

## Having your say on mining and quarries: Fact sheet 1

# An overview of environmental impact assessment under the *Environment Effects Act 1978*

## Introduction

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Environmental impact assessment is a process for assessing the impacts on the environment likely to result from development proposals. A key aspect of the Victorian process is preparation of an environment effects statement (EES) by the **proponent** (the project proposer). The EES process aims to identify and mitigate the impacts of proposals that could have a 'significant effect' on the environment. Such proposals might include projects like mines, quarries, roads, boat ramps, prisons, hazardous waste storage facilities, pipelines or power stations.

The various stages of the EES process are regulated by the *Environment Effects Act 1978* (the EE Act). The legal framework is administered by the Minister for Planning and the Department of Environment, Land, Water and Planning (DELWP). Most of the details about the EES process are set out in the ***Ministerial Guidelines for Assessment of Environmental Effects under the Environment Effects Act 1978*** (the Ministerial Guidelines). The Act and the Ministerial Guidelines can be found at [www.planning.vic.gov.au/environmental-assessment/what-is-the-ees-process-in-victoria](http://www.planning.vic.gov.au/environmental-assessment/what-is-the-ees-process-in-victoria).

This fact sheet provides an overview of the EES process. It is part of a set of fact sheets developed to help communities who may be affected by major new mining and quarrying proposals in Victoria, to participate effectively in the EES process.

# Environmental approvals and environmental impact assessment

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Mining, extractive industries and other development in Victoria are regulated under a range of different laws. These laws set standards that must be met, and in many cases require approvals to be obtained before a proposal can proceed. Common examples of legislation where approvals or licenses might be required include the *Mineral Resources (Sustainable Development) Act 2004*, and the *Planning and Environment Act 1987*, but the applicable legislation will vary depending on the nature and location of the proposal.

Environmental impact assessment is the process of identifying the environmental, social and economic impacts of a proposed project. Environmental impact assessment occurs to some degree under most environmental approval processes such as the issue of a planning permit or approval of a mine, however in some cases the Planning Minister can decide that a statutory and more comprehensive process is required under the EE Act. In effect, the process of preparing an Environment Effects Statement replaces and brings together the assessment processes under other legislation, integrating the consideration of these impacts in order to inform the final approvals decision by decision-makers under applicable laws.

## When is an Environment Effects Statement required?

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Whether an EES is required is up to the Minister for Planning, subject to the provisions of the EE Act and guided by criteria in the Guidelines.

The EE Act aims to identify and mitigate adverse environmental impacts of proposals that could have a 'significant effect' on the environment. Proposed projects are not automatically subject to an EES. Proposals may be referred to the Minister by their proponents, or by a decision-maker who needs to assess the proposal for other legal reasons (see 'Other relevant legislation' below). Criteria to help proponents and decision-makers decide whether a proposal might have a potential significant effect on the environment and therefore should be referred, are set out in the Ministerial Guidelines (pp 7–8). The Planning Minister may also decide to examine a proposal without such a referral.

The Minister then decides whether a particular referred proposal requires an EES. About two-thirds of referrals do not result in an EES.<sup>1</sup> The Minister for Planning provides a public notice on the reason for decision for each proposal referred under the EE Act, which is published on the DELWP website. The criteria for whether a referral should be made (Ministerial Guidelines, p7) are different from the criteria which the Minister must consider in deciding whether an EES is required (Ministerial Guidelines, p10).

A decision by the Planning Minister not to require an EES may be subject to conditions. About a third of proposals where it is decided that an EES is not required are subject to these conditions, such as the form, scale or location of the proposed development, and required investigations or consultations.<sup>2</sup>

If an EES is not required, consideration of the impacts of the proposal may still be required as part of approvals processes under other legislation. These approvals might include a planning scheme amendment or planning permit under the *Planning and Environment Act 1987* or a works approval process under the *Environment Protection Act 1970*.

For examples of proposals that have been referred to the Minister for Planning, see [www.planning.vic.gov.au/environmental-assessment/decisions-on-ees-referrals](http://www.planning.vic.gov.au/environmental-assessment/decisions-on-ees-referrals).

This fact sheet assumes that the EES process has been engaged. If the Minister decides that an EES is required, customarily, she or he also then decides that an inquiry will be appointed.

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<sup>1</sup> <https://envirojustice.org.au/major-reports/rigour-or-rubber-stamp-implementation-and-enforcement-of-the-environment-effects-act>, pp910; <https://www.planning.vic.gov.au/environmental-assessment/ees-referrals-from-2013>.

<sup>2</sup> See note 1.

# Scoping

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Once the decision is made to require an EES, the Minister sets the scope for it – what matters should be investigated and documented. The Ministerial Guidelines require scoping of an EES to be guided by a proportionate approach to the level and likelihood of risk of adverse environmental effects. Scoping also takes a view of the environment as an integrated and interdependent system that therefore needs ‘an interdisciplinary approach’ (Ministerial Guidelines, p14) in order to effectively assess the impacts.

**Draft scoping requirements** are generally prepared by the Department of Environment, Land, Water and Planning (DELWP), with input from the proponent and appropriate agencies, within 20 business days of receiving the required information from the proponent. They are then released for public comment for **at least 15 business days**.

**Scoping requirements** should be finalised within 15 business days after the close of public comments. The Scoping Requirements are then published on the DELWP website. These set the parameters for the preparation of the EES by the proponent.

## Relevant approvals legislation

During the scoping stage, legislation under which statutory approvals for the proposal may be required is identified. Similarly relevant strategies, plans and statutory standards should be identified at this stage.

Under the provisions of the *Aboriginal Heritage Act 2006* (Vic), irrespective of other triggers, if the proposal requires an EES, a Cultural Heritage Management Plan (CHMP) must be prepared. The CHMP is a written document that assesses the potential impact of the proposed activity on Aboriginal cultural heritage, and outlines the measures that should be taken before, during and after the activity in order to manage and protect Aboriginal cultural heritage in the area.

A CHMP must be prepared by a Heritage Adviser, and may then be evaluated by the relevant Registered Aboriginal Party (RAP), or if there is no RAP in place, any other appropriate Aboriginal individuals or groups that the proponent consults. The RAP or the Secretary of Department of Premier and Cabinet, or in certain circumstances the Aboriginal Heritage Council, then decides whether the CHMP should be approved. For more detail, see [www.vic.gov.au/aboriginalvictoria/heritage](http://www.vic.gov.au/aboriginalvictoria/heritage).

Other legislation may be relevant depending on the nature of the proposal. For example, proposals may be subject to Commonwealth law if they involve a proposed ‘controlled action’ as defined by the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). For detail on how this relates to the EES process, see **Fact Sheet 3 The EPBC Act and the EES process**.

As outlined above, there might also be decision-making processes that are already in progress, such as a works approval under the *Environment Protection Act 1970*. It may be that relevant decision-maker – in the works approval example, the Environment Protection Authority – who has referred the proposal for EES assessment. These types of decisions are put on hold until after the Minister’s EES Assessment (see below), and the relevant applications may be advertised in tandem with the EES process (see ‘Public review’ below). Note however that mine/quarry proposals are largely exempt from needing separate works approvals and planning permits if they are subject to an EES (see **Fact Sheet 2 Mine/quarry proposals and the EES process**).

Other potentially relevant Victorian laws include: *Planning and Environment Act 1987*, *Flora and Fauna Guarantee Act 1988*, *Wildlife Act 1975*, *Water Act 1989*, *Environment Protection Act 1970*, *Dangerous Goods Act 1985*, *Radiation Act 2005*, *Occupational Health and Safety Act 2004*, *Coastal Management Act 1995*, *Road Management Act 2004*, *Heritage Act 1995*, *Heritage Rivers Act 1992*, *Land Act 1958*, *Forests Act 1958*, *Crown Land (Reserves) Act 1978*, and various State Environment Protection Policies (air, land and groundwater, noise, water).

For examples of the multiple forms of legal decision-making required for some proposals, see [www.planning.vic.gov.au/environmental-assessment/completed-projects](http://www.planning.vic.gov.au/environmental-assessment/completed-projects).

For examples of scoping requirements, see [www.planning.vic.gov.au/environmental-assessment/projects](http://www.planning.vic.gov.au/environmental-assessment/projects).

During the scoping phase, the Planning Minister also may make decisions about the form that the public inquiry will take, although she or he can make this decision at any point after deciding to appoint an inquiry (see 'Public Review' below).

## Preparing the EES

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The proponent is responsible for preparing the EES and consulting with the general public and stakeholders in order to inform individuals and groups who may be affected and provide opportunities for input on issues of concern and possible options. Proponents must devise a consultation plan and a study program concerning the various issues, and agree to a time schedule with DELWP.

DELWP appoints a Technical Reference Group (TRG) to provide technical advice to both the proponent and the Department. Members of the TRG include representatives from government agencies, local government and regional authorities.

Note that although community consultation and possibly social impact assessment is required as part of the development of the Environment Effects Statement, it is unlikely that there will be an opportunity for community involvement in or scrutiny of other material to be included in the Environment Effects Statement until the Statement is finalised by the proponent and exhibited (see **Fact Sheet 4 Getting your voice heard in the EES process**).

Subject to the requirements set out in the scoping document, an EES usually contains:

- a description of the proposed development;
- a description of the existing environment that may be affected;
- an outline of public and stakeholder consultation undertaken during investigations and the issues raised;
- assessment of the potential environmental effects of the proposal;
- proposed measures to avoid, minimise or manage adverse environmental effects, including assessment of relevant alternatives for the proposed project and a proposed monitoring and management program during project implementation;
- an outline of relevant legislation and policy and how these will be addressed as part of the management framework; and
- technical reports commissioned by the proponent in response to the scoping requirements for the EES.

For more detail, see the Ministerial Guidelines, especially pp14–22 [www.planning.vic.gov.au/environmental-assessment/what-is-the-ees-process-in-victoria](http://www.planning.vic.gov.au/environmental-assessment/what-is-the-ees-process-in-victoria).

## Exhibition and public comment on the EES

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When the EES has been completed, the Minister releases it for public comment (written submissions). The Ministerial Guidelines provide for a submission deadline of **20–30 business days, but in practice, all recent EESs** have been exhibited for at least 30 business days. If statutory approval (other legal decisions such as a mining work plan approval or planning permission) is also required for the proposal, these applications will typically also be exhibited together with the EES (see **Fact Sheet 4 Getting your voice heard in the EES process**).

The EES is usually a very lengthy and complex document, and it is difficult for members of the community to analyse and respond to it within 30 business days. For practical suggestions on preparation and submission writing, see **Fact Sheet 4 Getting your voice heard in the EES process**.

A public inquiry to consider the EES and submissions raised typically follows exhibition of the EES (see 'The inquiry stage' below). Prior to this inquiry, issues raised in submissions on the EES, or through the consultation process, should be responded to by the proponent in writing and distributed as part of the documentation for any inquiry. The proponent's response may include trying to negotiate a resolution of particular issues before the inquiry takes place.

## The inquiry stage

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The inquiry considers the effects of the proposed project, having regard to the EES studies and public submissions. While the inquiry may be a desktop review of written submissions or a roundtable conference with submitters, for all recent EESs (since 2006) the inquiry has taken the form of a public hearing, with presentations from the proponent and submitters, and expert evidence. For more detail, see **Fact Sheet 4 *Getting your voice heard in the EES process***.

## Minister's assessment

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The Planning Minister prepares an assessment based on the EES documents, public submissions, the proponent's responses and the report of the inquiry. The Minister may also have requested that the proponent provide a supplementary statement, and the public may have been invited to comment on this, in which case the supplementary statement also forms part of the context for assessment. The Minister's assessment is normally provided to decision-makers and the proponent within 25 business days of receiving the inquiry report. It is also published on the DELWP website along with the inquiry report.

The assessment may conclude that the proposed project:

- will have an acceptable level of environmental effects; or
- will not have an acceptable level of environmental effects; or
- would need major modifications and/or further investigations to establish that acceptable outcomes would be achieved.

For examples of Ministerial assessments and inquiry reports, see [www.planning.vic.gov.au/environmental-assessment/completed-projects](http://www.planning.vic.gov.au/environmental-assessment/completed-projects).

## Approval decisions

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The Planning Minister's assessment is intended to inform the approval decisions required under other legislation and does not of itself constitute an approval. The proposed project is ultimately approved or refused by the relevant Government or statutory decision-makers (the relevant Minister, local government or statutory authority) that administer the appropriate approvals legislation. They must consider the Minister's assessment, and generally follow the Planning Minister's recommendations although the assessment is not binding.

## Fact sheets in this series

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Download all fact sheets from our website: [www.cels.org.au/kits-and-fact-sheets/#having-your-say](http://www.cels.org.au/kits-and-fact-sheets/#having-your-say).

1. An overview of environmental impact assessment under the *Environment Effects Act 1978*
2. Mine/quarry proposals and the EES process
3. The EPBC Act and the EES process
4. Getting your voice heard in the EES process

## About the Community Environmental Legal Service (CELS)

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Providing legal help to Victorians as part of the Community Environmental Legal Service (CELS) program is one of the many ways Environmental Justice Australia pursues access to justice.

The CELS program provides legal help for Victorians through the publication of kits, fact sheets and videos which provide accessible and practical environmental law information to the Victorian community. Through the CELS program we also conduct legal workshops in Victoria, run by one of our expert environmental lawyers to suit the needs of community groups or groups of individuals concerned about or impacted by environmental issues.

Environmental Justice Australia believes that all Australians have a right to clean air, clean water, and intact ecosystems. It's also crucial that our communities have a real say over what happens to our environment, and that means participating in decision-making processes. We're working to pursue environmental justice for communities affected by environmental harm by supporting their right to information, their right to participate in the legal and legislative process, and their right to participate in decision-making about their communities and the places where they live.

If you have a query about anything in this Fact Sheet, or would like the Community Environmental Legal Service to assist you to protect the environment, please call us: **8341 3100 (metropolitan)** or **1300 336 842 (regional)**

Donate at: [www.envirojustice.org.au/donate](http://www.envirojustice.org.au/donate)

## Acknowledgment

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This Fact Sheet series has been funded by the Victorian Government (DEDJTR) under its Community Education Grant program. The funding is provided to deliver community legal education (workshops and online resources) to communities involved in environmental impact assessment processes for major new mining and quarrying projects covered by the *Mineral Resources (Sustainable Development) Act 1990*.

The education program will better equip local community members to participate in public consultation processes and engage with project proponents and other stakeholders.

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### DISCLAIMER

**This fact sheet is intended to provide information only and is not a substitute for legal advice specific to your circumstances.**

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## Having your say on mining and quarries: Fact sheet 2

# Mine/quarry proposals and the EES process

## Introduction

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The various stages of the EES process are regulated by the *Environment Effects Act 1978* (the EE Act). The legal framework is administered by the Minister for Planning and the Department of Environment, Land, Water and Planning (DELWP). Most of the details about the EES process are set out in the **Ministerial Guidelines for Assessment of Environmental Effects under the Environment Effects Act 1978** (the Ministerial Guidelines). The Act and the Ministerial Guidelines can be found at [www.planning.vic.gov.au/environmental-assessment/what-is-the-ees-process-in-victoria](http://www.planning.vic.gov.au/environmental-assessment/what-is-the-ees-process-in-victoria).

This fact sheet is part of a set developed to help communities who may be affected by major new mining and quarrying proposals in Victoria, to participate effectively in the EES process. It focuses particularly on how the EES process works when the proposed project is a mine or quarry. It may be helpful first to read the broad overview of the EES process and the steps involved (see **Fact Sheet 1 An overview of environmental impact assessment under the Environment Effects Act 1978**).

There are different approval processes for mineral exploration/mining, compared to extractive industries (quarrying). **Mineral exploration and mining** includes gold, coal, and mineral sands activities. Quarries are **extractive industries** that extract **stone** from land, where the primary purpose is the sale or commercial use of the stone or its use in construction, building, road or manufacturing works (including brick, tile, pottery or cement manufacture on or adjacent to the quarry land). **'Stone'** includes granite, gravel, sand, soil, building stone and clay (but does not include fine clay, kaolin or salt, which are minerals).

## Public input on mining/quarry proposals before the EES process

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Although the focus of this fact sheet is on how community members can participate in the EES process itself, it should be noted that there may be some limited opportunity for public engagement before the proposal may be referred to the Minister for Planning for assessment as to whether it should be subject to the EES process.

Before a proposed mining project is referred to the EES process, the proponent may have applied to the Minister for Resources for a mining licence. Any person may object to an exploration or mining licence being granted. For more detail, see 'Mining/quarrying approval prior to any EES process' below.

An exploration or mining **licensee** has a duty to consult with the community throughout the life of that licence. This means that they must share information with community members about any activities under the licence that may affect the community, and give them a reasonable opportunity to express their views about those activities. The licensee must also prepare a **community engagement plan**, and lodge it with the Department of Economic Development, Jobs, Training and Resources (DEDJTR).

Similarly, if a quarry proponent seeks an extractive industry work authority, they must prepare a work plan. A **community engagement plan** is a required element of the plan.

So if a mine or quarry is not subject to an EES process, there is some scope for community engagement through the planning system, under which the proponent will apply for a planning permit from the local council.

For more detail about community engagement, see [earthresources.vic.gov.au/earth-resources-regulation/licensing-and-approvals/minerals/guidelines-and-codes-of-practice/community-engagement-guidelines-for-mining-and-mineral-exploration](http://earthresources.vic.gov.au/earth-resources-regulation/licensing-and-approvals/minerals/guidelines-and-codes-of-practice/community-engagement-guidelines-for-mining-and-mineral-exploration).

## Mining/quarrying approval prior to any EES process

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The primary legislation regulating mines and quarries in Victoria is the *Mineral Resources (Sustainable Development) Act 1990* (Vic) (MRSD Act), together with the *Mineral Resources (Sustainable Development) (Mineral Industries) Regulations 2013* (Vic), the *Mineral Resources (Sustainable Development) (Extractive Industries) Regulations 2010* (Vic), and other associated regulations.

The MRSD Act's purpose is to encourage economically viable mining and extractive industries that make the best use of mineral resources in a way that is compatible with Victoria's economic, social and environmental objectives. The Act addresses exploration and development activities, licensing and approvals, and other issues including royalties, compensation and rehabilitation.

### Mining

A mining proponent must apply to the Minister for Resources for various **licences**. An **exploration licence** allows the holder to explore for minerals, whereas a **mining licence** allows exploration and mining for minerals on that land. **Prospecting licences** provide for exploration and mining on areas of land less than five hectares, and **retention licences** are an intermediate step between exploration and mining licences, allowing the licence holder to retain the right to explore and mine land that is not yet economically viable to mine.

The licensing process is administered by **Earth Resources Regulation (ERR)** in the **Department of Economic Development, Jobs, Transport and Resources (DEDJTR)**. Any person may object to a licence being granted. Objections must be made in writing, set out the reasons and be made within **21 days** after the last date on which the application was advertised. If a licence is granted, communities cannot appeal or seek review of that decision.

When deciding whether to grant a licence, the Minister must consider whether the applicant is 'fit and proper' to hold the licence, intends to comply with the MRSD Act, genuinely intends to do work, has an appropriate work program, and is likely to be able to finance the proposed work and rehabilitation.

The Minister must also consider any objections received, and should have regard to the principles of sustainable development set out in section 2A of the MRSD Act. The principles include:

- intergenerational equity;
- the protection of biodiversity;
- recognition of the need for a competitive economy that can enhance the capacity for environment protection;
- the integration of short- and long-term economic, social and environmental impacts in decision-making;
- the precautionary principle; and
- community involvement and positive community outcomes.

You can refer to these principles in your objection, together with any other impacts that you believe the mine will have both on you personally and on your community more broadly.

Note that certain land, such as national parks, is generally not available for exploration or mining (s 6), and that coal seam gas exploration/mining and fracking are unlawful in Victoria.

If a licence is granted, communities cannot appeal or seek review of that decision.

The holder of an exploration or mining licence (**the licensee**) is bound by any conditions set by the Minister of Resources, and has a duty to consult with the community throughout the life of that licence (s 39A). This means that they must share information with community members about any activities under the licence that may affect the community, and give them a reasonable opportunity to express their views about those activities.

The licensee must also prepare a **community engagement plan**. For more detail, see 'Public input on mining/quarry proposals before the EES process' above and [earthresources.vic.gov.au/earth-resources-regulation/licensing-and-approvals/minerals/guidelines-and-codes-of-practice/community-engagement-guidelines-for-mining-and-mineral-exploration](http://earthresources.vic.gov.au/earth-resources-regulation/licensing-and-approvals/minerals/guidelines-and-codes-of-practice/community-engagement-guidelines-for-mining-and-mineral-exploration).

To carry out any mining, a mining licensee must also have an approved **work plan** (see 'How is a mine/quarry project linked to the EES process?' below).

## Quarries

As with mining, certain land, such as national parks, is generally not available for quarrying (s 6AA). For potential project sites, an extractive industry proponent does not require a licence, but they must get **consent** if they propose to search for stone on land they do not own (s 8AA).

Before they engage in any quarrying, the proponent must then apply for an **extractive industry work authority**. A key requirement of this application is approval of a **work plan** (see 'How is a mine/quarry project linked to the EES process?' below).

For further information, see [earthresources.vic.gov.au/earth-resources-regulation/licensing-and-approvals/sand-stone-and-clay](http://earthresources.vic.gov.au/earth-resources-regulation/licensing-and-approvals/sand-stone-and-clay).

## Assessment of mine and quarry proposals under the *Environment Effects Act 1978*

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As with other projects that may have a significant effect on the environment, mining or quarrying projects may be referred to the Minister for Planning for assessment as to whether they should be subject to the EES process, before statutory approval under the MRSD Act is given. See **Fact Sheet 1 An overview of environmental impact assessment under the EE Act**.

Where mining is proposed, the proponent is likely to already have a retention or mining licence. The Minister for Resources and the Secretary of DEDJTR will be the key statutory decision-makers for any subsequent application for a mining licence and for approval of a work plan. At this stage, the Resources Minister or the proponent may consider the project against the referral criteria and decide to refer it to the Planning Minister. Any necessary approval decisions will then be put on hold, while the EES process takes its course. The proposed work plan will be examined as part of the EES process.

In relation to quarries, because the approval process is different, it is possible that the proponent may not have yet significantly engaged with any statutory applications before referral for a potential EES, especially if they already own the proposed quarry site. Again, the required work plan proposed will form a part of the EES considerations, and approval for an extractive industry work authority will not be finally considered until after the EES process has concluded (see **Fact Sheet 4 *Getting your voice heard in the EES process***).

Note that the MRSD Act overrides any requirement to apply for a planning permit for a mine or a quarry under the *Planning and Environment Act 1987*. These exemptions have been made on the basis that such matters will be dealt with through the mining/extractive industry work plan approval processes.

## Work plans and the EES process

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The decision whether to approve a work plan for a mining or extractive industry project is deferred if the proposed project is subject to an EES. This is because, where an EES is required, the EES process culminating in the Minister's assessment is intended to explore fully all the relevant issues and inform the decision whether to approve the work plan.

For example, a mining work plan must set out the location and detail of the mining activity that will be undertaken, including a description of any significant community facilities that may be affected by the proposed works. It must also include a community engagement plan, a plan for rehabilitation of the mine, and a plan for managing the environmental impacts and reporting on the environmental outcomes to the local community.

Proposed quarrying work plans must also identify the risks that the activities may pose to the environment, any member of the public, or land, property or infrastructure in the vicinity. Plans must specify what the proponent will do to eliminate or minimise those risks, including a rehabilitation plan. Extractive industry work plans must also include a community engagement plan.

For both mine and quarry applications, DEDJTR will only grant ultimate authority to proceed with the work if the proponent has complied with other specific requirements, including providing a rehabilitation bond and obtaining public liability insurance.

## Next steps

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If the proposed project is subject to an EES, those matters that the Minister for Planning believes should be investigated and documented will be identified at the **scoping** stage of the EES process, and are likely to include issues relevant to subsequent work plan consideration.

Scoping is also the point at which all the other consents and authorities required under other legislation are either set in process or flagged for ultimate decision after the EES has been released, publicly reviewed, and assessed by the Minister (see **Fact Sheet 1 *An overview of environmental impact assessment under the EE Act***).

Under the provisions of the *Aboriginal Heritage Act 2006* (Vic), a **Cultural Heritage Management Plan** (CHMP) must be prepared (see **Fact Sheet 1 *An overview of environmental impact assessment under the EE Act***). If the proposed mine or quarry is determined to involve a proposed **controlled action**, it will also need to be assessed, and may not proceed until it has been approved, under the federal *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). For detail on how this relates to the EES process, see **Fact Sheet 4 *The EPBC Act and the EES process***.

Projects may also require approval under the federal *Native Title Act 1993*, and need water licences if the proponent plans to take and use water (including groundwater) in the course of their activities. Other potentially relevant Victorian laws include: *Flora and Fauna Guarantee Act 1988*, *Wildlife Act 1975*, *Water Act 1989*, *Environment Protection Act 1970*, *Dangerous Goods Act 1985*, *Radiation Act 2005*, *Occupational Health and Safety Act 2004*, *Coastal Management Act 1995*, and *Road Management Act 2004*.

Unlike other developments with the potential to cause pollution, mines and quarries in Victoria are not defined as 'scheduled premises' under the *Environment Protection Act 1970* and it is not necessary for works approvals or licences to be obtained from the Environment Protection Authority (EPA) for on-site waste disposal. However, some aspects of the proposal, such as off-site discharges, may still require EPA works approval or licensing.

In all cases, standards set by the EPA under State Environment Protection Policies (SEPPs) are also applicable. The EPA's *Protocol for Environmental Management SEPP (Air Quality Management) – Mining and Extractive Industries (2007)*<sup>1</sup> translates the SEPP standards into conditions legally required for approval of mining licence and extractive industry work authority applications. Depending on the size and location of the proposed project, applicants may need to conduct air quality assessment to ensure that the mine or quarry's off-site emissions do not adversely impact on the environment.

The MRSD Act overrides any requirement to apply for a planning permit under the *Planning and Environment Act 1987* where an EES has been required – although the proposal may still require an amendment to the relevant planning scheme. Local and State planning schemes may also still be relevant to the EES process to the extent that they assist in examination of relevant issues such as heritage, land use and social impact. As with the EPA exemptions, the planning exemptions have been made on the basis that such matters will be dealt with through the mining/extractive industry work plan approval processes.

After the EES has been completed, it is exhibited for public review.

## Final decision

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The work plan for a proposed mine project is ultimately approved or refused by the Secretary of DEDJTR. For quarry proposals, the Minister for Resources decides whether to grant a work authority. Approval may be subject to specific conditions. The Minister for Resources or the Secretary must consider the assessment of the Minister for Planning, but although this provides recommendations and is authoritative advice, it is not binding.

For more on this process and how you might further engage, see **Fact Sheet 4 *Getting your voice heard in the EES process***.

## Further information

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[earthresources.vic.gov.au/earth-resources-regulation](http://earthresources.vic.gov.au/earth-resources-regulation)

[earthresources.vic.gov.au/earth-resources-regulation/information-for-community-and-landholders/mining-and-extractives](http://earthresources.vic.gov.au/earth-resources-regulation/information-for-community-and-landholders/mining-and-extractives)

[earthresources.vic.gov.au/earth-resources-regulation/licensing-and-approvals/sand-stone-and-clay](http://earthresources.vic.gov.au/earth-resources-regulation/licensing-and-approvals/sand-stone-and-clay)

[earthresources.vic.gov.au/earth-resources-regulation/licensing-and-approvals/minerals/guidelines-and-codes-of-practice](http://earthresources.vic.gov.au/earth-resources-regulation/licensing-and-approvals/minerals/guidelines-and-codes-of-practice)

[envirojustice.org.au/major-reports/reforming-mining-law-in-victoria](http://envirojustice.org.au/major-reports/reforming-mining-law-in-victoria)

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<sup>1</sup> <http://www.epa.vic.gov.au/our-work/publications/publication/2007/december/1191>.

## Fact sheets in this series

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3. The EPBC Act and the EES process
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## Acknowledgment

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The education program will better equip local community members to participate in public consultation processes and engage with project proponents and other stakeholders.

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Publication date: 4 August 2017

## Having your say on mining and quarries: Fact sheet 3

# The EPBC Act and the EES process

## Introduction

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Environmental impact assessment is a process for assessing the impacts on the environment likely to result from development proposals. A key aspect of the Victorian process is preparation of an environment effects statement (EES) by the **proponent** (the project proposer). The EES process aims to identify and mitigate the impacts of proposals that could have a 'significant effect' on the environment. Such proposals might include projects like mines, quarries, roads, boat ramps, prisons, hazardous waste storage facilities, pipelines or power stations.

The various stages of the EES process are regulated by the *Environment Effects Act 1978* (the EE Act). The legal framework is administered by the Minister for Planning and the Department of Environment, Land, Water and Planning (DELWP). Most of the details about the EES process are set out in the **Ministerial Guidelines for Assessment of Environmental Effects under the Environment Effects Act 1978** (the Ministerial Guidelines). The Act and the Ministerial Guidelines can be found at [www.planning.vic.gov.au/environmental-assessment/what-is-the-ees-process-in-victoria](http://www.planning.vic.gov.au/environmental-assessment/what-is-the-ees-process-in-victoria).

This fact sheet explains how a proposed project assessed under the Victorian EES process may additionally be regulated not only by Victorian law, but also by Commonwealth legislation – the **Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)**. It focuses on how the EES process works where that is the case.

This is part of a set of fact sheets developed to help communities who may be affected by major new mining and quarrying projects in Victoria, to participate effectively in the EES process. It may be helpful first to read the broad overview of the EES process and the steps involved (see **Fact Sheet 1**).

## The EPBC Act

The Victorian government is responsible for most legislation related to natural resource use, environmental protection and environmental impact assessment. An important exception is the EPBC Act, which is Commonwealth Government legislation that operates concurrently with Victorian laws. The EPBC Act regulates proposed actions that are likely to have a significant impact on things that have been determined to be of national environmental significance, such as some threatened species, and internationally recognised wetlands.

The EPBC Act will not always apply to Victorian mining and quarrying proposals, however if it does a separate approval will be required for the proposal under the Act. This approval will be informed by an environmental impact assessment process, with the Victorian EES process often accredited for this purpose.

## Which proposals might go through both the EES and EPBC processes?

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Under the EPBC Act, the Commonwealth Government is responsible for regulating impacts on **matters of national environmental significance**.

There are nine matters of national environmental significance protected under the EPBC Act. The first three listed below are the matters most likely to be relevant to Victorian mine/quarry project proposals :

- wetlands of international importance (Ramsar Wetlands – named after the international treaty that lists them);
- listed threatened species and ecological communities;
- migratory species protected under international agreements;
- a water resource, in relation to coal seam gas development and large coal mining development;
- world heritage properties;
- national heritage places;
- Commonwealth marine areas;
- the Great Barrier Reef Marine Park; and
- nuclear actions (including uranium mines).

An **action** that is likely to have a **significant impact** on a matter of national environmental significance or Commonwealth land may be deemed to be a **controlled action**. An ‘action’ is a project, a development, an undertaking, an activity or a series of activities, or an alteration of any of these things. ‘Significant impact’ is not defined in the EPBC Act, but see [www.environment.gov.au/epbc/publications/significant-impact-guidelines-11-matters-national-environmental-significance](http://www.environment.gov.au/epbc/publications/significant-impact-guidelines-11-matters-national-environmental-significance).

A proposed Victorian project that has been required to undergo the EES process, such as a mine, may also be a controlled action under Commonwealth law. Unless a controlled action falls within a limited number of exemptions, it is prohibited to take that action without approval from the federal Minister for the Environment and Energy (Environment Minister).

An action that is likely to have a significant impact on a matter of national environmental significance must be referred to the Environment Minister by the person taking the action (the **proponent**). A State government or local council, or a Commonwealth agency, can also refer an action. The Minister can also request a referral if they believe a controlled action is about to be taken.

After the Environment Minister has received a referral, it is published online for **10 days for public comment** (see [www.environment.gov.au/epbc/public-notices](http://www.environment.gov.au/epbc/public-notices)). The Minister has **20 days** following referral (including the 10 day public comment period) to decide whether the action referred is a controlled action, and therefore whether it needs formal assessment and approval under the EPBC Act. The Minister must take the public comments into account.

## What happens if a Victorian proposal is a controlled action?

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The Environment Minister may decide that the proposed action is not a controlled action because it is **unlikely to have a significant impact on a matter of national environmental significance**. Approval under the EPBC Act is therefore not

required if the action is taken in accordance with the referral. Consequently, for Victorian proposals, that action can then proceed, provided any necessary approvals are obtained following the EES process.

If the Environment Minister decides that the proposed action is **likely to be significant**, and therefore is a controlled action, it **will require approval and is therefore subject to further assessment and decision-making**.

Under the [Assessment Bilateral Agreement](#)<sup>1</sup> between the Commonwealth and Victoria, controlled actions can be assessed under relevant accredited Victorian legislative systems. The Agreement accredits environmental impact assessment processes including an EES under the *Environment Effects Act 1978 (Vic)* for the purposes of the EPBC Act. This means that if the proposed project is a controlled action, additional criteria and requirements are introduced into the EES process, and therefore contribute to the scope of the EES that is open for public submissions. For examples of what additional considerations may be incorporated into the process, see 'Decision whether to approve a controlled action' below.

The purpose of the Agreement is to avoid duplication of assessment processes, by allowing Victoria to assess proposals that the Commonwealth has determined as controlled actions that are likely to have a significant impact on the environment. The Commonwealth will still make the approval decision under the EPBC Act, informed by the EES documentation and the assessment from the Victorian Planning Minister.

## Decision whether to approve a controlled action

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In deciding whether to approve the action/proposal, the Environment Minister must consider issues relevant to any matter of national environmental significance, and economic and social matters. The Minister must also take into account factors listed in section 136(2) of the EPBC Act, including:

- the assessment report;
- information provided by other ministers; and
- the principles of ecologically sustainable development.

The principles of ecologically sustainable development are:

- a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations;
- b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;<sup>2</sup>
- c) the principle of inter-generational equity – that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;
- d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making;
- e) improved valuation, pricing and incentive mechanisms should be promoted. (s 3A, EPBC Act)

The Minister may also consider whether the person is a **suitable person** to be granted an approval, by considering their history in relation to environmental matters (s 136(4)). Note that 'person' includes bodies such as companies.

There are further requirements for Ministerial decision-making, where the action is likely to have an impact on world heritage, national heritage places, Ramsar wetlands, threatened and endangered communities, or migratory species (section 137-140). These generally require the Minister to make the decision consistently with relevant conventions and management plans or principles. The Minister must not approve the construction or operation of certain nuclear installations (s 140A).

<sup>1</sup> <http://www.environment.gov.au/protection/environment-assessments/bilateral-agreements/vic>.

<sup>2</sup> See also the precautionary principle in section 391 of the EPBC Act.

## If an action is approved

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If approval is granted, there may be conditions imposed, to protect or repair or mitigate damage to a matter of national environmental significance (s 134).

## Appeal and enforcement rights under the EPBC Act

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An important difference between the EPBC Act and most Victorian legislation is the existence of appeal and enforcement rights under the EPBC Act. Decisions under the EPBC Act can be challenged by an individual or group whose objects or purposes include environmental protection, and who has been actively engaged in environmental protection for the previous two years (s 487).

In some circumstances a failure to comply with the Act, or decisions under the EPBC Act at an earlier stage of the process (for example a decision about whether a proposal is a 'controlled action') may also be the subject of enforcement action or appeal rights.

Exercising these rights is expensive, complicated and subject to time limits. It is advisable to seek legal advice if you wish to challenge a decision under the EPBC Act or seek to enforce its provisions.

## Further information

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For more detail and examples of referrals and assessments, see:

[www.planning.vic.gov.au/environmental-assessment/environmental-assessment-bilateral-agreement](http://www.planning.vic.gov.au/environmental-assessment/environmental-assessment-bilateral-agreement)

[epbcnotices.environment.gov.au/referralslist](http://epbcnotices.environment.gov.au/referralslist)

[www.environment.gov.au/protection/environment-assessments](http://www.environment.gov.au/protection/environment-assessments)

For specific detail on matters of national significance, including lists of threatened species and heritage places and properties, see:

[www.environment.gov.au/epbc/what-is-protected/biodiversity-conservation](http://www.environment.gov.au/epbc/what-is-protected/biodiversity-conservation)

For more on how other legislation interacts with the EES process, see the other fact sheets in this series, listed on the following page.

## Fact sheets in this series

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Publication date: 4 August 2017

## Having your say on mining and quarries: Fact sheet 4

# Getting your voice heard in the EES process

## Introduction

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Environmental impact assessment is a process for assessing the impacts on the environment likely to result from development proposals. A key aspect of the Victorian process is preparation of an environment effects statement (EES) by the **proponent** (the project proposer). The EES process aims to identify and mitigate the impacts of proposals that could have a 'significant effect' on the environment. Such proposals might include projects like mines, quarries, roads, boat ramps, prisons, hazardous waste storage facilities, pipelines or power stations.

The various stages of the EES process are regulated by the *Environment Effects Act 1978* (the EE Act). The legal framework is administered by the Minister for Planning and the Department of Environment, Land, Water and Planning (DELWP). Most of the details about the EES process are set out in the ***Ministerial Guidelines for Assessment of Environmental Effects under the Environment Effects Act 1978*** (the Ministerial Guidelines). The Act and the Ministerial Guidelines can be found at [www.planning.vic.gov.au/environmental-assessment/what-is-the-ees-process-in-victoria](http://www.planning.vic.gov.au/environmental-assessment/what-is-the-ees-process-in-victoria).

This fact sheet is part of a set developed to help communities who may be affected by major new mining and quarrying proposed projects in Victoria, to participate effectively in the EES process. It assumes that the mine or quarry proposal will require an EES, and focuses on the key points where the public can have input into decision-making. It may be helpful first to read the broad overview of the EES process and the steps involved (**Fact Sheet 1 An overview of environmental impact assessment under the Environment Effects Act 1978**), and then **Fact Sheet 2 Mine/quarry proposals and the EES process**.

# Opportunities for community input

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The public has clearly defined opportunities for input into the EES process, via advertisements inviting comment at both the scoping and public review stages (see below). There are also less-defined opportunities for consultation between the proponent and the community that are not limited to scoping and public review. The proponent may have already initiated community consultation before the proposal was referred to the Planning Minister, and may voluntarily continue to engage with the public. In addition, as part of the proponent's task of preparing the EES, they must consult with the public in order to inform people who may be affected and provide opportunities for input on issues of concern and possible options. Proponents must devise and implement a **Consultation Plan** to assist this process, and are likely to have begun this before the scoping stage.

## Consultation Plan

A typical EES Consultation Plan will:

- provide an overview of the project and the rationale for the consultation;
- summarise communication to date;
- identify key stakeholders and their anticipated level of engagement;
- outline an action plan and a program for delivering the Consultation Plan; and
- explain how consultation will be recorded, monitored and reported.

As part of their proposed engagement with relevant communities, Consultation Plans tend to emphasise principles such as respect, inclusivity and transparency, and the proponent's wish to act as a 'good neighbour'. Consultation is stated to be about more than the provision of information and as including genuine opportunities for the public concerns to be understood, acknowledged, documented and responded to in a meaningful way, at all key stages of the EES process, and beyond if the proposal is approved. Proponents therefore may state that the Plan incorporates a strategy to enable stakeholders' knowledge and views to be considered in both project planning and formal decision-making.

Some Consultation Plans may expressly include an objective that links community engagement to the success of the EES process, because local knowledge, priorities and expertise are framed as able to contribute to the process and outcome. Plans that may be regarded as better practice commit to such mechanisms as:

- making technical or scientific information accessible to stakeholders, including inviting interested stakeholders to technical presentations by experts outlining technical issues, options and implications ;
- responding to all stakeholder concerns and provide mechanisms for documenting and addressing them;
- providing all key reports and studies, baseline monitoring data and community engagement outputs on the proponent's website;
- producing summary reports of stakeholder input during the preparation of the EES and presenting them to DELWP and the TRG for consideration to ensure that relevant issues have been considered and addressed in the draft EES; and
- providing feedback to stakeholders to demonstrate that their input has been considered, including regular communication in diverse forms such as meetings, newsletters and website updates.

Community members interested in the proponent's consultation obligations should refer to the principles, objectives and mechanisms in their Consultation Plan. For further information, Consultation Plans may also refer to DEDJTR's *Community Engagement Guidelines for Mining and Mineral Exploration in Victoria*,<sup>1</sup> and public participation concepts developed by the International Association for Public Participation.<sup>2</sup>

EES Consultation Plans are published on the DELWP website. See [www.planning.vic.gov.au/environmental-assessment/projects](http://www.planning.vic.gov.au/environmental-assessment/projects).

<sup>1</sup> <http://earthresources.vic.gov.au/earth-resources-regulation/licensing-and-approvals/minerals/guidelines-and-codes-of-practice/community-engagement-guidelines-for-mining-and-mineral-exploration>.

<sup>2</sup> <https://www.iap2.org/?page=A4>.

## Scoping

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Once the decision is made to require an EES, the Minister sets the **scope** for it – what matters should be investigated and documented. **Draft scoping requirements** are prepared by the Department of Environment, Land, Water and Planning (DELWP), with input from appropriate agencies, within 20 business days of receiving the required information from the proponent.

The proponent or another source of referral may already set some of the other legislative decision-making in motion before the EES process formally commences. Proposed projects may be subject to Commonwealth law if they are a proposed **controlled action** as defined by the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*. Potential controlled actions can be referred to the federal Environment Minister by the project proponent, a State government or local council, a Commonwealth agency, or at the Minister's request if they believe a controlled action is about to be taken.

After the Minister has received an EPBC Act referral, it is published online for **10 days** for public comment (see [www.environment.gov.au/epbc/public-notice](http://www.environment.gov.au/epbc/public-notice)). The Minister then decides whether the action referred is a controlled action, and therefore whether it needs formal assessment and approval under the EPBC Act. The Minister must take the public comments into account. If the Minister decides that the proposed project is a controlled action, it is likely to be assessed as part of the Victorian EES process. For more detail, see **Fact Sheet 3 The EPBC Act and the EES process**.

Under the provisions of the *Aboriginal Heritage Act 2006* (Vic), if the proposal requires an EES, a **Cultural Heritage Management Plan (CHMP)** must also be prepared. A CHMP must be prepared by a Heritage Adviser, and may then be evaluated by the relevant **Registered Aboriginal Party (RAP)**, or if there is no RAP in place, any other appropriate Aboriginal individuals or groups that the proponent consults. The RAP or the Secretary of Department of Premier and Cabinet, or in certain circumstances the Aboriginal Heritage Council, then decides whether the CHMP should be approved.

During the draft scoping stage for the EES, the proponent is also expected to begin to canvass all of the other relevant policies and legislation that may apply to decision-making about the proposed project. For more detail, see **Fact Sheet 1 An overview of environmental impact assessment under the EE Act**.

The draft scoping requirements are then released for public comment for **at least 15 business days**. The proponent is asked to pay for advertising costs for notices in at least one daily newspaper and in one or more local paper circulating in the area of the rural or regional proposal. The draft requirements are also published on the DELWP website [www.planning.vic.gov.au/environmental-assessment/projects](http://www.planning.vic.gov.au/environmental-assessment/projects).

Submissions can be made via the DELWP website. When using the online form or template, submitters will be provided with the option to have their submission remain confidential, to have the information provided to the proponent on a de-identified basis. If not using the online form or template, submitters should make their preferences clear in the submission itself or any covering email.

**Scoping requirements** will normally be finalised 15 business days after the close of public comments. Note that although the Minister will finalise the scoping requirements within 15 days, they may not be published immediately. These set the parameters for the preparation of the EES by the proponent.

For examples of scoping requirements, see [www.planning.vic.gov.au/environmental-assessment/projects](http://www.planning.vic.gov.au/environmental-assessment/projects)

## Preparation of the EES

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Once the scoping is completed it is the proponent's responsibility to prepare the EES including any studies or technical reports that are required.

Landholders adjacent to or within the proposed project area may be requested to provide access to the proponent or the proponent's experts for the purpose of conducting research and inquiries required by the EES. As with any request to enter private property, there is no legal obligation to provide this access.

The preparation of the EES is undertaken by the proponent in accordance with the Scoping Requirements and study program, guided by DELWP and the Technical Reference Group. There is usually little if any opportunity for community involvement in the development of the EES, although the proponent may request some participation in the development of its social impact assessment material if this is required. The proponent will also typically be required to continue to keep the community informed through the Consultation Plan approved by the Department.

For more detail on the EES preparation stage, see **Fact Sheet 1 *An overview of environmental impact assessment under the Environment Effects Act 1978.***

## Public review

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When the EES has been completed, the Minister for Planning releases it for public comment (written submissions). The proponent should give public notice of the exhibition of their EES in at least one daily newspaper, one or more local papers, and on the DELWP website. There should be effective public access to the EES and related documentation, including:

- if needed, printed copies at specified locations;
- making the EES downloadable from the proponent's website;
- free summaries; and
- affordable printed and/or CD/DVD versions for purchase.

## Submissions

The Ministerial Guidelines provide for a written submission deadline of 20–30 business days, but in practice, all recent EESs have been exhibited for at least **30 business days**. Submissions will normally be treated as public documents, and will be available to be inspected and used by any interested parties.

In exceptional circumstances, DELWP may consider a request for a submission or parts of a submission to be treated on a confidential basis (for instance, for reasons of commercial confidentiality or cultural sensitivity). All EESs are required to contain a summary document, and in many instances this document will be sufficient for an interested member of the public to understand the proposal, and the findings and conclusions of the EES on matters of interest.

There are considerable challenges, however, for members of the public or community groups who wish to review the EES and technical material in depth within the 30 business days required. The Environment Effects Statement is usually a very lengthy and complex document. A Victorian Parliamentary Inquiry into the EES process found 'significant barriers to public participation in the EES process with community groups experiencing difficulties interpreting large volumes of EES documentation and associated time constraints.'<sup>3</sup> The Inquiry report gave examples of EES documentation, including the Victorian Desalination Project EES which 'comprised over 1,800 pages of highly complex technical material plus works approvals of about 430 pages and 84 appendices which averaged approximately 90–100 pages each'; the first Channel Deepening Project EES which 'contained 50 chapters, and a 44 page summary [as well as] 113 technical appendices', and a supplementary EES for the project consisting of 15,000 pages.<sup>4</sup>

If you are interested in engaging in depth with the EES, you should therefore prepare ahead of time to ensure that you have the capacity to analyse and respond to the Statement, including its technical appendices. This may mean ensuring that support is available to interpret some of the technical material that the Statement and associated documents will contain, and identifying possible experts to provide more detailed assistance.

Other strategies to help you meet the deadline might include working collaboratively with other community members with similar views, and allocating particular review and submission drafting tasks to members of your group with relevant interests or skills. It is also often much more constructive for a submitter to identify the issue(s) of genuine or greatest interest and focus more on that, rather than adopting a 'scattergun' approach.

<sup>3</sup> <https://www.parliament.vic.gov.au/303-enrc/inquiry-into-the-environment-effects-statement-process-in-victoria-sp-515>, p3.

<sup>4</sup> See note 3, p159.

Issues raised in submissions on the EES, or through the consultation process, should be responded to by the proponent in writing and distributed as part of the documentation for any inquiry. The proponent's response may include trying to negotiate a resolution of particular issues before the inquiry takes place.

## Inquiry

If the Minister has decided that an EES is required, typically, she or he also then decides that an inquiry will be appointed and in fact in most cases the need for an inquiry will have been determined at the commencement of the EES process. The inquiry considers the effects of the proposed project, having regard to the EES studies and public submissions. The inquiry's terms of reference will probably include specific investigations, and providing findings and recommendations to the Minister.

While the inquiry may be a desktop review of written submissions or a roundtable conference with submitters, for all recent EESs the inquiry has taken the form of a public hearing. A public hearing will consist of presentations from the proponent and submitters and, and expert evidence. You may call your own experts as part of this process. EES inquiries seek to make participation by submitters less intimidating than might be experienced at a court. For example, submitters cannot be cross-examined as expert witnesses can be.

Any inquiry will produce a written report that will be given to the Minister. Community members can generally access the report once the Minister's assessment is released (see below).

For examples of inquiry reports, see [www.planning.vic.gov.au/environmental-assessment/completed-projects](http://www.planning.vic.gov.au/environmental-assessment/completed-projects)

## After public review

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The Planning Minister prepares an **assessment** based on the EES documents, public submissions, the proponent's responses and the report of the inquiry. The Minister may also have requested that the proponent provide a supplementary statement, and the public may have been invited to comment on this, in which case the supplementary statement also forms part of the context for assessment.

The proposal is ultimately approved or refused by the relevant Government or statutory decision-maker that administers the appropriate legislation. There are limited opportunities for community input at this stage, particularly where mining and quarrying proposals are concerned. For example, following consideration of the Planning Minister's Assessment of the EES, the Secretary of DEDJTR decides whether to approve a work plan for a proposed mine. For quarry proposals, the Minister for Resources decides whether to grant a work authority.

In some proposals assessed for environmental impact, a separate planning and/or works approval process (under the *Planning and Environment Act 1987* and the *Environment Protection Act 1970* respectively) may have to be undertaken. However, planning and environment protection (EPA) considerations are largely incorporated into the EES process where mines and quarry proposals are concerned. For more detail, see **Fact Sheet 2 Mine/quarry proposals and the EES process**.

## Further information

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Ministerial Guidelines [www.planning.vic.gov.au/environmental-assessment/what-is-the-ees-process-in-victoria](http://www.planning.vic.gov.au/environmental-assessment/what-is-the-ees-process-in-victoria)

Environmental Defenders Office (Victoria) Ltd, *Briefing Paper – ENRC Recommendations for EIA in Victoria* [envirojustice.org.au/submissions-and-issues-papers/environmental-effects-statement-process-review-september-2011](http://envirojustice.org.au/submissions-and-issues-papers/environmental-effects-statement-process-review-september-2011)

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