STATE PLANNING COMMISSION

Practice Direction [X]

Restricted and Impact Assessed Development 2019

DRAFT FOR CONSULTATION - 14/1/19

This practice direction is issued by the State Planning Commission under section 42 of the *Planning, Development and Infrastructure Act 2016.*

Introduction

Section 42 of the *Planning, Development and Infrastructure Act 2016* (the Act) allows the State Planning Commission (the Commission) to issue practice directions for the purposes of the Act. Generally, practice directions specify procedural requirements or steps in connection with a matter arising under the Act. In certain cases, the Act requires a particular matter to be addressed or dealt with by a practice direction.

This practice direction is being made by the Commission to support the operation of Subdivision 4 (Part 7 Division 2 of 6) of the Act (Impact Assessed Development), and specifically section 109, as further referenced in sections 111, 112, 113 and 114 of the Act. The relevant requirements of sections of the Act as they relate to this practice direction are outlined below:

109—Practice direction to provide guidance

(1) In connection with the operation of this Subdivision, the Commission must publish a practice direction with respect to—

(a) in relation to restricted development—

(i) the circumstances under which the Commission will be prepared to assess restricted development; and

(ii) if an assessment is to be undertaken—how the Commission will proceed with the assessment (including requirements as to the information that must be provided by an applicant for a development authorisation and the other steps that an applicant must take); and

(b) in relation to impact assessed development (not being restricted development)—

(i) requirements as to the preparation of an EIS, including the level of detail that an EIS must address with respect to various classes of development; and

(ii) any other requirements for assessing the level of impact of a development that is to be assessed as impact assessed development; and

(iii) the information that must be provided by the proponent at the various stages assessed under this Act; and

(c) any other matter prescribed by the regulations.

(2) The Commission must, in acting under subsection (1)—

(a) take into account principles and requirements prescribed by the regulations; and

(b) in relation to subsection (1)(b), classify the issues identified by the Commission as being relevant to the proper assessment of development according to categories of importance so as to indicate the levels of attention that should be given to those issues in the preparation of an EIS.

111—Impact assessment by Minister—procedural matters

(1) This section applies in relation to impact assessed development (not being restricted development).

(2) In a case where this section applies—

...

(d) a proponent must lodge with the Minister an application that complies with the following requirements: ...

(ii) the application must include, or be accompanied by, any documents, assessments or information required by a practice direction published by the Commission in connection with this Subdivision;

112—Level of detail

The Commission will determine the level of detail required in relation to an EIS after taking into account—

(a) a practice direction published by the Commission in connection with this Subdivision; and

(b) any views expressed by a person or body prescribed by the regulations for the purposes of this paragraph; and

(c) any views expressed by the proponent after consultation in accordance with the regulations.

113—EIS process

(3) The EIS must be prepared in accordance with a practice direction published by the Commission in connection with this Subdivision....

(5) After the EIS has been prepared, the Minister—

...

(b) must ensure—

(i) that copies of the EIS are available for public inspection and purchase (during normal office hours) for at least a period specified or determined under the practice direction published by the Commission in connection with this Subdivision at a place or places determined by the Minister and, by public notice, give notice of the availability of copies of the EIS and invite interested persons to make written submissions to the Minister on the EIS within the time determined under the practice direction referred to above; and

114—Amendment of EIS

(2) However—

...

(b) if a proposed amendment would in the opinion of the Minister significantly affect the substance of the EIS, the amendment must not be made before interested persons have been invited, in accordance with the practice direction published by the Commission in connection with this Subdivision, to make written submissions on the amendment and the Minister has considered the submissions (if any) received in response to that invitation.

In according with the above, this practice direction provides for the following:

Restricted Development - The circumstances under which the Commission will be prepared to assess restricted development and how the Commission will proceed with the assessment

Impact Assessed Development (not being restricted development) – The requirements as to the preparation of an Environmental Impact Statement (EIS), the requirements for assessing the level of impact, and information that must be provided by the proponent.

DRAFT FOR CONSULTATION

Practice direction

Part 1 – Preliminary

1 – Citation

This practice direction may be cited as the *State Planning Commission Practice Direction (Restricted and Impact Assessed Development) 2019.*

2 – Commencement of operation

This practice direction will come into operation on the day on which it is published on the SA planning portal.

3 – Object of practice direction

The object of this practice direction is to outline:

(a) the circumstances under which the Commission will proceed to assess restricted development; and
(b) where the Commission has resolved to proceed to assess restricted development-
  (i) what information the proponent will be required to provide; and
  (ii) what steps the assessment process will go through; and
(c) for impact assessed development (not being restricted development), outline what information a proponent will need to include in an EIS; and
(d) any other information that will be required for the assessment of an impact assessed development (not being restricted development).

4 – Interpretation

In this practice direction, unless the contrary intention appears –

Act means the *Planning, Development and Infrastructure Act 2016*

Adjacent land *in relation to other land, means land that is no more than 60 metres from the other land*

Code *means the Planning and Design Code*

Commission *means the State Planning Commission*

Court *means the Environment, Resources and Development Court*

EIS *means an Environment Impact Statement*

Panel *means the State Commission Assessment Panel*

Note: Section 14 of the Acts Interpretation Act 1915 provides that an expression used in an instrument made under an Act has, unless the contrary intention appears, the same meaning as in the Act under which the instrument was made.

DRAFT FOR CONSULTATION

Part 2 – Restricted Development

5 – Circumstances under which the Commission will assess restricted development

(1) The Commission, acting through its delegate under section 30(3) of the Act, may refuse an application that relates to proposed development classified as restricted development without proceeding to make an assessment of the application.

(2) The Commission may resolve to proceed to assess an application for restricted development in certain circumstances where all of the following are demonstrated:
   (a) the proposal provides a social, economic or environmental benefit to the current or future community; and
   (b) the potential impacts of the development can be appropriately mitigated or minimised; and
   (c) the interface between the proposed development and adjoining land can be appropriately managed; and
   (d) the development will not hinder or jeopardise the continued or future use of adjoining land in accordance with the Code; and
   (e) the development responds to a demonstrated need or demand for the proposed land use in the locality.

(3) A decision to refuse a restricted development application without proceeding to make an assessment is, on application by the applicant, subject to review by the State Planning Commission itself. Such an application must be made in a form outlined in Attachment 1, either by email to the Commission's current email address or via the SA Planning Portal.

(4) An application for review under subclause (3) must be made within 1 month after the applicant receives notice of the decision unless the Commission, in its discretion, allows an extension of time.

(5) The Commission may, on a review —
   (a) affirm the decision of its delegate; or
   (b) refer the matter back with a direction that the application for planning consent be assessed (and that direction will have effect according to its terms).

6 – How the Commission will proceed with assessment of a restricted development

(1) If the Commission resolves to proceed to assess a restricted development, the following information will be sought:

   (a) a planning report including -
      (i) a description of the nature of the development and the nature of its locality; and
      (ii) an assessment of the likely effects of the development on the subject land, surrounding land, the character of its locality, and the environment; and
      (iii) a statement as to the provisions of the Code which are relevant to the assessment of the proposed development
      (iv) an assessment of the extent to which the proposed development accords with the relevant provisions of the Code, notwithstanding that it is a restricted form of development; and

DRAFT FOR CONSULTATION

(v) identification of any other document or legislation which may be of relevance to the assessment of the proposed development; and
(vi) an assessment of the expected social, economic and environmental effects of the development on its locality.

(b) technical reports in support of the application relating to such matters as traffic impacts, noise, environmental impacts, waste management, stormwater management, lighting, site contamination, heritage impacts, and any other matter considered relevant to the planning assessment in the opinion of the Commission; and

(c) detailed plans and elevations for the development; and

(d) any other information that may assist the Commission in determining the merits of the application.

(2) Following receipt of the further information, notification will be undertaken in accordance with the Act, Regulations and any relevant practice direction.

(3) At the conclusion of the notification period, the Commission must provide the applicant with a copy of each representation and allow the applicant to respond to the representations within the timeframe prescribed by the Regulations. This response may include the provision of any further information requested by the Commission in order to address any issues raised throughout the public notification period.

(4) Where a representor wishes to appear before the Commission, a meeting must be held to which the representor is invited to be heard in support of their representation and the applicant is invited to respond.

(5) The Commission must take into account the relevant provisions of the Planning and Design Code but is not bound by those provisions. The Commission may also choose take into account the following guidelines/legislation/documents/matters:

(a) Specific provisions of the Planning and Design Code that are relevant to the proposed development and shall be used for the purposes of assessment;
(b) The State Planning Policies;
(c) Any relevant Regional Plan;
(d) Any relevant Design Standard issued by the Commission;
(e) Any expert advice received in relation to the proposed development;
(f) Any comments or report from the relevant council;
(g) The content of any representation received under section 110 (2)(b) of the Act;
(h) Principles of Good Design by the Office for Design and Architecture South Australia;
(i) Any Act or legislation relevant to the proposed development; or
(j) Any other document the Commission believes to be of relevant to the assessment of the particular development application.

DRAFT FOR CONSULTATION

(6) When considering matters outside the Planning and Design Code in accordance with section 110(10) of the Act, the Commission must document the specific documents/legislation/matters taken into account in its assessment.

(7) Where the Commission has refused an application, the applicant has no right of appeal.

(8) A representor can appeal a decision made by the Commission to the Court.

Part 3 – Impact Assessed Development (not being Restricted Development)

7 – Information that must be provided by the proponent

(1) An applicant for an impact assessed development (not restricted) must lodge an application with the Minister through the Development Division of the Department of Planning Transport and Infrastructure.

(2) The application must be accompanied by the following:

- (a) a completed development application form
- (b) a completed electricity declaration or a completed certificate from the Office of Technical Regulator pursuant to Schedule 8 clause 11 of the Regulations (if applicable)
- (c) a copy of the certificate of title for the relevant land and evidence of tenure arrangements (if applicable)
- (d) a planning report, prepared by a planning consultant qualified to a minimum standard equivalent to a Level 3 Accredited Professional (but does not necessarily require accreditation under the *Accredited Professionals Regulations 2018*), that includes:
  - (i) a detailed description of the development proposal;
  - (ii) a detailed description of the subject site including physical/environmental locality, and social and economic setting within which the project is located;
  - (iii) a preliminary assessment of the key social, environmental and economic issues and impacts associated with the development;
  - (iv) a preliminary assessment of the key planning issues associated with the development; and
  - (v) a preliminary assessment of the development against relevant State Government policy strategy and/or guidelines
- (e) a set of plans, drawn to scale, and prepared by a suitably qualified consultant, including as a minimum:
  - (i) site plan(s) showing existing structures, native vegetation, regulated trees and easements on the subject site in relation to the proposed development;
  - (ii) locality plan(s) showing adjacent properties, existing development, public roads, natural features and topography (where relevant) in relation to the proposed development;
  - (iii) floor level plan(s);
  - (iv) elevation drawings;
  - (v) indicative perspectives; and
  - (vi) plan of division (if relevant).
- (f) copies of any other relevant documentation as specifically requested by the Minister or their delegate.

(3) The application package must be submitted as follows:

1. Three (3) hard copies; and
2. An electronic copy via Dropbox, USB or other

DRAFT FOR CONSULTATION

8 – Requirements as to the preparation of an EIS

(1) The applicant is required to prepare an EIS in support of impact assessed development that addresses the expected environmental, social and economic effects of the proposed development; and the extent to which the development is consistent with the Code.

(2) The proponent will be required to prepare an EIS in accordance with this practice direction as it relates to section 113(3) of the Act.

(3) The level of detail required to be addressed in the EIS will be determined by the Commission pursuant to section 112 of the Act. In doing so, the Commission will consider and determine the issues/impacts associated with the development and categorise those issues/impacts into either critical, medium or standard categories based on risk and scale, so as to indicate the levels of attention that should be given to those issues in the preparation of an EIS. Such issues may include (but are not limited to):

- biological/ecological
- visual/aesthetic
- infrastructure demand/impacts
- natural resource usage
- heritage impacts
- community/demographic
- economic impacts
- air pollution
- water quality
- waste disposal
- hazards
- noise.

(4) The Assessment Requirements template in Attachment 2 may be used by the Commission to set the level of detail required, including the classification of issues according to importance.

(5) When the Commission determines the level of detail required, the following should be considered:

(a) the class of the development (e.g. industry, residential, commercial);
(b) the level of information that has already been provided/is available about the proposed development;
(c) the degree to which the impacts (and management of the impacts) are known and can be managed; and
(d) the scale of the expected impacts in terms of extent and duration

(6) The EIS must be submitted to the Commission as follows:

(a) Three (3) hard copies (or as many as may be required by the Commission in the particular circumstance); and
(b) An electronic copy via Dropbox, USB or other.

(7) The Assessment Requirements will be placed on the SA planning portal by the Commission or its delegate following approval by the relevant authority.

DRAFT FOR CONSULTATION

(8) The Assessment Requirements may be amended at any time as deemed appropriate by the Commission.

(9) The entity authorised to prepare or amend requirements for development assessment of an EIS will address the following:

(a) the level of risk;
(b) the scale and impacts of these risks; and
(c) a list of issues to be addressed in an EIS.

(10) Impact assessed development will be assessed on its merits, taking into consideration how the impacts associated with the proposed development can be minimised, mitigated and managed.

10 – Consultation of EIS

(1) For the purposes of Section 113(5)(b) of the Act, copies of the EIS shall be made available for public inspection and purchase for a period of at least 30 business days, or such longer period as determined by the Commission.

11 – Amendment of EIS

(1) If an amendment is made to an EIS that would, in the opinion of the Minister, significantly affect the substance of the EIS, the amendment must not be made before interested persons have been invited to make written submissions on the amendment and the Minister has considered any submissions received in response to that invitation.

(2) If the Minister allows an EIS to be amended, the applicant must consider and document how the changes affect any declaration of the Minister under section 108(1)(c) of the Act (where relevant).

(3) If the Commission deems relevant, the Commission may vary the EIS requirements (i.e. Assessment Requirements) made under section 112 of the Act to account for any proposed variation by the applicant and the applicant must update the EIS accordingly.

(4) The proposed amendments to the EIS shall be published on the SA planning portal, inviting interested persons to make written submissions on the amendment.

(5) The Commission must give notice of the place or places at which copies of the relevant document or documents (with the amendments) are available for inspection and purchase.

(6) Interested persons will be provided a minimum period of 15 business days, or such longer period as deemed appropriate by the Commission, to provide a submission on the amendment.

DRAFT FOR CONSULTATION

Attachments

Attachment 1: *Template – Request for review of decision to not proceed with assessment of a restricted development*

Attachment 2: *Template - Assessment Requirements*

Note: To the extent that sections 111, 112, 113 or 114 of the Planning, Development and Infrastructure Act 2016 apply as if it formed part of the repealed Act (being the Development Act 1993) –

(a) a reference in this clause to a relevant authority will be taken to be a reference to a relevant authority under the repealed Act; and

(b) a reference in this clause to a development approval will be taken to be a reference to a development approval under the repealed Act.

DRAFT FOR CONSULTATION

APPLICATION TO THE STATE PLANNING COMMISSION

DECISION REVIEW REQUEST

Review of a decision of the State Commission Assessment Panel to refuse a restricted development application without proceeding to make an assessment pursuant to section 110(14) of the *Planning, Development and Infrastructure Act 2016*

Applicant:	[applicant name – consistent with SA Planning Portal application]
Development Number:	[development application number – consistent with SA Planning Portal application]
Nature of Development:	[development description – consistent with relevant authority's description of the proposed development on the SA Planning Portal application]
Zone / Sub-zone / Overlay:	[zone/sub-zone/overlay of subject land as per the Planning and Design Code]
Subject Land:	[street number, street name, suburb, postcode] [lot number, plan number, certificate of title number, volume and folio]
Date development application lodged:	[lodgement date, consistent with SA Planning Portal application record]
Date of decision of the State Commission Assessment Panel (SCAP):	[date application was refused by the SCAP, as per Decision Notification Form]
Reasons in support of the proposed development proceeding to assessment:	[consider the following matters: a) Can the potential impacts be appropriated, mitigated or minimised; or b) Does the locality have a distinct character and/or comprise a mix of development types and classes; or c) Whether the interface between the proposed development and adjoining land can be appropriately managed; or d) Will the development hinder or jeopardise the continued or future use of adjoining land in accordance with the Code; or e) Does the development respond to a need or demand for the proposed land use in the locality that is not recognised by the Code.]
Date:	
Signature:	

Submit form to admin@saplanningcommission.sa.gov.au or via the relevant Application Record on the SA Planning Portal

DRAFT FOR CONSULTATION

STATE PLANNING COMMISSION

Assessment Requirements

for the preparation of an

ENVIRONMENTAL IMPACT STATEMENT

[Brief description of development]
[Short description of subject site]

[Name of proponent]

[Month Year]

DRAFT FOR CONSULTATION

https://www.saplanningcommission.sa.gov.au/scap

Department of Planning, Transport and Infrastructure
Level 5, 50 Flinders Street
GPO Box 1815
Adelaide South Australia 5001

ISBN XXXXXXXX

Contents

1. BACKGROUND 3

2. DESCRIPTION OF PROPOSAL 3

3. MAJOR DEVELOPMENT PROCESS AND ROLE OF REQUIREMENTS 4

4. ENVIRONMENTAL IMPACT STATEMENT (EIS) 7

5. ASSESSMENT 12

6. ENVIRONMENTAL IMPACT STATEMENT (EIS) ASSESSMENT REQUIREMENTS 14

DRAFT FOR CONSULTATION

1. BACKGROUND

On [date the development was declared impact assessed by the Minister], the Minister declared that the proposed [description of development] at [address of subject land] be assessed as an impact assessed development pursuant to Subdivision 4, Section of the 108 *Planning, Development and Infrastructure Act 2016* (the Act).

OR

Regulation [regulation number] of the Planning, Development and Infrastructure Regulations 2017 prescribes that [class of development] is to be assessed as impact assessed development pursuant to section 108 of the *Planning, Development and Infrastructure Act 2016* (the Act).

This document contains the assessment requirements as required by the State Planning Commission (the Commission) specifically for the subject development application.

While every attempt has been made to ensure these assessment requirements address all of the major issues associated with this proposal, they are not necessarily exhaustive and should not be interpreted as excluding from consideration matters deemed to be significant but not incorporated in them, or matters that emerge as important or significant from environmental studies or otherwise during the course of the preparation of the EIS.

2. DESCRIPTION OF PROPOSAL

[SHORT DESCRIPTION OF PROPOSAL]

DRAFT FOR CONSULTATION

3. MAJOR DEVELOPMENT PROCESS AND ROLE OF REQUIREMENTS

Objectives

The impact assessed development assessment process enables the Minister for Planning to utilise impact assessment as a strategic tool.

Impact assessment enables the holistic consideration of proposals that might otherwise be of a nature or scale that is not expected through the regular development assessment process and/or Planning and Design Code.

Process

The impact assessed development process has several steps, as illustrated in Figure 1.

These assessment requirements are prepared to inform the preparation of the Environmental Impact Statement (EIS). They set out the issues associated with the proposal along with their scale of risk as determined by the Commission.

The EIS must be prepared by the proponent in accordance with the assessment requirements and should specifically address each aspect.

Each assessment requirement is intended to be outcome-focused and are generally accompanied by a method of investigating the impacts and measures to assessment these impacts. These methods are not exhaustive, and may be just one of a wide range to consider and respond to a particular issue.

The EIS should detail any expected environmental, social and economic effects of the development, and the extent to which the development is consistent with the provisions of the Planning and Design Code (the Code), the State Planning Policies (SPPs) and any matter prescribed by the Regulations under the Act.

This approach allows the proposal to be assessed concurrently by the requirements and the planning policy developed specifically for the local area where appropriate. The consideration of the Code will vary according to planning issues raised by the proposal and those that are expected through the current land uses.

The completed EIS is submitted to the Minister for public release, and is subsequently referred to council(s) and relevant government agencies for comment.

An opportunity for public comment will occur when the completed EIS is released. Public exhibition is undertaken for a minimum of 30 business days. An advertisement will be placed in the Advertiser and local newspapers inviting submissions.

Copies of the submissions from the public, council(s) and other relevant agencies will be provided to the proponent.

The proponent must then prepare a response document to address the matters raised during the public exhibition period.

The Commission will then prepare an Assessment Report. The Assessment Report and the response document will be available for inspection and purchase at a place determined by the Minister for a period determined by the Minister.

Availability of each of these documents will be notified by advertisements in *The Advertiser* and local newspapers. A copy of the EIS, Response Document and the Assessment Report will be provided to the relevant council(s).

The Minister will make the final decision subject to section 115 of the Act.

DRAFT FOR CONSULTATION

In deciding whether the proposal will be approved and any conditions that will apply, the Minister must have regard to:

- Relevant provisions of the Code
- The Act and Regulations;
- If relevant, the Building Code of Australia;
- The State Planning Policies;
- Regional Plans, including the 30-Year Plan for Greater Adelaide (where relevant)
- The Integrated Transport and Land Use Plan (ITLUP)
- The EIS and the Commission's Assessment Report;
- Where relevant, any other government policy and/or legislation.

The Minister can at any time indicate that the development will not be granted authorisation. This may occur if the development is inappropriate or cannot be properly managed. This is commonly referred to as an "***early no***".

DRAFT FOR CONSULTATION

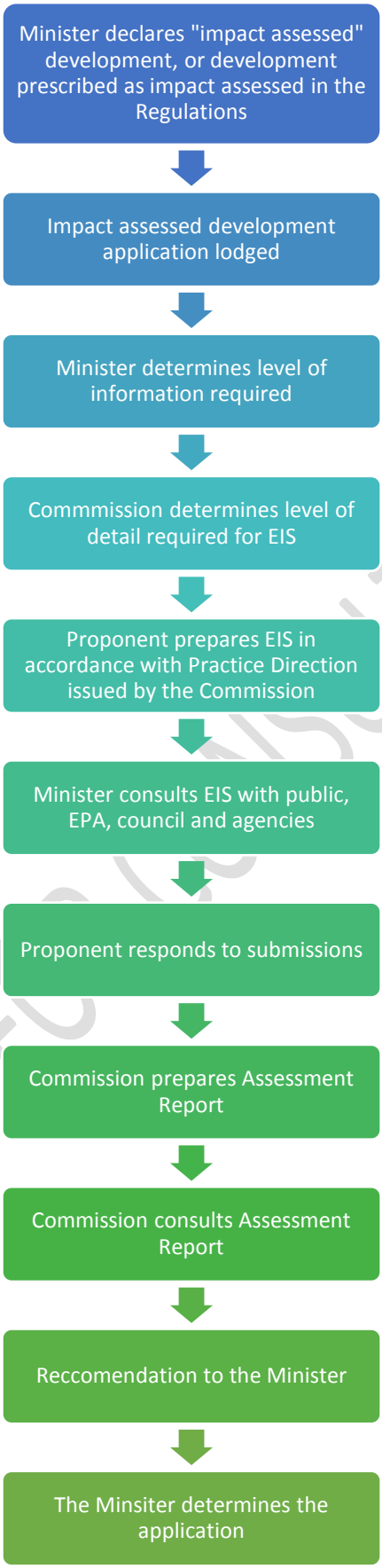


Figure 1. Steps in impact assessed development application process

DRAFT FOR CONSULTATION

Australian Government Involvement in the Assessment Process (where relevant)

On [DATE], the proponent submitted a Referral Notice for the proposal (i.e. proposed action) to the Australian Government Department of the Environment and Energy, in accordance with the Commonwealth EPBC Act.

On [DATE], a delegate of the Commonwealth Minister for the Environment and Energy made a decision that the Smith Bay Port (and associated wharf and facilities) proposal requires assessment and approval under the EPBC Act (EPBC no.YYYY/XXXX). This was because the proposed action is likely to have a significant impact on the following matters protected by the EPBC Act:

- List as per provided by the Commonwealth

The Commonwealth of Australia has a Bilateral Agreement (assessment) with the State of South Australia, under Section 45 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), accrediting the South Australian Major Development environmental impact assessment process.

It has been determined that the proposal can be assessed through the South Australian assessment process under the requirements of the State/Commonwealth Bilateral Agreement.

In accordance with the Bilateral Agreement (*Development Act 1993* provisions), the proposal will undergo a streamlined assessment process in co-ordination with the Australian Government Department of the Environment and Energy. This means there will only be one environmental impact assessment document (EIS) prepared, one period of public consultation undertaken and one Response/Supplementary document prepared to satisfy the legislative requirements of each jurisdiction.

Following assessment, the State of South Australia will provide an Assessment Report to the Commonwealth Minister for the Environment and Energy, who will then make a (separate) decision whether or not to approve the proposed action under Part 9 of the EPBC Act.

The Australian Government Department of the Environment and Energy has had input into the preparation of these requirements in regard to issues related to the EPBC Act.

DRAFT FOR CONSULTATION

4. ENVIRONMENTAL IMPACT STATEMENT (EIS)

The EIS should be presented in terms that are readily understood by the general reader. Technical details should be included in the appendices.

The report must include the following (subject to any practice direction):

1. *A statement of the expected environment, social and economic effects of the development*

   The assessment of effects should include all issues identified in these requirements and cross referenced to supporting technical references.

2. *A statement of the expected effects of the development on the climate and any proposed measures designed to mitigate or address those effects*

3. *A statement of the extent to which the expected effects of the development are consistent with the provisions of—*

(i) any relevant state planning policy; and
(ii) the relevant regional plan; and
(iii) the Planning and Design Code; and
(iv) any matters prescribed by the regulations.

4. *If the development involves, or is for the purposes of, a prescribed activity of environmental significance as defined by the Environment Protection Act 1993, a statement of the extent to which the expected effects of the development are consistent with—*
   (i) the objects of the Environment Protection Act 1993; and
   (ii) the general environmental duty under that Act; and
   (iii) relevant environment protection policies under that Act;

5. *If the development is to be undertaken within an area of the State that is specifically subject to a special legislative scheme—a statement of the extent to which the expected effects of the development are consistent with the state planning policy that specifically relates to that special legislative scheme.*

6. *A statement of the proponent's commitments to meet conditions (if any) that should be observed in order to avoid, mitigate or satisfactorily manage and control any potentially adverse effects of the development on the environment or any matter that may be directly relevant to a special legislative scheme.*

7. *Other particulars in relation to the development require by the regulations or by the Minister.*

The proponent's commitment to meet conditions proposed to avoid, mitigate, satisfactorily manage and/or control any potentially adverse impacts of the development on the physical, social or economic environment, must be clearly stated as part of the EIS.

The design of the proposal should be flexible enough to incorporate changes to minimise any impacts highlighted by this evaluation or post-operation monitoring programs.

The report should include the following:

Summary

The EIS should include a concise summary of the matters set out in section 109 of the Act and include all aspects covered under the headings set out in the assessment requirements, in order for the reader to obtain a quick but thorough understanding of the proposal and the resulting environmental impacts.

Introduction

The introduction to the EIS should briefly cover the following:

- background to, and objectives of, the proposed development
- details of the proponent
- staging and timing of the proposal, including expected dates for construction and operation
- relevant legislative requirements and approval processes
- purpose and description of the EIS process

Need for the Proposal

A statement of the objectives and justification for the proposal, including:

- the specific objectives that the proposal is intended to meet, including market requirements

DRAFT FOR CONSULTATION

- arrangements for other users to gain access to port facilities and/or to establish additional facilities on site
- expected local, regional and state benefits and costs, including those that cannot be adequately described in monetary or physical terms (e.g. effects on aesthetic amenity)
- a summary of environmental, economic and social arguments to support the proposal, including the consequences of not proceeding with the proposal.

Description of the Proposal

The description of the proposal should include the following information:

- the nature of the proposal and location
- a project plan to outline objectives, constraints, key activity schedule and quality assurance
- site layout plans (including indicative land division plan if relevant)
- the construction and commissioning timeframes (including staging)
- a description of working hours
- a description of the existing environment (including the immediate and broader location)
- a description of the current commercial activities occurring in the area
- details of all buildings and structures associated with the proposed development
- details of any other infrastructure requirements and availability
- details on the operation of the proposed development, including proposed operating hours
- the relevant Development Plan zones
- management arrangements for the construction and operational phases (including Environmental Management and Monitoring Plans)
- a contingency plan for delays in construction

The proposal should also include information on alternative locations investigated and justification provided as to their potential suitability/unsuitability.

Plans and forms required:

- Current certificate(s) of title
- Context and locality plans should illustrate and analyse the existing environment and site conditions and the relationship of the proposal to surrounding land and buildings. The plan should be drawn to a large scale to allow presentation on a single sheet and be readily legible. The plan should indicate:
    - any neighbouring buildings, infrastructure or facilities, including identification of all nearest sensitive receptors and the likely use of existing or proposed neighbouring buildings (e.g. dwelling, farm outbuildings, shop, office)
    - location of any watercourse, dams, underground wells and/or any other environmentally sensitive areas
    - location of any state heritage in relation to the site
    - existing native vegetation, regulated or significant trees
    - known sites for protected, threatened or vulnerable species, including migratory species, on the site, the adjoining land and marine environment
    - existing roads (public & private)
    - any other information that would help to set the context for the locality
- Site plan (drawn at a scale of 1:100 or 1:200) clearly indicating all proposed buildings, structures and works.
- Elevations (drawn at a scale of 1:100 or 1:200) showing all sides of the buildings, structures and works with levels and height dimensions provided in Australian Height Datum.

DRAFT FOR CONSULTATION

- Cross sections of the buildings, structures and works, including stockpile and storage facilities showing ground levels, floor levels, ceiling heights and maximum height in Australian Height Datum.
- Floor plans (drawn at a scale of 1:100 or 1:200) for each building or structure demonstrating what is proposed at each floor, with indicative internal layouts.
- Site survey plan demonstrating the development will be contained within the allotment boundaries.
- A schedule of materials and finishes and colours.
- Location and dimensions of any external advertising displays. If signs are to be illuminated or contain a moving display this should to be included.

Specialist Reports and Details:

- A **design statement** that provides an understanding of the evolution of the proposal (including options explored and discounted) from the concept to the final design.
- A **transport, access and pedestrian impact assessment** prepared by a suitably qualified traffic and access planner/engineer. The assessment should evaluate current and proposed access arrangements, car parking, as well as pedestrian and vehicle interface at the street and within the local road network.
- A **waste management and minimization plan (for demolition, construction and operation)** demonstrating the location of waste storage (including separation of recyclables hard waste and e-waste) and disposal facilities on the site and provide details of how these facilities will be serviced.
- A **noise assessment** prepared by a suitably experienced, professional acoustic engineering consultant[1] to moderate external and environmental noise disturbance and amenity impacts for future occupants of the development, but also other sensitive uses within the immediate area as a result of the proposed development.
- Details of proposed **wastewater management**, including segregation, collection, treatment, storage, reuse and disposal of any wastewater
- Details of proposed **stormwater management**, as well as any retention and reuse as part of the development, inclusive of details for connecting into any street drainage channel or council drain and the method of drainage and services proposed to be used.
- Assessment of the **marine environment**, including sediment structure corresponding to the proposed dredging depth, biogeographical and hydrodynamic modelling which encompasses suspended sediment (both during construction and operation) and biogeographical report of the benthic environment that will be impacted by the dredging and marine infrastructure.
- A **sustainability assessment** that outlines the environmental sustainability measures (energy efficiency, water sensitive design etc) incorporated into the proposal.
- A **biosecurity risk analysis** that outlines the potential risk of exotic organisms and disease (e.g. through vessel ballast water and/or biofouling) and measures proposed to eliminate this risk
- A **site history assessment -** if development is to occur on land that has the potential to be contaminated (through previous land uses) a site history assessment is required.
- Details of **site services and infrastructure** including utility services (water, gas, electricity, sewerage disposal, waste water, drainage, trenches or conduits); location of ground and roof plant and equipment (fire booster; electricity transformer; air conditioning; solar panels etc).
- A **fire hazard management plan** that considers requirements both during the construction and operational phases - including measures to minimise fire risk at and to/from the site,

[1] An acoustic engineer is defined as a person eligible for full Member status of both Engineers Australia and the Australian Acoustical Society

DRAFT FOR CONSULTATION

resources and training required, sources of water to fight fires (and how this water will be accessed) and cost recovery.

- An **air quality assessment report** that identifies and assesses all potential pollutants, pollutant sources and sensitive receivers, and describes the management strategies to manage, minimise and mitigate potential pollutants (and risks of emission of such pollutants) during construction and operations.

Sources of Information:

- All sources of information (e.g. reference documents, literature services, research projects, authorities consulted) should be fully referenced, and reference should be made to any uncertainties in knowledge. Where judgements are made, or opinions given, these need to be clearly identified as such, and the basis on which these judgements or opinions are made need to be justified. The expertise of those making the judgements including the qualifications of consultants and authorities should also be provided.
- Any technical and additional information relevant to the EIS that is not included in the text should be included in appendices.

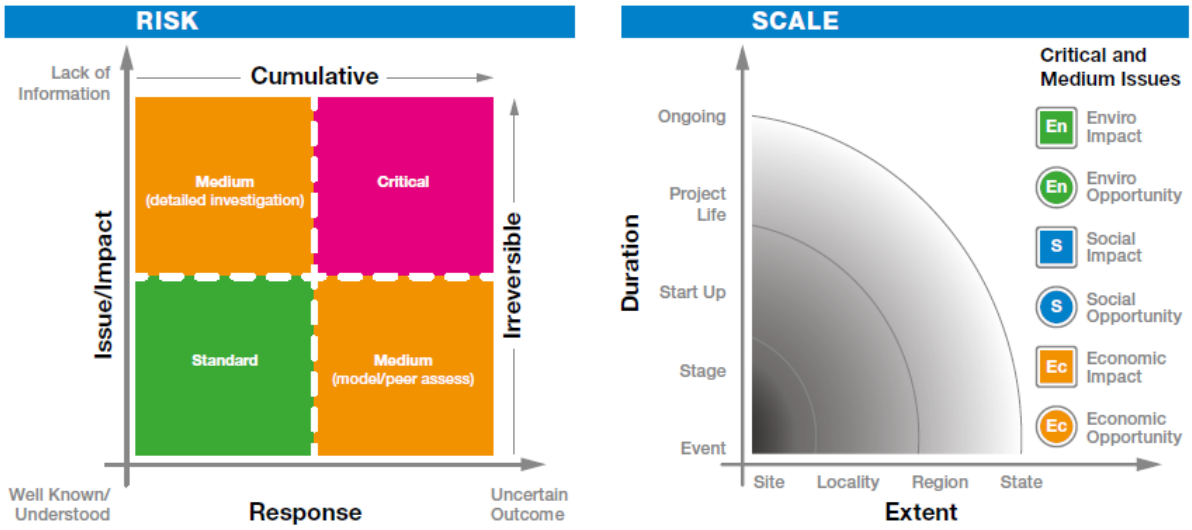
DRAFT FOR CONSULTATION

5. ASSESSMENT

Impact assessment is an important tool that enables the consideration of projects that may be unable to be addressed properly or fairly under the code assessed or restricted assessment pathways.

In setting these assessment requirements, the Commission will have considered the scale of issues associated with the project and determined whether they represent issues or opportunities. The potential impacts and issues have then been organised according to the level of work and type of attention required by the Applicant: either standard, medium or critical:

- Where information about the issue is lacking and the response is unclear, the issue is classed as 'critical'.
- Where work is required to address the issue but the risk is likely to be manageable with additional information then the risk assessment is classed as 'medium'.
- Where the issue is well known and the response is well understood then the risk assessment is classed as 'standard'



The issues and impacts identified by the Commission as requiring standard, medium or critical level assessment are listed below.

Each assessment requirement includes a description of the issue/impact and a description of the action or investigation needed.

To assist with the assessment of the EIS the proponent is requested to provide a table (as an appendix) that cross references each requirement (action or investigation needed) with the relevant section and page of the EIS.

NOTE: *The investigative requirements of the EIS do not negate the need for the proponent to obtain all necessary licences, permits and/or management plans prior to undertaking any investigations or works in relation to this EIS. It also does not negate the need for the proponent to comply with any legislative obligations or duty of care under the relevant legislation.*

			Risk		Scale		Level of assessment
No	Issue/Impact	Description	Issue/Impact	Response	Duration	Extent	
1							= **CRITICAL**
2							= **CRITICAL**
3							= **CRITICAL**
4							= **MEDIUM**
5							= **MEDIUM**
6							= **MEDIUM**
7							= **STANDARD**
8							= **STANDARD**
9							**= STANDARD**

DRAFT

6. ENVIRONMENTAL IMPACT STATEMENT (EIS) ASSESSMENT REQUIREMENTS

CRITICAL ASSESSMENT REQUIREMENTS with DoEE – Commission can't change)

Commonwealth Assessment Requirements
(draft words based upon proposal and provide to DoEE to check/change – words below used for KIPT)

***Environment Protection and Biodiversity Conservation Act 1999* - Matters of National Environmental Significance**

Guideline 1: The Commonwealth Minister for the Environment and Energy has determined (EPBC no.YYYY/XXX) that the proposed action is likely to, or may have, a significant impact on the following controlling provisions (matters of national environmental significance (MNES)):

- List as per provided by the Commonwealth (they will check and amend if needed)

To enable the proposal to be assessed through the South Australian assessment process under the State/Commonwealth Bilateral Agreement, consistent with the requirements of Schedule 4 of the *Environment Protection and Biodiversity Conservation Regulations 2000*, **the following matters addressing the assessment requirements under the EPBC Act MUST be included in the EIS**. This will provide the Commonwealth Minister for the Environment and Energy, or his delegate, with sufficient information to make an informed decision whether or not to approve the proposed action under Part 9 of the EPBC Act.

1.1 *Describe the background of the proposal including the title of the action, the full name and postal address of the designated proponent and a clear outline of the objective of the action.*

1.2 *Describe how the proposal relates to any other actions under the EPBC Act (that the proponent is reasonably aware) that have been, or are being, taken or that have been approved in the region.*

1.3 *Describe the environment and management practices of the proposal site and the surrounding areas and other areas that may be affected by the proposal.*

1.4 *Describe the scope, timing/effort (survey season/s) and methodology for studies or surveys used to provide information on the above listed species/communities/habitat at the site (and in areas that may be impacted by the proposal). Include details of:*

- *best practice survey guidelines applied; and*
- *how they are consistent with (or a justification for divergence from) published Australian Government guidelines and policy statements*

1.5 *Describe in detail all components of the proposal (including the background to the proposal, construction, operation and, if relevant, the decommissioning). Include the precise location of all works to be undertaken (including associated offsite works and infrastructure), structures to be built or elements of the proposal that may have impacts in the above listed MNES. Include details on how the works are to be undertaken and design parameters for those aspects of the structures or elements the proposal that may have relevant impacts.*

1.6 *Describe all the relevant impacts the proposal may have on the above listed MNES, include impacts during the construction (e.g. noise, habitat clearing or modification), operation (e.g. potential vehicle/vessel strike during road/shipping transport of timber product) and (if relevant) decommissioning phases of the project. Include information on:*

- *the nature and extent of the likely direct, indirect and consequential impacts (short-term and long-term) (refer to the* Significant Impact Guidelines 1.1 – Matters of National Environmental Significance, Commonwealth of Australia, 2013*)*
- *whether any relevant impacts are likely to be unknown, unpredictable or irreversible*
- *technical data and/or other information used to make a detailed assessment of the relevant impacts*
- *how Indigenous stakeholders views of the proposals impacts to biodiversity and cultural heritage have been sought and considered*

1.7 *Identify and address cumulative impacts, where potential impacts are in addition to existing impacts of other activities (including known potential future expansions or developments by the proponent and other proponents in the region and vicinity).*

1.8 *Provide information (substantiated, specific and detailed descriptions) on proposed avoidance and mitigation measures, based upon best available practices, to avoid and manage the relevant impacts of the proposal on the above listed MNES. Include a description of the outcomes that the avoidance and mitigation measures will achieve and an assessment of the expected or predicted effectiveness of the avoidance and mitigation measures (including the scale and intensity of impacts of the proposal and the on-ground benefits to be gained through each of these measures).*

1.9 *Provide a consolidated list of mitigation measures proposed to be undertaken to prevent, minimise or compensate for the relevant impacts of the action, including mitigation measures proposed to be undertaken by State governments, local governments or the proponent.*

1.10 *Provide information of any statutory or policy basis for, the mitigation measures.*

1.11 *Provide a detailed outline of a plan for the continuing management, mitigation and monitoring of the impacts on the above listed MNES. Include provisions for any independent environmental auditing. Include the name of the agency responsible for endorsing or approving each mitigation measure of monitoring program.*

1.12 *Provide details of the likely residual impacts on the above listed MNES that are likely to occur after the proposed measures to avoid and mitigate all impacts are taken into account. Include reasons as to why the avoidance or mitigation of impacts is not reasonably achieved and identify the significant residual impacts on the above listed MNES. If residual impacts are likely, include details of the proposed offset package to be implemented and an analysis of how the proposed offset meets the requirements of the* Environment Protection and Biodiversity Conservation Act 1999 Environmental Offsets Policy (2012).

1.13 *Describe how the proposal is consistent with any relevant EPBC Act guidelines, recovery plans, management plans, threat abatement plans, Marine Bioregional Plans and conservation advice for the above listed MNES (species and communities).*

1.14 *Provide information on feasible alternatives to the proposal including:*

- *taking no action*
- *a comparative description of the impacts of each alternative on the above listed MNES*
- *sufficient detail to make clear why any alternative is preferred to another*

(short, medium and long-term advantages and dis-advantages of each alternative are to be discussed)

1.15 *Provide details on the current status of the proposal and the consequences of not proceeding with the proposal.*

1.16 *Describe any consultation about the action, including any consultation that has already taken place, proposed consultation about relevant impacts of the action and – if there has been consultation about the proposed action – any documented response to, or result of, the consultation. Identify any affected parties, including a statement mentioning any communities that may be affected and describing their views.*

1.17 *Provide an overall conclusion as to the environmental acceptability of the proposal on each of the above listed MNES, including:*

- *discussion on the considerations with the requirements of the EPBC Act (including the objects of the Act, the principles of ecological sustainable development and the precautionary principle)*
- *reasons justifying undertaking the proposal in the manner proposed, including the acceptability of the avoidance and mitigation measures; and*
- *if relevant, a discussion of residual impacts and any offsets and compensatory measures proposed or required, and the relative degree of acceptability. Include the reasons why residual impacts are not avoidable.*

1.18 *Provide further detail on the social and economic costs and/or benefits of undertaking the proposed action, including basis for any estimations of costs and/or benefits, potential employment opportunities expected to be generated at each phase of the proposed action and details of any public and stakeholder consultation activities, including the outcomes.*

1.19 *Provide an environmental record of the person(s) proposing to take the action. Include details of any proceedings under a Commonwealth, State or Territory law for the protection of the environment of the conservation and sustainable use of natural resources against: the person proposing to take the action; and if the person proposing to take the action is a corporation – details of the corporation's environmental policy and planning framework.*

Commission Assessment Requirements

CRITICAL ASSESSMENT REQUIREMENTS

Issue Title

Assessment Requirement 1: DESCRIBE THE ISSUE AND CONTEXT

PROVIDE A SHORT DESCRIPTION OF HOW THE ISSUE SHOULD BE ADDRESSED

1.1 *XXX*

1.2 *XXX*

Issue Title

Assessment Requirement 2: DESCRIBE THE ISSUE AND CONTEXT

PROVIDE A SHORT DESCRIPTION OF HOW THE ISSUE SHOULD BE ADDRESSED

2.1 *XXX*

2.2 *XXX*

Issue Title

Assessment Requirement 3: DESCRIBE THE ISSUE AND CONTEXT

DRAFT FOR CO

PROVIDE A SHORT DESCRIPTION OF HOW THE ISSUE SHOULD BE ADDRESSED

3.1 *XXX*

3.2 *XXX*

MEDIUM ASSESSMENT REQUIREMENTS

Issue Title

Assessment Requirement 4: DESCRIBE THE ISSUE AND CONTEXT

PROVIDE A SHORT DESCRIPTION OF HOW THE ISSUE SHOULD BE ADDRESSED

4.1 *XXX*

4.2 *XXX*

Issue Title

Assessment Requirement 5: DESCRIBE THE ISSUE AND CONTEXT

PROVIDE A SHORT DESCRIPTION OF HOW THE ISSUE SHOULD BE ADDRESSED

5.1 *XXX*

5.2 *XXX*

Issue Title

Assessment Requirement 6: DESCRIBE THE ISSUE AND CONTEXT

PROVIDE A SHORT DESCRIPTION OF HOW THE ISSUE SHOULD BE ADDRESSED

6.1 *XXX*

6.2 *XXX*

STANDARD ASSESSMENT REQUIREMENTS

Issue Title

Assessment Requirement 7: DESCRIBE THE ISSUE AND CONTEXT

PROVIDE A SHORT DESCRIPTION OF HOW THE ISSUE SHOULD BE ADDRESSED

7.1 *XXX*

7.2 *XXX*

Issue Title

Assessment Requirement 8: DESCRIBE THE ISSUE AND CONTEXT

PROVIDE A SHORT DESCRIPTION OF HOW THE ISSUE SHOULD BE ADDRESSED

8.1 *XXX*

8.2 *XXX*

DRAFT FOR CONSULTATION

Issue Title

Assessment Requirement 9: DESCRIBE THE ISSUE AND CONTEXT

PROVIDE A SHORT DESCRIPTION OF HOW THE ISSUE SHOULD BE ADDRESSED

9.1 *XXX*

9.2 *XXX*

DRAFT FOR CONSULTATION

APPENDIX 1 – SECTION 113 of the Act

(1) This section applies if an EIS must be prepared in relation to a proposed development.

(2) The Minister will, after consultation with the proponent—

(a) require the proponent to prepare the EIS; or

(b) determine that the Minister will arrange for the preparation of the EIS.

(3) The EIS must be prepared in accordance with a practice direction published by the Commission in connection with this Subdivision.

(4) The EIS must, subject to any practice direction, include a statement of—

(a) the expected environmental, social and economic effects of the development;

(b) the expected effects of the development on the climate and any proposed measures designed to mitigate or address those effects;

(c) the extent to which the expected effects of the development are consistent with the provisions of—

(i) any relevant state planning policy; and
(ii) the relevant regional plan; and
(iii) the Planning and Design Code; and
(iv) any matters prescribed by the regulations;

(d) if the development involves, or is for the purposes of, a prescribed activity of environmental significance as defined by the Environment Protection Act 1993, the extent to which the expected effects of the development are consistent with—

(i) the objects of the Environment Protection Act 1993; and

(ii) the general environmental duty under that Act; and

(iii) relevant environment protection policies under that Act;

(e) if the development is to be undertaken within an area of the State that is specifically subject to a special legislative scheme—the extent to which the expected effects of the development are consistent with the state planning policy that specifically relates to that special legislative scheme;

(f) the proponent's commitments to meet conditions (if any) that should be observed in order to avoid, mitigate or satisfactorily manage and control any potentially adverse effects of the development on the environment or any matter that may be directly relevant to a special legislative scheme;

(g) other particulars in relation to the development required—

(i) by the regulations; or

(ii) by the Minister.

(5) After the EIS has been prepared, the Minister—

(a) —

(i) must, if the EIS relates to a development that involves, or is for the purposes of, a prescribed activity of environmental significance as defined by the Environment Protection Act 1993, refer the EIS to the Environment Protection Authority; and

(ii) must, in a case where subsection (4)(e) applies in relation to a special legislative scheme—refer the EIS to the Minister who is responsible for the administration of the Act in question; and

(iii) must refer the EIS to the relevant council (or councils), and to any prescribed authority or body; and

(iv) may refer the EIS to such other authorities or bodies as the Minister thinks fit,

for comment and report within the time prescribed by the regulations; and

(b) must ensure—

(i) that copies of the EIS are available for public inspection and purchase (during normal office hours) for at least a period specified or determined under the practice direction published by the Commission in connection with this Subdivision at a place or places determined by the Minister and, by public notice,

DRAFT FOR CONSULTATION

give notice of the availability of copies of the EIS and invite interested persons to make written submissions to the Minister on the EIS within the time determined under the practice direction referred to above; and

(ii) that a copy of the EIS is published on the SA planning portal.

(6) The Minister may undertake, or require the proponent to undertake, any other consultation in relation to the EIS as the Minister thinks fit.

(7) The Minister must give to the proponent copies of all submissions made within a specified time limit.

(8) The proponent must then prepare a written response to—

(a) matters raised by a Minister, and any authority or body specified by the Minister, for consideration by the proponent; and

(b) all submissions referred to the proponent under subsection (7),

and provide a copy of that response to the Minister.

(9) The Commission must then prepare a report (**an Assessment Report**) that sets out or includes—

(a) the Minister's assessment of the development; and

(b) the Minister's comments (if any) on—

(i) the EIS; and

(ii) any submissions made under subsection (5); and

(iii) the proponent's response under subsection (8); and

(c) comments provided by the Environment Protection Authority, another Minister, a council or other authority or body for inclusion in the report; and

(d) other comments or matter as the Minister or the Commission thinks fit.

(10) The Commission must—

(a) notify a person who made a written submission under subsection (5) of the availability of the Assessment Report; and

(b) by public notice, give notice of the place or places at which copies of the Assessment Report are available for inspection and purchase; and

(c) ensure that a copy of the Assessment Report is published on the SA planning portal.

(11) Copies of the EIS, the proponent's response under subsection (8), and the Assessment Report must be kept available for inspection and purchase at a place determined by the Commission for a period determined by the Commission.

(12) If a proposed development to which an EIS relates will, if the development proceeds, be situated wholly or partly within the area of a council, the Commission must give a copy of the EIS, the proponent's response under subsection (8) and the Assessment Report to the council.

DRAFT FOR CONSULTATION

APPENDIX 2 – USEFUL DOCUMENTS

[Provide a list of useful documents if relevant – below is an example list]

Legislation

- *Planning, Development & Infrastructure Act 2016*
- *Planning, Development & Infrastructure Regulations 2017*
- *Environment Protection Act 1993*
- *Metropolitan Adelaide Road Widening Plan Act 1972*
- *Metropolitan Adelaide Road Widening Plan Regulations 2014*

Strategy & Policy

- Planning and Design Code
- Regional Plans (including, where relevant, the *30-Year Plan for Greater Adelaide*)
- Environment Protection (Noise) Policy 2007
- South Australia's Waste Strategy 2015 – 2000, Zero Waste SA
- Building Code of Australia
- Integrated Transport and Land Use Plan
- Prosperity Through Longevity: South Australia's Ageing Plan Our Vision 2014-2019

Guidelines

- Design Review in South Australia, Office for Design and Architecture, 2013
- Better Practice Guide Waste Management for Residential and Mixed use Developments, Zero Waste SA 2014
- ESD Design Guide Office and Public Buildings Edition 3, RMIT University and Department of the Environment and Water Resources, May 2007
- EPA Noise Guideline: Music noise from indoor venues and the South Australian Planning System, updated July 2015
- Stormwater Pollution Prevention Code of Practice for the Building and Construction Industry (1999)
- South Australia's Communities for All: Age-friendly Living Guidelines for Residential Development, SA Health 2012 – a set of three guidelines and a toolkit, for state and local government and planning developers.
- Healthy by Design: A guide for planning, designing and developing healthy urban environments in South Australia (2013)
- Streets for People: Compendium for South Australian Practice (2012)

DRAFT FOR CONSULTATION