

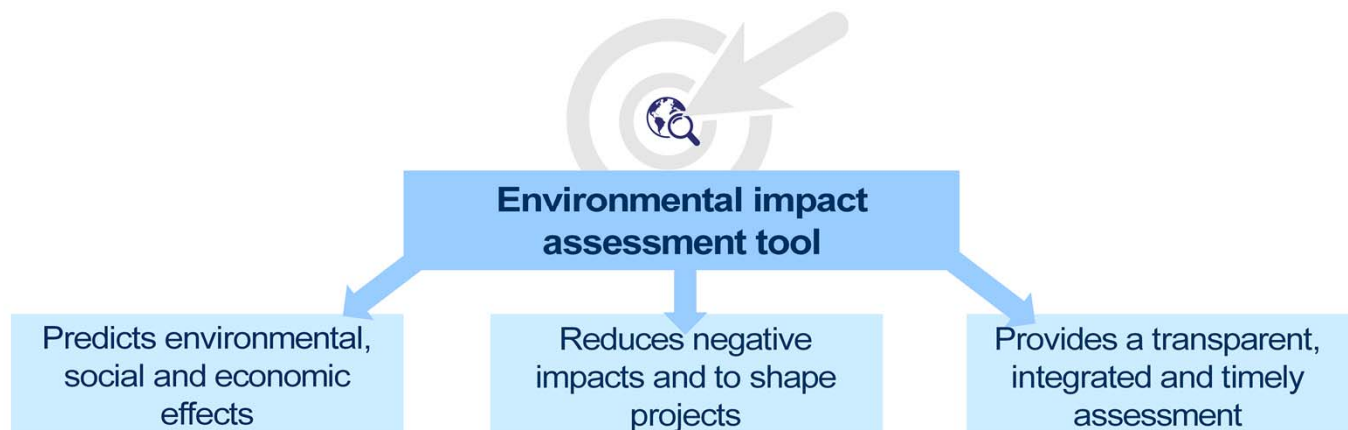
# ***Effectiveness of the Environmental Effects Statement Process***

Tabled 22 March 2017

This presentation provides an overview of the Victorian Auditor-General's report *Effectiveness of the Environmental Effects Statement Process*.

## Environmental impact assessments

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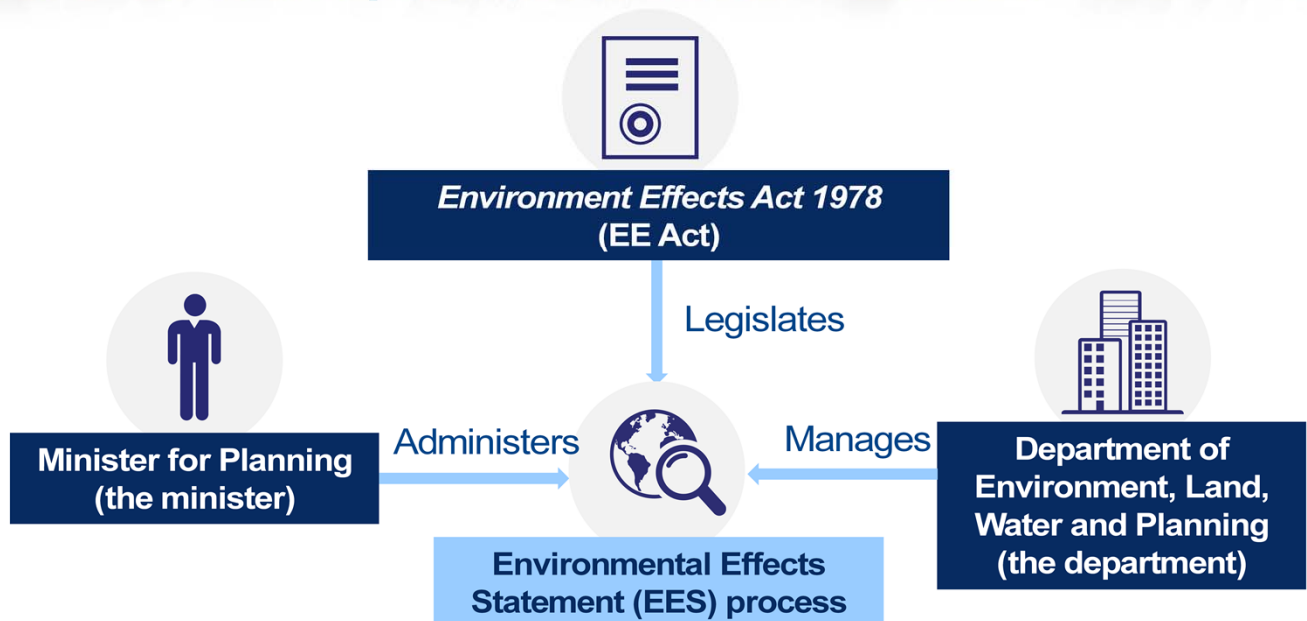


Land use planning and development are important for meeting the changing needs of the growing Victorian population. The effects of development on the environment are critical considerations in planning and development.

An environmental impact assessment is a tool used to predict the environmental, social and economic effects of a proposed development at an early stage in project planning and design. The assessment aims to find ways to reduce negative impacts, and to shape projects to suit the local environment.

## How does the process work in Victoria?

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In Victoria, for projects likely to have a significant environmental impact, the Environmental Effects Statement (EES) process is the main statutory mechanism for assessing environmental effects at the state or regional level.

The Minister for Planning administers the EES process under the Environmental Effects Act 1978 (EE Act).

## Focus of this audit

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Does the department effectively manage the EES process?

### Summary of the stages of the EES process



In this audit, we examined whether the Department of Environment, Land, Water and Planning (the department) is effectively managing the EES process.

## Previous reviews of the process



- Statutory decision-makers are not bound by the minister's recommendations



- Reviews and parliamentary inquiry found EES processes:
  - Costly
  - Lacking clarity and transparency



- Absence of legislative reform → constrained ability to improve outcomes

The minister's assessment of the environmental effects of a project is provided to inform decision-making, but under the EE Act, statutory decision-makers are not bound by the minister's recommendations.

Since 2000, two reviews and a parliamentary inquiry have found the legislation and associated EES processes to be costly, and lacking clarity and transparency.

Between 2000 and 2013, successive governments committed to reforming the EES process, yet no significant legislative changes have occurred. This has constrained the department's ability to improve outcomes.

## What we found

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Quality  
management  
system  
introduced



No compliance  
monitoring  
system for  
projects with  
conditions in lieu  
of EES



No reporting on  
response to  
Minister's  
Assessment in  
statutory  
decisions

The department has focused on administrative improvement to its internal processes through the introduction of a quality management system.

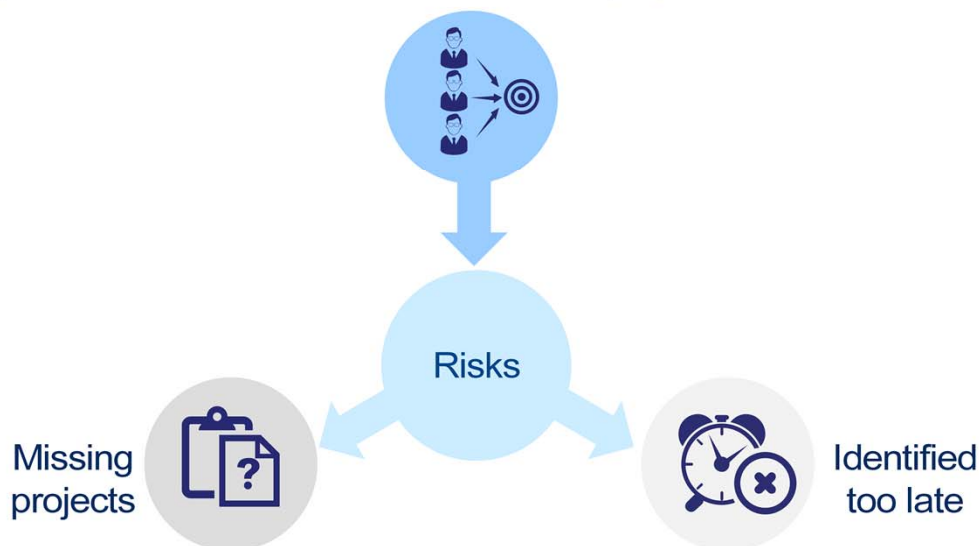
When the minister sets conditions for a project in lieu of preparing an EES, the department oversees compliance with these conditions. We found that the department has not established a risk-based system to monitor and document compliance with any conditions imposed.

While statutory decision-makers are not bound by the recommendations in the minister's assessment, we found that the department does not have a process for these decision-makers to report their response to the recommendations.

## Referral process

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Department relies on others to determine projects' need for referral

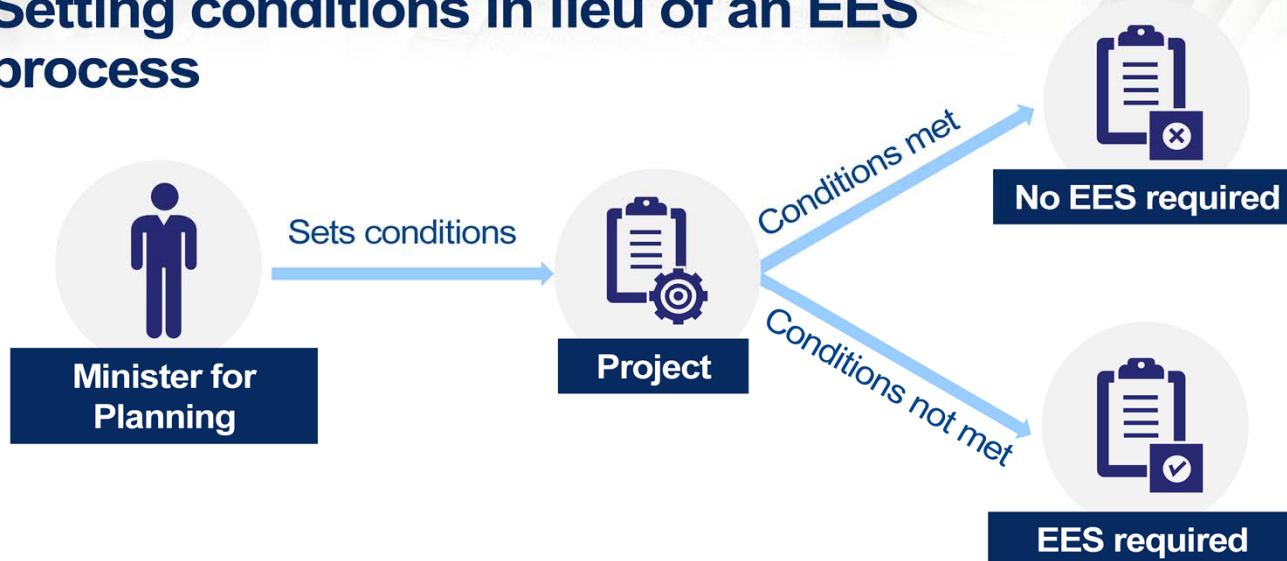


There is no statutory requirement to refer development projects when they may potentially have a significant effect on the environment. Despite this, the department has not established a robust process for identifying projects for referral. As a consequence, it relies on its networks to inform it of upcoming projects that should be referred.

There is a risk that the department may miss projects that should be referred, or might identify them too late to activate the EES process.



## Setting conditions in lieu of an EES process



**However, the department does not monitor extent of compliance.**

The EE Act authorises the minister to set conditions for a development project in lieu of requiring an EES. If the proponent does not comply with these conditions, the minister has the legislative authority to ask the proponent to prepare an EES.

Although the department oversees the implementation of conditions set in lieu of an EES, it does not have a comprehensive system for monitoring and reporting on these conditions.



## ■ Technical reference groups

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- Appointed to advise proponent and department during the scoping and preparation of the EES
- Without the necessary knowledge, experience or authority required, technical reference groups cannot perform to optimal capacity

A technical reference group (TRG) is appointed for each project subject to the EES process. The TRG provides advice to the proponent and the department during the scoping and preparation of the EES.

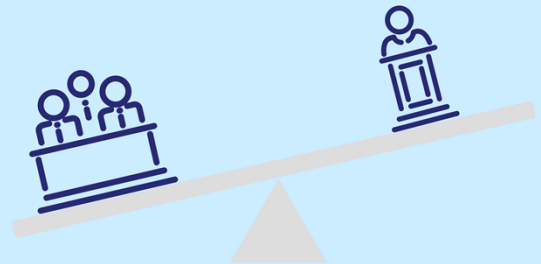
The proponent consultants we interviewed reported that when TRG members did not have the necessary knowledge, experience or authority, the TRG could not perform its role to its optimal capacity.

## Public consultation process

- Department manages consultation process
- Range of consultation options including:
  - written submission
  - submitter's conference
  - formal hearing



- Consultation predominantly undertaken by formal hearing
- All proponents had legal representation → can create perception of disadvantage



During the EES process, the department manages public consultation process and advises the minister.

All projects we examined conducted the public review through an 'inquiry by formal hearing'. All proponents in these projects had legal representation. For those with no legal representation, this can create a perception of disadvantage.

The department does not outline its reasoning for recommending inquiry by formal hearing over other inquiry options.

# Recommendations

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## 8 recommendations for the Department of Environment, Land, Water and Planning

Review its position on whether legislative review of the Act and further reform of the EES process is required

Systemically review its internal guidance and update as required

Develop and implement a risk-based system for monitoring compliance

Develop a process for statutory decision-makers to report their response to the minister's recommendations

Publish a guide on the inputs and level of detail required from proponents for scoping

Develop balanced scoping requirements for each EES

Establish a process for securing TRG members with appropriate expertise

Outline reasoning behind advice to the minister on inquiry options for public review

We made eight recommendations to the department to:

- review its position on whether legislative review and further reform is required
- systemically review its internal guidance and update as required
- develop and implement a risk-based system for monitoring compliance with conditions in lieu of an EES
- develop a process for statutory decision-makers to report their response to the minister's recommendations
- publish a guide on the inputs and detail required from proponents in the scoping phase
- develop balanced scoping requirements for each EES
- establish a process for securing TRG members with appropriate expertise, and
- outline reasoning behind advice to the minister on inquiry options.

The department has accepted the recommendations.

For further information, please view the full report on  
our website: [www.audit.vic.gov.au](http://www.audit.vic.gov.au)

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