Modifying an Approved Project

Draft Environmental Impact Assessment Guidance Series
June 2017

NSW Government
Planning & Environment
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1. Introduction

During both the construction and operation of an approved State significant project, the need for change can arise. Proponents are faced with the question of whether these changes are permissible under the existing terms of approval, require an application to modify the existing consent or require a new application.

The aim of the Modifying an Approved Project Guideline is to provide direction and clarification to better answer these questions. This is aided by the objectives of other related guidelines, including the Preparing an Environmental Impact Statement Guideline and the Approach to Setting Conditions Guideline, which seek to provide greater clarity on the project for which approval has been granted. This will assist in determining whether post-approval project changes are within the terms of the project approval or require a Modification Application.

The Department of Planning & Environment (the Department) wants to clarify the process and pathways proponents must follow when seeking to change approved projects. Community and other stakeholders need confidence that developments when built and operating are consistent with their project approvals and that there are a consistent set of rules that apply to Modification Applications.

This guideline is intended for proponents of State significant projects, which comprise State significant development (SSD) and State significant infrastructure (SSI). It provides guidance on:

- the relevant factors proponents need to consider in order to understand whether a change to a project is permissible under the existing terms of approval, requires a Modification Application or requires a new application
- the triggers for Modification Applications and the different types
- how to distinguish Modification Applications from new applications
- the different processes for modifying approved SSD and SSI projects.

This guideline should be read in conjunction with the other guidelines that provide detail around EIA, including:

- Overview of the EIA Improvement Project
- Community Guide to EIA
- Scoping an Environmental Impact Statement
- Preparing an Environmental Impact Statement
- Responding to Submissions
- Community and Stakeholder Engagement
- Approach to Setting Conditions
- Peer Review
2. Modifications as part of EIA

Changes to approved projects are sometimes necessary and it is important that circumstances under which project change can occur is understood by all stakeholders. This includes change that is undertaken by modifying an existing project approval. Such changes may become desirable or practical over time, for example, if there is an unforeseen discovery during construction or new technology becomes available.

This timing of the modifications phase in the context of EIA is shown in Figure 1.

When a project is approved, the conditions of consent set the terms of approval within which the project must be implemented. The consent identifies the approved project by reference to the documents which comprise the application, typically the Environmental Impact Statement (EIS) and related appendices, and the Submissions Report. This can make it difficult to clearly identify all elements of the project for which approval has been obtained.

The Preparing an Environmental Impact Statement Guideline includes three initiatives which aim to provide greater clarity on the project description for which approval is sought. These initiatives are to:

- allow proponents to identify elements of the project description that require further design following completion of the EIS and adopt a maximum approach for defined elements of the project. The assessment is undertaken on the basis of these described maximum parameters so that a maximum impact, not to be exceeded, is identified in the EIS. Further project design would occur within these physical and impact parameters which would be confirmed through the conditions of consent if the proposal is approved. The Preparing an Environmental Impact Statement Guideline describes the circumstances where it is appropriate to apply a maximum extent approach.
- require all elements of the project to be described in one place in the project description chapter
- change the approach to conditioning the project from: ‘generally accordance with the EIS’ to the ‘project as described in the project description chapter’.

If approved, the use of maximum extent for certain elements of the project will minimise the need to seek Modification Applications. The initiatives will also assist in clarifying when project change triggers the need for a Modification Application.
3. Project change

In some cases changes to an approved project can be undertaken without seeking further consent for example, changing the colour of a fence. Other changes will require proponents to either submit a new development application or apply to modify an existing project approval.

The requirements for undertaking project change will depend on the nature of the change. A flowchart depicting the steps taken to determine the requirement is shown in Figure 2.

Figure 2: Requirements for project change

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1 This does not exempt a proponent from requiring to amend or seek other approvals (e.g. environment protection licence, mining lease, water access licence etc.) regardless of whether or not a consent is required.
3.1 Change within the terms of approval

In some circumstances, determining whether or not a change is permissible within the terms of an approval is clear.

**Example:** A warehouse development has been approved. The project does not have strict conditions of consent relating to its internal configuration except where it relates to the design of a room intended to store dangerous goods. If the proponent seeks to split a large storage room in the warehouse into two smaller storage rooms, they would only require consent if the changes involved the room intended for dangerous goods storage.

Conversely, any change that requires a direct amendment to a condition of consent cannot be considered within the existing terms of approval. However, in most cases, determining whether or not a change is permissible within the terms of approval is not clear, and requires consideration of a range of factors.

The proponent must determine whether or not consent is required for any proposed project change. If there is any doubt:

- proponents of SSD are to seek advice from the Department about whether or not the change is considered within the existing project approval.
- proponents of SSI projects should document their position on whether or not the change is considered to be within the terms of approval in a Consistency Report to be published on the proponent’s website.

The difference in approach is due to the distinctions between the requirements for Modification Applications of SSD and SSI projects. For SSD, a project change can only be considered a Modification Application if the consent authority is satisfied that the consent as modified would be substantially the same development as the development for which the consent was originally granted.

For SSI projects, further consent is only required if the project as modified would not be consistent with the existing approval.

The SSI concept of consistent with the existing approval has been interpreted by NSW Land and Environment Court as providing greater latitude to accommodate project change than the SSD concept of substantially the same development as the development for which the consent was originally granted.

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2 A ‘consistency report’ is a report that considers whether project change will be consistent with the terms of approval for SSI projects.

3 EP&A Act s. 96(1A) and s. 96(2)

4 Except in relation to modifications involving minor error, misdescription or miscalculation

5 EP&A Act s. 115ZI
4. Can my project change be authorised by a modification?

Consent must be sought for project change that is not permissible within the terms of an existing project approval. The Department carries out regular compliance checks to ensure project changes are in accordance with the existing project approval.

The Department follows the process shown in Figure 3 below when deciding whether or not a proposed project change meets the criteria for a Modification Application. The Department’s considerations are based on decisions and interpretations of the NSW Land and Environment Court (the NSWLEC).

It is the responsibility of proponents to demonstrate that they have applied the same considerations to justify their lodgement of a Modification Application, or to carry out a project change without further consent.

**Figure 3 - Determining if change can be authorised by modification or new application**

- **Can the project change be characterised as a modification application?**
  - **Is the change an administrative matter?** (refer to Section 4.1)
    - **YES** Can be modified
    - **NO**
      - **SSD**
      - **SSI**
        - **Is the change in relation to an SSD or SSI?**
          - **YES** Can be modified
          - **NO**
            - **Would the change result in development that is ‘substantially the same’?** (refer to Section 4.2.1)
              - **YES** New application required
              - **NO**
                - **Can the change be characterised as a modification application against the SSI considerations?** (refer to Section 4.2.3)
                  - **YES**
                  - **NO**
4.1 Administrative change

Consent sought for change that seeks to correct a minor error, misdescription or miscalculation can be undertaken by Modification Application without the need for environmental assessment and any other consideration listed under sections 4.2.1 and 4.2.3. These are classified as **Type 1 (Administrative) Modification Applications** referred to in Section 5.

4.2 Other change

4.2.1 Considerations for State significant development

For SSD, a proponent must demonstrate\(^6\) that the change, if carried out, would result in a development that would be substantially the same development as the original development\(^7\). In order to draw this conclusion, a proponent must have regard to the following considerations, which have been established through decisions of the NSWLEC:

- “Substantially” means “essentially or materially” or “having the same essence.”\(^8\)
- A development can still be substantially the same even if the development as modified involves land that was not the subject of the original consent (provided that the consent authority is satisfied that the proposal is substantially the same).\(^9\)
- If the development as modified, involves an “additional and distinct land use”, it is not substantially the same development.\(^10\)
- Notwithstanding the above, development as modified would not necessarily be substantially the same solely because it was for precisely the same use as that for which consent was originally granted.
- To determine whether something is “substantially the same” requires a comparative task between the whole development as originally approved and the development as proposed to be modified. In order for the proposal to be “substantially the same”, the comparative task must:
  - result in a finding that the modified development is “essentially or materially” the same
  - appreciate the qualitative and quantitative differences in their proper context\(^11\)
  - in addition to the physical difference, consider the environmental impacts of proposed Modification Applications to approved developments.\(^12\)\(^13\)

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\(^6\) Vacik Pty Limited v Penrith City Council (1992) NSWLEC 8
\(^7\) EP&A Act s. 96
\(^8\) Moto Projects (No 2) Pty Ltd V North Sydney C [1999] NSWLEC 280
\(^9\) Scrap Realty Pty Limited v Botany Bay City Council [2008] NSWLEC 333
\(^10\) Vacik Pty Limited v Penrith City Council (1992) NSWLEC 8
\(^11\) Moto Projects (No 2) Pty Ltd V North Sydney C [1999] NSWLEC 280
\(^12\) Tipalea Watson Pty Ltd v Ku-Ring-Gai Council [2003] NSWLEC 253
\(^13\) Moto Projects (No 2) Pty Ltd V North Sydney C [1999] NSWLEC 280
• The results of the comparative task “does not eclipse or cause to be eclipsed a particular feature of the development, particularly if that feature is found to be important, material or essential.”

Practical guidance on how to undertake a comparative task is specified in Section 4.2.2 below.

4.2.2 Comparative task

A proponent should consider the following elements of the proposed project change when undertaking a comparison:

• development size, scale and footprint
• intensity including rates of production
• primary, secondary and ancillary use
• project life and hours of operation
• extent, duration and severity of impacts.

The updated project description will assist in carrying out a comparative analysis because it highlights any changes in key elements of the development.

Table 1 below contains an example of a comparative task for a proposed Modification Application to an existing quarry site where there is a proposed doubling of the extraction area.

Table 1 - Example comparison for proposed and original quarry

<table>
<thead>
<tr>
<th>Element</th>
<th>Original[^15]</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rate of production</td>
<td>500,000 tpa</td>
<td>750,000 tpa</td>
</tr>
<tr>
<td>Extraction area &amp; depth</td>
<td>10 ha approx. 80 m BGL</td>
<td>20 ha approx. 80 m BGL</td>
</tr>
<tr>
<td>Extraction method</td>
<td>Excavation by excavator or bulldozer</td>
<td>Excavation by excavator or bulldozer</td>
</tr>
<tr>
<td>Overburden emplacement area</td>
<td>6 ha</td>
<td>6 ha</td>
</tr>
<tr>
<td>Quarry life</td>
<td>25 years</td>
<td>25 years</td>
</tr>
</tbody>
</table>

Example: When considering quantitative elements alone, the increase to the quarry’s extraction area may be considered to be beyond the threshold to be reasonably considered a Modification Application. However, qualitatively, the expansion of the extraction area may be obscured by the natural form of the surrounding landscape, so that a doubling of the extraction area will not be visible from a reasonable distance. This is a

[^14]: Moto Projects (No 2) Pty Ltd V North Sydney C [1999] NSWLEC 280

[^15]: This example is based on SSD. If it were SSI, then the comparison would be against the existing approval rather than the original development.
qualitative element which demonstrates that environmental impacts (visual) may be limited, and may be justification for this proposal to be considered a Modification Application.

The comparative task should also consider whether or not the project change would impact on “material and essential” elements of the development as well as consideration of the context and justification of the original development.

It must be acknowledged that determining whether a project change is within the Modification Application threshold through comparative analysis can be difficult because of the range of elements that need to be considered and the lack of a defining threshold. The Department intentionally refrains from seeking to provide definitive thresholds for this test to avoid prejudicing the merits of any potential Modification Application. It is up to the proponent to demonstrate that the proposed change can be characterised as a Modification Application, taking into account the factors described here.

4.2.3 Considerations for State Significant Infrastructure (SSI)

For SSI, section 115ZI (2) of the Environmental Planning and Assessment Act 1979 (the Act) specifies that a Modification Application is not required if the change is “consistent” with the existing approval (as modified) rather than the original development. Some of the court decisions on the meaning of “modification” under the now repealed section 75W may inform the interpretation of section 115ZI(2).

To determine whether or not a change for a SSI project can be authorised by a Modification Application, a proponent must have regard to the following considerations:

- “Modifying an approval” means changing the terms of the approval, including revoking or varying a condition of the approval or imposing an additional condition on the approval.
- A modification cannot change an “underlying and essential” component of the approval.
- The Minister must be satisfied that a request can be characterised as a Modification Application.

Case Study: In March 2008, approval for the intensification of mining activities at the Cowal Gold Mine was sought in the form of a Modification Application under section 75W of the Act. In February 2009, the NSWLEC ruled that the Modification Application did not fall within the terms of section 75W, as it constituted a “radical transformation” of the existing project.

However, the NSW Court of Appeal overturned this finding in September 2009, ruling in effect that it was for the Minister, not the NSWLEC, to determine whether the request for a Modification Application extended beyond the scope of section 75W.

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16 Vacik Pty Ltd v Penrith City Council [1992] NSWLEC 8
17 Moto Projects (No 2) Pty Ltd v North Sydney C [1999] NSWLEC 280
18 Williams v Minister for Planning and Anor (No 2) [2011] NSWLEC 62
19 EP&A Act s. 115ZI
20 Billinudgel Property Pty Ltd v Minister for Planning [2016] NSWLEC 139
21 Barrick Australia Ltd V Williams [2009] NSWCA 275
5. Modification classification

The legislation adopts an approach to the classification of a project modification based on the nature and the likely level of environmental impact. The three different classifications used for modifications are shown in Table 2 below. This classification scheme also assists the Department in determining the:

- level of environmental assessment required
- applicable Modification Application fee
- applicable deemed refusal periods.

While the proponent nominates a classification for their Modification Application when lodged online, the decision on the appropriate classification for the project is determined by the Department.

Table 2 – Modification application classifications

<table>
<thead>
<tr>
<th>Classification</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type 1 Modification Application</td>
<td>Modification Applications involving minor error, misdescription or miscalculation only</td>
</tr>
<tr>
<td>(Administrative)</td>
<td>supporting letter explaining required changes along with mandatory application details</td>
</tr>
<tr>
<td>Type 2 Modification Application</td>
<td>Modification Applications involving minimal environmental impact</td>
</tr>
<tr>
<td>(Minor)</td>
<td>adequate Environmental Assessment (EA), supported by technical expertise if required. Mandatory application details also required</td>
</tr>
<tr>
<td>Type 3 Modification Application</td>
<td>all other Modification Applications including applications involving moderate to complex environmental impact</td>
</tr>
<tr>
<td>(Other)</td>
<td>competent EA, supported by technical expertise. Mandatory application details also required</td>
</tr>
<tr>
<td></td>
<td>formal scoping process and minimum 14 day public exhibition required</td>
</tr>
</tbody>
</table>

5.1 Type 1 Modification Applications

Type 1 Modification Applications are generally administrative in nature. For example, the application could involve a project change seeking to correct an error in the conditions of consent which incorrectly specifies that the height of a building should be 1 metre instead of 10 metres. In recognition of the minor or corrective nature of the application, no detailed assessment is required and associated fees are fixed.
For SSD projects, these applications come under section 96(1) of the Act.

5.2 Type 2 Modification Applications

For Type 2 Modification Applications the Minister for Planning may, in response to a Modification Application, modify a consent for a SSD project under section 96(1A) of the Act if:

- the proposed application is of minimal environmental impact
- the application is substantially the same development as the original that was granted consent
- the application has been publicly notified.

Minimal environmental impact is taken to mean that the impacts associated with the proposed Modification Application are expected to be within the same scale as those that were approved under the original consent. Examples of such applications may include changes to internal or external building layouts, minor changes to scheduling of stages of projects, minor design changes such as façade changes, or minor intensification or expansion of activities at a site with “very small” or “negligible” overall environmental impacts.

All SSD Modification Applications under section 96(1A) of the Act, and SSI Modification Applications that meet the ‘minimal environmental impacts’ meaning are classified as ‘Type 2’ Modification Applications.

5.3 Type 3 Modification Applications

For Type 3 Modification Applications the Minister for Planning may, in response to a Modification Application, modify a consent for SSD under section 96(2) of the Act if:

- the application is substantially the same development as the originally granted consent
- the application has been publicly notified
- any submissions made about the proposed application within the period allowed for making submissions have been considered.

This class of application is for SSD and SSI Modification Applications which fail to meet the criteria to be classified as either Type 1 or 2. These ‘Type 3’ Modification Applications are usually the most complex.

A more detailed level of assessment of Type 3 Modification Applications is needed because of the likely impacts, the complexity of the project changes or the technical nature of the changes.

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22 King, Markwick, Taylor & Ors v Bathurst Regional Council [2006] NSWLEC 505
6. Modification application process

6.1 Pre-lodgement

6.1.1 Updating the project description

The aim of the project description is to provide a clear understanding of the scope of works for which approval is sought, and the basis upon which the environmental impact assessment has been undertaken.

It is common practice for projects to be amended as they progress through the assessment process. These changes may result from engagement during exhibition, detailed technical feedback received from government agencies, or following initial assessment by the Department. As a result of these changes the project description may change.

Proponents should ensure that as changes occur, the project description is updated, including when the project is modified.

6.1.2 Type 1 and 2 Modification Applications

There is no formal scoping process required for Type 1 and 2 Modification Applications. However, proponents should consider all likely impacts of the proposed application to ensure that it will not have more than a minimal impact on the environment.

6.1.3 Type 3 Modification Applications

If a proponent thinks that the required change to their consent will be a Type 3 Modification Application, they should contact the Department to arrange a Scoping Meeting. This process is similar to the scoping process for new State significant projects. The Scoping Meeting aims to identify key issues using the Scoping Worksheet and to ensure adequate engagement occurs prior to lodgement of the application. For more information on scoping, refer to the Scoping an Environmental Impact Statement Guideline (insert hyperlink).

The Scoping Meeting for a Modification Application will provide the proponent with an opportunity to discuss with the Department the likely environmental impacts and corresponding level of assessment required. The Scoping Meeting will also confirm:

- whether or not the application is Type 3
- whether the Department is likely to issue Secretary’s Environmental Assessment Requirements (SEARs)
- the level of documentation required
- the level of community engagement required prior to lodgement
- how long the application will be exhibited for.

The key difference in scoping for a Type 3 Modification Application, compared to scoping for a new application, is that the information gathered during scoping will form part of an Environmental Report rather than a Scoping Report. This Environmental Report will identify and discuss:

- the key issues identified during scoping
- outcomes of community engagement
• the level of assessment and mitigation measures proposed to manage impacts.

The report will be used by the Department as the primary document for assessment of the Modification Application. The report should accompany the application when lodged.

6.1.4 Fees

Before lodging a Modification Application a request for an invoice for the applicable fees must be made through the Department’s website (see Fact Sheet 07 Invoicing and Payment of Fees for Major Development Proposals).

6.2 Lodgement

Once the invoice has been received from the Department and the relevant fee has been paid, Modification Applications can be made online through the Department’s website http://majorprojects.planning.nsw.gov.au/page/lodge-online/.

The online lodgement form will require the provision of information such as contact details and supporting documentation. Section 7 of this guideline provides information relating to the form and content of the supporting documentation.

6.3 Public exhibition

The Modification Application request must be appropriately notified or exhibited by either the proponent or Department based on the nature of the application. Table 1 summarises the notification/exhibition requirements.

Table 3 - Consultation requirements

<table>
<thead>
<tr>
<th>Type of Modification application</th>
<th>Notification and exhibition requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type 3 (SSD only)23</td>
<td>The Department must ensure that:</td>
</tr>
<tr>
<td></td>
<td>• notice of the application must be published in a local newspaper</td>
</tr>
<tr>
<td></td>
<td>• notice of the application are to be given to each person who made a submission in relation to the original development application</td>
</tr>
<tr>
<td></td>
<td>• application will be exhibited for a period of at least 14 days commencing on the day after which notice of the Modification Application is first published in a local newspaper.</td>
</tr>
<tr>
<td>SSI</td>
<td>The Proponent must ensure that either:</td>
</tr>
</tbody>
</table>

23 EP&A Regulation cl. 118
### Type of Modification application

<table>
<thead>
<tr>
<th>Notification and exhibition requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>(If land owner’s consent is not required)</td>
</tr>
<tr>
<td>• written notice of the Modification Application request has been provided to the owner of the land before, or no longer than 14 days after the request is made</td>
</tr>
<tr>
<td>• advertisement of the notice of the Modification Application request has been published in a newspaper circulating in the area in which the infrastructure is to be carried out no later than 14 days after the request is made.</td>
</tr>
</tbody>
</table>

### 6.4 How is a decision made on the Modification Application?

The Minister for Planning (or delegate) must only consider issues relevant to the Modification Application. Matters raised during the original development application cannot be revisited if these are not relevant to the Modification Application.

In relation to SSD Modification Applications, the consent authority must take into consideration matters referred to in section 79C (1) of the Act that are relevant to the development the subject of the Modification Application. This does not apply to the consideration of Modification Applications for SSI projects.
7. Documentation

This section describes the Department’s requirements for documents supporting a Modification Application.

7.1 Principles

A number of principles should be considered by proponents when preparing supporting documentation for Modification Applications.

7.1.1 Integration

There is often a large volume of material to be reviewed for Modification Applications, particularly when taking into account the original EIS and other supporting documents. In addition, these documents are often prepared by different authors. Therefore, it is important that the information provided:

- is presented in a way that clearly describes the inter-relationships between the Modification Application/s, modifications (i.e. previously approved Modification Applications) and previous related applications including technical assessments
- is based on a consistent description of the project
- draws overall conclusions about the merits of the Modification Application.

7.1.2 Evaluation

For Type 2 and 3 Modification Applications, the Environmental Assessment should conclude with a detailed evaluation of any changes to the impacts of the project, with consideration of the project as a whole, summing up all elements into a coherent closing discussion that considers:

- the strategic and statutory context
- project objectives
- impacts and mitigation
- the perspectives of stakeholders.

7.1.3 Informing decision-makers

Supporting documentation must provide sufficient information to allow the decision-maker to have a clear understanding of the project change, the resulting impacts including mitigation measures, and any remaining areas of uncertainty, along with an overall evaluation of the merits of the project, including the public interest.

7.1.4 Informing stakeholders

Documents supporting the Modification Application are the main medium by which stakeholders are informed about the project and its impacts. For Type 2 and 3 Modification Applications, care should be taken to summarise technical analysis in the assessment chapter in a way that is accurate, can be easily understood by stakeholders, uses plain English, with clear signposting to where more detailed information can be located in other parts of the EIS.
7.1.5 Proportionality
Supporting documentation should include a level of assessment that is proportionate to the importance of the matter and the anticipated impact.

7.1.6 Post-approval and compliance
Consider the post-approval and compliance monitoring phase of the project.

7.2 General requirements
All Modification Applications must include:

- the name and address of the proponent
- the address and formal particulars of the title of the land (e.g. lot/DP) on which the application relates
- a statement that indicates either:
  - that the Modification Application is merely intended to correct a minor error, misdescription or miscalculation
  - that the Modification Application is intended to have some other effect, as specified in the statement.
- a description of the development to be carried out under the consent (as previously modified)
- a description of the proposed modification to the original application including the condition(s) to be modified and the project changes to be made (in track changes)
- a signed statement from the landowner if the applicant is not the owner of the land.

Applications to modify an SSD must also include:

- an undertaking to the effect that the application meets the Modification Application requirements
- a statement as to whether the application is being made to the Court (under section 96) or to the consent authority (under section 96AA).

An application to modify a consent relating to land owned by a Local Aboriginal Land Council may be made only with the consent of the New South Wales Aboriginal Land Council.

There are also design and BASIX requirements specified in the Environmental Planning & Assessment Regulation 2000 for certain types of Modification Applications.

7.3 Type 1 Modification Applications
In support a Type 1 Modification Application, proponents must provide a letter providing a description of:

- a short description of the project context
- the proposed change
- the mistake, misdescription or miscalculation that is the subject of the project change.
7.4 Type 2 Modification Applications

In support of a Type 2 Modification Application, proponents must provide an Environmental Assessment of their project change that addresses the following:

- introduction and background, including contextual information relating to previous related applications, feasible alternatives and justification for the Modification Application
- Modification Application description
- engagement undertaken and proposed
- assessment of the environmental impacts of the proposed changes
- evaluation and conclusion
- appendices, including an updated project description.

7.5 Type 3 Modification Applications

For a Type 3 Modification Application proponents must provide an Environmental Assessment of their proposal that addresses the following:

- executive summary
- introduction and background, including an overview of the project, relevant project objectives, history and context, feasible alternatives and SEARs if relevant
- Modification Application description
- strategic and statutory context
- engagement
- assessment of the environmental impacts of the proposed changes
- mitigation measures
- evaluation and conclusion
- appendices, including an updated project description and all relevant technical reports supporting described impacts.
## 8. Glossary

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>(The) Commission</td>
<td>The Planning Assessment Commission.</td>
</tr>
<tr>
<td>Community</td>
<td>A group of people living in a specific geographical area or with mutual interests that could be affected by a State significant project.</td>
</tr>
<tr>
<td>Community and other stakeholders</td>
<td>All those with a stake in a project including community members that may be impacted by, or interested in the project.</td>
</tr>
<tr>
<td>Community Consultative Committee</td>
<td>A technique for the proponent to meet the engagement outcomes and maintain regular two-way communication with stakeholders through the life of a project, including reporting on project progress and impacts and obtaining stakeholder perspectives on these impacts.</td>
</tr>
<tr>
<td>Conditions of consent</td>
<td>The conditions that the Department or decision-maker sets when a project is approved. The conditions control the way in which development is constructed or operates. The proponent must adhere to these conditions.</td>
</tr>
<tr>
<td>Consent</td>
<td>Includes the granting of consent for SSD projects, the approval of SSI projects and approvals of modifications to those consents and approvals.</td>
</tr>
<tr>
<td>Critical SSI</td>
<td>A State significant infrastructure project declared by the Minister to be essential for the State for economic, environmental or social reasons.</td>
</tr>
<tr>
<td>Department</td>
<td>NSW Department of Planning and Environment.</td>
</tr>
<tr>
<td>Engagement</td>
<td>The act of seeking the participation of the community and other stakeholders on behalf of the project proponent or regulatory agencies.</td>
</tr>
<tr>
<td>Environmental Impact Assessment (EIA)</td>
<td>Environmental Impact Assessment (EIA) is the process of identifying, predicting, evaluating and mitigating the environmental, social, economic and other relevant effects of development proposals. It includes scoping of the project, consultation with the community and other stakeholders, preparation and exhibition of the EIS, assessment and determination of the project.</td>
</tr>
<tr>
<td>EIA documentation</td>
<td>Includes the Scoping Report, EIS, Submissions Report and any other documentation provided by the proponent up to the point of determination.</td>
</tr>
<tr>
<td>Environmental Impact Statement (EIS)</td>
<td>The primary document prepared by the proponent which includes assessment of all relevant matters and impacts associated with a State significant project.</td>
</tr>
<tr>
<td>Key issue</td>
<td>A matter that requires detailed assessment, such as a technical study, to better understand the potential impacts that are likely to arise and identify project specific mitigation.</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
</tr>
<tr>
<td>----------------------</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Matter</td>
<td>An element of the natural or human environments that may be affected by activities associated with State significant projects.</td>
</tr>
<tr>
<td>Minister</td>
<td>NSW Minister for Planning.</td>
</tr>
<tr>
<td>Mitigation</td>
<td>Action taken to reduce the impact that a project may have on a matter.</td>
</tr>
<tr>
<td>Modification</td>
<td>An approved change to a project that is implemented by modifying an existing project approval. An application must be made under the EP&amp;A Act before the modification can be approved.</td>
</tr>
<tr>
<td>Other issue</td>
<td>A matter whose impacts can usually be managed by well understood and routinely used mitigation measures. Usually, further information will be required, but often without the need for a technical study.</td>
</tr>
<tr>
<td>Participation</td>
<td>The activity whereby the community and other stakeholders have a say and potentially influence decisions that impact on their lives.</td>
</tr>
<tr>
<td>Project</td>
<td>Includes applications for State significant development or State significant infrastructure under the EP&amp;A Act.</td>
</tr>
<tr>
<td>Project approval</td>
<td>Includes:</td>
</tr>
<tr>
<td></td>
<td>• development consent for State significant development</td>
</tr>
<tr>
<td></td>
<td>• infrastructure approval for State significant infrastructure.</td>
</tr>
<tr>
<td>Proponent</td>
<td>The person or entity seeking approval for a State significant project, or acting on an approval for a State significant project, including any associated entities that have been engaged to assist with project delivery.</td>
</tr>
<tr>
<td>Public</td>
<td>The activities which are open to the entire public rather than targeted at particular stakeholders, for example, public exhibition of the EIS.</td>
</tr>
<tr>
<td>Scoping</td>
<td>Scoping identifies the matters and impacts that are likely to be relevant and establishes terms of reference for the Environmental Impact Statement (EIS).</td>
</tr>
<tr>
<td>Scoping Meeting</td>
<td>A meeting held between the proponent and the Department to discuss the project concept and agree on the approach to engaging with the community and other stakeholders prior to finalising the Scoping Report, taking into account potential project impact and likely community and stakeholder interest.</td>
</tr>
<tr>
<td>Scoping Report</td>
<td>A publicly available document which provides preliminary information on a project and its potential impacts to support a request for Secretary’s Environmental Assessment Requirements (SEARs).</td>
</tr>
<tr>
<td>SEARs</td>
<td>The SEARs (Secretary’s Environmental Assessment Requirements) set out clear expectations on the level of assessment required for each relevant matter which must be addressed by the proponent in the EIS.</td>
</tr>
<tr>
<td>Secretary</td>
<td>The Secretary of the NSW Department of Planning and Environment.</td>
</tr>
<tr>
<td>Stakeholder</td>
<td>Any person or group with an interest in, or the potential to be affected by, a State significant project.</td>
</tr>
</tbody>
</table>
State significant development (SSD)  Development projects which have State significance due to their size, economic value or potential impacts assessed and approved under part 4.1 of the EP&A Act.

State significant infrastructure (SSI)  Infrastructure projects which have State significance due to their size, economic value or potential impacts assessed and approved under Part 5.1 of the EP&A Act.

State significant projects  A State significant development or State significant infrastructure project as defined under the EP&A Act.
For more information about the EIA Improvement Project visit planning.nsw.gov.au