

Information Sheet No. 1-7

Preparing the impact statements, gaining development consent and relevant environment protection licenses

Information Sheet No. 1-7
Third Edition 2007

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ISBN 1-876850-23-X

Consent authority advises what type of environmental impact assessment is needed

An important outcome of the planning focus meeting with relevant government authorities is to determine the scope of the *Environmental Impact Statement (EIS)*, *Statement of Environmental Effects (SEE)* or other studies if needed.

The *consent authority* advises which document needs to be submitted with a *development application*.

The preparation of an EIS, usually, is limited to large and/or potentially controversial projects.

In other cases where the proposed development may impact on the environment, a SEE is required. An SEE is similar to an EIS, however, it usually has a reduced scope. Both the EIS and SEE document the potential impacts resulting from the development and specify proposed mitigation strategies.

In the *integrated development approvals process*, *development consent* is issued with an *environment protection licence*, containing relevant conditions.

An *environmental management plan* is often needed by regulatory authorities — in addition to the impact statement and development application — to ensure that the development and its subsequent operation does not impact on the environment.

Consultation with the community

Early in the *environmental impact assessment (EIA)* process, the community likely to be affected, whether directly or indirectly, need to be informed of the proposal.

“Consultation should aim to include the affected individuals, community groups and groups with special interests such as local Aboriginal Land Councils.”

For major or controversial projects, a program of community consultation may need to be undertaken as part of the preparation of EIS.

This program would usually include two phases, one seeking to inform the community, for example, through:

- public meetings;
- public displays; or
- newsletters.

The second program of consultation should attempt to gain input on issues of community concern, to identify community values and to identify and evaluate alternatives. This can be achieved through:

- community focus meetings;
- ‘issues’ workshops; and
- community surveys (NSW DUAP, 1996).

Environmental matters to be addressed in the EIS or SEE and report structure

As a result of the planning focus meeting and community consultation, the scope of the EIS or SEE should have been determined.

In the case of an EIS, the Director General of the NSW DUAP needs to be contacted regarding the specific requirements to be included in the EIS.

It is recommended that the minutes of the planning focus meeting be submitted to the Director General when requested.

The number of environmental matters to be addressed in these documents varies depending on the type of proposal, and the potential for environmental impacts.

NSW DUAP (1996) provides an excellent overview of the issues that may need to be addressed in an EIS or SEE. These are listed below. More details can be obtained from NSW DUAP (1996).

Please note that not all issues listed need to be addressed in all cases. Additionally, given the complexity of documenting EISs and SEEs, most proponents hire experts in the field to produce the report.

The report should be prepared in the following format, though many items

may not be relevant for some proposals:

- A. Executive summary
- B. The proposal
 - objectives of the proposal;
 - materials for composting;
 - products of the composting process;
 - composting operation and management;
 - site preparation and layout;
 - consideration of alternatives and justification for the preferred option.
- C. The location
 - planning context, site description and locality information;
 - overview of the affected environment/
- D. Identification and prioritisation of issues
 - overview of the methodology;
 - outcomes of the process.
- E. The environmental issues
 - air quality issues;
 - water quality issues;
 - soil issues;
 - transport and traffic issues;
 - noise issues;
 - energy issues;
 - social issues;
 - health issues;
 - visual issues;
 - flora and fauna issues
 - hazards issues;

“An EIS or SEE should contain a clear map or aerial photograph of the proposed location. It should also be written in non-technical language to facilitate understanding of the proposal by the general public.”

Definitions

Environmental Impact Statement (EIS)¹

A document, prepared by the proponent, describing a proposed activity or development and identifying the possible, probable, or certain effects of the proposal on the environment; examining the alternatives to the proposal; setting out the mitigation measures to be adopted; proposing a program of environmental management; provisions for monitoring, auditing and plans for decommissioning and rehabilitation.

Statement of Environmental Effects (SEE)²

A document whose purpose is to specify: the environmental impacts of the development; how the environmental impacts of the development have been identified; and the steps to be taken to protect the environment or to lessen the expected harm to the environment.

Consent Authority³

In relation to a development application or an application for a complying development certificate, means: the council having the function to determine the application, or if a provision of the Environmental Planning and Assessment Act (1979), the regulations or an environmental planning instrument specifies a Minister or public authority (other than a council) as having the function to determine the application—that Minister or public authority, as the case may be.

Development Application³

An application for consent under Part 4 of the Environmental Planning and Assessment Act (1979) to carry out development but does not include an application for a complying development certificate.

Integrated Development³

Integrated development is development (not being complying development) that, in order for it to be carried out, requires development consent and one or more of

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- heritage issues;
 - economic issues;
 - cumulative issues.
- F. List of approvals and licenses (or those that need to be obtained)
- G. Compilation of mitigation measures (environmental management plan)
- H. Justification for the proposal.

Development application assessment and gaining consent

Following submission of the development application (including the EIA and EMP) to the consent authority, the EIA can be exhibited in the public domain for comment by government authorities and the community.

The development assessment process and issuing of consent is covered in detail in Information Sheet No. 1-4.

Provision of environment protection licenses — integrated developments

During the development assessment process, the NSW Environment Protection Authority, and other concurrence authorities, may participate in the assessment process.

Issuing of development consent by the consent authority may be subject to the proponent meeting the conditions specified in an environment protection licence.

Composting facilities that are considered to be *scheduled activities* require an environment protection licence according to the provisions in Schedule 1 of the Protection of the Environment Operations Act (1997), and according to other Acts if appropriate (Table 1).

Composting facilities that are non-scheduled activities are likely to

Table 1. Extract from Schedule 1 of the Protection of the Environment Operations Act (1997). Proposed composting developments that meet any of the conditions listed below are considered to be scheduled activities in terms of the Act and require a licence from NSW EPA to operate. Note that non-scheduled activities may still require a permit or licence to operate from a consent authority.

Conditions That Classify a Composting Activity a Scheduled Activity	
	Composting and related reprocessing or treatment facilities (including facilities that mulch or ferment organic waste, or that are involved in the preparation of mushroom growing substrate, or in a combination of any such activities) that:
(1)	receive over 200 tonnes per year of animal waste, food waste, sludge or biosolids, or
(2)	receive over 5,000 tonnes per year of wood waste, garden waste, or natural fibrous material, or
(3)	receive any organic waste and are located within 500 metres of any residentially zoned land, or within 250 metres of a school or hospital or a dwelling not associated with the facility.

result in minimal to no environmental impact, and therefore do not require a licence.

Despite this, an environment protection licence or permit may be required by the consent authority.

Under sections 91 to 93 of the Environmental Planning and Assessment Act (1979), concurrence authorities such as the NSW EPA issue general terms of approval (GTA) to the consent authority (e.g. local council).

The GTA may conditionally approve the proposal, or refuse the proposal. If the GTA approve the proposal, the consent authority then must incorporate the conditions of the GTA in the development consent. Once development consent is granted, the concurrence authority cannot refuse to issue the relevant approval or licence consistent with their GTA for a period of three years after consent is granted.

For developments not classified as integrated developments, a separate application for an environment protection licence may be required under relevant legislation.

Initiation of development and maintaining an environment protection licence

Licenses for composting facilities used to be issued on a fixed-term and had to be renewed annually.

Under the POEO Act (1997), licenses remain in force until suspended, revoked or surrendered (NSW EPA, 2000).

Under the Act, mandatory environmental audits can be performed if the NSW EPA suspects that the holder of the licence has contravened:

- on one or more occasions the Protection of the Environment Operations Act (1997); or
- the regulations or the conditions of the licence; or
- if the contravention has caused or is likely to cause harm to the environment (NSW EPA, 2000).

Offences under the Protection of the Environment Operations Act (1997) can attract penalties of up to \$1 million.

Environment protection notices for scheduled and non-scheduled activities

For all scheduled and non-scheduled activities, environment protection notices can be issued under the Protection of the Environment Operations Act (1997).

Three types of notices can be issued:

- Clean-up notices

Clean-up notices can be issued if local council or the NSW EPA suspects that a pollution incident has occurred, or a person reasonably suspected of causing or having caused pollution, to take clean-up action specified in the notice.

- Prevention notices

Prevention notices can be issued if the NSW EPA or local council reasonably suspects that an activity has been or is being carried on in an environmentally unsatisfactory manner at any premises or by any person. Prevention notices require that action specified in the notice be taken.

- Prohibition notices

Only the Minister can issue a prohibition notice, on the recommendation of the NSW EPA, directing that an activity cease for a period specified in the notice.

Fees currently payable are ~\$320 for prohibition notice. These are payable to local council upon issue of the notice.

Compliance costs may also be levied against the offender to recover reasonable costs and expenses incurred by the authority in monitoring and ensuring that the

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the following approvals: Fisheries Management Act (1994); Heritage Act (1977); Mine Subsidence Compensation Act (1961); National Parks and Wildlife Act (1974); Protection of the Environment Operations Act (1997); Rivers and Foreshores Improvement Act (1948); Roads Act (1993); Water Act, (1912).

Environmental Impact Assessment (EIA)¹

The critical appraisal of the likely effects of a policy, plan, program, project, or activity, on the environment. To assist the decision making authority, assessments are carried out independently of the proponent, who may have prepared an EIS (or other document). The decision making authority might be a level of government (local, state or federal) or a government agency (at local, state or federal level).

Development Consent³

Means consent under Part 4 of the Environmental Planning and Assessment Act (1979) to carry out development and includes, unless expressly excluded, a complying development certificate.

Environment Protection Licence⁴

Environment protection licence means a licence authorising the carrying out of scheduled development work or scheduled activities or controlling the pollution of water arising from non-scheduled activities, being a licence issued under Chapter 3 (of the POEO Act, 1997) and in force.

Environmental Management Plan (EMP)⁵

An EMP is a site specific plan developed to ensure that all necessary measures are identified and implemented in order to protect the environment and comply with environmental legislation.

Scheduled Activity⁴

An activity requiring a licence under Schedule 1 of the Protection of the Environment Operations Act (1997) by the Environment Protection Authority.

¹Gilpin (1995).

²Environmental Planning and Assessment Regulation (2000).

³Environmental Planning and Assessment Act (1979).

⁴Protection of the Environment Operations Act (1979).

⁵Landcomm (2000).

action required by the clean-up or prevention notice is carried out (NSW EPA, 2000).

Thus, compliance with licenses or permits issued by the NSW EPA or local council is essential to ensure that the composting facility is run in an environmentally acceptable manner which is acceptable to the surrounding community.

