What are EPRs?

Environmental Performance Requirements (EPRs) accompany the assessment and approval of major projects to set standards to be met to achieve acceptable environmental impacts.

EPRs are a set of performance based environmental outcomes and standards to be achieved in the design, development and delivery of a major project. They are generally included within an Environmental Management Framework for the design, construction and operation phases of the project.

EPRs are specific to each project and their detail and content will depend upon the scale and complexity of the project. They typically address a full range of environmental issues and effects relevant to a project's design, construction and/or operation ensuring that acceptable environmental outcomes are achieved. They may include requirements addressing environmental, social, heritage, traffic, transport and land use outcomes.

EPRs are capable of being used for the assessment of projects with different levels of design detail - from reference design (providing a feasible means by which a project can be developed to achieve acceptable outcomes) through to preliminary design, concept design or projects with highly resolved design solutions.

Generally, EPRS are performance based. They focus on the project wide outcomes to be achieved rather than the precise method to achieve the outcomes. In some cases, where a particular action is considered essential more prescription is appropriate.

EPRs operate alongside statutory approvals and requirements allowing statutory decision makers to determine approval applications within the context of a single set of project wide requirements.

Why use EPRs?

EPRs are an important planning tool in ensuring acceptable outcomes as part of an integrated assessment of the environmental effects of a major project.

The Major Transport Projects Facilitation Act 2009 (MTPFA) and the Environment Effects Act 1978 (EE Act) provide the most comprehensive and integrated assessment of the environmental impacts and effects of major projects in Victoria. The MTPFA only applies to transport projects, whereas the EE Act and the environment effects statement (EES) assessment process can be required by the Minister for Planning for any project where the Minister considers there is a potential for significant environmental effects.

Ministerial approval of a final set of EPRs is an effective and efficient way by which to ensure that the outcomes of the environmental assessment process are implemented in the delivery of major projects.
EPRs apply on a project wide basis and are in addition to statutory approvals and approval conditions. In this way they can address a wider range of issues and outcomes than can be achieved by a single approval or collectively by multiple approvals. These outcomes are capable of being achieved as part of an integrated whole without detracting from other specific approvals and approval conditions.

Importantly for major projects, they allow a project to be procured either -

**Concurrently** with the assessment and approvals process by:

- providing flexibility in the design response capable of being implemented without compromising on environmental outcomes
- fostering innovation in design
- encouraging best practice design solutions without undue cost;
- dealing with alternative design responses; or

**Sequentially** with the preferred tenderer’s design incorporated into the assessment process, leaving matters of ongoing design to be resolved following the grant of requisite approvals.

They have been used effectively in Victoria over the past decade or more and over a range of major projects including the Desalination Plant, Port Phillip Bay dredging, and major transport projects including Metro Rail and the West Gate Tunnel. The principles set out in this Practice note generally draw on the lessons learnt from these assessments.

## Implementation of EPRs

EPRs, once finalised, should be implemented within an approved environmental management framework that includes strong checks and balances in respect of reporting, independent auditing, and, where appropriate, independent review, monitoring and supervision.

The requirement to implement the approved environmental management framework and finalised EPRs should be mandated by the key planning approval required for the project. This is in addition to any contractual obligations to comply with the EPRs, the environmental management framework and all approvals and approval conditions.

It is not generally necessary for the EPRs to be specifically incorporated in the planning scheme although a reference to the requirement for a set of EPRs and approval and amendment of the EPRs by the responsible authority is likely to be appropriate.

The final approved form of the EPRs should be made publicly available for the life of the project including any approved amendments, together with independent audit reports as required by the approved environmental management framework.

## Principles for drafting EPRs

These principles are derived from practical experience from recent assessments of major projects in Victoria. They are intended to provide guidance to proponents preparing an EES, CIS or other complex assessment and to assist advisory and assessment committees according to particular project circumstances.

1. EPRs should be expressed in clear terms, and organised according to identified impacts.
2. EPRs should be performance or outcomes based, without prescribing the manner in which the outcome is to be achieved.
3. Where appropriate, EPRs should specify limits to be met or processes to be followed to achieve acceptable environmental outcomes.
4. The use of prescriptive EPRs should be limited to those circumstances where particular outcomes can only be achieved in a specified manner or where a particular process is integral to the achievement of an outcome or project objective.
5. The outcome to be achieved by an EPR should be expressed with a degree of specificity appropriate to the level of impact needing to be addressed.
6. Where setting compliance levels or targets, EPRs should adopt best practice standards and measures and where possible express these by reference to standards applied by Victorian agencies.
7. EPRs should be properly linked to the planning approval required for the project, and the environmental management framework to be implemented for the project.
8. Where EPRs are used in association with a reference design within a project boundary the EPRs must be expressed to ensure the outcome will be achieved for an alternative and final design within the project boundary.
9. EPRs should, where appropriate, include appropriate consultation or sharing of information with relevant agencies, key stakeholders, the affected community and the broader public beyond the formal public participation process.
10. EPRs may provide for the preparation of environmental plans in consultation with key stakeholders and agencies, and approval of plans by statutory approval authorities, independent reviewer or environmental auditor.
11. EPRs should be drafted to cross-reference other relevant EPRs to ensure consistency and efficiency between EPRs. Duplication should be avoided.