

Interagency Engagement Protocol

This document sets out a Protocol for DPHI Development Assessment and Sustainability (DPHI DAS) engagement with other government agencies in the assessment of state significant projects

Introduction

This document sets out a Protocol for DPHI Development Assessment and Sustainability (DPHI DAS) engagement with other government agencies¹ in the assessment of state significant proposals where the Minister for Planning (or delegate) or the Independent Planning Commission is the consent authority². It establishes the core policy elements that should guide engagement, and the engagement practices that should be followed by DPHI DAS and by other government agencies providing advice to DPHI DAS as part of the whole-of-government assessment process. The Protocol also establishes consistent elements and practices for engagement during consideration of post-approval matters.

The Protocol is consistent with the existing NSW Government arrangements already in place³ that describe how interagency engagement should be undertaken in some aspects of assessments. This relationship is shown at Figure 1 below.

The NSW Government has committed to reducing the end-to-end time taken for assessing and determining State-significant proposals. The Protocol establishes the engagement practices needed to reduce the time taken by the whole-of-government assessment process.

The Protocol consists of three key parts:

- A statement that clearly establishes the purpose of interagency engagement
- A set of eight core policy elements that should guide engagement through the assessment and post-approval process
- A set of practices that would implement the core elements for engagement, in situations where existing arrangements do not apply

¹ State Owned Corporations (SOCs) and Individual Local Councils are not included as part of this protocol.

² The Minister for Planning is the consent authority for all SSD, SSI and various other development under Part 4 of the Environmental Planning and Assessment Act, 1979 (EP&A Act). The Minister has delegated some consent authority functions to NSW Planning and to the Independent Planning Commission.

³ Including the Intergovernmental Protocol on Critical State Significant Infrastructure Assessment procedures, and the administrative arrangements supporting both the Assessment Bilateral Agreement with the Australian Government and the Memorandum of Understanding between DPHI and the Independent Planning Commission.

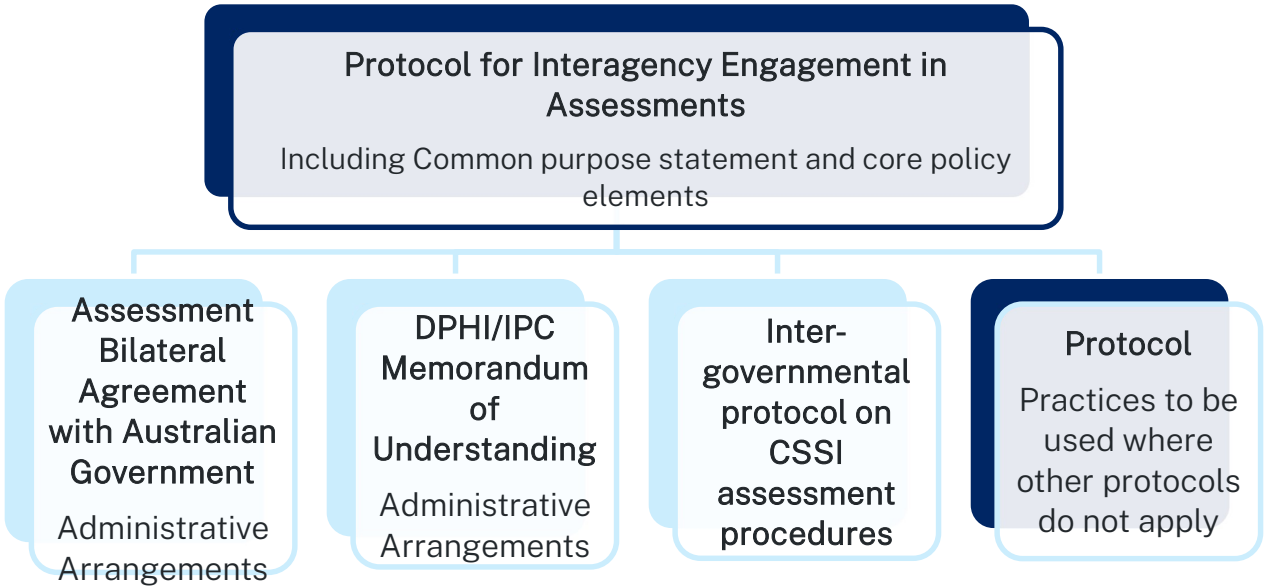


Figure 1. The relationship of the Protocol with other arrangements

1. Purpose and Core Elements

The outcomes being sought

The NSW Government seeks to undertake interagency engagement that supports DPHI DAS to lead a whole-of-government assessment of State-significant proposals.

The NSW Government also seeks to make the best use of government expertise to guide development and acquittal of post-approval matters.

The core elements

- **DPHI DAS will lead the whole-of-government assessment** – DPHI DAS will lead the whole-of-government assessment process and will present an assessment report to the appropriate consent authority.
- **DPHI DAS will seek advice from agencies⁴** – DPHI DAS will seek advice from all agencies that have expertise in, or may be involved in administering or regulating the impacts of a State-significant proposal. The request for advice will be timely and clear, in order to allow early identification and resolution of assessment issues, and timely consideration of post-approval matters.
- **Agencies will provide appropriate advice** – Agencies will provide appropriate advice to assist DPHI DAS to lead the whole-of-government assessment. The advice will focus on higher order issues and will be provided as soon as possible within the agreed timeframe. Agencies will also provide advice to support DPHI DAS consideration of post approval matters, where requested.
- **DPHI DAS will review and consider advice received from other agencies** – DPHI DAS will consider the advice from agencies, balancing the economic, environmental and social outcomes, as required by the EP&A Act.
- **DPHI DAS may require proponents to consult with agencies on post-approval matters** – DPHI DAS may require proponents to consult with specific agencies on specific post approval matters, such as management plans, within conditions of consent or approval.
- **Agencies will provide appropriate advice to proponents regarding post approval matters** – Agencies will provide appropriate advice when they are consulted on post-approval matters, to assist proponents to produce the best possible plans and strategies to mitigate the impacts of development.
- **DPHI DAS and agencies will collaborate to resolve assessment issues early** – DPHI DAS and agencies will work together to achieve early identification and resolution of assessment issues.
- **DPHI DAS and agencies will collaborate to continually improve the assessment process** – DPHI DAS and agencies will work together to continually improve whole-of-government assessment process including the quality and timeliness of assessments.

⁴ For the purposes of this Protocol, the term 'agencies' is taken to include NSW and Australian Government Departments, statutory bodies, and state-owned corporations with expertise or regulatory functions that could contribute to a whole-of-government assessment report.

2. Practices

The practices outlined below apply to all state significant proposals, and supplement (but do not replace) the specific practices established by the NSW Government within interagency protocols a) for assessment of critical state significant infrastructure proposals⁵ ⁶and b) for assessment engagement with the Australian Government⁷. The practices also support the specific practices established by the administration arrangements between DPHI DAS and the Independent Planning Commission.

2.1 DPHI DAS will lead the whole-of-government assessment

DPHI DAS will lead the whole-of-government assessment process and will present an assessment report to the appropriate consent authority.

DPHI DAS will implement this core element by adopting the following practices:

- Nominate an officer who will act as primary point of contact.
- Establish forums for collaboration with agencies at different stages of the assessment process to identify and resolve issues.
- Prepare an assessment report which reflects advice from agencies.
- Present the assessment report to the appropriate consent authority.
- Coordinate engagement between the appropriate consent authority and agencies providing advice into the whole-of-government assessment.
- Make project information available on the NSW Planning Portal.
- Establish an assessment schedule, based on the complexity of the proposal, using DPHI DAS Assessment Targets, at Table 1.
- Regularly report on whole-of-government performance against the schedule and targets to Senior Officer and CEO groups
- Publish advice from agencies, to support the assessment report.

DPHI DAS may also adopt the following practices:

- Arrange site visits, planning focus meetings or joint interagency briefings, where required.

⁵ Inter-governmental Protocol on Critical State Significant Infrastructure Assessment Procedures, 2015

⁶ Section 3.7.2 commits regulatory agencies to working with the proponent agency to process applications for necessary licenses, permits, and other approvals required under other legislation prior to commencement of works that are consistent with the project approval.

⁷ Administrative arrangements for the Assessment Bilateral Agreement between the Commonwealth of Australia and the State of New South Wales, 2015

⁸ For bilateral assessments or accredited assessments, agencies are committed to implementing relevant aspects of the Biodiversity Conservation Act 2016 No 63

- Report on whole-of-government performance against the schedule and targets on its website.
- Provide support to other agencies to improve provision of advice or systems that manage such advice.
- Request assistance from the Premier's Department to lead a whole-of-government assessment.

Table 1. DPHI DAS Assessment Targets 2024-25

		Assessment						Determination		Totals		LOSC ²
	Classification Options	EIS	Prepare Exhibition / Notification ¹	Exhibition / Notification	Collate Submissions	Response to Submissions	Assessment	IPC Determination	DPE or Min Decision	Total No. Days (IPC as decider)	Total No. Days (DPE/Min as decider)	6 monthly rolling average
Applications												
Complex	CXP CXD		5	28	5		65	50	7	153	110	100
Standard	STP STD		5	28	5		35	32	6	105	79	
SSD in-fill affordable housing (faster assessment program)	-		5	28	5	90 ³	47	-	5	-	90	90 ⁴
Public Hearing												
Public Hearing	PRP		6	42	6		70	84		208		208
Modifications												
Major	MJP MJD		12	28	5		37	35	7	117	89	60
Regular	RGP RGD		10	14	3		21	35	7	83	55	
Minor	MNP MND		7	14			21		2		44	30
Minor - No Consult	MNP MND		7				14		7		28	
Post Approval												
			Receive				Assessment		Decision		Total No. Days	LOSC
Complex			7				42		7		56	60
Regular			7				14		7		28	30
Minor			7				5		2		14	10
Administrative			7				0		0		7	

¹ Does not include preceding Completeness Check stage

² Level of service commitments

³ To be part of the faster assessment program, applicants are required to provide the submissions report in 90 days or less

⁴ The 90 day target is calculated from lodgement to determination, or referral to the IPC, where relevant

2.2 DPHI DAS will seek advice from agencies

DPHI DAS will seek advice from all agencies that have expertise in, or may be involved in administering or regulating the impacts of a state-significant proposal. The request for advice will be timely and clear, in order to allow early identification and resolution of assessment issues, and timely consideration of post-approval matters.

DPHI DAS will implement this core element by adopting the following practices:

- Identify which agencies it will seek advice from, based on the nature of the proposal and on the expertise or regulatory functions of an agency, and ask them to identify a primary point of contact.
- Request advice from agencies by a clearly specified date/time. The Senior Officer's Expected Timeframes, at Table 2, will be used unless agreed otherwise by Senior Officers for specific circumstances.
- Clearly identify the specific advice, and the form of advice being sought from agencies.
- Make request for advice as early as possible after receipt of information from the applicant. Specifically, DPHI DAS will make its request for advice regarding an EIS at least 7 days prior to the commencement of exhibition.
- Remind agencies to provide advice, so that all respond.

DPHI DAS may also adopt the following practices:

- Organise site visits, planning focus meetings or interagency meetings to support development of advice.
- Use informal communication with agencies to seek input on issues or concerns.
- Publish contact details of contact officers during the assessment process.
- Request agencies to identify suitable independent experts for specific technical issues.

Table 2. Expected Timeframes for agencies written response ⁹ on development proposals

DPHI DAS may request advice on:	Timeframes for Agencies response
Preparation of the Secretary's Environmental Assessment Requirements (SEARs)	Within 14 days of request
Environmental Impact Statement	No later than 7 days prior to the end of exhibition period. ¹⁰
Consideration of the Response to Submissions (and/or preferred infrastructure report) (if required)	Within 14 days of request.
Independent Planning Commission Hearing Report (if any)	Within 14 days of request.
Draft Conditions of Approval or Reasons for Refusal (if required)	Within 7 days of request.
Issues identified at a site visit, planning focus meeting or interagency meeting (if any)	Within 7 days of visit or meeting.
Consideration of post approval matters, such as management plans	Complex matters - within 28 days of request. All other matters - within 14 days of request.
Other (if required)	Within 14 days of request or by negotiation

⁹ Note: Table 2 identifies expectations regarding written advice (either by email or letter) but it is also expected that agencies will contact DPHI DAS (either by phone or in person) as soon as possible after the request, to indicate the proposed content of the written advice.

¹⁰ Linked to this, DPHI DAS will make its request for advice regarding an EIS at least 7 days prior to the commencement of exhibition, allowing agencies a period of time equal to the exhibition period, in which to prepare and provide advice.

2.3 Agencies will provide appropriate advice

Agencies will provide appropriate advice to assist DPHI DAS to lead the whole-of-government assessment. The advice will be project specific, will focus on higher order issues¹¹ and will be provided as soon as possible within the agreed timeframe. Agencies will also provide advice to support DPHI DAS consideration of post-approval matters, where requested.

Agencies will implement this core element by adopting the following practices:

- Agency Senior Officers will identify higher order issues that must be addressed in advice, guided by the key issues identified in the proposal's SEARs and the Senior Officer's Issues Categorisation Model, at Figure 2.
- Agencies will use relevant subject matter experts to develop technical aspects of advice.
- Agencies will use regional staff to provide local or regional context to advice.
- Agencies will use policy leaders to confirm policy aspects of advice.
- Advice will refer to existing policy settings (where applicable) and will be supported by digital versions of relevant policy documents.
- Agencies will identify to DPHI DAS any assessment issues that will be addressed in written advice, as soon as possible without waiting for written advice to be provided.
- Agencies will discuss any assessment issues identified within advice at relevant forums, including DPHI DAS agency meetings and Senior Officer forums.
- Written advice will be sufficiently detailed to allow for direct use in the whole-of-government assessment report.
- Agencies will finalise advice through Senior Officers who are able to ensure advice is appropriate to the agency's strategic context and consistent between geographic regions.
- In cases where agencies have provided advice that there are assessment issues which require conditions to be attached to consent or approval, those agencies will provide advice to DPHI DAS when post-approval matters related to those issues are being considered.
- Agencies will provide advice as soon as possible, within the agreed timeframe. The Senior Officer's Expected Timeframes, at Table 2, will be used unless agreed otherwise by Senior Officers.

¹¹ Assessment issues that are likely to impose significant economic, social or environmental impacts are considered 'higher order'. They are typically identified as 'Key Issues' in SEARs. They may also be difficult for a proponent to respond to, or complex for Government to respond to in the whole-of-government assessment report.

- Agencies will provide advice in the form requested, to the DPHI DAS primary point of contact, who will then post that advice to the Major Projects website.

Agencies may also adopt the following practices:

- Advice may flag areas of policy development, in such a way that makes it clear what the existing policy settings are.
- Agencies may base early advice on appropriate peer review material.
- Advice on a particular issue may explicitly cross-reference to advice being provided by other agencies with expertise or regulatory scope related to that particular issue
- Agencies may advise if any part of their written advice contains sensitive information and should not be made available to public. A request to withhold information should be supported by reasons for request.

		Proponent Response ¹²		
		Extent of required changes to proposal not feasible or unlikely to be acceptable	Major changes required to proposal and likely to be acceptable	Minor changes required to proposal and likely to be acceptable
Government Response		1	2	3
	No immediate solution available or out of control of Government	A		
	Solution may be complex, contentious or otherwise problematic	B		
	Relatively straightforward solution available	C		

Figure 2. Issues Categorisation Model ¹³

¹² The term 'Proponents response' in Figure 2 represents the NSW Government's view of the expected proponent response to a particular assessment issue.

¹³ Figure 2 depicts the matrix for categorising the difficulty of assessing particular assessment issues. The full Categorisation Model has been shared in SO forums.

2.4 DPHI DAS will review and consider advice received from other agencies

DPHI DAS will consider the advice from agencies, balancing the environmental, social and economic impacts, and other matters for consideration required by the EP&A Act.

DPHI DAS will implement this core element by adopting the following practices:

- Review all advice received from agencies. DPHI DAS will promptly seek clarification on any elements of advice that are not fully understood.
- Adopt the advice of relevant agency experts regarding the appropriateness of an assessment methodology used in the EIS, and regarding the acceptability of an impact assessed within the EIS.
- DPHI DAS will rely on agency advice that confirms statements of fact within the EIS.
- Consider all agency advice when balancing the environmental, social and economic impacts of the proposal.
- Identify agency advice in the assessment report, and will explain how agency advice has been considered in the assessment report.

DPHI DAS may also adopt the following practices:

- May provide a quarterly report of how an agency's advice was considered in the assessment report.

2.5 DPHI DAS may require proponents to consult with agencies on post-approval matters

DPHI DAS may require proponents to consult with specific agencies on specific post approval matters, such as management plans, within conditions of consent or approval.

DPHI DAS will implement this core element by adopting the following practices:

- May include within conditions of approval or consent a requirement for the proponent to produce post-approval material 'in consultation with' a specific agency, where that agency identified an assessment issue being addressed by those conditions.
- May include within conditions of approval or consent a requirement for the proponent to produce post-approval material 'in consultation with' a specific agency, where that agency has powers that were 'turned off' by the state significant assessment pathway.
- DPHI DAS will not include within conditions of approval or consent a requirement for the proponent to produce post-approval material 'in consultation with' a specific agency, where that agency has regulatory powers that could be compromised by such consultation.

- Provide draft conditions of consent or approval to agencies allowing them to choose the level of engagement (if any) with proponents that is appropriate to their strategic objectives.

DPHI DAS may also adopt the following practices:

- Identify environmental representatives or specific experts within an agency that should be consulted.

2.6 Agencies will provide appropriate advice to proponents regarding post approval matters

Agencies will provide appropriate advice when they are consulted on post-approval matters, to assist proponents to produce the best possible plans and strategies to mitigate the impacts of development.

DPHI DAS expects that agencies will implement this core element by adopting the following practices:

- Where identified as an agency a proponent must consult with regarding post approval matters, that agency will dedicate sufficient resources to provide advice to that proponent as part of that consultation.
- Agencies will respond in writing within 28 days, to proponent requests for consultation on issues relating to conditions of consent or approval. For matters that are revisions of previously reviewed material, an agency response will be provided within 14 days.
- Agencies will consult in a manner that assists proponents to produce the best possible management plans, by allowing them access to government expertise.
- Agencies will consult with proponents in a manner that does not hinder the construction of an approved development.

Agencies may also adopt the following practices:

- Agencies may decide that consultation is not necessary to achieve the best possible outcome, and in this instance will promptly provide proponents with an explanation suitable for publication in the Major Projects website.

2.7 DPHI DAS and agencies will collaborate to resolve assessment issues early

DPHI DAS and agencies will work together to achieve early identification and resolution of assessment issues.

DPHI DAS will implement this core element by adopting the following practices:

- Identify higher order assessment issues as soon as possible, prior to exhibition of the proposal. This will be guided by the key issues identified in the proposal's SEARs and the Issues Categorisation Model, at Figure 2.
- Allocate appropriate staff resources to allow collaboration aimed at early resolution of assessment issues
- Encourage informal communication by phone or when necessary by email to reduce delays.
- Hold site visits, planning focus meetings and inter-agency meetings to discuss any concerns or issues.
- Provide appropriate senior officer/ technical advisor representation at site visits, planning focus meetings and interagency meetings.
- Escalate resolution of assessment issues, to allow completion of the assessment report within target timeframes.

2.8 DPHI DAS and agencies will collaborate to continually improve the assessment process

DPHI DAS and agencies will work together to continually improve whole-of-government assessment process including the quality and timeliness of assessments.

DPHI DAS and agencies will implement this core element by adopting the following practices and working together to:

- Identify opportunities to improve existing processes and information sharing to achieve faster and better assessments.
- Evaluate the timeliness of advice provided into assessment processes, against the Senior Officer's Expected Timeframes, at Table 2.
- Evaluate the quality of advice provided into assessment processes.
- Seek and respond to critical evaluation of assessments provided by consent authorities.
- Report to Senior Officer forums on effectiveness of assessment performance.
- Provide training for staff involved in assessment processes.