

Mining and Petroleum Gateway Panel

Complaints Handling Policy

September 2013

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The policy does not affect or replace relevant statutory requirements. Where an inconsistency arises between the provisions of the policy and relevant statutory provisions, the statutory requirements prevail.

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It should be noted that the policy may be affected by changes to legislation at any time and / or be subject to revision without notice.

It is recommended that independent advice be sought in respect of the operation of the policy and the statutory requirements applying to Mining and Petroleum Gateway Panel under Part 4AA of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.

Mining and Petroleum Gateway Panel Complaints Handling Policy
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1. Introduction

The Gateway Panel is interested in hearing from you if you have a general enquiry, suggestion or perhaps you need an explanation of the Gateway Panel policies or procedures. The Gateway Panel Secretariat is the first point of contact for all Panel matters (02 9228 2060 or email secretariat@mpgp.nsw.gov.au).

There may also be instances when you need to make a complaint about the actions or policies of the Gateway Panel or the Gateway Panel Secretariat. This policy outlines the process that must be followed if you make a complaint.

Complaints can arise from simple misunderstandings about the role of the Gateway Panel, or be more serious such as concerns about the conduct of staff or the Panel.

The overall goal of this policy is to promote an accessible, fair and equitable complaints handling process that will:

- help resolve any public dissatisfaction,
- reduce dissatisfaction and complaints about procedural aspects of the Gateway Panel in the future, and
- identify procedural aspects of the Gateway Panel operations that may need improvement.

2. Role of Gateway Panel

The Gateway Panel:

- undertakes independent, focussed, assessments of State significant mining and coal seam gas (CSG) proposals located on Strategic Agricultural Land against specified criteria relating to agricultural and water impacts,
- issues gateway certificates (either conditional or unconditional) for State Significant mining and CSG proposals on Strategic Agricultural Land prior to the development application process under the Environmental Planning and Assessment Act 1979 (EP&A Act),
- advises the Minister for Planning and Infrastructure or the Director-General of the Department of Planning & Infrastructure at various stages of the State Significant development assessment process for certain mining and CSG proposals.

The Gateway Panel operates independently of State government. This policy applies to all Panel members, including the Chairperson

3. What is regarded as a complaint?

Complaints may relate to:

- a) the actions of (or a failure to act by) the Chairperson, Panel members and secretariat staff at Panel meetings, in written communications from Panel members or secretariat staff or in telephone calls.
- b) the policies and procedures applying to Panel members.
- c) circumstances where a member of the public suspects that a Panel member has breached the Gateway Panel's Code of Conduct and/or Operational Procedures.

This policy does not extend to dissatisfaction with:

- decisions of the Gateway Panel,
- government policy and legislative powers, or
- decisions of government.

4. Obligations of Gateway Panel Secretariat and Gateway Panel members

You can expect that the Gateway Panel Secretariat and Gateway Panel members will:

1. respond to the complaint promptly in accordance with this policy,
2. keep you, as the complainant, informed of what happening with your enquiry or complaint,

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3. record in detail all actions and outcomes relating to the complaint,
 4. treat all complainants with respect, courtesy and confidentiality.

5. Obligations of complainants

You, as the complainant, must:

1. not make complaints that are frivolous, vexatious, or otherwise not in good faith,
2. provide adequate and accurate details about the complaint,
3. follow the procedural steps in this policy on how to make and progress a complaint,
4. allow adequate time for the respondent to address the enquiry or complaint, and
5. where possible, suggest actions or outcomes that will assist in resolving the issue.

6. How to make a complaint

Step 1

For minor matters, make contact with the Gateway Panel Secretariat and try to resolve the issue directly, if it is appropriate to do so.

Step 2

If you are dissatisfied, or if Step 1 is not applicable, write to the Gateway Panel Secretariat and clearly identify the nature of your complaint (for example an alleged breach of the Code of Conduct or Operational Procedures). The Secretariat may be contacted by:

Email: mpgpenquiry@mpgp.nsw.gov.au

Mail: Mining and Petroleum Gateway Panel Secretariat, GPO Box 39, Sydney NSW 2001

Phone: 02 9228 2060.

The Secretariat will:

- acknowledge receipt of your complaint,
- ensure that they understand the complaint - if there is any doubt at all, they will contact you and seek clarification, and
- inform you what will happen next and who will be dealing with the matter and how they may be contacted.

Where the complaint relates to the Secretariat itself, the Secretariat will refer the complaint to the relevant person in accordance with Step 3 below.

If the complaint relates to a matter that falls outside of this policy, the Secretariat will advise you of this in writing, including advice on the other options that may be available to you.

Step 3

If the Secretariat is not able to resolve the complaint, the Secretariat will refer the matter to:

- a) the Gateway Panel Chairperson - if the complaint is about a Gateway Panel member (other than the Chairperson) or the Gateway Panel Secretariat, or
- b) another relevant body for action (such as the Ombudsman and/or Independent Commission Against Corruption).

If the complaint is referred to the Gateway Panel Chairperson, the Gateway Panel Secretariat may arrange a meeting the person against whom the complaint has been made, and will confirm the outcome of any meeting or discussion with you in writing.

Step 4

If the complaint is still unresolved, you can write to the Ombudsman or the Independent Commission Against Corruption requesting further action. Complaints may also be lodged with external bodies (the Ombudsman; the Independent Commission Against Corruption; or the Department of Local Government) without a prior complaint to the Gateway Panel Secretariat (see *Complaints Alleging Corrupt Conduct*).

7. Complaints alleging corrupt conduct

You may make allegations of corrupt conduct in accordance with this policy or directly to the Independent Commission Against Corruption.

Gateway Panel members are under a duty to report any matter that they suspect on reasonable grounds concerns or may concern corrupt conduct to the Independent Commission Against Corruption.¹

8. Procedural fairness

Each complaint will be acknowledged in writing within 7 days of receipt of the complaint.

When considering complaints, the Gateway Panel and Gateway Panel Secretariat will adhere to the principles of procedural fairness. The officer considering the complaint will:

- inform the person of the complaint made against them,
- give that person a right to be heard,
- not have a personal interest in the outcome or have been involved in handling the complaint, and
- act only on the basis of logically probative evidence.

It may be appropriate for the person dealing with the complaint to engage an external mediator or agency to assist in the resolution or investigation of the complaint.

Where possible all complaints will be resolved within 4 weeks of this acknowledgement. If this is not possible, the complainant will be informed of an estimated resolution date.

The outcomes of the complaint handling process may include:

- an apology,
- review of the matter generally or of a particular decision,
- provision of further information,
- a suggested change to policy or procedure to improve services,
- referral to either an appropriate agency or integrity body for appropriate action, or
- dismissal of the complaint if it is considered to be without reasonable basis.

9. Confidentiality

Confidentiality can be a very important issue in dealing with complaints. Depending upon the circumstances of each case there may be a need for confidentiality in relation to some or all of the following:

- the fact that a complaint has been made,
- the nature of the allegations,
- the identity of the complainant,
- the identity of any persons the subject of a complaint;
- the identity of any witnesses; and
- any evidence gathered.

In some instances, confidentiality may be maintained for a finite period or it may be important that it is maintained absolutely. For example, the nature of allegations may be kept confidential initially but not forever.

Who the information should be kept confidential from may also be a consideration. Information may be kept confidential from the public generally, or from particular individuals.

In making decisions about confidentiality, the officer handling the complaint must consider the circumstances where it would, or may be, inappropriate to disclose information. These circumstances may include:

- to minimise detrimental impact on individuals,
- to minimise detrimental impact on current or future investigations,
- to minimise prejudice to the future supply of information to the agency or government;
- to minimise or prevent substantial adverse impact on the management or assessment of an agency's personnel,
- to minimise prejudice to occupational health and safety,

¹ Section 11, Independent Commission Against Corruption Act

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- in various circumstances (in relation to complaints by third parties) whether there are specific considerations such as disciplinary proceedings and child protection,
 - to comply with privacy requirements under the Privacy and Personal Information Protection Act 1998, and
 - to maintain confidentiality and complying with obligations under the *Public Interest Disclosures Act 1994* (see below).

10. Register of complaints

The Gateway Panel Secretariat is required to maintain a register of complaints including the following information:

- date the complaint was made,
- the nature of the complaint including the issues or allegation by the complainant and the names of any persons the subject of the complaint,
- summary of any comment from the people who are the subject of the complaint,
- whether the complaint was referred on and if so, to whom,
- how it was dealt with and by whom,
- the time taken to resolve the complaint, and
- the outcome of the complaints handling process.

Requests to access the register of complaints should be made to the Gateway Panel Secretariat.

11. Report on complaints

The Gateway Panel Secretariat will prepare an annual report on the complaints received, detailing the volume and scope of complaints, key issues and any policy or operational response that has been taken to address the concerns raised.

The report on complaints will be made publicly available on the Gateway Panel website.