

Peer Review

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1. Introduction

This guideline has been prepared by the NSW Department of Planning and Environment (the Department) to describe the role of peer review in the Environmental Impact Assessment (EIA) of State significant projects and how it can be best used to contribute to confidence and integrity in decision-making.

State significant projects refers to projects classified as State significant development (SSD) and State significant infrastructure (SSI).

Peer review is an independent process undertaken by a consultant engaged by the proponent, the Department, the Planning Assessment Commission (the Commission) or other government agency. In a peer review, the content and findings of an environmental assessment of a specific matter or impact are independently reviewed by the consultant usually before the proponent submits the assessment as part of its application. However, the Department, the Commission or other government agencies, may also engage a consultant to undertake a peer review as part of its assessment of an application, or as part of the post-approval phase.

The way in which consultants carry out their peer review roles contributes to public confidence in the integrity of the EIA. Consultants should practice objectively, competently, demonstrate integrity and promote best practice.

Establishing a robust methodology for independent peer review will provide confidence in the assessment undertaken by consultants and as a result the assessment or determination by the Department, the Commission, the Minister or other government agencies.

2. Independent peer review

2.1 Who does it apply to?

An independent peer review is discretionary.

Proponents may choose to engage a consultant to undertake a peer review in order to confirm the findings and finalise an environmental assessment that forms part of the EIS, or they may be requested to do so by the Department.

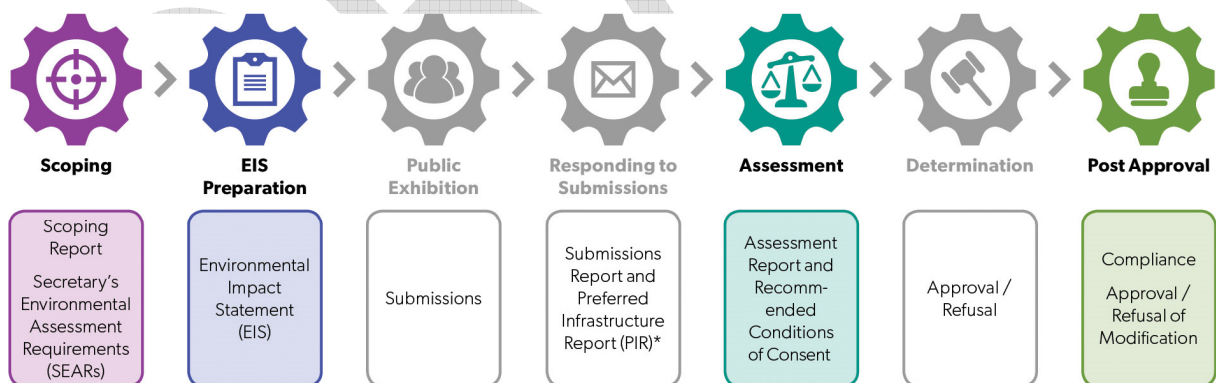
The Department, the Commission or other government agencies may also choose to engage a consultant to undertake a peer review of information as part of its assessment or determination of an application. This commonly occurs for State significant resource projects and critical State significant infrastructure projects.

Independent peer review is separate to the functions of government agencies in reviewing and providing comments on applications for State significant projects throughout the EIA.

2.2 How is it applied?

An independent peer review may be required as part of the Secretary’s Environmental Assessment Requirements (SEARs), or as part of the assessment of an application, or as part of the post-approval phase of the EIA as shown in Figure 1.

Figure 1 - Peer Review in the context of EIA



* PIR applies to SSL projects only

2.2.1 Discretionary

Proponents, the Department, the Commission or other government agencies may choose to engage a consultant to undertake a peer review of a specific environmental assessment matter.

2.2.2 SEARs

Following review of the Scoping Report, the Department may determine that an assessment of a specific environmental matter will require peer review as part of the proponent’s assessment. If this is the case, it will be

included in the SEARs with the proponent responsible for arranging the peer review. However, it can be too early in the EIA for the Department to determine that a peer review will be required and as a result this decision will usually be made at the time of the Department's assessment.

2.2.3 Assessment or determination

During its assessment or determination of an application, the Department, the Commission, the Minister or other government agencies may choose to engage a consultant to undertake a peer review of a specific environmental assessment in the EIS or the Department may request that the proponent has the findings of their environmental assessment peer reviewed. Any such requests will be made in writing.

2.2.4 Post-approval

The Department, other government agencies and in some cases proponents may choose to engage a consultant to undertake a peer review of a post-approval document, such as a management plan, or an on-site practice, such as soil and water management.

2.3 What are the criteria?

Regardless of the context in which a peer review is undertaken, the criteria detailed below should be followed.

2.3.1 Suitability of reviewers

Peer reviewers should have significant expertise in the matter they are reviewing and be independent from the proponent.

A peer reviewer should be recognised by their industry as a senior practitioner. A number of national professional organisations have established criteria around consultants they consider suitable to engage as peer reviewers, and proponents should use these organisations as a starting point when determining who to engage.

A peer reviewer should be independent from the proponent and the project and should not have previously contributed to the project or been consulted during the project's development. The consultant who is undertaking the review should also demonstrate independence by acting objectively, disclose interests as appropriate and be free from conflicts of interest that may arise in relation to the engagement.

2.3.2 Review practice

Professional integrity should be evident in the way in which a peer review is undertaken. The tasks that a peer reviewer should undertake include:

- a discussion between the reviewer and the principal consultant¹ of the specific environmental matter
- a review of the information relating to the specific environmental matter and the draft environmental assessment report
- a review of any comments relating to the specific environmental matter submitted by government agencies and other key stakeholders
- a review of documentation relating to the judgements made by the principal consultant and the conclusions reached

¹ 'Principal consultant' refers to the lead consultant who was engaged or appointed to assess the environmental impact of a specific matter.

- an evaluation of the conclusions reached and consideration of whether the draft environmental assessment report is appropriate.

Peer reviewers should prepare a draft report for discussion with the proponent and principal consultant to agree the findings and recommendations of the review.

Principal consultants should act on the findings and recommendations of the review and this should be reflected in the final environmental assessment report, or if the report has already been submitted, the report should be updated and appended to the original application.

2.3.3 Review reporting

The structure and content of the peer review report is critical. It should instill confidence in a range of audiences, including:

- the Department, the Commission and other government agencies involved in the assessment and determination
- proponents and their investors, who use peer review to gain confidence that the EIS is robust
- the public who are likely to be affected by the impact being assessed.

The structure of the report should:

- be addressed to the primary audience (usually the Department, depending on who has requested the peer review)
- be on the letterhead of the peer reviewer
- be personally signed by the peer reviewer
- include the details of professional indemnity insurance held by the peer reviewer
- include a statement signed by the peer reviewer acknowledging that they have acted to avoid or manage any conflicts of interest, and disclosed these as appropriate
- be suitable for separate publication by the Department on its website.

The content of the report should answer whether:

- the principal consultant's assessment has been performed in accordance with the relevant standards, ethical requirements, and applicable legal and regulatory requirements
- significant matters have been identified, and appropriate consultations have taken place
- there is a need to revise the nature, timing and extent of the assessment performed
- the assessment evidence obtained is sufficient and appropriate to support the assessment report
- the assessment supports the conclusions reached and is appropriately documented.

Confidence in the peer review process is critical and so the steps suggested above, regarding structure and content, should be followed.

2.3.4 Post approval requirements

As part of the Department's [Integrated Mining Policy](#), compliance tools have been developed for use by the government to ensure that approval conditions for mining operations are enforced. The [Independent Audit Guideline \(October 2015\) \(IAG\)](#) is one of these tools. It sets out the competencies and requirements around the independence of individuals or teams engaged to undertake an independent audit. Consultants who undertake

an audit, as a condition of a regulatory approval, or as required by regulators as part of compliance and enforcement operations, must meet the requirements set out in the IAG.

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3. Glossary

(The) Commission	The Planning Assessment Commission.
Community	A group of people living in a specific geographical area or with mutual interests that could be affected by a State significant project.
Community and other stakeholders	All those with a stake in a project including community members that may be impacted by, or interested in the project.
Community Consultative Committee	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.
Conditions of consent	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.
Consent	Includes the granting of consent for SSD projects, the approval of SSI projects and approvals of modifications to those consents and approvals.
Critical SSI	A State significant infrastructure project declared by the Minister to be essential for the State for economic, environmental or social reasons.
Department	NSW Department of Planning and Environment.
Engagement	The act of seeking the participation of the community and other stakeholders on behalf of the project proponent or regulatory agencies.
Environmental Impact Assessment (EIA)	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 public and agencies, preparation and exhibition of the EIS, assessment and determination of the project.
EIA documentation	Includes the Scoping Report, EIS, Submissions Report and any other documentation provided by the proponent up to the point of determination.
Environmental Impact Statement (EIS)	The primary document prepared by the proponent which includes assessment of all relevant matters and impacts associated with a State significant project.
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i> (NSW).
Key issue	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.

Matter	An element of the natural or human environments that may be affected by activities associated with State significant projects.
Minister	NSW Minister for Planning.
Mitigation	Action taken to reduce the impact that a project may have on a matter.
Modification	An approved change to a project that is implemented by modifying an existing development consent. An application must be made under the EP&A Act before the modification can be approved.
Other issue	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.
Participation	The activity whereby the community and other stakeholders have a say and potentially influence decisions that impact on their lives.
Principal consultant	The lead consultant who was engaged or appointed to assess the environmental impact of a specific matter.
Project	Includes applications for State significant development or State significant infrastructure under the <i>Environmental Planning and Assessment Act 1979</i> .
Project approval	Includes: <ul style="list-style-type: none"> • development consent for State significant development • infrastructure approval for State significant infrastructure.
Proponent	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.
Public	The activities which are open to the entire public rather than targeted at particular stakeholders, for example, public exhibition of the EIS.
Scoping	Scoping identifies the matters and impacts that are likely to be relevant and establishes terms of reference for the Environmental Impact Statement (EIS).
Scoping Meeting	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.
Scoping Report	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).
SEARs	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.
Secretary	The Secretary of the NSW Department of Planning and Environment.

Stakeholder	Any person or group with interests in, or the potential to be affected by, a State significant project.
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 <i>Environmental Planning and Assessment Act 1979</i> .

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*For more information about the EIA Improvement Project
visit planning.nsw.gov.au*