

Ministerial guidelines for assessment of
environmental
effects under the
Environment Effects Act 1978

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Introduction

What is an Environment Effects Statement?

The *Environment Effects Act 1978* provides for assessment of proposed projects (works) that are capable of having a significant effect on the environment.

The Act does this by enabling the Minister administering the Environment Effects Act to decide that an Environment Effects Statement (EES) should be prepared.

The Minister might typically require a proponent to prepare an EES when:

- there is a likelihood of regionally or State significant adverse effects on the environment
- there is a need for integrated assessment of potential environmental effects (including economic and social effects) of a project and relevant alternatives, and
- normal statutory processes would not provide a sufficiently comprehensive, integrated and transparent assessment.

A final assessment of the effects of a proposal requiring an EES is provided to relevant decision-makers by the Minister to enable them to make decisions about a proposal in the knowledge of its environmental effects and the Minister's advice about whether the proposal provides an acceptable outcome.

The EES process provides for the analysis of potential effects on environmental assets and the means of avoiding, minimising and managing adverse effects. It also includes public involvement and the opportunity for an integrated response to a proposal.

What is the 'environment'?

It includes the physical, biological, heritage, cultural, social, health, safety and economic aspects of human surroundings, including the wider ecological and physical systems within which humans live.

Relevant decision-makers may include:

- Ministers or statutory bodies responsible for public works
- Municipal councils
- Environment Protection Authority
- Ministers or agencies administering relevant approvals legislation.

What do these Ministerial guidelines do?

These Ministerial Guidelines for Environment Effects Statements are made under section 10 of the Environment Effects Act.

These guidelines supplement the requirements of the Environment Effects Act by providing detail about the administration of the EES process. They apply to public and private projects.

These guidelines set out the process for a proponent or decision-maker to refer projects to the Minister for a decision about the need for an EES. They also set out the process for:

- scoping and preparing an EES
- public review of an EES
- considering public submissions
- requiring a supplementary statement
- making the final assessment
- coordinating other statutory processes.

It is expected that these guidelines will be used by:

- proponents of projects in considering the need to refer their proposal, as well as to guide the preparation of an EES
- the public when considering an EES and participating in a public review
- the Minister when deciding on the need for an EES, in setting the scope of an EES and in making the final assessment of a proposal.

From time to time the Minister may make guidelines on particular aspects and procedures of the assessment process, including consultation processes and setting out procedures and requirements for different kinds of works.

What objectives and principles underpin the EES process?

The general **objective** of the assessment process is:

To provide for the transparent, integrated and timely assessment of the environmental effects of projects capable of having a significant effect on the environment.

Specific objectives are:

- to provide for the transparent assessment of potential environmental effects of proposed projects, in the context of applicable legislation and policy, including principles and objectives of ecologically sustainable development
- to provide timely and integrated assessments of proposed projects to inform relevant decisions, in the context of coordinated statutory processes
- to ensure proponents are accountable for investigating potential environmental and related effects of proposed projects, as well as for implementing effective environmental management measures
- to provide public access to information regarding potential environmental effects as well as fair opportunities for participation in assessment processes by stakeholders and the public
- to provide a basis for monitoring and evaluating the effects of works to inform environmental management of the works and improve environmental knowledge.

These Guidelines incorporate the following specific principles of best practice:

- a *systems* approach to identifying, assessing and managing potential environmental effects to ensure that relevant effects and responses are considered
- a *risk-based* approach to ensure that required assessment, including the extent of investigations, is proportionate to the risk of adverse effects
- an *integrated* perspective of the relationship between and significance of different effects to inform decision-making
- the need to assess the consistency of proposed works with principles and objectives of *ecologically sustainable development*.

What is ecologically sustainable development?

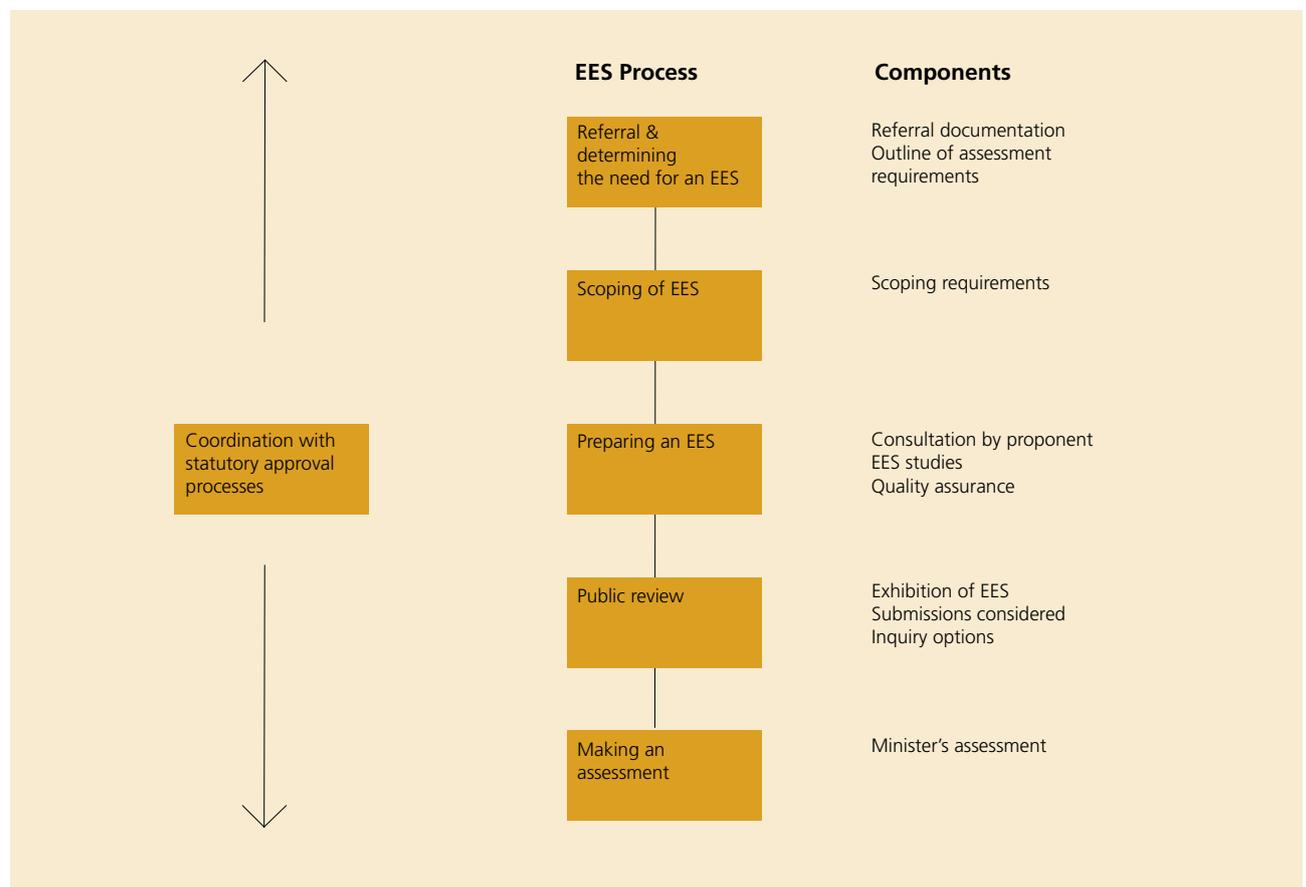
- (1) Ecologically sustainable development is development that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends.
- (2) The objectives of ecologically sustainable development are—
 - (a) to enhance individual and community well-being and welfare by following a path of economic development that safeguards the welfare of future generations;
 - (b) to provide for equity within and between generations;
 - (c) to protect biological diversity and maintain essential ecological processes and life-support systems.
- (3) The following are to be considered as guiding principles of ecologically sustainable development—
 - (a) that decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equity considerations;
 - (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;
 - (c) the need to consider the global dimension of environmental impacts of actions and policies;
 - (d) the need to develop a strong, growing and diversified economy which can enhance the capacity for environment protection;
 - (e) the need to maintain and enhance international competitiveness in an environmentally sound manner;
 - (f) the need to adopt cost effective and flexible policy instruments such as improved valuation, pricing and incentive mechanisms;
 - (g) the need to facilitate community involvement in decisions and actions on issues that affect the community.

Section 4 from the Victorian *Commissioner for Environmental Sustainability Act 2003*

Understanding the EES process

Overview

The EES process is set out below.



Options for process flexibility

The EES process is designed to be flexible in terms of:

- the parties who can refer a project proposal to the Minister
- options for the Minister's response to a referral
- the requirements for the scope of an EES
- the process, including timeframes, for public comment on an EES
- the form of any inquiry into a proposal's environmental effects.

More information about the EES process, and specific EESs

More information about the EES process, including other applicable guidelines, is available on the Department's website. Links to information about specific project referrals and EESs underway are also available at this website.

Determining the need for an EES

When does a project need to be referred to the Minister?

A proponent or decision-maker should ask the Minister administering the Environment Effects Act about whether an EES is required for projects or amended projects that could have a significant effect on the environment.

A project with potential adverse environmental effects that, individually or in combination, could be significant in a regional or State context should be referred. The criteria for referral are found on page 7.

A project should be referred in its entirety wherever possible, including any ancillary works or later project stages essential to the project's operation. Specific details of works related to a project would not need to be included in a referral if:

Ancillary works can include works essential to the operation of a project that would be located off the main site.

- only broad project options have been identified, and future investigations will assess these to establish a preferred project proposal; or
- ancillary works have yet to be planned in any detail but are unlikely to have significant adverse effects, or are not primarily for the purpose of the project; or
- later project stages have yet to be planned in any detail but are not essential for the operation and viability of earlier project stages and are unlikely to have significant cumulative effects.

A project proposal that has been modified and has the potential for a significant effect on the environment should be referred, whether or not the original project proposal was previously referred or assessed under the Act.

Who refers a project to the Minister?

Formal referral of a project can be made by:

- a project proponent
- any Minister or statutory body responsible for public works
- any person required by any Act to make a decision about a project (a decision-maker) such as another Minister, a Government agency, statutory authority or local government.

The Minister administering the Environment Effects Act, or a Minister administering relevant approvals legislation, can also direct a decision-maker to refer a project.

A proponent or decision-maker can seek advice from the Secretary assisting the Minister if they are in doubt whether a project should be referred.

Referral of a project is not necessary if another party has already referred the project or the decision-maker decides that the project should be refused. An exception to the latter situation may arise where a proponent appeals the refusal and the appeal is upheld following review.



Determining the need for an EES

What might a 'significant effect on the environment' be?

The criteria for referral (see page 7) are focused on the *potential* for a significant effect on the environment: environmental effects of regional or State significance. The potential for a significant effect on the environment will reflect the following factors:

- *significance* of the environmental assets affected, in relation to:
 - *character* of the potentially affected environmental assets
 - *geographic occurrence* of the environmental assets
 - *values or importance* of the environmental assets, based on expert knowledge, relevant policy and evidence of social values
- *potential magnitude, extent and duration* of adverse effects on environmental assets in the short, medium and longer term, as a result of the development, operation and where relevant, decommissioning of a project
- *potential for more extended adverse effects in space and time*, as a result of interactions of different effects and environmental processes affecting environmental assets.

The identification of potential significant effects does not indicate that an EES will necessarily be required. Other factors, including the likelihood of such effects, will be taken into account in the Minister's decision in response to a referral.

What should the timing of a referral be?

A decision-maker or proponent can refer a project as soon as sufficient information is available to identify the potential for regionally or State significant environmental effects. For a decision-maker, this may not be possible until a proponent submits an application.

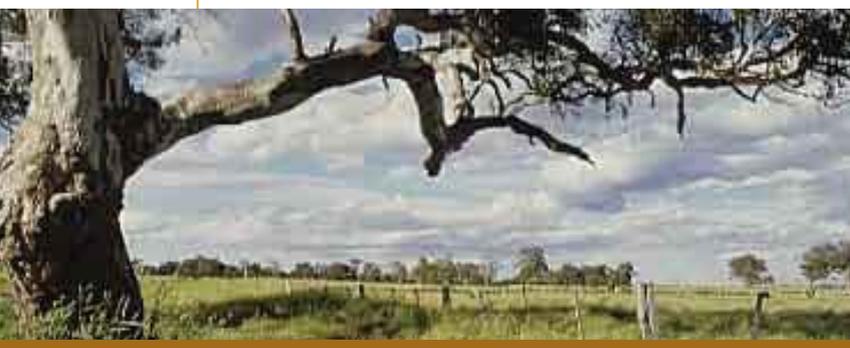
What happens if a Minister directs that a project be referred?

If a Minister directs that a project be referred to the Minister administering the Environment Effects Act, the decision-maker is to provide the latter Minister with the relevant information it has available about the proposal. The proposal's proponent will be notified that a Minister has directed a decision-maker to refer the project. Further information about the proposal may also be sought from the proponent or decision-maker.

When a Minister directs a decision-maker to refer a project, the decision-maker cannot make the decision about the project until the Minister administering the Environment Effects Act decides whether an EES is required. Other relevant decision-makers will be notified when the project is referred and when the Minister's decision about the need for an EES is made.

How are referred projects publicly notified?

All projects referred to the Minister for a decision about the need for an EES are listed on the Department's website.



Referral criteria: individual potential environmental effects

Individual types of potential effects on the environment that might be of regional or State significance, and therefore warrant referral of a project, are:

- potential clearing of 10 ha or more of native vegetation from an area that:
 - is of an Ecological Vegetation Class identified as endangered by the Department of Sustainability and Environment (in accordance with Appendix 2 of Victoria's Native Vegetation Management Framework); or
 - is, or is likely to be, of very high conservation significance (as defined in accordance with Appendix 3 of Victoria's Native Vegetation Management Framework); and
 - is not authorised under an approved Forest Management Plan or Fire Protection Plan
- potential long-term loss of a significant proportion (e.g. 1 to 5 percent depending on the conservation status of the species) of known remaining habitat or population of a threatened species within Victoria
- potential long-term change to the ecological character of a wetland listed under the Ramsar Convention or in 'A Directory of Important Wetlands in Australia'
- potential extensive or major effects on the health or biodiversity of aquatic, estuarine or marine ecosystems, over the long term
- potential extensive or major effects on the health, safety or well-being of a human community, due to emissions to air or water or chemical hazards or displacement of residences
- potential greenhouse gas emissions exceeding 200,000 tonnes of carbon dioxide equivalent per annum, directly attributable to the operation of the facility.

Referral criteria: a combination of potential environmental effects

A combination of *two or more* of the following types of potential effects on the environment that might be of regional or State significance, and therefore warrant referral of a project, are:

- potential clearing of 10 ha or more of native vegetation, unless authorised under an approved Forest Management Plan or Fire Protection Plan
- matters listed under the *Flora and Fauna Guarantee Act 1988*:
 - potential loss of a significant area of a listed ecological community; or
 - potential loss of a genetically important population of an endangered or threatened species (listed or nominated for listing), including as a result of loss or fragmentation of habitats; or
 - potential loss of critical habitat; or
 - potential significant effects on habitat values of a wetland supporting migratory bird species
- potential extensive or major effects on landscape values of regional importance, especially where recognised by a planning scheme overlay or within or adjoining land reserved under the *National Parks Act 1975*
- potential extensive or major effects on land stability, acid sulphate soils or highly erodible soils over the short or long term
- potential extensive or major effects on beneficial uses of waterbodies over the long term due to changes in water quality, streamflows or regional groundwater levels
- potential extensive or major effects on social or economic well-being due to direct or indirect displacement of non-residential land use activities
- potential for extensive displacement of residences or severance of residential access to community resources due to infrastructure development
- potential significant effects on the amenity of a substantial number of residents, due to extensive or major, long-term changes in visual, noise and traffic conditions
- potential exposure of a human community to severe or chronic health or safety hazards over the short or long term, due to emissions to air or water or noise or chemical hazards or associated transport
- potential extensive or major effects on Aboriginal cultural heritage
- potential extensive or major effects on cultural heritage places listed on the Heritage Register or the Archaeological Inventory under the *Heritage Act 1995*.

Determining the need for an EES

What information should be submitted?

A proponent or decision-maker referring a project should provide the Minister with information about the following matters:

General aspects of project

- *Particulars of the proponent:* including the name and postal address of the business, key contact person (who may be a consultant) and their phone, facsimile and e-mail address and the industry and environmental expertise available to the proponent.
- *Description of the project:* including its name, objectives, components, site layout, construction and operational activities. Ancillary works that are directly related to the current project should be documented.
- *Description of the proposed site or area of investigation:* including location (map and grid references), aerial/satellite image of site and surrounds, ground-level photographs, descriptions of topography, drainage, vegetation coverage, current land use and physical features.

- *Land availability:* proponent's current and intended tenure over or access to the proposed project area.
- *Alternatives:* key locational, scale or design alternatives already investigated or to be considered as part of the investigation of the project.
- *Required approvals:* known or potential approvals required under relevant State legislation as well as under Commonwealth legislation, and names of agency personnel with whom the project has been discussed.
- *Project implementation:* including the implementing organisation, intended timeframe and proposed staging.

Where a project is to be developed in stages, the referral should describe the:

- overall project strategy for delivery of all stages and components
- concept design for the overall project
- intended scheduling of the design and development of project stages, and in particular, the availability of preliminary designs.



Preliminary environmental information

- *Existing environment*: overview of the project setting and existing environmental assets, as well as the sources and accuracy of this information.
- *Potential effects*: identification of potential environmental effects (adverse and beneficial), including:
 - brief description of potential changes or risks to environmental assets resulting from the project
 - available information on the likelihood and significance of such changes
 - the sources and accuracy of this information, and associated uncertainties.

Potentially significant effects should be described in sufficient detail for a reasonable conclusion to be drawn as to whether the project could pose a significant risk to those assets.

- *Proposed mitigation measures*: identified measures to avoid or mitigate the main potential adverse environmental effects.
- *Other activities in the vicinity*: any other activities in the vicinity of the proposed project that a decision-maker or proponent might reasonably be aware of that may have the potential for cumulative effects.

Investigation program

- *Study program*: environmental studies conducted to date by the proponent and any proposed future study program.
- *Consultation plan*: consultation conducted to date (including activities and stakeholders) by the proponent and any proposed future plan.

The Minister may require a decision-maker or proponent to provide additional information to assist in considering a referral.

Relevant **environmental** assets might include:

- topography
- drainage and waterways
- residential amenity and access
- soil and geo-technical conditions
- native vegetation types and cover
- habitat areas
- recorded flora and fauna
- known cultural heritage sites and areas of archaeological sensitivity
- significant landscapes and natural features
- surface water quality and flows
- groundwater
- air quality.

Other relevant aspects might include:

- land use and infrastructure
- sensitive land uses
- local residential population
- road traffic
- land degradation and hazards
- waste streams
- energy consumption & greenhouse gas emissions
- safety hazards.

Determining the need for an EES

What matters does the Minister consider?

The Minister, when deciding whether an EES is required, must consider the extent to which the project is capable of having a significant effect on the environment in terms of:

- the potential for significant adverse effects on individual environmental assets, taking into account the magnitude, geographic extent and duration of change in the values of each asset
- the likelihood of effective avoidance and mitigation measures
- the likelihood of adverse effects and associated uncertainty of available predictions
- the likelihood that available environmental standards provide a sufficient basis for managing key issues
- the likelihood that the project is not consistent with applicable policy
- the range and complexity of potential adverse effects
- the availability of project alternatives that may warrant investigation to assess opportunities to avoid or minimise adverse environmental effects
- other available assessment processes that may be suitable to address potential environmental effects
- the likely level of public interest in a proposed project.

What is environmental risk?

Environmental risk reflects the potential for negative change, injury or loss with respect to environmental assets. The level of environmental risk will reflect the combination of likelihood and magnitude, as well as extent and duration, of potential environmental effects.

Whether a project is capable of having a significant effect requires consideration of the potential scope of effects and their degree of likelihood, in terms of the risk of adverse effects. For instance, an effect that may have a low likelihood may still be significant if its magnitude could be large.

What response might the Minister make to a referral?

There are three forms of response that the Minister can make to a referral:

- an EES *is* required; or
- an EES *is not* required if conditions specified by the Minister are met; or
- an EES *is not* required.

In addition, the Minister may give a decision-maker any other advice or assistance that he/she thinks fit to enable a decision to be made.

The Minister can advise that a project is unlikely to be environmentally acceptable in the light of likely environmental effects and existing policy.

The Minister will notify the proponent, the party that referred the project (if that party is not the proponent) and any other decision-makers that would need to approve the project if it were to proceed, of his/her response to the referral.

What does it mean if an EES is required?

The Minister will specify the procedures and requirements for an EES including:

- matters that should be subject to in-depth investigation as part of the EES
- scoping procedures that are to apply
- quality assurance procedures to be adopted, including the need for expert peer review of any particular matters
- a requirement for a consultation plan to be prepared and implemented
- requirements for advertising and exhibiting scoping requirements, the EES, as well as other information relating to the assessment process
- an indication of the likelihood of an inquiry being appointed and, if relevant, the likely form of inquiry.

The Minister can also specify particular matters that do not require investigation as part of the EES because they will be addressed through another assessment process.

If the Minister directs that an EES be prepared, she/he will advise decision-makers that specific primary decisions that would enable a project to proceed should not be made until the EES has been prepared and the Minister's assessment is considered by decision-makers.





Determining the need for an EES

What happens if conditions are applied when an EES is not required?

The Minister can apply conditions to a decision that an EES is not required for a particular proposal. This establishes a practical alternative to an EES and provides additional safeguards when an EES has not been required. The conditions might relate to a particular form, scale and location of development, with specific impact mitigation measures. Another form of condition could be to require that a particular process or specific investigations and/or consultations be carried out before a project is able to commence.

When will the Minister decide on a referral?

The Minister will normally provide a response to a referral within 20 business days of receiving a referral with adequate supporting information. The Minister's decision and reasons will be made publicly available on the Department's website.



Scoping and preparing an EES

The set of matters to be investigated and documented in an EES is the scope of an EES. The detailed scope for an EES is set out in the 'scoping requirements' issued for each project by the Minister.

How will scoping requirements be developed?

To assist scoping, the proponent should provide a preliminary list of issues to be investigated and a draft study program. The Minister will consider this information from the proponent together with advice from relevant agencies and authorities in preparing draft scoping requirements.

The draft scoping requirements for a project are generally prepared within 20 business days of receiving the required information from the proponent. The draft scoping requirements will then be released for comment by interested parties for a minimum of 15 business days. The proponent is asked to pay for advertising costs for notices in at least one daily newspaper and in one or more local paper circulating in the area of the rural or regional project.

Scoping requirements will normally be finalised within 15 business days of the close of the public comment period and made publicly available on the Department's website.

Scoping requirements can be amended during the preparation of an EES if substantive technical clarifications are needed, significant changes to a project proposal occur or unforeseen and significant issues are identified. The proponent will be consulted before changes are made.

What consultation occurs during the preparation of an EES?

As part of the preparation of an EES, the proponent has responsibility for informing the public and consulting with stakeholders. Stakeholders include potentially affected and interested parties.

The proponent is required to prepare and implement a consultation plan. A draft plan, together with a preliminary listing of stakeholder issues, should be provided to the Department for consideration. The Department will advise the proponent on the refinement of the plan so that it provides for effective consultation. Once the plan is finalised, it will be published on the Department's website.

The proponent should ensure that potential stakeholders have access to information about the consultation plan and make copies of the plan available on request. There may be a need to provide access to information (in a summary form) in relevant languages other than English, depending on the cultural backgrounds of social groups potentially affected by a project.

Where a project may affect Aboriginal cultural heritage or other Indigenous interests, the proponent's representative should make early contact with relevant Indigenous organisations to identify matters of interest and discuss opportunities for their involvement.



Scoping and preparing an EES

What is a Technical Reference Group?

The process for preparing an EES will normally include the establishment of a Technical Reference Group (TRG) by the Department. A TRG is specifically appointed for a project to advise on the preparation of an EES.

A TRG's membership is drawn from bodies such as Government agencies, regional authorities and municipal councils that have a statutory or policy interest in the project. The proponent will participate in TRG meetings, by providing information and discussing relevant issues.

What does a Technical Reference Group do?

The primary role of a TRG is to advise:

- the Department on matters that should be included in the scoping requirements for an EES
- the proponent on the need for and adequacy of technical EES studies in terms of their consistency with good practice standards of methodology and analysis
- the Department on the technical adequacy of the proposed EES, as well as the adequacy of its response to relevant matters.

The TRG provides advice and assistance to the proponent on:

- required statutory approvals and coordination of procedures
- relevant policy provisions and related information requirements
- study briefs and methodologies for key studies
- availability of relevant data sets and research
- conformity of the proposal and EES studies with policy and statutory requirements
- design and implementation of the proponent's consultation plan
- adequacy of EES specialist study reports.

Agencies and authorities participating in a TRG are expected to provide accurate and timely advice regarding matters for which their organisations have specific responsibility.

What should be included in an EES?

The content of an EES will be guided by the scoping requirements set for each project by the Minister, following advice from the Department.

Scoping requirements and EES documentation should be prepared in the context of the principles of a systems approach and proportionality to risk.

A *systems* approach involves the consideration of potentially affected environmental systems and interacting environmental elements and processes. This will enable potential interdependencies to be identified, helping to focus relevant investigations and identify opportunities to avoid, mitigate or manage adverse effects. An inter-disciplinary approach should be adopted where appropriate.

A *risk-based* approach should be adopted in the assessment of environmental effects so that suitable, intensive, best practice methods can be applied to accurately assess those matters that involve relatively high levels of risk of significant adverse effects and to guide the design of strategies to manage these risks. Simpler or less comprehensive methods of investigation may be applied to matters that can be shown to involve lower levels of risk.

Implementation of a risk-based approach means that a staged study design may be appropriate. The initial phase of investigation will characterise environmental assets that may be affected, potential threats arising from a project and the potential environmental consequences. This phase will enable the design of any necessary further studies proportionate to the risk to analyse the consequences and likelihood of adverse effects.

Matters to be examined

Matters commonly investigated and documented in an EES are:

Description of the project

A clear and sufficiently detailed description of the proposed project is needed to enable the effective assessment of potential environmental effects. This description should set out:

- project rationale and objectives
- location, technology and design of project components
- site characteristics and surrounding area
- communities, properties and/or residences that may be affected by the proposal, including a description of the way that they may be affected
- proposed methods for mitigating adverse environmental effects and risks
- proposed program and time schedule for project implementation
- proposed method for implementing the project, including responsibility for construction, operation and where relevant, decommissioning.

Description and assessment of relevant alternatives

An EES should investigate and document the environmental effects of relevant alternatives for a project. Alternatives may be:

- siting and layout alternatives, where some flexibility is available in terms of site suitability and availability
- design or process alternatives, where one of several approaches could be applied
- scale, where the magnitude of the project might be varied in response to demand or constraint factors
- timing of project activities
- staging of project development, where construction, operational or other factors might necessitate or provide an option for staged implementation.

A description of the process of screening alternatives as part of the project planning or design process, leading to a short-list of preferred alternatives, should be included in the EES.

Where a feasible option provides a distinct opportunity for superior environmental outcomes, this should be investigated and documented in the EES. Detailed assessment of particular alternatives is necessary where alternatives have the potential to deliver suitable social, environmental and economic outcomes.

An EES will not normally be required to document alternatives to a project proposal, as opposed to alternatives *for* a project. However a discussion in an EES of the rationale for a project will be appropriate. The only alternative to a project proposal that will routinely be described in detail in an EES is the 'no project' scenario. The 'no project' scenario provides the baseline for describing the potential environmental effects from a project. The 'no project' scenario sets the current and anticipated conditions if the project did not proceed. It may also be appropriate for an EES to describe alternative scenarios for after-use of a site, where an assessed activity (e.g. a mine) would have a finite life and different after-uses might be possible.

Scoping and preparing an EES

Relevant environmental effects

An EES should provide an assessment of a project's potential effects on the following matters, including their interactions, where relevant:

- *Physical systems*

A priority for an EES is to identify and assess potential changes to physical systems from the proposed project, including the risk of severe effects. An EES should incorporate accurate modelling of potential changes to physical systems, particularly where there is a significant risk of adverse effects.

- *Ecological systems*

Assessment of potential project effects on, and risks to, ecological systems is a fundamental aspect of an EES. An EES should provide an inventory of existing ecological conditions, as well as an analysis of ecosystem relationships that might be affected by a project.

- *Human communities*

An EES needs to assess the social implications of a project for affected communities. Because of the complexity of human behaviour and perceptions, this assessment may need to assess likely scenarios for change, rather than establishing accurate predictions. An EES may therefore need to use a combination of recognised quantitative and qualitative methods to meaningfully assess potential social effects.

Relevant components of **physical** systems include:

- geological conditions and features
- soil and geo-technical hazards
- hydrology and quality of surface, ground and marine waters
- geomorphological processes
- air quality
- energy consumption
- greenhouse gas emissions
- waste generation & management
- integrity of built structures.

Relevant components of **ecological** systems include:

- natural or semi-natural ecological communities
- populations or habitat of indigenous species of flora or fauna of conservation significance
- ecosystem processes supporting biodiversity, ecological productivity and environmental quality.

Relevant aspects of **social** effects could be:

- potential changes to local population and demographic profile
- social structure and networks
- residential amenity & social well-being
- social vulnerability and differential effects on parts of the community
- housing and social infrastructure needs
- perceptions of aesthetic, recreational and other social values of landscape or locality
- attitudes to proposed development.



An EES needs to assess any physical hazards or statutory compliance issues related to human health that might arise from a project, such as noise or air emissions. Where there may be high levels of risk to health, the EES will need to propose risk avoidance, mitigation and management measures, including contingency responses, monitoring and reporting processes.

An EES will need to identify and assess the potential effects of a project on Aboriginal and non-Aboriginal cultural heritage. Other potential effects on Indigenous people should also be addressed.

- *Land use effects*

An EES will need to assess a project's potential effects on existing land uses and infrastructure that support current patterns of economic and social activity.

Potential project effects on land uses, urban settlements and infrastructure will need to be evaluated in light of relevant planning scheme provisions. Links with other physical, ecological and social and economic effects will also need to be described.

- *Economic effects*

An EES needs to assess the potential for significant effects on the economic well-being of local areas, the regional and national economies, as well as for key industry sectors.

In the case of public sector projects, a benefit-cost analysis of net economic effects might be prepared as part of an EES, including economic valuations of effects that are not priced in markets. A benefit-cost analysis may sometimes be appropriate for private projects, such as in the case of private developments on public land.

Financial implications, such as influence on other businesses or compensation, will not normally need to be assessed as part of an EES. However, an EES should describe the influence of commercial drivers and the implications of design parameters for the viability of the project. The cost-effectiveness of different options for environmental mitigation or rehabilitation may need to be described.

As the descendants of Victoria's original inhabitants, Indigenous people have social, spiritual, economic and cultural interests, in part related to the land and water, which may need to be addressed within the EES process.

Relevant effects on **land use** include:

- potential for disruption or change to existing rural and urban land uses
- availability of housing and urban services
- infrastructure requirements (including education, health and other social infrastructure) and
- access to natural resources (such as high-quality agricultural soils, earth resources and water resources).

Relevant **economic effects** might be on:

- levels of income
- investment and jobs (modelling of the flow-on effects between different sectors within a region may be appropriate)
- efficient use of natural resources.

Scoping and preparing an EES

Types of environmental effects

Projects may give rise to environmental effects through relatively direct cause-effect pathways, or through more complex, indirect pathways. In addition, the cumulative effect of a project in combination with other activities may need to be assessed if there is a risk of significant adverse effects.

Cumulative effects

An EES should identify the potential for cumulative effects, i.e. where a project, in combination with one or more other proposed projects, or existing activities in an area, may have an overall significant effect on the same environmental asset. A regional perspective can be helpful in this regard, by putting the potential effects of a project in a wider context.

While cumulative effects may be a relevant consideration for the assessment of a project, a proponent may not have a practical ability to provide such an assessment, for example because of their limited access to information on the effects of other existing activities or potential projects. Similarly, the ability of a proponent to provide a regional perspective in an EES will depend on the availability – usually from government agencies – of relevant regional policies, plans, strategies, as well as regional data.

A proponent will at least need to provide an assessment of relevant effects (e.g. on landscape values, risks to fauna or emissions to air) in a form that can be integrated with information relating to other projects or activities, and thus enable the Minister to assess the potential cumulative effects. A specific need for a proponent to document potential cumulative effects may arise where a project is to be undertaken in a series of stages.

Because of the factors constraining quantitative assessment of cumulative effects, often only a qualitative assessment will be practicable.

Indirect effects

Indirect effects are separated in space or time from the direct effects of a project. Such effects may arise from either inputs to or consequences of a project. The proponent may not control the sources of indirect effects.

The extent to which assessment of indirect effects is needed as part of an EES will depend on these factors:

- are the effects reasonably foreseeable?
- how strong is the causal link or nexus between the project and the effects of concern?
- are the effects capable of being accurately assessed?
- could the effects be significant enough, in the context of relevant policy, to impinge on the acceptability of the project?
- are there other statutory mechanisms through which these effects will be addressed?

In light of the above factors, various types of indirect effects will *not* need to be assessed in detail in an EES where:

- the effects are likely to be diffuse and/or involve a low level of environmental risk
- it is not practicable to accurately predict potential effects through modelling
- the effects would be associated with inputs to the construction or operation of a proposed facility (e.g. sourcing of construction materials for a road), unless there is a specific nexus between a project and ancillary works
- the effects would be associated with use of a product to be produced (e.g. uses of mined materials or metal from a metal processing facility)
- the effects would be addressed by other, separate statutory mechanisms, unless indirect effects are also relevant to a decision to be informed by the assessment under the *Environment Effects Act 1978*.

Analysis of the significance of potential effects

An EES should provide an analysis of the significance of potential effects. This analysis will require the integration of several aspects, including:

- potential effects on individual environmental assets, in terms of magnitude, extent and duration of change in the values of each asset
- relationships between different effects
- the likelihood of effective avoidance and mitigation of potential adverse effects
- the likelihood of adverse effects and associated uncertainty of available predictions
- implications of likely effects for implementation of statutory provisions, including policy, as well as consistency with principles and objectives of ecologically sustainable development.

Integrated assessment of environmental performance

An EES will need to provide an integrated assessment of the anticipated performance of a proposal, in terms of the implications of likely effects and associated risks, with respect to:

- key requirements or objectives under statutory provisions, including policy
- best practice techniques and technologies, available within relevant sectors of activity
- objectives and principles of ecologically sustainable development and environmental protection.

This assessment might involve the use of performance criteria to address particular effects or risks. While some such criteria will be available under applicable statutory provisions, criteria for some matters may need to be developed in the specific context of the project and its likely effects. Performance criteria will help to guide studies and provide a clear framework for management of environmental effects.

Such performance criteria might be linked to higher-order objectives for the integrated evaluation of project effects or outcomes. Scoping requirements for an EES may set out draft objectives, having regard to key issues and relevant statutory provisions. An EES should refine and address these draft evaluation objectives.

Consistency with relevant statutory provisions

Scoping requirements will identify the relevant provisions of legislation and regulations, associated statutory policies, strategies, plans and guidelines, as well as government agreements.

More comprehensive identification of relevant aspects is essential in the course of preparing the EES. Matters that are the respective responsibility of State, local and Commonwealth governments should be clearly identified. The EES will need to document the project's consistency with applicable legislation, regulations, statutory policies, strategies, plans, guidelines and agreements.

Scoping and preparing an EES

Framework for environmental management

An EES should incorporate a framework for managing the environmental effects and risks of a project, including:

- the framework of statutory approvals and agreements that will underpin environmental management plans and measures
- the Environmental Management System to be adopted (e.g. based on ISO 14001), including organisational responsibilities and accountabilities
- proposed environmental indicators and objectives to guide environmental monitoring and management actions
- an overview of environmental management plans for the construction and operational phases, and also decommissioning, where relevant
- a summary of environmental management measures proposed in the EES to address specific issues, including key environmental commitments of the proponent to mitigate adverse effects and enhance environmental performance
- the proposed program for evaluating environmental outcomes, reviewing and revising environmental management plans, as well as the auditing and reporting of performance
- arrangements for management of and access to baseline and monitoring data, to ensure the transparency and accountability of environmental management as well as to contribute to the improvement of environmental knowledge.

Adaptive environmental management uses monitoring results to guide management responses. Where adaptive management is proposed as a method of managing key environmental effects or risks of a project, the EES will need to demonstrate the capability of the proponent to monitor environmental effects and respond within timeframes that will provide reasonable confidence of acceptable outcomes being achieved. Where a combination of 'static' or proactive and adaptive management techniques is proposed, their respective roles should be clearly explained.

Is there a format that should be used in an EES?

It is expected that an EES will comprise: a short, hardcopy summary of the EES; a main report providing a comprehensive response to the scoping requirements; and technical appendices providing details of the study investigations underpinning the main report.

The main EES report should be concise, clear and relevant to the issues and decisions that need to be addressed. It should be analytical rather than encyclopaedic in approach, addressing issues in a depth proportionate to the environmental risk.

The main EES report will usually be most easy to read if information on potential environmental effects is presented under relevant "issue" headings, together with the description of the environmental assets that may be affected and discussion of proposed environmental management responses.

The report should make extensive use of maps, photographs, diagrams and other graphical methods to illustrate key environmental features, project alternatives, potential effects and proposed responses.

Technical appendices should provide details of literature reviews; methodologies and results of field and laboratory investigations; methodologies and results of impact assessment studies (e.g. air quality modelling, user surveys), including estimates of the reliability of results; and description of sources of uncertainty. There should be cross-referencing between the main report and the supporting appendices.

The proponent must prepare the EES in a format and in sufficient numbers that will enable ready access by interested parties.

Ensuring an EES is adequate for exhibition

The proponent is responsible for preparing an EES that adequately addresses the matters in the scoping requirements and any other relevant issues. These matters need to be sufficiently investigated and clearly documented to enable informed responses by the public and agencies. The EES should provide as full a statement of the proponent's case as possible.

There are three basic steps for ensuring the adequacy of an EES for exhibition:

- First, the proponent and its consultants should adopt internal quality assurance procedures.
- Second, the TRG will review the draft technical studies and draft EES documentation and provide advice to the proponent.
- Third, the proponent should seek the advice of the Secretary as to the adequacy of the proposed final EES documentation before the EES is exhibited.

In special circumstances, additional steps may be necessary to address quality issues, such as:

- The Minister may direct the Department to appoint expert peer reviewers to provide advice during the development of critical EES studies. The final written advice of expert peer reviewers appointed by the Department will be made available during the exhibition of the EES and provided to an inquiry, if one is appointed.
- If the Minister in light of submissions and further analysis, or advice from an inquiry, considers that the documentation provided in the EES has been significantly deficient in some respect, the Minister may ask the proponent to provide supplementary documentation in order to enable a proper assessment of a project.

It may be prudent for a proponent to initiate expert peer reviews of EES studies on technically or scientifically complex matters where there may be a range of expert views.



Scoping and preparing an EES

How will the proponent and Department coordinate their roles?

To enable coordinated and timely management of the EES preparation, the proponent should seek the Secretary's advice about how the proponent and Department can best coordinate their roles. Such advice will normally take the form of a time schedule agreed between the proponent and Department that may include:

- dates for delivery of the proponent's proposed Consultation Plan, draft EES study reports and draft EES, for review by the Department and the TRG
- timeframes for TRG feedback on draft documents as well as for quality review of the proposed final EES
- timeframes for the proponent to respond to feedback
- protocols for giving advance notice of any delays and for revising the agreed time schedule.

Agencies and authorities represented on the TRG will be asked to confirm their commitment to provide feedback within agreed timeframes.

What if the proponent abandons an EES?

Proponents that decide to abandon the preparation of an EES should notify the Minister, the Secretary and all relevant decision-makers. Advice should be sought from the Secretary on any proposal to restart a previously abandoned EES.



Public review of an EES

What is the public review process for an EES?

In specifying the procedures and requirements for an EES, the Minister will determine the form and extent of the public review for an EES. The public review process will include:

- public notice of the EES
- exhibition of the EES for a specified period
- receipt of public submissions.

The Minister may also specify the intended form of an inquiry, if one is to be held.

What is the procedure for public notice?

Public notice of the EES exhibition will be required:

- in at least one daily newspaper
- in one or more local papers circulating in the area of a rural or regional project
- to be posted on the Department's website.

The notice must be in a form acceptable to the Minister and include details of:

- the proponent
- the scope of the project (including ancillary works)
- the location of exhibited material and the availability of documents for purchase
- the timeframe for submissions
- where submissions should be sent.

The proponent is asked to pay for the costs of advertising and may be asked to place the advertisements.

The EES will be exhibited for a period of 20 to 30 business days. In exceptional circumstances the Minister may decide that a longer period of exhibition is warranted.

Exhibition of an EES should allow for access to documentation by interested members of the public. The Minister may specify that the proponent:

- place printed copies of the EES on exhibition at specified locations
- ensure the EES is downloadable from the proponent's website, with links from the Department's website
- make printed and/or CD/DVD versions of the EES available for purchase.

Prices for copies of the EES main report and appendices should be set at a level to enable effective access by interested parties. Copies of the EES Summary are to be made available by the proponent free-of-charge to interested parties.

If advertising of the EES coincides with applications for statutory approvals, joint advertising will be coordinated. The form of any joint notice, as well as the period and locations of document exhibition, should satisfy the requirements of the EES process.



Public review of an EES

What should the scope of submissions be?

Written submissions in response to an EES should document comprehensively all the views and information the submitter considers relevant to the assessment of a proposal. Some forms of inquiry may allow limited opportunities for submission of further information.

How are public submissions treated?

Submissions should be received by the advertised closing date. They will normally be treated as public documents. They will be available to be inspected and used by officers of the Department, persons responsible for the conduct of an inquiry process, the proponent and any other interested parties. Statements of submission and supporting documents may be transferred to an electronic format and made available to other parties, including as part of an inquiry process.

In exceptional circumstances, a request for a submission or parts of a submission to be treated on a confidential basis (for instance, for reasons of commercial confidentiality or cultural sensitivity) may be considered.

If statutory approvals applications have been jointly advertised with the EES, the Department will put in place arrangements for coordinated receipt and circulation of submissions with the relevant agencies.

How should the proponent respond to public submissions?

To assist in the resolution of issues raised in the public review stage, a proponent should produce a document responding to issues raised in submissions on the EES (or otherwise through the consultation process). Such a written response should be provided to the Minister, if an inquiry has not been appointed. If an inquiry has been appointed, the response will be distributed as part of the exchange of documents.

In some circumstances a proponent may seek to negotiate a resolution to particular issues (for example, mitigation measures) with relevant parties, possibly including some submitters. It is advisable that negotiation take place prior to the commencement of any inquiry.

How will submissions be considered?

The process for considering submissions on an EES process will be decided by the Minister on the basis of the complexity of issues and level of public interest in an EES.

The Minister may choose to appoint one or more persons with relevant expertise to conduct an inquiry into a proposal's potential environmental effects, including by considering the EES and submissions in response. If the Minister decides to appoint an inquiry, options for the form of inquiry are:

- an inquiry by written submissions
- an inquiry by submitter conference
- an inquiry with a formal hearing.



The Minister will normally decide in-principle whether to appoint an inquiry, as well as the intended form of inquiry, at the time of deciding that an EES is required. This in-principle decision may be reviewed during the EES process if preparation of the EES or submissions on the EES reveal issues of greater or lesser complexity than anticipated.

A proponent may be asked by the Minister to contribute to the costs of an inquiry.

What is an inquiry by written submissions?

The Minister may decide to appoint one or more persons to conduct an inquiry on the basis of the written submissions to an EES, without presentation of further information by submitters or expert witnesses. The Minister might choose this approach where the proposal does not raise issues that would warrant further public input from submitters. The inquiry will submit its report to the Minister once it has considered the written submissions.

What is an inquiry by submitter conference?

The Minister may invite submitters to attend a 'submitter conference' or roundtable session to provide an opportunity for them to speak about their submission and for questions of clarification to be asked through an appointed chairperson. It may provide an opportunity for the proponent and submitters to seek a resolution of some issues.

A submitter conference is a more informal forum for consideration of issues than a formal public hearing. Conferences would not normally allow for presentation of further evidence or expert witnesses in support of a submission.

The chair of a submitter conference will provide the Minister with a report documenting the matters raised and identifying those matters that may warrant particular consideration in finalising an assessment.

What is an inquiry by formal hearing?

In more complex circumstances an inquiry with a formal hearing may be warranted. Formal hearings allow proponents to speak about their proposal and submitters to speak about their submissions in-depth. Expert witnesses may make presentations and questions of clarification may be asked of all parties.

The terms of reference for an inquiry with a formal hearing will typically require the inquiry to:

- investigate specified matters
- conduct a hearing to hear from the proponent and any submitters that wish to be heard
- provide findings and recommendations to the Minister, for consideration by the Minister in making an assessment.

Where appropriate, an inquiry with a formal hearing may:

- convene a special session of parties to seek to establish agreement about the nature of the issues in dispute or preferred responses
- convene a special session of expert witnesses and other relevant persons to establish a shared understanding of complex scientific or technical matters.

An inquiry by formal hearing will normally be appointed where a similar process is required under another Act (such as the *Planning and Environment Act 1987*) for the proposal being assessed. A joint or combined panel/inquiry process will then be followed. If necessary, the procedures for the inquiry under the Environment Effects Act will be adjusted to avoid conflict with the statutory requirements of the other process.

When will the report of any inquiry be released?

The report of any inquiry will normally be released at the same time as the Minister's assessment. The Minister may release the report before the assessment if the assessment is delayed, for example, because of a need to obtain further information.



Making the final assessment

When might a Supplementary Statement be needed?

The Minister may ask the proponent to provide additional information regarding particular matters, if this is needed in order to make an assessment. Where the required information will involve extensive investigations, the Minister may formally call for a Supplementary Statement to be prepared. The proponent may be directed to prepare a Supplementary Statement at any point between the exhibition of the EES and the making of an assessment. The Minister can specify the procedures to be applied for a Supplementary Statement and any requirements regarding the scope of the statement.

The Minister will exercise discretion in determining whether the public is invited to provide comments on a Supplementary Statement. The invitation to provide comments might be limited where a Supplementary Statement addresses localised issues.

What is the Minister's assessment?

An assessment of the environmental effects of a proposal is the final step in the process. Often referred to as the 'Minister's assessment', this step determines whether the likely environmental effects of a project are acceptable. It will provide:

- findings on the potential magnitude, likelihood and significance of adverse and beneficial environmental effects of the project
- conclusions regarding any modifications to a project or any environmental management measures that are needed to address likely adverse effects or environmental risks
- evaluation of the overall significance of likely adverse effects and environmental risks of the project, relative to likely benefits of the project, within the context of applicable legislation, policy, strategies and guidelines.

The Minister's assessment will involve consideration of:

- the EES and any Supplementary Statement
- public submissions, the proponent's response to submissions, and supporting information from the proponent or submitters
- any inquiry report
- other information provided by the proponent at the request of the persons appointed to conduct an inquiry, the Department or the Minister
- the objectives and principles of ecologically sustainable development, as well as applicable legislation, policy, strategies and guidelines.

What can a Minister's assessment say?

The Minister's assessment may conclude that:

- a project (with or without limited modifications) would have an acceptable level of environmental effects, having regard to overall project outcomes; or
- a project would have an unacceptable level of environmental effects; or
- a project would need major modifications and/or further investigations in order to establish that an acceptable level of environmental outcomes would be achieved. In this latter situation, a further assessment process under the Act may be required.

If the Minister's assessment concludes that a project would have an acceptable level of environmental effects, it may provide advice on project implementation and environmental management measures, including:

- opportunities for incorporating necessary measures in conditions of particular statutory approvals or in binding agreements
- coordinating different aspects of the environmental management regime to ensure an integrated approach for achieving acceptable environmental outcomes
- recommended approaches to environmental monitoring and management, including further public involvement.

Making the final assessment

When will a Minister's assessment be provided?

The Minister's assessment is normally provided to decision-makers and the proponent within 25 business days of receiving the report of an inquiry or within 50 business days from the close of the exhibition period of an EES if an inquiry is not appointed.

Does a Minister's assessment bind decision-makers?

Relevant decision-makers are required to consider the Minister's assessment; however its recommendations are not binding on the decision-maker. To assist in the transparency of the EES process, it is useful for the decision-maker to advise the Minister of the outcome of the decision. Where the decision-maker proposes not to adopt part of the assessment, the decision-maker should consult with the Minister.

How is the public notified of the Minister's assessment?

The Minister's assessment will be placed on the Department's website. This will occur as soon as practicable after the assessment is provided to decision-makers and proponents.

Does the Minister's assessment require follow-up?

An EES will normally outline a framework for environmental monitoring and management for implementation of a project. The Minister's assessment will provide advice about the appropriateness of this framework.

Statutory approvals can then incorporate relevant provisions for environmental monitoring and management, preferably within the framework of an environmental management plan. It is possible that several Departments and agencies will have responsibility for enforcing approval conditions, potentially including environmental monitoring, reporting and auditing.

The Minister's assessment may suggest the establishment of a committee comprising representatives of relevant Departments, statutory authorities and possibly stakeholders to provide a forum for communication about the implementation of an assessed project.

What if there are variations to a project?

Variations to a project during its implementation are common and the response will depend on the circumstances, nature and the scale of any change. Particular circumstances that may arise are:

- Variations in response to the Minister's assessment. Such variations may be required to respond to issues that have arisen in the EES process in order to lessen the impact upon the environment. The assessment might also set out further investigations and consultation that should be undertaken before preliminary design plans are endorsed. In some circumstances, revised statutory applications may also be needed.
- Proponent-initiated variations to enhance project viability, for example, in response to technological or commercial factors. The nature and scale of such changes, and hence appropriate responses, may vary considerably. Where a revised proposal could involve significant 'new' effects on the environment, the proponent may need to refer the revised proposal to the Minister for a decision as to whether further assessment is required under the Environment Effects Act.
- Variations in response to specific requirements by decision-makers.

Coordination of other statutory processes

What happens when other statutory approvals are required?

The EES process is intended to inform decision-making under other Victorian legislation. The Minister administering the Environment Effects Act may direct that the relevant decision-maker not make a decision until an EES is prepared and assessed.

The Act extends any prescribed time limit within which statutory decisions must be made by one month after the decision-maker receives the Minister's assessment.

To facilitate timely decision-making, EES and related statutory approval procedures are often coordinated. This may include:

- seeking accreditation of the EES process as the required assessment process under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), where a project requiring an EES is also a controlled action under the EPBC Act
- coordinating public notification of statutory applications in conjunction with advertising and exhibition of the EES
- coordinating panel inquiry procedures under the Environment Effects Act with equivalent procedures under other Victorian legislation, for example the *Planning and Environment Act 1987*
- providing specific advice in the Minister's assessment to inform relevant statutory and other decisions, under other Victorian legislation such as the *Planning and Environment Act 1987*, *Environment Protection Act 1970*, *Mineral Resources Development Act 1990*, *Pipelines Act 1967* (or subsequently the *Pipelines Act 2005*), *Coastal Management Act 1995*, *Water Act 1989*, *Road Management Act 2004*, *Petroleum Act 1998*, *Petroleum (Submerged Lands) Act 1982*, *Extractive Industries Development Act 1995* and *Geothermal Energy Resources Act 2005*.

What do other Acts require?

Planning and Environment Act 1987

Section 4 of this Act establishes the objectives of planning in Victoria and provides for the *Victoria Planning Provisions* (VPP). The VPP sets the policy framework for planning in Victoria. The State Planning Policy Framework (SPPF), together with the Local Planning Policy Framework for each planning scheme, provide crucial guidance for decision-making. This legislative and policy framework is a key source for the evaluation of projects subject to assessment under the Environment Effects Act.

Where a project requires a planning scheme amendment and an EES, the proposed amendment may be exhibited concurrently. A panel appointed under the Planning and Environment Act will also be appointed as an inquiry under section 9(1) of the Environment Effects Act. The joint panel/inquiry will provide a single report to the Minister.

If a planning permit is needed for a project it should be exhibited in conjunction with an EES. To facilitate integrated planning for projects of State or regional significance, the Minister may 'call-in' permit applications under section 97B of the Planning and Environment Act. A permit 'call-in' requires a panel to be appointed under section 153 of the Planning and Environment Act to consider any submissions or objections. Where assessment under the Environment Effects Act is required, such a panel would be jointly appointed as an inquiry.



Coordination of other statutory processes

Environment Protection Act 1970

This Act provides the legislative framework for environment protection in Victoria, including the principles of environment protection. State Environment Protection Policies and Waste Management Policies are made under the Act and have important implications for projects subject to the EES process.

Many industrial projects, and some mining and extractive industry projects, require works approval from the Environment Protection Authority (EPA) under the Environment Protection Act before development can proceed. Before operation of a facility can commence, a licence from the EPA is required to discharge wastes.

Projects requiring an EES are commonly subject to approval under the Environment Protection Act. To minimise duplication, the EPA and Department should provide advice to proponents on the extent of detail of technical design and operational aspects, as well as on the impact studies, that should be documented in the works approval application and EES.

The works approval application will normally be exhibited in conjunction with the EES for a project. Formal assessment of the application by the EPA would follow receipt of the Minister's assessment under the Environment Effects Act. Section 33B(1B) of the Environment Protection Act provides that where the EPA's decision with respect to a works approval application is substantially in accordance with an assessment under the Environment Effects Act, third parties are not able to seek a review of the decision by the Victorian Civil and Administrative Tribunal.

Geothermal Energy Resources Act 2005

This Act provides a new framework for the large scale commercial exploration and extraction of geothermal energy. Geothermal energy is vested in the Crown. Section 62 states that a planning permit is not required to carry out any geothermal energy extraction operation if an EES has been prepared and the Minister administering the Act has authorised the operation following consideration of the assessment of the Minister administering the Environment Effects Act.

Mineral Resources Development Act 1990

This Act provides a legislative framework for the development and regulation of the mineral exploration and mining industry. The Act applies to all minerals, including gold, coal, and mineral sands.

Environmental effects processes are integrated with mining approvals under the Act. An approved work plan under section 40 and a work authority under section 42 are required before mining can take place under a mining licence. These sections enable consideration of any assessment of the Minister administering the Environment Effects Act of the proposed mining proposal as part of the approvals processes. This integrated process also applies to work plan variations under section 41 of the Act. Section 42(7) states that a planning permit is not required for mining if an EES has been prepared and a work authority has been granted following the Minister's consideration of the assessment of the Minister administering the Environment Effects Act.

Section 42A of the Act establishes a special process that may apply to variations to approved work plans for works that have been assessed under the Environment Effects Act. This process enables variations to be approved without the requirement to obtain a planning permit even if the new work will cause significant additional environmental impacts, provided a report is prepared on the additional environmental impacts, exhibited for public comment, and the final variation approved by the Minister substantially complies with any requirements recommended by the assessment of the Minister administering the Environment Effects Act.

Pipelines Act 1967

This Act applies to pipelines, including those carrying hydrocarbons at very high pressure. Section 12C requires that, where applicable, the Minister administering the Environment Effects Act be sent a copy of an application for a pipeline permit. If an assessment under the Environment Effects Act is prepared, section 12E states that the responsible Minister must consider the assessment of the Minister administering the Environment Effects Act of the environmental impacts of the proposed pipeline. When the *Pipelines Act 1967* is repealed at the commencement of the *Pipelines Act 2005*, the equivalent of section 12E will apply in the new Act.

Petroleum Act 1998

This Act covers onshore petroleum exploration and development activities. Section 120 states that a planning permit is not required to carry out a petroleum production operation if an EES has been prepared and an assessment of the Minister administering the Environment Effects Act has been submitted to the Minister responsible for the Petroleum Act.

Coastal Management Act 1995

This Act provides for strategic planning for the management of coastal areas, through the development of a State-wide coastal strategy and through coastal action plans for specific areas. Section 37(1) of the Act requires the consent of the responsible Minister for the use and development of coastal Crown land, including Crown land in Victorian waters and 200 metres inland of the high water mark. Many coastal or marine projects that are subject to the EES process may also require approval under this Act.

Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth)

The EPBC Act may apply to projects in Victoria independently of whether an EES is required. If a project is a “controlled action” under the EPBC Act, it requires approval by the Commonwealth Minister for Environment and Heritage.

Where a project is a controlled action, and an EES is required, the Commonwealth Minister may accredit the EES process on a case-by-case basis if the required assessment process satisfies the requirements of the EPBC Act. Accreditation enables a single assessment process to be applied to meet Victorian and Australian Government requirements. The scoping requirements for an accredited process should identify the relevant matters under the EPBC Act.



