

NSW DEPARTMENT OF PLANNING AND ENVIRONMENT

ASSESSMENT REPORTS: INDEPENDENT REVIEW

FINAL REPORT

AUGUST 2017

**INDEPENDENT REVIEW
DEPARTMENT OF PLANNING AND ENVIRONMENT
ASSESSMENT REPORTS
25 August 2017**

EXECUTIVE SUMMARY

1. BACKGROUND

This independent review by Lisa Corbyn was commissioned by the NSW Department of Planning and Environment (the Department) in April 2017 to examine the quality of their Assessment Reports for State Significant Projects

2. TERMS OF REFERENCE AND APPROACH

The key steps to meet the Terms of Reference were:

- developing review principles: coverage, responsiveness, ease of understanding and consistency.
- reviewing at least 2 Assessment Reports from five sectors: infrastructure, industry, resource, energy and urban development. 15 were reviewed.
- Consultation with over 20 stakeholder groups and 15 NSW and Commonwealth agencies and local councils.
- Identifying strengths, weaknesses, areas of improvement and findings and recommendations.

The Terms of Reference and the list of representative reports review are in Appendix 1 and Appendix 2 of the full report.

3. CONSULTATION

Decision-makers, key stakeholders and involved agencies were consulted about the principles and their views of the quality of Assessment Reports. They were forthright and constructive in their comments.

Not surprisingly, there are different experiences and expectation of the reports from different stakeholders.

Industry and business: were concerned about accuracy, timeliness and burdensome and costly processes.

Environment and community groups: were concerned about the statutory and technical rigour of the analysis, a perceived bias in the balancing of considerations, the sufficiency of attention and response to community issues and the potential for the Assessment Reports to reduce the independence of decision-makers. They did acknowledge the development of guidelines in key areas such as social impact analysis.

Decision-makers interviewed: found the reports useful in distilling significant amounts of information and providing support on legislation and policy analysis. They identified improvements needed in the approach to engagement with and reflection

of community issues including social and economic impact analyses, representation of agency advice and the early identification and focusing of analysis on key issues.

Across the different stakeholder groups interviewed, there was a general consensus that Assessment Reports, or some parts of Assessment Reports, had improved over the last two years.

4. CONCLUSIONS AND FINDINGS

Assessment Reports cover a broad spectrum of projects, ranging from huge, complex projects to simpler modifications. Projects also emanate from both public and private sector proponents. So, some variation can be expected. However, this should not deter presentation of clear analysis and evaluation in all reports.

In reviewing representative Assessment Reports against the established four principles and related criteria, I found considerable variability across the five sectors and across the very different types and stages of proposals. My summary findings relating to the Reports' coverage, responsiveness, ease of understanding and consistency are outlined in the main report.

Some reports were thorough and rigorous in their analysis and clear in their presentation. Others I found difficult to digest and somewhat opaque in their logic and rationale. This made it challenging to generalise across different reports, sectors and assessment teams.

Overall, I have drawn three main conclusions.

4.1 Assessment Reports are an Important Evaluative Tool but can be Improved.

I consider that the Department's Assessment Report can and should be an important tool to achieve a systematic and consolidated analysis and evaluation of key issues, impacts, risks and merits of State Significant projects, from the Department's perspective.

An impartial, analytical Assessment Report can assist decision-makers as they turn their minds to:

- focusing in on quickly and then analysing the most significant issues in depth;
- making judgements about the public interest and the appropriate balances and trade-offs; and
- meeting the timeframes of a streamlined approval process.

4.2 Changes are Needed to Improve the Value of Assessment Reports

To be value adding, some directional changes are needed. One of the most important is for the Department to demonstrate that it is impartial and open minded in its analysis and does not start with a pre-determined outcome.

The overall approach needs to:

- provide an evaluative report that quickly identifies priority issues and clearly lays out the logic and rationale for conclusions, including drawing clear linkages between the rationale and any proposed draft conditions;
- value the input from communities, agencies and councils, based on genuine engagement with them, as well as with industry, business and proponents; and
- achieve improved consistency in the approach across the different assessment teams, while recognising the diversity in scale and scope of the projects being assessed, with an emphasis on insights being provided from thorough and balanced analysis and evaluation.

4.3 Providing the Department's Conclusions Improves Transparency and need not unduly Influence the Independence of Decision-Makers

In my view, Assessment Reports need not introduce bias or unduly influence the independence of decision-makers if they are thorough, impartial and transparent.

Where the independent Planning Assessment Commission is the determining authority, I support the recent change in the approach from making an explicit recommendation for approval or refusal to providing the Department's conclusions on whether a proposal is approvable or not. Although a small change, it provides more clarity on who the decision-maker is while, at the same time, being transparent and clear on the Department's view about the merit of a proposal.

I also support draft conditions of consent being provided to decision-makers (at the determination stage) so they can be independently scrutinised, questioned, tested, accepted or rejected or augmented by the relevant decision-maker, in the timeframes available. However, in order to maintain the independence of a Planning Assessment Commission Review, it would be preferable not to submit proposed conditions at the Review stage.

Other legislative and broader EIS Improvement reforms being pursued by the Department separately will also reinforce the independence of the relevant decision-maker.

5. AREAS FOR IMPROVEMENTS AND RECOMMENDATIONS

6.

I have targeted the areas of improvement and recommendations to respond to the findings and my analysis of strengths and weaknesses of a composite of the Assessment reports reviewed.

Based on my review and analysis, key areas for improvement are outlined below.

Area for Improvement: Simplify and make SSD/SSI Assessment Reports More Analytical

Assessment Reports should provide an upfront snapshot supported by value-adding analysis and evaluation of data and information rather than repeating or cutting and pasting segments of a proponent's EIS.

Recommendation 1: Simplify and focus Assessment Reports so that they:

- paint a clear and coherent picture of what the decision-maker is being asked to approve, explaining the chronology and relevant project stages, presenting a good Executive Summary (which can be tailored to the scope of the project) and providing a concise project description and very good maps and diagrams;
- take an evaluative approach that clearly presents arguments, rationale and conclusions on the priority issues and the associated risks and impacts;
- present tables that summarise the conclusions or responses to both priority and residual issues raised and explaining how they are dealt with in the conclusions or, if applicable, in the conditions so that decision-makers and stakeholders can see that all issues have been seriously considered; and
- avoid presenting a process-oriented description or detailed restatement of "environmental and technical assessments" from EIS's.

Recommendation 2: Issue an Assessment Report Template as guidance to:

- improve the quality, consistency and usefulness of Assessment Reports to decision-makers by improving the strategic, analytical and evaluative components of the Reports and clearly setting out the expectations for impartiality;
- update any existing guidance in the template on standard components so that there is a more predictable flow in the Assessment Reports; and
- arrange Executive discussions jointly with Assessment Teams to reinforce expectations especially on impartiality, independence of analysis, clarity of rationale and responsiveness to help improve consistency.

Areas of Improvement: Reinforce the Importance of the Strategic Context

Understanding the strategic context in which a proposal is being considered is an important scene setter for decision-makers. Assessment Reports should clearly outline whether, and if so, how a proposal fits within the broader strategic planning context, based on sound knowledge and with a clear explanation of existing Government strategies, plans and policies specifically relevant to the proposal. This is not done consistently in Assessment Reports.

Recommendation 3: Include a distinct Strategic Context section in Assessment Reports to:

- more clearly demonstrate the relationship of a proposal to Government directions and strategies, and set clear expectations early; and
- overcome the tendency to repeat the proponent's justification which should be replaced with a cogent strategic evaluation of need from a Government perspective.

Area of Improvement: Systematise the Statutory Context

It will be important to demonstrate more thoroughly whether and how the proposal meets all the statutory requirements.

Recommendation 4: Outline the expectations for presenting and summarising the substantive analysis for the Statutory Context elements in the template guidance in order to demonstrate how the requirements, such as S79C, S 5 and ESD principles have been met (not just referencing a subsequent section).

Recommendation 5: Liaise with the Commonwealth in order to:

- agree guidance to address Commonwealth MNES assessment needs with possible training to ensure full compliance with the bilateral; and
- consider an appropriate approach for dealing with the bilateral agreement on providing recommendations in an Assessment Report.

Area of Improvement: Boost Early Engagement Efforts to improve Scoping and better Understand and Respond to local community issues

Early engagement with the community and relevant agencies and councils, in addition to industry and business groups and the proponent, is important to adequately characterise and prioritise issues. To understand and present a clear picture of local community issues, organising site visits and community dialogue can be equally as important as analysis of submissions. Accurately capturing and evaluating agency advice and conditions also requires early engagement and feedback.

Recommendation 6: Reinforce the importance of site visits and community meetings and early engagement with agencies to connect with on-the-ground issues, before forming a view about a proposal.

Recommendation 7: Present summary tables for both priority and residual issues raised and how they are dealt with in the conclusions or conditions which will help demonstrate a listening and responding approach.

Recommendation 8: Consult with aboriginal communities on appropriate ways to include the perspective of traditional owners who speak for their country, where significant aboriginal issues are being evaluated in the Assessment Reports.

Area for Improvement: Improve the Analysis in Key Assessment Areas

The Department guidelines on the approach for assessing contested areas, such as social and economic impacts and risk assessment, will assist in defining expectations, improving consistency of analysis and explaining the use of experts and peer reviews.

Recommendation 9: Finalise draft Social Impact Guidelines relating to the mining industry and consider extending to other sectors.

Recommendation 10: Improve Economic Analysis, by reviewing existing economic guidelines including assessment of local economic impacts to provide:

- internal guidance for Assessment Teams on how to better evaluate and present a balanced picture of the economic benefits and dis-benefits of proposals across all sectors; and
- a clear understanding of the strengths and weaknesses of various economic modelling approaches and avenues for testing assertions presented in economic assessments.

Recommendation 11: Better explain the approach for commissioning Experts and Peer Reviews to:

- streamline the process and improve the appropriateness of the timing for commissioning them; and
- improve connections with agencies where they are experts in the field.

Recommendation 12: Investigate approaches for better understanding, analysing and presenting information on risks and potential cumulative impacts, recognising the challenges faced when dealing with individual proposals.

Area of Improvement: Draw clear linkage between Conclusions and Draft Conditions of Consent

It will be important to provide an assessment of whether the Department, relevant agencies, councils and stakeholders consider that the impacts and risks can be avoided, mitigated, managed or offset, with clear linkages to the mechanisms needed to do this. This would include outlining possible conditions, demonstrating that they are enforceable and explaining why they are considered to be an effective response.

Recommendation 13: Incorporate possible draft conditions of consent, with a clear explanation of the linkage between conclusions and suggested conditions for consideration by decision-makers at the determination stage:

- where conclusions point to a proposal potentially being approvable with conditions;
- where it can be demonstrated how these conditions would be expected to manage any significant impacts or risks and result in outcomes that would avoid, mitigate, manage and offset those impacts.
- except where the Planning Assessment Commission is in the process of undertaking a Review.

Recommendation 14: Reinforce the importance of Post-Approval Processes including:

- periodic verification of the effectiveness of the management and mitigation of impacts proposed in Assessment Reports;
- maintaining strong compliance programs; and
- publishing follow-up results.

Area of Improvement: Improve the Language in Assessment Reports

Recommendation 15: Improve Assessment Report Language and nomenclature by:

- using plain English and eliminating generic wording such as “generally”, “largely”, “broadly”, “it is important to recognise”, “it is noted”;
- reviewing terminology such as Environmental Assessment Reports because it is confusing as it overlaps with EIS, SEAR’s, and because Assessment Reports cover significantly more than the environment.
- insisting, when using “the Department is satisfied” that it is accompanied by an explanation as to why.

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25 August 2017**

1. BACKGROUND

In April 2017, the NSW Department of Planning and Environment (the Department) commissioned Lisa Corbyn to undertake an independent review of its Assessment Reports for State Significant Projects.

The Assessments Reports are prepared as part of the Department's responsibilities for:

- co-ordinating a whole-of-Government assessment of State Significant projects in accordance with the Environmental Planning and Assessment Act 1979 (EP&A Act). These constitute the majority of the Assessment Reports prepared; and
- assessing Commonwealth matters under the Environment Protection and Biodiversity Act 1999 (EPBC Act), when triggered, under the bilateral agreement with the Commonwealth. These constitute a small proportion of State Significant projects.

This independent review examines the quality of representative Assessment Reports for State Significant Development (SSD) and State Significant Infrastructure (SSI), the largest and most complex development proposals.

Assessment Reports relate to a broad spectrum of projects. These range from very large and complex State Significant Development and State Significant Infrastructure projects, across both the public and private sectors to applications and modifications of simpler State Significant Development projects. This necessarily results in differences and variations in the nature and extent of Assessment Reports.

The review is set in the context of:

- criticism from some stakeholders that Assessment Reports have been difficult to understand, lack technical rigour, pay insufficient attention to issues raised by the community, are inconsistent and do not deal with relevant statutory matters; and
- consultation that is currently underway on broader reform proposals to NSW planning legislation and on an Environmental Impact Assessment (EIA) Improvement project.

This review considers the quality of reports in order to identify steps that could be taken to improve these reports. It does not seek to revisit or question any determination following any particular assessment.

2. TERMS OF REFERENCE

The Terms of Reference for the review specify key steps including:

- identifying principles and criteria against which representative Assessment Reports across five sectors would be reviewed;

- consulting with and documenting findings from discussions with key stakeholders;
- identifying strengths, weaknesses and possible improvements to the existing Assessment Reports; and
- providing a report summarising the findings and recommendations.

The Terms of Reference are provided in Appendix 1.

3. APPROACH

The approach to the review has included:

- developing and consulting on 4 key principles: coverage, responsiveness, ease of understanding and consistency.
- review of at least 2 of the Departments Candidate Assessment Reports from 5 sectors: infrastructure, industry, resources, energy and urban development. Some additional reports were also reviewed to provide further background or context. The Reports reviewed are listed in Appendix 2.
- reviewing relevant background material including on proposed planning reforms and guidelines, Audit Office reports and court judgements.
- conducting informal, face-to-face and telephone consultations with over 20 stakeholder groups and 15 NSW and Commonwealth government agencies and local councils.
- analysing this material to identify strengths and weaknesses and recommendations for improvement.

4. THE PRINCIPLES AND CRITERIA

The following principles and related criteria were developed, circulated to stakeholders for comments and were used in the review of the representative Assessment Reports.

One suggestion was made during the consultations to add integrity to the principles. This has been included in the impartiality criteria below.

4.1. Coverage

- a) Statutory "Rigour" - do reports adequately address applicable statutory, regulatory and policy requirements?
- b) Technical and Scientific "Rigour" – is the analysis in the reports evidence-based and technically/scientifically robust?
- c) Proportionality – is the level of assessment commensurate with the nature and extent of the issues and risks associated with the proposal?
- d) Impartiality – are reports impartial and do they provide a transparent rationale for conclusions, *with integrity*?

4.2 Responsiveness – do the reports acknowledge and clearly address the issues raised by stakeholders?

4.3 Ease of Understanding – are the reports clear and accessible for the different audiences?

4.4 Consistency – is the format, content and approach to assessment consistent across the Department, recognising that there are different types of projects?

5. CONSULTATION

Decision-makers, key stakeholders and involved agencies were consulted about the principles and about their experiences with and views on the quality of Assessment Reports.

A list of those consulted is provided in Appendix 3.

The Assessment Report comes at the end of an often long and involved environmental impact assessment process, where different groups have different levels of involvement.

Of those consulted, some were very familiar with, referred to and used the reports regularly. Others were frank that they did not often have occasion to refer to or back to the Assessment Reports.

Not surprisingly, there are different expectations of and perspectives about the quality of Assessment Reports from each of the different groups, as summarised below.

5.1 Overview

As a positive, there was a general consensus across the different groups that the Assessment Reports, or at least some parts of the Assessment Reports, have improved over the last two years. There was also acknowledgement that having access to and understanding the Department's assessment and the logic and rationale underpinning their analysis is also useful.

As a generalisation, industry representatives tended to consider that the reports summarised complex issues well in non-technical language, and, in the main, were properly positioned. Their emphases were on the importance of accuracy, streamlining the approval process, ensuring timeliness of decision-making and improving consistency in conditions.

Environment and community groups interviewed expressed disappointment in the reports. They were concerned that the reports were not impartial and often ignored community issues, where significant effort had gone in to preparing their submissions. The efforts to prepare draft social impact assessment guidelines and undertake peer reviews were acknowledged as improvements but were also sometimes criticised in their implementation.

5.2 Decision-makers

Support a substantive, evaluative Assessment Report. To them, the evaluation, analysis, rationale, draft conditions and Departmental conclusions:

- provide an initial layer of scrutiny and a crystallising of vast amounts of material that is, or can be, value-adding;
- provide the opportunity to focus attention on priority issues for further, in-depth consideration, which is important given available timeframes;

- need to reflect community issues and agency information more accurately; and
- can be independently tested during the decision-making process.

In their view, some reports do this better than others and improvements can be made. Areas they identified to do so included better reflecting issues raised in consultation with the community, being more comprehensive on both the potential positive and negative economic consequences of proposals and focusing on the key issues upfront.

Having access to the Department's consideration of possible draft conditions was also considered to be useful in making determinations. It allowed decision-makers to determine whether conditions were needed, effective and responsive to the assessment and issues raised in submissions. They could also test their validity, practicality and enforceability. It provides a basis for consistency across sectors. It helps to streamline the approval process.

Decision-makers expressed the view that a distinction does need to be made between Planning Assessment Commission (PAC) reviews and determinations. Examples identified included the Wilpinjong Extension project, (as reported in the December 2016 PAC Review Report). In this case, the PAC elected not to review or provide comment on the Department's proposed conditions while the PAC Review was underway to not influence inappropriately any subsequent possible PAC determination.

Making a distinction between reviews and determinations in this way would help to reduce confusion over different assessments as well as to reinforce the independence of the decision-maker at the determination stage. I concur with this view. It seems logical to me that where a PAC Review is being undertaken, the Department should not provide draft conditions as part of an Assessment Report.

5.3 Environment and community groups

Questioned the role of the Assessment Report where the Department was not the decision-maker. In those cases, they considered that the Assessment Reports should not make recommendations and conditions should not be included prior to Planning Assessment Commission consideration. Their concerns included that the Department did not engage well with the community and that Assessment Reports:

- do not capture or provide feedback on community issues properly;
- are not impartial;
- should not be influencing, leading or biasing the Planning Assessment Commission or affecting their independence as decision-makers.

5.4 Industry and Infrastructure

Are looking for certainty, consistency and a level playing field, operating within a streamlined system. Most considered that Assessment Reports were impartial and provide a simple way to understand the overall project and its status. With some variation in views, they considered that Assessment Reports should provide the balance and include recommendations, including negotiated conditions. Their concerns included:

- process orientation and long timeframes for completion;

- the need for clearer presentation of rationale, with less subjectivity; and
- the need for coordinated whole-of-government positions and reduction in inconsistent conditions.

5.5 State, Commonwealth and Local Government

With many different government roles, there were necessarily different perspectives across infrastructure providers, operators, regulators and decision-makers but with several common messages.

Agencies and councils view the Assessment Reports as a valuable reference for a whole of government approach. They expect an evaluative report with sound analysis, clear rationale and transparency in conditions. Their concerns included:

- the need for early engagement and progressive feedback;
- being clear about who the audience is for the report and how to have effective communication especially about long-term, complex proposals;
- improving the adequacy of information in EIS's; and
- providing a clear chain of information which links to conditions.

5.6 Other Associations

Supported the independence of the Assessment Report and the balancing of issues raised as an important governance and probity step. Assessment Reports should provide a clear narrative leading to conclusions and conditions. Their concerns included:

- defining critical and pertinent issues which will assist assessors in building the confidence to focus on key issues;
- providing information on risks and linking to post-approval monitoring and compliance;
- improving tools, templates and guidelines.

A summary of key points that I took from the consultations is provided in Appendix 4.

6. REVIEW CONCLUSIONS

6.1 Review against Principles and Criteria

Overall, I found considerable variability in the Assessment Reports, making it challenging to generalise across different reports, sectors and assessment teams.

6.1.1 Coverage: Some reports were thorough and rigorous in their coverage across the four specified criteria and others were less so. There was significant variability in the Executive Summary, including that some reports did not have one. It should be a core introductory element of the Assessment Reports. It sets the overview and context for the more in-depth consideration of key issues. An Executive Summary can be adjusted to accommodate the size of the project, as necessary.

Statutory: I found that most reports adequately detailed certain statutory elements, for example on the legislative basis of the proposal, permissibility or, in the relatively smaller percentage of project, where relevant, the Commonwealth Environment Protection and Biodiversity Conservation Act.

However, there were many that did not provide an easily accessible, or substantive summary analysis for other relevant statutory elements, such as for S 79C or Section 5 of the Act or in relation to Ecologically Sustainable Development (ESD) principles. Sometimes these were covered in tables that merely referenced numerous other sections of the report. This disrupted the flow in considering these key elements.

For S79C matters, considering the likely impact of development across the built and natural environment and social and economic impacts in the locality, there was significant attention to environmental impacts but much less effective presentation on the social and local economic impacts.

Social impact assessment is inherently difficult which is reflected in the way Assessment Reports handle the evaluation. Some reports combine social and economic analyses rather than having individual consideration. In my view, this lessens the focus on social considerations. Current draft social impact guidelines relate only to the mining sector and seemed to be applied differently in different mining Assessment Reports.

Analysis of the economic impacts in the Assessment Reports reviewed seemed to focus primarily on the regional benefits, with less reflection on possible local economic dis-benefits. Recognising that there are 2015 Department guidelines on assessment of economic impacts of mining and coal seam gas projects which emphasise a local effects analysis, it would be useful to be clear on the expectations of the Department's evaluation to cover both benefits and dis-benefits at both the regional and local scales.

Strategic: There is also a wide variation across reports in presenting the important element of the strategic context of proposals:

- Some are well covered with an evaluation of the relationship of the proposal to Government planning or infrastructure strategies;
- Some combined the strategic and statutory context, reducing the clarity of analysis on the strategic setting; and
- Some outlined the justification and need for the proposal but in some cases, this merely repeated the proponent's argument rather than presenting the Department's analysis.

Technical and scientific rigour: These vary significantly, for reports as a whole and for specific key issues. The variation in the evidence base and robustness of analysis also depends on the stage of development (concept plan, preliminary assessment report, addenda, modification versus detailed new proposal).

Some reports were rigorous in the analysis of technical aspects of priority issues, for example in the built environment, archaeological heritage, design, landscaping, transport.

In other reports, there seemed to be an inverse relationship between the cogency and relevance of the analysis and the amount of technical material included in the Assessment Report. This was especially the case in the coverage of noise and biodiversity impacts. Visual amenity seemed to be considered with different attention and use of peer reviews across different sectors, which raised consistency

issues. The complexity of water-related evaluations reinforced the need to improve the rationale underpinning conclusions with summary data, modelling results and risk management assessments.

In the case of Aboriginal cultural heritage, where the legislative framework is under review and data may also be difficult to access, the rigour also does not appear as strong.

The Assessment Reports tend to focus on Aboriginal objects to the exclusion of landscapes of significance. The rationale relies on a legal position that there is not a legislative requirement to consider landscapes. However, it remains an important issue to Aboriginal communities. There is also a heavy reliance on future management plans rather than identifying protection mechanisms.

There also appears to be a proliferation of requirements for Management or Response Plans. In some cases, this is appropriate where there are more detailed design stages to come. In others, less appropriately, they seem to be called for in the face of uncertainty or where there is an absence of relevant information available to assess areas of risks.

Proportionality: Some reports highlighted key issues early and in others, reports did not get to the crux of the key issues quickly.

Impartiality: Impartiality varied by sector, by the size of the proposal, and differently by different teams preparing the report. There was significant variability in the transparency of the rationale to justify conclusions. Some were clear, providing a logic that was easy to follow. Others contained assertions with little back-up analysis.

The main deficiencies relating to the integrity of some reports were:

- where there were generic conclusions that were not backed up by facts or analysis; or
- where some reports relied on the proponent's economic justification rather than providing the Department's independent analysis.

6.1.2 Responsiveness: all reports were thorough in presenting a summary of the exhibition process. The reports summarised the key issues raised in submissions by stakeholders, the community and agencies. However, some fell short in the attention and clarity of the response to some of the community issues and got side-tracked on a "he said/she said", without a logical link to the assessment and possible conditions.

There will always be issues where some stakeholders will not like a particular conclusion, however it is important that they can see how the conclusion was derived.

Some areas I found challenging included:

- working out whether the changes from the proponent's specific Responses to Submissions were being required and would be enforced; and
- for some issues, where the responses implied, and sometimes stated, that impacts were "acceptable", it was clear to me that those to be impacted

would not consider it acceptable, when they experience the impacts. Being more straightforward about the potential for an impact that could be expected and communicating about this, even where the activity meets relevant standards, may help manage expectations.

6.1.3 Ease of Understanding: I found many reports long and not getting to the crux of the priority issues quickly enough. While the length of reports may necessarily be related to the complexity of the proposal, the length may be able to be reduced if the reports were more evaluative and less “cut and paste” of data from EIS assessments.

Some reports had sections with an overwhelming amount of technical detail (often taken from the EIS) or an exhaustive explanation of process (for example, in one case, it took 44 pages to get to the actual Assessment). This affects and can be to the exclusion of robust evaluation and presentation of clear conclusions about the trade-offs that would be made or the Department’s views of the merits of a proposal.

Appendices could have been better used at times, where it was determined necessary to include detailed technical analysis, as long as the substantive, summary conclusions were presented in the report. Many reports used the referencing of other sections of the reports, rather than summarising rationale in tables. This required flipping back and forth, which made the flow logic in the report difficult to maintain.

I also reacted negatively to the use of unhelpful terminology such as “generally concurred or generally addresses”, “broadly consistent”, “the Department “notes” or “is of the opinion” or “raises no objections”, etc.

6.1.4 Consistency: most reports used a similar structure and outline (which seemed to be based on historical practice and a draft template). However, there is a wide variation in the content, approach, analysis and evaluative components which affects the quality of the assessments. There was significant variance in whether Assessment Reports presented clear analysis and explanation of the logic for their conclusions or not.

SSD and SSI proposals obviously will vary by sector and in complexity, size, community interaction and staging. Given the significant differences in proposals, a “one-size-fits all” approach is not the goal.

However, more consistency in making the assessment more evaluative and demonstrating more directly how draft conditions respond to the issue would improve the reports and make them more accessible and useful.

Improvements in consistency can be made by providing guidance on the expectation for coverage in all reports and clarifying the expectation for the type of analysis and evaluation to be included in the Assessment Reports.

Care needs to be taken in issuing guidance or using a template that the Assessment Reports do not become merely a “cut and paste” from the wording in a guidance

document, or from a proponent's EIS. The guidance should clearly explain the need for analysis and in-depth reflection on key issues.

6.2 STRENGTHS AND WEAKNESSES

The following provides my overview of the strengths and weaknesses of the current Assessment Reports, where there is clearly an evolving model, as evidenced in some, but not all, of the more recent reports.

6.2.1 Evolving Emphases

From my review of the different sectoral reports and other background material, I support the directional changes being pursued by the Department as evidenced by:

- a recent emphasis on the need to understand and engage better with the community and their issues and having staff visit sites and talk with locals.
- a focus on identifying and prioritising key issues, starting with the preparation of SEAR's that can be tailored to the specifics of the proposal, so they are not just formulaic, which then carries through to the Assessment Reports.
- an emphasis on the importance of presenting the evaluation and explaining judgements about trade-offs and the rationale for conclusions rather than doing a "cut and paste" of EIS assessments, although not all have embraced this approach.
- improving guidance on social impact analysis relating to the mining sector, but this has not yet been extended to other sectors.
- a separate focus on compliance and follow-up on conditions in order to improve credibility and trust in the planning system.

I have drawn the strengths and weaknesses listed below from a composite of the strongest and weakest Assessment Reports that I reviewed.

6.2.2 Strengths

The Assessment Reports provide:

- a useful synthesis and distilling of a huge amount of material and information to present the picture of complex proposals.
- a relatively common format and structure in each report.
- a clear summary of the project setting and major components of the proposal.
- knowledgeable and concise information about the key elements of the legislative and statutory requirements such as SSD applicability, permissibility, delegations and planning instruments, with improvement evidenced in some in assessing some other relevant matters of consideration such as ESD.
- a focus on key issues which then are the subject of the more detailed assessment, with a logical flow of: introduction, avoidance and mitigation measures, impacts, and conclusion. In a few cases, this included or was followed by an evaluative component clearly linked to and showing how corresponding conditions were designed to avoid, mitigate, manage or offset impacts. This was very useful and should be continued.
- the opportunity for a coordinated, whole of government perspective, drawing together relevant agencies' analysis and proposed conditions, which can then

be analysed and closely scrutinised by independent decision-makers on a priority basis.

6.2.3 Weaknesses

The weaknesses include:

- considerable variation in the tone and in the analytical approach across different teams.
- inclusion of summaries and generic statements that the “Department is satisfied” without explaining why, i.e. insufficient presentation of factual information backing up conclusions, inadequate reference to how a relevant condition will avoid or mitigate an impact, or lack of clarity in the logic and rationale for judgements made.
- repeating or selectively cutting and pasting of descriptive information from the EIS and submissions which adds to the length and detracts from the evaluative components that explain the weighing up of the arguments and judgements on trade-offs;
- confusion in the explanation of the process and roles when the Planning Assessment Commission is undertaking a Review which overlaps with an existing Department assessment.
- lack of clarity in some projects on what is being considered for approval, especially where there is project longevity or significant changes over time, requiring addenda or assessment of many modifications.
- grappling with contested areas or areas of contention by presenting an overwhelming amount of data or explanation of process which seems to be trying to justify an outcome rather than clearly laying out the deeper analysis and understanding of benefits and dis-benefits.
- lack of clarity on why expert or peer reviews are commissioned for some issues and not others, which can also lengthen the timeframes or alternatively raise accusations of answer shopping.
- lack of established approaches, or ineffective use of existing guidance, for balancing regional economic benefits against local economic, environmental or social impacts or to understand how the triple bottom line is assessed across the environment, social and economic benefits and dis-benefits.
- proliferation of requirements for management plans where there is an absence of relevant data, or risk or sensitivity analysis.
- Difficulties in capturing social impacts effectively.
- Use of proponent’s economic justification without verification or over-reliance on tools such as Cost Benefit Analyses which have recognised shortcoming in balancing quantitative and qualitative information.
- Using impersonal or formulaic language when responding to community issues.
- Inadequate maps and diagrams, especially to set the context for the proposal.

7. OVERALL FINDINGS

Based on my review, I found significant variability in the Assessment Reports across the five sectors, across the different types of projects and across the stages of

proposals. Some were thorough, rigorous and clear. Others I found difficult to digest and somewhat opaque in their logic and rationale.

Assessment Reports do cover a broad spectrum of projects across both the public and private sectors and range from complex projects with potentially significant impacts to simpler modifications with fewer impacts. So, some variation can be expected. However, this should not deter the expectation for clear analysis and evaluation in all reports. Overall, I have drawn three main conclusions.

1. Assessment Reports are an Important Evaluative Tool but can be Improved
I consider that the Department Assessment Report can and should be an important tool to achieve a systematic and consolidated analysis and evaluation of the key issues, impacts, risks and merits of proposed State Significant Development and State Significant Infrastructure, from the Department's perspective.

The alternative of simply collating a descriptive report would question the need for preparing an Assessment Report at all.

The Assessment Report needs to be a value-adding step that can be used by decision-makers as they turn their minds to:

- quickly focusing in on and analysing the most significant issues,
- making judgements about the public interest;
- considering the appropriate balances and need for the trade-offs; and
- meeting the timeframes of a streamlined approval process.

2. Changes are Needed to Improve the Value of Assessment Reports
To be truly value-adding some directional changes will be needed.

The Department will need to overcome a historical legacy, which is a perception by many in the community of partiality during the assessment process.

It will need to build credibility with all stakeholders by demonstrating that it will:

- have an open mind, and not start with a pre-determined outcome when it undertakes the Assessment Report;
- provide an evaluative report that clearly lays out the logic and rationale for conclusions and drawing clear linkages with proposed draft conditions;
- be impartial in its analysis and in preparing the Assessment Reports for use by decision-makers;
- value the input from and engage better with communities, agencies and councils as well as the industry, business and proponents; and
- achieve better consistency in the approach across the different Assessment Teams, while recognising the diversity in scale and scope of projects.

There is no currently available, approved assessment guidance or template outlining the expectations for teams preparing Assessment Reports. This will be important to reinforce the evolving changes in emphasis.

This is not a call for a “one-size-fits-all”, but rather for guidance to achieve more consistent evaluation and improve predictability in analysis and results.

In addition, as the central Planning Department, the Department should be well placed to liaise and coordinate positions with agencies and councils. This will also require early engagement and open communication with them and provision of regular feedback to them.

3. Providing the Department Conclusions improves Transparency and need not unduly Influence the Independence of Decision-makers

In my view, Assessment Reports need not unduly influence nor introduce bias into nor reduce the independence of decision-makers, if the reports are impartial, robust in their analysis and transparent in their process.

Where the independent Planning Assessment Commission is the determining authority, I support the recent change in the approach to recommendations. It is a small step to change from making an explicit recommendation for approval or refusal to providing the Department's conclusions on whether a proposal is approvable or not.

Some stakeholders noted that such a small change in wording would not diminish the potential influence exerted on the decision-maker. However, I do think this is a useful change. It provides more clarity on who the decision-maker is. More importantly, in support of transparency, it is important for the Department's view about the merit of a proposal to be clearly understood.

I also consider that it is important that draft conditions of consent be provided to decision-makers so that they can then be independently scrutinised, questioned, tested, accepted, rejected or augmented by the relevant decision-maker, in the timeframes available, as part of consideration of the proposal. The exception to this is where the Planning Assessment Commission is undertaking a Review.

Other proposed reforms involving the relationship of the Planning Assessment Commission and the Department, particularly in relation to mining assessments, will bring further clarity to respective roles.

Other crucial elements of reform will be in the stages before and after an Assessment Report, such as in the scoping and setting of the relevant Secretary's Environmental Assessment Requirements and having a strong compliance program on conditions of consent.

These later points are, of course, beyond the scope of this review. Nevertheless, they are important, linked steps that will help improve Assessment Reports.

8. AREAS FOR IMPROVEMENTS AND RECOMMENDATIONS

Based on my review and analysis, key areas for improvement are outlined below.

Area for Improvement: Simplify and make SSD/SSI Assessment Reports More Analytical

Assessment Reports should provide an upfront snapshot supported by value-adding analysis and evaluation of data and information rather than repeating or cutting and pasting segments of a proponent's EIS.

Recommendation 1: Simplify and focus Assessment Reports so that they:

- paint a clear and coherent picture of what the decision-maker is being asked to approve, explaining the chronology and relevant project stages, presenting a good Executive Summary (which can be tailored to the scope of the project) and providing a concise project description and very good maps and diagrams;
- take an evaluative approach that clearly presents arguments, rationale and conclusions on the priority issues and the associated risks and impacts;
- present tables that summarise the conclusions or responses to both priority and residual issues raised and explaining how they are dealt with in the conclusions or, if applicable, in the conditions so that decision-makers and stakeholders can see that all issues have been seriously considered; and
- avoid presenting a process-oriented description or detailed restatement of “environmental and technical assessments” from EIS’s.

Recommendation 2: Issue an Assessment Report Template as guidance to:

- improve the quality, consistency and usefulness of Assessment Reports to decision-makers by improving the strategic, analytical and evaluative components of the Assessment Reports and clearly setting out the expectations for impartiality;
- update any existing guidance in the template on standard components so that there is a more predictable flow in the Assessment Reports; and
- arrange Executive discussions jointly with Assessment Teams to reinforce expectations especially on impartiality, independence of analysis, clarity of rationale and responsiveness to help improve consistency.

Areas of Improvement: Reinforce the Importance of the Strategic Context

Understanding the strategic context in which a proposal is being considered is an important scene setter for decision-makers. Assessment Reports should clearly outline whether, and if so, how a proposal fits within the broader strategic planning context, based on sound knowledge and with a clear explanation of existing Government strategies, plans and policies specifically relevant to the proposal. This is not done consistently in Assessment Reports.

Recommendation 3: Include a distinct Strategic Context section in Assessment Reports to:

- more clearly demonstrate the relationship of a proposal to Government directions and strategies, and set clear expectations early; and
- overcome the tendency to repeat the proponent’s justification which should be replaced with a cogent strategic evaluation of need from a Government perspective.

Area of Improvement: Systematise the Statutory Context

It will be important to demonstrate more thoroughly whether and how the proposal meets all the statutory requirements.

Recommendation 4: Outline the expectations for presenting and summarising the substantive analysis for the Statutory Context elements in the template guidance in order to demonstrate how the requirements, such as S79C, S 5 and ESD principles have been met (not just referencing a subsequent section).

Recommendation 5: Liaise with the Commonwealth in order to:

- agree guidance to address Commonwealth MNES assessment needs with possible training to ensure full compliance with the bilateral; and
- consider an appropriate approach for dealing with the bilateral agreement on providing recommendations in an Assessment Report.

Area of Improvement: Boost Early Engagement Efforts to improve Scoping and better Understand and Respond to local community issues

Early engagement with the community and relevant agencies and councils, in addition to industry and business groups and the proponent, is important to adequately characterise and prioritise issues. To understand and present a clear picture of local community issues, organising site visits and community dialogue can be equally as important as analysis of submissions. Accurately capturing and evaluating agency advice and conditions also requires early engagement and feedback.

Recommendation 6: Reinforce the importance of site visits and community meetings and early engagement with agencies to connect with on-the-ground issues, before forming a view about a proposal.

Recommendation 7: Present summary tables for both priority and residual issues raised and how they are dealt with in the conclusions or conditions which will help demonstrate a listening and responding approach.

Recommendation 8: Consult with Aboriginal communities on appropriate ways to include the perspective of traditional owners who speak for their country, where significant Aboriginal issues are being evaluated in the Assessment Reports.

Area for Improvement: Improve the Analysis in Key Assessment Areas

The Department's guidelines on the approach for assessing contested areas, such as social and economic impacts and risk assessment, will assist in defining expectations, improving consistency of analysis and explaining the use of experts and peer reviews.

Recommendation 9: Finalise draft Social Impact Guidelines relating to the mining industry and consider extending to other sectors.

Recommendation 10: Improve Economic Analysis, by reviewing existing economic guidelines including assessment of local economic impacts to provide:

- internal guidance for Assessment Teams on how to better evaluate and present a balanced picture of the economic benefits and dis-benefits of proposals across all sectors; and
- a clear understanding of the strengths and weaknesses of various economic modelling approaches and avenues for testing assertions presented in economic assessments.

Recommendation 11: Better explain the approach for commissioning Experts and Peer Reviews to:

- streamline the process and improve the appropriateness of the timing for commissioning them; and
- improve connections with agencies where they are experts in the field.

Recommendation 12: Investigate approaches for better understanding, analysing and presenting information on risks and potential cumulative impacts, recognising the challenges faced when dealing with individual proposals.

Area of Improvement: Draw clear linkage between Conclusions and Draft Conditions of Consent

It will be important to provide an assessment of whether the Department, relevant agencies, councils and stakeholders consider that the impacts and risks can be avoided, mitigated, managed or offset, with clear linkages to the mechanisms needed to do this. This would include outlining possible conditions, demonstrating that they are enforceable and explaining why they are considered to be an effective response.

Recommendation 13: Incorporate possible draft conditions of consent, with a clear explanation of the linkage between conclusions and suggested conditions for consideration by decision-makers at the determination stage:

- where conclusions point to a proposal potentially being approvable with conditions;
- where it can be demonstrated how these conditions would be expected to manage any significant impacts or risks and result in outcomes that would avoid, mitigate, manage and offset those impacts.
- except where the Planning Assessment Commission is in the process of undertaking a Review.

Recommendation 14: Reinforce the importance of Post-Approval Processes including:

- periodic verification of the effectiveness of the management and mitigation of impacts proposed in Assessment Reports;
- maintaining strong compliance programs; and
- publishing follow-up results.

Area of Improvement: Improve the Language in Assessment Reports

Recommendation 15: Improve Assessment Report Language and nomenclature by:

- using plain English and eliminating generic wording such as “generally”, “largely”, “broadly”, “it is important to recognise”, “it is noted”;
- reviewing terminology such as Environmental Assessment Reports because it is confusing as it overlaps with EIS, SEAR’s, and because Assessment Reports cover significantly more than the environment; and
- insisting, when using “the Department is satisfied” that it is accompanied by an explanation as to why.

APPENDIX 1

NSW DEPARTMENT OF PLANNING AND ENVIRONMENT ASSESSMENT REPORTS - INDEPENDENT REVIEW TERMS OF REFERENCE

Background

Under the *Environmental Planning & Assessment Act 1979*, the Department is responsible for co-ordinating a whole-of-Government assessment of the merits of State significant projects.

Under the bilateral agreement with the Commonwealth, the Department is also responsible for assessing Commonwealth matters under the *Environment Protection & Biodiversity Conservation Act 1999*.

This typically involves:

- setting the requirements for the environmental assessment of projects;
- exhibiting the Environmental Impact Statement and consulting with the public and key stakeholders;
- considering the economic, social and environmental impacts of the project, taking into consideration NSW legislation, policies and guidelines; the technical assessment in the EIS; and matters raised by the public and key stakeholders;
- weighing up the merits of the project as a whole; and
- writing a detailed assessment report, summarising the findings of the assessment and making recommendations to the consent or approval authority on whether the project should be approved.

In recent years, certain stakeholders have been critical of the Department's Assessment Reports, saying they:

- are long, complex and difficult to understand;
- are lacking technical rigour;
- pay insufficient attention to the matters raised by the public and key stakeholders;
- are inconsistent across the various Assessment Teams within the Department; and
- fail to expressly deal with the relevant statutory matters.

Independent Review

The Department is seeking an independent person to carry out a detailed review of the quality of its Assessment Reports and identify what could be done to improve these reports.

1. Identify suitable criteria or principles to judge the quality of the Department's Assessment Reports within the existing statutory and policy framework.
2. Consult with key stakeholders, including:
 - The Planning Assessment Commission;
 - Chief Judge of the Land & Environment Court;
 - Key State agencies;
 - The Commonwealth Department of the Environment & Energy;
 - Local Government NSW;
 - Key industry groups; and
 - Key special interest groups.
3. Document the findings of the stakeholder consultation.
4. Identify the strengths and weaknesses of the Department's Assessment Reports, using the criteria and/or principles identified above.
5. Identify improvements that could be made to the Department's Assessment Reports.
6. Provide a report to the Department summarising the findings and recommendations of the review by 30 June 2017.

APPENDIX 2

LIST OF ASSESSMENT REPORTS REVIEWED BY SECTOR

INFRASTRUCTURE

Sydney Metro City and Southwest – Chatswood to Sydenham (SSI 7400)-Dec 2016
Stage 1B Mountain Bike Trails, Thredbo (DA 6571)

INDUSTRY

Lucas Heights Resource Recovery Park Project (SSD 6835) – Dec 2016
Stolthaven Mayfield Terminal Bulk Fuel Terminal (SSD 7065)

RESOURCES: MINING AND QUARRYING

Large Coal Mine

Wilpinjong Extension Project (SSD 6764) Preliminary Assessment Report-Nov 2016

Wilpinjong Extension Project (SSD 6764) Final Assessment Report – March 2017

Wallarah 2 Coal Project Addendum Report (SSD 4974)

Wallarah 2 Coal Project (SSD-4974): Preliminary Assessment – February 2014

Drayton South Coal Project (SSD 6875)- august 2015

Drayton South Coal Project Final Assessment Report – September 2016

Small Quarry

Calga Modification 3 (SSD 7758)

Larger Quarry

Roberts Road Quarry Modification 2 (SSD 6488) (DA 267-11-99 Mod 2) (no date)

ENERGY: RENEWABLES

Yass Valley Wind Farm Assessment Report (SSD-6698) – February 2016

Rye Park Wind Farm Assessment Report (SSD 6693)

Griffith Solar Assessment Report (SSD 6604) (no date)

URBAN DEVELOPMENT

Arthur Phillip High (SSD 7237)

Taronga Zoo Habitat Retreat (SSD 7419)

Australian Technology Park Assessment Report (SSD 6835)

SICEEP Interactive Signage Display Assessment Report (SSD 7047)

APPENDIX 3

CONSULTATION WITH STAKEHOLDERS

ORGANISATION	MEETING DATES
Planning Assessment Commission: Chair	23/5/17
Other Commissioners	21-23/6/17
Lock the Gate	25/5/17
NSW Government Agency Workshop: DPE	29/5/17
EPA, OEH, DRG, RMS, TfNSW, Health, Education, DPC	
Health	6/6/17
DPI-Water	14/6/17
Nature Conservation Council: meeting and written submission	29/5/17
Land and Environment Court: Chief Justice	30/5/17
PIA/EIANZ	30/5/17
NSW Aboriginal Land Council	1/6/17
Environmental Defenders Office	1/6/17
Property Council	5/6/17
NSW Minerals Council	5/6/17
Cement Concrete and Aggregates Australia	5/6/17
Local Government NSW:	6/6/17
Singleton Council	16/6/17
Blacktown	21/6/17
Sydney Business Chamber	7/6/17
Lend Lease	15/6/17
Transurban (written submission)	15/6/17
Urban Development Institute of Australia	7/6/17
Urban Task Force	8/6/17
Better Planning Network	8/6/17
Commonwealth Department of Environment and Energy	9/6/17
Waste Management Association of Australia	13/6/16
National Windfarm Commissioner	14/6/17
Waste Contractors and Recyclers Association of NSW	16/6/17
Clean Energy Council	6/6/17/
Tilt Renewables	17/6/17
NSW Department of Planning and Environment	22/5/17
	14/6/17

APPENDIX 4

OVERVIEW OF CONSULTATION COMMENTS BY STAKEHOLDER

Decision-makers

- Evaluative: An Assessment Report is an important evaluative document that crystallises and synthesises a huge amount of material for consideration by decision-makers. They are improving.
- Independence: Knowing the conclusions and views of the Department is useful and can be done in a way that does not affect the independence of the decision-maker.
- Statutory and Policy: The Assessment Report provides good support in understanding the policy and legislative requirements. Ongoing improvements are needed to clearly present the assessment of the 79C/89H requirements and consideration of ESD and in understanding where subjective judgements are made.
- Rationale: The Assessment Reports have improved in consistency and in their analysis of priority issues over the last 2 years. There still is variability in the assessments of some key issues and in being transparent on the rationale for conclusions. It is important to expose why the Department “is satisfied” (not just stating it).
- Community Issues: The Department and the Assessment Reports have become more outward-facing but need to improve in engaging with and capturing the community issues, with more scrutiny given to the issues raised through the public hearing processes and incorporating staff site inspections and discussions with affected communities.
- Triple Bottom Line: The environmental analysis is often credible (if not too long) but more work is needed on the social impacts, economic analysis and rationale and judgements on trade-offs. This will help to demonstrate the balancing in public interest versus private dis-benefit.
- Experts: experts and peer reviews assist but their independence needs to be clear.
- Conditions: For determinations, the provision of draft conditions is useful to be able to understand options for avoiding, managing, mitigating or offsetting impacts. The PAC will not consider draft conditions while undertaking a Review. More work is needed on the enforceability of conditions.
- Risk: there is a degree of risk to everything. The analysis needs to show whether the risk is acceptable, using objective criteria.
- Maps: Improve the maps and diagrams and develop and use a template and standard provisions, tailored to the specific project and not in a formulaic manner.

Environment and Community Groups and Associations

- Independence: There is a community perception that the Department is not independent, that it facilitates project approvals and spends more time with and champions proponent projects. As a result, they feel Assessment Reports are not impartial and potentially bias the decisions of the Planning Assessment Commission. They prefer no recommendations in the reports but

agreed that knowing the Department's rationale and views improved transparency and can be useful.

- Statutory coverage: is cursory. Some statutory matter such as inter-generational equity, cumulative and consequential impacts, Scope 3 emissions and climate change and Ecologically Sustainable Development (ESD) are not dealt with well. Assessment Reports should focus on best practice not just statutory compliance.
- Policy: is not applied objectively, can be complex and confusing such as offsetting. Strategic planning is not considered effectively as context. Agency advices are not accurately reflected.
- Community Issues: analysis is not responsive to community issues and/or Court decisions. As a result, the community feels their input and feedback is ignored. There is a sense of frustration after they put in so much work into making substantive submissions.
- Economics: There is inadequate critique of the proponents' economic evaluation of costs and benefits and a feeling that economic analyses are biased and make unsupported assertions. They feel the proponent's economic claims are not challenged or verified and there is little follow up to determine their validity.
- Aboriginal Cultural Heritage: ACH consideration is one of the weakest point of Assessment Reports, with a focus on objects, justifying or permitting their destruction, reliance on the use of Management Plans and omitting consideration of cultural landscapes. Protection should be included at a landscape level
- Expert panels: experts and peer reviews are supported, with a caveat that communities feel they unfairly need to hire their own experts so that there is balance in the input and analysis.
- Conditions: there is a sense that the Department invests so much time negotiating conditions with proponents that they have a vested interest in a project being approved.
- Management Plans: There are too many requirements for management plans in the guise of promoting adaptive management
- Risks: technically there is little emphasis on cumulative impacts, or other significant risks including Health Risk Assessments.

Industry groups and companies

- Assessment Reports vary by sector but are generally good and are improving, with the detail succinctly analysing material in EIS's and focusing on key areas identified by the community or other stakeholders. They are a simple way to understand the project and its status.
- Reference Point: Assessment Reports provide a useful reference point for many phases beyond the approval stage and can be used to explain outcomes during the tendering process with contractors
- Strategic planning: Some are process oriented (with he said/she said) and not as clear on the rationale as they could be. Planning concepts need to be better captured.
- Scoping: of key issues is focusing assessment effort on the most important issues, assisted by an improvement in focusing the SEAR's targeting important issues.

- SEARs linkage: There is some criticism of “off the shelf” SEARS and merely attaching agencies’ letters or formulaic standard conditions as part of SEAR’s resulting in assessments and costs not being relevant to a particular project.
- Experts: Expert panels and peer reviews need to be done in a timely manner and as early in the scoping process as possible, otherwise they add extra time and costs to the assessment process.
- Impartiality: Reports are impartial as evidenced by a separation between EIS’s and Assessment Reports and by the bringing in of independent expert reviews.
- Social Impact Assessment: draft guidelines for Mining are useful and have improved this aspect.
- Economic assessments: need ongoing improvement to the economic rigour and to recognise that different industries face different justification challenges, particularly in the absence strategic plans.
- Conditions: should be developed by the Department and should build in a better understanding of issues like constructability on infrastructure projects.

Agencies: State, Councils and Commonwealth

- Assessment Reports are improving and are more rigorous, with more emphasis on whole of government and earlier engagement with agencies and councils. This could be further assisted by earlier facilitation by the Department of whole of government technical level interactions.
- Audience: It needs to be clear who the audience is. There will be different communication needs between public and private proposals and between the decision-maker and others where there is a need to explain proposals to the broader community.
- Use: Assessment Reports are the culmination of a longer negotiation process so are not top of mind but are useful in later explaining a regulatory approach, post-approval monitoring and compliance and for infrastructure providers, with tenderers.
- Rationale: is not always clear. Process can be “cut and paste” from the EIS, with less rationale, logic or evaluation provided.
- Feedback: Agencies and councils would like improved feedback and communication including an explanation for why earlier positions may have changed. They do not see information provided to the PAC nor get feedback on the final decision which reduces the transparency.
- Experts: experts and peer reviews are useful to improve confidence, but it should be made clearer when and why experts are brought in and selected and in consultation with relevant agency and have clear terms of reference.
- Modifications: are an area where trust can be eroded, as in modification creep (as a backdoor way of approval of a larger project).
- Economics: need to be looked at more broadly as well as at post-approval.
- Risk: there will always be some risk so recognise it honestly and condition it and explain carefully to the community who may expect no impact if criteria are met.
- Conditions: Urban infrastructure assets come back to councils, so it is important that they are managed effectively through conditions.
- Recommendations: the bilateral agreement with the Commonwealth specifies recommendations are needed so clarification should be sought if they are not

to be included, along with working out interactions between PAC decision-making and Commonwealth.

- Chain of information and addressing of expert advice is crucial to the Commonwealth and could be assisted by use of templates and consistency of practice.

Other Associations

- Independence: support the independence of Assessment Reports and the balancing approach taken.
- Communication: there needs to be a clearer narrative leading to conclusions.
- Proportionality: defining crucial issues is a key step and SEAR's in the past have tended to encourage assessors to deal with all issues with similar intensity.
- Economics: is an area of vulnerability.
- Risk: there are opportunities in improved use of risk management tools.
- Social: expand the application of Social Impact Guidelines.
- Templates: provide an opportunity for improvement.

