Improving Environmental Impact Assessment in NSW

Summary, July 2017

The Department of Planning and Environment (the Department) is reviewing Environmental Impact Assessment (EIA) for State significant projects in NSW to identify areas for improvement. The EIA Guidance Series is currently on exhibition. The guidelines detail proposed improvements.

About Environmental Impact Assessment

EIA refers to the entire process in which the environmental, social and economic impacts of a project are considered including:

- the project development
- setting the terms of reference for the Environmental Impact Statement (EIS) through Secretary's Environmental Assessment Requirements
- preparation of the EIS including consultation with government agencies and the community
- public exhibition of the EIS
- receipt of submissions and responding to those submissions
- assessment of the project by the Department
- determination of the project by the Minister (or delegate)
- monitoring and compliance when projects are being constructed and operated.

Purpose of improvements to Environmental Impact Assessment

New guidance on EIA is expected to create:

- a consistent framework for setting the scope of the EIS
- earlier and better engagement with the community and other stakeholders
- improved quality of EIA documents

- a standard framework for setting conditions for the construction and operation of projects
- clarity on the approved project to improve post-approval compliance
- greater accountability for the practice of EIA professionals.

When Environmental Impact Assessment is required

EIA is required for State significant projects, categorised as either State significant development (SSD) or State significant infrastructure (SSI). The reasons for a project to be classified as SSD or SSI include if it is over a certain size, located in a sensitive environmental area or will exceed a specific capital investment value.

Some examples of projects that might be SSD or SSI include educational establishments, hospitals, mining and extraction operations, energy generating facilities, rail and road infrastructure, water storage and treatment plants, and certain industrial developments.

Other initiatives

Other initiatives that are linked to the improvements to EIA include:

- Legislative updates involving changes to the Environmental Planning and Assessment Act 1979
- Draft Social Impact Assessment Guidelines
- Community Consultative Committee Guidelines.

About the Environmental Impact Assessment Draft Guidance Series

The review of EIA for State significant projects in NSW has informed the development of nine guidelines to explain in detail the proposed improvements to EIA. The improvements will mean greater emphasis on engaging with the community and other stakeholders, and reaching early agreement on the scope of the EIS. The community and other stakeholders will have a clearer understanding of where assessment effort is focused, with attention given to their issues of concern from the earliest phase.

To identify improvements and develop these guidelines we looked at how NSW approaches EIA and the approach of other jurisdictions. We also looked at the issues that have been raised by the community and other stakeholders. Following this review, we suggested improvements and asked for further input from stakeholders including government agencies, industry and community groups.

The following guidelines are currently on public exhibition.

1 GUIDELINE 1: OVERVIEW OF THE EIA IMPROVEMENT PROJECT

This guideline outlines the proposed improvements.

> It will help you locate further details of the improvements outlined in each of the guidelines.

2 GUIDELINE 2: COMMUNITY GUIDE TO EIA

The community will benefit from guidance on EIA and its phases which will help them to engage with proponents and the Department.

> EIA is a complex process. Community feedback is essential to EIA and it is important that everyone can effectively provide feedback. This guideline gives community members knowledge of when and how they can participate at each phase of EIA. It also outlines what information they can expect to receive and how their knowledge and opinions will be used by the proponent and the Department.

3 GUIDELINE 3: SCOPING AN ENVIRONMENTAL IMPACT STATEMENT

Scoping is the first phase of EIA during which the likely environmental, social and economic issues and impacts are identified.

> This guideline will help proponents identify the key issues for assessment in the EIS by providing guidance on how to scope a project and setting out the requirements for engagement with the community and other stakeholders in the early phases of EIA.

4 GUIDELINE 4: PREPARING AN ENVIRONMENTAL IMPACT STATEMENT

The application for project approval is accompanied by an EIS that explains the project, its environmental, social and economic impacts and the proposed mitigation measures.

> This guideline will help proponents prepare a clear and consistent EIS which includes the required information. It will also help the community and other stakeholders to understand the EIS.

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5 GUIDELINE 5: RESPONDING TO SUBMISSIONS

The community and other stakeholders are invited to make written submissions in response to a proposed project during the exhibition of the EIS.

> Following the exhibition period, the proponent considers and responds to submissions and formalises this response in a Submissions Report. This guideline provides direction to proponents on how to address comments and issues and communicate to submitters.

6 GUIDELINE 6: COMMUNITY AND STAKEHOLDER ENGAGEMENT

The participation of the community and other stakeholders allows people to have a say in decisions that affect their lives, resulting in better planning outcomes.

> This guideline encourages proponents to engage earlier with the community and other stakeholders by introducing a set of engagement requirements applicable to all projects. It will also help proponents to improve the quality of engagement by directing them to focus on achieving participation outcomes during the preparation of the EIS.

7 GUIDELINE 7: APPROACH TO SETTING CONDITIONS

Proponents and the community and other stakeholders want to understand how mitigation measures identified in the EIS are translated into conditions of approval.

> This guideline outlines the Department's approach to setting the conditions of approval. It will promote understanding of the role of conditions of approval and the management of environmental impacts during construction and operation.

8 GUIDELINE 8: MODIFYING AN APPROVED PROJECT

Sometimes a project that is approved under certain conditions needs to change during its construction or operation.

> This guideline will help proponents to understand if these changes are permitted using the same development consent, if the consent needs to be modified or if a new application is required. It will also help them to understand whether community and other stakeholder engagement is required.

9 GUIDELINE 9: PEER REVIEW

Peer review can contribute to confidence from the community and other stakeholders in the integrity of EIA.

> Consultants who undertake peer reviews of EIA documents (e.g. specialist studies) should practice competently, demonstrate integrity and promote best practice. This guideline sets out a methodology for independent peer review including criteria to determine the suitably of a reviewer, how the review should be undertaken and reported and the requirements for peer review during post approval. The guideline will provide for greater consistency in peer review.

Have your say on improving Environmental Impact Assessment in NSW

We are seeking your feedback on nine draft guidelines that make up the EIA Guidance Series. This is your opportunity to shape the future of EIA for State significant projects in NSW to ensure balanced environmental, social and economic outcomes.

The Draft EIA Guidance Series is available at (www.planning.nsw.gov.au/EIAreview). You are encouraged to:

- read the summary, Guideline 1: Overview of the EIA Improvement Project
- read the other guidelines in the series, Guidelines 2 – 9 (where relevant)
- make a submission or provide other feedback before 1 September 2017 through the website at (www.planning.nsw.gov.au/EIAreview) or by mail:

    EIA Improvement Project Guidance Series
    NSW Department of Planning and Environment
    GPO Box 39
    Sydney NSW 2001

The Department is holding a series of workshops in July and August 2017. More information is available through the website or by calling Service NSW on 1300 305 695 or emailing EIAproject@planning.nsw.gov.au.

Consultation

Aug 2016 – Dec 2016

Identification of initiatives to improve EIA in conjunction with government agencies, industry, environmental and community groups.

Exhibition

Jul 2017 – Sep 2017

Public exhibition of nine draft guidelines and invitation for feedback on the proposed initiatives to improve EIA.

Finalisation

Early 2018

Finalisation of improvements to EIA and the guidelines based on feedback through submissions, workshops and other forms of engagement.