

Assessment Reports

Independent Review

September 2018

Introduction

The NSW Department of Planning and Environment commissioned Lisa Corbyn - former head of the NSW Environment Protection Authority and the NSW Department of Environment, Climate Change and Water - to conduct an independent review of the Department's assessment reports for State Significant projects.

Ms Corbyn has completed the review, and made 15 recommendations to improve the Department's assessment reports.

The Department accepts the findings of the review, and is implementing a number of reforms and actions to address all the recommendations in the report (see Appendix 1 below).

A copy of Ms Corbyn's report is available on the [Department's website](#).

Why was the report commissioned?

Assessment reports play an important role in the assessment process for State significant projects. They summarise the findings of the Department's whole-of-government assessment of the merits of projects, and inform decisions on whether the applications for these projects should be approved or refused.

In recent years, certain stakeholders have been critical of the Department's assessment reports, saying they are sometimes difficult to understand, inconsistent, lack technical rigour, pay insufficient attention to community issues, and fail to fully address relevant statutory matters.

To address these concerns, the Department commissioned Ms Corbyn to carry out a detailed and independent review of the quality of its assessment reports and identify what could be done to improve the reports.

What did the review involve?

There were three key steps in the review.

First, Ms Corbyn identified four principles and related criteria to judge the quality of the Department's assessment reports:

1. Coverage:
 - a) Statutory rigour
 - b) Technical and scientific rigour
 - c) Proportionality
 - d) Impartiality
2. Responsiveness
3. Ease of Understanding
4. Consistency.

Secondly, Ms Corbyn consulted with over 19 private stakeholder groups, including proponents, community groups and professional associations; and 16 government stakeholders from all three levels of government, including local councils, NSW government agencies, the former Planning Assessment Commission, the NSW Land & Environment Court and the Commonwealth Department of Environment and Energy. These stakeholders were asked to provide feedback on the strengths and weaknesses of the Department's assessment reports, and suggestions for improvements.

Finally, Ms Corbyn considered 19 assessment reports. These reports varied considerably in size and scope, and covered different types of development, including from the infrastructure, industry, resources, energy, residential and commercial sectors.

What were the findings of the review?

Ms Corbyn confirmed the importance of assessment reports for evaluating the merits of State significant projects for decision-makers, and for communicating with a diverse range of stakeholders about how their concerns have been taken into account.

Ms Corbyn found that there had been significant improvements in the Department's assessment reports over recent years, but that there was significant variability in how well these reports addressed the principles and criteria set out above.

In general, decision-makers, government agencies and industry stakeholders were supportive of the Department's assessment reports, whereas community and environment groups raised concerns about impartiality and limited consideration of community concerns.

In her report, Ms Corbyn identified 7 areas of improvement and made 15 recommendations to the Department.

What are the areas of improvement?

The areas of improvement identified by Ms Corbyn are:

1. Simplify and make State significant project assessment reports more analytical;
2. Reinforce the importance of the strategic context;
3. Systematise the statutory context;
4. Boost early engagement efforts to improve scoping, and better understand and respond to local community issues;
5. Improve the analysis in key assessment areas;
6. Draw clear linkage between conclusions and draft conditions of consent; and
7. Improve the language in assessment reports.

What are the next steps?

The Department is implementing a number of reforms to improve the assessment of State significant projects more broadly in response to stakeholder feedback as well as actions to address specific recommendations in the review of assessment reports.

A summary of these reforms and actions is outlined below, and Appendix 1 provides details of the Department's proposed response to each of Ms Corbyn's recommendations.

- *Statutory Reforms* - the *Environmental Planning and Assessment Act 1979* was recently amended to require all decision makers from 1 July 2018 to publicly notify their decisions, including the specific reasons for the decision (having regard to any statutory requirements) and how community views have been taken into account in making the decision.
- *Policy Reforms* - developing a series of guidelines known as the "EIA Improvement Project" to drive earlier and better engagement with affected communities, to improve the quality and consistency of all assessment documents including environmental impact assessment documents, and to ensure these documents focus on the matters with the greatest potential impact and of greatest concern to the community. The Department has

also published guidelines for Social Impact Assessment, Economic Impact Assessment and Community Consultative Committees over the last two years.

- *Consultation and Engagement* – in addition to the formal statutory consultation requirements, senior Departmental staff will continue to undertake site visits and meet with landowners and community groups for all new State significant projects.
- *Assessment Practice* – the Department has prepared a new assessment report template, which includes guidance for Departmental staff about how to improve assessment reports in accordance with the recommendations of the review.
- *Training* – each of the assessment teams in the Department has received specific feedback from Ms Corbyn about the findings and recommendations of the review, and training in how to implement the new assessment report template. Training has also been given on how to improve the consideration of statutory matters in reports, including assessing Commonwealth “matters of national environmental significance” under the current bilateral agreement.
- *Post-Approval and Compliance* – the Department has released post approval requirements for independent audits and compliance reporting, and is developing standard conditions for State significant projects and guidance on how to prepare environmental management plans. The Department has also significantly increased its compliance and enforcement resources and activities over the last 2 years.

Appendix 1

Recommendation	Actions	Status
Recommendation 1		
Simplify and focus assessment reports	<ul style="list-style-type: none"> • Implement a new assessment report template • Train assessment staff on the new template 	Complete Ongoing
Recommendation 2		
Issue an assessment report template	<ul style="list-style-type: none"> • Implement a new assessment report template • Train assessment staff on the new template 	Complete Ongoing
Recommendation 3		
Include a distinct "Strategic Context" section in assessment reports	<ul style="list-style-type: none"> • Incorporated in the new assessment report template 	Complete
Recommendation 4		
Outline the expectations for presenting and summarising the substantive analysis of any statutory requirements in assessment reports	<ul style="list-style-type: none"> • Incorporated in the new assessment report template • Train assessment staff on the new template 	Complete Ongoing
Recommendation 5		
Liaise with Commonwealth to agree on guidance and training for staff to ensure Commonwealth 'matters of national environmental significance' are properly considered and appropriate recommendations included in assessment reports	<ul style="list-style-type: none"> • Training for key assessment staff on assessing Commonwealth matters • Implement internal guidance and templates for assessing Commonwealth matters, in accordance with the bilateral agreement 	By end of September 2018
Recommendation 6		
Reinforce the importance of site visits, community meetings and early engagement with agencies to connect with on-the-ground issues	<ul style="list-style-type: none"> • Implement 'notice of decision' for determinations, including how community views have been taken in account • Site visits and community meetings for all State significant projects • Implement the EIA Improvement Project, including earlier and better engagement in the assessment process for State significant projects 	Complete Ongoing Ongoing

<p>Recommendation 7</p> <p>Present summary tables for both priority and residual issues raised and how they are dealt with in the conclusions and conditions</p>	<ul style="list-style-type: none"> • Incorporated in the new assessment report template • Train assessment staff on the new template 	<p>Complete</p> <p>Ongoing</p>
<p>Recommendation 8</p> <p>Consult with Aboriginal communities on appropriate ways to include the perspective of traditional owners who speak for their country, where significant Aboriginal cultural heritage issues are being evaluated in the Assessment Reports</p>	<ul style="list-style-type: none"> • Site visits and meetings with Aboriginal stakeholders for State significant projects where cultural heritage values are a key assessment issue • Implement the proposed Aboriginal Cultural Heritage reforms including measures to help identify traditional owners who can speak for country 	<p>Ongoing</p>
<p>Recommendation 9</p> <p>Finalise draft Social Impact Guidelines relating to the mining industry and consider extending to other sector</p>	<ul style="list-style-type: none"> • The Social Impact Assessment Guidelines for resource projects were finalised and published on the Department’s website in September 2017 • Extend the Social Impact Assessment Guidelines to other sectors 	<p>Complete</p> <p>By end of 2018</p>
<p>Recommendation 10</p> <p>Present a more balanced assessment of the economic costs and benefits of proposals, particularly with respect to the local area, and better analyse the strengths and weaknesses of various economic modelling approaches</p>	<ul style="list-style-type: none"> • Incorporated in the new assessment report template • Train assessment staff on the new template • Technical notes for the economic assessment of resource projects, including local effects analysis, were finalised and published on the Department’s website in June 2018 • Commission independent expert to review economic assessment for all major resource projects 	<p>Complete</p> <p>Ongoing</p> <p>Complete</p> <p>Ongoing</p>
<p>Recommendation 11</p> <p>Better explain the approach to commissioning expert or peer reviews</p>	<ul style="list-style-type: none"> • Continue regular senior officer and bilateral meetings with key agencies • Consult with relevant agencies prior to commissioning expert and peer reviews • Streamline procurement processes for experts and peer reviewers 	<p>Ongoing</p> <p>Complete</p>

<p>Recommendation 12</p> <p>Investigate approaches for better understanding, analysing and presenting information on risks and potential cumulative impacts, recognising the challenges faced when dealing with individual proposals</p>	<ul style="list-style-type: none"> • Develop Cumulative Impact Assessment Guidelines for the assessment of State significant projects 	<p>June 2019</p>
<p>Recommendation 13</p> <p>Incorporate possible draft conditions of consent, with a clear explanation of the linkage between conclusions and suggested conditions</p>	<ul style="list-style-type: none"> • Incorporated in the new assessment report template • Train assessment staff on the new template • Implement standard conditions for State significant projects 	<p>Complete</p> <p>Ongoing</p> <p>Ongoing</p>
<p>Recommendation 14</p> <p>Reinforce the importance of post approval processes</p>	<ul style="list-style-type: none"> • Develop post-approval guidelines, including Independent Audits and Compliance Reporting • Develop Environmental Management Plans guideline • Maintain compliance resources, continue to undertake proactive compliance activities and regularly publish results 	<p>Complete</p> <p>By end of 2018</p> <p>Ongoing</p>
<p>Recommendation 15</p> <p>Improve assessment report language and nomenclature</p>	<ul style="list-style-type: none"> • Implement a new assessment report template • Train assessment staff on the new template 	<p>Complete</p> <p>Ongoing</p>