

Performance Audit Report

Department of Urban Affairs and Planning

Environmental Impact Assessment of Major Projects in NSW

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Executive Summary

Executive Summary

The Audit

This performance audit examines the efficiency and effectiveness of the Department of Urban Affairs and Planning (DUAP) in managing the environmental impact assessment of major projects in NSW. These projects represent around \$2 billion of capital investment each year.

Environmental impact assessment is a systematic process for evaluating a proposal, including its objectives and alternatives and its effect on the environment. The primary legislation is the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Audit Opinion

The Audit Office is of the opinion that the basis for environmental impact assessment of major projects in NSW is sound. The key concept of 'environmental significance' is well defined. The system is closely specified. DUAP leads a whole-of-government approach to environmental impact assessment and its assessments are comprehensive.

However, the Audit Office considers that there are opportunities for improvement by more actively managing the participants and the performance of the environmental impact assessment system. DUAP needs to strengthen its internal documentation and must ensure the public have greater involvement.

The Audit Office is also of the opinion that there would be benefit in DUAP's assessment reports being open to public scrutiny before the Minister makes a determination, consistent with principles of transparency and accountability and the objects of the EP&A Act (sec 5).

The audit opinion is based on the following findings.

Conducting the Assessment

DUAP has well documented processes for proponents and the assessment process overall, but its internal guidance manuals, documentation and record keeping need to be strengthened.

DUAP's assessment reports are extensive, but the basis for a decision and the evidence to support the decision whether a project proceed (or not) could be better documented. DUAP's proposed inclusion of sustainable economic development and employment growth plans in *Planfirst* should provide a point of reference for assessments, which is currently missing.

DUAP undertakes environmental impact assessment involving its own land. A potential conflict of interest arises when DUAP's land may be re-zoned for its own greater financial return.

Managing the System

DUAP has a significant task in managing the environmental assessment system for a large number of major complex and often controversial projects, involving input from a range of agencies and other participants.

DUAP issues the requirements for the preparation of the environmental impact statement in conjunction with other government regulatory authorities.

There are opportunities to better prioritise the environmental impact issues at the outset of an assessment and to establish project specific timetables, in order to set up a more efficient and effective process.

Management of the assessment system could be improved with inter-agency management agreements and provision for periodic review to assure system integrity and performance.

There are indications that DUAP's resources in the assessment area are less than adequate to meet the needs of an increasingly complex assessment task, under current processes. This has a bearing on other matters discussed in this report.

Involving the Public

There are opportunities to strengthen public involvement, particularly at the beginning and at the end of the assessment process.

The EP&A Act only specifies that the environmental impact statement (EIS) must be exhibited and written submissions be considered. DUAP requires the proponent to consult with the community during the preparation of the EIS and at the post approval implementation phase.

DUAP requires public proponents to formally respond to issues raised in submissions in a *Preferred Activity Report*. However, the public are not included in the EIS scoping process. Public hearings for major projects are not common; detailed responses are not provided to submissions and DUAP's assessment reports and conditions of approval are not published until after the Minister makes a determination.

Avoiding Early Foreclosure of Options

Environmental impact assessment is limited by legislation to assessment of specific projects and applied after the foreclosure of broad options.

Environmental impact assessment could be incorporated into wider government decision-making processes. Most Government decisions, policies and strategies that constrain, direct or influence project options are developed without explicit consideration of environmental impacts.

Mechanisms to demonstrate that the principles of *Ecologically Sustainable Development* have been incorporated are limited.

Performance Assessment and Reporting

There is scope for improved performance assessment and reporting. DUAP has not as yet set objectives and established a system to monitor and report the performance of the environmental impact assessment system.

At the project level, DUAP relies on the proponent (or approved consultant) to report how it is addressing the conditions of consent and to monitor whether impacts are as predicted.

Recommendations

The implementation of many of the following recommendations, if adopted, will require a whole of government response. The Audit Office has therefore not attempted to allocate responsibilities to individual agencies.

It is recommended that:

the assessment process be strengthened by: (chapter 2)

- improving DUAP's internal documentation including internal guidance and compliance with the *State Records Act 1998*
- move to a more risk-based approach for triggering EISs for projects assessed under Part 4
- provide (electronic) access to the government's environmental plans, policies, strategies and environmental legislation through a single user-friendly portal
- developing sustainable economic development and employment growth plans, as proposed in *Planfirst*
- removing a potential conflict of interest arising from DUAP's ownership of land.

the environmental impact assessment system be more actively managed by: (chapters 3 and 6):

- establishing objectives for the environmental impact assessment system
- establishing a Memorandum of Understanding between DUAP and the other environmental regulatory authorities
- providing early prioritisation of project issues and project specific time schedules
- reviewing the adequacy of DUAP's assessment staff resources, particularly in the light of this report
- monitoring and benchmarking performance of the environmental impact assessment system
- introducing a system of quality assurance for the assessment process
- reporting annually on environmental impact assessment system issues and performance
- establishing a mechanism for periodic audit or review of the environmental impact assessment system for major projects.

public involvement and scrutiny be increased by: (chapter 4)

- offering public participation in scoping each major project, including publishing *Director-General's Requirements* on the Internet as a draft for comment before issuing
- providing greater use of public hearings (such as by panels) for major projects and making more use of inquiry mechanisms to resolve conflict and dispute
- requiring private proponents to formally respond to issues raised in submissions (as occurs in *Representations Reports* and *Preferred Activity Reports* for public projects) and posting them on the internet
- publishing assessment reports on the internet for public comment, before the Minister is asked to approve them
- issuing a *Citizen's Charter* with the public's rights of involvement, participation and appeal.

a strategic environmental assessment be introduced (chapter 5)

- into the Government's wider decision-making processes and
- supported by guidelines and advice from DUAP
- involving sectoral studies and extensive use of public participation.

monitoring and public reporting be improved by: (chapter 7)

- adopting a risk-based program for independently monitoring and reporting on compliance with conditions imposed
- adopting a risk-based program for independently monitoring whether actual environmental impacts differ significantly from what was predicted
- establishing appropriate systems and resources
- delegating some of these responsibilities to another environmental regulatory agency or agencies.

The Department of Urban Affairs and Planning's Response to the Audit Recommendations

General Comments *The Department of Urban Affairs and Planning is strongly committed to sustainability in undertaking all its activities under the Environmental Planning and Assessment (EP&A) Act 1997.*

Environmental Impact Assessment (EIA) is an integral part of the environmental planning system in NSW, and a key instrument for achieving sustainable development. The Department strives to secure both leadership and on-going improvements in undertaking its EIA responsibilities so as to ensure value-adding and the best environmental, social and economic outcomes for the NSW community.

In the context of the above, the Department welcomes the audit of its EIA of major projects. The audit is particularly timely as the Department moves to reposition itself in a number of areas and to implement major reforms to the planning system.

The Department is particularly pleased and proud of the audit's main findings that its assessments are comprehensive and that stakeholders consider the Department is doing a creditable job and is leading a whole of government approach to environmental assessment. The audit finding that the basis of EIA of major projects in NSW is sound is welcomed.

The broad scope of the audit's recommendations is consistent with the Department's own periodic reviews in light of changing priorities and circumstances. Before addressing the more specific conclusions and recommendations of the audit, it is important to firstly make the following observations:

- *NSW has one of the most (if not the most) comprehensive regimes for environmental impact assessment both nationally and internationally.*
- *As distinct from many other jurisdictions where EIA is only a matter of discretionary policy or administrative practice, EIA in NSW is a compulsory legislative requirement with extensive checks and balances and statutory obligations.*
- *Public participation is at the core of the EIA regime in NSW, a right entrenched by legislation, with extensive appeal rights and obligations to inform and consult.*

In considering the audit's recommendations and findings, particularly those that may be derived from the comparison of practices in NSW with other EIA jurisdictions, it is important to appreciate the fundamental similarities and differences between the various regimes, for any finding to be valid.

Recommendations on the basis that they have been used in other jurisdictions are not necessarily well founded, as each EIA system should be examined in the context of the related planning and regulatory framework. Taking elements of one system to apply in another cannot be assumed to lead to better outcomes and may result in over-regulation, inefficiencies and inconsistencies.

The Department's responses to each of the audit's recommendations are attached. The following general observations are made.

The Assessment Process

The audit conclusion that the Department has defined well the level of environmental significance as a trigger for EIA is noted.

The legislative reform Planfirst will provide significant opportunities for improving the strategic planning context including the development of whole-of-government integrated economic and employment growth plans. Strategic assessment initiatives by the Department such as the recently completed Aquaculture Strategy for the North Coast and the currently proceeding Extractive Industry Strategy which define risk-based triggers for EIA are consistent with the audit observations. This trend is likely to continue.

The Department has initiated a progressive strengthening of internal EIA documentation and tracking practices, consistent with the relevant recommendations of the audit. It must, however, be noted that a judgement will always need to be made as to the appropriate practical level of procedural guidance to avoid bureaucratic rigidity and to encourage innovation and value adding outcomes. It is also noted that no inappropriate procedural practices have been found.

The audit drew attention to the need to remove what was considered to be the potential for a conflict of interest in the case of rezoning land owned by the Department. It is suggested, however, that this particular issue is not a matter for comment in relation to the evaluation of the effectiveness and efficiency of the EIA process. Notwithstanding there are substantial checks and balances both legislative and administrative, including organisational transparencies to ensure such a conflict does not occur.

Managing the System

With the increasing number and complexity of major development and infrastructure projects, the audit observed the constraints on the Department because of the lack of assessment staff resources. The audit recommended that a review of the adequacy of the resources should be undertaken and an appropriate level of resources established. The audit also noted that the lack of resources could jeopardise the Department's efficient implementation of its recommendations. This matter is receiving priority attention by the Department. Arrangements are currently underway for an overall review of core funding and user pay approaches.

In undertaking its EIA duties, the Department leads a process that interrelates closely with other government agencies and their functions. There are extensive formal and informal linkages between the various regulatory agencies, including legislative requirements of the integrated approval system under Part 4 of the EP&A Act. The Department does see a benefit in strengthening of these linkages via a Memorandum of Understanding as recommended by the audit, particularly in relation to the efficient operation of provisions of Division 4 Part 5 of the Act.

The Department undertakes periodic stakeholder surveys that provide feedback as to the discharge of its functions. The audit recommendation of a more formalised mechanism to secure quality will be further considered in that context along with other initiatives for EIA monitoring and system review.

Involving the Public

The Department strives to enshrine public participation into all its activities, particularly EIA, as a culture and practice that go well beyond meeting statutory obligations. In addition to facilitating and publishing best practice guidance notes in that regard, key practices include:

- *Mandatory Director General requirements for proponents to consult with the affected community when preparing an EIS and to report and address their concerns in the EIS*
- *Requirement on proponents of public projects to make public a "Preferred Activity Report" to inform the community of any changes to the project at the same time as seeking the Minister's approval*
- *Approval conditions which require proponents to form community consultation committees to consult during construction and operation of projects*

- *Extensive involvement of the Department's assessment staff and senior executives at community forums both during and subsequent to the assessment process. This may also include undertaking public technical reviews and making independent consultants available to the community to evaluate issues of their concern.*
- *The Department publishes its Assessment Report (including its consideration of issues raised by the community) on the Internet when the Minister makes a determination.*

Other initiatives currently in development which are consistent with the audit observations include, the Department overseeing on-going complaint management mechanisms with its officers taking a more proactive role in dispute resolution, the placing of a project proforma on the Internet so the community can be kept up to date of the progress of the assessment process and any emerging issues, and having proponents respond directly to issues raised by the community in submissions.

While supporting in principle increased opportunities for public involvement, the audit recommendation of making the Department's assessment reports publicly available before the Minister's decision is not considered justified nor necessary. Direct comparisons with other EIA regimes is not valid as indicated earlier and the implementation of this recommendation in the NSW context may raise unwarranted expectations and will not necessarily add value to public participation.

***Avoiding Early
Foreclosure of
Options***

The audit recommendation for the strengthening the strategic context and the introduction of strategic environmental assessment is supported and is consistent with the Department current and future direction. Planfirst will greatly facilitate a strategic context for project EIA. The Department will convene interagency discussions to consider a whole of government response to the audit recommendation and implementation where applicable and appropriate.

***Performance
Assessment and
Reporting***

The Department agrees with the audit that ensuring compliance with conditions of approval and the public reporting of monitoring are essential and critical measures for EIA credibility and efficiency.

The Department has adopted the broad approach of requiring third party independent compliance and monitoring reports which are made publicly available. The Department also endeavours to follow-up on non-compliance allegations and complaints directly with the concerned individuals or through on-going community consultative committees. Notwithstanding the above, it is recognised that this area should be strengthened as broadly suggested by the audit, particularly as to systems and resources. These recommendations will be pursued in liaison with other regulatory agencies.

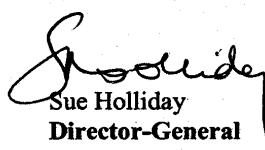
The audit observation on the need for monitoring and benchmarking of the EIA system are appropriate. The Department is currently developing performance indicators for the entire range of its activities and this will include the EIA system.

In that context, it must be noted that qualitative monitoring of EIA outcomes indicate:

- *Projects which are subjected to EIA are both environmentally and economically more efficient;*
- *EIA has raised the level of awareness of environmental issues in both the private and public sector and has increased the accountability of proponents for environmental performance of their projects.*
- *EIA has elevated the importance of the environment and has increased the transparency of decision making*

Concluding observations

The Department welcomes the audit report as part of its commitment for on-going improvements to effectiveness and efficiency of all its activities including EIA and in the interests of the community of NSW.


Sue Holliday
Director-General

Dated: 12 November 2001

Note: DUAP's detailed response to each of the audit recommendations has been included as Appendix 3.

1. Introduction

1.1 Introduction

This performance audit examines the efficiency and effectiveness of the Department of Urban Affairs and Planning (DUAP) in managing the environmental impact assessment of major projects in NSW. It focuses on major projects for which the Minister for Urban Affairs and Planning is the decision-maker.

Major Projects

Major projects such as mines, chemical plants and highways, with the potential to significantly affect the environment represent around \$2 billion of capital investment each year.

DUAP's annual report identified the following major assessment activities in 1999-2000:

- assessments and decisions for 16 major mining projects with capital investment of about \$700 million and generating or retaining some 1,600 direct jobs
- delivery of 30 other developments of state significance, generating over 2,600 direct jobs and more than \$1 billion in capital investment
- assessments and decisions for seven new infrastructure projects resulting in 900 construction jobs and \$350 million in capital investment.

Environmental Impact Assessment

An environmental impact assessment endeavours to:

- assess the impacts of a proposed activity on the environment, before deciding whether to proceed
- assess the adequacy of proposed measures to avoid or minimise those impacts and develop additional measures as necessary
- provide opportunities for community input and transparency in decision making
- provide government approval authorities with information as the basis for issuing an approval for the proposed activity.

Intergovernment Agreement

In May 1992 the NSW Government agreed with the other States and the Commonwealth to an *Intergovernmental Agreement on the Environment* which sets out the respective roles and responsibilities of government. The principles were integrated into the *Commonwealth Environmental Protection and Biodiversity Conservation Act 2000*. The need for accountability and transparency were seen as important issues.

Efficiency and Effectiveness

The NSW Government also requires the assessment system to be efficient and effective.

In short, our development assessment system must be efficient, and it must be effective. It must be efficient so that business activity and employment growth is encouraged, and it must be effective so that it ensures that development only occurs in a way that meets the requirements and the outcomes of our strategic plans, and in a manner that protects the areas we want to protect.

Source: NSW Deputy Premier and Minister for Urban Affairs and Planning, *Keynote address – the future of development assessment in NSW*, conference *One year of integrated development*, 6 August 1999

1.2 Legislative Basis

EP&A Act

The primary legislation is the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The EP&A Act aims to:

- facilitate development for the purpose of promoting the social and economic welfare of the community
- whilst protecting the environment
- and involving the public in the assessment process.

The Act refers to the assessment of a 'development' or an 'activity', not a strategy or a policy. In this respect it is narrower in focus than some jurisdictions in which a *proposal* can refer to policies, plans, programs and development projects.

There are two parallel environmental impact assessment schemes under the EP&A Act. One, under Part 4 of the Act, is principally for projects submitted by private citizens or non government organisations that require development consent. The other, under Part 5 of the Act, is typically for public projects that have been exempted from the requirement for development consent.

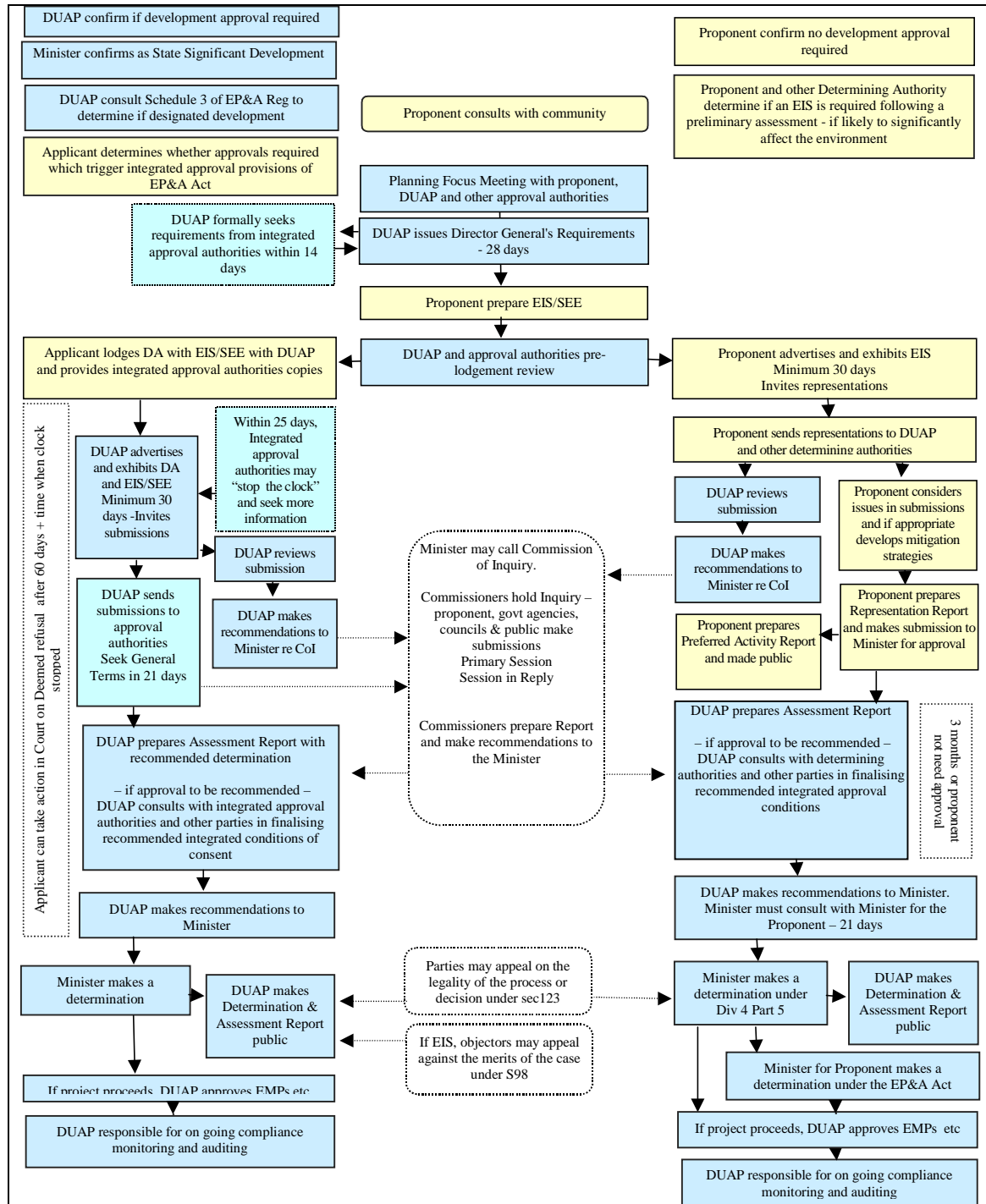
Under the EP&A Act local councils determine applications for 'local development' and their own council's infrastructure projects. However, the Act provides that certain projects may be declared to be 'State significant' and require the consent of the Minister.

The following diagram illustrates the complexity of the two parallel schemes for assessing projects of State significance.

Environmental Impact Assessment Process EP&A Act for proposals of State Significance and Major Government Infrastructure likely to significantly affect the environment

State Significant Development Approvals required under Part 4

State Government Proponents Approvals required under Part 5



Other Relevant Legislation

The State has over 100 pieces of environmental legislation that may be relevant, in whole or in part, to an assessment of environmental impact.

Examples include:

Threatened Species Conservation Act 1995, National Parks and Wildlife Act 1974; Wilderness Act 1987; Soil Conservation Act 1938; Catchment Management Act 1989; Water Management Act 2000; Forestry Act 1916; Fisheries Management Act 1994; Rural Lands Protection Act 1989; Protection of the Environment Operations Act 1997; Heritage Act 1977; Coastal Protection Act 1979; Native Vegetation Conservation Act 1997; Marine Parks Act 1997, Sydney Water Catchment Management Act 1998.

Other legislation contains provisions that may limit the operation of parts of the EP&A Act. Examples of this include the *Pipelines Act 1967* (sec 40) and the *Mining Act 1992* (sec 74).

'Umbrella' Legislation

The EP&A Act serves as an 'umbrella' legislation that:

- provides for a comprehensive consideration of economic, social and environmental issues, including health
- provides a whole-of-government framework for regulators with obligations under environmental legislation to exercise their responsibilities
- applies to all projects, both private and public, with potential to significantly affect the environment
- does not replace normal Cabinet, Treasury, agency or company Board processes for project assessment and approval.

The Act does not replace the environmental protection responsibilities under other legislation administered by regulatory agencies.

1.3 Agency Roles and Responsibilities

DUAP

The EP&A Act gives the responsibility of promoting and coordinating environmental planning and assessment for the purpose of carrying out the objects of the Act to the Minister.

The Act provides that the Director-General of DUAP may submit such proposals with respect to environmental planning and assessment, as considered necessary or appropriate for the development and use of land, to the Minister.

DUAP has a broad responsibility for implementing the objectives of the Act including the development and management of the overall planning, environmental assessment, development approval and building system in New South Wales. There is also a provision in the Act for the Director-General, with approval, to use the services of **any** public authority in exercising these functions.

Other Regulatory Authorities

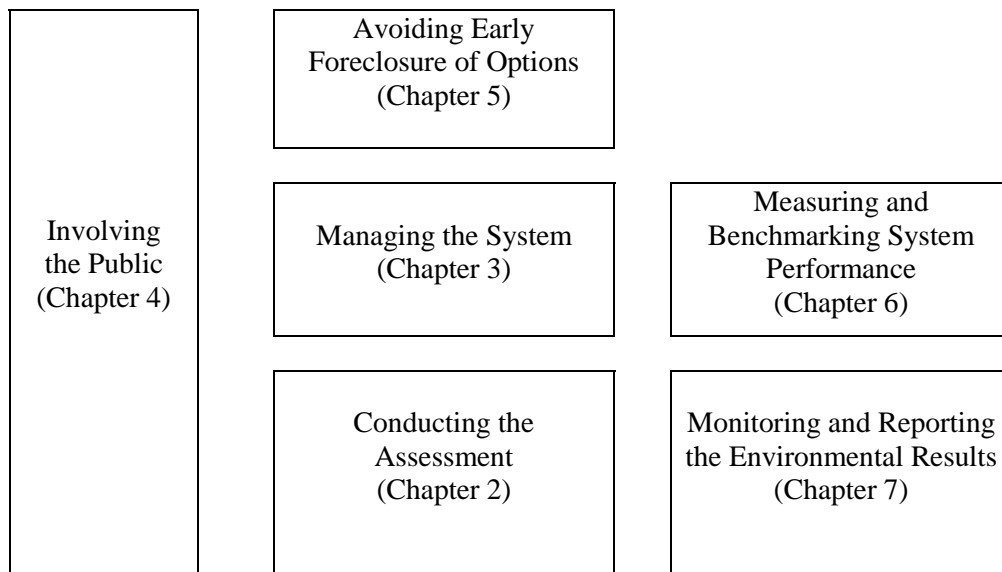
Other key government authorities involved in the environmental impact assessment of major projects include:

- Environment Protection Authority (EPA)
- National Parks and Wildlife Service (NPWS)
- Department of Land and Water Conservation (DLWC)
- NSW Fisheries
- Department of Mineral Resources (DMR)
- Local Councils.

1.4 This Report

The remainder of this report reviews and comments on the adequacy of management arrangements for the assessment of projects.

Key issues pertinent to managing the assessment process are identified below, as is the relevant chapter of the report that comments on the process.



2. Conducting the Assessment

2.1 Requirements

Defining the Environment

The EP&A Act broadly defines the *environment* to include all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings. It EP&A Act requires that an application for a development must be assessed taking into account:

- the requirements of any local, regional or state planning instrument, or other planning regulation that relates to the site or the proposed development
- the impact the proposed development is likely to have on the natural environment, on the built environment and on the local community
- whether the site is suitable for the proposed development
- any submissions made by the community and government agencies after the development application has been advertised
- the public interest.

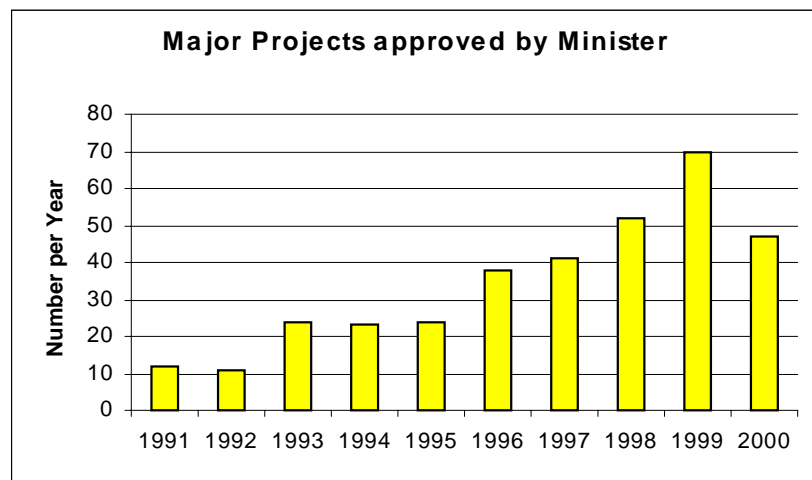
Source: Environmental Planning and Assessment Act 1979, sec 79C

State Significant

The Minister for Planning is the consent authority for a development declared to be *State Significant*, including:

- certain major employment generating industries with a capital value of more than \$20m or employing more than 100 people (or 20 in the intensive agriculture industries)
- individual developments or classes of developments declared to be *State Significant* (such as all open cut coal mines).

The Minister is also the approval authority for State government infrastructure projects that require an Environmental Impact Statement (EIS) and where the proponent agency is also the determining authority. The number of major projects (including modifications) approved by the Minister has increased four fold over the last decade, as shown by the graph:



Audit Observations The overall assessment process is closely specified by the EP&A Act. It includes requirements for consultation, public exhibition of the EIS, consideration of comments and preparation of an Assessment Report. The Assessment Report contains DUAP's consideration of the environmental issues, recommendation to proceed (or otherwise) and recommended conditions of consent.

2.2 Screening

The efficiency and effectiveness of an assessment system are influenced by the method used to determine the level and type of assessment warranted. This is known as 'screening'.

When establishing screening systems for environmental impact assessment in NSW, DUAP took into consideration:

- the potential impacts of the proposed development
- the level of confidence in predicting those impacts
- the resilience of the surrounding environment
- the extent to which the impacts may be reversible
- the extent to which the impacts can be mitigated or managed
- whether the activity complies with standards, plans and policies
- the level of public interest.

Requirement for an EIS

The approval authority uses a list in Schedule 3 of the EP&A Regulation or the provisions in a planning instrument to decide if an EIS is required for Part 4 of the EP&A Act (mainly private projects). This approach was adopted to provide certainty for applicants and the community given the number of local consent authorities. The approval authority bases the decision on a more “discretionary” test in the DUAP Guideline *Is an EIS Required* for Part 5 of the Act (mainly government projects).

If the impacts of the project are not considered significant, an EIS is not required and a less comprehensive assessment document - *Statement of Environmental Effects* or *Review of Environmental Factors* is prepared.

Audit Observation The arrangements for screening in NSW need to be reviewed periodically. For example, it may be more efficient and effective to:

- move to a more risk-based approach, with increasing emphasis on defining acceptable outcomes
- include agricultural and land clearing activities with cross reference to the *Native Vegetation Conservation Act 1997*.

While the present approach may have been considered to be innovative at the time, a review is probably now due.

2.3 Establishing the Context

Policies and Plans

There are a great number of government plans, policies, strategies and legislation that may affect the assessment and acceptability of a major project. However:

- responsibility for management of the environment in NSW does not rest with any single agency
- the majority of the Government's environmental policies and plans are prepared by agencies outside the EP&A Act, have a varied statutory basis and few linkages
- there are many other areas of state legislation that may affect the environmental impact assessment of a project (including some that limit parts of the EP&A Act).

Ecologically Sustainable Development.

Under the provisions of Schedule 2 of the *EP&A Regulation 1994*, the undertaking of all projects that require an EIS must be justified in terms of the principles of *Ecologically Sustainable Development*.

Development that meets the needs of the present, without compromising the ability of future generations to meet their own needs, is known as *Ecologically Sustainable Development*.

But integrating *Ecologically Sustainable Development* into the assessment process broadens considerably the environmental criteria. In particular it requires attention to present and future effects on the conservation of biodiversity and ecological integrity, social equity and treatment of environmental costs.

Audit Observation

It is clearly beyond the capacity of the officers of any single agency (such as DUAP) or any proponent to have a working knowledge of all the relevant requirements. They are, to a significant extent, reliant on the advice of a range of government agencies to identify the potential relevance of the plans, policies, strategies or legislation to a proposed project in a particular location.

Additionally, there is no centrally available NSW Government environmental planning and policy database and no centrally available guidance designating the responsible officers.

2.4 Preparation and Assessment of the EIS

Proponent's EIS

The EIS is:

- a document prepared by the proponent in support of the proposal
- explaining the proposal and identifying and considering the implications of the development on the environment
- used as a vehicle to facilitate public comment and used by DUAP as a basis (along with other information) for undertaking its assessment of the proposal.

At the EIS preparation stage, the proponent must consult with DUAP and have regard to the *Director-General's Requirements*. The Director-General is required to notify the proponent of any requirements that need to be addressed in the EIS, within 28 days of the request for consultation.

As the adequacy of the EIS has a direct bearing on the efficiency of the assessment process, a clear explanation of DUAP's requirements is essential. Similarly, the adequacy and consistency of the assessment will depend on clear internal guidance and support for the assessment staff.

Audit Observations

DUAP has issued comprehensive guidelines to assist proponents to identify and assess factors to be considered when preparing an EIS. DUAP has also issued general advice concerning the administration of the assessment system.

The function for assessing the EIS appears under-resourced, as evidenced by:

- internal guidance manuals are out of date and incomplete
- there is no guidance on interfacing with other regulatory agencies and when to call upon them for additional advice
- there is no advice on when to seek advice independent of Government to assist confidence in the technical assessment and consequent recommendations given to the Minister
- there is little documentation in relation to the internal assessment procedures and methodologies of the other environmental regulatory agencies on which DUAP relies.

Nonetheless, as a result of the assessment process, projects are usually modified to reduce their environmental impacts and often to better meet the needs of the community.

2.5 Assessing and Balancing the Impacts

In recommending to the Minister that a project be approved, DUAP needs to be convinced (and to convince others) that it has assessed the specific economic, social, technological, or other benefits of the proposed project as outweighing the adverse environmental effects. This applies to the period of construction and to the operation of the project over its planned life.

Criteria for Acceptability

In the *Intergovernmental Agreement on the Environment 1992* the Commonwealth, States and Territories agreed that assessing authorities should provide guidance on the criteria for environmental acceptability of potential impacts. This should include such things as the principles of ecologically sustainable development, maintenance of environmental health, relevant local and national standards and guidelines, codes of practice and regulations.

Audit Observations

The assessment of major projects is characterised by the need for assessors to exercise judgement, particularly in relation to impacts that exceed published guidelines.

The need for judgement is unavoidable. The assessor must determine the matters of relevance. While some impacts can then be assessed in an objective manner against agreed 'acceptability' criteria, others are far more subjective.

Most government projects are recommended for approval on the basis that they satisfy an important public need, and that the environmental effects can be mitigated.

Most private projects are recommended on the basis that a specific number of jobs would be created and a certain amount of capital would be invested, and that the environmental implications can be mitigated or managed to an acceptable level.

The weighing up of the acceptability of residual impacts and the final balancing of the potential beneficial and adverse impacts is perhaps the most critical step in the assessment process. However, it is not always well documented in DUAP's Assessment Reports and hence, not always transparent.

DUAP has no sustainable economic development and employment growth plans at the regional level to use as a point of reference. Such plans are proposed to be included in a future planning framework known as *Planfirst*.

DUAP could also provide a clearer and more explicit presentation of the balancing considerations that support its recommendation that the Minister approve (or not approve) a project.

2.6 Documenting the Assessment

Full and Accurate Records

DUAP's assessment considers a range of inputs, including comments received from persons and agencies that reviewed the EIS. DUAP prepares an *Assessment Report* for submission to the Minister.

This period of assessment is characterised by:

- extensive preparation of working papers and drafts
- telephone discussions, faxes, emails, and notes
- regular discussions involving team leaders and DUAP management
- regular discussions involving the Minister.

The *State Records Act 1998* requires full and accurate records be kept - see sec 12(1). This includes:

- minutes or other records are made of meetings, consultations, and deliberations involving the making of decisions or the transaction of business
- records are made of oral decisions or commitments
- records are made of the individual exercise of discretionary judgement.

Source: State Records of NSW, Government Recordkeeping Manual, *Standard on Full and Accurate Records - Principle 6*

Records containing significant decisions, reasons and actions relating to the assessment are not to be disposed of:

Working papers/records that must not be disposed of are those for which there is an identified record keeping requirement to retain because they document significant decisions, reasons and actions or contain significant information that is not contained in the final form of the record.

Source: State Records Act 1998 - Schedule 1 sec 7

Audit Observation

Most discussions and meetings involving DUAP managers and involving the Minister are not minuted. Telephone discussions, faxes, emails, and notes are not generally placed on the project files. Although officer's files may contain extensive electronic material, the contents of DUAP's project files contain little more than the final approved version of the Assessment Report and external correspondence. As a result DUAP may not, in many instances, comply with the requirements of the *State Records Act 1998*.

2.7 Avoiding Conflict of Interest

DUAP's land holding interests are extensive. The \$300m Sydney Region Development Fund was established under the EP&A Act to acquire lands for parks, roads and other public purposes. DUAP has a financial strategy to support the Fund through the sale of land holdings considered surplus, with annual sales of around \$20m.

The land management and urban development activities in DUAP are managed separately from the assessment activity.

Audit Observation

There is potential for a conflict of interest when DUAP is involved in the approval process for land and proceeds from the subsequent sale of the land go to DUAP. DUAP may be motivated to re-zone land for greater financial return (such as high-density residential use) or for an activity not previously permitted (such as a land-fill).

For example, DUAP recently recommended approval for the extension of the Eastern Creek land-fill. The private sector had strongly contested the extension. DUAP stood to gain financially as a result of the Minister's approval.

Example of Potential Conflict of Interest Proposal to extend Eastern Creek Land-fill
<ul style="list-style-type: none"> ▪ DUAP receives several development applications to provide land-fill capacity for Sydney's waste ▪ a key criterion is whether demand exists for land-fill capacity. As a result, there is competition between the proposals to provide this land-fill capacity ▪ DUAP assesses the proposals, some withdraw, two are refused on environmental grounds ▪ only two proposals are finally approved – Woodlawn and an extension of Eastern Creek ▪ DUAP owns some of the land required at Eastern Creek and will gain financially from the resulting lease payments ▪ <i>Chinese walls</i> exist between the Sustainable Development Division and the Land Management Branch ▪ nonetheless, DUAP's independence is questioned.

Source: DUAP Project Files

2.8 Conclusion

Environmental significance is well defined and the system is closely specified. DUAP leads a whole-of-government approach to environmental assessment and its assessments are comprehensive.

However, there are opportunities for improving the assessment, particularly the availability of information, DUAP's documentation, and the presentation of results.

DUAP's proposed inclusion of sustainable economic development and employment growth plans in *Planfirst* should provide a point of reference for assessments, which is currently missing.

2.9 Recommendations

It is recommended that the assessment process be strengthened by:

- improving DUAP's internal documentation including internal guidance and compliance with the *State Records Act 1998* (sec 2.4, 2.5, 2.6)
- move to a more risk-based approach for triggering EISs for projects assessed under Part 4 (sec 2.2)
- provide (electronic) access to the government's environmental plans, policies, strategies and legislation through a single user-friendly portal (sec 2.3)
- developing sustainable economic development and employment growth plans, as proposed in *Planfirst* (sec 2.5)
- removing a potential conflict of interest arising from DUAP's ownership of land (sec 2.7).

3. Managing the System

3.1 Requirements

DUAP aims to provide efficient and credible assessment of major developments and infrastructure proposals, in the context of achieving better environmental outcomes.

Differing Perspectives

It is important to appreciate that not all participants in the process will share the same view.

- for a developer a good system is likely to be one that delivers a quick and flexible approval to an application for development
- for some environmentalists, opposing residents or competitors, a good system may be one that so delays a decision that the developer does not persist
- for an administrator a good system is one that encourages consistency and consequently efficient processing
- for supporters of a civil society a good system is one that is transparent and accountable and where due process is respected
- for those lending against security of property, a good system is one that ensures there are no sudden changes to land values
- those interested in quality cities, towns and natural systems will want a system that delivers good outcomes for urban design and environment.

Source: Mant, J, Development Assessment Forum – Concepts and Scoping Paper, for National Office of Local Government, 1999, p6.

3.2 Scoping and Focusing

Scoping can identify relevant factors at the beginning of the environmental impact assessment process. A scoping process has the potential to set up a more efficient and effective environmental impact assessment process by:

- clarifying the objectives of the proposal and the relationship to any relevant strategic plans, government policies or other constraints
- identifying feasible alternatives and clarify their relative merits in terms of biophysical, social and economic factors
- identifying the potential environmental issues and their relative importance to the community and decision making
- establishing the scope of studies to provide adequate information for community consultation and decision making
- where possible, identifying performance objectives or indicators for key issues and potential sources of information or expertise to assist in the assessment process

Source: DUAP EIS Guidelines 1996

Guidance

DUAP has a responsibility to provide guidance to proponents preparing EISs in general, as well as specific guidance on the scope of issues to be addressed in an EIS for a particular project.

DUAP has prepared a series of EIS Guidelines. These cover issues such as consultation with agencies and the community, site selection, threatened species, issues in undertaking studies as a component of the EIS. The guidelines also contain information on the breadth of matters likely to be an issue for particular types of activities such as roads, sewerage systems, chemical plants and land-fills.

Planning Focus

DUAP has now issued *Planning Focus: Good Practice Guidelines* recommending that *Planning Focus* meetings should be a standard practice for major development and infrastructure projects where the Minister for Urban Affairs and Planning is the approval authority. A representative of DUAP usually chairs these meetings which are attended by all relevant councils, government agencies and water or other committees. The proponent presents information on the project to the meeting.

Following this, in consultation with the other government agencies concerned, DUAP prepares and issues specific requirements known as *Director-General's Requirements* to be addressed by the EIS. These proposal-specific guidelines should emerge as critical determinants of the process.

Audit Observation

Some *Director-General's Requirements* list a few key issues of high priority, with other (important but not key to decision making) issues listed in the appendices.

However, some *Director-General's Requirements* list all possible issues that could be covered. In many cases, government agencies tend to submit a long list of general requirements and do not assist in focusing the assessment in the EIS. As a result some lists can exceed 25 pages. The requirements can leave the EIS project manager with little guidance on prioritising the most important issues.

The public are not usually invited to *Planning Focus* meetings. However, the *Director-General's Requirements* and DUAP's EIS Guidelines recommend that the proponent consult with the community.

There are no time schedules established at the *Planning Focus* meeting for the environmental impact assessment steps which follow.

Improvements to Environmental Assessment (Canada)
<ul style="list-style-type: none">• proponents legally required to consult with the public to ensure that issues are identified and resolved early on• early, clear direction provided to all stakeholders (groups or individuals with an interest in the project) at the start of an environmental assessment through the development of Terms of Reference (proposed by the proponent, reviewed and approved by the Minister).• time frames established in regulation for all key steps in the decision-making process — these act as deadlines for all those involved and ensure timely decisions.

Source: Ministry of Environment and Energy, Ontario, *In Brief*, Jan 1997

3.3 Managing the Assessment Process

Integrated Development

Under Part 4 of the EP&A Act (mainly private projects), DUAP's statutory responsibility for coordination of a whole of government assessment process was significantly increased with the introduction in 1998 of *Integrated Development*. This process links the development consent process under Part 4 of the EP&A Act with the approvals or licences process under various other pieces of legislation. The integrated process was intended to streamline the process, and reduce some of the inconsistencies, complexities and overlaps of the previous system.

Under the process, DUAP fulfils the role of conditions drafter and coordinator with responsibility for the preparation of the development consent conditions.

There are no similar legislative requirements under Part 5 of the EP&A Act (mainly government projects). However, DUAP has adopted a similar practice (to that under Part 4) of integrating the requirements of determining authorities into the approval conditions developed by DUAP to provide the basis for a whole of government approval.

Audit Observations

The environmental regulatory agencies conduct their assessment of individual issues at the level they consider to be appropriate. DUAP may agree and accept the advice. However, it may reject their advice or ask for additional assessment work to be undertaken. The other agency may or may not agree that any additional assessment work is necessary. DUAP may need to employ its own consultants to undertake the work.

DUAP has no control or authority over the other agencies that provide important inputs to the assessment process. It relies for the most part on informal relationships developed at officer level. The task of coordination is made especially difficult in the absence of realistic project specific time schedules (with the current “clocks” set by the integrated approvals legislation often putting agencies under unrealistic time pressure to provide complex advice).

Some aspects of the integrated assessment are prescribed in legislation or policies. Other aspects are as a result of practices developed over the years.

There is limited documented guidance within DUAP or agreement within government in relation to:

- assessment system objectives and the basis for setting priorities to guide agency efforts, both within and between projects
- designated agency roles and responsibilities in relation to the efforts needed to complete the assessments
- means of coordination and documentation (eg such as for meetings, electronic means, and paper based)
- use of consultants and specialists by DUAP
- use of assessment procedures and methodologies
- commitment to project time schedules
- periodic performance review of the assessment system
- dispute resolution between agencies.

There is no regular reporting on the progress of individual project EIS assessments, so the community is often left in the dark for many months between when the EIS is exhibited and when the determination is published about a project which may significantly affect them.

Through administrative arrangements between DUAP and proponents under Part 5 of the EP&A Act (mainly government projects), a *Preferred Activity Report* is now being made public at the time the Minister’s approval is being sought, so the community has some feed back half way through the process.

There is no provision for any periodic audit or review of the performance and integrity of the environmental impact assessment system. This would need to be independent of those involved in the assessment. Options could include a program of peer reviews or expert reviews commissioned by an outside committee, or an advisory council.

3.4 Allocating Resources and Recovering Costs

DUAP's in-house assessment staff for major projects of State significance total around 20 (including permanent and temporary staff). This is supplemented by a number of consultants and contractors.

DUAP partly recovers the costs of development assessment under Part 4 of the Act from Development Application fees. Under Part 5 there is currently no formalised cost recovery mechanism, and DUAP's costs are partly covered from the Consolidated Fund, with DUAP left to negotiate the short fall from agencies directly on an ad hoc basis.

DUAP has established a system of recording the total staff hours expended in assessing each project.

Audit Observations

It was observed that:

- stakeholders commented on DUAP's limited staffing, in the light of a significantly growing number of increasingly complex assessments
- staff resources have not been increased over the last ten years, resulting in the need for staff to be supplemented by consultants and contractors in recent years
- stakeholders also commented favourably on DUAP's broad environmental assessment competence, but noted the limited in-house technical expertise in regard to particular issues (with the exception of the major hazards area)
- cost recovery from Development Application Fees is around one third of DUAP's costs of assessment
- the Independent Pricing and Regulatory Tribunal had rejected a DUAP submission for a fee increase for major projects of State significance, on the basis of insufficient evidence of its costs
- DUAP's time recording system reflects stages of the assessment process, but provides no further breakdown of the project specific assessment work (eg issues, time schedule, reasons for delays).

DUAP's perceived lack of resources in the assessment area is seen to limit its ability to:

- apply effort in the early scoping stage of an assessment
- undertake independent investigations, leaving it increasingly dependent on the information provided by the proponent and other agencies
- adequately develop internal guidance manuals and monitor compliance
- enable staff to be more active in relation to community consultation and site visits
- provide more detailed responses to individual submissions
- focus on smaller projects that may be of importance, for example due to their cumulative effect.

3.5 Conclusion

Generally stakeholders consider that DUAP is doing a creditable job. However, there needs to be a more consistent effort to identify key environmental issues at the outset of an assessment in order to set up an efficient and effective process. Perhaps the *Director-General's Requirements* should be restricted to the key issues, and the more general requirements of integrated approval authorities included in DUAP's EIS Guidelines.

DUAP needs to be able to manage the assessment system, but the assessment area appears to lack resources and it lacks a documented management agreement, such as a Memorandum of Understanding with other environmental regulatory agencies.

DUAP's resource requirements are likely to depend on:

- the extent to which the Government refers major project approval responsibilities to the Minister for Urban Affairs and Planning, with the flow-on responsibilities on DUAP
- the extent to which DUAP can or should rely on other environmental regulatory agencies
- the extent to which the community might demand independent analysis (outside government agencies)
- the extent to which DUAP's resource requirements might be affected by other recommendations in this report.

There is no provision for any mechanism to periodically review the performance and integrity of the environmental impact assessment system.

3.6 Recommendations

It is recommended that the environmental impact assessment system be more actively managed by:

- establishing objectives for the environmental impact assessment system (sec 3.3)
- establishing a Memorandum of Understanding between DUAP and the other environmental regulatory authorities (sec 3.3)
- providing early prioritisation of project issues and project specific time schedules (sec 3.2)
- reviewing the adequacy of DUAP's assessment staff resources, particularly in the light of this audit report (sec 3.4)

4. Involving the Public

4.1 Requirements

One of the principal objects of the EP&A Act is *to increase opportunities for public involvement and participation in planning and assessment.*

Public participation is consistent with enhancing transparency.

Transparency will certainly be enhanced where all those with an interest can participate in a process that allows them the right to be properly heard, to have the issues considered by an independent body that has not been lobbied by the parties beforehand, to have the assessment staff examined on their report and to have written reasons for the decision or recommendation.

Source: Mant, J, *Development Assessment Forum Harmonisation Project – Concepts/Scoping Paper*, prepared for National Office of Local Government, 1999, p25

Transparency is particularly necessary in a system:

- that involves the need for assessors to exercise judgement in the assessment process
- where a development has the potential to significantly impact on people or the environment, or where the effect of a poor decision will lead to significant irreversible environmental impacts.

According to a recent report prepared for DUAP, for public involvement to be effective:

- participation should not be so late in the life of an issue that it is tokenistic, or merely confirms decisions already made
- participants should be selected in a way that is not open to manipulation, and should include a cross-section of the population as individuals and as groups
- allow consideration of the big picture, so people can really become engaged
- make sure all participants have time to become well informed.

Source: DUAP, *Ideas for Community Consultation* by Carson and Gelber, 2001 p9

4.2 Exhibition of the EIS

The EP&A Act's only specific requirement for public consultation is the requirement to notify affected property owners and to advertise and exhibit the EIS - followed by receipt of written submissions. The EIS must be exhibited for public comment for at least 30 days. There is also a legislative requirement to consider public submissions at the assessment and decision making stages.

Audit Observations

The process of exhibiting the EIS and seeking written comments does not of itself provide sufficient assurance of effective public involvement, since it:

- comes relatively late in the process of project definition and assessment
- requires the public to comprehend and address, within a relatively short space of time, the implications of a multi-volume (largely technical) document, usually shared amongst many people
- does not facilitate the input of community members or groups who feel unable or unwilling to prepare written submissions.

Additionally, there is usually no detailed feedback to the public and community groups who have made the effort to prepare a written submission - only a form letter acknowledging receipt of the submission and a general reference to issues in the Assessment Report which is made public following the Minister's decision.

Under Part 5, a proponent government agency submits to DUAP a Representations Report when requesting the Minister's approval (which summarises public concerns and explains how these will be addressed). However, this is not made public. DUAP requires proponents to prepare and make public a Preferred Activity Report, which provides some feedback as to how the community issues have been considered and is seen to increase transparency.

Also, there is no similar requirement of a private sector proponent. DUAP has indicated private sector proponents may be provided with the submissions from government agencies and councils and from the community (unless the community members indicate they do not wish their submission to be passed onto the applicant).

However, whilst DUAP has recently asked proponents of major controversial projects to respond to the issues raised in submissions or to consider measures to minimise those impacts that may be of concern to the community, there is no formal requirement for the proponent to do this.

4.3 Opportunities to Increase Public Participation

Early in the Process

Proponents often formulate major projects over several years, involving many discussions with government agencies and councils as the project evolves. Public participation and involvement at an early stage has the potential to identify community values and concerns and to assist in the identification and evaluation of alternatives. However, it may also increase the level of uncertainty in the community.

For projects such as mines, early community consultation practices have been developed which provide for effective community input as individuals as well as community organisations - including community focus groups, shop fronts, surveys and presentations at community organisations meetings.

A number of guidelines have been developed to improve the quality of public consultation throughout the project development/assessment/approval process. During the audit, DUAP issued *Guidelines for Community Involvement in Project Planning*.

Audit Observations

Although the legislation encourages public participation and involvement, the opportunities made available for public participation in the early stages of the assessment process are limited:

- the *Director-General's Requirements* and EIS Guidelines do require proponents to consult with the community and to report on issues raised in the EIS as a result of the consultation
- DUAP does not recommend the public be included in the *Planning Focus* meetings. The meetings are essentially for the proponents and relevant State and local government authorities to enable discussion on the technical issues and how they can be addressed in an EIS
- the resultant *Director-General's Requirements*, that constitute the required terms of reference for the EIS, are not subjected to public scrutiny for possible issue inclusion and/or amendment prior to being issued.

Other jurisdictions ensure the public is included in the scoping phase, as illustrated by the following example:

Opening Scoping to the Public
<ul style="list-style-type: none"> • the process is open to the public, state and local governments, and affected federal agencies • it is more than simply an event or meeting and in particular, it is not a “public relations” requirement • depending on the circumstances, scoping can include a series of meetings, telephone conversations, and/or written comments from different interest groups • it should be focused on identifying people who already have knowledge about a site, community plans and alternatives or other relevant information which the proponent may otherwise overlook.

Source: US Council on Environmental Quality, 1981

Later in the Process For some considerable time after the period of public exhibition of a project, DUAP and the other government agencies liaise with the proponent during preparation of the Assessment Report and its attached schedule of conditions. The resultant report can exceed 100 pages, including up to 200 conditions.

During this period the public are not usually involved. However for some major projects, such as mines and freeways, DUAP may consult with the community during this period. This includes seeking input on issues, making available specialist consultants' advice and arranging discussion on draft conditions of consent.

DUAP makes the Assessment Report publicly available, for example on its web site, but not until after it has been submitted to the Minister and approved.

DUAP also requires that, during implementation of a project that has been approved, proponents establish appropriate arrangements for community consultation.

Audit Observations The public has only limited opportunity to comment on DUAP's assessment prior to the Minister's approval. Members of the public regard this phase of the assessment process as a 'closed shop', with the proponent, councils and agencies circulating drafts amongst each other over several months.

Additionally, although the Assessment Report discusses the reasons for imposing the conditions designed to minimise adverse environmental impacts, the public has no opportunity to review or debate the conditions before the Assessment Report is submitted to the Minister for approval.

Providing the public with an opportunity to comment on DUAP's assessment and conditions of approval, before it is submitted to the Minister for approval, would:

- ensure a higher level of public consultation, in line with the objects of the EP&A Act
- increase accountability for DUAP, whose assessments at present receive no external scrutiny until after the Minister has made a decision
- increase transparency of the assessment process and more clearly distinguish DUAP's assessment role from the Minister's decision making role.

This practice has been introduced in a number of other jurisdictions including Western Australia, the US, Canada and the Netherlands.

4.4 Commission of Inquiry Hearings

During an environmental impact assessment, the Minister may seek further independent advice by way of public hearings.

NSW is unique in having independent and statutorily appointed Commissioners of Inquiry. The Inquiry process enables the public to openly participate, alongside the proponent, technical experts and government authorities.

The Commissioner's findings and recommendations are made public, and an approval authority (or the Minister when the Minister is the approval authority) must take the findings and recommendations into account in making a decision.

Audit Observations

Advantages of the Commission of Inquiry process include:

- a perceived high level of independence
- an opportunity for members of the community to present their case at a public hearing before the decision is made
- an opportunity for parties to resolve conflicts in an open forum
- the publication of findings immediately upon presentation to the Minister before the decision is made.

Despite the advantages, the Commission of Inquiry process is used for only a small number of the (more controversial) major projects. For most proposals, there is no opportunity for a public hearing.

However, DUAP is considering the introduction of less legalistic (and probably less costly) options - such as expert review panels as used in some other states. People with particular technical backgrounds may be appointed to panels that might focus on particular technical issues.

Such options could further improve the level of transparency in assessment process, similar to a Commission of Inquiry, particularly if:

- the panel members are openly and independently appointed
- panel processes are documented and open to public scrutiny
- there is greater use of public hearings (such as by panels)
- objectively based findings are made public before (not after) the Minister's approval (as under the current system).

4.5 Resolving Conflict

Conflict between stakeholders with competing interests is to a large extent inevitable on major projects. DUAP officers are experienced in dealing with such situations through consultation, discussion and negotiation. At times conflict can arise between the parties involved that cannot be resolved by such means.

Under the EP&A Act, the NSW environmental impact assessment system provides mechanisms for any person to appeal in the Land and Environment Court, if the statutory processes have not been properly followed. Such mechanisms can be activated in any phases of the assessment system.

Under Part 4 of the EP&A Act (mainly private projects), applicants can appeal to the Court against the determination including individual approval conditions.

The other important appeal mechanism allows objectors to appeal to the Land and Environment Court on the merits of the case following a determination of a designated development under Part 4 of the Act. This appeal right is not available if there has been a Commission of Inquiry.

In 1992, in the *Intergovernmental Agreement on the Environment*, the Commonwealth, States and Territories agreed that environmental impact processes should include mechanisms to resolve such conflicts and disputes.

Audit Observation

The NSW system provides limited formal mechanisms to resolve conflict in the assessment of major projects beyond the use of the Land and Environment Court and the Commissions of Inquiry.

More use could be made of the Commissioners (and other forms of inquiry) to provide a conflict and dispute resolution to the parties in such circumstances - so avoiding much of the need for full scale inquiries and court challenges.

DUAP has demonstrated that it can play an important role in dispute resolution both during the assessment process and post approval. DUAP could significantly contribute to the avoidance, minimisation or management of disputes while ensuring more effective opportunities for community participation.

4.6 Encouraging Feedback

An effective system of feedback can assist in early resolution of concerns expressed by the public in relation to the assessment process, the project or the proponent.

Best practice guidelines (for example see NSW Ombudsman *Effective Complaint Handling*, June 2000) suggest the need for a user-friendly system, with clear referral procedures, a recording system, performance standards and systematic review.

Audit Observation

There is no user-friendly system to encourage and manage public feedback. DUAP has complaint forms available from its Information Centre. According to Annual Reports, DUAP has not received a single complaint in accordance with its complaints process during the last three years.

There is no equivalent of a *Citizen's Charter* that would simply set out DUAP's responsibilities and the public's rights of involvement, participation and appeal.

4.7 Conclusion

There are a number of opportunities to further increase public participation and transparency in the environmental impact assessment system.

There is also scope for a *Citizen's Charter* that would simply set out DUAP's responsibilities and the public's rights of involvement, participation and appeal.

4.8 Recommendations

It is recommended that public involvement and scrutiny be increased by:

- offering public participation in scoping all major projects, including publishing *Director-General's Requirements* on the Internet as a draft for comment before issuing (sec 4.2, 4.3)
- providing greater use of public hearings (such as by panels) for major projects and making more use of inquiry mechanisms to resolve conflict and dispute (sec 4.4, 4.5)
- requiring private proponents to formally respond to issues raised in submissions (as occurs in *Representations Reports* and *Preferred Activity Reports* for public projects) and posting them on the Internet (sec 4.3)
- publishing assessment reports on the Internet for public comment, before the Minister is asked to approve them (4.3)
- issuing a *Citizen's Charter* with the public's rights of involvement, participation and appeal (sec 4.6).

5. Avoiding Early Foreclosure of Options

5.1 Limitations of Project Assessment

Environmental impact assessment is applied to development proposals (at varying stages of concept and design).

Foreclosure of Broad Options

The limitations of this are that the assessment is typically applied after the foreclosure of broad options, e.g. regarding whether, where and what type of development will take place. These options may have been developed with minimal consideration of the environment.

For example, the project level EIS for a limited section of highway (for example between two towns) cannot properly consider the implications of the highway as a whole or alternate route options. Nor can it consider the broader questions relating to public transport, modal alternatives or the level of private involvement in the supply and operation of public infrastructure.

Induced Activities

Additionally, major infrastructure projects may result in indirect or induced activities and impacts. For instance a substantial road, sewerage or water supply project in a coastal area, where previously the services were poor, can stimulate major tourist, residential or industrial growth with significant impacts on the local environment, fishing, industry, social services and other infrastructure requirements.

Cumulative Effects

Nor does the project level assessment provide an adequate mechanism to consider the cumulative impacts of other non-related developments, which all are impacting on the same geographical area. The regional and global implications of development may not be considered - acid rain and the long range transportation of air pollutants are well documented examples. In addition, there are global effects, such as climate warming and loss of bio-diversity.

M5 East - the Importance of Cumulative Impacts
<ul style="list-style-type: none"> • \$750m extension from M5 motorway to the airport • the existing cumulative air quality issues included contributions from traffic congestion, industry and (in winter) wood fired home heaters • current diffuse traffic air emissions converted to point source emissions from a stack • however the project could induce additional traffic within the area and increase cumulative air emissions from motor vehicles • mitigation measures to reduce cumulative air emissions include increased stack ventilation fan speed, targeted smoky vehicle emission surveillance and enforcement, preparation of a local air quality management plan, and if necessary, installing emission filtering equipment on the stacks.

Strategic Studies Some cumulative studies have been conducted in NSW, in response to strong community and developer pressure.

For example DUAP led studies (*Upper Hunter Cumulative Impact Study and Action Strategy 1997* and *Cumulative Impact Assessment of Coal Mining in Muswellbrook Shire 1998*) into the potential cumulative impacts of mining, power generation and other land uses in the Upper Hunter.

Upper Hunter Cumulative Impact Studies 1997-1998
<p>The major issues considered included:</p> <ul style="list-style-type: none"> • the need to strengthen the land use planning and resource management • need for improved air and water quality monitoring and data bases • need to strengthen best practice including in relation to rehabilitation and amenity impacts associated with coal mining • need for improved community liaison and participation and clear environmental reporting. <p>The studies provided a useful basis for individual mine assessments. A secondary benefit was that they provided a model process involving local government and community groups.</p>

DUAP recommended that RTA prepare a Cumulative Study of the whole Upgrade of the Pacific Highway to examine alternative routes and strategic issues, prior to the preparation of the individual EISs for each stage of the highway upgrade. RTA has since developed a series of strategic studies.

As a result of recent amendments to the EP&A Act and the Fisheries Management Act, NSW Fisheries are required to prepare EISs for the assessment of the cumulative impacts of commercial fishing.

Audit Observations Consideration of these strategic issues is beyond the scope of individual project environmental impact assessment. A full assessment of the contribution of a project to ecologically sustainable development would require an analysis of the role of the project in a much wider context. This is beyond the scope of project level assessment and highlights the need to integrate environmental assessment considerations into the Government's wider decision-making processes.

However, because there is no other statutory mechanism available, by default, the project assessment tends to provide the forum for public consultation on these broader issues and the higher level decision-making.

Sectors where this is a particular concern include transport, energy, manufacturing, agriculture, mining, waste, water resources and tourism.

5.2 Wider Decision-making Processes

Wider government decision-making processes that give consideration to the environmental impact of major projects include:

- development of strategies and plans
- submissions to Cabinet for approval of major projects
- submissions to Treasury for funding
- development of new regulatory measures.

Moreover, it is not unusual for Government to publicly announce its decision to support a project well ahead of an environmental impact assessment. Depending on the results of the eventual assessment, this can lead to considerable pressure on the integrity of the assessment process and on any prior contractual agreement with the private enterprise.

Agency Responsibility

Agencies develop strategies and plans that generate or facilitate major project proposals. For government projects, agencies have prime responsibility in the project definition phase, the evaluation and short-listing of proposals, and in preparation of the final evaluation and proposal to the Budget Committee of Cabinet. Agencies also have the responsibility of obtaining planning approvals and ensuring projects satisfy environmental requirements. For private sector projects agencies may provide encouragement, guidance and financial and other support.

Proposals to Cabinet

New policies or projects submitted to Cabinet for approval need to include a statement on the financial implications and socio-economic impact on rural communities and families. Proposals to Cabinet Budget Committee are required to focus on economic and financial assessment, but not environmental assessment. It is only after Cabinet has approved the development of a project that environmental issues are considered.

Submissions to Treasury

Submissions to Treasury require consideration of factors such as social or regional impact, safety, public health, community reactions and environmental impact as part of a wider assessment of costs and benefits.

Regulatory Impact Statements Consideration of wider impacts is also required when introducing new policies and strategies by means of regulation. When a statutory rule is proposed, a regulatory impact statement must be prepared, including consideration of alternative options for achieving the objectives, and an evaluation of all costs and benefits (including economic and social) expected to arise from each such option.

Audit Observation However, while the obligation to consider the environmental consequences of projects is required by the EP&A Act, there are limited mechanisms to assist in integrating environmental considerations in the Government's decisions.

This is despite the States agreeing in 1992 that environmental considerations would be integrated into Government decision-making processes at all levels.

Accordingly, the parties agree that environmental considerations will be integrated into Government decision-making processes at all levels by, among other things:

- (i) ensuring that environmental issues associated with a proposed project, program or policy will be taken into consideration in the decision-making process;
- (ii) ensuring that there is a proper examination of matters which significantly affect the environment; and
- (iii) ensuring that measures adopted should be cost-effective and not be disproportionate to the significance of the environmental problems being addressed.

Source: Commonwealth and State Heads of Government, *Intergovernmental Agreement on the Environment*, 1992

5.3 Strategic Environmental Assessment

In 1996 DUAP prepared a draft discussion paper outlining options for a more strategic form of environmental assessment in NSW, citing:

1. increasing pressure for measures to promote sustainable development which require the integration of environmental consideration at all levels of decision-making
2. growing frustration of all parties involved with "project" environmental impact assessment because of its inability to deal with the broader issues particularly in regard to the justification for undertaking major proposals and consideration of cumulative impacts
3. advice based on overseas experience with strategic environmental assessment, suggesting the project approval system would be more effective and efficient if the environmental assessment was spread over all levels of decision-making and not solely focused at the project level
4. the commitments made by the NSW Government in the Intergovernment Agreement on the Environment to consider the environmental consequences of plans and programs.

Source: DUAP, *Strategic Environmental Assessment - Discussion Paper* (draft), July 1996 p1

In 1997 the Audit Office recommended that the EIS process should be applied to transport policies and plans, as well as to specific proposals (see *Review of Eastern Distributor, Performance Audit Report 1997*). Also in 1997, DUAP conducted a workshop for government agencies on the potential role of strategic environmental assessment in NSW.

In 1999 DUAP proposed that a new State Environmental Planning Policy be established to provide a form of strategic environmental assessment for major government transport proposals.

These initiatives have lapsed. During the course of the audit, DUAP advised it was now proposing to review part of the EP&A Act, and more generally the environmental impact assessment process overall. DUAP proposes to include better consideration of strategic issues in infrastructure delivery, including private participation in the provision of public infrastructure.

However, this falls short of a provision to encompass major strategic impacts, as originally envisaged by DUAP. For example, the proposed changes would not include consideration of:

- **policies** such as for energy, ground-water, coastal management, native vegetation, soil or water quality standards, sewerage effluent
- **strategies** and **plans** such as *Integrated Transport Strategy, Hawkesbury Nepean Regional Plan, Sand Resources Management for the Sydney Basin*
- **programs** such as *Sydney Water Drinking Water Program, Deniliquin Land and Water Management Plan; Richmond River Flood Management Plan, Blue Mountains National Park Management Plan.*

There are elements of strategic environmental assessment already in place, for example:

- sector studies, such as the *Independent Public Assessment - Landfill Capacity and Demand* commissioned by the Minister for Urban Affairs and Planning to guide decision-making in relation to proposed waste management facilities
- regional sector strategies, such as the North Coast Sustainable Aquaculture Strategy for Land Based Aquaculture, which was the joint initiative of a number of state agencies to guide development applications that lead to ecologically sustainable aquaculture

- resource management strategies, such as the *Coastal Estuaries and Lakes* inquiry, where the *Healthy Rivers* Commissioners are undertaking strategic environmental assessment as a component of developing a new management strategy.

Key success factors for the introduction of strategic environmental assessment are reported to include:

- a transparent process that allows environmental considerations to be highlighted
- widespread involvement of stakeholders, policy makers and the wider public
- a systematic process involving different institutions in a common reporting framework
- a legal obligation to require it
- an independent body that can review or audit the assessment process and content.

Source: ICON, SEA and Integration of the Environment into Strategic Decision-Making, European Commission, May 2001

For example, the Canadian Government in 1990 directed departments to consider environmental concerns at the strategic level of policies, plans and program development. This was updated in 1999 to clarify the obligations of departments and agencies and link environmental assessment to the implementation of Sustainable Development strategies.

Implementing Strategic Environment Assessment Canadian Cabinet Directive 1999
<p>Ministers expect a strategic environmental assessment of a policy, plan or program proposal to be conducted when:</p> <ul style="list-style-type: none">• the proposal is submitted to an individual Minister or Cabinet for approval• the implementation of the proposal may result in important environmental effects, either positive or negative. <p>Departments and agencies are also encouraged to conduct strategic environmental assessments for other policy, plan or program proposals when circumstances warrant.</p>

Source: Canadian Environmental Assessment Agency

5.4 Conclusion

Whilst the obligation to consider the environmental consequences of projects is met through the provisions of the EP&A Act, there are no formal procedures to assist in integrating environmental considerations into the Government's wider decision-making processes.

As a consequence:

- the assessment is typically applied after the foreclosure of broad options
- government policies and strategies are developed with no explicit consideration of environmental impact
- there are limited mechanisms to demonstrate that the principles of *Ecologically Sustainable Development* have been incorporated into government decisions at that level.

5.5 Recommendation

It is recommended that strategic environmental assessment (sec 5.2, 5.3):

- be introduced into the Government's wider decision-making processes
- supported by guidelines and advice from DUAP
- involving sectoral studies and extensive use of public participation.

6. Measuring and Benchmarking Performance of the Assessment System

6.1 Requirements

The performance of the assessment system may be expressed in a number of ways including time taken, costs incurred, and effectiveness in terms of the objectives of the EP&A Act.

Consultants engaged by DUAP have suggested that the assessment system should:

- assign a level of assessment and associated costs dependent on the characteristics of the application
- minimise uncertainty, time delays and other applicant costs while an application works through the assessment process
- encourage and rewards good practice by applicants
- maximise opportunity for quality performance in assessment processes
- deliver on environmental outcomes documented in plans and policies
- provide for administrative transparency.

Source: DUAP, *Towards a performance monitoring and benchmarking program for the NSW development assessment system*, report by P&A Walsh Consulting, December 2000 p46

Those elements of assessment performance that appear to be capable of measurement include:

- efficiency (as measured by time and cost)
- effectiveness of the system in terms of environmental outcomes, administrative transparency and public involvement
- quality of the process.

6.2 Assessment Time

The time required to make an assessment and the elapsed time for the complete assessment process will depend on a number of factors including:

- the complexity or otherwise of the development
- the nature and extent of environmental impact
- the extent of community concern
- the quality of the EIS
- the complexity of the assessment task
- the response times from regulatory authorities and the proponent
- the level of resources allocated to the assessment task
- the efficiency of the assessment process.

From the proponent's point of view, the time taken to assess a project can impose significant indirect costs including:

- the need to pay interest on borrowings for a longer period
- higher risk premiums resulting from uncertainty engendered by the contractual process and contractual losses
- opportunity costs associated with loss of a project that might otherwise have gone ahead.

From the point of view of the assessment authorities, assessment times also impose a cost, as fixed and/or short time frames mean additional resources may need to be employed to meet the time requirements when a number of applications for approvals are received within a similar time period. As assessment authorities have no control over when proponents are likely to lodge applications for approval, fixed and tight timeframes have budgetary and resource implications. This becomes a particular issue when there is no assessment fee, as under Part 5, or the assessment fee under Part 4 does not meet the costs of assessment.

Statutory Time Frames

The EP&A Act includes a number of statutory time frames designed to protect the rights of the various parties.

The actual time periods for projects of State significance assessed under Part 4 are usually longer than the 60 days (beyond which it could be considered to be deemed refusal), as would be expected in view of their inherent complexity and sensitivity. The time relates to activities such as:

- assessment of the EIS taking into consideration public submissions and advice from other regulatory authorities
- seeking and waiting for additional information from the proponent (which may involve the integrated approval authorities stopping the clock)
- consultation with government authorities, councils and the community
- negotiations with the applicant and other approval authorities over conditions of consent
- finalisation of the assessment report with recommendations.

With Part 5 projects, the proponent analyses the submissions and considers the implication of the issues and prepares additional information prior to seeking approval from the Minister. As a result much of the additional consultation and negotiations is undertaken prior to the three months at which DUAP's assessment clock commences.

For major transport projects, the environmental impact assessment process from issuing of Director-General's Requirements to Minister's determination takes about 26 months on average. On average, 11 months are occupied by the proponent in project design and EIS preparation, with an additional 9 months in re-evaluating the proposal in the light of issues raised in response to the exhibition of the EIS. This re-evaluation may result in modification to the proposal and additional mitigation measures to minimise impacts of the project and/or to better meet the needs of the community. DUAP's assessment and the Minister's determination accounts for 4 months of the total environmental impact assessment time.

Average Times for Steps in Assessment of Major Transport Projects	
Phase	Months
DUAP issues Director- General's requirements	1.0
Proponent prepares EIS	11.1
Proponent exhibits EIS	1.7
Proponent re-assesses proposal and requests Minister's approval	8.6
DUAP's assessment	2.7
Minister's determination	1.4
Total	26.5

Source: DUAP records of 17 major transport projects

The environmental impact assessment process for private sector projects tends to take a little less time. Most are approved within two years from when DUAP first issues its *Director General's-Requirements* for the EIS.

Audit Observations

Actual times for the environmental impact assessment of major projects can extend over several years, depending on the circumstances. The assessment time may be extended by requests for more information or by the need to consult more widely. Additional time may be required to gain independent advice, to negotiate preferred outcomes or for conflict resolution.

For major complex projects, the statutory time periods may not be relevant. The proponent may also request the consent authority to slow down the process for a variety of reasons, such as the need to provide further information, to conduct further investigations, or obtain internal approvals.

From a practical point of view, the 60 day “deemed refusal” period under Part 4 is virtually impossible to achieve for a project of State significance. It includes the time to organise the exhibition of the EIS (usually 7 -10 days because of the cycles of rural newspapers) and a minimum 30 day EIS exhibition period. It also includes a minimum of 21 days from receiving submissions from DUAP (following exhibition of the EIS) for the integrated approval authorities to provide advice regarding their general terms. In addition there is the time for DUAP to finalise its assessment report following receipt of agency general terms and to negotiate conditions of consent (if the recommendation is for approval) with the approval agencies and the applicant.

**Project Specific
Time Schedules**

Project specific time schedules, set during the scoping phase, have long been recommended as good practice:

A time schedule for all stages of the environmental impact assessment process should be set out early, in consultations between the assessing authority, the proponent and other involved bodies on a proposal-specific basis.

Source: Australian and New Zealand Environment and Conservation Council, *A National Approach to Environmental Impact Assessment in Australia*, October 1991, p10

Time schedules provide a basis for overall performance assessment and can also be used to identify improvements (eg assessing whether the *integrated development* process has caused any change to the total regulatory process times).

Audit Observation

Under Part 5 where there is an imperative that the 3 months period be met or the Minister’s approval is not required (unless an extension is agreed upon), there is a strict adherence to monitoring the timeliness of DUAP's assessment.

Under Part 4, there is less emphasis on fixed time schedules with greater emphasis on achieving a quality assessment as soon as practicable. DUAP does not establish project specific time schedules and does not progressively monitor the timeliness of the assessment process.

6.3 Assessment Costs

The environmental impact assessment imposes direct costs in the form of expenditures on meeting the requirements of the process.

The costs of the assessment system are borne by the proponent, the assessment authorities and the broader community involved in the consultation process. They include:

- application fees charged to the proponent
- costs in investigations and interpreting the system
- costs for documentation and preparation of the EIS
- costs that arise from conditions attached to the approval
- costs of community consultation
- costs of subsequent monitoring of conditions
- net assessment costs of government agencies (after fees)
- costs of improving the assessment system.

As with time schedules, activity costs provide a basis for overall performance assessment and can also be used to identify the need for improvement (eg assessing the relative allocation of agency resources and provisions for cost recovery).

Audit Observations

Generally cost recovery mechanisms such as development application fees and other payments account for a third of DUAP's assessment costs. DUAP has recently introduced a job costing system, but as yet the system provides only limited information in relation to DUAP's costs.

The system does not identify the costs of other participants in the assessment process.

6.4 Effectiveness

The effectiveness of the environmental impact system is not so readily measured.

Elements of effectiveness would be expected to include:

- improved environmental outcomes
- level of administrative transparency
- extent of public involvement.

Audit Observations

There was no evidence of any systematic review of the effectiveness of the environmental impact assessment system, though components of the system have been reviewed and strengthened.

Survey techniques could be used to determine user satisfaction levels, including whether the assessment system was sufficiently transparent.

Consultants to DUAP have recently proposed that a questionnaire be used to assist in assessing the performance of councils and DUAP.

Proposed DUAP Questionnaire to Rate Assessment Performance
1. types of applications, numbers and types of applications
2. service efficiency: costs, time, uncertainty and other service issues
3. encouraging and rewarding good practice by applicants
4. quality performance in assessment
5. delivering on environmental outcomes documented in plans and policies
6. administrative transparency and public involvement
7. other questions for State Authorities.

Source: DUAP, *Towards a performance monitoring and benchmarking program for the NSW development assessment system*, report by P&A Walsh Consulting, December 2000 Attachment B

6.5 Quality Assurance

Assurance of the quality of the environmental impact assessment system will depend on:

- the existence of appropriate assessment policies and procedures (including administrative processes, technical assessment methods, resources, responsibilities, timing and priority)
- adequate controls and (up-to-date) documentation
- evidence that policies and procedures are being applied
- clear mechanisms for responsible authorities to negotiate solutions to issues and concerns prior to formal approvals
- evidence of periodic review to identify opportunities for improvement.

This concerns not only DUAP, but also extends to the other environmental regulators that undertaking an environmental impact assessment.

Audit Observations

It was observed that:

- there is no system of quality assurance or document control for the assessment process that might achieve accreditation in accordance with *Environmental management systems* ISO 14004
- some assurance is available from the open nature of Commissions of Inquiry, publication of the final assessment report, and possibility of independent review by the Land and Environment Court
- agencies tend to make their own policies and procedural arrangements with little reference to DUAP or to each other
- there are no arrangements for periodic audit or review of the assessment system.

6.6 Conclusion

DUAP has no system in place to monitor and report the performance of the environmental impact assessment system in NSW. There is no system of quality assurance or document control.

The system is not periodically reviewed. In other jurisdictions such as the Netherlands, the assessment system as a whole is comprehensively reviewed and reported on approximately every 5 years. The Netherlands Commission for environmental impact assessment also produces an Annual Report.

6.7 Recommendations

It is recommended that performance management of the environmental impact assessment system be improved by:

- monitoring and benchmarking performance of the environmental impact assessment system (sec 6.2, 6.3, 6.4)
- introducing a system of quality assurance for the assessment process (sec 6.5)
- reporting annually on environmental impact assessment system issues and performance (sec 6.5, 6.6)
- establishing a mechanism for periodic audit or review of the environmental impact assessment system for major projects (sec 6.5).

7. Monitoring and Reporting the Environmental Results

7.1 Requirements

The environmental assessment process does not end with an approval. The test of effectiveness of the approval's terms and conditions lies in their implementation and the results achieved.

The EP&A Act (sec 7) refers to the Minister's responsibility to monitor progress and performance in environmental planning and assessment, and to initiate the taking of remedial action where necessary.

In 1992 the Commonwealth, States and Territories agreed that environmental impact assessment processes should include the establishment of environmental monitoring and management programs (including arrangements for review).

Accordingly there is a need to:

- check and report whether the proponent has complied with the conditions of approval including implementing changes required in the project and/or measures to avoid, minimise or manage significant environmental effects
- check and report on the results of monitoring data to ascertain the effectiveness of the above measures in achieving the desired performance outcomes and whether the actual environmental impacts differ from what was predicted
- link the environmental monitoring results back to the regional monitoring and management plans or programs so cumulative trends can be followed.

A number of other agencies contribute to the assessment process and some have particular expertise in environmental monitoring and enforcement activities. The changes required of a project during the assessment phase are sometimes quite extensive, particularly for major infrastructure projects. Conditions are usually attached to the approval to achieve specific performance outcomes.

Under Part 4, the number of conditions attached to a consent has significantly increased since the introduction in 1997 of *Integrated Development*, which linked the consent process under the EP&A Act with the process for gaining approvals or licences under various other pieces of legislation. A similar trend can be seen for infrastructure approvals under Part 5.

Audit Observations

The schedule of conditions that must be adhered to now:

- extends from around 12 pages (to upgrade a food processing plant) to 37 pages (for the M5 East Motorway)
- consists typically of between 50 and 150 conditions, each of which may contain several sub-conditions most of which are extremely prescriptive
- involves many performance based conditions specifying future outcomes that must be achieved
- requires preparation of up to 14 management plans that must be approved by DUAP.

7.2 Monitoring Compliance with Conditions

The schedule of approval conditions usually includes requirements for proponents to prepare:

- environmental management plans
- environmental monitoring programs
- annual reports to report on the monitoring
- contingencies plans to deal with unusual circumstances
- requirements to undertake audits with the conditions prior to commencement of construction and/or operations.

There is usually a requirement to establish a complaints management system and a community consultation committee, and for reporting of the environmental performance including complaints handling to that committee usually at a minimum of twice a year (at least in the initial years of the project life).

There are often conditions that provide an obligation for independent auditing and environmental monitoring by consultants approved by DUAP at the proponent's expense.

DUAP and the regulatory agencies use the information from monitoring program reports, along with site inspections (often associated with community consultation meetings), to monitor and evaluate the performance of the project and the compliance with the approvals.

On one occasion, during 1998, DUAP conducted a compliance audit of thirteen coal mines in the Muswellbrook and Singleton Shires of NSW. Several areas of non-compliance were identified, principally related to aspects of the environmental management plans and annual environmental management reports, noise and groundwater monitoring, and implementation of barriers and screens. None of the findings were regarded by DUAP as of a highly significant nature.

Audit Observations DUAP does not itself independently monitor, review and report on compliance. It does not have resources designated for this. It does review the results of the information gathered as a result of monitoring and reporting by the proponent under the conditions of approval.

The other environmental regulatory agencies also have an interest in the results of the proponent's monitoring regime, but this tends to be limited to that required by their respective legislative and statutory requirements.

However, there is no general document that establishes government agency responsibilities and procedures in relation to compliance in NSW. Hence the position of DUAP is unclear.

Establishing Shared Compliance Responsibilities for Government Approval Authorities
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Agreed procedures for major projects should include:
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- | |
|--|
| <ul style="list-style-type: none">• the relative responsibilities of government approval agencies for various aspects of monitoring or reporting• agency guidelines for preparing monitoring or reporting programs• general standards for determining project compliance with the mitigation measures or revisions and related conditions of consent• enforcement procedures for non-compliance, including provisions for administrative appeal• processes for informing staff and decision makers of the relative success of mitigation measures and using those results to improve future mitigation measures. |
|--|

Source: California Environmental Quality Act sec 15097

7.3 Monitoring if EIS Predictions are Achieved

There is increasing attention to demonstrating that the outcomes indicated in EISs and other supporting documentation are achieved. That is, the effects of development are reasonably consistent with what was predicted

The environmental impact assessment process is about predicting the likely future with the project in comparison to without the project, and ascertaining the acceptability of the likely outcome in relation to particular environmental issues and the environment as a whole. With some environmental issues, the predictive modelling techniques have become quite reliable in predicting the likely impacts of a project eg in relation to noise.

However with other issues such as social impacts, the predictive techniques are less developed and less reliable. In all cases, the techniques are more adept at predicting short term direct impacts rather longer term or indirect impacts. An example may be the predicted economic and social effects of a particular development proposal where predictions may relate to effects that would only be felt some years into the future.

Audit Observation

With some environmental parameters, the predictions in the EIS may lead to performance goals in the conditions of approval with associated requirements for monitoring impacts, for example noise, water quality and dust levels, truck movements and rehabilitation rates. Though much of the information in relation to monitoring these issues is in annual reports and other monitoring data, little work has been done to analyse how accurate or otherwise are the predictions made in Environmental Impact Statements, and how adequate are the mitigation measures to manage the impacts.

7.4 Conclusion

DUAP is reliant on the proponent (or their approved consultant) reporting how it is addressing the conditions of consent, and whether the actual environmental impacts of a project differ significantly from what was predicted.

In May 2000 DUAP management considered a comprehensive proposal to establish:

- an inter-agency compliance task force
- a compliance audit function within DUAP.

A year later, at the time of the audit, no action had been taken.

As the lead agency DUAP needs to formulate and coordinate a risk-based inter-agency program to independently audit and publicly report on compliance with the conditions of approval that it has required in the project to avoid or substantially lessen significant environmental effects. DUAP also needs to ensure condition compliance will be enforced, and signal what shall occur in the case of condition/s non-compliance.

7.5 Recommendations

It is recommended that project monitoring and public reporting be improved (sec 7.2, 7.3) by:

- adopting a risk-based program for independently monitoring and reporting on compliance with conditions imposed
- adopting a risk-based program for independently monitoring whether actual environmental impacts differ significantly from what was predicted
- establishing appropriate systems and resources
- delegating some of these responsibilities to another environmental regulatory agency or agencies.

8. Appendix

Appendix 1 **About the Audit**

Audit Objective The objective of the audit was to determine whether DUAP's responsibilities for environmental assessment and advice to the Minister for Urban Affairs and Planning on the determination of major projects in NSW under the *Environmental Planning and Assessment Act 1979* (EP&A Act) have been efficiently and effectively managed.

Scope of the Audit The audit primarily focused on DUAP's management of the environmental assessment of major projects for which the Minister for Urban Affairs and Planning is the decision-maker. This includes environmental assessment of major infrastructure projects (assessed under Division 4 Part 5 of the EP&A Act) and major developments identified as State significant developments (assessed under Part 4 of the EP&A Act.)

The audit also endeavoured to identify how well DUAP and other regulatory authorities are working together to deliver effective environmental assessment of major projects.

The audit additionally examined DUAP's implementation of integrated approval procedures for the assessment and approval of major projects.

The audit has not:

- reviewed the legislative or regulatory provisions of the EP&A Act, although it has examined implementation of the requirements of the Act
- reviewed the assessment of projects where the Minister is not an approval authority (Local Councils are consent authorities for the majority of development)
- extended to the entire approval process, which would have entailed consideration of aspects such as engineering reports, building code requirements, fire safety requirements, pest reports, financial requirements, and public infrastructure requirements
- focused on DUAP's plan making activities, which are currently under review and subject of a Government white paper, although the anticipated simplification of plans and policies should facilitate the assessment process in the longer term
- included any review of Ministerial or Local Council decisions or the decisions of the NSW Land and Environment Court.

Criteria The audit focused on DUAP's management of environmental assessment of major projects. It had regard to best practice management evaluation tools and government guidelines (including elements of *Risk Management and Control* issued by the NSW Treasury).

The audit reviewed whether DUAP has established appropriate and adequate management arrangements including:

- a strategic approach to the assessment and approval of projects
- policies and procedures for the assessment and approval of projects [including the EIS]
- information systems to support the assessment process
- avenues for stakeholder consultation, dispute resolution, appeal of decisions and related information for relevant parties
- performance assessment and reporting by DUAP
- oversight and accountability arrangements.

Cost of the Audit The cost of the audit was \$148,000. This figure includes the estimated cost of printing the report (\$8,000).

Acknowledgments The Audit Office gratefully acknowledges the cooperation and assistance provided by representatives of the Department of Urban Affairs and Planning, other environmental regulatory agencies and central government agencies. The Roads and Traffic Authority was helpful in providing an early understanding of the requirements of a government proponent. The audit was also assisted by discussions with a number of external bodies including the State Chamber of Commerce, the Property Council, the Minerals Council, and the Total Environment Centre.

Appendix 2 Glossary of Terms and Acronyms

Approval	<p><i>Approval</i> includes:</p> <p>(a) a consent, licence or permission or any form of authorisation, and</p> <p>(b) a provision of financial accommodation by a determining authority to another person, not being a provision of such financial accommodation, or financial accommodation of such class or description, as may be prescribed for the purposes of this definition by a determining authority so prescribed</p> <p>Source: EP&A Act sec 110</p>
Approval authority	<p>Any government authority (including councils) responsible for issuing an approval.</p>
Assessment Heads of Consideration under Part 4	<p>In <i>assessing</i> and determining a development application, a consent authority is to take into consideration:</p> <p>(a) the provisions of:</p> <ul style="list-style-type: none">• any environmental <i>planning</i> instrument• any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority• any development control plan• the regulations that apply to the land to which the development application relates. <p>(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,</p> <p>(c) the suitability of the site for the development</p> <p>(d) any submissions made in accordance with this Act or the regulations,</p> <p>(e) the public interest.</p> <p>Source: EP&A Act sec 79C</p>
Assessment Report	<p>A document prepared by the assessing authority to evaluate the contents of an EIS to provide environmental advice on the proposal to decision-makers.</p> <p>Source: Australian and New Zealand Environment and Conservation Council, <i>A National Approach to Environmental Impact Assessment in Australia</i>, October 1991, p2</p>
CoI	<p>Commission of Inquiry</p>
Consent authority	<ul style="list-style-type: none">• Minister for Urban Affairs and Planning for <i>State Significant Development</i>• Local Council for local development

Development	<p><i>Development</i> means:</p> <ul style="list-style-type: none"> (a) the use of land, and (b) the subdivision of land, and (c) the erection of a building, and (d) the carrying out of a work, and (e) the demolition of a building or work, and (f) any other act, matter or thing referred to in section 26 that is controlled by an environmental planning instrument <p>Source: EP&A Act sec 4</p>
DLWC	Department of Land and Water Conservation develops policies to ensure the sustainable management and use of land, soils, rivers, ground-water, coastal areas, vegetation and forests, as well as the restoration of degraded areas
DMR	NSW Department of Mineral Resources assesses the State's mineral resources and regulates mining activities
DUAP	Department of Urban Affairs and Planning
Environment	<p><i>Environment</i> includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings</p> <p>Source: EP&A Act sec 4</p>
EIA	<i>Environmental Impact Assessment (EIA)</i> - a systematic process of evaluation of a proposal including its alternatives and objectives and its effect on the environment (including the mitigation and management of those effects); in this report generally undertaken by DUAP, on the basis of the proponent's EIS, public consultation and other sources of information
EIS	<i>Environmental Impact Statement</i> - a document prepared by the proponent to present the case for the assessment of their proposal as part of the environmental impact assessment process.
EMP	<i>Environmental Management Plan</i> - a document prepared by the proponent following project approval.
EPI	<i>Environmental Planning Instruments</i> , consisting of Local environmental plans, regional environmental plans and State environmental planning policies
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>

EPA	NSW Environment Protection Authority administers fourteen pieces of environment protection legislation covering air and water quality, contaminated land, noise control, pesticides, hazardous chemicals and dangerous goods, ozone, radiation and waste
Local Councils	Local Councils draft local environmental, plans and regulate many aspects of local development.
NPWS	NSW National Parks and Wildlife Service has the primary responsibility in NSW to conserve native flora and fauna, including threatened species and Aboriginal cultural heritage
NSW Fisheries	NSW Fisheries is the State's principal aquatic resource conservation agency, responsible for conserving and managing fisheries resources and protecting fish habitats including threatened species
REP	Regional Environmental Planning Policy
SEE	Statement of Environmental Effects
SEPP	State Environmental Planning Policy

Appendix 3 DUAP's Comments on the Audit Recommendations

Audit Recommendation	Response by DUAP
<p>The implementation of many of the following recommendations, if adopted, will require a whole of government response. The Audit Office has therefore not attempted to allocate responsibilities to individual agencies.</p>	<p>Some of the recommendations not only relate to the role of DUAP but also other agencies. The Department will be convening inter-agency discussions to consider a whole-of-government implementation strategy for the recommendations where applicable and appropriate</p>
<p>Strengthen the assessment process (see chapter 2) by:</p>	
<ul style="list-style-type: none"> • improving DUAP's internal documentation including internal guidance and compliance with the State Records Act 1998 • move to a more risk-based approach for triggering EISs for projects assessed under Part 4 • provide (electronic) access to the government's environmental plans, policies, strategies and environmental legislation through a single user-friendly portal • developing sustainable economic development and employment growth plans, as proposed in <i>Planfirst</i> • removing a potential conflict of interest arising from DUAP's ownership of land. 	<p>The Department is up-dating its Internal EIA Procedural Manual, which will include a protocol for compliance with the State Records Act. The Department will continue to progressively update the manual, depending upon resources. However, it has noted that no procedural defects have been found, and that innovation has lead to value adding outcomes.</p> <p>As sector strategies are prepared, there will be opportunities for more strategic risk-based approaches for triggering EISs under Part 4 (for example, the aquaculture strategy). However in the meantime, the approach in Schedule 3 provides certainty and takes an appropriate environmental risk approach. Schedule 3 was reviewed and adjusted as necessary in 1994 and 1998/99.</p> <p>The recommendation will be considered in the context of the inter-agency implementation strategy.</p> <p>The recommendation will be considered in the context of the inter-agency implementation strategy. In particular, the reform to Part 3 of the EP&A Act under PlanFirst will provide important opportunities for the inclusion of economic and employment growth components into regional strategies, and should provide a point of reference for the assessment of projects.</p> <p>There are very rare cases where perceived conflicts may/have arise. In addition to the checks and balances contained in the legislation, the responsibility for undertaking land management, zoning and project assessment functions within DUAP are in different divisions. Nonetheless, further strengthening of independent assessment in such cases will be examined.</p>

Audit Recommendation	Response by DUAP
<p>More actively manage the environmental impact assessment system (see chapters 3 and 6) by:</p>	
<ul style="list-style-type: none"> • establishing objectives for the environmental impact assessment system • establishing a Memorandum of Understanding between DUAP and the other environmental regulatory authorities • providing early prioritisation of project issues and • project specific time schedules • reviewing the adequacy of DUAP's assessment staff resources, particularly in the light of this report • monitoring and benchmarking performance of the environmental impact assessment system • introducing a system of quality assurance for the assessment process • reporting annually on environmental impact assessment system issues and performance • establishing a mechanism for periodic audit or review of the environmental impact assessment system for major projects. 	<p>Notwithstanding the EIA system objectives being broadly those of the EP&A Act, the Department will articulate these objectives more explicitly in its Procedural Manual as well as other guidelines.</p> <p>While informal arrangements now exist between agencies, DUAP will develop a Memorandum of Understanding to formally articulate these arrangements to strengthen the whole of government approach in EIA.</p> <p>The EIS Guidelines outline procedures for proponents to identify and prioritise issues when preparing an EIS. The update of the Procedural Manual will reinforce the importance of this issue in preparing Director General Requirements.</p> <p>Existing practice will be readjusted in line with the recommendation.</p> <p>The Department agrees with reviewing the adequacy of funding of the function. An overall review of core funding and user pay approaches are being developed.</p> <p>The Department has introduced an information tracking system for individual projects as well as the system as a whole. This will provide for the monitoring of the system and its performance.</p> <p>The Department will be linking its Procedural Manual and tracking system to provide a system for quality assurance for the assessment process.</p> <p>Annual reporting on the EIA system is undertaken as part of the Department's regular annual report. More explicit reporting will be considered in the context of Department-wide communication activities, including Department newsletters as appropriate.</p> <p>Options for the periodic review of the system will be considered as part of the inter-agency whole-of-government approach. It is important that the independence of EIA and decision-making for projects be maintained, and that any periodic review should be limited to broader issues which can add value in terms of policy and procedures.</p>

Audit Recommendation	Response by DUAP
<p>Promote increased public involvement and scrutiny (see chapter 4) by:</p>	
<ul style="list-style-type: none"> • offering public participation in scoping each major project, including publishing <i>Director-General's Requirements</i> on the Internet as a draft for comment before issuing • providing greater use of public hearings (such as by panels) for major projects and making more use of inquiry mechanisms to resolve conflict and dispute • requiring private proponents to formally respond to issues raised in submissions (as occurs in <i>Representations Reports</i> and <i>Preferred Activity Reports</i> for public projects) and posting them on the Internet • publishing assessment reports on the internet for public comment, before the Minister is asked to approve them 	<p>It is doubtful that such a measure will substantially benefit the public consultation process. Under existing practices, the Director-General's requirements include specific requirements for the proponent to consult with the community and to address its concerns in the EIS. As such, community consultation is a statutory requirement in the preparation of the EIS. There is evidence that this requirement has increased the consideration of community concerns in EISs. Notwithstanding the above, the Department will post Director-General's requirements on the internet at the same time as they are forwarded to the proponent, with an invitation for comments to be forwarded directly to the proponent for consideration. The Department is concerned that such practices as recommended by the audit would lead to confusion or dilute the obligation of the proponent to consult with the community during EIS preparation.</p> <p>The Department is strengthening the EIA system in relation to public consultation and dispute resolution and will consider this recommendation in the context of current initiatives. However, Commissions of Inquiry are held where there are controversial or complex issues. In deciding to hold an Inquiry, the Minister has due regard to public concerns. It is not appropriate to conduct inquiries where there are no requests from the community or in particular where the issues of concern have been satisfactorily addressed in a different way.</p> <p>Proponents are currently required to address all issues raised in submissions and to respond accordingly. The DUAP Assessment Reports include considerations of matters raised in submissions. Proponents will be encouraged to compile responses to submissions with such responses to be made publicly available on request.</p> <p>DUAP proposes to place a project proforma on the internet for each project so the community is aware of the assessment/ determination milestones and any emerging issues.</p> <p>This recommendation is not supported. To introduce an added step would be inconsistent with the legislative scheme in the Act and has the potential to cause confusion and create an undue expectation on the part of the public. Assessment Reports are published on the internet when decisions are made so that the basis for the decision is known at the time the decision is announced. The recommendation of this proposal on the basis that it is used in other jurisdictions is inappropriate and not justified, as each system should be looked at in the context of the whole EIA scheme and the related planning and regulatory framework. Taking elements of one system to apply in another cannot be assumed to lead to better outcomes and may lead to over-regulation, rigidity, overlaps and inconsistencies. The Department will continue to strengthen the provision of information and to engage with the community at the assessment stage so that the outcome of the assessment is known to all.</p>

Audit Recommendation	Response by DUAP
<ul style="list-style-type: none"> issuing a <i>Citizen's Charter</i> with the public's rights of involvement, participation and appeal. 	<p>This recommendation will be considered in the context of Department-wide communication initiatives. As part of these initiatives it is intended to strengthen and extend the Department's information series on the EIA system so the community is aware how the system works and how they can efficiently interface with the system.</p>
<p>Introduce strategic environmental assessment (see chapter 5):</p>	
<ul style="list-style-type: none"> into the Government's wider decision-making processes supported by guidelines and advice from DUAP involving sectoral studies and extensive use of public participation. 	<p>The Department supports strategic environmental impact assessment and will be working with other agencies to facilitate, where appropriate such assessment. Such initiative should improve the efficiency and effectiveness of assessing projects and achieving sustainable development goals.</p>
<p>Improve monitoring and public reporting (see chapter 7) by:</p>	
<ul style="list-style-type: none"> adopting a risk-based program for independently monitoring and reporting on compliance with conditions imposed adopting a risk-based program for independently monitoring whether actual environmental impacts differ significantly from what was predicted establishing appropriate systems and resources delegating some of these responsibilities to another environmental regulatory agency or agencies. 	<p>Although the Department is strengthening its compliance management systems, it is agreed that additional resources should be allocated by government to fulfil this function.</p> <p>The Department is currently reviewing this aspect of EIA and will convene inter-agency discussions to consider more effective and efficient approaches to a whole-of-government monitoring/compliance strategy.</p>

Performance Audits by the Audit Office of New South Wales

Performance Auditing

What are performance audits?

Performance audits are reviews designed to determine how efficiently and effectively an agency is carrying out its functions.

Performance audits may review a government program, all or part of a government agency or consider particular issues which affect the whole public sector.

Where appropriate, performance audits make recommendations for improvements relating to those functions.

Why do we conduct performance audits?

Performance audits provide independent assurance to Parliament and the public that government funds are being spent efficiently and effectively, and in accordance with the law.

They seek to improve the efficiency and effectiveness of government agencies and ensure that the community receives value for money from government services.

Performance audits also assist the accountability process by holding agencies accountable for their performance.

What is the legislative basis for Performance Audits?

The legislative basis for performance audits is contained within the *Public Finance and Audit Act 1983, Division 2A*, (the Act) which differentiates such work from the Office's financial statements audit function.

Performance audits are not entitled to question the merits of policy objectives of the Government.

Who conducts performance audits?

Performance audits are conducted by specialist performance auditors who are drawn from a wide range of professional disciplines.

How do we choose our topics?

Topics for a performance audits are chosen from a variety of sources including:

- our own research on emerging issues
- suggestions from Parliamentarians, agency Chief Executive Officers (CEO) and members of the public
- complaints about waste of public money
- referrals from Parliament.

Each potential audit topic is considered and evaluated in terms of possible benefits including cost savings, impact and improvements in public administration.

If you wish to find out what performance audits are currently in progress just visit our website at www.audit@nsw.gov.au.

The Audit Office has no jurisdiction over local government and cannot review issues relating to council activities.

How do we conduct performance audits?

Performance audits are conducted in compliance with relevant Australian standards for performance auditing and our procedures are certified under international quality standard ISO 9001.

Our policy is to conduct these audits on a "no surprise" basis.

Operational managers, and where necessary executive officers, are informed of the progress with the audit on a continuous basis.

What are the phases in performance auditing?

Performance audits have three key phases: planning, fieldwork and report writing.

During the planning phase, the audit team will develop audit criteria and define the audit field work.

At the completion of field work an exit interview is held with agency management to discuss all significant matters arising out of the audit. The basis for the exit interview is generally a draft performance audit report.

The exit interview serves to ensure that facts presented in the report are accurate and that recommendations are appropriate. Following the exit interview, a formal draft report is provided to the CEO for comment. The relevant Minister is also provided with a copy of the draft report. The final report, which is tabled in Parliament, includes any comment made by the CEO on the conclusion and the recommendations of the audit.

Depending on the scope of an audit, performance audits can take from several months to a year to complete.

Copies of our performance audit reports can be obtained from our website or by contacting our publications unit.

How do we measure an agency's performance?

During the planning stage of an audit the team develops the audit criteria. These are standards of performance against which an agency is assessed. Criteria may be based on government targets or benchmarks, comparative data, published guidelines, agencies corporate objectives or examples of best practice.

Performance audits look at:
processes
results
costs
due process and accountability.

Do we check to see if recommendations have been implemented?

Every few years we conduct a follow-up audit of past performance audit reports. These follow-up audits look at the extent to which recommendations have been implemented and whether problems have been addressed.

The Public Accounts Committee (PAC) may also conduct reviews or hold inquiries into matters raised in performance audit reports.

Agencies are also required to report actions taken against each recommendation in their annual report.

To assist agencies to monitor and report on the implementation of recommendations, the Audit Office has prepared a Guide for that purpose. The Guide is on the Internet and located at <http://www.audit.nsw.gov.au/guides-bp/bpplist.htm>

Who audits the auditors?

Our performance audits are subject to internal and external quality reviews against relevant Australian and international standards.

The PAC is also responsible for overseeing the activities of the Audit Office and conducts reviews of our operations every three years.

Who pays for performance audits?

No fee is charged for performance audits. Our performance audit services are funded by the NSW Parliament and from internal sources.

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(02) 9285 0051

Performance Audit Reports

No.	Agency or Issue Examined	Title of Performance Audit Report or Publication	Date Tabled in Parliament or Published
1	Department of Housing	<i>Public Housing Construction: Selected Management Matters</i>	5 December 1991
2	Police Service, Department of Corrective Services, Ambulance Service, Fire Brigades and Others	<i>Training and Development for the State's Disciplined Services: Stream 1 - Training Facilities</i>	24 September 1992
3	Public Servant Housing	<i>Rental and Management Aspects of Public Servant Housing</i>	28 September 1992
4	Police Service	<i>Air Travel Arrangements</i>	8 December 1992
5	Fraud Control	<i>Fraud Control Strategies</i>	15 June 1993
6	HomeFund Program	<i>The Special Audit of the HomeFund Program</i>	17 September 1993
7	State Rail Authority	<i>Countrylink: A Review of Costs, Fare Levels, Concession Fares and CSO Arrangements</i>	10 December 1993
8	Ambulance Service, Fire Brigades	<i>Training and Development for the State's Disciplined Services: Stream 2 - Skills Maintenance Training</i>	13 December 1993
9*	Fraud Control	<i>Fraud Control: Developing an Effective Strategy (Better Practice Guide jointly published with the Office of Public Management, Premier's Department)</i>	30 March 1994
10	Aboriginal Land Council	<i>Statutory Investments and Business Enterprises</i>	31 August 1994
11	Aboriginal Land Claims	<i>Aboriginal Land Claims</i>	31 August 1994
12	Children's Services	<i>Preschool and Long Day Care</i>	10 October 1994
13	Roads and Traffic Authority	<i>Private Participation in the Provision of Public Infrastructure (Accounting Treatments; Sydney Harbour Tunnel; M4 Tollway; M5 Tollway)</i>	17 October 1994
14	Sydney Olympics 2000	<i>Review of Estimates</i>	18 November 1994
15	State Bank	<i>Special Audit Report: Proposed Sale of the State Bank of New South Wales</i>	13 January 1995
16	Roads and Traffic Authority	<i>The M2 Motorway</i>	31 January 1995
17	Department of Courts Administration	<i>Management of the Courts: A Preliminary Report</i>	5 April 1995
18*	Joint Operations in the Education Sector	<i>A Review of Establishment, Management and Effectiveness Issues (including a Guide to Better Practice)</i>	13 September 1995
19	Department of School Education	<i>Effective Utilisation of School Facilities</i>	29 September 1995

No.	Agency or Issue Examined	Title of Performance Audit Report or Publication	Date Tabled in Parliament or Published
20	Luna Park	<i>Luna Park</i>	12 October 1995
21	Government Advertising	<i>Government Advertising</i>	23 November 1995
22	Performance Auditing In NSW	<i>Implementation of Recommendations; and Improving Follow-Up Mechanisms</i>	6 December 1995
23*	Ethnic Affairs Commission	<i>Administration of Grants (including a Guide To Better Practice)</i>	7 December 1995
24	Department of Health	<i>Same Day Admissions</i>	12 December 1995
25	Environment Protection Authority	<i>Management and Regulation of Contaminated Sites: A Preliminary Report</i>	18 December 1995
26	State Rail Authority of NSW	<i>Internal Control</i>	14 May 1996
27	Building Services Corporation	<i>Inquiry into Outstanding Grievances</i>	9 August 1996
28	Newcastle Port Corporation	<i>Protected Disclosure</i>	19 September 1996
29*	Ambulance Service of New South Wales	<i>Charging and Revenue Collection (including a Guide to Better Practice in Debtors Administration)</i>	26 September 1996
30	Department of Public Works and Services	<i>Sale of the State Office Block</i>	17 October 1996
31	State Rail Authority	<i>Tangara Contract Finalisation</i>	19 November 1996
32	NSW Fire Brigades	<i>Fire Prevention</i>	5 December 1996
33	State Rail	<i>Accountability and Internal Review Arrangements at State Rail</i>	19 December 1996
34*	Corporate Credit Cards	<i>The Corporate Credit Card (including Guidelines for the Internal Control of the Corporate Credit Card)</i>	23 January 1997
35	NSW Health Department	<i>Medical Specialists: Rights of Private Practice Arrangements</i>	12 March 1997
36	NSW Agriculture	<i>Review of NSW Agriculture</i>	27 March 1997
37	Redundancy Arrangements	<i>Redundancy Arrangements</i>	17 April 1997
38	NSW Health Department	<i>Immunisation in New South Wales</i>	12 June 1997
39	Corporate Governance	<i>Corporate Governance Volume 1 : In Principle Volume 2 : In Practice</i>	17 June 1997
40	Department of Community Services and Ageing and Disability Department	<i>Large Residential Centres for People with a Disability in New South Wales</i>	26 June 1997
41	The Law Society Council of NSW, the Bar Council, the Legal Services Commissioner	<i>A Review of Activities Funded by the Statutory Interest Account</i>	30 June 1997
42	Roads and Traffic Authority	<i>Review of Eastern Distributor</i>	31 July 1997
43	Department of Public Works and Services	<i>1999-2000 Millennium Date Rollover: Preparedness of the NSW Public Sector</i>	8 December 1997

No.	Agency or Issue Examined	Title of Performance Audit Report or Publication	Date Tabled in Parliament or Published
44	Sydney Showground, Moore Park Trust	<i>Lease to Fox Studios Australia</i>	8 December 1997
45	Department of Public Works and Services	<i>Government Office Accommodation</i>	11 December 1997
46	Department of Housing	<i>Redevelopment Proposal for East Fairfield (Villawood) Estate</i>	29 January 1998
47	NSW Police Service	<i>Police Response to Calls for Assistance</i>	10 March 1998
48	Fraud Control	<i>Status Report on the Implementation of Fraud Control Strategies</i>	25 March 1998
49*	Corporate Governance	<i>On Board: guide to better practice for public sector governing and advisory boards (jointly published with Premier's Department)</i>	7 April 1998
50	Casino Surveillance	<i>Casino Surveillance as undertaken by the Director of Casino Surveillance and the Casino Control Authority</i>	10 June 1998
51	Office of State Revenue	<i>The Levying and Collection of Land Tax</i>	5 August 1998
52	NSW Public Sector	<i>Management of Sickness Absence NSW Public Sector Volume 1: Executive Briefing Volume 2: The Survey - Detailed Findings</i>	27 August 1998
53	NSW Police Service	<i>Police Response to Fraud</i>	14 October 1998
54	Hospital Emergency Departments	<i>Planning Statewide Services</i>	21 October 1998
55	NSW Public Sector	<i>Follow-up of Performance Audits: 1995 - 1997</i>	17 November 1998
56	NSW Health	<i>Management of Research: Infrastructure Grants Program - A Case Study</i>	25 November 1998
57	Rural Fire Service	<i>The Coordination of Bushfire Fighting Activities</i>	2 December 1998
58	Walsh Bay	<i>Review of Walsh Bay</i>	17 December 1998
59	NSW Senior Executive Service	<i>Professionalism and Integrity Volume One: Summary and Research Report Volume Two: Literature Review and Survey Findings</i>	17 December 1998
60	Department of State and Regional Development	<i>Provision of Industry Assistance</i>	21 December 1998
61	The Treasury	<i>Sale of the TAB</i>	23 December 1998
62	The Sydney 2000 Olympic and Paralympic Games	<i>Review of Estimates</i>	14 January 1999

No.	Agency or Issue Examined	Title of Performance Audit Report or Publication	Date Tabled in Parliament or Published
63	Department of Education and Training	<i>The School Accountability and Improvement Model</i>	12 May 1999
64*	Key Performance Indicators	<i>Government-wide Framework Defining and Measuring Performance (Better practice Principles)</i> <i>Legal Aid Commission Case Study</i>	31 August 1999
65	Attorney General's Department	<i>Management of Court Waiting Times</i>	3 September 1999
66	Office of the Protective Commissioner Office of the Public Guardian	<i>Complaints and Review Processes</i>	28 September 1999
67	University of Western Sydney	<i>Administrative Arrangements</i>	17 November 1999
68	NSW Police Service	<i>Enforcement of Street Parking</i>	24 November 1999
69	Roads and Traffic Authority of NSW	<i>Planning for Road Maintenance</i>	1 December 1999
70	NSW Police Service	<i>Staff Rostering, Tasking and Allocation</i>	31 January 2000
71*	Academics' Paid Outside Work	<i>Administrative Procedures</i> <i>Protection of Intellectual Property</i> <i>Minimum Standard Checklists</i> <i>Better Practice Examples</i>	7 February 2000
72	Hospital Emergency Departments	<i>Delivering Services to Patients</i>	15 March 2000
73	Department of Education and Training	<i>Using computers in schools for teaching and learning</i>	7 June 2000
74	Ageing and Disability Department	<i>Group Homes for people with disabilities in NSW</i>	27 June 2000
75	NSW Department of Transport	<i>Management of Road Passenger Transport Regulation</i>	6 September 2000
76	Judging Performance from Annual Reports	<i>Review of eight Agencies' Annual Reports</i>	29 November 2000
77*	Reporting Performance	<i>Better Practice Guide</i> <i>A guide to preparing performance information for annual reports</i>	29 November 2000
78	State Rail Authority (CityRail) State Transit Authority	<i>Fare Evasion on Public Transport</i>	6 December 2000
79	TAFE NSW	<i>Review of Administration</i>	6 February 2001
80	Ambulance Service of New South Wales	<i>Readiness to respond</i>	7 March 2001
81	Department of Housing	<i>Maintenance of Public Housing</i>	11 April 2001
82	Environment Protection Authority	<i>Controlling and Reducing Pollution from Industry</i>	18 April 2001
83	Department of Corrective Services	<i>NSW Correctional Industries</i>	13 June 2001

No.	Agency or Issue Examined	Title of Performance Audit Report or Publication	Date Tabled in Parliament or Published
84	Follow-up of Performance Audits	<i>Police Response to Calls for Assistance The Levying and Collection of Land Tax Coordination of Bushfire Fighting Activities</i>	20 June 2001
85*	Internal Financial Reporting	<i>Internal Financial Reporting including a Better Practice Guide</i>	27 June 2001
86	Follow-up of Performance Audits	<i>The School Accountability and Improvement Model (May 1999) The Management of Court Waiting Times (September 1999)</i>	14 September 2001
87	e-government	<i>Use of the Internet and related technologies to improve public sector performance</i>	19 September 2001
88*	e-ready, e-steady, e-government	<i>e-government readiness assessment guide</i>	19 September 2001
89	Intellectual Property	<i>Management of Intellectual Property</i>	17 October 2001
90*	Better Practice Guide	<i>Management of Intellectual Property</i>	17 October 2001
91	University of New South Wales	<i>Educational Testing Centre</i>	21 November 2001
92	Department of Urban Affairs and Planning	<i>Environmental Impact Assessment of Major Projects in NSW</i>	November 2001

* Better Practice Guides

Performance Audits on our website

A list of performance audits tabled or published since March 1997, as well as those currently in progress, can be found on our website www.audit.nsw.gov.au



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