



POST APPROVAL GUIDANCE

## Defining engagement terms

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Post approval guidance for Infrastructure Projects

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# Introduction

The NSW Department of Planning, Industry and Environment (the Department) has prepared this guideline to guide proponents on the expectations of the Department when they engage with stakeholders<sup>1</sup> in the post approval phase of State significant projects<sup>2</sup>.

The conditions of consent often use different terms to specify the type of engagement required. These terms may be undefined in the consent and as such may be open to interpretation. Better explanation of the terms will provide clarity and transparency to stakeholders and improve the understanding of the Department's expectations.

## Purpose

This purpose of this guideline is to:

- explain engagement terms that are regularly used in conditions of consent
- assist proponents to address the engagement requirements of the conditions of consent
- set out the expectations of the Department.

**Appendix A** provides a summary of the content of this guideline for easy reference.

If there is any inconsistency between the requirements of a project's conditions of consent and the information provided in this guideline, the conditions of consent prevail to the extent of the inconsistency.

## Who does this guideline apply to?

This guideline applies to approved State significant projects that fall within the following categories of development:

- rail and rail related transport facilities
- roads
- port, water or boating facilities
- educational establishments
- hospitals, medical centres and health research facilities
- correctional centres and complexes
- water storage and treatment facilities, sewerage systems and associated pipelines.

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<sup>1</sup> Stakeholders include all those with an interest or who are impacted by the approved project, including neighbours, community members, interest groups, local councils, government agencies, in particular those identified in the conditions of consent or the project's Community Consultation Strategy (or similar). In this document, the term stakeholder includes all these groups.

<sup>2</sup> In this document, the term State significant project refers to both State significant development (SSD) and State significant infrastructure (SSI) projects. Although there are differences in the terms used in each (e.g. applicant/applicant, development consent/infrastructure approval, consent authority/approval authority), for ease of reference, this guideline uses a single set of terms and applies them to both types of projects.

# Commonly used terms and definitions

## Engagement terms

A number of terms are used within the conditions of consent to specify the type of engagement that a proponent is required to undertake. The most frequently used engagement terms are:

- **inform** or **notify**
- undertake **consultation**
- obtain **approval** or **satisfaction**.

## Explanation of terms

**Table 1 Explanation of terms**

Term	Explanation
Information or notification	To provide information to stakeholders or notify them of upcoming activities and / or impacts.
Consultation	To provide information and obtain and consider feedback from stakeholders during development of post approval documents.  How the feedback has been considered and whether any changes have been made in response to this feedback is then documented and communicated back to stakeholders.
Satisfaction/Approval	Input is sought during development of post approval documents to satisfy the requirements of the nominated stakeholder in relation to the matter covered by the document. The stakeholder then either approves the document, or confirms they are satisfied that it meets the requirements of the relevant conditions of consent.

## Deciding how to engage

How a proponent engages with a stakeholder will depend on what is required by the conditions of consent. There may be several conditions that require engagement, and they may each use different terms depending on the objective.

The proponent should identify the steps needed to engage with a stakeholder to address the requirements of the conditions of consent and meet the expectations of the Department. Where a condition requires consultation and/or obtaining approval for a document, adequate and reasonable time must be given for stakeholders to consider what is being asked of them. What this timeframe is will depend on the stakeholder needs and the level of input that is being sought.

The following tables suggest steps and provides example techniques that could be used to address the different engagement requirements<sup>3</sup>.

<sup>3</sup> Please note, these are examples only and are not intended to limit the considerations to be made by the applicant when deciding how best to address a project's conditions of consent.

**Table 2 Example engagement steps to 'provide information or 'notify'**

**Requirement:** *The proponent must notify all affected sensitive receivers of the likely impact and duration of works*

Steps	Suggested engagement to address the requirement
Provide information/documents	Provide potentially impacted stakeholders with a notification via email or delivered to their letterbox, updates on the project website, social media and/or local newspapers.

**Table 3 Example engagement steps to undertake 'consultation'**

**Requirement:** *The proponent must prepare a Biodiversity Management Plan in consultation with the Department's Environment Energy and Science Group (EESG)*

Steps	Suggested engagement to address the requirement
Provide information/documents	Provide EESG with a copy of: <ul style="list-style-type: none"> <li>the proposed method for preparing the Biodiversity Management Plan, including conduct of surveys</li> <li>the Biodiversity Assessment as part of the Environmental Impact Statement and/or other EIA documentation</li> <li>the draft Biodiversity Management Plan</li> <li>any other relevant documentation.</li> </ul>
Get written feedback from EESG	Request that EESG: <ul style="list-style-type: none"> <li>review the draft Biodiversity Management Plan</li> <li>provide comments on the accuracy and completeness of the Plan.</li> </ul>
Update the draft document to incorporate the feedback	Advise EESG: <ul style="list-style-type: none"> <li>how comments were considered and incorporated in the final Biodiversity Management Plan</li> <li>reasons for any comments not being adopted, noting these will be made available to the Department as part of the evidence of engagement.</li> </ul>
Provide information on feedback received and the reasons for adopting or rejecting it	Provide DPIE with: <ul style="list-style-type: none"> <li>information on the comments received from EESG and reasons for adopting or rejecting</li> </ul>

**Table 4 Example engagement steps to 'obtain approval' or 'satisfaction'**

<b>Requirement:</b> <i>The Construction Environmental Management Plan must be submitted to the Planning Secretary for <b>approval</b> no later than one month before commencement of construction</i>	
<b>Steps</b>	<b>Suggested engagement to address the requirement</b>
Provide information/ documents	Submit to the Department: <ul style="list-style-type: none"> <li>the Construction Environmental Management Plan (CEMP)</li> <li>list of stakeholders consulted in the development of the CEMP, including their feedback and how it was incorporated/reasons for not incorporating feedback</li> <li>written evidence that stakeholder comments or feedback has been incorporated in the CEMP</li> <li>any endorsements or statements of support required by the conditions of consent, for example Environmental Representative endorsement.</li> </ul>
Get feedback from the Department	Request that the Department: <ul style="list-style-type: none"> <li>review and approve the CEMP.</li> </ul>
Resolve comments (where relevant)	Advise the Department of: <ul style="list-style-type: none"> <li>the changes that have been made to the CEMP to address the comments.</li> </ul> Discuss with the Department: <ul style="list-style-type: none"> <li>comments that have not been addressed and why.</li> </ul>
Obtain written approval	Submit to the Department a copy of: <ul style="list-style-type: none"> <li>the finalised CEMP.</li> </ul>

## Choosing techniques to implement steps of engagement

Proponents should choose techniques that will best address the requirements of the conditions of consent and meet the expectations of the Department. This is based on:

- consideration of stakeholders' expectations for engagement throughout the post approval phase
- expressed preferences of stakeholders for how they would like to participate
- available and suitable technology
- good practice and innovation for sharing information and addressing issues
- commitments made previously by the applicant.

There is a growing range of techniques and technologies, so it is important to use those that will best meet the requirements of the conditions of consent or other project requirements. Some example techniques are included in the summary table in **Appendix A**, however this is not intended to be an exhaustive list or to limit the techniques that may be used.

## Public availability

Where the conditions of consent require information to be publicly available, this should be published on the project website prior to the commencement of the works discussed in this information and must be kept up to date with the most current version, as the project is designed, constructed and operated.

If the conditions of consent require that a post approval document be approved by the Department or another party, it should only be published after this approval is granted. The letter of approval should be attached to the document when it is made publicly available.

## Addressing the requirements

When engagement is required as part of the preparation of a post approval document, the Department expects that evidence of this engagement will be provided when the document is submitted to the Planning Secretary.

Evidence of engagement should include:

- the stakeholder that has been engaged with
- the means of engagement (or attempted engagement) with the stakeholder
- follow-up with the stakeholder where they have not provided feedback to confirm they have no comment
- a summary of issues raised by the stakeholder and how these have been addressed
- any outstanding issues that have been raised by the stakeholder and the reasons they have not been addressed or will be addressed later (and if so, when).

The following table sets out the expectations of the Department in relation to the evidence to be gathered for each engagement term covered by this document.

**Table 5 Evidence of engagement to be gathered**

Term	Evidence
<b>Information/ Notification</b>	<ul style="list-style-type: none"> <li>• Record that information was sent or delivered and the date.</li> </ul>
<b>Consultation</b>	<ul style="list-style-type: none"> <li>• Record the date and how that information was sent or delivered.</li> <li>• Record confirmation and/or evidence that information was received.</li> <li>• Record of the feedback or summary of issues raised (e.g. phone calls, letters, submissions or meeting notes).</li> <li>• Records, such as a log showing effort to follow up via email/ phone calls / door knock, prior to the proponent concluding it is not possible to obtain feedback.</li> <li>• Documentation of how the feedback has been used.</li> </ul>



Term	Evidence
<b>Satisfaction/ Approval</b>	<ul style="list-style-type: none"> <li>Record the date and how that information was sent or delivered.</li> <li>Confirmation and/or evidence that information was received.</li> <li>Copy of the log of feedback or summary of issues raised, for example from phone calls, letters, submissions or meeting notes.</li> <li>Records, such as a log showing effort to follow up via email and/or phone calls and/or door knock if appropriate over a period of more than one week prior to the applicant concluding it is not possible to obtain feedback.</li> <li>Documentation of how the feedback has been used.</li> <li>Confirmation in writing that the stakeholder is satisfied with how their feedback has been used, that the issue/s they raised have been addressed, or they have approved the document.</li> </ul>

Once this evidence has been gathered, this information needs to be presented in a summarised form (see example in Table 6). This can be included in the main body of the document or appended. This is a summary only and **should not** include personal details of the stakeholders or any sensitive information obtained during consultation that should not be made public once the finalised document is published. Copies of correspondence logs that contain this information should be provided to the Department as separate supporting evidence.

**Table 6 Summary of consultation to be included in documents submitted to the Department**

Date	Stakeholder	Issues raised during engagement	How these issues have been addressed	Where the issues have been addressed (document reference)	Status (resolved or unresolved)

# Glossary

Term	Definition
Stakeholders	All those with an interest or who are impacted by the approved project, including neighbours, community members, interest groups, local council, and government agencies, in particular those identified in the conditions of consent.
Conditions of consent	<p>Either of the following:</p> <ul style="list-style-type: none"> <li>• development consents for a State significant development</li> <li>• infrastructure approvals for State significant infrastructure</li> <li>• transitional Part 3A project approvals</li> <li>• other approvals or consents granted by the Minister</li> </ul> <p>in accordance with the <i>Environmental Planning and Assessment Act 1979</i>.</p>
Department	Department of Planning, Industry and Environment
Post approval document	Any document required by conditions of consent, including management plans, Community and Stakeholder Engagement Plans.
Proponent	The person or entity that is referred to as the applicant or the proponent in a State Significant Infrastructure approval or in a State Significant Development consent, and includes any person carrying out any part of the development on behalf of the applicant or proponent to which the approval or consent applies.
Planning Secretary	The Planning Secretary is the Secretary of the NSW Department of Planning, Industry and Environment, including any authorised delegate or nominee.
State significant projects	<p>Means any of the following:</p> <ul style="list-style-type: none"> <li>• State significant development projects</li> <li>• State significant infrastructure projects (including critical State significant infrastructure projects)</li> <li>• Transitional Part 3A projects</li> <li>• Part 4 projects for which the Minister for Planning is the consent authority in accordance with the <i>Environmental Planning and Assessment Act 1979</i>.</li> </ul>

## Appendix A - Summary of engagement terms, definitions, steps, evidence and examples of techniques

Term	Explanation	Steps	Evidence	Examples of techniques
1. <b>Information/ Notification</b>	To provide information to stakeholders or notify them of upcoming activities and / or impacts.	<ul style="list-style-type: none"> <li>Identify the engagement objective</li> <li>Provide information/ documents</li> <li>Provide contact details for further information.</li> </ul>	<ul style="list-style-type: none"> <li>Record of the date and method of sending/delivery of information.</li> </ul>	<ul style="list-style-type: none"> <li>Website</li> <li>Traditional media</li> <li>Newsletters/notifications/fact sheets</li> <li>Email/sms</li> <li>Video</li> <li>Signage</li> </ul>

Term	Explanation	Steps	Evidence	Examples of techniques
<b>2. Consultation</b>	<p>To obtain and consider feedback from stakeholders</p> <p>To explain how the feedback has been considered and whether any changes have been made in response to this feedback is documented and then communicated back to the stakeholders</p>	<ul style="list-style-type: none"> <li>• Identify the engagement objective</li> <li>• Provide information/ documents</li> <li>• Get feedback from the stakeholder</li> <li>• Identify how their feedback will be used</li> <li>• Provide contact for further information.</li> </ul>	<ul style="list-style-type: none"> <li>• Record of the date and method that information was sent or delivered.</li> <li>• Confirmation and/or evidence that information was received.</li> <li>• Record of the feedback or summary of issues raised (e.g. from phone calls, letters, submissions or meeting notes).</li> <li>• Records, such as a log showing effort to follow up via email and/or phone calls and/or door knock if appropriate over a period of more than one week prior to the applicant concluding it is not possible to obtain feedback.</li> <li>• Documentation of how the feedback has been used.</li> <li>• Confirmation in writing that the stakeholder is satisfied with how their feedback has been used, that the issue/s they raised have been addressed, or they have approved the document.</li> </ul>	<ul style="list-style-type: none"> <li>• Project phone number</li> <li>• Social media</li> <li>• Surveys</li> <li>• Briefings</li> <li>• Information sessions</li> <li>• Public meetings</li> <li>• Webinar/online workshop</li> <li>• Online interactive platforms</li> <li>• Site visit</li> <li>• Citizens panel/ research panel</li> <li>• Focus group(s).</li> </ul>

Term	Explanation	Steps	Evidence	Examples of techniques
<b>3. Satisfaction/ Approval</b>	<p>Input is sought during development of post approval documents to satisfy the requirements of the nominated stakeholder in relation to the matter covered by the document.</p> <p>The stakeholder then either approves the document, or confirms they are satisfied that it meets the requirements of the relevant conditions of consent.</p>	<ul style="list-style-type: none"> <li>• Identify the engagement objective</li> <li>• Provide information/documents</li> <li>• Get feedback from the stakeholder</li> <li>• Resolve comments</li> <li>• Obtain written approval</li> <li>• Provide contact for further information.</li> </ul>	<ul style="list-style-type: none"> <li>• Record of the date and method that information was sent or delivered.</li> <li>• Confirmation and/or evidence that information was received.</li> <li>• Copy of the log of feedback or summary of issues raised, for example from phone calls, letters, submissions or meeting notes.</li> <li>• Records, such as a log showing effort to follow up via email and/or phone calls and/or door knock if appropriate, over a period of more than one week prior to the applicant concluding it is not possible to obtain feedback.</li> <li>• Documentation of how the feedback has been used.</li> <li>• Confirmation in writing that the stakeholder is satisfied with how their feedback has been used, that the issue(s) they raised have been addressed, or they have approved the document.</li> </ul>	<ul style="list-style-type: none"> <li>• Workshops</li> <li>• Deliberative forum/ deliberative workshop</li> </ul>