

Registered Environmental Assessment Practitioners

Guidance for State Significant Projects

Exhibition Draft

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1. Policy context

The current system for assessing and determining State significant development (SSD) and State significant infrastructure (SSI) was established in 2011 through amendments to the *Environmental Planning and Assessment Act 1979* (EP&A Act)¹.

These major projects represent some of the highest priority development in NSW, providing essential infrastructure and primary resources, generating employment and contributing to the economy. However, they are often characterised by complex or contentious planning issues and can also cause significant environmental impacts.

The major projects assessment system is designed to provide a comprehensive, integrated and coordinated framework for assessing the merits of SSD and SSI projects, in order to support informed and appropriate decision-making.

1.1 Major Projects Reforms

Reforms to the major projects assessment system are currently being proposed (see <http://www.planning.nsw.gov.au/major-projects-reform>).

The reforms include two key initiatives to strengthen the quality of environmental assessments undertaken for SSD and SSI projects:

- **SSD and SSI Guides** – to provide a detailed explanation of the assessment of major projects and require all environmental assessment reports for major projects, including Environmental Impact Statements (EISs), to be succinct, easy to understand, technically robust, reflect community views and provide a comprehensive evaluation of the project as a whole
- **Registered Environmental Assessment Practitioners Scheme** – to provide environmental assessment quality assurance by recognising professional schemes with suitably skilled, qualified and experienced members that can certify EISs.

These two initiatives together are intended to:

- strengthen the assessment and evaluation of major projects by ensuring they are carried out by suitably qualified, experience and skilled practitioners
- ensure the EISs for all major projects are prepared to a high standard, having regard to the *Preparing an Environmental Impact Statement* guide, and certified before they are submitted to the Department of Planning, Industry and Environment (Department)
- encourage greater community participation in the assessment of major projects by making it easier for the community to understand the likely impacts of projects and to make submissions
- promote informed public debate on the merits of these projects
- reduce administrative delays by ensuring that EISs are of a consistently high standard to readily progress to public exhibition
- reduce the need for the Department to request additional information from proponents during the assessment process

¹ See division 4.7 and division 5.2 of the EP&A Act

- increase public confidence in the planning system, by improving the quality of the environmental assessment of major projects and supporting informed and appropriate decision-making.

1.2 Purpose of this Guideline

This guide provides information on the proposed implementation of the **Registered Environmental Assessment Practitioners Scheme**: new quality assurance provisions designed to strengthen the assessment and evaluation of State significant projects.

Changes to support the scheme will be established through amendments to the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation).

This guideline outlines the intended changes, and:

- provides an overview of the proposed scheme, along with the required amendments to the EP&A Regulation
- establishes the criteria that will be used to recognise environmental assessment practitioners as suitably qualified, experienced and skilled to certify environmental assessment documents for State significant projects
- explains the steps involved in assessing and accrediting professional schemes so its members will be recognised as registered environmental assessment practitioners
- describes the operational details of the proposed scheme.

2. Registered Environmental Assessment Practitioners Scheme

2.1 Overview

In order to improve the quality of environmental assessments undertaken for major projects, it is proposed that new quality assurance provisions be introduced into Schedule 2 of the EP&A Regulation.

There are two aspects to the proposed provisions.

First, the provisions will identify certain professional schemes whose members are suitably skilled, qualified and experienced professionals in the field of environmental assessment. Members of the scheme will be given statutory recognition as **registered environmental assessment practitioners (REAPs)**.

Second, the provisions will require all EISs for SSD and SSI projects to be **certified** by a REAP before they are submitted to the Department for public exhibition.

The operation of the scheme will be supported by guidelines. This document provides a draft of those guidelines for public comment.

2.2 Recognition of Professional Schemes

The proposed amendments to the EP&A Regulation will:

- list an **accredited professional scheme** as a 'Registered Environmental Assessment Practitioner Scheme' (or REAP Scheme)
- define 'Registered Environmental Assessment Practitioner' as a member of a REAP scheme
- require the certification of EISs for SSD and SSI projects by a REAP, in accordance with guidelines (the *Registered Environmental Assessment Practitioners* guideline – REAP guide) prepared by the Planning Secretary.

Organisations seeking to have their professional schemes recognised as a REAP scheme will need to apply to the Department for accreditation.

Applications will be assessed against the criteria in Chapter 3 of this guide following the steps outlined in Chapter 4 of this guide.

The Planning Secretary will decide whether schemes are suitable for accreditation and the Minister for Planning and Public Spaces (Minister) will determine whether to list those schemes in the EP&A Regulation.

Some organisations, such as the Environmental Institute of Australia and New Zealand (EIANZ) and the Planning Institute of Australia (PIA), may seek accreditation of their existing professional schemes, while other organisations may set up new professional schemes to comply with the provisions.

After the accredited REAP schemes are listed in the EP&A Regulation, members of each scheme will be able to carry out the statutory duties of REAPs, including certifying the EISs for SSD and SSI applications.

To ensure REAPs and organisations that administer accredited professional schemes are accountable for their performance over time, review provisions will be included in the REAP Guide.

This will allow the Planning Secretary to act, where necessary, to address any poor performance or problems identified in practice.

2.3 Certification Requirements

The proposed amendments to the EP&A Regulation will also require EISs for SSD and SSI applications to be certified before they are submitted to the Department.

Initially, these certification requirements will apply only to EISs for SSD and SSI projects.

To certify that assessment documents have been prepared to a suitable standard, a REAP will need to complete the relevant form approved by the Planning Secretary. The matters requiring certification in these forms will be broader than the current statutory requirements in the EP&A Regulation and will extend beyond statutory compliance to cover matters relating to the form, content and general quality of the environmental assessment report.

For instance, the certification requirements for EISs for State significant projects are likely to require registered practitioners to certify that the EIS:

- complies with relevant EIS requirements in schedule 2 of the EP&A Regulation
- has been prepared following the Department's *Preparing an Environmental Impact Statement* guide
- contains all available information relevant to the environmental assessment of the project
- contains no false or misleading information
- contains a consolidated description of the project in a single chapter of the EIS
- addresses the Planning Secretary's environmental assessment requirements (SEARs) for the project
- identifies and addresses the relevant statutory requirements for the project, including any relevant matters for consideration in environmental planning instruments
- contains an accurate summary of the findings of any community engagement and the detailed technical assessment of the impacts of the project
- contains a simple and easy to understand evaluation of the impacts of the project as a whole, having regard to the economic, environmental and social impacts of the project and the principles of ecologically sustainable development.

The new certification requirements are designed to improve the quality of environmental assessment documents.

They seek to ensure that EISs are robust, easy to understand, promote informed public debate on the merits of projects, and support informed and appropriate decision-making.

As mentioned above, the certification requirements will only apply to EISs for State significant projects (SSD and SSI) in the first instance. Further expansion of the certification requirements to other environmental assessment reports may be considered over time.

EISs for projects that are not State significant (i.e. designated development and Part 5 activities) will not require certification by a REAP when the scheme commences. However, EIS certification requirements may be expanded to include these types of EISs following the implementation and review of the REAP scheme (see below for details).

2.4 Timeframe for Implementing the REAP Scheme

The new REAP quality assurance scheme is expected to start operating within 6 to 12 months of the proposed amendments of the EP&A Regulation being made.

The delayed commencement will allow time for an adequate number of environmental assessment practitioners to register as members under accredited professional schemes.

2.5 Transitional Arrangements

To ensure there is an orderly transition to the new quality assurance scheme, the new certification requirements will not apply to EISs that are submitted to the Department **within 3 months** of the new scheme starting to operate.

However, it is anticipated that proponents of State significant projects will begin to transition to the new scheme in advance and appoint REAPs to work on their projects as soon as they become available.

2.6 Review of the REAP Scheme

The Department proposes to review the effectiveness of the new quality assurance scheme after three years from commencement and then every five years after that.

The review will consider several factors, including the:

- number and availability of REAPs
- performance of REAPs
- administration of any accredited professional schemes, particularly the procedures for handling complaints and taking disciplinary action against members where necessary
- the quality of EISs and other environmental assessment reports
- the costs of the new scheme.

Depending on the outcomes of the review, the application of the REAP scheme may be expanded to cover other EIS processes under the EP&A Act, including for designated development and Part 5 activities.

3. Criteria for REAP schemes

The Department has developed criteria (see Table 1) for identifying and accrediting appropriate professional schemes as REAP schemes, to ensure that all REAPs are:

- suitably qualified, experienced and highly skilled
- members of a professional scheme with strong corporate governance.

Table 1. Criteria for registered environmental assessment practitioner schemes

Area	Criteria	Department’s Requirements
Qualifications	Practitioners must be suitably qualified	Practitioners must have an environmental or planning-related degree. This requirement may be waived in exceptional circumstances if the practitioner has over 10 years of experience in environmental or planning practice and has demonstrated a high level of competency in this practice.
Experience	Practitioners must be suitably experienced	Practitioners must have at least 10 years of full-time equivalent experience in environmental or planning practice.
Skills	Practitioners must be highly skilled in the environmental assessment of projects	Practitioners must have: <ul style="list-style-type: none"> • <i>extensive knowledge of environmental assessment processes</i>, including regulatory requirements and community engagement, as well as the application of Government plans, policies and guidelines to the assessment of projects • <i>strong technical expertise</i>, including the ability to identify and scope impacts; collect baseline information; identify measures to avoid and minimise impacts; predict impacts; assess impacts against established criteria; identify measures to monitor, review and respond to impacts; and deal with key uncertainties associated with these matters • <i>strong analytical skills</i>, including the ability to think critically; conceptualise and solve problems; interpret, synthesise and evaluate the findings of complex multi-disciplinary studies; and understand and consider competing views • <i>strong evaluative skills</i>, including the ability to evaluate the impacts of a project as a whole by interpreting Government policy, integrating the findings of detailed technical studies and understanding and considering competing views on the merits of the project • <i>high-level communication skills</i>, including the ability to prepare EISs and other assessment documents that are succinct and easy to understand; technically robust; and reflect community views.

Area	Criteria	Department's Requirements
Member of professional scheme	Practitioners must be members of an accredited professional scheme	<p>The professional scheme must:</p> <ul style="list-style-type: none"> • have strong corporate governance, including <ul style="list-style-type: none"> ○ a governing body ○ established ethical or professional codes of conduct; ○ clear operational policies and procedures, including procedures for handling complaints and taking disciplinary action against members if necessary • have a robust process for evaluating the qualifications, experience and competencies of members before they are admitted to the scheme • require members to undertake continuing professional development (e.g. studying, presenting at conferences, publishing research or journal articles, lecturing, providing evidence in court, mentoring junior practitioners, giving pro bono advice to community groups).

The Department proposes to use these criteria to assess applications from organisations to have their professional schemes recognised as REAP schemes in the EP&A Regulation.

The criteria will also be used to review schemes once the provisions commence.

4. Process for accrediting schemes

Figure 1 below summarises the steps for accrediting professional schemes to be recognised as REAP schemes under the EP&A Regulation.

4.1 Applying for Accreditation

An organisation may apply to the Planning Secretary for the accreditation of a professional scheme with members who have expertise in the environmental assessment of development.

To apply for professional scheme accreditation, organisations will need to:

- fill out the approved form on the Major Projects website, providing the organisation's details and an outline of the professional scheme
- attach an accreditation application, addressing the criteria and requirements in Table 1 of this guideline and including any supporting information.

4.2 Evaluating an Accreditation Application

The Planning Secretary will establish a Panel to evaluate all applications for scheme accreditation.

The Panel will include representatives from:

- the Department
- agencies that are involved in the assessment of State significant projects
- the environmental assessment industry
- the community.

The Panel will evaluate each application against the criteria in Table 1 and make a recommendation to the Planning Secretary on whether the professional scheme should be accredited.

During evaluation, the Panel may meet with the applicant organisation and request additional information.

4.3 Determining an Accreditation Application

The Planning Secretary will decide whether to accredit the professional scheme after considering the following:

- the criteria in Table 1;
- the organisation's accreditation application; and
- the Panel's recommendation.

Following determination, the Department will notify the applicant in writing of the decision via the Major Projects website.

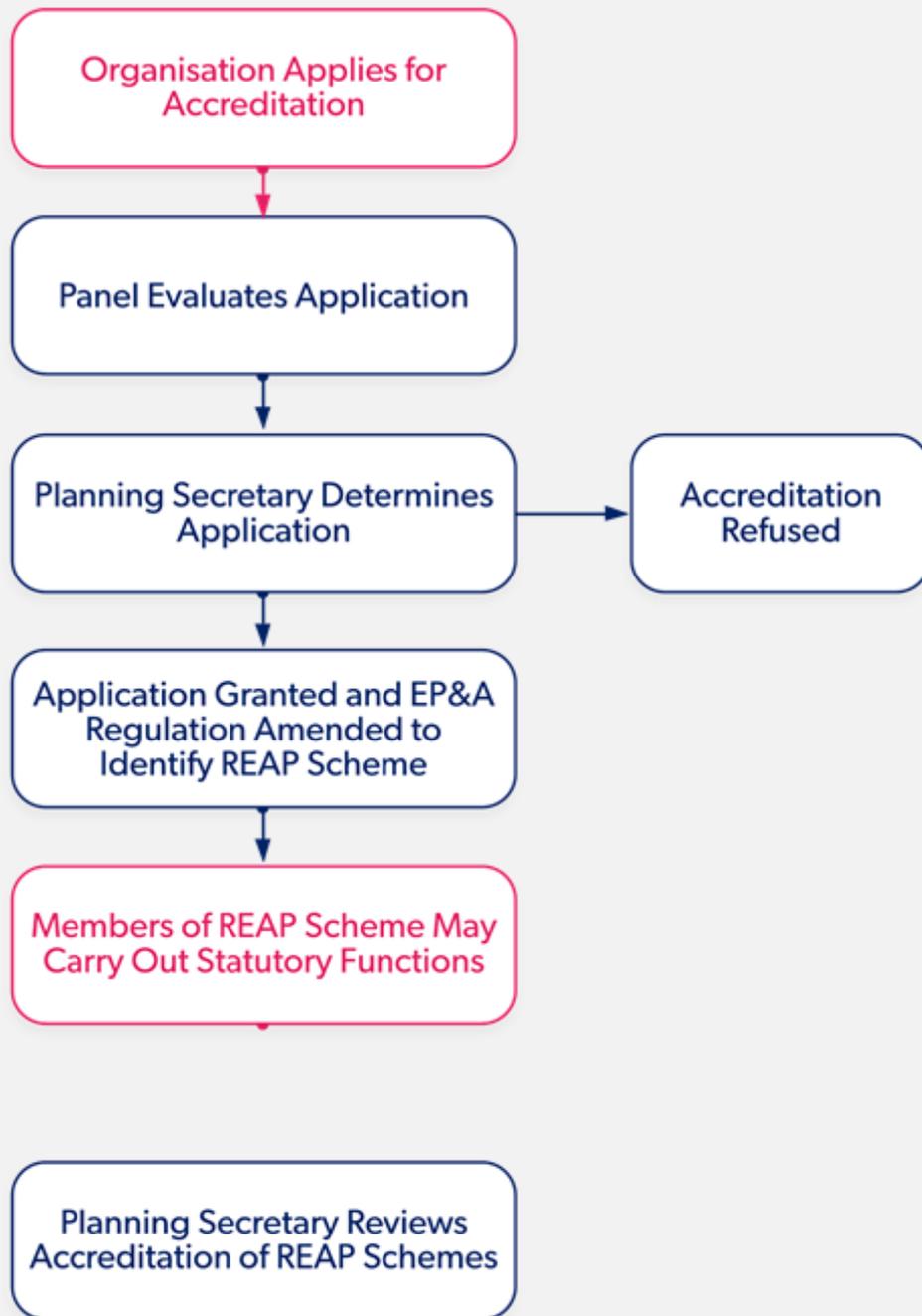


Figure 1. Process for accrediting REAP Schemes

4.4 Recognising Accredited Schemes in the Regulation

Should the Planning Secretary decide to accredit a professional scheme, an amendment to the EP&A Regulation will be prepared for the Minister's approval.

After an amendment is made to the EP&A Regulation to recognise an accredited scheme as a 'REAP scheme', members of the accredited professional scheme will be able to certify EISs for SSD and SSI projects before they are submitted to the Department.

The Department will keep a register of relevant accredited professional schemes on its website. The Department will also require the organisations responsible for administering these schemes to keep a register of all REAPs on their website.

4.5 Reviewing and Amending Scheme Accreditation

To ensure REAPs and REAP Schemes are accountable for their performance over time, the Planning Secretary will review the accreditation of relevant professional schemes every three years.

The review will be undertaken by the Panel responsible for evaluating the initial applications for accreditation. The Panel will consider whether the members of the accredited professional scheme still satisfy the criteria and requirements in Table 1, and whether they should be allowed to continue to act as REAPs.

During the review, the Panel may:

- carry out targeted consultation with key stakeholders
- seek submissions
- meet with and seek additional information from the organisation administering the REAP Scheme.

Following the review, the Panel will submit a report to the Planning Secretary outlining the findings of the review and any recommendations.

After considering the Panel's report, the Planning Secretary may require the organisation administering the REAP Scheme to address certain matters identified in the review in order for the scheme to retain its accreditation and its recognition as a REAP Scheme under the EP&A Regulation.

In certain circumstances, a decision may be made to amend the EP&A Regulation to no longer prescribe a professional scheme as a REAP Scheme.

Should this occur, the Department will notify the organisation administering the relevant REAP Scheme of the decision in writing.

5. Operation of the new REAP scheme

5.1 Selecting a REAP

SSD and SSI proponents will be responsible for selecting a REAP who will work on their project and certify the EIS for the project.

To make it easy for proponents to find REAPs, the Department will maintain a register of REAP Schemes on its website. The Department will also require the organisations responsible for administering these schemes to keep a register of the REAPs under each scheme on their website.

When a proponent selects a REAP for a project, the proponent should consider:

- whether the REAP has a good understanding of the following:
 - SSD and SSI assessment processes under the EP&A Act (as relevant to a proponent's project)
 - other relevant statutory processes and requirements
 - Government plans, policies and guidelines applying to the project
 - current guidelines for preparing environmental assessment reports
- whether the REAP has relevant experience in assessing and evaluating the merits of:
 - State significant projects
 - projects of a similar scale, nature and complexity to the proponent's project
- the quality of the REAP's previous work.

In addition, the proponent should appoint a REAP at the outset of a project so that the practitioner can play a major role in the environmental assessment of the impacts of the project, including commissioning detailed technical studies, undertaking community engagement and preparing the relevant EIS.

This will avoid any unnecessary administrative delays by ensuring the relevant certification requirements are actively considered from the outset, and that the EIS is produced to a high standard and suitable for public exhibition once it has been certified.

5.2 Certifying Documents

It will be advisable that REAPs oversee the environmental assessment of the project from an early stage and play a primary role in preparing the EIS. This will assist in ensuring that the document complies with all the relevant certification requirements.

On completion of the EIS, the REAP will be required to review the whole document and certify that it complies with the requirements set out in the relevant form.

Following certification, the proponent may submit the EIS to the Department on the Major Projects website.

5.3 Checking Documents Prior to Exhibition

The Department will carry out a high level check of the EIS, including reviewing the REAP's certification, before putting the EIS on public exhibition.

This should only take a couple of days, helping to reduce assessment timeframes.

Furthermore, by requiring environmental assessment reports for State significant projects to be prepared to a high standard and certified by REAPs before they are submitted to the Department, the general public should have greater confidence in these reports. They should also find it easier to understand the potential impacts of these projects and to make a submission in response.

5.4 Making Complaints about REAPs

Should anyone be dissatisfied with the performance of a REAP, they should lodge a complaint with the organisation that administers the relevant REAP Scheme.

The organisation will investigate the complaint in accordance with its relevant operational policies and procedures and decide whether any disciplinary action is warranted.

The organisation's response to dealing with complaints will be considered when the Planning Secretary reviews the accreditation of the relevant REAP Scheme every three years.

See also section 4.5 on reviewing and amending REAP Scheme accreditation.

6. Glossary

Amendment Report	A report prepared by the proponent of a State significant project to support amendments to a State significant application or modification (see the <i>Preparing an Amendment Report</i> guide).
Certify	A REAP may certify the EIS, and potentially other environmental assessment reports, for a State significant project against the criteria in the <i>Registered Environmental Assessment Practitioner</i> guide before they are submitted to the Department.
Department	Department of Planning, Industry and Environment.
EIS	An Environmental Impact Statement prepared by proponent of for a State significant project (see the <i>Preparing an Environmental Impact Statement</i> guide).
Environmental assessment reports	Reports required to be submitted to the Department by a proponent for State significant projects. These reports include Scoping Reports, EISs, Submissions Reports, Amendment Reports, Preferred Infrastructure Reports and Modification Reports.
EP&A Act	<i>Environmental Planning and Assessment Act 1979.</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000.</i>
Major projects	SSD and SSI projects
Major Projects website	www.majorprojects.planningportal.nsw.gov.au
Minister	The Minister for Planning and Public Spaces
Modification application	An application seeking to modify an SSI infrastructure approval or SSD development consent under the EP&A Act.
Modification Report	A report prepared by the applicant to support a modification application (see the <i>Preparing a Modification Report</i> guide).
Planning Secretary	The Planning Secretary of the Department
Preferred Infrastructure Report	A report prepared by the proponent of an SSI project at the request of the Planning Secretary that outlines any proposed changes to the SSI to minimise its environmental impact or to deal with any other issue raised during the assessment of the application concerned.
Project	An SSI project, which is the subject of an infrastructure application or modification application under division 5.2 of the EP&A Act; or an SSD project, which is the subject of a development application or modification application under division 4.7 of the EP&A Act.
Proponent	The proponent seeking approval for an SSI application or the applicant seeking approval for an SSD application.

Amendment Report	A report prepared by the proponent of a State significant project to support amendments to a State significant application or modification (see the <i>Preparing an Amendment Report</i> guide).
REAP	A registered environmental assessment practitioner who is a member of a professional scheme that is accredited under the EP&A Regulation. REAPs may certify the EISs for State significant projects before they are submitted to the Department (see the <i>Registered Environmental Assessment Practitioner</i> guide).
Scoping Report	A report prepared by a proponent to inform the setting of SEARs for a State significant project (see the <i>Preparing a Scoping Report</i> guide).
SEARs	The Planning Secretary's environmental assessment requirements for the preparation of an EIS for an SSI or SSD project.
SSD	Development that is declared to be State significant development under section 4.36 of the EP&A Act.
SSI	Development that is declared to be State significant infrastructure under section 5.12 of the EP&A Act and/or critical State significant infrastructure under section 5.13 of the EP&A Act.
Submissions Report	A report prepared by the proponent of a State significant project to respond to the issues raised in submissions (see the <i>Preparing a Submissions Report</i> guide).