State significant development guidelines – preparing a submissions report

Appendix C to the state significant development guidelines

November 2021

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Title: State significant development guidelines – preparing a submissions report

Subtitle: Appendix C to the state significant development guidelines

First published: July 2021

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Preface

Purpose of these guidelines

These guidelines provide a detailed explanation of the form and content requirements for submissions reports, as set out by the Department of Planning, Industry and Environment (the Department).

They seek to ensure that all submissions reports submitted to the Department for State Significant Development (SSD) projects are consistent and prepared to a high standard. It also seeks to ensure that submissions reports:

- are as succinct as possible and easy to understand
- accurately summarise the issues raised in submissions
- provide a proper response to these issues
- update the justification and evaluation of the project, amended project or modified project as a whole, having regard to any relevant issues raised in submissions and the applicant's response to these issues.

These guidelines set clear expectations for the preparation of all submissions reports for SSD projects and will help to promote robust debate on the merits of these projects.

Application of these guidelines

Under the *Environmental Planning & Assessment Regulation 2000* (EP&A Regulation), the submissions report for an SSD project must be prepared having regard to the SSD Guidelines prepared by the Planning Secretary[1].

These guidelines form part of the relevant SSD Guidelines, and applicants must have regard to the requirements in these guidelines when they prepare a submissions report for an SSD project.

1. Introduction

1.1 Community participation

Community participation is integral to the assessment of SSD, leading to the improved design of projects, reduced environmental impacts and sustainable development[2].

Under the *Environmental Planning & Assessment Act 1979* (EP&A Act), the Department is required to exhibit:

- a development application (DA), including the environmental impact statement (EIS) submitted for an SSD project, for at least 28 days[3]
- an application seeking to modify an SSD development consent under either section 4.55(2) or section 4.56(1) of the EP&A Act, including the associated modification report, for at least 14 days.

In addition, where an amendment report in relation to an SSD project that has already been exhibited is submitted, the Department will need to consider if there is a material environmental impact beyond the impacts expected by the initially proposed development in determining whether the amendment report will be publicly exhibited. If the amendment report is to be publicly exhibited, the Department will do so for at least 14 days before completing its assessment.

This is to give the community an opportunity to read these documents and make a submission on the merits of the project, modified project or amended project.

Prior to determining the DA or modification application, the consent authority is required to evaluate the merits of the project or modified project, having regards to the economic, environmental and social impacts of the project or modified project, the issues raised in submissions and the principles of ecologically sustainable development[4].

After determining the application, the consent authority is required to publish a notice setting out the reasons for the decision and how community views were taken into account in making the decision[5].

1.2 Response to submissions

Following any public exhibition, the Department will publish all the submissions it receives on the major projects website[6] and request the applicant respond to the issues raised in submissions[7].

The purpose of this request is to:

- give the applicant a right of reply to the issues raised in submissions
- ensure the community gets feedback from the applicant on the issues raised in submissions
- help the consent authority to evaluate the merits of the project.

While the time it takes to respond to submissions will depend on the scale and nature of the issues raised in submissions and the actions taken to address these issues, the applicant should submit the response to the Department as quickly as possible.

The applicant must carefully consider submissions and respond to the issues raised in submissions in a submissions report.

As soon as it is received, the Department will publish the submissions report on the major projects website[8] and proceed to complete its assessment of the application.

While completing its assessment, it may also require the applicant to provide additional information to clarify or expand on the issues addressed in the submissions report.

2. General requirements

The applicant should prepare the submissions report to a high standard and comply with the following general requirements.

2.1 Form

The submissions report should be divided into two parts.

The first part is made up of the main report. This report analyses the issues raised in submissions and explains what actions the applicant has taken since the exhibition. It provides a proper response to the issues raised in submissions, and provides an updated justification and evaluation of the project as a whole having regard to the detailed findings in each section of the submissions report and the principles of ecologically sustainable development.

The second part is made up of the appendices to the main report. This should include:

- a submissions register
- an updated table of the proposed mitigation measures
- any supporting information, including any detailed engagement or technical reports.

The main report should contain an accurate summary of the detailed reports in the appendices and use suitable cross-referencing to reduce repetition between the two parts of the submissions report.

2.2 Structure and length

A recommended structure for a submissions report is shown in Appendix A. If some sections are not relevant, the applicant should adjust the structure of the report accordingly.

While the length of the submissions report will vary depending on the scale and nature of the issues raised in submissions, the main report should be as succinct as possible.

To assist in this regard, the Department has set indicative page limits for each section of the main report in Appendix A. These limits should only be used as a guide, as the primary objective is to ensure the submissions report provides a proper response to the issues raised in submissions.

2.3 Presentation

The submissions report should make it easy for people to identify the issues raised in submissions and understand the applicant's response to those issues.

To ensure the submissions report is prepared to a high standard, the applicant should:

- ensure the report has a clear narrative, taking readers from the end of the exhibition to the analysis of the issues raised in submissions, the response to these issues and the updated justification and evaluation of the project as a whole
- structure the information in the report in a clear and logical way, making it easy for readers to draw a clear link between the issues raised in submissions and the response to these issues in the submissions report
- use objective analysis and provide reasons and evidence to support any conclusions reached
- explain complex matters as simply as possible
- use plain English
- avoid using jargon
- use maps, photographs, interactive digital tools, figures, graphics and tables to improve the presentation of information
- ensure the visual presentation of material is consistent with the text presentation of the same material and that both presentations are located close to each other
- ensure the report does not contain any false or misleading information[9].

2.4 GIS data specifications

The applicant must:

- maintain appropriate geo-referenced file formats of all the maps and plans in the submissions report
- supply the relevant GIS data to the Department as polygon datasets in one of the following file formats:
  - shapefile
  - file geodatabase or
  - MapInfo TAB
- use the following coordinate system details:
  - Datum: GDA 1994
  - Projection: GCS GDA 1994.

2.5 General map requirements

Maps in the submissions report must build on a standard base map for the project and include:

- a north arrow (for maps in plan-view)
- a scale (or where a cross section is not to scale, an indication of the elevation of key features and vertical exaggeration)
- a legend clearly indicating each line type that is not labelled on the map
- the source data of the base map (where applicable).

2.6 Accessibility and navigation

The submissions report must generally conform with the *Web Content Accessibility Guidelines (WCAG) 2.0 Level AA* and material relevant to creating accessible documents on the NSW Government's website.

In particular, the submissions report must:

- be provided as accessible PDF files[10] (commonly referred to as "tagged" PDF files)
- have a navigable table of contents
- present information in a linear and easy to follow format
- use headings (in Microsoft Word this means using heading styles, e.g. Heading 1, Heading 2, Normal)

- use captions for tables, pictures and figures
- include a header row in any tables
- provide alternate text descriptions for all images preferably under 100 characters, except for images that are decorative
- use text to convey information rather than, or in addition to, images where possible
- use a contrast ratio of 3:1 for large text (18+ points or 14+ points bold) and at least 4.5:1 for text and images of text, unless the text is decorative or unimportant (use the Vision Australia colour contrast analyser to check the contrast ratio of colour combinations)
- not rely on colour to convey information and instead use text labels, patterns and symbols to supplement colour.

3. Content of a submissions report

The submissions report must contain the following information.

3.1 Introduction

This section should include a short summary of the project and the assessment that has been carried out to date.

3.2 Analysis of submissions

This section must analyse the submissions. It should focus on the groups and people who made submissions and categorise the issues raised in submissions. The analysis of submissions is for information purposes only.

The applicant should use suitable maps, tables and figures to support the analysis, highlighting any inter-relationships between submitters and the issues they raised (e.g. maps identifying where the submissions were from by area, maps showing issues raised by area, graphics identifying key issues).

Breakdown of submissions

The breakdown of submissions should highlight how different issues may be important to different types of stakeholders.

The breakdown should include the total number of submissions[11] as well as:

- an overview of the State or Commonwealth agencies that made submissions providing advice
- an overview of councils, special interest groups and individuals that made submissions
- the number of form letters or petitions, including the number of signatories
- the level of local (<5km from the site), regional (5-100km from the site) and broader community interest (>100km from the site) in the project
- the number of people who oppose, support or commented on the project.

Categorising issues

To develop a well-structured response to the issues raised in submissions, the applicant should categorise the issues in a systematic and impartial way and avoid oversimplifying or misrepresenting any of the issues.

For consistency, issues should first be grouped into one of the following categories:

- the project (e.g. the site, the project area, the physical layout and design, key uses and activities, timing)
- procedural matters (e.g. level or quality of engagement, compliance with the SEARs, identification of relevant statutory requirements)
- the economic, environmental and social impacts of the project (e.g. amenity, air, biodiversity, heritage)
- the justification and evaluation of the project as a whole (e.g. consistency of project with Government plans, policies or guidelines)
- issues that are beyond the scope of the project (e.g. broader policy issues) or not relevant to the project.

Each of these categories could then be divided into sub-categories. For example, the broad category of economic, environmental and social impacts could be divided into the specific matters that were assessed (e.g. noise, water, visual, social).

These sub-categories could then be broken down further according to the characteristics of the matter. For instance, noise could be broken down into construction noise, industrial noise, rail noise and road noise. For each type of noise, the issues could then be grouped according to the key issues associated with assessing that matter (e.g. background noise levels, mitigation measures, predictions of impact, evaluation of impacts against criteria, proposed measures to monitor impacts).

In some cases, however, it may be better to group issues by location. For example, where the issues raised in submissions vary from one area to the next, it could be better to group the issues by the area that they came from (e.g. region A, B and C)

or relative to a specific component of the project (e.g. intersection upgrade, ventilation stack).

If only a small number of submissions are made, and it is difficult to group the issues in a systematic way, the applicant may simply respond to each submission.

3.3 Actions taken since exhibition

This section should summarise the actions the applicant has taken since the public exhibition to address the issues raised in submissions, including:

- refining or amending the project
- undertaking further engagement with the community
- undertaking further assessment of the impacts of the project.

The results or findings of these actions should be discussed further in the relevant section of the submissions report and any detailed engagement or technical reports should be included in the appendices of the submissions report.

3.4 Response to submissions

This section must provide a detailed summary of the applicant's response to the issues raised in submissions.

This response should be structured according to the categorisation of issues in the analysis of submissions (see above) and should be meaningful and respectful.

In responding to issues, the applicant should:

- identify the issue
- provide sufficient context to enable the issue and response to be understood without having to refer to the original environmental assessment documents
- give proper consideration to the issue, considering both real and reasonably perceived impacts
- ensure the response is relevant and proportionate
- explain any relevant refinements or amendments that have been made to the project to address the issue

- refer to relevant standards or performance measures in any Government plans, policies or guidelines
- integrate the findings of any further community engagement or assessment of the impacts of the project into the response.

Where the issues raised in submissions are considered to be due to an error or misunderstanding, the applicant should clarify the issue.

For issues that are either beyond the scope of the response or not relevant to the project, the applicant should clearly explain why this is the case.

If the applicant considers the issues raised in submissions were adequately addressed in the exhibited documents, it should summarise the findings in the exhibited documents in the response to submissions and explain why these findings remain relevant. It is not appropriate to repeat or simply refer to the information presented in the exhibited documents.

To help submitters find the response to the issues they raised in submissions, the applicant should include a submissions register as an appendix to the submissions report (see example in Appendix B).

3.5 Updated project justification

This section must include an updated justification and evaluation of the project as a whole[12], incorporating any relevant issues raised in submissions and the applicant's response to these issues.

4. Glossary

Amendment	A change in what the applicant is seeking consent for during the assessment. It requires changes to the project description in the EIS or modification report and amendments to the associated DA or modification application. Applications can only be amended with the agreement of the consent authority.
Amendment report	A report prepared by the applicant to support amendments to a development application or modification application (see the *State Significant Development Guidelines – Preparing an Amendment Report*).
Applicant	The applicant of an SSD project seeking consent for a DA or modification application.
Consent authority	The consent authority for a DA or modification application. This will be the Independent Planning Commission or the Minister.
Department	Department of Planning, Industry and Environment.
Determination	A decision by the consent authority of an SSD application to either grant consent to the application subject to modifications or conditions or refuse consent to the application.
Development Application (DA)	A development application seeking consent for SSD under division 4.7 of the EP&A Act.
Environmental impact statement (EIS)	An environmental impact statement prepared by or on behalf of the applicant to accompany an SSD DA (see the *State Significant Development Guidelines – Preparing an Environmental Impact Statemen*t).
EP&A Act	*Environmental Planning and Assessment Act 1979.*
EP&A Regulation	*Environmental Planning and Assessment Regulation 2000.*
Form letter	An identical standardised letter that is lodged with the Department by multiple people or groups during the public exhibition of an EIS, amendment report, or modification report for an SSD project.
Major projects website	www.planningportal.nsw.gov.au/major-projects
Matter	An element of the environment that may be affected by an SSD (e.g. air, amenity, biodiversity, economic, social).
Minister	The Minister for Planning and Public Spaces.
Mitigation	Actions or measures to reduce the impacts of the project.
Planning Secretary	The Secretary of the Department.
Project	Refers to State significant development (SSD).
Refinement	A change that fits within the limits set by the project description and does not change what the applicant is seeking consent for or require an amendment to the DA for the project.
State significant development (SSD)	Development that is declared to be State significant development under section 4.36 of the EP&A Act.
Submission	A written response from an individual or organisation, which is submitted to the Department during the public exhibition of an EIS, amendment report or modification report for State significant development.
Submissions report	A report prepared by the applicant to respond to the issues raised in submissions.

Appendix A – Recommended structure of a submissions report

Submissions report		
Sections		**Indicative page limit***
Executive Summary		5
1	Introduction	3
2	Analysis of submissions	15
3	Actions taken since exhibition	5
4	Response to submissions	1-8** per issue
5	References	
Appendices		
A	Submissions register	
B	Updated mitigation measures	
C	Supporting information, including any detailed engagement or technical reports	

* Indicative page limits do not include maps, plans and figures.

** Limits apply to individual matter (for example, it may be possible to report the findings of a standard assessment in one page whereas a detailed assessment may require eight pages). For an explanation of standard and detailed assessments, see Appendix D of the *State Significant Development Guidelines – Preparing a Scoping Report*.

Appendix B – Example of a submissions register

Group	Name [1]	Section where issues addressed in submissions report
Public authorities	Transport for NSW	3.3, 4.2 - 4.6, 4.9, 5.1
	EPA	
	Housing NSW	
Councils	Camden Council	
	Blacktown City Council	
Stakeholder groups	Friends of Blue Bay	
	NSW Farmers Federation	
Individuals	Mr Giovanni Polvara	
	Ms Jane Smith	

[1] Where submitters have requested their name be withheld from publication, their name should be shown as 'Anonymous'

Endnotes

1. See clause 82(2) of the EP&A Regulation.

2. See section 1.3(j) of the EP&A Act.

3. See clause 9 of schedule 1 of the EP&A Act and clause 82(3) of the EP&A Regulation.

4. See sections 1.3 and 4.15 of the EP&A Act.

5. See clauses 20(2)(c) and 20(2)(d) of schedule 1 of the EP&A Act.

6. See clause 82(3) of the EP&A Regulation.

7. See clause 82(2) of the EP&A Regulation.

8. See clause 82(3) of the EP&A Regulation.

9. See section 10.6 of the EP&A Act.

10. An accessible PDF file provides hidden, structured, textual representation of the PDF content that is presented to screen readers.

11. Multiple submissions from the same person or group should only be counted as one submission. Form letters should be counted as individual submissions. Petitions should be counted as one submission.

12. When the submissions report relates to modifications to a State significant development consent, then this section should include an updated justification and evaluation of the modified project; and when it relates to amendments to a development application or modification application, it should include an updated justification and evaluation of either the amended project or the amended modified application.

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