



environmental defender's office new south wales

Accreditation to undertake threatened species and biodiversity assessments

18th February 2005

The EDO Mission Statement

To empower the community to protect the environment through law, recognising:

- ◆ *the importance of public participation in environmental decision making in achieving environmental protection*
- ◆ *the importance of fostering close links with the community*
- ◆ *that the EDO has an obligation to provide representation in important matters in response to community needs as well as areas the EDO considers to be important for law reform*
- ◆ *the importance of indigenous involvement in protection of the environment.*

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Ms Catherine Price
Biodiversity Management Unit
Department of Environment and Conservation
PO Box A290
SYDNEY SOUTH NSW 1232

18th February 2005

Dear Ms Price,

Re: Accreditation to undertake Threatened Species and Biodiversity Assessments

The Environmental Defender's Office (NSW) is broadly supportive of the proposal to provide for accreditation of consultants to undertake threatened species and biodiversity assessments. As indicated by the number of inquiries and concerns received by the EDO, the independence and integrity of biodiversity assessors is fundamental to a effective regulatory regime.

In the absence of a dedicated EDO scientific officer, this submission is limited the *Accreditation to undertake threatened species and biodiversity assessments: A Discussion Paper November 2004*, and does not include comment on the *Threatened Biodiversity Survey and Assessment: Guidelines for Developments and Activities Working Draft*.

Our key issues and recommendations are outlined below.

Hierarchy of Accreditation

The Discussion Paper suggests a hierarchy of accreditation (p17). The proposal envisages three tiers of accreditation as follows:

Activity	Accreditation Level	Requirements
Preparing Assessments of Significance	Low	Lower fees and less prerequisites for accreditation
Preparation of SIS	Medium	Medium fees and pre-requisites
Preparation of EPIs	High	Higher fees and higher prerequisite for accreditation

The Discussion Paper does not specify what the difference in prerequisites will be. The EDO submits that only "highly" accredited persons should prepare both SISs and EPIs. The lower level of experience required for preparing Assessments of Significance would establish a structure whereby junior consultants could acquire the experience to later qualify for the higher level of accreditation (as required for EPIs and SIS preparation). However, the "low" level must still meet all the prerequisites as listed in the Discussion paper (p10) as the minimum requirements. The EDO submits that more detail is required on the different levels of accreditation, and the process by which a consultant may increase their accreditation.

Application for accreditation

EDO submits that applicants for accreditation must be personally interviewed and reference checked, in addition to a written application. This will be necessary to ascertain

for example, their immediate familiarity and understanding of recent legislative reforms. The process for the proposed EIANZ accreditation of environmental practitioners (CEnvP Program) involves an interview.¹

We recommend an additional prerequisite for accreditation in the form of a commitment to continued professional development (as proposed by EIANZ). This is similar to Continuing Legal Education Units which must be completed by lawyers as a condition of maintaining their Practising Certificate. This ensures that consultants are up to date on legislative reforms and industry developments.

We also support the requirement of a signed statement of ethical conduct (as proposed in the EIANZ scheme).

Points System

The proposed guidelines should define what constitutes a breach, give examples and case studies of breaches, and be made available for public comment before being finalised. Breaches should include breaches of the Code of Conduct.

The Discussion Paper does not explain whether or not points lost due to a breach may be regained, for example, whether points can be incrementally regained annually where there are no further breaches. This should be clarified.

Furthermore, it is suggested in the Discussion Paper that if an accredited assessor loses all their accreditation points, they have to wait 6 months before they can reapply. This period is insufficient. Loss of all accreditation points signifies a serious breach or a series of breaches. It is important for the legitimacy of the scheme that breaches resulting in point loss are taken seriously, and that a significant period debarred from accreditation act as a deterrent. Provisions similar to section 57 of the *Contaminated Lands Management Act 1997* should apply, whereby an individual cannot claim to be accredited whilst their accreditation is suspended.

Company Accreditation

The EDO opposes the concept of company accreditation. Accreditation should attach to individuals within a company. Accreditation of the company does not give any guarantee of what level of accreditation the consultants will each have, and how the total experience and accreditation levels of the company will be affected by staff turn-over. This is consistent with accreditation of individuals under the *Contaminated Lands Management Act 1997*.²

Audit process

The EDO supports the potential for third parties to play a role in reporting poor performance. We support the mechanism for auditing of reports and for random audits, and submit that it is essential that audits be conducted by an independent auditor, and not be by peer review.

¹ See <http://www.eianz.org/certupdate.html>.

² See section 57(2).

Public register

To ensure that the proposed scheme is transparent, a list of accredited consultants must be made available on a public register, preferably on a website. The register must note the level of accreditation, what activities may be undertaken by that level of consultant, and any points lost. A register is currently proposed on the EIANZ website for accredited practitioners.

Assessment Panel

The EDO supports the establishment of an Accreditation Panel to administer the accreditation scheme. In addition to the members suggested in the Discussion Paper (p18), it is essential that the panel contain a representative who has specialist expertise in environmental law.

Voluntary Scheme

The EDO submits that accreditation should become compulsory after an appropriate period (for example 3-5 years). This would ensure a high standard across the profession, would address issues of unfair market advantage being gained, and would remove any disincentives to use cheaper unaccredited consultants.

Should you require any further information, please contact Rachel Walmsley on 02 9262 6989 or rachel.walmsley@edo.org.au.

Yours Sincerely,
Environmental Defender's Office

Jeff Smith
Director