



Consultation Guide on the proposed SEPP (Repeal of Concurrence and Referral Provisions) 2008

July 2008

This consultation guide provides advice on proposed changes to the planning system in relation to State government concurrence and referral processes, and to outline how those proposed changes may affect the processes for making local environmental plans and assessing development applications.

Overview

The proposed *State Environmental Planning Policy (Repeal of Concurrence and Referral Provisions) 2008* (the 'proposed SEPP') is a State level policy which aims to improve efficiency in plan making and development assessment processes.

Improved efficiency is to be achieved by removing duplicative or unnecessary requirements in environmental planning instruments which currently require concurrence from or referral to State agencies.

The proposed SEPP is a key component of the NSW Planning Reform program and is intended to streamline both the plan making and development assessment processes, without compromising environmental or other outcomes.

Public exhibition of exposure draft

The Department of Planning has prepared an 'exposure draft' of the proposed SEPP which will be exhibited for public comment from 23 July to 22 August 2008. See the end of this guideline for details on how to make a submission.

An 'exposure draft' is a detailed outline of what the proposed SEPP will cover, but the document itself is not deemed to be a 'draft environmental planning instrument' for the purposes of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The exposure draft is intended for **consultation purposes only**.

This consultation guide provides important information about the proposed SEPP. It is recommended that the exposure draft be read in

conjunction with this consultation guide to understand the broader policy implications of the proposed SEPP.

Aims of the proposed SEPP

The proposed SEPP will be an 'amending instrument' that will alter other environmental planning instruments (EPIs) by deleting, editing or modifying the application of referral and concurrence clauses within those EPIs.

The aims of the proposed SEPP are:

- to amend environmental planning instruments so as to omit provisions requiring consent authorities to obtain certain concurrences under section 30 of the EP&A Act or to refer certain matters to various persons or bodies,
- to replace certain concurrence or referral provisions within environmental planning instruments with matters for the relevant council's consideration when assessing a development application,
- to omit provisions in certain regional environmental plans that relate to policies for the preparation of draft local environmental plans and consultation requirements,
- to make other miscellaneous amendments to environmental planning instruments.

What is a 'concurrence' or State government 'referral'?

The primary purpose of the proposed SEPP is to remove 'concurrence' provisions and other

provisions in EPIs that require referral to State agencies (i.e. Government Departments).

Concurrence is a term used in the EP&A Act for a particular type of approval (normally from a State agency) which is required before a consent authority can grant consent to a development application. The concurrence is required in addition to any other licences, permits or secondary approvals that may be required by a State agency under other legislation. Concurrence may also be required when a council is preparing a local environmental plan (LEP).

Concurrence is a compulsory consultation requirement to obtain a State agency's approval for a development application or draft LEP. Concurrence processes can therefore result in a greater level of bureaucracy and red tape than other types of consultation.

The majority of concurrence provisions are outlined in EPIs, two thirds of which require concurrence from the Roads and Traffic Authority and the Department of Planning.

Referrals are much broader and unlike concurrence, are not a secondary approval. Referrals generally require a consent authority to seek and follow the advice of State agencies.

The majority of referrals are required from the Department of Planning, with the Department of Environment and Climate Change and the Department of Primary Industries also contributing a sizeable number of State agency referrals.

Review of concurrence and referrals

A previous review of concurrence and referrals in EPIs was undertaken in September 2004. In that review, 1130 concurrence provisions were removed from LEPs, regional environmental plans (REPs) and State environmental planning policies (SEPPs).

There still remain however a large number of clauses in EPIs requiring referral to or concurrence of State agencies for plan making and development applications.

Currently, a significant amount of time is taken by NSW councils in both plan making and development assessment. These excessive timeframes are in part due to inefficiencies within the plan making and development assessment processes, particularly stemming from unnecessary assessment stages (e.g. duplication, over regulation of certain issues etc).

A new comprehensive review by State agencies of the concurrence, referral and secondary approval processes was undertaken between October 2007 and April 2008. The review indicated that referrals and concurrences added to the inefficiency of the plan making and development application process.

The "stop the clock" process when referral and concurrence agencies may request more information, adds on average an additional 64 days to the development application process. This includes on average 48 days, being the time taken by State agencies to respond to consent authorities on referrals and concurrences.

This review indicated that very often the concurrence or referral requirement duplicated provisions in other legislation. In other cases, the provisions related to matters now covered by comprehensive guidelines or other assessment mechanisms, thereby removing the need to consult with agencies on a case by case basis.

As an outcome of the review, the Department of Planning identified some 1373 concurrence and referral provisions ('clauses') in EPIs to be removed.

Why remove concurrence and referral provisions?

Broadly speaking, there are three main reasons why the proposed SEPP has been prepared to remove concurrence and referral provisions:

1. Duplicative assessment requirements
2. Unnecessary or out-dated provisions that no longer apply or have been superseded by other assessment mechanisms
3. Plan making referrals are being replaced by the Planning Reform 'Gateway' process.

Duplication

In most instances the referral provisions proposed to be removed have been duplicated elsewhere. This includes concurrence and notification provisions currently outlined in other EPIs or permit and approval requirements in other legislation.

This duplication has made the approval process confusing for users and ultimately increases red tape by requiring assessment of issues that are or will already be assessed as part of the normal development approval process.

Most duplication occurs because there are REPs or State level policies which apply, in addition to any provisions already in an LEP.

Duplication also occurs where there are permits, licences, certificates or other approvals required under other legislation. The most common type of duplication are approvals covered under **Integrated Development** (Part 4 Division 5 of the EP&A Act).

Integrated Development was specifically designed to simplify the planning process for developments that require more than one type of approval.

For development applications that are covered under Integrated Development, removing any additional concurrence or referral provisions will not affect the State agencies' role. When an application triggers the Integrated Development process, there will be no substantial change to the current level of scrutiny given to relevant development applications by local government and State agencies.

Unnecessary or outdated referrals

The concurrence and referral provisions of many older LEPs (made more than 10 years ago) have since been overtaken by new assessment processes and mechanisms that reflect contemporary thinking and best practice.

Many issues that were previously dealt with through State agency referrals are now covered by comprehensive State government guidelines that have been prepared for use by councils when assessing development applications.

Guidelines and other council assessment mechanisms in many instances will remove the need to consult individually with State agencies on a case by case basis.

In some instances, appropriate outcomes can still be achieved through a council assessment of a given matter, rather than needing to refer the development application to a State agency.

Where appropriate, the proposed SEPP will include new references to additional assessment matters (e.g. sea level rise and climate change issues) for councils to consider when assessing development applications.

Gateway process for plan making

The role of State agencies in strategic planning will be modified through the implementation of Planning Reforms.

The Planning Reform program has introduced new processes for agency referral with respect to local plan making. Termed 'Gateway', this

streamlined process will determine when State agencies will be requested to provide input into the plan making process.

In addition, individual development application referrals (for issues such as heritage) are to be removed from REPs and SEPPs, to be consistent with the same policy direction taken for LEPs (i.e. to remove unnecessary or duplicative referral processes).

Benefits for State and local government and DA applicants

Some of the primary benefits that will stem from the proposed SEPP include reduced red tape for applicants and giving local councils greater autonomy over planning decisions.

Reducing the number of matters that need to be referred to State agencies will strengthen the decision making powers of local councils, allowing them to do their work in an efficient and effective manner.

The removal of unnecessary State agency referrals will improve the development application and LEP turn-around timeframes for councils, as well as reducing assessment costs and resourcing requirements for State agencies.

Councils can still refer development applications and inquiries to State agencies for advice, however it would no longer be a compulsory requirement to do so.

Importantly, improved efficiency in development assessment will benefit proponents including community members and small business applicants who often submit minor proposals that would otherwise be delayed by generic bureaucratic steps that do not always apply to every type of development proposal.

Ensuring adequate assessment still occurs

Section 79C of the EP&A Act already requires the consent authority to consider impacts on natural and built environments, social and economic impacts in the locality, the suitability of the site for the development, and the public interest. Councils must consider these matters irrespective of whether any individual State agency has a formal concurrence or consultation role.

There is an extensive list of government guidelines that have over the years been developed specifically to assist councils in assessing particular environmental and socio-economic issues of proposed developments. These guidelines will be made available on a

public register hosted on the Department of Planning website.

It is important to note that the removal of compulsory concurrence and consultation processes does not prevent a consent authority from liaising with the relevant State agency on any matter of interest. The proposed SEPP also does not prevent State agencies from providing input into the assessment of a development application or the preparation of a draft LEP.

The important distinction is that these consultation processes will be discretionary and cannot be used to indefinitely delay the assessment and processing of a development application or the preparation of an LEP.

Scope of proposed changes

At this stage it is estimated that the proposed SEPP will amend some **1373** individual clauses within **237** instruments. The following figures indicate the scope of the draft *SEPP*, including changes to LEPs, planning scheme ordinances (PSOs), REPs and State policies (SEPPs).

Number of environmental planning instruments affected

LEPs (& PSOs) to be amended:	207
REPs to be amended:	21
SEPPs to be amended:	9
TOTAL EPIs to be amended:	237

Number of EPI provisions to be amended

clauses in LEPs (& PSOs) deleted or edited:	1213
clauses in REPs deleted or edited:	143
clauses in SEPPs to be deleted or edited:	17
TOTAL clauses in EPIs to be deleted, edited or modified:	1373

Types of provisions to be changed

The draft SEPP amends clauses requiring concurrence or agency referral relating to the following issues for plan making and development assessment: (see Attachment)

- roads and transport issues
- development on lands identified for acquisition
- arrangements for water and sewerage infrastructure
- aboriginal sites and archaeological sites of significance
- other heritage sites and archaeological sites of significance

- areas of high biodiversity, development near national parks, nature reserves, marine parks or aquatic reserves
- land stability, soil issues and contaminated lands
- flood liable land
- water supplies, water quality, aquatic habitat and river management issues
- development near wildlife corridors, rainforest areas, coastal areas
- onsite sewage disposal, waste water and drainage management
- general plan making provisions (referrals to State agencies for various issues related to the preparation of draft LEPs).
- mineral and extractive resources, and mine subsidence
- subdivision of rural lands, agriculture, travelling stock routes and forestry
- coastal development, tourism development and protected lands
- acid sulfate soils

The Attachment provides a detailed list of the types of clauses and issues covered in the exposure draft of the proposed SEPP. The number of clauses amended and the issues covered may vary following public exhibition of the exposure draft.

How to make submissions

The exposure draft will be exhibited for public comment from 23 July to 22 August 2008. It will be available at www.planning.nsw.gov.au or at the Department's Information Centre at 23-33 Bridge St, Sydney, during ordinary office hours.

In addition to this guideline, a Question and Answer Sheet is also available on the Department's website to provide background information on the proposed SEPP.

Submissions on the exposure draft can be:

- Emailed to: assessments@planning.nsw.gov.au
- Posted to: Policy and Systems Innovation, Department of Planning, GPO Box 39, Sydney NSW 2001, or
- Faxed to (02) 9228-6466

Phone inquiries can be made to the Policy and Systems Innovation Branch during business hours on ph 02 9228 6111.

Attachment – Concurrence and referral issues to be addressed in the proposed *SEPP (Repeal of Concurrence and Referral Provisions) 2008*

Road and traffic issues

Approximately 50 clauses in local environmental plans (LEPs) include requirements to obtain the Roads and Traffic Authority's (RTA) concurrence or advice for proposed developments that may impact on the safe and efficient operation of the road network. These matters include development involving proposed connections to main roads or require realignment of a main road, for traffic generating development or for development that may increase demand for buses.

These requirements largely duplicate existing provisions in legislation. Development which directly affects the road network through realignment or incorporation of connections to main roads is captured under the provisions of the *Roads Act 1993*. Under s.138 of that Act, consent is required from the appropriate roads authority (and concurrence from the RTA if on a classified road) to undertake any of the following activities:

- erect a structure or carry out a work in, on or over a public road,
- dig up or disturb the surface of a public road,
- remove or interfere with a structure, work or tree on a public road,
- pump water into a public road from any land adjoining the road, or
- connect a road (whether public or private) to a classified road

These provisions are also identified in s.91 of the EP&A Act and trigger the Integrated Development assessment process. As such, additional concurrence or referral provisions in LEPs are not required to address these road-related matters.

The Infrastructure SEPP 2007 includes provisions previously in the policy *SEPP 11 - Traffic Generating Developments*, which requires councils to consult the RTA on potential traffic generating developments, and to take into consideration RTA's advice. There is no need to duplicate the Infrastructure SEPP provisions in LEPs. In addition, there have been minor changes to the thresholds for traffic generating development in the Infrastructure SEPP which may conflict with older (and possibly out-dated clauses) in LEPs.

Furthermore, the RTA's Guide to Traffic Generating Development is used widely by councils and industry, further reducing the need for a specific referral to the RTA.

On the whole, these provisions duplicate the permit, concurrence or referral provisions in legislation or SEPPs. In addition there are extensive guidelines issued by the RTA to provide information to applicants and councils on assessment and design criteria.

Acquisition of land for proposed public utilities or services

There are approximately 112 provisions in LEPs requiring concurrence for lands zoned for future acquisition. The majority of these acquisition-related concurrences apply to the RTA with respect to lands to be acquired for future classified roads.

By removing the concurrence provisions for the RTA regarding development on lands set aside for future acquisition, the amendment will remove any duplication between these LEPs and the existing concurrence requirements under the Infrastructure SEPP 2007.

In effect, the role of the RTA in considering certain developments on lands set aside for future classified roads will not substantially change.

There are other referral clauses that cover other lands reserved for future purposes such as infrastructure corridors, coastal lands etc. Recent changes to the relationship between the Just Terms Compensation Act and the EP&A Act has had the effect of significantly restricting the application of any clauses within EPIs that regulate lands identified for acquisition. As a result, the majority of acquisitions clauses within EPIs do not operate to their full effect and in many instances are misleading with respect to identifying, regulating and requiring acquisition of certain reserved lands.

While State agencies (other than the RTA) will no longer have a concurrence role in the assessment of proposed development on lands identified for acquisition, the council is still required under section 79C to consider the impacts on the natural and built environments, and social and economic impacts in the locality, the suitability of the site for the development, and the public interest. This will ensure that councils gives adequate consideration to future infrastructure needs, without State agencies indefinitely holding up development for those who own land within these areas.

Satisfactory arrangements for water and sewerage infrastructure

It is proposed to remove approximately 31 LEP clauses requiring councils to ensure that satisfactory arrangements have been entered into with water and sewerage infrastructure providers on an individual development application basis.

These EPI provisions are not required as adequate connections to water and sewage infrastructure are already a standard development assessment consideration.

The Sydney Water Act 1994 requires a consent authority to notify Sydney Water of proposed developments that increase demand for services, interfere with Sydney Water works or affect its operations. The consent authority must take into account any submissions received from Sydney Water.

Alternatively, a consent authority can require, as a condition of development consent, that a compliance certificate from Sydney Water be obtained to permit connection to, or require provisions for adequate water and sewerage infrastructure.

The Sydney Water Act 1994 also provides for the Corporation to issue guidance to councils on water and sewerage matters so that councils may address infrastructure issues in a strategic manner.

Aboriginal Cultural Heritage

There are approximately 120 requirements in LEPs requiring consultation with the Department of Environment and Climate Change (DECC) to obtain concurrence or advice on proposed developments in relation to Aboriginal cultural heritage.

It is proposed that the existing DECC referral provisions in LEPs be removed due to this being a duplication between the current provisions for notification or permits under the National Parks and Wildlife Act and the Integrated Development approval process. Both the integrated development assessment process and the permit provisions under the NP&W Act provide the appropriate mechanisms for regulating development impacts on objects and places of Aboriginal cultural heritage significance.

Part 6 of the National Parks and Wildlife Act 1974 (NP&W Act) provides for the protection of Aboriginal heritage objects and places. Of particular note, s.87 requires that a permit be obtained from the Director-General of DECC to remove, or otherwise disturb sites of Aboriginal objects. In addition, under s.90 of the NP&W Act consent from the Director-General of DECC is required in order to destroy, deface or damage an Aboriginal object or Aboriginal place. The s.90 consent in the NP&W Act triggers the integrated development provisions of s91 of the EP&A Act. As such, councils are required to consult with DECC on these matters through integrated development, and the necessary approval process must be followed, which includes consultation with local Aboriginal communities.

It should be noted however that where a development proposal does not trigger integrated development (and does not require consent under s87/s90 of the NP&W Act), it is proposed that heads of consideration be retained in some LEPs and consultation with the local Aboriginal communities will still occur to ensure that the concerns of these communities are still taken into consideration.

Furthermore, a subclause to reiterate the need to obtain relevant approvals under the National Parks and Wildlife Act has been added to relevant LEP clauses.

Non-Aboriginal Cultural Heritage

There are over 270 consultation provisions in LEPs requiring notification and/or approval of the Heritage Office or the Heritage Council (and in a few instances the National Trust or Historic Houses Trust) for items of heritage significance. These provisions in most instances replicate the provisions of Part 4 of the Heritage Act 1977 which require approval to undertake works associated with items listed on the State Heritage Register.

The State Heritage Register lists significant items which can include a place, building, work, relic, moveable object, precinct, or land. Division 3 Part 4 of the Heritage Act 1977 outlines a comprehensive process for obtaining approval from the Heritage Council to undertake works.

Many LEPs duplicate the referral provisions already in the Heritage Act for items that are listed on the State Heritage Register or are subject to an Interim Heritage Order. The Integrated Development process also requires referral of matters triggered by section 57(1) of the Heritage Act.

The proposed SEPP amendments will also remove any referral provisions to the Department of Planning (former Heritage Office) for heritage matters that are not listed on the State Heritage Register or the subject of an Interim Heritage Order.

These matters of heritage significance, identified in local council plans and through local heritage studies, will remain the responsibility of local councils for the purposes of assessment.

To assist councils with the assessment of developments involving heritage matters (e.g. heritage items or areas), relevant clauses will include a reference to the Department's Heritage Branch website which provides guidance on heritage assessment methodology such as the Local Government Heritage Guidelines.

Biodiversity, habitat protection and managing environmental impacts

Currently there are approximately 70 clauses in LEPs relating to consultation with DECC for issues associated with protection of areas of high biodiversity, vegetation corridors, or in relation to development in or near protected areas including National Parks, regional parks, marine parks or aquatic reserves. Biodiversity and habitat protection provisions in some instances replicate existing requirements under DECC legislation including the Threatened Species Conservation Act 1995, the Fisheries Management Act 1994, the Native Vegetation Act 2003 and the National Parks and Wildlife Act 1974.

A further 76 LEP clauses relate to consultation with DECC, the Department of Water and Energy and the Department of Lands on various development issues including environmentally sensitive lands, coastal areas, flood liable land, soils and slope instability, contaminated lands and water quality impacts.

Land contamination, water quality, floodplains and waterways are variously regulated under the Protection of the Environment Operations Act 1997 and the Water Management Act 2000. There are also provisions under planning legislation in relation to the protection of coastal environments (through SEPP 14 – Coastal Wetlands, SEPP 26 - Littoral Rainforests and SEPP 71 - Coastal Protection), as well as the Coastal Protection Act 1979, and several SEPPs to manage environmental impacts generally (e.g. SEPP 33 - Hazardous and Offensive Development, SEPP 50 - Canal Development, SEPP 55 - Contaminated Lands,

SEPP Mining, Petroleum Production and Extractive Industries SEPP, and the Infrastructure SEPP).

Referrals to DECC are proposed to be removed from LEPs where they duplicate the existing provisions under DECC legislation or where matters may be adequately addressed through a council's own assessment process.

As an alternative to referral provisions, heads of consideration have been added into the LEPs to be considered in the assessment of certain DAs and/or reference to State-approved guidelines to ensure that councils appropriately address the environmental issues during development assessment. For instance, DECC guidelines in relation to proposed development near National Parks and other DECC lands will be referenced within LEPs for use by councils when considering potential environmental impacts on development adjacent to National Parks or other DECC lands.

Development in coastal areas

There are approximately 20 clauses in EPIs related to management of coastal lands. Most of these referrals are to the Department of Planning.

Individual development application referrals are no longer required as SEPP 71 – Coastal Protection provides for consideration of coastal issues. In addition, the Major Projects SEPP 2005 identifies certain developments in sensitive coastal locations that require assessment by the Department of Planning.

The proposed SEPP will include new provisions when assessing development applications that include updated heads of consideration for councils, such as sea-level rise and other climate change issues which affect coastal environments.

Mining and Extractive Industries

There are 30 provisions in EPIs requiring consultation with the Department of Primary Industries (DPI) or the Mines Subsidence Board in relation to matters associated with mining or extractive industries.

The importance of these industries to the State economy (as well their potential impacts on the surrounding environment and land uses), has recently been recognised through the development of the Mining, Petroleum Production and Extractive Industries SEPP 2007. The SEPP outlines heads of consideration for councils in relation to the assessment of mining and extractive industry proposals. This policy works in conjunction with Ministerial Direction No. 5 issued under section 117(2) of the Act which requires consultation with DPI at the plan making stage to ensure that future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive industries are not compromised by inappropriate development.

Under s.58 of the Mine Subsidence Compensation Act 1961, approval is required from the Mine Subsidence Board to alter or erect improvements or subdivide land within a mine subsidence district. In addition, subsidence risks associated with mining are addressed by Ministerial Direction No. 11 which requires consultation with the Mine Subsidence Board at the plan making stage to address risks to life, property and the environment within mine subsidence districts.

The 30 LEP referrals to DPI and the Mine Subsidence Board therefore duplicate the above provisions or create an unnecessary referral for issues already addressed within the Mining, Petroleum Production and Extractive Industries SEPP.

There are another 7 clauses in LEPs and REPs that require the concurrence of the Director General of the Department of Planning in relation to mineral sands, extractive industry operations, or development that may affect the availability of such resources. The clauses generally require the Director-General to take into consideration potential environmental impacts from the proposed development including impacts on waterways, coastal lands, foreshore, beaches and vegetation, or community costs and benefits. These concurrences

are no longer required as the matters are generally addressed in the Mining, Petroleum Production and Extractive Industries SEPP 2007 as heads of consideration for councils in relation to the assessment of mining and extractive industry proposals.

Furthermore, it is no longer necessary to refer any mineral sands project or large-scale extractive industry projects to the Director General of Planning for concurrence. Since the introduction of the Major Projects SEPP, all minerals sands projects are now referred to the Minister for Planning for approval under Part 3A of the EP&A Act. Similarly, extractive industries that extract more than 200,000 tonnes per year, or extract from a total resource more than 5 million tonnes, or extract from an environmentally sensitive area of State significance, are now referred to the Minister under Part 3A.

Agricultural matters or forestry matters

There are various miscellaneous clauses in LEPs which require consultation with the Department of Primary Industries in relation to primary industry issues such as development on agricultural lands, fisheries matters or forestry matters.

Over 60 clauses in LEPs are provisions relating to agricultural lands such as mapping of prime crop and pastoral lands, subdivision of agricultural lands, and change of use or intensification of agricultural activities. In general these issues will be dealt with through the plan making process for zoning of rural lands. The new Gateway process for LEP development will also identify triggers for involvement and consultation with relevant State agencies in respect of various zoning matters, including those relating to the use of rural lands.

There are also six provisions in LEPs requiring automatic referral to the relevant Rural Lands Protection Board for development on land that is part of a travelling stock reserve. These provisions duplicate the Rural Lands Protection Act 1989 which already requires the approval of the relevant Board for activities and/or development along travelling stock reserves.

Water management and water quality control

There are over 35 clauses currently within local and regional environmental plans addressing an assortment of matters in relation to catchment and waterway management. These include consideration of water quality impacts on drinking water catchments, protection of proposed drinking water catchments (vis. the proposed Welcome Reef Dam), managing potential impacts on aquatic habitat, and addressing concerns in relation to flood liable land. The referral agencies include the Sydney Catchment Authority (SCA), the relevant water authority (Sydney Water, Rous Water), DPI, DECC and the Department of Water and Energy.

In some instances, the need for a referral to these agencies has been superseded by provisions in other EPIs (e.g. the Drinking Water Regional Environmental Plan, or the Mining, Petroleum Production and Extractive Industries SEPP) or the issues are dealt with through guidelines for councils to use during development assessment (e.g. DPI guidelines on habitat management and fish conservation). For development which requires a DPI permit to harm marine vegetation, undertake dredging and reclamation or block fish passage, the provisions under the Fisheries Management Act 1994 will trigger integrated development under s.91 of the EP&A Act, hence requiring referral to DPI.

Development on flood liable land is a council responsibility under the Local Government Act 1993 and there are existing guidelines, in particular the *Floodplain Development Manual: the management of flood liable land* for councils to consider when assessing relevant applications, thereby removing the need to refer applications to Department of Water and Energy or DECC.

In the case of referrals to SCA with respect to the proposed Welcome Reef Dam, the SCA have advised that the provisions are no longer required, as the project has been deferred indefinitely.

On-site sewage disposal, wastewater and drainage

It is proposed to remove referrals in EPIs to DECC, and in some instances also the Department of Health, for applications involving onsite sewage treatment, wastewater or other sewage matters.

Removing the State agencies' referrals for onsite sewage systems, wastewater and drainage matters should not diminish the rigour of development application assessment with respect to potential impacts.

Local councils have responsibilities under the Local Government Act for sewage and drainage matters. Development assessment processes for sewage and wastewater management are also well-supported by sound industry/best practice guidelines.

Acid Sulfate Soils

Currently there are 39 provisions in EPIs requiring consultation with State agencies including the Department of Environment and Climate Change, Department of Planning, Department of Lands or Department of Water and Energy regarding acid sulfate soils.

The EPI provisions also require that developments be assessed against State government Acid Sulfate Soils Assessment Guidelines for managing acid sulfate soils. These guidelines address the relevant issues to be taken into consideration when assessing development applications. The guidelines were developed and approved by a Government inter-agency committee including the Department of Environment and Climate Change, Department of Planning, Department of Lands and Department of Water and Energy.

The existing agency consultation requirements within EPIs are generally an unnecessary step in the assessment process as councils are already required to assess individual development applications against the State agency approved guidelines. Review and updating of the Acid Sulfate Soils Assessment Guidelines will still remain a State agency matter.

Plan making clauses

Approximately 36 clauses exist in REPs which require consultation with State agencies in respect to the development of draft LEPs.

The Planning Reform program has introduced new processes for agency referral with respect to local plan making. Termed 'Gateway', this streamlined process will determine when State agencies will be requested to provide input into the plan making process.

In addition, individual development application referrals are to be removed from REPs and SEPPs, to be in line with the same policy direction taken for LEPs (i.e. to remove unnecessary or duplicative referral processes).

Land instability/ escarpment/ soil erosion

It is proposed to remove 9 clauses in LEPs and REPs which require referral of development applications or draft LEPs to the Department of Lands or Department of Environment and Climate Change in relation to soil conservation matters.

These provisions primarily relate to the assessment of development applications (and in some instances the preparation of draft LEPs) on land adjacent to escarpments or on lands that may be unstable or prone to soil erosion.

These matters are already a general consideration under section 79C of the EP&A Act, and the Department of Planning is preparing draft planning and assessment guidelines to address land instability issues.

Other general matters - miscellaneous

Of the 1373 clauses proposed to be removed from EPIs, approximately 50 clauses (4%) are miscellaneous referrals to various State agencies for singular planning issues. It is proposed

to remove these referrals as the issues are primarily dealt with under State policies, legislation, guidelines, or councils' own assessment processes.

The majority of these clauses cover local matters which councils must consider as part of their overall merit assessment of a development application, in accordance with section 79C of the EP&A Act.