November 2024, p 3.

Appendix One – Terms of reference

That the Committee on Environment and Planning inquire into and report on historical development consents in New South Wales, including:

- (a) The current legal framework for development consents, including the physical commencement test.
- (b) Impacts to the planning system, development industry and property ownership as a result of the uncertain status of lawfully commenced development consents.
- (c) Any barriers to addressing historical development consents using current legal provisions, and the benefits and costs to taxpayers of taking action on historical development concerns.
- (d) Possible policy and legal options to address concerns regarding historical development consents, particularly the non-completion of consents that cannot lapse, and options for further regulatory support, including from other jurisdictions.
- (e) Any other matters.

Appendix Two – Conduct of inquiry and site visit report

In October 2023, the Committee on Environment and Planning received a referral from the Hon Paul Scully MP, Minister for Planning and Public Spaces, to inquire into historical development consents in NSW.

The Committee resolved to accept the referral on 23 October 2023. On 14 March 2024, the Committee resolved to commence the inquiry with amended terms of reference, which are at Appendix One.

On 9 April 2024, the Committee received a private briefing from two representatives for the Department.

Submissions were open to the public on 14 March 2024 and closed on 3 June 2024. The Committee received 247 submissions from various stakeholders including local community and environmental advocacy groups, local government, private businesses, property development peak bodies and the NSW Department of Planning, Housing and Infrastructure. A list of submission makers at Appendix Four and the submissions are available on the inquiry [webpage](#). The Committee also received 26 copies of three different form submissions, which is published on the inquiry [webpage](#).

Site visits

As part of its inquiry, the Committee resolved to visit regions identified by submission makers to have notable historical development consents present. In September 2024, the Committee travelled to the far north and south coasts of NSW to conduct site visits and hold private meetings and roundtable discussions about the impacts of historical development consents. These informal discussions with stakeholders provided an opportunity for the Committee to understand how historical consents are impacting regional areas in NSW. Below is a brief summary of the Committee's site visits.

Far north coast

On 4 September 2024, the Committee met with Byron Shire Council to learn about how they manage development consents and strategic planning. The Committee then met with a local town planner and discussed the development assessment and approval processes under the regulatory framework.

On 5 September, the Committee held an informal roundtable meeting in Brunswick Heads with local community groups and local members, Mr Geoff Provest MP, Member for Tweed and Adjunct Professor Tamara Smith MP, Member for Ballina. Participants discussed their concerns about the environmental risks of historical development consents in the region and existing challenges and opportunities to better protect threatened species.

The Committee then met with two local Aboriginal community controlled organisations: Currie Country Social Change Aboriginal Corporation, and then the Tweed Local Aboriginal Land Council. The Committee learnt about the importance of consulting with Aboriginal

communities and the challenges of recognising Aboriginal cultural heritage in the planning system.

Finally, the Committee met with staff from Tweed Shire Council to discuss the impacts of historical consents on the council's strategic planning, infrastructure and its capacity to accommodate new large residential subdivisions.

South coast

On 9 September, the Committee travelled to Pambula to meet with purchasers of stage 13 of the residential concept development known as 'Mirador'. They discussed their concerns about impacts to their property interests caused by regulatory delays impacting progress of the staged development. The Committee then met with representatives from RCL Merimbula, the developer of Mirador. The Committee heard about the development's timeline and the difficulties they faced to gaining final construction approval.

The Committee then travelled to Bega to meet with stakeholders. Dr Michael Holland MP, Member for Bega, joined these meetings as the local member. The Committee first met with staff from Bega Valley Shire Council who explained their role in managing developments across the region, including historical development consents and strategic planning. Council staff discussed the challenges they encounter delivering development and infrastructure within constraints on available land.

The Committee then held a roundtable discussion with representatives from local community advocacy groups who discussed their concerns about historical development consents and sustainable development. They discussed local examples of historical consents in the region and their concerns for the protection of threatened species.

On 10 September, the Committee travelled to Moruya to meet with staff from Eurobodalla Shire Council to talk about the council's role in development assessment, approval and strategic planning. The Committee heard about constraints on development in the area and how they manage historical development consents.

The Committee then travelled to Manyana to meet with representatives from OzyHomes, the developer of a local residential subdivision. They discussed their experience navigating the planning system to progress a development consent while managing community opposition to their proposal.

From there, the Committee travelled to Nowra to hold a roundtable with representatives from local community advocacy groups who called for reforms to address historical development consents and for environmentally sustainable development. The Committee heard about the impacts of historical consents on the region, including key concerns about land banking and threatened species conservation.

Finally, the Committee met with staff of from City Council who spoke about their role in assessing and approving development. They discussed managing historical development consents and identified potential reforms to address problems associated with those consents.

Public hearings

After the site visit, the Committee held the first of four public hearings as part of the inquiry in Parliament House on 30 October 2024. A number of stakeholders that the Committee met

during its site visits appeared to give evidence, including service local community advocacy groups, a Local Aboriginal Land Council, and regional local councils.

In November 2024, the Hon Penny Sharpe MLC, Minister for Energy, wrote to the Committee requesting an urgent inquiry into the major electricity outages affecting the Far West region of NSW. On 21 November 2024, the Committee agreed to pause this inquiry until it tabled its report on the new inquiry referred by the Minister for Energy. It resolved to inform the public via the inquiry webpage and email the Minister for Planning and Public Spaces to advise that the Committee plans to resume hearings for this inquiry in mid-2025.

On 5 June 2025, the Committee tabled its report on the inquiry into the major electricity outages affecting the Far West region of NSW. As a result, the Committee resolved on 30 September 2025 to hold additional hearings in October 2025 for this inquiry.

The Committee held three further public hearings on:

- 28 and 29 October 2025 in Parliament House, Sydney
- November 2025 as an online proceeding.

Witnesses appearing at this hearing represented a wide range of stakeholders, including environmental advocacy organisations, local councils from metropolitan and Greater Sydney, local government representative bodies, legal experts and the NSW Government. A list of witnesses who appeared at all four hearings is at Appendix Four, and the transcripts of evidence taken at the hearings are available on the inquiry's [webpage](#).

Appendix Three – Submissions

No.	Author
1	Mr Graeme Batterbury
2	Confidential
3	Kaye Gartner
4	Mr Greg Watts
5	Ms Sarah Moore
6	Confidential
7	Blueprint Planning
8	Ms Juliet Green
9	Mr Gregory Mckittrick
10	Ms Nadine Ebb
11	Shanelle Dawson
12	Ms Gabrielle Griffin
13	Ms Sarah Denny
14	Name suppressed
15	Mr Luke Houghton
16	Le Mottee Group
17	Gunnedah Shire Council
18	Mr Steve Garthwin
19	Ms Jennifer Cuthbertson
20	Wollondilly Shire Council
21	Sandy Beach Action Group
22	Dr Peter Quiddington
23	Carol Isaacs
24	Isabel Trumpf
25	Ms Robbie Collins
26	Mrs Renee Koonin
27	Ms Jaclyn Cunningham
28	Dr Katherine Goodnow
29	Mr Daniel Snow
30	Mr Joshua Hamlyn-Edwards
31	Ms Arielle Valdez-Baltgalvis
32	Tweed Shire Council

No.	Author
33	Name suppressed
34	Eurobodalla Shire Council
35	Huskisson Heritage Association Inc
36	Lake Wollumboola Protection Association Inc
37	Allen Price & Scarratts
38	Blue Mountains Conservation Society Inc
39	Rainforest Reserves Australia
40	Manyana Matters Environmental Association Inc
41	VOWW, KKEPS, and EcoNetwork Port Stephens
42	Goulburn Mulwaree Council
43	Confidential
44	Callala Matters
45	Department of Planning, Housing and Infrastructure
46	Tura Beach Flora Reserve Committee
47	Currie Country Social Change Aboriginal Corporation
48	Confidential
48a	Confidential
49	Save Myall Road Bushland Incorporated
50	Clarence Environment Centre Inc
51	Our Future Shoalhaven
52	Urban Development Institute of Australia NSW (UDIA)
53	Hallidays Point Community Action Group
54	CLAI (Community Led Aquisition Initiative) Wallum
55	Blue Mountains Branch, National Trust (NSW)
56	Blue Mountains City Council
57	Culburra Residents and Ratepayers Action Group
58	Kingscliff Ratepayers and Progress Association Inc
59	Tomaree Ratepayers and Residents Association Inc.
60	Friends of CRUNCH Inc
61	Camden Council
62	Clarence Valley Conservation Coalition Inc
63	National Parks Association of NSW, Milton Branch
64	Confidential
65	Nature Conservation Council of NSW
66	Kiama Municipal Council

No.	Author
67	Dalmeny Matters
68	Penrith City Council
69	Friends of Coila
70	Better Planning Network Inc
71	Rise Projects Pty Ltd
72	RCL Merimbula Pty Ltd
73	Friends of the Koala Inc.
74	Purchasers of Stage 13 Mirador
75	Sydney Water
76	Urban Taskforce Australia
77	Nambucca Valley Council
78	Hornsby Shire Council
79	Mr David Mehan MP
80	Bega Valley Shire Council
81	Environmental Defenders Office
82	Ms Jan Barham
83	Byron Shire Council
84	Environment and Planning Law Association (NSW) Inc
85	The Law Society of New South Wales
86	Property Council of Australia
87	Ms Holly Galbraith
88	Ms Judith Paterson
89	Dr Vanessa Barbay
90	Miss Poppy Collins
91	Mr Jorj Lowrey
92	Miss Elizabeth Howard
93	Ms Helene Garrett
94	Pyramid Power Group Pty Ltd
95	Ms Janet Reynolds
96	Ms Robyn Neeson
97	Ms Sandra Lundbergs
98	Ms Elizabeth Hepburn
99	Ms Jayne Boughton Manning
100	Mr Russell Jennings
101	Miss Wendy Wait

No.	Author
102	Confidential
103	Name suppressed
104	Sofie Rodda
105	Confidential
106	Confidential
107	Mr Murray Matson
108	Dr Kym Kilpatrick
109	Mr David Lawson
110	Robert Moore
111	Ms Judith Watt
112	Confidential
113	Ms Bridget Ikin
114	Ms Natalie Roney
115	Dr Peter Wynn
116	Confidential
117	Mr Pascal Moser
118	Ms Alexandra Quirk
119	Confidential
120	Confidential
121	Mr Chris Cooney
122	Ms Bobbi Allan
123	Mr John Fink
124	Mx Nina Fitzgerald
125	Mrs Josephine Beams
126	Mr Nicholas Payne
127	Mr David Bannister
128	Mr Paul Cooke
129	Miss Claudia Pigatti Caliari
130	Dr Suzanne Allen
131	Mrs Lisa Forbes-Harper
132	Confidential
133	Mr Gregory Mckittrick
134	Confidential
135	Penny Davidson
136	Holly Officer

No.	Author
137	Mr Joseph Redner
138	Ms Deborah Sharp
139	Confidential
140	Dr Corinna Klupiec
141	Mrs Angela Watson
142	Ms Patricia Jacobs
143	Mr Craig Garrett
144	Mrs Julia Hudd
145	Ms Elisabeth Larsen
146	Mrs Narelle Wright
147	Mr Jeffrey Harper
148	Mr Horst Tietze
149	Ms Narelle Jarvis
150	Ms Kylie Wellington
151	Confidential
152	Mrs Marie Quigg
153	Mr Paul Poleweski
154	Mr Roger Hart
155	Ms Susan Jesson
156	Dr Stan Bolden
157	Ms Veronica Kroon
158	Mrs Penny Smith
159	Mr Kingston Anderson
160	Miss Juliet Fontaine
161	Mrs Jennifer MacLean
162	Confidential
163	Ms Valerie Thompson
164	Ms Celine Massa
165	Ms Lani Imhof
166	Ms Gaye Beathe
167	Ms Kate Liston
168	Ms Julia Mitchell
169	Ms Simone O'Brien
170	Rachelle Longstaff
171	Mr David Rawlins

No.	Author
172	Ms Carly Wilson
173	Ms Lirhazel Evans
174	Ms Nicola Mortimer
175	Karen Joynes
176	Ms Yasmin Bowers
177	Ms Sue Tolley
178	Mr Rob de Fegely AM
179	Ms Tracy Norris
180	Ms Rosslyn Elliott
181	Ms Patricia Warren
182	Mr Greg Shearer
183	Mr Nick Hopkins
184	Mr Jeffrey Davidson
185	Name suppressed
186	Mr David Rowe
187	Ms Svea Pitman
188	Ms Nicole Laverack
189	Miss Lucy Little
190	Mr David Carnovale
191	Mr Maxwell Ryan
192	Kerry Walker
193	Mrs Susan Romane
194	Mrs Julie Coburn
195	Ms Helen Marshall
196	Miss Karen Bertram
197	Confidential
198	Ms Liesbeth Paijmans
199	Sarah Sutton
200	Darren Sutton
201	Confidential
202	Lisa Sandstrom
203	Mr Colin Sagar
204	Confidential
205	Ms Shane O'Keefe
206	Mrs Desiree Marshall

No.	Author
207	Miss Tegan Kitt
208	Ms Kathryn Core
209	Miss Julie Vint
210	Ms Sara Green
211	Miss Alison Worthington
212	Mrs Celia Farquharson
213	Phoebe Torzillo
214	Mr James Barrie
215	Ms Kornelia Sures
216	Cr Cathy Griff
217	Mr Jacob Shields
218	Cr Sarah Ndiaye
219	Mrs Rebecca Sleath
220	Miss Maria Lloyd
221	Mr Nicholas Chambers
222	Dr Amelia Thorpe
223	Mrs Lesley Dunn
224	Ms Alexis Farr
225	Mrs Josephine Davey
226	Mr Peter Winkler
227	Ms Lizzie Buckmaster
228	Mr Andrew Dix
229	Ms Anne Jackson
230	Mrs Sharon Mawson
231	Christopher Osborne
232	Miss Anna Moegerlein
233	Confidential
234	Mrs Dale Viola
235	Mrs Janene Theol
236	Ms Tahlia Kinrade
237	Ms Fay Jackson
238	Mr Jason Glasson
239	Voices of South West Rocks Community Inc
240	Country Mayors Association of NSW
241	Shoalhaven City Council

No.	Author
242	Blacktown City Council
243	Local Government NSW
244	Confidential
245	OzyHomes
246	Evans Head Residents for Sustainable Development
247	Yamba Community Action Network Inc

Appendix Four – Witnesses

30 October 2024

Parliament House, Macquarie Room, Sydney, NSW

Witness	Position and Organisation
Mr Peter Newton	President, Kingscliff Ratepayers and Progress Association Inc
Mr Colin Lidiard	Committee Member, Kingscliff Ratepayers and Progress Association Inc
Ms Jan Barham	
Mr Rob Barrel	President, Callala Matters
Ms Cat Holloway	Member, Callala Matters
Mr Bill Eger	President, Manyana Matters Environmental Association Inc
Mr Peter Winkler	Vice President, Manyana Matters Environmental Association Inc
Mr Robert Appo	Member, Board of Directors, Tweed Byron Aboriginal Land Council
Cr Chris Cherry	Mayor, Tweed Shire Council
Mr Troy Green	General Manager, Tweed Shire Council
Mrs Denise Galle	Director Planning and Regulation, Tweed Shire Council
Ms Coralie McCarthy	Director City Futures, Shoalhaven City Council
Mr James Ruprai	Acting CEO, Shoalhaven City Council
Mr Gordon Clark	Manager Strategic Planning, Shoalhaven City Council
Cr Russell Fitzpatrick	Deputy Chairman, and Mayor of Bega Valley Shire Council, Bega Valley Shire Council
Mr Anthony McMahon	Chief Executive Officer, Bega Valley Shire Council
Mrs Emily Harrison	Director Community, Environment and Planning, Bega Valley Shire Council
Mr Gary Bruce	Director Planning and Environment, Eurobodalla Shire Council

28 October 2025

Parliament House, Jubilee Room, Sydney, NSW

Witness	Position and Organisation
Mr Samuel Johnson	Coastal Wetlands Community Organiser, Nature Conservation Council of NSW

Witness	Position and Organisation
Mr Jasper Brown	Senior Solicitor, Environmental Defenders Office
Ms Rachael Chick	Senior Solicitor, Environmental Defenders Office
Mr Ross Grove	Western Sydney Regional Director, Property Council of Australia
Mrs Anita Hugo	NSW Executive Director, Property Council of Australia
Mr Tom Forrest	Chief Executive Officer, Urban Taskforce Australia
Ms Charlotte Alexander	Head of Growth and Development, Sydney Water
Mr Alex Williams	Manager, Development and Building Services , Blue Mountains City Council
Mr Will Langevad	Director, Environment and Planning Service, Blue Mountains City Council
Mayor Matt Gould	Mayor, Wollondilly Shire Council
Ms Judith Portelli	Manager Development Assessment, Blacktown City Council
Mr David Reynolds	Chief Executive, Local Government NSW
Cr Khal Asfour	Vice President, Local Government NSW
Cr Russell Fitzpatrick	Deputy Chairman, and Mayor of Bega Valley Shire Council, Country Mayors Association of NSW
Mrs Julie Briggs	Policy Advisor, Country Mayors Association of NSW
Mrs Emily Harrison	Director Community, Environment and Planning, Bega Valley Shire Council

29 October 2025

Parliament House, Jubilee Room, Sydney, NSW

Witness	Position and Organisation
Ms Janet McKelvey	President, Environment and Planning Law Association (NSW) Inc
Mr Andrew Pickles SC	Member, Environment and Planning Law Association (NSW) Inc
Mr Daniel Thompson	Executive Director, Department of Planning, Housing and Infrastructure
Mr Clay Preshaw	A/Executive Director, Planning System Reform, NSW Department of Planning, Housing and Infrastructure

05 November 2025**Online, Jubilee Room, Sydney, NSW**

Witness	Position and Organisation
Mr Alistair Knox	Chair, Law Society's Environmental Planning and Development Committee, The Law Society of New South Wales
Ms Roslyn McCulloch	Deputy Chair, Law Society's Environmental Planning and Development Committee, The Law Society of New South Wales

Appendix Five – Extracts from minutes

Minutes of meeting no 7

1.36 pm, 23 October 2023

Room 1136 and via Webex

Members present

Clayton Barr (Chair), Sally Quinnell (Deputy Chair) (by Webex), Judy Hannan (by Webex) and Kellie Sloane (by Webex).

Apologies

Maryanne Stuart

Officers present

Helen Minnican, Stephanie Mulvey, Anna Tran, Alex Read, Sukhraj Goraya.

AGENDA ITEM

1. Confirmation of minutes

Resolved, on the motion of Mrs Quinnell, seconded Mrs Hannan: That the minutes of the meeting of 9 October 2023 be confirmed.

2. ***

3. Correspondence

Committee noted the receipt of the letter from the Hon. Paul Scully MP, Minister for Planning and Public Spaces dated 10 October 2023, requesting the Committee conduct an inquiry in respect to historical development consents.

Resolved, on the motion of Mrs Quinnell, seconded Mrs Hannan: That the Committee accept the referral of an inquiry into historical development consents by the Hon. Paul Scully MP, Minister for Planning and Public Spaces in his letter of 10 October 2023, and to commence the inquiry in early 2024.

4. ***

5. Next meeting

The meeting adjourned at 2.30 pm until 17 November 2023 at 2 pm.

Minutes of meeting no 9

9.00 am, 14 March 2024

Room 1036 and via Webex

Members present

Clayton Barr (Chair), Sally Quinnell (Deputy Chair), Maryanne Stuart, Judy Hannan, and Kellie Sloane.

Officers present

Stephanie Mulvey, Anna Tran, Alex Read and Sukhraj Goraya.

AGENDA ITEM

1. Confirmation of minutes

Resolved, on the motion of Mrs Quinnell, seconded by Ms Stuart: That the minutes of the meeting of 17 November 2023 be confirmed.

2. Inquiry into historical development consents in New South Wales

2.1 Letter received from the Minister for Planning and Public Spaces and terms of reference

Resolved, on the motion of Ms Stuart, seconded by Mrs Quinnell: That the Committee conduct an inquiry into historical development consents in New South Wales, including:

- a. The current legal framework for development consents, including the physical commencement test.
- b. Impacts to the planning system, development industry and property ownership as a result of the uncertain status of lawfully commenced development consents.
- c. Any barriers to addressing historical development consents using current legal provisions, and the benefits and costs to taxpayers of taking action on historical development concerns.
- d. Possible policy and legal options to address concerns regarding historical development consents, particularly the non-completion of consents that cannot lapse, and options for further regulatory support, including from other jurisdictions.
- e. Any other matters.

Resolved, on the motion of Mrs Quinnell, seconded by Ms Sloane: That the Chair write to the Minister for Planning and Public Spaces in response, accepting the referral of an inquiry in accordance with the Minister's letter of referral and draft terms of reference as amended.

2.2 Suggested inquiry timeline

Resolved, on the motion of Mrs Quinnell, seconded by Ms Sloane: That the Committee meet and receive a private briefing with the Department of Planning, Housing and Infrastructure on 9 April 2024.

2.3 Submissions

Resolved, on the motion of Ms Sloane, seconded by Mrs Hannan: That the Committee call for submissions by 3 June 2024 and invite the listed stakeholders to make a written submission.

The Committee agreed to propose by email any additional stakeholders to invite to make submissions.

2.4 Media release

The Committee noted the draft media release attached, announcing the launch of the inquiry and calling for submissions.

3. ***

4. Next Meeting

The meeting adjourned at 9.20 am until Tuesday, 9 April 2024.

Minutes of meeting no 10

2.48 pm, 9 April 2024

Room 1043 and via Webex

Members present

Clayton Barr (Chair), Sally Quinnell (Deputy Chair) (by Webex), Judy Hannan (by Webex) and Kellie Sloane (by Webex).

Apologies

Maryanne Stuart

Officers present

Helen Minnican, Stephanie Mulvey, Anna Tran, Alex Read, Sukhraj Goraya.

AGENDA ITEM

1. Confirmation of minutes

Resolved, on the motion of Mrs Quinell, seconded Mrs Hannan: That the minutes of the meeting of 14 March 2024 be confirmed.

2. Correspondence

The Committee noted the following correspondence received and sent:

- Letter to the Hon. Paul Scully MP, Minister for Planning and Public Services accepting the referral of an inquiry into historical development consents, sent 14 March 2024.

- Email from Mr Jay Pleass, Lendlease informing the Committee that Lendlease does not intend to make a submission to the inquiry into historical development consents, received 2 April 2024.
- Email from Ms Kristin Moss, National Policy Lead at Australian Constructors Association informing the Committee that the Association does not intend to make a submission to the inquiry into historical development consents, received 4 April 2024.

3. Inquiry into historical development consents in New South Wales (Attachment C)

3.1 Briefing with representatives from the Department of Planning, Housing and Infrastructure

Resolved on the motion of Ms Sloane, seconded Ms Stuart: That the Committee admit the following representatives from the Department of Planning, Housing and Infrastructure for a private briefing:

- Jonathon Schipp, Executive Director, Infrastructure Policy, Planning – Development Assessments and Infrastructure Division.
- Kristy Chan, Director, Infrastructure Policy, Planning – Development Assessments and Infrastructure Division.

Mr Schipp and Ms Chan joined the meeting at 2.53 pm and provided a private briefing on historical development consents in New South Wales. Mr Schipp and Ms Chan left the meeting at 3.54 pm.

4. ***

5. Next meeting

The meeting adjourned at 3.58 pm until a date and time in June to be determined.

Minutes of meeting no 11

3.01 pm, 2 July 2024

Room 1043 and via Webex

Members present

Clayton Barr (Chair) (by Webex), Sally Quinnell (Deputy Chair) (by Webex), Judy Hannan (by Webex), Maryanne Stuart (by Webex) and Kellie Sloane

Officers present

Stephanie Mulvey, Anna Tran, Alex Read and Lloyd Connolly

AGENDA ITEM

1. Confirmation of minutes

Resolved, on the motion of Ms Sloane, seconded Ms Stuart: That the minutes of the meeting of 9 April be confirmed.

2. Correspondence

The Committee noted the following correspondence received and sent:

- 3 June 2024 – Email from Mr Matthew Rose, Shoalhaven City Council regarding the Council's draft submission to the Committee's inquiry into historical development consents in NSW.
- 4 June 2024 – Email from Kerry Hewson attaching and endorsing the submission from Manyana Matters Environmental Association.
- 6 June 2024 – Email from Ms Jane Partridge, Local Government NSW, attaching the draft submission from LGNSW to the Committee's inquiry into historical development consents in NSW.
- 7 June 2024 – Email from Blacktown City Council, attaching its draft submission to the Committee's inquiry into historical development consents in NSW.

- 28 June 2024 – Email from Mr Matthew Rose, Shoalhaven City Council attaching the Council's submission to the Committee's inquiry into historical development consents in NSW.

3. Inquiry into historical development consents in New South Wales

3.1 Submissions

The Committee considered accepting and publishing submissions.

Resolved, on the motion Mrs Quinnell, seconded Mrs Hannan:

- That the Committee update the inquiry webpage with a note that: 'The below list is not the final list of submissions made to this inquiry and further submissions are to be considered for publication by the Committee.'
- That the Committee accept and publish submissions 1, 3-5, 7-13, 15-20, 22-32, 34-35, 37-40, 42, 44-47, 51-52, 54-59, 61-68, 70, 72-73 and 75-86.
- That the Committee accept and publish submissions 14 and 33 as partially confidential with name suppressed.
- That the Committee accept and keep confidential submissions 2, 6, 43, 48 and 48a.
- That the Committee accept and publish submission 21 as partially confidential with redactions of names on page 4 and quoted correspondence on page 5.
- That the Committee accept and publish submission 36 as partially confidential with redactions of third paragraph at page 4.
- That the Committee accept and publish submission 41 as partially confidential with redactions of all quoted correspondence and names of email recipients/senders.
- That the Committee accept and publish submission 49 as partially confidential with redactions of email correspondence, including name and job title, on page 3 and Appendix Two.
- That the Committee accept and publish submission 50 as partially confidential with redactions of quoted opinions on pages 3 and 5.
- That the Committee accept and publish submission 53 as partially confidential with redactions of sentence on page 2 beginning with "The motion to accept the modified

DA...", first paragraph and quoted correspondence on page 3, and list items (ii) and (iv) on pages 3-4.

- That the Committee accept and publish submission 60 as partially confidential with redactions of name and job title of email sender on page 15, page 16, first paragraph of page 17, and name and job title of email sender and quote from email on page 24.
- That the Committee accept and publish submission 69 as partially confidential with redactions of quote from letter on page 4.
- That the Committee accept and publish submission 71 as partially confidential with redactions of references and quotes from letter on page 1.
- That the Committee accept and publish submission 74 as partially confidential with redactions of fourth paragraph on page 3 and redacting attachments.

Resolved, on the motion of Ms Stuart, seconded Mrs Quinnell:

- That the Secretariat circulate proposed resolutions regarding the acceptance and publication of submissions 87–241 to the Committee.
- That the Committee accept and publish submissions in accordance with the proposed resolutions circulated by email pending any objections received by 5.00 pm, Monday 8 July 2024.

3.2 Form letters

The Committee considered potential form letters received and noted receipt of three form letters:

- Form letter 1 – 12 received
- Form letter 2 – 9 received
- Form letter 3 – 5 received

Resolved, on the motion of Ms Sloane, seconded Mrs Hannan: That the Committee publish samples of form letters 1, 2 and 3.

3.3 Site visits and public hearings

The Committee discussed potential dates and locations for possible site visits as part of the inquiry, and public hearings for the inquiry.

Resolved, on the motion of Mrs Quinnell, seconded Ms Stuart:

- That the Committee seek funding approval from the Speaker to undertake three site visits to the Byron Shire, Shoalhaven and Bega Valley, and the Blue Mountains and Penrith in August or September 2024.
- That the Committee hold a public hearing on 23 September 2024, and additional public hearings as agreed.

4. ***

5. Next meeting

The meeting adjourned at 3.29 pm until a later date and time.

Minutes of meeting no 12

2.05 pm, 23 September 2024

Room 1043 and via Webex

Members present

Clayton Barr (Chair) (by Webex), Sally Quinnell (Deputy Chair) (by Webex), Judy Hannan, Maryanne Stuart (by Webex) and Kellie Sloane

Officers present

Stephanie Mulvey, Anna Tran, Alex Read and Lloyd Connolly

AGENDA ITEM

1. Confirmation of minutes

Resolved, on the motion of Ms Stuart: That the minutes of the meeting of 2 July 2024 be confirmed.

2. Correspondence

The Committee noted the following correspondence received:

- 28 August 2024 – Email from Col Shepherd, Chairperson of Yamba Community Action Network requesting to make a late submission.
- 30 August 2024 – Email from Clarence Property regarding the inquiry into historical development consents, including attaching a proposed submission (with attachments).
- 4 and 7 September 2024 – Emails from OzyHomes regarding the inquiry into historical development consents and meeting with the Committee on site, and attaching a proposed submission (with attachments).
- 9 September 2024 – Email from McCloy Group regarding the inquiry into historical development consents.
- 16 September 2024 – Letter from Manyana Matters Environmental Association regarding the recent site visits.

Resolved, on the motion of Mrs Hannan: That the Committee privately meet with representatives from the McCloy Group to discuss its inquiry into historical development consents in NSW.

Resolved, on the motion of Ms Stuart:

- That the Chair on behalf of the Committee respond in writing to the letter from Manyana Matters Environmental Association dated 16 September 2024.
- That secretariat circulate to the Committee by email a draft written reply, and members are to provide any comments and raise any objections by the next business day.

3. Inquiry into historical development consents in NSW

3.1 Regional site visits

Resolved, on the motion of Ms Sloane: That the secretariat circulate to the Committee by email, confidential notes summarising the matters discussed with stakeholders during the site visit to the Far North Coast and Far South Coast and Shoalhaven on 4-5 and 9-10 September 2024.

The Committee noted the following documents provided during the regional site visits:

- Tweed Shire Council submission to Commonwealth Department of Social Services' 10 year National Housing and Homelessness Plan.
- Red Head Villages Community Plan for a Sustainable Future 2024-2030.

3.2 Submissions

The Committee noted that, in accordance with the resolution of 2 July 2024, the secretariat circulated proposed resolutions regarding the acceptance and publication of submissions 87-241 and no objections were received by 8 July 2024. The Committee further noted that, accordingly, the following resolutions were agreed to by the Committee:

- That the Committee accept and publish submissions 88-101, 104, 109-111, 113-115, 117-118, 121-129, 131, 133, 135-138, 140-145, 147-150, 152-161, 163-170, 172-184, 186-187, 189-196, 198-200, 202-203, 205-223, 225-232 and 234-241.
- That the Committee accept and publish submission 185 as partially confidential with name suppressed.
- That the Committee accept and keep confidential submissions 102, 105-106, 112, 116, 119-120, 132, 134, 139, 151, 162, 197, 201, 204 and 233.
- That the Committee accept and publish submission 103 as partially confidential with name suppressed and redactions of all names.
- That the Committee accept and publish submission 107 as partially confidential with redactions of address at pages 1, 2 and 5, and references to and quotes of letter on pages 4-5.
- That the Committee accept and publish submission 108 as partially confidential with redactions of sentence on page 1 beginning with "In consideration of the application...".
- That the Committee accept and publish submission 130 as partially confidential with redactions of sentence on page 2 beginning with "In that Original DA according to an email...".
- That the Committee accept and publish submission 171 as partially confidential with redactions of references to "OEHL letter" on page 2.
- That the Committee accept and publish submission 87, 146, 188 and 224 as partially confidential with redactions of attachments to submission.
- The Committee considered accepting and publishing submissions received after the submission close date.

Resolved, on the motion of Mrs Hannan:

- That the Committee accept and publish submissions 242, 243, 245 and 246.
- That the Committee accept submission 244 and keep confidential submissions 64 and 244, pending further review after October 2024.

3.3 Revised inquiry timeline

The Committee noted the revised timeline for the inquiry and discussed potential further regional site visits and public hearings.

Resolved, on the motion of Ms Sloane: That the Committee seek funding approval from the Speaker to undertake a site visit to the Blue Mountains and Western Sydney in 2025.

3.4 Public hearing

The Committee noted that the public hearing on 23 September 2024, confirmed by resolution on 2 July 2024, was postponed.

The Committee considered conducting a public hearing on 30 October 2024, and the suggested list of witnesses for the proposed public hearing (attached).

Resolved, on the motion of Mrs Quinnell:

- That the Committee hold a public hearing on 30 October 2024.
- That the Committee invite the listed stakeholders to appear at the public hearing on 30 October 2024.

4. Next meeting

The meeting adjourned at 2.31 pm until a time and date to be determined.

Minutes of meeting no 13

2.01 pm, 15 October 2024

Room 1043 and via Webex

Members present

Mr Clayton Barr (Chair), Mrs Sally Quinnell (Deputy Chair), Mrs Judy Hannan, and Ms Maryanne Stuart.

Apologies

Ms Kellie Sloane.

Officers present

Stephanie Mulvey, Anna Tran, and Lloyd Connolly.

AGENDA ITEM

1. Inquiry into historical development consents in NSW

1.1 Private meeting with representatives from the McCloy Group

Resolved, on the motion of Mrs Hannan: That the Committee admit the following representatives from the McCloy Group to conduct a private meeting:

- James Goode, Development Director,
- Jeff Bretag, Planning Director.

Mr Goode and Mr Bretag were admitted by videoconference at 2.03 pm.

Discussion ensued.

Mr Goode and Mr Bretag left the meeting at 2.31 pm.

2. Next Meeting

The meeting adjourned at 2.37 pm until 30 October 2024.

Minutes of meeting no 14

9.09 am, 30 October 2024

Room Macquarie Room and via Webex

Members present

Mr Clayton Barr (Chair), Mrs Sally Quinell (Deputy Chair) (by Webex), Ms Maryanne Stuart, Mrs Judy Hannan (by Webex) and Ms Kellie Sloane.

Officers present

Stephanie Mulvey, Anna Tran, Lloyd Connolly and Mohini Mehta.

AGENDA ITEM

3. Confirmation of minutes

Resolved, on the motion of Ms Stuart: That the minutes of the meetings of 23 September and 15 October 2024 be confirmed.

Pre-hearing deliberative meeting

4. Inquiry into historical development consents in NSW

4.1 Media orders for public hearing

Resolved, on the motion of Ms Sloane: That the Committee authorises the audio-visual recording, photography and broadcasting of the public hearing on 30 October 2024, in accordance with the Legislative Assembly's resolution of 9 May 2023; and the Assembly's guidelines for coverage of proceedings for parliamentary committees administered by the Legislative Assembly.

4.2 Answers to questions taken on notice and supplementary questions

Resolved, on the motion of Ms Stuart:

- That the Committee adopt the following process in relation to supplementary questions:
 - Members to email any proposed supplementary questions for witnesses to the secretariat by 4 pm, Friday 8 November 2024;
 - Secretariat to then circulate all proposed supplementary questions to Committee, with members to lodge any objections to the questions by 4 pm, Monday 11 November 2024.
- That witnesses be requested to return answers to questions taken on notice and any supplementary questions within 14 days of the date on which the questions are forwarded to witnesses.

4.3 Public hearing

The Committee discussed the conduct of the public hearing.

The Chair opened the public hearing at 9.20 am and made a short opening statement.

The following witnesses were admitted by videoconference:

- Mr Peter Newton, President, Kingscliff Ratepayers and Progress Association, affirmed and examined.
- Mr Colin Lidiard, Committee Member, Kingscliff Ratepayers and Progress Association, affirmed and examined.
- Ms Jan Barham, affirmed and examined.

Mr Newton and Ms Barham each made a short opening statement. Evidence concluded and the witnesses withdrew.

The following witnesses were admitted:

- Mr Bill Eger, President, Manyana Matters Environmental Association, affirmed and examined.
- Mr Peter Winkler, Vice President, Manyana Matters Environmental Association, affirmed and examined.

The following witnesses were admitted by videoconference:

- Mr Rob Barrel, President, Callala Matters, affirmed and examined.
- Ms Cat Holloway, Member, Callala Matters, affirmed and examined.

Mr Winkler and Ms Holloway each made a short opening statement. Evidence concluded and the witnesses withdrew.

The following witness was admitted by videoconference:

- Mr Robert Appo, Board Member for Tweed Byron Aboriginal Land Council, affirmed and examined.

Mr Appo made a short opening statement. Evidence concluded and the witness withdrew.

The following witnesses were admitted by videoconference:

- Councillor Chris Cherry, Mayor, Tweed Shire Council, affirmed and examined.
- Mr Troy Green, General Manager, Tweed Shire Council, sworn and examined.
- Ms Denise Gall, Director, Planning & Regulation, Tweed Shire Council, affirmed and examined.

Councillor Cherry, Mr Green and Ms Gall each made a short opening statement. Evidence concluded and the witnesses withdrew.

The following witnesses were admitted by videoconference:

- Ms Coralie McCarthy, Director, City Futures, Shoalhaven City Council, affirmed and examined.
- Mr James Ruprai, Director, City Development, Shoalhaven City Council, affirmed and examined.
- Mr Gordon Clark, Manager, Strategic Planning, Shoalhaven City Council, sworn and examined.

Ms McCarthy made a short opening statement. Evidence concluded and the witnesses withdrew.

The Chair departed the public hearing and the Deputy Chair took the chair at 1.15pm.

The following witnesses were admitted by videoconference:

- Mayor Russell Fitzpatrick, Bega Valley Shire Council, sworn and examined.
- Mr Anthony McMahon, CEO, Bega Valley Shire Council, sworn and examined.
- Mrs Emily Harrison, Director, Community, Environment and Planning, Bega Valley Shire Council, affirmed and examined.

Evidence concluded and the witnesses withdrew.

The following witness was admitted by videoconference:

- ***, affirmed and examined.

Evidence concluded and the witnesses withdrew.

The Deputy Chair closed the public hearing at 2.07pm

Post-hearing deliberative meeting

4.4 Publication orders

Resolved, on the motion of Mrs Hannan: That the corrected transcript of public evidence given today be authorised for publication and uploaded on the Committee's webpage.

4.5 Acceptance and publication of tendered documents

Resolved, on the motion of Ms Sloane: That the Committee accept and publish the document titled 'Additional points' tendered by Manyana Matters Environmental Association.

4.6 Submissions

Resolved, on the motion of Mrs Hannan: That the Committee accept and publish submission 247.

5. Next Meeting

The meeting adjourned at 2.08 pm until a time and date to be determined.

Minutes of meeting no 15

10.08 am, 21 November 2024

Room 1254 and via Webex

Members present

Mr Clayton Barr (Chair), Mrs Sally Quinell (Deputy Chair), Ms Maryanne Stuart, Mrs Judy Hannan and Ms Kellie Sloane.

Officers present

Stephanie Mulvey, Anna Tran, Alex Read and Lloyd Connolly.

AGENDA ITEM

1. Confirmation of minutes

Resolved, on the motion of Mrs Quinell: That the minutes of the meeting of 30 October 2024 be confirmed.

2. Correspondence

2.1 General correspondence

The Committee noted the following correspondence received and sent:

- 3 October 2024 – Letter to Manyana Matters Environmental Association in response to their letter dated 16 September 2024.
- 3 October 2024 – Email from Mr Ghazi Sangari, OzyHomes declining the Committee's invitation to appear at the public hearing on 30 October 2024.

- 8 October 2024 – Email from Yamba Community Action Network, attaching a proposed submission.
- 21 October 2024 – Email from Ms Noreen Scott, Byron Shire Council declining the Committee's invitation to appear at the public hearing on 30 October 2024.

- 24 October 2024 – Email from Ms Sally Christiansen, Dalmeny Matters, declining the Committee's invitation to appear at the public hearing on 30 October 2024.
- 5 November 2024 – Letter from Manyana Matters Environmental Association regarding the terms of reference of the inquiry into historical development consents.

2.2 Letter from Huskisson Heritage Association

The Committee considered the following correspondence received and draft proposed response:

- 24 October 2024 – Letter from Huskisson Heritage Association regarding the recent site visits.

Resolved, on the motion of Ms Sloane: That the Chair on behalf of the Committee send the attached written response to the letter from Huskisson Heritage Association dated 24 October 2024.

2.3. Correspondence from Ms Susan Templeman MP, Federal Member for Macquarie and from Kurrajong Hills residents

The Committee considered the following correspondence received:

- 9 October 2024 – Email from Ms Susan Templeman MP, Federal Member for Macquarie regarding the inquiry into historical development consents.
- 11 October 2024 – Email from Ms Morgan Philpott, constituent of Ms Templeman MP, regarding a historical development consent in Kurrajong Hills.
- 13 October 2024 – Email from Ms Nicole Luhrs requesting to make a submission to the inquiry into historical development consents in NSW.
- 14 October 2024 – Email from Ms Emma Croker regarding a historical development consent in Kurrajong Hills.
- 14 October 2024 – Email from Ms Stephanie Clay regarding a historical development consent in Kurrajong Hills.
- 14 October 2024 – Email from Ms Deirdre Billett and Mr Bruce Billett regarding a historical development consent in Kurrajong Hills, with attachment.
- 15 October 2024 – Email from Ms Fiona Hamann, constituent of Ms Templeman MP, regarding a historical development consent in Kurrajong Hills.
- 15 October 2024 – Email from Ms Holly Purcell regarding a historical development consent in Kurrajong Hills.
- 22 October 2024 – Email from Mr Richard Henderson regarding a historical development consent in Kurrajong Hills.

Resolved, on the motion of Ms Hannan: That the Committee, through the secretariat, reply to the email from Ms Templeman MP noting that submissions have now closed and that the inquiry will be undertaking further hearings and site visits to the Blue Mountains in 2025, after concluding a separate inquiry that was recently referred.

2.4. Correspondence from ***

The Committee considered the following correspondence received and sent:

- 30 October and 7 November 2024 – Emails from *** regarding *** attendance at the public hearing on 30 October 2024 (with attachments).
- 19 November 2024 – Email to *** inviting *** to write to the Committee in reference to *** evidence in the transcript of the public hearing on 30 October 2024.

Resolved, on the motion of Ms Stuart: That, as agreed via email on 19 November 2024, the secretariat on behalf of the Committee reply to the email from *** received 7 November 2024 inviting them to write to the Committee with any proposed corrections to the evidence of *** in the transcript of the hearing on 30 October 2024.

3. ***

4. Inquiry into historical development consents in NSW

4.1. Timeline of inquiry

The Committee considered the approach to its current inquiry.

Resolved, on the motion of Ms Stuart:

- That the following sentence be included on the inquiry webpage:
'The Committee has recently been referred an inquiry with a reporting date of April - May 2025. As such, the Committee plans to resume hearings in this inquiry in mid-2025.'
- That the Secretariat email the Minister for Planning and Public Spaces to advise that the Committee is required to put its inquiry into historical development consents on hold while it undertakes its inquiry into the electricity outages in Far West NSW.

5. Next meeting

The meeting adjourned at 10.44 am until 11am, Tuesday 26 November 2024.

Minutes of meeting no 16

11.34 am, 26 November 2024

Room 1254 and via Webex

Members present

Mr Clayton Barr (Chair) (by Webex), Mrs Sally Quinell (Deputy Chair) (by Webex), and Mrs Judy Hannan (by Webex).

Apologies

Ms Maryanne Stuart and Ms Kellie Sloane.

Officers present

Stephanie Mulvey, Anna Tran and Lloyd Connolly.

AGENDA ITEM

1. Confirmation of minutes

Resolved, on the motion of Mrs Quinnell: That the minutes of the meeting of 21 November 2024 be confirmed.

2. Correspondence

The Committee noted the following correspondence received and sent:

- 21 November 2024 – Letter to Huskisson Heritage Association in response to their letter dated 24 October 2024.

- 22 November 2024 – Email to the Hon. Paul Scully MP, Minister for Planning and Public Spaces regarding the timeline for the progress of the inquiry into historical development consents in NSW.
- 25 November 2024 – Email to Ms Susan Templeman MP, Federal Member for Macquarie in response to her email received 9 October 2024 about the inquiry into historical development consents.

3. ***

4. Inquiry into historical development consents in NSW

4.1 Transcript of evidence of public hearing on 30 October 2024

The Committee considered the correspondence from *** dated 23 November 2024 regarding *** evidence at the public hearing on 30 October 2024. Discussion ensued

Resolved, on the motion of Mrs Quinnell:

- That the Committee redact the evidence of *** from the transcript of evidence of the public hearing on 30 October 2024.
- That the secretariat reply by email to *** and email *** to notify them of the redaction of *** evidence from the transcript.

5. Next meeting

The meeting adjourned at 11.50 am until 20 January 2025.

Minutes of meeting no 17

10.34 am, 17 January 2025

via Webex

Members present

Mr Clayton Barr (Chair) (by Webex), Ms Maryanne Stuart (by Webex), Ms Kellie Sloane (by Webex) and Mrs Judy Hannan (by Webex).

Apologies

Mrs Sally Quinnell.

Officers present

Stephanie Mulvey, Anna Tran, Alex Read (by Webex) and Lloyd Connolly.

AGENDA ITEM

1. Confirmation of minutes

Resolved, on the motion of Ms Stuart: That the minutes of the meeting of 26 November 2024 be confirmed.

2. ***

3. Next meeting

The meeting adjourned at 10.48 am until 3 February 2025 at 1.30 pm.

Minutes of meeting no 18

1.33 pm, 3 February 2025

Room 1043 and by Webex

Members present

Mr Clayton Barr (Chair), Mrs Sally Quinnell (Deputy Chair) (by Webex), Ms Maryanne Stuart, Ms Kellie Sloane (by Webex) and Mrs Judy Hannan.

Officers present

Stephanie Mulvey, Anna Tran, Joan Douce, Alex Read, Lloyd Connolly, Janish Hettigama and Tayla Green-Aldridge.

AGENDA ITEM

1. Confirmation of minutes

Resolved, on the motion of Ms Stuart: That the minutes of the meeting of 17 January 2025 be confirmed.

2. Correspondence

2.1 Inquiry into historical development consents in NSW

The Committee noted the following correspondence sent and received:

- 29 November 2024 – Email to *** regarding the redaction of *** transcript evidence.
- 29 November 2024 – Email to *** regarding the redaction of his transcript evidence.
- 29 November 2024 – Email from *** regarding the redaction of his transcript evidence.

- 12 January 2025 – Email from Ms Andrea Vickery responding to certain matters raised in the evidence from Ms Denise Galle and Mayor Chris Cherry in the public hearing on 30 October 2024.
- 20 January 2025 – Email from Mr David Mehan MP, Member for the Entrance, attaching a response from Central Coast Council to his request for a list of sites in the Entrance township with historical development consents (with attachment).
- 22 January 2025 – Letter from the Hon. Paul Scully MP, Minister for Planning and Public Spaces, to the Clerk regarding the pause of the inquiry until mid 2025.

2.2 ***

3. ***

4. Next meeting

The meeting adjourned at 3.06 pm until a date and time to be determined.

Minutes of meeting no 19

2.32 pm, 18 February 2025

Room 1043

Members present

Mr Clayton Barr (Chair), Mrs Sally Quinnell (Deputy Chair), Ms Maryanne Stuart, Mr James Wallace and Mrs Judy Hannan.

Officers present

Stephanie Mulvey, Anna Tran, Joan Douce, Alex Read, Lloyd Connolly and Janish Hettigama.

AGENDA ITEM

1. Committee Membership

The Chair informed the Committee of the appointment of James Wallace, in place of Kellie Sloane, as recorded item 10(1) of the Legislative Assembly Votes and Proceedings of 18 February 2025:

Legislative Assembly Votes and Proceedings no 94, 18 February 2025, entry no 10:

10 COMMITTEE MEMBERSHIP

Mr Ron Hoenig moved, pursuant to notice, That:

- (1) James Wallace be appointed to serve on the Committee on Environment and Planning in place of Kellie Sloane, discharged.

...

Question put and passed.

2. Confirmation of minutes

Resolved, on the motion of Mrs Quinnell, seconded Mrs Hannan: That the minutes of the meeting of 3 February 2025 be confirmed.

3. ***

4. ***

5. ***

6. Next meeting

The meeting adjourned at 2.59 pm until 3 March 2025 at 1.30 pm.

Minutes of meeting no 27

10.03 am, 8 May 2025

Room 1254 and via Webex

Members present

Mr Clayton Barr (Chair), Mrs Sally Quinnell (Deputy Chair), Mrs Judy Hannan and Mr James Wallace.

Apologies

Maryanne Stuart

Officers present

Stephanie Mulvey, Anna Tran, Alex Read, Lloyd Connolly and Janish Hettigama.

AGENDA ITEM

1. Confirmation of minutes

Resolved, on the motion of Mr Wallace: That the minutes of the meeting of 31 March 2025 be confirmed.

2. Correspondence

The Committee considered the following correspondence received:

- 20 March 2025 – Letter from Ms Kylie Knight requesting release of an in-camera transcript by the Select Committee on Electoral and Policy Party Funding of the 54th Parliament.

Resolved, on the motion of Mrs Quinnell: That the Chair on behalf of the Committee write to Ms Kylie Knight advising that the Committee is unable to release the in-camera transcript requested and noting that the Inquiry into historical development consents in NSW is currently on hold.

3. ***

4. Next meeting

The meeting adjourned at 10.11 am until 20 May 2025 at 10.00 am.

Minutes of meeting no 28

2.09 pm, 29 May 2025

Room 1136

Members present

Clayton Barr (Chair), Sally Quinnell (Deputy Chair), Judy Hannan, Maryanne Stuart and James Wallace.

Officers present

Stephanie Mulvey, Anna Tran, Joan Douce, Alex Read, Lloyd Connolly and Janish Hettigama.

AGENDA ITEM

1. Confirmation of minutes

Resolved, on the motion of Mrs Hannan: That the minutes of the meeting of 8 May 2025 be confirmed.

2. Correspondence

The Committee noted the following correspondence sent:

- 23 May 2025 – Letter to Ms Kylie Knight responding to her letter dated 20 March 2025 requesting the release of in-camera transcript evidence from the 54th Parliament.

3. ***

4. ***

5. Next meeting

The meeting adjourned at 4.55 pm until a date and time to be determined.

Minutes of meeting no 29

1.03 pm, 30 September 2025

Room 1136 and via Videoconference

Members present

Mr Barr (Chair), Mrs Hannan (via videoconference), Ms Stuart (via videoconference), and Mr Wallace (via videoconference).

Apologies

Mrs Quinnell (Deputy Chair).

Officers present

Leon Last, Anna Tran, Mohini Mehta and Art Bae.

Apologies

Mrs Quinnell (Deputy Chair).

AGENDA ITEM

1. Confirmation of minutes

Resolved, on the motion of Mrs Hannan: That the minutes of the meeting of 29 May 2025 be confirmed.

2. Correspondence

2.1 ***

2.2 Inquiry into historical development consents in NSW

The Committee considered the following correspondence received:

- Email dated 4 September 2025 from Surfers for Climate requesting a meeting regarding the status of the inquiry.

Resolved on the motion of Ms Stuart: That the Chair reply to Surfers for Climate declining their meeting request.

2.3 ***

3. Inquiry into historical development consents in NSW

3.1 Inquiry work program

The Committee considered the work program for the inquiry.

Resolved on the motion of Ms Stuart: That the Committee holds public hearings on 28 and 29 October 2025 in Parliament House.

3.2 Public hearing witnesses

The Committee considered stakeholders to invite to appear as witnesses.

Resolved on the motion of Mr Wallace: That members propose any additional witnesses by COB on Thursday, 2 October 2025, for the secretariat to circulate to the Committee, and that members email any objections to any proposed witnesses by COB Friday, 3 October 2025.

Resolved, on the motion of Ms Stuart: That the following individuals and organisations, and any additional witnesses as agreed by email, be invited to appear as witnesses on 28 or 29 October 2025, subject to their availability:

- NSW Government, including:
 - Department of Planning, Housing and Infrastructure

- Office of Local Government
- Sydney Water
- Local Government NSW
- Country Mayors of NSW
- Blacktown City Council
- Penrith City Council
- Blue Mountains City Council
- Camden Council
- Wollondilly Shire Council
- The Law Society of NSW
- Environment and Planning Law Association (NSW)
- Professor (Dr) Amelia Thorpe, School of Law, Society & Criminology, UNSW
- Environmental Defenders Office

3.3 Supplementary questions

The Committee considered publication of answers to supplementary questions received from witnesses who appeared at the public hearing on 30 October 2024.

Resolved, on the motion of Ms Stuart: That the answers to supplementary questions received from the following organisation and individuals be published on the Committee's webpage:

- Shoalhaven City Council – 25 November 2024
- Kingscliff Ratepayers and Progress Association Inc – 27 November 2024
- Manyana Matters – 27 November 2024
- Ms Jan Barham – 28 November 2024
- Tweed Byron Local Aboriginal Land Council – 28 November 2024
- Tweed Shire Council – 28 November 2024
- Bega Valley Shire Council – 29 November 2024
- Callala Matters – 29 November 2024

4. Next meeting

The meeting adjourned at 1.13 pm until 28 October 2025.

Minutes of meeting no 30

9.10 am, 28 October 2025

Jubilee Room and via Videoconference

Members present

Mr Barr (Chair), Mrs Quinnell (Deputy Chair), Mrs Hannan (via videoconference), Ms Stuart and Mr Wallace.

Officers present

Leon Last, Anna Tran, Alex Read, Abigail Turingan and Art Bae.

AGENDA ITEM

Pre-hearing deliberative meeting

1. Confirmation of minutes

Resolved, on the motion of Mr Wallace, seconded Ms Stuart: That the minutes of the meeting of 30 September 2025 be confirmed.

2. Correspondence

2.1 ***

2.2 Inquiry into historical development consents in NSW

The Committee noted the following correspondence received and sent:

- Email from the Chair dated 3 October 2025 replying to Surfers for Climate declining their request for a meeting to discuss the inquiry into historical development consents.
- Email from Mr Gavin Cherry, Penrith City Council dated 8 October 2025 declining the Committee's invitation to appear at a public hearing.
- Email from Mr David Petrie, Urban Development Institute of Australia NSW dated 14 October 2025 declining the Committee's invitation to appear at a public hearing.
- Email from Ms Emma Hart, Camden Council dated 22 October 2025 declining the Committee's invitation to appear at a public hearing.

The Committee considered the following correspondence:

- Email from Ms Sarah Froh, Registrar, Land and Environment Court of NSW dated 7 October 2025 declining the Committee's invitation to appear at a public hearing.

Resolved, on the motion of Mr Wallace, seconded Mrs Quinnell: That the Chair writes to Ms Froh, Registrar, Land and Environment Court of NSW in reply to their email dated 7 October 2025 requesting certain information regarding historical development consents.

- Email from Professor Amelia Thorpe dated 8 October 2025 declining the Committee's invitation to appear at a public hearing.

Resolved, on the motion of Mrs Quinnell, seconded Ms Stuart:

- That the Chair on behalf of the Committee send written questions to Professor Thorpe in lieu of appearing at the public hearing on 28 October 2025.
- That the same process for supplementary questions for witnesses appearing at the public hearing on 28 October 2025 be adopted for proposing written questions to Professor Thorpe.

3. Inquiry into historical development consents in NSW

3.1 Media orders for public hearing

The Committee considered permitting the media to record, photograph and broadcast the day's public hearing.

Resolved, on the motion of Ms Stuart, second Mrs Hannan: That the Committee authorises the audio-visual recording, photography and broadcasting of the public hearing on 28 October 2025, in accordance with the Legislative Assembly's resolution of 9 May 2023; and the Assembly's guidelines for coverage of proceedings for parliamentary committees administered by the Legislative Assembly.

3.2 Answers to questions taken on notice and supplementary questions

The Committee considered the timeframe for questions taken on notice and the process for supplementary questions.

Resolved, on the motion of Mr Wallace, seconded Mrs Quinnell:

- That the Committee adopt the following process in relation to supplementary questions:
 - Members to email any proposed supplementary questions for witnesses to the secretariat by 4 pm, Thursday 30 October 2025;
 - Secretariat to then circulate all proposed supplementary questions to Committee, with members to lodge any objections to the questions by 4 pm, Friday 31 October 2025.
- That witnesses be requested to return answers to questions taken on notice and any supplementary questions within 7 days of the date on which the questions are forwarded to witnesses.

The meeting adjourned at 9.18 am.

3.3 Public hearing

The Committee discussed the conduct of the public hearing.

The Chair opened the public hearing at 9.18 am and made a short opening statement.

The following witness was admitted:

- Mr Samuel Johnson, Coastal Wetlands Community Organiser, Nature Conservation Council of NSW, was affirmed and examined.

Mr Johnson made a short opening statement. The Committee questioned the witness. Evidence concluded and the witness withdrew.

Mrs Hannan left the meeting.

The following witnesses were admitted:

- Ms Rachel Chick, Senior Solicitor, Environmental Defenders Office, was affirmed and examined.
- Mr Jasper Brown, Senior Solicitor, Environmental Defenders Officer, was affirmed and examined.

Mr Brown made a short opening statement. The Committee questioned the witnesses. Evidence concluded and the witnesses withdrew.

The Committee adjourned at 10.15 am and resumed at 10.30 am.

The following witnesses were admitted:

- Mrs Anita Hugo, NSW Executive Director, Property Council of Australia, was sworn and examined.
- Mr Ross Grove, Western Sydney Regional Director, Property Council of Australia, was sworn and examined.
- Mr Tom Forrest, Chief Executive Officer, Urban Taskforce Australia, was affirmed and examined.

Mr Forrest and Mrs Hugo each made a short opening statement. The Committee questioned the witnesses. Evidence concluded and the witnesses withdrew.

The following witness was admitted:

- Ms Charlotte Alexander, Head of Growth and Development, Sydney Water, was affirmed and examined.

Ms Alexander made a short opening statement. The Committee questioned the witness. Evidence concluded and the witness withdrew.

The Committee adjourned at 11.53 am, and resumed at 1.17 pm.

The following witnesses were admitted:

- Mr Will Langevad, Director, Environment and Planning Service, Blue Mountains City Council, was sworn and examined.
- Mr Alex Williams, Manager Development and Planning, Blue Mountains City Council, was affirmed and examined.
- Councillor Mathew Gould, Mayor, Wollondilly Shire Council, was sworn and examined.

Councillor Gould and Mr Langevad each made a short opening statement. The Committee questioned the witnesses. Evidence concluded and the witnesses withdrew.

The Committee adjourned at 2.12 pm and resumed at 2.21 pm.

The following witness was admitted:

- Ms Judith Portelli, Manager Development Assessment, Blacktown City Council, was affirmed and examined.

Ms Portelli made a short opening statement. The Committee questioned the witness. Evidence concluded and witness withdrew.

The following witnesses were admitted:

- Councillor Khal Asfour, Vice President, Local Government NSW, was sworn and examined.
- Mr David Reynolds, Chief Executive, Local Government NSW, was sworn and examined.
- Mrs Julie Briggs, Policy Advisor, Country Mayors Association of NSW, appearing via videoconference, was affirmed and examined.
- Councillor Russell Fitzpatrick, Deputy Chairman, Country Mayors Association of NSW, appearing via videoconference, was sworn and examined.
- Mrs Emily Harrison, Director Community, Environment and Planning, Bega Valley Shire Council, appearing via videoconference, was affirmed and examined.

Councillor Fitzpatrick and Councillor Asfour both made a short opening statement. The Committee questioned the witnesses. Evidence concluded and the witnesses withdrew.

The public hearing concluded at 3.31 pm.

Post-hearing deliberative meeting

The meeting opened at 3.33 pm.

3.4 Publication orders

The Committee considered publishing the transcript of today's public evidence.

Resolved, on the motion of Mrs Quinnell, seconded Ms Stuart: That the corrected transcript of public evidence given today be authorised for publication and uploaded on the Committee's webpage.

3.5 Additional public hearing

The Committee considered holding a public hearing on 5 November 2025.

Resolved, on the motion of Ms Stuart, seconded Mrs Quinnell: That the Committee holds a public hearing on 5 November 2025.

4. Next meeting

The Committee adjourned at 3.35 pm until 9.45 am on 29 October 2025.

Minutes of meeting no 31

9.54 am, 29 October 2025

Jubilee Room and via Videoconference

Members present

Mr Barr (Chair) (via videoconference), Mrs Quinnell (Deputy Chair), Mrs Hannan (via videoconference), Ms Stuart and Mr Wallace.

Officers present

Leon Last, Anna Tran, Alex Read and Art Bae.

AGENDA ITEM

Pre-hearing deliberative meeting

1. Minutes of last meeting

The Committee agreed to defer consideration of minutes of yesterday's meeting to the next meeting.

2. Inquiry into historical development consents in NSW

2.1 Media orders for public hearing

The Committee considered permitting the media to record, photograph and broadcast the day's public hearing.

Resolved, on the motion of Mrs Hannan, seconded Mr Wallace: That the Committee authorises the audio-visual recording, photography and broadcasting of the public hearing on 29 October 2025, in accordance with the Legislative Assembly's resolution of 9 May 2023; and the Assembly's guidelines for coverage of proceedings for parliamentary committees administered by the Legislative Assembly.

2.2 Answers to questions taken on notice and supplementary questions

The Committee considered the timeframe for questions taken on notice and the process for supplementary questions.

Resolved, on the motion of Mrs Quinnell, seconded Mrs Hannan:

- That the Committee adopt the following process in relation to supplementary questions:
 - Members to email any proposed supplementary questions for witnesses to the secretariat by 4 pm, Thursday 30 October 2025;
 - Secretariat to then circulate all proposed supplementary questions to Committee, with members to lodge any objections to the questions by 4 pm, Friday 31 October 2025.
- That witnesses be requested to return answers to questions taken on notice and any supplementary questions within 7 days of the date on which the questions are forwarded to witnesses.

2.3 Public hearing

The Committee discussed the conduct of the public hearing.

The Chair opened the public hearing at 9.56 am and made a short opening statement.

The following witnesses were admitted:

- Ms Janet McKelvey, President, Environment and Planning Law Association (NSW), was affirmed and examined.
- Mr Andrew Pickles SC, Member, Environment and Planning Law Association (NSW), was affirmed and examined.

Ms McKelvey made a short opening statement. The Committee questioned the witnesses.

Mr Barr left the meeting at 10.13 am. In the absence of the Chair, the Deputy Chair acted as Chair.

Evidence concluded and the witnesses withdrew.

The Committee adjourned at 10.58 am and resumed at 11.14am.

The following witnesses were admitted:

- Mr Clay Preshaw, A/Executive Director, Planning Systems Reform, Department of Planning, Housing and Infrastructure, was affirmed and examined.
- Mr Daniel Thompson, Executive Director, Local Planning and Support, Department of Planning, Housing and Infrastructure, was affirmed and examined.

The Committee questioned the witnesses.

Mrs Hannan left the meeting at 12.00 pm. Evidence concluded and the witnesses withdrew.

The public hearing concluded at 12.05 pm.

Post-hearing deliberative meeting

The meeting opened at 12.09 pm.

2.4 Publication orders

The Committee considered publishing the transcript of today's public evidence.

Resolved, on the motion of Mr Wallace, seconded Ms Stuart: That the corrected transcript of public evidence given today be authorised for publication and uploaded on the Committee's webpage.

3. Next meeting

The Committee adjourned at 12.13 pm until 2.45 pm on 5 November 2025.

Minutes of meeting no 32

2.51 pm, 5 November 2025

via Videoconference

Members present

Mr Barr (Chair) (via videoconference), Mrs Quinnell (Deputy Chair) (via videoconference), Mrs Hannan (via videoconference), Ms Stuart (via videoconference).

Apologies

Mr Wallace.

Officers present

Leon Last, Anna Tran, Alex Read and Art Bae.

AGENDA ITEM

Pre-hearing deliberative meeting

1. Confirmation of minutes

Resolved, on the motion of Ms Stuart, seconded Mrs Hannan: That the minutes of the meetings of 28 and 29 October 2025 be confirmed.

2. Inquiry into historical development consents in NSW

2.1 Media orders for public hearing

The Committee considered permitting the media to record, photograph and broadcast the day's public hearing.

Resolved, on the motion of Mrs Hannan, seconded Ms Stuart: That the Committee authorises the audio-visual recording, photography and broadcasting of the public hearing on 5 November 2025, in accordance with the Legislative Assembly's resolution of 9 May 2023; and the Assembly's guidelines for coverage of proceedings for parliamentary committees administered by the Legislative Assembly.

2.2 Answers to questions taken on notice and supplementary questions

The Committee considered the timeframe for questions taken on notice and the process for supplementary questions.

Resolved, on the motion of Mrs Quinnell, seconded Mrs Hannan:

- That the Committee adopt the following process in relation to supplementary questions:
 - Members to email any proposed supplementary questions for witnesses to the secretariat by 4 pm, Monday 10 November 2025;
 - Secretariat to then circulate all proposed supplementary questions to Committee, with members to lodge any objections to the questions by 4 pm, Tuesday 11 November 2025.

- That witnesses be requested to return answers to questions taken on notice and any supplementary questions within 7 days of the date on which the questions are forwarded to witnesses.

The meeting adjourned at 2.55 pm.

2.3 Public hearing

The Committee discussed the conduct of the public hearing.

The Chair opened the public hearing at 2.58 pm and made a short opening statement.

The following witnesses were admitted:

- Mr Alistair Knox, Chair, Environmental Planning and Development Committee, was affirmed and examined by videoconference.
- Ms Roslyn McCulloch, Deputy Chair, Environmental Planning and Development Committee, was affirmed and examined by videoconference.

Mr Knox made a short opening statement. Evidence concluded, the witnesses withdrew.

The public hearing concluded at 3.47 pm.

Post-hearing deliberative meeting

The meeting resumed at 3.48 pm.

2.4 Publication orders

The Committee considered publishing the transcript of today's public evidence.

Resolved, on the motion of Mrs Hannan, seconded Ms Stuart: That the corrected transcript of public evidence given today be authorised for publication and uploaded on the Committee's webpage.

2.5 Supplementary questions for witnesses appearing on 28 and 29 October 2025

The Committee noted, further to the resolutions of 28 and 29 October 2025 and in light of the delays receiving the transcripts of evidence, the agreement by email of 30 October 2025 of the change in arrangements for supplementary questions for witnesses appearing at the public hearings on 28 and 29 October 2025.

Resolved, on the motion of Mrs Quinnell, seconded Ms Stuart: That the Committee notes its agreement via email to adopt the following revised process for supplementary questions for the public hearings on 28 and 29 October 2025, due to the delay in receiving the transcripts of evidence:

- Members to email any proposed supplementary questions for witnesses to the secretariat by 4 pm, Tuesday 4 November 2025.
- Secretariat to then circulate all proposed supplementary questions to the Committee, to be considered at the next meeting on 5 November 2025.

The Committee considered the proposed supplementary questions for identified witnesses appearing at the public hearings on 28 and 29 October 2025, which were circulated on the LA Members' Hub.

3. Next meeting

The Committee adjourned at 3.51 pm until 2.30 pm on 20 November 2025.

Minutes of meeting no 33

2.30 pm, 20 November 2025

Room 1136 and via Videoconference

Members present

Mr Barr (Chair), Mrs Quinnell (Deputy Chair), Mrs Hannan, Ms Stuart (via videoconference) and Mr Wallace.

Officers present

Leon Last, Anna Tran, Alex Read, Mohini Mehta and Chloe Honnef.

AGENDA ITEM

1. Confirmation of minutes

Resolved, on the motion of Mrs Quinnell: That the minutes of the meeting of 5 November 2025 be confirmed.

2. Inquiry into historical development consents in NSW

2.1 Correspondence

The Committee noted the following correspondence received and sent:

- Letter dated 29 October 2025 from the Chair to the Land and Environment Court of NSW requesting information or statistics regard historical development consents.
- Email dated 11 November 2025 from Professor Amelia Thorpe declining to answer the written questions sent in lieu of appearing at a public hearing.

2.2 Answers to questions taken on notice and supplementary questions

The Committee noted the Law Society of NSW's extension to return answers to questions taken on notice and supplementary questions by 25 November 2025.

The Committee considered publishing the answers to questions taken on notice and supplementary questions received from witnesses appearing at the public hearings on 28 and 29 October 2025, which were separately circulated via the LA Members' Hub.

Resolved, on the motion of Mr Wallace, seconded Mrs Quinnell: That answers to questions taken on notice and supplementary questions received from the following organisations be published on the Committee's webpage:

- Nature Conservation Council – 6 November 2025
- Blacktown City Council – 11 November 2025
- Blue Mountains City Council – 11 November 2025
- Local Government NSW – 11 and 17 November 2025
- Sydney Water – 11 November 2025
- Urban Taskforce Australia – 11 November 2025
- Environmental Defenders Office – 12 November 2025
- Property Council of Australia – 12 November 2025
- Department of Planning, Housing and Infrastructure – 13 November 2025

3. ***

4. Next meeting

The meeting adjourned at 2.32 pm until a date and time to be determined.

Minutes of meeting no 34

2.07 pm, 9 February 2026

Room 1043 and via videoconference

Members present

Mr Barr (Chair), Ms Stuart (via videoconference) and Mr Wallace (via videoconference).

Apologies

Mrs Hannan and Mrs Quinnell.

Officers present

Leon Last, Anna Tran, Alex Read, Mohini Mehta, Riley Duncombe.

AGENDA ITEM

1. Confirmation of minutes

Resolved, on the motion of Ms Stuart: That the minutes of the meeting of 20 November 2025 be confirmed.

2. Inquiry into historical development consents in NSW

2.1 Correspondence

The Committee noted the following correspondence received:

- Email dated 25 November 2025 from Registrar Sarah Froh, Land and Environment Court of NSW replying to the Committee's letter requesting information or statistics regarding historical development consents.

Resolved, on the motion of Mr Wallace: That the Committee publishes the email, dated 25 November 2025, from the Registrar of the Land and Environment Court of NSW on the Committee's webpage subject to no objections to publication being raised by the Court.

- Email dated 2 December 2025 from Ms Kristy Peters, Wollondilly Shire Council regarding the Committee's supplementary questions to Wollondilly Shire Council.

2.2 Answers to questions taken on notice and supplementary questions

The Committee considered publication of the answers to questions taken on notice and supplementary questions received from witnesses appearing at the public hearings on 29 October and 5 November 2025.

Resolved, on the motion of Ms Stuart, seconded Mr Wallace: That answers to questions taken on notice and supplementary questions received from the following organisations be published on the Committee's webpage:

- Environment and Planning Law Association (NSW) – 21 November 2025
- The Law Society of NSW – 25 November 2025.

2.3 Report workshop

The Committee discussed potential findings and recommendations for the report.

Resolved, on the motion Mr Wallace, seconded Ms Stuart:

- That the Committee permit the audio and visual recording of today's report workshop.
- That only the secretariat access the recording and delete the recording after the report is tabled and published.

3. Next meeting

The meeting adjourned at 2.42 pm until 9.30 am on 8 May 2026.

Unconfirmed minutes of meeting no 35

10.01 am, 27 July 2026

Via videoconference

Members present

Mr Barr (Chair), Mrs Quinnell (Deputy Chair), Mrs Hannan and Mr Wallace.

Apologies

Ms Stuart.

Officers present

Rohan Tyler, Anna Tran, Alex Read and Nicolle Gill.

AGENDA ITEM

1. Confirmation of minutes

Resolved, on the motion of Mrs Quinnell, seconded by Mrs Hannan: That the minutes of the meeting of 9 February 2026 be confirmed.

2. ***

3. Inquiry into historical development consents in NSW

3.1 Consideration of Chair's draft report

The Committee considered the Chair's draft report, previously circulated via the LA Members' Hub.

Resolved, on the motion of Mrs Hannan, seconded by Mrs Quinnell: That the Committee consider the report chapter by chapter.

The Committee considered Chapter One of the Chair's draft report.

Resolved, on the motion of Mrs Quinnell, seconded by Mrs Hannan: That the Chapter stand part of the report.

The Committee considered Chapter Two of the Chair's draft report.

Resolved, on the motion of Mrs Quinnell, seconded by Mrs Hannan: That the Chapter stand part of the report.

The Committee considered Chapter Three of the Chair's draft report.

Resolved, on the motion of Mrs Quinnell, seconded by Mrs Hannan: That the Chapter stand part of the report.

The Committee considered Chapter Four of the Chair's draft report.

Resolved, on the motion of Mrs Quinnell, seconded by Mrs Hannan: That the Chapter stand part of the report.

The Committee considered Chapter Five of the Chair's draft report.

Resolved, on the motion of Mrs Quinnell, seconded by Mrs Hannan: That the Chapter stand part of the report.

Resolved, on the motion of Mrs Quinnell, seconded by Mrs Hannan:

1. That the draft report be the report of the Committee and that it be signed by the Chair and presented to the House.
2. That the Chair and Committee staff be permitted to correct stylistic, typographical and grammatical errors.
3. That, once tabled, the report be published on the Committee's webpage.

3.2 Report cover

The Committee considered the report cover option that was circulated as part of the meeting papers.

Resolved, on the motion of Mrs Quinnell, seconded by Mrs Hannan: That the report cover that was circulated to the Committee as part of the meeting papers be the cover of the Committee's tabled report.

4. Next meeting

The meeting adjourned at 10.12 am until a date and time to be determined.