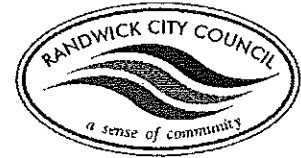


Memorandum



TO: All Councillors
FROM: Ray Brownlee - General Manager
DATE: 15 February 2005 FILE:

SUBJECT: REF AND EIS PROCESSES

Introduction

At the Planning Committee meeting of 8 February 2005 as a part of the Mayoral Minute about the Gardeners Road off Ramp the issue of Review of Environmental Factors (REF) Vs. Environmental Impact Statement (EIS) was raised. The following is aimed to clarify the distinction and the process associated in the assessment when an REF or EIS is required.

Planning Background

Activities which are undertaken by the State Government Agencies often do not require development consent.

The Environmental Planning and Assessment Act and Regulation stipulate procedures regarding whether an EIS is required.

It is the responsibility of the relevant public authority (determining authority) to consider the impact of the proposal and decide whether an EIS is required. Any public authority responsible for granting approval to an activity must consider the significance of an activity within the provisions of the EPA Act and Regulation.

When an EIS is required

The questions as to whether an EIS is required depends on the size and complexity of the proposal. In mid 1990s DIPNR provided a set of guidelines in order to assist public authorities to determine when an EIS is required (copy of the guidelines is attached). The following information by DIPNR provides a level of clarification in using the guidelines to determine when an EIS is required.

1. For activities with relatively minor impact, the guidelines provide a tool for identifying and analysing impacts. For many activities, the evaluation framework will provide for sufficient analysis of environmental factors for decision making.
2. For classes of activities that have very predictable impacts, the evaluation frameworks could be streamlined following consultation b
3. For those activities where there are impacts that are complex or for which further analysis is required to understand the potential impacts, a more comprehensive study will need to be prepared in using the evaluation framework. This study is usually reported in a document called a "review of environmental factors"(REF). Following an evaluation of the factors in the REF a decision can then be made if the impacts are likely to be significant.

4. In some cases where the impacts are obviously very significant, the determining authorities may decide that an EIS is required without proceeding through the full implementation of the guidelines.

Table 1 provides a succinct summary of the process.

Conclusion

Under the provision of EPA Act Government agencies do not require development consent from local council for activities such as construction of dams, sewage treatment works, roads and toll works. However, it is the responsibility of the public authority to determine the likely impacts and on that basis determine whether an EIS is required. The Regulation to the EPA Act states that the following issues need to be taken into account:

- Impact on the ecosystem
- Impact on the community
- Impact on habitat of protected fauna and flora
- Any pollution on environment
- Any environmental issues with waste disposal
- Any demands on natural resources which are likely or will become in short supply
- Any cumulative environmental effect

The above issues are taken into account in the preparation of an REF. A review of the REF will determine whether the activity would likely to have a significant environmental impact. This will then determine whether an EIS will be required.

It is also important to note that consultation with other Government agencies and the community is part of both the REF and the EIS process. Table 2 provides a comparison between an REF and EIS requirements. As will be noted the REF does not require public exhibition. However, in this case the RTA has agreed to exhibit the REF seeking public comments.



Ray Brownlee
General Manager



IS AN EIS REQUIRED?

IDENTIFY THE ISSUES

Characteristics of the activity (during construction & operation)	Potential issues
How is the proposal likely to affect the physical aspects of the environment or introduce pollution or safety risk factors? 1. disturbs the topography or above or below ground features including filling, excavation, dredging, tunnelling: eg landforming, site preparation, quarrying, reclamation, creation of islands, waterbodies, etc; involves the disposal of large quantities of spoil 2. affects a natural waterbody, wetland or groundwater aquifer or the natural water drainage pattern; affects the quality or quantity of water in the systems 3. uses groundwater or surface water from a natural waterbody; stores water in a dam or artificial waterbody 4. changes the flood or tidal regimes or is affected by flooding or tides 5. uses, stores, disposes or transports hazardous substances (flammable, explosive, toxic, radioactive, carcinogenic or mutagenic substances); uses or generates pesticides, herbicides, fertilisers or other chemicals which may build up residues in the environment 6. generates or disposes of gaseous, liquid or solid waste (industrial, medical or domestic waste, sewage, sludge or effluent, spoil or overburden); generates greenhouse gas emissions or releases chemicals which affect the ozone layer or are precursors to photochemical smog; generates or disposes of hazardous waste 7. emits dust, odours, noise, vibrations, blasts, electromagnetic fields or radiation in the proximity of residential areas or landuses likely to be affected 8. any other matters	If no impacts identified this section can be ignored in Tables 2(a) and 2(c)
How is the proposal likely to affect the biological aspects of the environment? 1. clears or modifies (including by modifying the drainage) native vegetation (including trees, shrubs, grasses, herbs or aquatic species) 2. displaces or disturbs fauna (terrestrial or aquatic) * or creates a barrier to fauna movement; clears remnant vegetation or wildlife corridors 3. introduces noxious weeds, vermin, feral species or disease or releases genetically modified organisms 4. undertakes activity which affects revegetation or replenishment of native species following a disturbance 5. introduces high bushfire risk factors or changes the fire regime 6. any other issues	If no impacts identified this section can be ignored in Tables 2(a) and 2(c)

* A Fauna Impact Statement will be required if the activity is likely to significantly affect the environment of endangered species.



IS AN EIS REQUIRED?

IDENTIFY THE ISSUES

Characteristics of the activity (during construction & operation)	Potential issues
How is the proposal likely to affect areas sensitive because of physical factors? 1. coastline and dune fields, alpine areas, deserts, caves or other unique landforms 2. land with high agricultural capability 3. natural waterbodies, riparian zones, wetlands, drinking water catchments or flood prone areas 4. groundwater recharge areas or areas with high water table 5. erosion prone areas; areas with slopes of greater than 18 degrees 6. subsidence or slip areas 7. areas with acid sulphate, sodic or highly permeable soils 8. areas with salinity or potential salinity problems 9. areas with degraded air quality 10. areas with degraded or contaminated soil area or degraded or contaminated water (ground or surface) 11. any other sensitive areas	If no impacts identified this section can be ignored in Tables 2(b)
How is the proposal likely to affect areas sensitive because of biological factors? 1. corals and seagrass beds, wetland communities (coastal, peatlands or inland), native forests, urban bushland, arid and semi-arid communities 2. habitat/wildlife of endangered terrestrial or aquatic fauna species and of species listed under international agreements including Japan-Australia Migratory Birds Agreement (JAMBA) and China-Australia Migratory Birds Agreement (CAMBA) 3. habitat wildlife corridors and remnant vegetation 4. protected, rare or threatened plant species or inadequately reserved plant communities 5. bushfire prone areas 6. fishing grounds and fish breeding or nursery areas 7. any other sensitive areas	If no impacts identified this section can be ignored in Tables 2(b)



IS AN EIS REQUIRED?

IDENTIFY THE ISSUES

Characteristics of the activity (during construction & operation)

Potential issues

How is the proposal likely to affect natural or community resources?

1. uses or results in the use of community services or infrastructure including roads, power, water, drainage, waste management, education, medical or social services
2. uses or results in the use of natural resources including water (ground or surface), fuels, timber, extractive material, minerals, prime agricultural land, etc
3. affects future potential of commercial deposits of minerals or extractive material or areas important for fishing, agriculture or forestry
4. changes the demographics of an area
5. changes the transport requirements of an area
6. creates a new route alignment for the provision of infrastructure (eg rail, roads, power, etc)
7. any other issues

If no impacts identified this section can be ignored in Tables 2(a) and 2(c)

How is the proposal likely to affect the community?

1. generates population movements including influx or departure of the workforce
2. changes the workforce or industry structure of the area/region;
3. affects employment opportunities affects areas of high population densities or established development patterns
4. affects access to an area, building or items of aesthetic, anthropological, archaeological, architectural, cultural, historical, scientific, recreational, aesthetic or social significance or other special value for present or future generations
5. affects the visual or scenic landscape (including major cuts/fills, towers, projects on escarpments, etc)
6. affects sunlight or views of another property
7. affects the amenity of publicly owned land (particularly recreational areas, national parks or reserves)
8. changes surrounding land uses as a direct or indirect result of the activity; forms a barrier to movement within the community or access to existing properties; leads to a loss of housing
9. generates significant volume of traffic (road, rail, air, pedestrian, etc)
10. generates nuisance, health or safety risks including air pollution, odour, noise or vibration, blasting, electromagnetic fields or radiation; releases diseases or genetically modified organisms; changes the bush fire regime
11. any other issues

If no impacts identified this section can be ignored in Tables 2(a) and 2(c)



IS AN EIS REQUIRED?

IDENTIFY THE ISSUES

Characteristics of the activity (during construction & operation)	Potential issues
How is the proposal likely to affect areas allocated for conservation purposes? 1. national parks and other areas reserved or dedicated under the NP&W Act 2. land reserved or dedicated within the meaning of the <i>Crown Lands Act 1989</i> for preservation or other environmental protection purposes 3. world heritage areas 4. environmental protection zones in environmental planning instruments or lands protected under SEPP 14 — Coastal Wetlands or SEPP 26 — Littoral Rainforests 5. land identified as wilderness under the <i>Wilderness Act 1987</i> or declared as wilderness under the NP&W Act 6. aquatic reserves dedicated under the <i>Fisheries Management Act 1994</i> 7. wetlands areas dedicated under the Ramsar Wetlands Convention 8. heritage items identified on the Register of the National Estate, under the NSW Heritage Act or an environmental planning instrument 9. community land under the Local Government Act (for which a plan of management has been prepared) 10. land subject to a 'conservation agreement' under the NP&W Act 11. any other areas	If no impacts identified this section can be ignored in Tables 2(b)
How is the proposal likely to affect areas sensitive because of community factors? 1. Aboriginal communities or areas subject to land rights claims 2. communities with a strong sense of identity 3. disadvantaged communities (reduced economic, social or cultural indicators) 4. areas with degraded amenity from noise, traffic congestion or odour 5. areas or items of high anthropological, archaeological, architectural, cultural, heritage, historical, recreational or scientific value 6. areas or items of high aesthetic or scenic value 7. any other areas	If no impacts identified this section can be ignored in Tables 2(b)

Table 1

STAGES IN THE EIA PROCESS

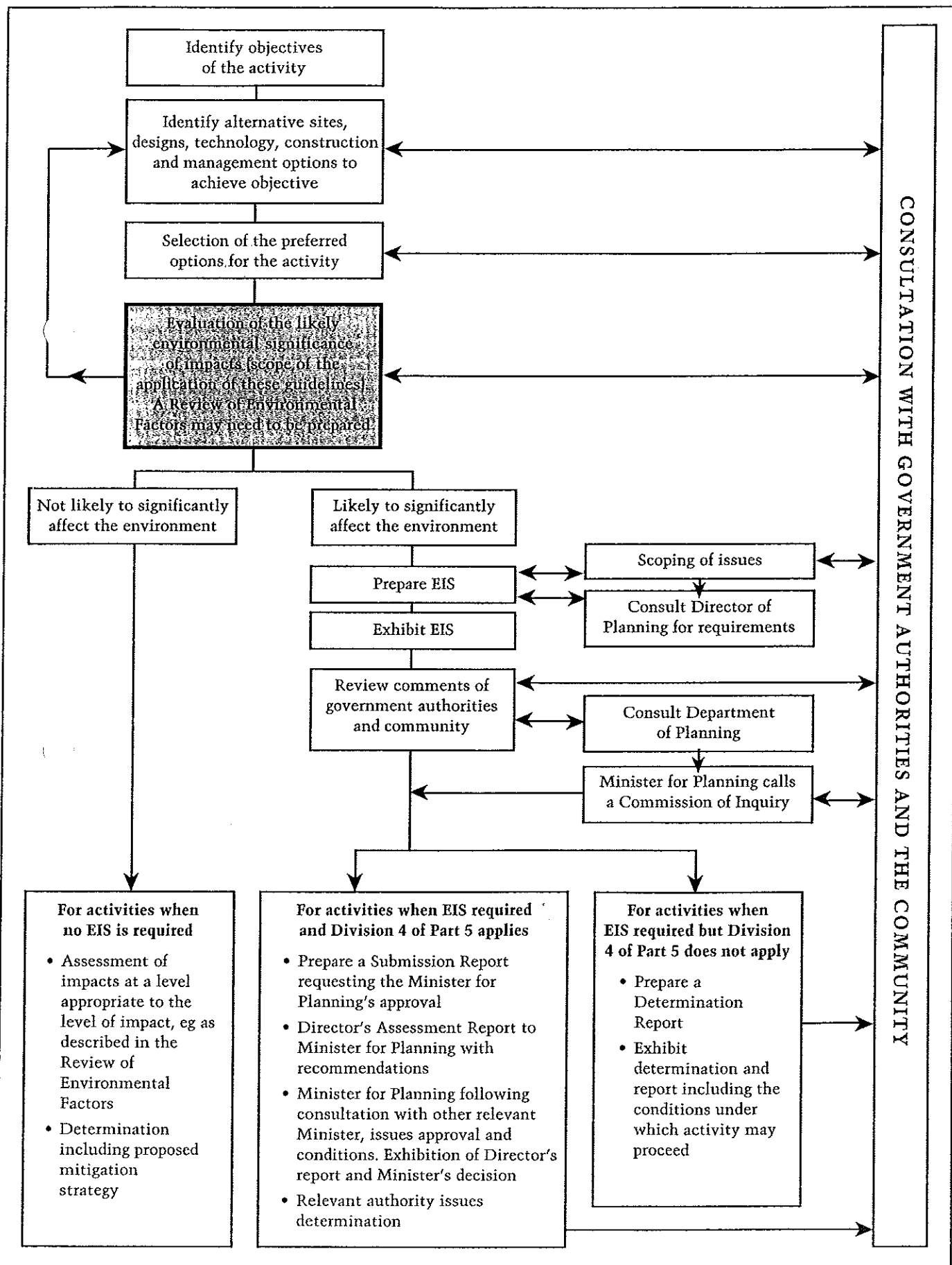


Table 2

REF & EIS - Comparison of Processes

REF	EIS
• s.111 EPA ACT - Consideration of the environmental impact of the proposal • Complex proposals with likely impact REF is prepared • Not likely to significant impact (will be no need for an EIS) • No need for Public Exhibition (in the case of the Gardeners Road Off Ramps the RTA has advised that it will exhibit the application and seek public comments) • Review and assessment of the submissions by the RTA • Determination of the proposal by the Determining Authority (RTA). Conditions could be imposed by the RTA to mitigate the likely impacts	• s.111 EPA ACT - Consideration of the environmental impact of the proposal • Complex proposals with likely impact REF is prepared • Significant impact (An EIS will need to be prepared) • EIS will be exhibited for 30 days seeking public submission • Review and assessment of the submissions by the RTA forward to DIPNR • Minister for Planning due to a significance of impacts a proposal may call a Commission of Inquiry • DG of DIPNR prepares a report for Minister for Planning including recommendations and where relevant conditions of approval to mitigate likely impacts • Determination of the proposal by the Determining Authority