

Jacobs: NSW Water, Environment and Spatial

This document is a submission to the Department of Planning and Environment's EIA Improvement Project, representing the collective views of environmental and communications professionals from Jacobs NSW. Each of the proposed improvements/initiatives outlined in the recent discussion paper is addressed individually.

1. Develop a consistent framework for scoping within the EIA process

We are generally in agreement and support for this initiative.

However, a 'scoping methodology' needs to be supported actively by agencies that routinely input to preparation of SEARs, or that are otherwise represented in the environmental impact assessment (EIA) processes. The scoping methodology needs to be grounded in a robust and transparent identification and ranking of environmental risks, with risk assessment ideally undertaken as part of a SSIAR (for example). This would avoid time consuming and unnecessary work undertaking detailed assessments in the EIA in respect of issues where a project is likely to have a low impact or no impact at all. The level or extent of assessment needs to better reflect the relative importance of the issue at hand.

Second, the scoping methodology needs to acknowledge the project's status at the time that the EIA is being prepared. Scoping of the EIA needs to give proper attention to the level of assessment required to assess alternatives/options. Proponents sometimes bring projects that are borne of a strategic initiative or policy platform (for example, Western Sydney Infrastructure Plan), where the individual projects have not been through any rigorous assessment of alternatives. The EIA is then compelled through the SEARs to assess alternatives or options that have been identified only at a strategic level.

It is therefore suggested that any scoping methodology or framework outline the process for the proper consideration of options and alternatives, so that when documented in an EIA, the options assessment does not give the appearance of having been retro-fitted.

An alternate approach would be to acknowledge and to document the strategic decision making process up front, and/or to give a description of the strategic or policy framework behind any decision to commence a project. Any EIA scoping framework should acknowledge this and give guidance as to an acceptable assessment methodology.

Case study: Western Sydney Infrastructure Plan

The decision to widen an arterial road corridor in western Sydney was partly driven by transport and land use forecasts associated with the decision to build the western Sydney airport. Governments are investing in and planning for long term changes in land use in western Sydney. The strategic framework encourages and enables numerous transport modes to cater for future demand, including major road upgrades. Traffic forecasts based on these strategic plans determined the type of road upgrade required, and by the time the EIA process commenced, the project was already well defined. The options assessment was therefore limited to the definition of the corridor, and connections to adjoining roads and private property.

The EIA process could have been improved with clearer guidance on communication of the planning process. In this situation, there was not enough emphasis on recognition of what was a robust, informed and inclusive strategic planning process. In this case study, the strategic plans give equal recognition and weight to the role that other modes of transport will play in western Sydney in the future. This is a more compelling justification for the project, than a comparison to one or more alternatives that are not part of the strategic plan. Some flexibility in the EIA scope and methodology would allow this strategic justification to carry more weight than the mandatory assessment of options and alternatives.

2. Earlier and better engagement

We agree that earlier engagement is integral to improving the EIA process, however early engagement does not necessarily automatically translate to better engagement. It becomes more important to properly define the purpose of the engagement at the outset of the project, for the project team to agree on what is negotiable/non-negotiable and define what the role of stakeholders and/or the community is in the project. This should occur during the pre-lodgement meeting as suggested in the discussion paper, to take place before the EIA scoping stage.

Early consultation during the scoping phase will help the Proponent determine what is important to stakeholders and the community, which will inform the development of the Engagement Strategy/Plan. Early engagement during scoping will enable a deeper understanding of issues and allow more time to develop an appropriate and robust approach to communication and engagement that will minimise project delays and community complaints down the line. Our experience has been that early and tailored communication can be useful in informing design development and impact assessment, while obtaining community support and input on issues of local importance.

With engaging early comes the risk that not enough information is available (e.g. the design is not sufficiently progressed or the preliminary environmental assessment is not complete). At all stages of the EIA process, engagement must be properly framed to suit the project stage and to manage the expectations of stakeholders and the community. Key messages must be clear, to prevent undue angst or misunderstandings within the community regarding the level of influence their feedback has over the decision.

Making EIA documentation publicly available at all stages of the process may improve transparency for the community. However we would not support public visibility of the adequacy review by Department of Planning and Environment. Determination of adequacy of an EIS demands objectivity that would be compromised by community input.

In addition to improving the consistency and quality of large and complex EIA documents, standalone non-technical summary documents are essential for better engagement. Translating complex technical messages and data into an easy-to-understand and visually appealing format to community audiences is hard to get right, but should be a required output for every large and/or State-significant project.

3. Improve the consistency and quality of EIA documents

We agree with the potential improvements, however the following comments are offered.

- A consolidated project description is important (and is already an inclusion in EIA documents); and is of clear benefit in giving readers a clear picture of what a project approval is based on. However it can only go so far given that an EIS/REF is only going to represent a concept design and there will always be changes between what's assessed in the EIA and what ultimately gets built.
- Templates are helpful and take out some of the guesswork for consultants in terms of understanding client expectations (eg RMS templates). They also help to provide consistency which is helpful to readers, but there needs to be room/discretion to vary from the template where circumstances dictate. Strict adherence to the template isn't always best for the project.
- We agree that EIA documents should be easier to read, and this should not be hard to achieve with careful authorship and editing, and good graphics. The focus should be on outcomes, and clear guidelines on the required outcomes.

There needs to be close collaboration with and clear guidance from DPE on the form and content of EIA documents. This includes level of detail, and adherence to decisions made at the scoping stage in relation to the level of assessment given to issues based on their importance to the project.

- Providing a stand-alone summary EIS document (executive summary) is a process that is used in the QLD major project process. This could be easily implemented as part of the NSW EIA major projects process. A

20-page (or similar) limit could be imposed on EIS summary documents to improve their readability, along with minimum requirements for illustrations and graphic input. Having had experience in preparing brief, concise summary documents, this initiative is one that Jacobs supports.

- Audience: EIA documents for made freely available but in reality most are only read closely by approval agencies, statutory authorities, or stakeholders with a direct interest and/or some stake in the outcome.
- Regulatory agencies and authorities that routinely have input to the EIA process need to be involved in any initiative to reduce the size and technical complexity of EIA documents. This relates partially to the discussion on Initiative 1 (above), in relation to the EIA scoping methodology. Where contributing agencies are concerned, the level and technical complexity of the assessment is partly attributable to agency requirements. There is a need to communicate with and gain support from agencies in the interests of simpler, more concise documentation, which would then help to minimise the amount of commentary and explanation required.
- It is acknowledged that EIA documents cannot be stripped completely of technical material, and we should not be 'dumbing down' assessments at the expense of the robustness of the assessment. However, there is a role for agencies in preparing SEARs that are tailored to a project, and providing input and feedback that is not overly laden with technical jargon, or a cut and paste of standard agency requirements.

The primary objective for EIA documents is to give a thorough technical assessment of a project and its impacts, with the level of assessment tailored to the importance of the issues. Of secondary importance is the preparation of EIA documents that are readable.

This issue is also process-related. The community is probably going to be much more interested in reading an EIS if they have had real engagement with the process (see Initiative 2 above).

4. Set a standard framework for conditioning projects

Jacobs agrees with establishing a standard framework for conditioning of projects which would assist with proponents engaging earlier with the Department in determining project conditions. The possible introduction of a standard range of condition types that are outcome / performance based, prescriptive and or management based would assist proponents in establishing EIA management measures that are more closely aligned to conditions received on project approval.

A standard framework, developed collaboratively by the government agencies involved in the process, would also increase efficiencies by enabling a consistent approach to issuing of conditions and ensure greater transparency around the process.

Comments are provided below on the benefits and challenges of introducing a standard framework for conditioning projects.

- The recent introduction of Performance Standards in conditions enables greater drive for outcome based results. As an example ensuring offsets are consistent with the Growth Centres Commission Biodiversity Certification Process enables ecological data from individual projects to be collected and used quantitatively to assess cumulative impacts at a regional scale - useful data with lasting outcomes.
- Flexibility needs to be integrated into a standardised framework to allow outcome driven and performance-based conditions to be project specific so they are fit for purpose. A multi-billion dollar rail greenfield project is vastly different to a water filtration plant upgrade so conditions need to correspond to the geographies of the project with a tangible positive outcome.
- It is important that any outcomes and performance-based conditions extracted from EIS documentation can be modified following detailed design where more information and environmental data may become available. Highlighting this potential for project conditions to be amended post approval on the basis of improved outcomes will increase the public's understanding of how conditions can be amended.

- Including within the standard framework clearer definitions of terminology contained within conditions, what are the objectives of certain types of conditions and examples of how the Department quantifies they are achieved would assist both proponents and the general public's understanding of the post approval process.

5. Improve the accountability of EIA professionals

Jacobs would offer reserved support for a code of conduct, or some form of professional accreditation. However, the question of EIA professionals' accountability or credibility is largely one of perception, and we believe that a code of conduct or mandatory professional accreditation would do little to alter perceptions about the accountability and credibility of the authors of EIA documents.

Of relevance to our accountability and our suitability to undertake EIA commissions is the subjective nature of some assessments and judgements about what constitutes a 'significant' impact. These judgements are ultimately made by the proponent – informed by our recommendations – and based on experience, expertise, understanding of the project, understanding of the site, the findings of specialist studies, and feedback from stakeholders (including the community).

Another relevant consideration is the rigour with which our work is reviewed and scrutinised by clients and third parties (eg stakeholder agencies, the Commonwealth). There is little public awareness of the EIA process other than what people see in consultation events (which are stage-managed and where there is a limit on the amount of information or level of detail released to the public), or what they see in published documents. There may also be an opportunity for the EIA documents to include a brief statement about the reviews that have occurred prior to publication; when and by whom.

The following points are also offered for consideration:

- There would be merit in opening up consultants' work to independent review such as peer review / independent verification however this would have implications for cost and program. The greatest scope for adding value would be in verification of process and outcomes and this is where any third party review should be focused
- There is a worthwhile discussion to be had around the subject of chartership, or certification/ accreditation under a scheme such as CEnvP or CPP. However, this would not completely alleviate public perceptions around our independence, professionalism or integrity. It is noted that in Queensland there is a stronger culture of accreditation for EIA professionals and the CEnvP accreditation carries a bit of industry clout, but is not mandatory. It has not become mainstream in NSW.

6. Provide greater certainty on EIA timeframes

Jacobs agrees in principle with this initiative, and we would support greater certainty around EIA timeframes. However, there has to be reasonable allowance for the time needed to properly execute all of the required technical studies, in particular those that are highly technical and complex, such as noise, traffic or hydrology, where draft reports are very closely scrutinised, and a small change in design can have major implications for program (because of rework, new model runs, and so on). Often the design process can be quite fluid but there is very little flexibility in programs, which adds pressure. It is noted that the EIA process places no limitations on time frames, with the exception that SEARs are valid for two years.

It is also noted that at this stage the timeframes for adequacy can vary greatly, which we as consultants have no control over. We consider that it is very important that the integrity and transparency of the EIA process is maintained, and this means ensuring that sufficient time is allowed to let the process run its proper course. Political milestones and pressure to attain approvals make programs more rigid, thus adding pressure and increasing the risk. We appreciate that programs cannot be open-ended, but they can be realistic.

7. Strengthen the monitoring, auditing and reporting of compliance

Currently proponents are required to upload documents such as management plans and compliance registers on their own website after commencement of pre-construction and construction activities. This creates a delay for the public to gain access to and understanding of post approval documents required by the conditions of approval. It also disconnects the process from the DPE's website, and from the project's status from a planning perspective. A suggested improvement to this could be the development of an online portal where post approval documents can be uploaded. This would generate a central point for public access to documents and facilitate greater transparency around monitoring, auditing and compliance aspects of projects. The following points for consideration are outlined below:

- An online portal that allows easy access to upload documents would provide acceptance by proponents. Some documents go through multiple revisions associated with minor changes i.e. updates to contact details in a CEMP so development of an online portal would need factor this in.
- A visual road map of individual projects, accessed through the online portal, highlighting completion of key monitoring, auditing and reporting requirements would drive proponents to deliver on their deliverable timeframes as there would be greater public visibility of compliance requirements. As an example a simple green/red lighting process has a strong visual impact in the public realm that proponents are doing what they say they are doing.

8. Project change processes following approval

Jacobs offers no response to this initiative at this time.