



*Environmental Protection Act 1986*

**Environmental Impact Assessment  
(Part IV Divisions 1 and 2)  
Procedures Manual 2016**

**Environmental Protection Authority**

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## Contents

<b>Purpose and scope</b> .....	<b>4</b>
<b>Stage 1 – Referral of a proposal to the EPA (s. 38)</b> .....	<b>5</b>
1.1 Pre-referral process .....	6
1.2 Referral of proposal (s. 38).....	6
1.2.1 Content of the referral .....	7
1.3 EPA decides if referral is valid .....	7
<b>Stage 2 – EPA to decide whether to assess a referred proposal (s. 38A to s. 39B)</b> .....	<b>8</b>
2.1 Request for further information (s. 38A).....	10
2.2 EPA to decide whether to assess a referred proposal (s. 39A) .....	10
2.2.1 Public comment on referred proposals .....	10
2.3 Decision to assess (s. 39A(6)) .....	11
2.3.1 Level of assessment.....	11
2.4 Decision not to assess (s. 39A(7)) .....	13
2.4.1 Appeals on EPA decision not to assess.....	13
2.5 Derived proposals (s. 39B).....	14
2.5.1 Public comment on request to declare a derived proposal .....	14
2.5.2 EPA to decide whether to declare a derived proposal.....	14
2.6 Record of referred proposals (s. 39) .....	14
2.6.1 Record of decision to assess.....	14
2.6.2 Record of decision not to assess.....	15
2.6.3 Confidential information .....	15
2.7 Nomination of proponent (s.38(6) to s. 38(9)) .....	15
2.7.1 Nomination of proponent .....	15
2.7.2 Change of proponent.....	15
<b>Stage 3 – Assessment of proposals (s. 40 to s. 43)</b> .....	<b>16</b>
3.1 Assessing referred proposals (s. 40) .....	17
3.1.1 Step 1. Scoping the proponent’s environmental review .....	18
3.1.2 Step 2. Preparation of additional assessment information (including an Environmental Review Document) .....	21
3.1.3 Step 3. Public review of additional assessment information (including a proponent Environmental Review Document) .....	24
3.1.4 Step 4. Preparation of draft assessment report .....	26
3.1.5 Step 5. Completion of the EPA’s assessment .....	28
3.2 Termination of assessment (s. 40A).....	29
3.3 Assessment of strategic proposal (s. 40B) .....	29

3.4	Decision-making authority not to approve proposal until certain events occur (s. 41).....	30
3.4.1	<i>Investigation work</i> .....	30
3.5	Proposal not to be implemented before action under s. 45 taken (s. 41A) .....	30
3.5.1	<i>Minor or preliminary work</i> .....	30
3.6	Conduct of public inquiries under s. 40(2)(c) (s. 42).....	31
3.7	Minister to direct the EPA to assess a proposal (s. 43).....	31
3.8	Changes to proposals during assessment (s. 43A).....	32
3.8.1	<i>Content of the request for EPA consent for a change to proposal</i> .....	32
3.8.2	<i>Process for the request for EPA consent for a change to proposal</i> .....	32
<b>Stage 4 – EPA report on the assessment of a proposal (s. 44).....</b>		<b>33</b>
4.1	Assessment report .....	34
4.2	Implementation conditions and procedures.....	34
4.2.1	<i>Authorised extent of the proposal</i> .....	34
4.2.2	<i>Types of conditions</i> .....	35
4.2.3	<i>Environmental conditions</i> .....	35
4.2.4	<i>Consultation on conditions</i> .....	38
4.2.5	<i>Offset conditions</i> .....	38
4.2.6	<i>Strategic proposal conditions</i> .....	39
<b>Stage 5 – Decision on proposal and implementation of proposals (s. 45 to s. 48) .....</b>		<b>40</b>
5.1	Procedure for deciding if proposal may be implemented (s. 45).....	40
5.1.1	<i>Appeals on EPA assessment report</i> .....	40
5.1.2	<i>Agreement or decision on whether proposal may be implemented</i> .....	40
5.2	Duties of proponents after service of s. 45 statement (s. 47).....	40
5.3	Changes to proposals after s. 45(5) statement issued (s. 45C).....	41
5.3.1	<i>Process for change to proposal</i> .....	42
5.3	Changing implementation conditions (s. 46).....	43
5.5	Other procedures related to implementation conditions (s. 46A, s. 46B and s. 46C).....	44
5.6	Control of implementation of proposals (s. 48) .....	44
<b>Delegations.....</b>		<b>45</b>
<b>Communications to the EPA.....</b>		<b>45</b>
<b>Timeframes.....</b>		<b>45</b>
<b>Definitions .....</b>		<b>47</b>

## Figures

Figure 1: Hierarchy of EIA procedures under Part IV (Divisions 1 and 2) of the EP Act	4
Figure 2: Stage 1 – Referral of a proposal	5
Figure 3: Stage 2 – EPA to decide whether to assess a proposal (significant and strategic proposals)	8
Figure 4: Stage 2 – EPA to decide whether to assess a proposal (derived proposals)	9
Figure 5: Stage 3 – Assessment of proposals	16
Figure 6: Stage 3, Step 1 – Scoping	18
Figure 7: Stage 3, Step 2 – Preparation of additional assessment information	21
Figure 8: Stage 3, Step 3 – Public review of additional assessment information – Environmental Review Document	24
Figure 9: Stage 3, Step 4 – Preparation of EPA’s draft assessment report	26
Figure 10: Stage 3, Step 5 – Completion of the EPA’s assessment	28
Figure 11: Stage 4 – EPA report on the assessment of a proposal	33
Figure 12: Changes to proposals (s. 45C)	41
Figure 13: Changing implementation conditions (s. 46)	43
Figure 14: EIA process stages and steps and EPA’s minimum target timeframes	46

## Instructions, forms and templates

Further detail on how to fill out forms and how to prepare documents as part of the EIA process is provided in the following documents. Direct links to these documents are provided below.

[Instructions and Form: EPA s38 Referral](#)

[Instructions and Template: Defining the key proposal characteristics](#)

[Instructions and Form: Change nominated proponent under s38\(6a\)](#)

[Instructions and Template: proponent-prepared Environmental Scoping Document](#)

[Instructions and Template: Environmental Review Document](#)

[Instructions and Template: Part IV Environmental Management Plans](#)

[Instructions and Form: Public advertising and release requirements](#)

[WA Offsets Template](#)

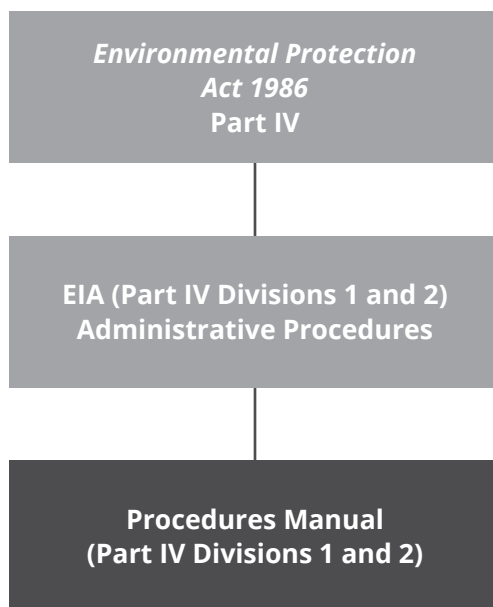
[Checklist: Request for EPA consent for minor or preliminary work](#)

[Instructions and Checklist: Preparing a Section 45C Request](#)

## Purpose and scope

The *Environmental Impact Assessment (Part IV Divisions 1 and 2) Procedures Manual* (**Procedures Manual**) forms part of the hierarchy for environmental impact assessment (EIA) procedures under Part IV of the EP Act (Figure 1).

The scope of the **Procedures Manual** is the procedures that the Environmental Protection Authority (EPA) and the Office of the EPA administrator, either as a decision-maker or as a delegate.



**Figure 1: Hierarchy of EIA procedures under Part IV (Divisions 1 and 2) of the EP Act**

The **Procedures Manual** provides further detail, where required, on the procedures set out in the *Environmental Impact Assessment (Part IV Divisions 1 and 2) Administrative Procedures 2016* (**Administrative Procedures**). The **Procedures Manual** is designed to be read with the *Administrative Procedures* and does not repeat content in the *Administrative Procedures*.

The procedures are grouped according to the same stages as the *Administrative Procedures*:

- Stage 1** Referral of a proposal to the EPA (s. 38)
- Stage 2** EPA to decide whether or not to assess a referred proposal (s. 38A to s. 39B)
- Stage 3** Assessment of proposals (s. 40 to s. 43A)
- Stage 4** EPA report on the assessment of a proposal (s. 44)
- Stage 5** Decision on proposal and implementation of proposals (s. 45 to s. 48).

## Stage 1 – Referral of a proposal to the EPA (s. 38)

The procedures for **Stage 1 – Referral of a proposal** are summarised in the process diagram below (Figure 2).

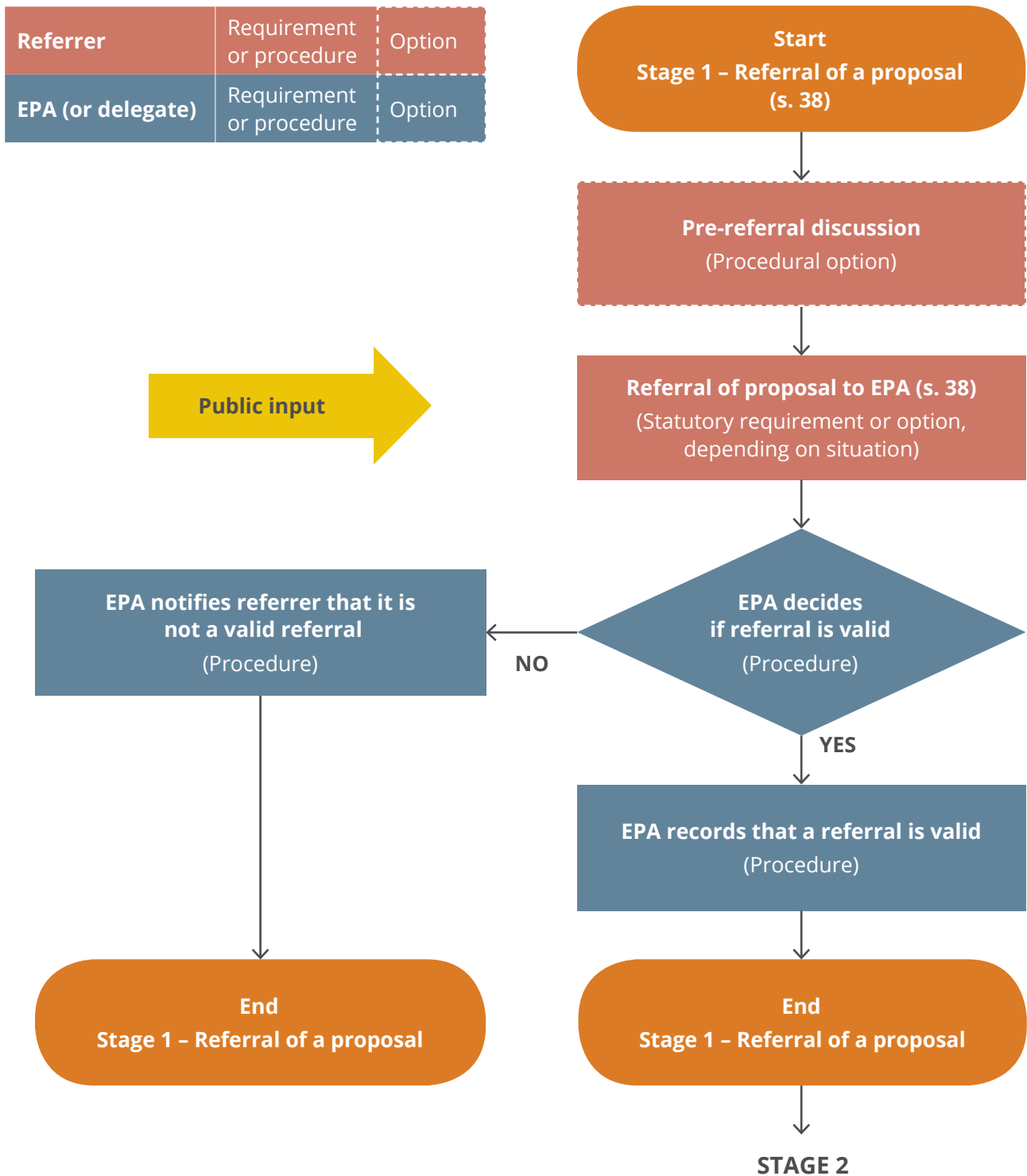


Figure 2: Stage 1 – Referral of a proposal

**Stage 1 – Referral of a proposal** starts with either:

1. pre-referral discussions (optional), or
2. referral of a proposal to the EPA.

## 1.1 Pre-referral process

In addition to the *Administrative Procedures*, where a proponent is intending to refer a proposal, the EPA encourages proponents to request a pre-referral meeting with the Office of the EPA to discuss the proposal, including:

- potential impacts, including on Matters of National Environmental Significance
- possible preliminary key environmental factors
- stakeholder consultation
- proposed management measures
- potential assessment pathways for the proposal, including possible **level of assessment** requirements, if the EPA is likely to assess the proposal.

Where a proponent aims to provide sufficient information with the referral to enable the EPA to set Referral information as the level of assessment (see Section 2.3.1), the proponent *may*:

- prepare a supplementary report/s for the referral consistent with the requirements of an Environmental Review Document (see Section 3.1.2)
- request that the EPA review the draft supplementary report, prior to referral.

## 1.2 Referral of proposal (s. 38)

### Types of proposals

#### **Significant proposals**

Most referrals that the EPA receives under s. 38 of the EP Act are **significant proposals**. For guidance on “significance”, see the EPA’s *Statement of environmental principles, factors and objectives* as part of the EPA’s Framework for environmental considerations in EIA.

#### **Strategic proposals**

A proponent may refer a **strategic proposal**. Examples of strategic proposals may include:

- a plan for the future staged development of an industrial precinct
- a structure plan for the future staged urban development of land
- a plan for the future staged development of an aquaculture zone.

#### **EPA call-in of a proposal**

The Chairman (or the Deputy Chairman if the Chairman is absent) has a delegation from the EPA to administer s. 38(5c).

The EPA *may* ‘call-in’ a proposal under s. 38(5c), which requires a proponent or decision-making authority to refer a proposal to the EPA.

If the EPA decides to call-in a proposal, the EPA *will* give written notice to the proponent or decision-making authority of the requirement to refer the proposal, specifying the timeframe within which the notice must be complied with.



## 1.2.1 Content of the referral

The EPA *requires* that a referral is in writing on the EPA s38 Referral Form (see Instructions and Form: EPA s38 Referral).

The form is used for significant proposals, strategic proposals, proposals of a prescribed class and proposals under an assessed scheme.

The form includes instructions for completing the referral form.

The referral form has the following sections:

- Referrer information
- Part A: Proponent and proposal description (including key proposal characteristics)
- Part B: Environmental impacts
- Part C: Other approvals and regulation (including request that the proposal be assessed under the *Bilateral Agreement* or as an accredited assessment).

The EPA *requires* that referrers define the proposal according to the Instructions and Template: Defining the key proposal characteristics.

Where a proponent submits a supplementary report/s with the referral, the EPA encourages proponents to follow:

- Instructions and Template: Environmental Review Document (see Section 3.1.2.1).
- Instructions and Template: Part IV Environmental Management Plans (see Section 3.1.2.1).
- *Guidelines for Preparing Mine Closure Plans* (for mining proposals).

### 1.2.1.1 Supporting information for request for derived proposal

Referrals of future proposals *must* contain sufficient information to enable the EPA to decide whether the proposal can be declared as a derived proposal (see *Administrative Procedures* relating to s. 39B of the EP Act).

Information submitted with a request that the EPA declare a derived proposals will need to demonstrate how the proposal will meet the environmental outcomes defined through the assessment of the strategic proposal (see Section 3.3), including any conditions in the Ministerial Statement.

The EPA requires proponents of future proposals to consult with relevant stakeholders and provide evidence of this in the documentation provided with the referral.

## 1.3 EPA decides if referral is valid

Refer to the *Administrative Procedures*.

**Stage 1 – Referral of a proposal** ends when the EPA either:

1. records that a referral is valid, or
2. notifies the referrer that it is not a valid referral.

## Stage 2 – EPA to decide whether to assess a referred proposal (s. 38A to s. 39B)

The procedures for **Stage 2 – EPA to decide whether to assess a referred proposal** relating to sections 38A to 39B of the EP Act are summarised in the following process diagrams: Figure 3 for significant and strategic proposals and Figure 4 for derived proposals.

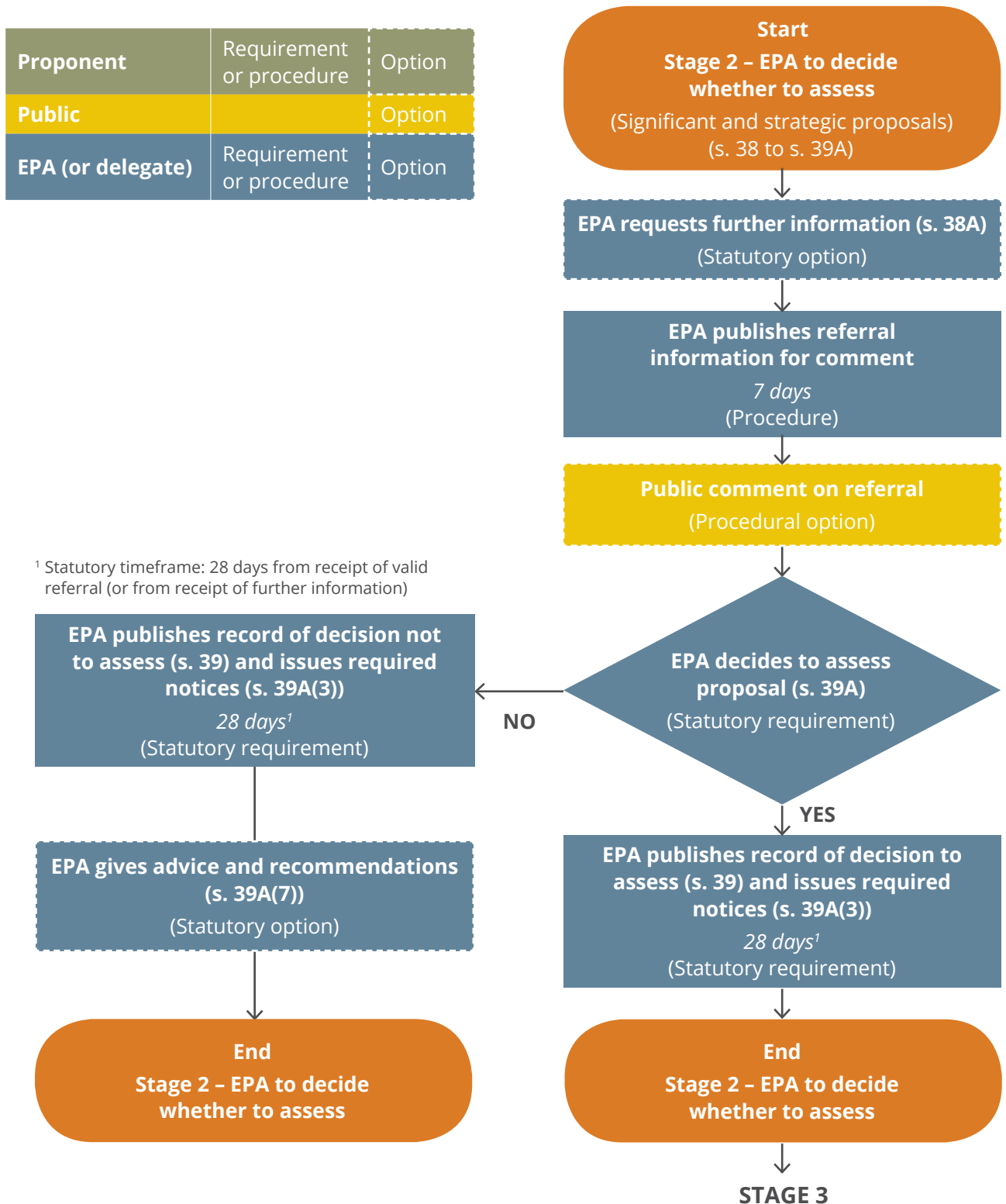


Figure 3: Stage 2 – EPA to decide whether to assess a proposal (significant and strategic proposals)

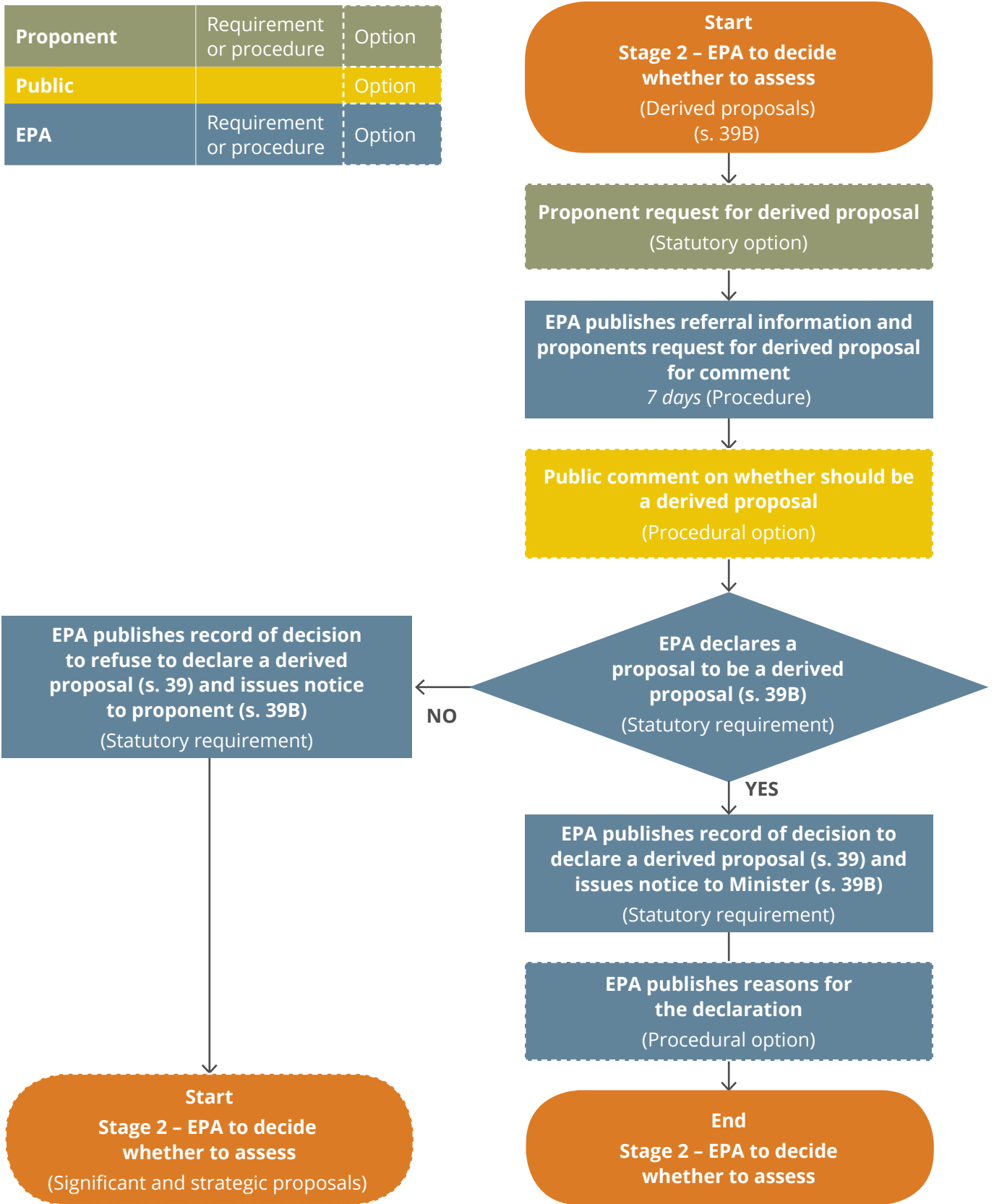


Figure 4: Stage 2 – EPA to decide whether to assess a proposal (derived proposals)

**Stage 2 – EPA to decide whether to assess a referred proposal** starts when the EPA records that a referral is valid.

## 2.1 Request for further information (s. 38A)

The General Manager, the Director Assessment and Compliance Division, and the Director Strategic Policy and Planning Division of the Office of the EPA have delegations from the EPA to administer s. 38A(1).

Before making a decision on whether to assess a proposal, the EPA *will* consider whether any information upon which the EPA is going to base its decision is adverse to the proponent.

If any information may be adverse to the proponent and the proponent has not had an opportunity to comment, the EPA *will* give the proponent an opportunity to comment on this information.

The EPA *will* make any request for proponent comment as a request for further information under s. 38A(1).

## 2.2 EPA to decide whether to assess a referred proposal (s. 39A)

The Chairman (or the Deputy Chairman if the Chairman is absent) has a delegation from the EPA to administer s. 39A(1) to decide whether to assess a proposal.

The General Manager, the Director Assessment and Compliance Division, and the Director Strategic Policy and Planning Division have delegations from the EPA to administer s. 39A(3) and s. 39A(4) to issue the required notices relating to the EPA's decision.

### 2.2.1 Public comment on referred proposals

The public are invited to comment on whether or not the EPA should assess the proposal, and if so, the level of assessment (see Section 2.3.1).

The EPA uses the relevant information obtained from public comments to gauge the level of public interest about the likely effect of the proposal, if implemented, on the environment.

If the proposal may impact on Matters of National Environmental Significance (i.e. a potential controlled action) the EPA may request that the Commonwealth provide advice on the adequacy of referral documentation, in parallel with the public comment period.

#### 2.2.1.1 Making a submission to the EPA

The EPA prefers that submissions throughout the EIA process are made electronically via the EPA's Consultation Hub at <https://consultation.epa.wa.gov.au>. The Consultation Hub enables the EPA to track and acknowledge submissions. The EPA cannot guarantee that submissions are received by other methods.

Alternatively submissions can be:

- Posted to: Environmental Protection Authority  
Locked Bag 10, East Perth 6892
- Delivered to: Environmental Protection Authority  
Level 8, The Atrium, 168 St George's Tce, Perth 6000

Submitters may request that their details (i.e. name and contact details) are treated as confidential. A request for confidentiality does not make your submission automatically exempt from disclosure. A submission (or part thereof) may still be disclosed if required under the *Freedom of Information Act 1992*, under court order, for procedural fairness purposes or under any other applicable law.

The EPA *will* not accept submissions received after the closing date.

## 2.3 Decision to assess (s. 39A(6))

Refer to the *Administrative Procedures*.

### 2.3.1 Level of assessment

In deciding the **level of assessment** requirements, the EPA considers information including, but not limited to, any or all of the following:

- Information and level of detail provided in the referral (and any supplementary reports with the referral), including:
  - the proposal
  - potential impacts
  - proposed management measures
  - evidence of effective stakeholder consultation.
- Information obtained from any requests for further information (s. 38A) and/or the EPA's own investigations and inquiries (s. 39A(2)).
- The number and complexity of preliminary key environmental factors relevant to the proposal.
- Whether it is a common type of proposal where there is an established condition-setting framework for that type of proposal.
- The level of public interest about the likely effect of the proposal, if implemented, on the environment.

The EPA will use a descriptor for the level of assessment (in the record required by s. 39(1)(b)) that refers to the information required for the EPA's assessment, whether any of the additional assessment information is made available for public review and the section/s of the EP Act that the requirement relates to. In generic terms the level of assessment is usually:

#### Assessment information – public review required (EP Act section/s)

##### **Example – most common descriptors of level of assessment:**

**Referral information (s. 38, and where applicable s. 38A and/or s. 39A(2)(b))** – where the EPA determines that it has enough information to assess the proposal from the referral information obtained under s. 38 (and where applicable, information provided from a request/s for further information under s. 38A and/or information derived from the EPA's investigations and inquiries under s. 39A(2)(b)).

**Environmental review – no public review (s. 40(2)(b))** – where the EPA determines that an environmental review is required under s. 40(2)(b), but the report on the environmental review (Environmental Review Document) will not be made public.

**Public environmental review (s. 40(2)(b) and s. 40(4))** – where the EPA determines that an environmental review is required under s. 40(2)(b) and the Environmental Review Document is to be made available for public review under s. 40(4).

The EPA has a wide discretion under s. 40 of the EP Act to determine information required for its assessment and is not bound to use the descriptors of the level of assessment above.

**Example – other descriptor of level of assessment:**

For a proposal where there is a technical issue relating to one preliminary key environmental factor, the EPA may decide that it needs a technical report and an independent peer review of that technical report for its assessment, rather than the proponent undertaking an environmental review. The EPA may also determine that the technical report and peer review should be made available for public review. For this example, the level of assessment would be:

**Technical report and peer review of technical report – public review required (s. 40(2)(a) and s. 40(4))**

The EPA *may* also include other information with the level of assessment (in the record required by s. 39(1)(b)), usually related to the Environmental Scoping Document that the EPA uses to define the form, content, timing and procedure of an environmental review (see Section 2.3.1.1) and/or the public review period for the environmental review or other additional assessment information (see Section 2.3.1.2).

### **2.3.1.1 Information required for the EPA's assessment**

#### **Environmental review**

The EPA *usually* requires the proponent to undertake an environmental review under s. 40(2)(b) and provide an **Environmental Review Document** as the report on the environmental review.

Where an environmental review is required, the EPA *will* include information related to scoping with the level of assessment:

- whether the EPA or the proponent will prepare the Environmental Scoping Document and
- whether a proponent-prepared Environmental Scoping Document will be released for public review and if so, the public review period, which is *usually* two weeks.

The EPA *may* require that the proponent prepare the Environmental Scoping Document for proposals that are particularly complex, unusual and/or where there is considerable public interest.

#### **Other information or reports**

In some circumstances, the EPA *may* require other information or reports under s. 40 instead of, or in addition to an Environmental Review Document. For example, the EPA *may* require a scientific report or an independent peer review of an existing scientific report.

### **2.3.1.2 Whether any of the additional assessment information is made available for public review**

Under s. 40, the EPA *may* make information or reports provided to it for the assessment available for public review. This is *usually* the Environmental Review Document. The EPA *may* also specify the public review of other information or reports described by s. 40.

The key consideration for the EPA in deciding whether to make information available for public review is the level of public interest about the likely effect of the proposal, if implemented, on the environment. The EPA also considers whether the public interest is at a local, regional or broader scale.

Where the EPA identifies the need for the public review of this information when it decides to assess a proposal, the EPA *will* include the length of the public review period for the Environmental Review Document (or other additional assessment information) with the level of assessment. The review period is *usually* two to twelve weeks for an Environmental Review Document.

The EPA considers information about the proposal including, but not limited to the following, to determine the length of the public review period:

- environmental significance
- complexity
- level, location and extent of public interest.

Under certain situations the EPA *may* extend the public review period. These may include the following:

- The review period coincides with public holiday periods (two weeks will be added to public review periods which occur over the Christmas break).
- The EPA is unable to receive submissions through the Consultation Hub.
- The proponent requests an extension to the public review period.
- Parts or all of the documents are unavailable during the review period.
- Other exceptional circumstances.

## 2.4 Decision not to assess (s. 39A(7))

The General Manager, the Director Assessment and Compliance Division, and the Director Strategic Policy and Planning Division have delegations from the EPA to administer s. 39A(7).

The EPA *may* carry out its own investigations and inquiries before deciding not to assess a proposal. The extent of the investigations and inquiries depends on the quality of information provided with the referral and the complexity of the proposal. The EPA *may* also request further information under s. 38A, *usually* from the proponent and/or relevant decision-making authorities and other government agencies.

In deciding not to formally assess a proposal, the EPA determines that no further assessment is required by the EPA.

The EPA will also decide whether:

- to give advice on the proposal or
- whether the proposal can be dealt with under Part V Division 2 of the Act (Clearing).

If the EPA gives advice and/or recommendations under s. 39A(7), the EPA *may* provide advice at the time of its decision, including, but not limited to the following formats:

- written advice directly to the proponent or any other relevant person or authority
- public advice published on the EPA's website.

Where the EPA considers that the proposal can be dealt with under Part V Division 2 of the Act (Clearing), the EPA *may* liaise with relevant decision-making authorities prior to making the decision.

### 2.4.1 Appeals on EPA decision not to assess

The Chairman (or the Deputy Chairman if the Chairman is absent) has a delegation from the EPA to report to the Minister on an appeal under s. 107(1).

In addition to the procedures set out in the *Administrative Procedures*, where the Minister remits the proposal to the EPA following an appeal, the EPA *will* publish the remittal on the EPA's website.

The EPA will follow the procedures of the relevant stage, subject to any direction by the Minister in the remittal.

## 2.5 Derived proposals (s. 39B)

A proponent *may* request that a future proposal be declared as a derived proposal where:

- an implementation agreement or decision (Ministerial Statement) has been issued in relation to a strategic proposal and
- the future proposal is identified in that Ministerial Statement.

Examples of potential derived proposals include:

- an industrial development identified within an industrial precinct assessed as a strategic proposal
- a plan of subdivision identified in a structure plan assessed as a strategic proposal
- a fish farm identified in a plan for an aquaculture development zone assessed as a strategic proposal.

### 2.5.1 Public comment on request to declare a derived proposal

The public are invited to comment on whether or not the referred proposal should be declared a derived proposal.

The procedures for public comment on a request to declare a proposal a derived proposal are the same as the procedures for public comment on a referred proposal (see Section 2.2.1).

### 2.5.2 EPA to decide whether to declare a derived proposal

To decide whether to declare a derived proposal, the EPA *may* require proponents to submit some or all of the plans that might be required through the conditions specified in the strategic proposal Ministerial Statement, that are relevant to the proposed derived proposal (see Section 4.2.6).

## 2.6 Record of referred proposals (s. 39)

### 2.6.1 Record of decision to assess

If the EPA decides to assess a proposal, the EPA *will* include the following in the record:

- proposal and referral details
- level of assessment, as required by s. 39(1)(b) and scoping and/or public review information (see Section 2.3.1)
- prescribed details, as required by s. 39(1)(b).

The EPA *may* also include other information, such as:

- referrer details
- the potential significant effects of the proposal, including impacts that integrate across a proposal (e.g. mine closure)
- the preliminary key environmental factors for the assessment
- explanation of the EPA's decision.



## 2.6.2 Record of decision not to assess

If the EPA decides not to assess a proposal, the EPA *will* include one of the following descriptors in the record:

- Referral Examined, preliminary investigations and inquiries conducted. Proposal not to be assessed under Part IV of the EP Act – No advice given.
- Referral Examined, preliminary investigations and inquiries conducted. Proposal not to be assessed under Part IV of the EP Act – Advice given.
- Referral Examined, preliminary investigations and inquiries conducted. Proposal not to be assessed under Part IV of the EP Act – Dealt with Under Part V Division 2 of the (Clearing).

## 2.6.3 Confidential information

The Chairman (or the Deputy Chairman if the Chairman is absent) has a delegation from the EPA to administer 39(3) and s. 39(4).

## 2.7 Nomination of proponent (s.38(6) to s. 38(9))

### 2.7.1 Nomination of proponent

The proponent is the person responsible for the proposal. A proponent may be an individual, a corporation or an association of persons, whether incorporated or not.

The Chairman (or the Deputy Chairman if the Chairman is absent) has a delegation from the Minister for all of the powers and duties conferred or imposed under s. 38(6). The General Manager has a delegation from the Minister to administer s. 38(6) after a Ministerial Statement has been issued.

The delegations for the nomination of a proponent under s. 38(6) also apply to the change of a proponent under s. 38(7) (see Section 2.7.2).

Prior to the issue of a Ministerial Statement, the Minister *will* nominate the proponent:

- *usually* when the EPA decides whether or not to assess a proposal, in the notice under s. 39A(3) or
- at any time, by notice under s. 38(6).

Following the issue of a Ministerial Statement under s. 45(5), the Minister *will* nominate the proponent by notice under s. 38(6).

### 2.7.2 Change of proponent

In addition to the procedures set out in the *Administrative Procedures*, the current proponent is to notify the Minister in writing using the Change of proponent form advising the name of the person to whom or which responsibility for the proposal will pass or has passed (s. 38(6a)).

The EPA requests that proponents submit the Change of proponent form prior to or within 30 days of ceasing to have responsibility for the proposal.

**Stage 2 – EPA to decide whether to assess a referred proposal ends** when the EPA:

1. publishes the record of its decision whether or not to assess a proposal (s. 39(1)) and issues the required notices under s. 39A(3), or
2. publishes its decision whether to declare a proposal to be a derived proposal (s. 39B(5)) and issues the required notices under s. 39B.

## Stage 3 – Assessment of proposals (s. 40 to s. 43)

The key assessment steps for **Stage 3 – Assessment of proposals** for s. 40 of the EP Act are summarised in the process diagram below (Figure 5). The procedures for the key steps within s. 40 are summarised in subprocess diagrams (Figures 6 to 10).

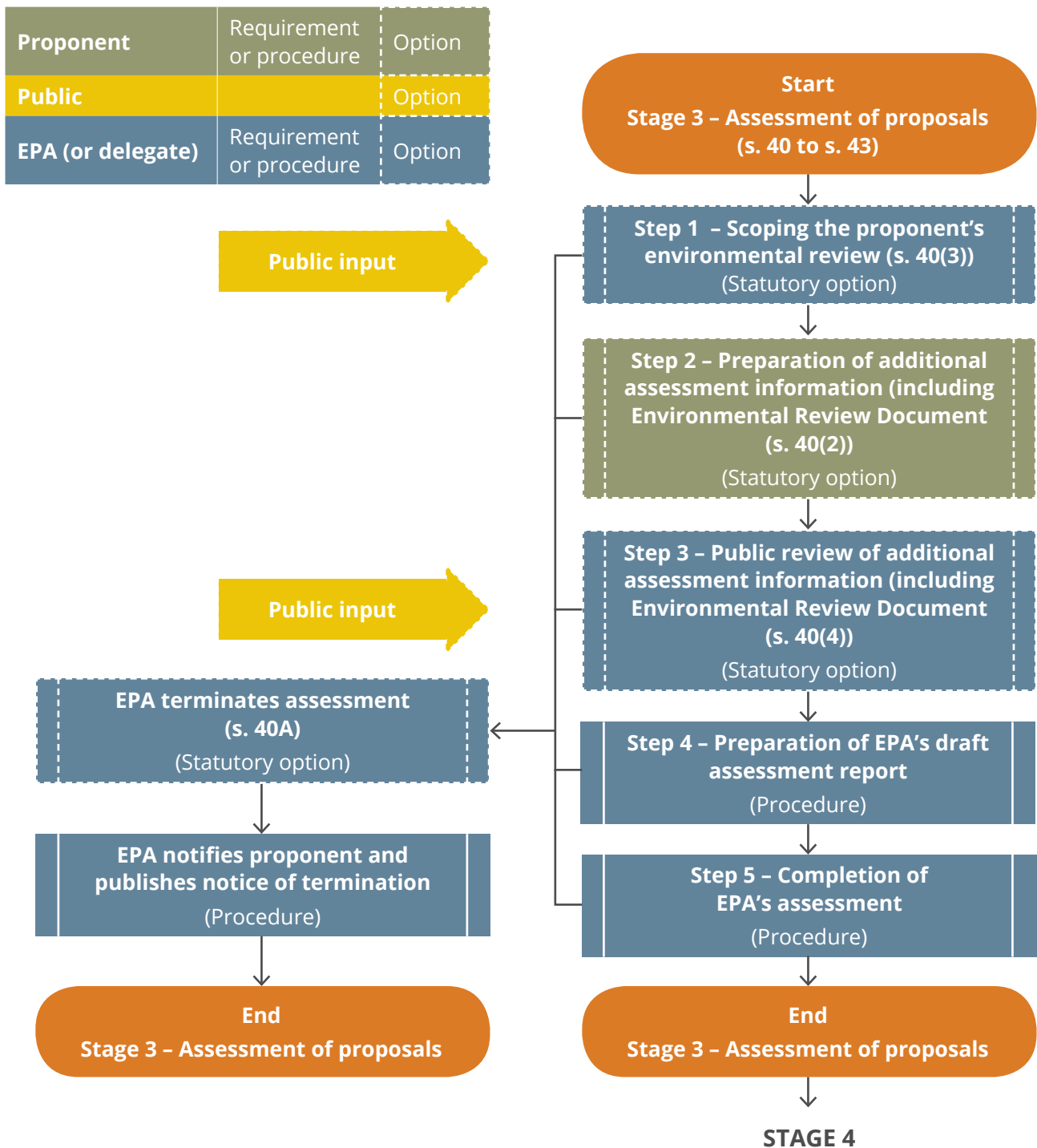


Figure 5: Stage 3 – Assessment of proposals

**Stage 3 – Assessment of proposals** starts when the EPA publishes its decision to assess a proposal (s. 39(1)) and issues the required notices under s. 39A(3).

### 3.1 Assessing referred proposals (s. 40)

The Chairman (or the Deputy Chairman if the Chairman is absent) has a delegation from the EPA to administer:

- s. 40(2)(a) to require any person to provide it with information, as specified in the EPA's requirement
- s. 40(2)(aa) to require the proponent to provide a contaminated sites auditor's report on the proposal
- s. 40(2a) to make other investigations and inquiries
- s. 40(4)(a) and (b) to cause information or a report to be made available for public review
- s. 40(6)(b) to require the proponent to respond to submissions.

The General Manager, the Director Assessment and Compliance Division, and the Director Strategic Policy and Planning Division have delegations from the EPA to administer:

- s. 40(4)(a), s. 40(4)(b) and s. 40(6)(b), as described above
- s. 40(5) to exclude confidential information before making information available for public review.

### 3.1.1 Step 1. Scoping the proponent's environmental review

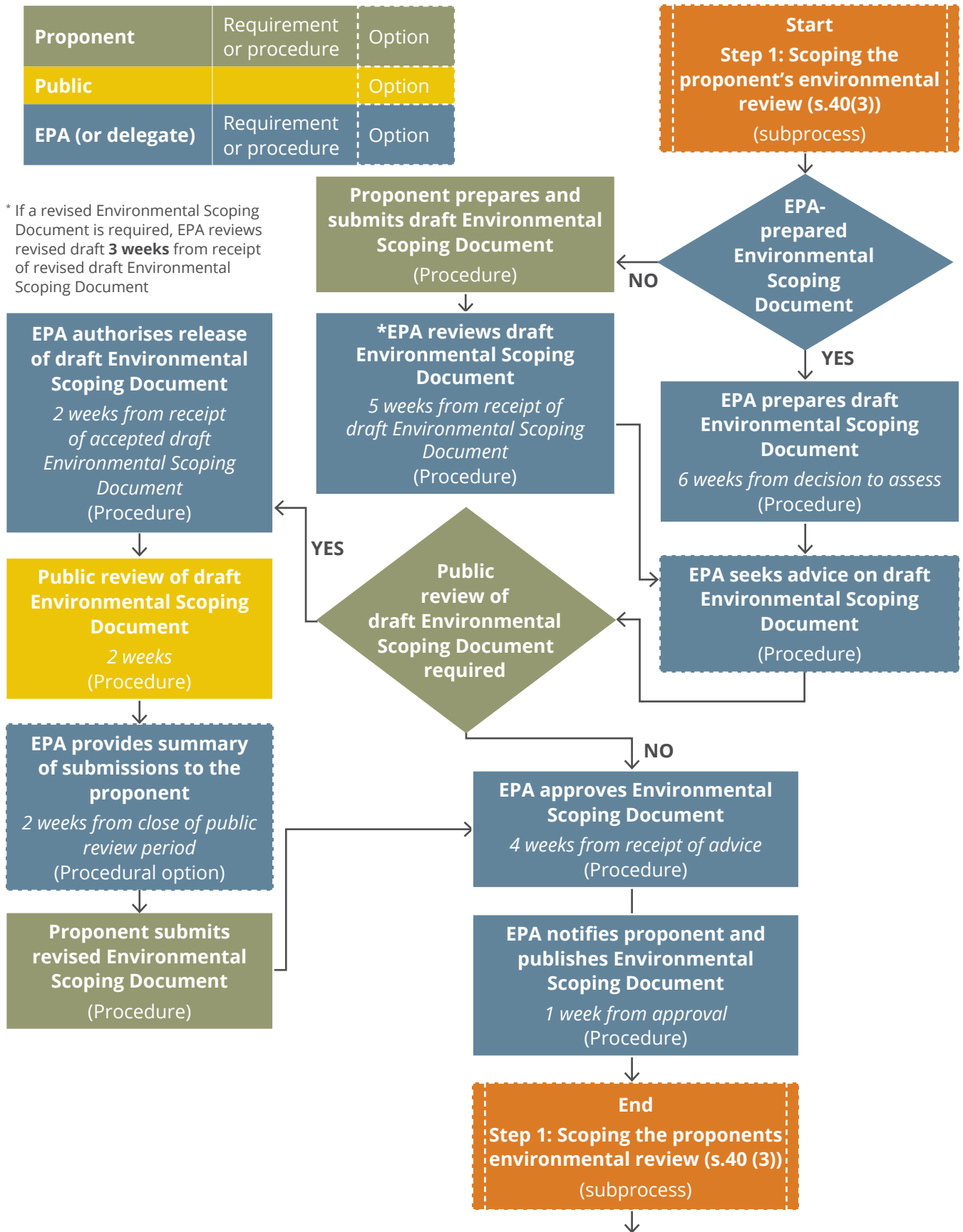


Figure 6: Stage 3, Step 1 – Scoping

Step 2

**Step 1 – Scoping the proponent’s environmental review** starts when the EPA starts its assessment, where an environmental review is required.

Where an environmental review is required under s. 40(2)(b), the EPA uses an **Environmental Scoping Document** to determine the form, content, timing and procedure of the proponent’s environmental review under s. 40(3).

### 3.1.1.1 Content of the Environmental Scoping Document

The EPA uses the Environmental Scoping Document template for an Environmental Scoping Document. The EPA *requires* that proponents follow this template for a proponent-prepared Environmental Scoping Document.

The template includes instructions for preparing an Environmental Scoping Document.

The Environmental Scoping Document outlines the work required and key areas of focus for the environmental review. The instructions with the Environmental Review Document template outline the full requirements for the Environmental Review Document.

An Environmental Scoping Document includes the following sections:

1. Introduction
2. The proposal
3. Preliminary key environmental factors and required work (including preparation of Environmental Management Plans)
4. Other environmental factors or matters
5. Stakeholder consultation
6. Decision-making authorities

The Environmental Scoping Document *usually* includes all the information (including required work) for the environmental review, even if the proponent has completed some parts of the environmental review (e.g. surveys).

However, where a supplementary report is provided with the referral that adequately addresses some of the preliminary key environmental factors, the EPA *may* require the Environmental Scoping Document to cover:

- all preliminary key environmental factors, or
- only the factors that require further work.

The EPA *requires* that proponents define the proposal in the Environmental Scoping Document according to the Instructions and template: Defining the key proposal characteristics.

For mining proposals, the EPA *may* require work relating to mine closure (e.g. rehabilitation of native vegetation, management of pit lakes), including the preparation of a Mine Closure Plan according to the *Guidelines for Preparing Mine Closure Plans*.

### 3.1.1.2 Preparation and EPA review of the Environmental Scoping Document

The Environmental Scoping Document is a draft until the EPA approves it (see Section 3.1.1.4).

During the preparation of the draft Environmental Scoping Document by either the EPA or the proponent:

- The EPA and the proponent *will* consult with relevant stakeholders (including relevant decision-making authorities and other government agencies) on the content of the Environmental Scoping Document.

- The EPA will confirm the preliminary key environmental factors having regard to the matters relating to significance in the EPA's *Statement of environmental principles*, factors and objectives and the nature of the proposal, including the key proposal characteristics.
- The EPA *may* seek advice from relevant decision-making authorities and other government agencies (including the Commonwealth, if the proponent has requested that the proposal be assessed under the *Bilateral Agreement* or as an accredited assessment).
- The EPA *will* consider advice received and
  - *may* amend the draft EPA-prepared Environmental Scoping Document, or
  - *may* request that the proponent amend the proponent-prepared Environmental Scoping Document.

The EPA will *usually* seek advice from relevant decision-making authorities and other government agencies (including the Commonwealth) *once* during the scoping step.

### **3.1.1.3 Public review of a proponent-prepared Environmental Scoping Document**

Where a public review of a proponent-prepared Environmental Scoping Document is specified with the level of assessment (in the record required by s. 39(1)(b)):

- The EPA *will* authorise the release the draft proponent-prepared Environmental Scoping Document for public review, for the period specified (in the record required by s. 39(1)(b)) (see Section 2.3.1.2).
- The proponent will release the draft Environmental Scoping Document for public review (see Instructions and template: Public advertising and release requirements).
- Any person or public authority (including decision-making authorities and other government agencies) can make a submission.
- The EPA *may* acknowledge the persons who have made a submission.
- The EPA *may* provide a summary of submissions to the proponent.
- Where the EPA receives any comments and/or information that may be adverse to the proponent, the EPA *will* give the proponent the opportunity to respond.
- The EPA *may* require that the proponent amend the draft proponent-prepared Environmental Scoping Document to address relevant comments received during the public review.

See Section 2.2.1.1 for the procedures relating to making a submission to the EPA.

### **3.1.1.4 Approval of the Environmental Scoping Document**

The EPA *will*:

- Consider the draft Environmental Scoping Document, *usually* at an EPA meeting. The EPA *usually* invites the proponent to attend the EPA meeting.
- Decide whether the *Bilateral Agreement* applies.
- Approve the Environmental Scoping Document, once it is satisfactory, as the basis for the environmental review.
- Notify the proponent in writing once the EPA has approved the Environmental Scoping Document.
- Provide the approved Environmental Scoping Document to the Commonwealth, if the EPA decides to assess the proposal under the *Bilateral Agreement* or as an accredited assessment.
- Publish the approved Environmental Scoping Document on the EPA's website.

**Step 1 – Scoping the proponent's environmental review ends** when the EPA approves and publishes the Environmental Scoping Document.

### 3.1.2 Step 2. Preparation of additional assessment information (including an Environmental Review Document)

Proponent	Requirement or procedure	Option
EPA (or delegate)	Requirement or procedure	Option

\* If a revised Environmental Review Document is required, EPA reviews revised draft **4 weeks** from receipt of revised draft Environmental Review Document

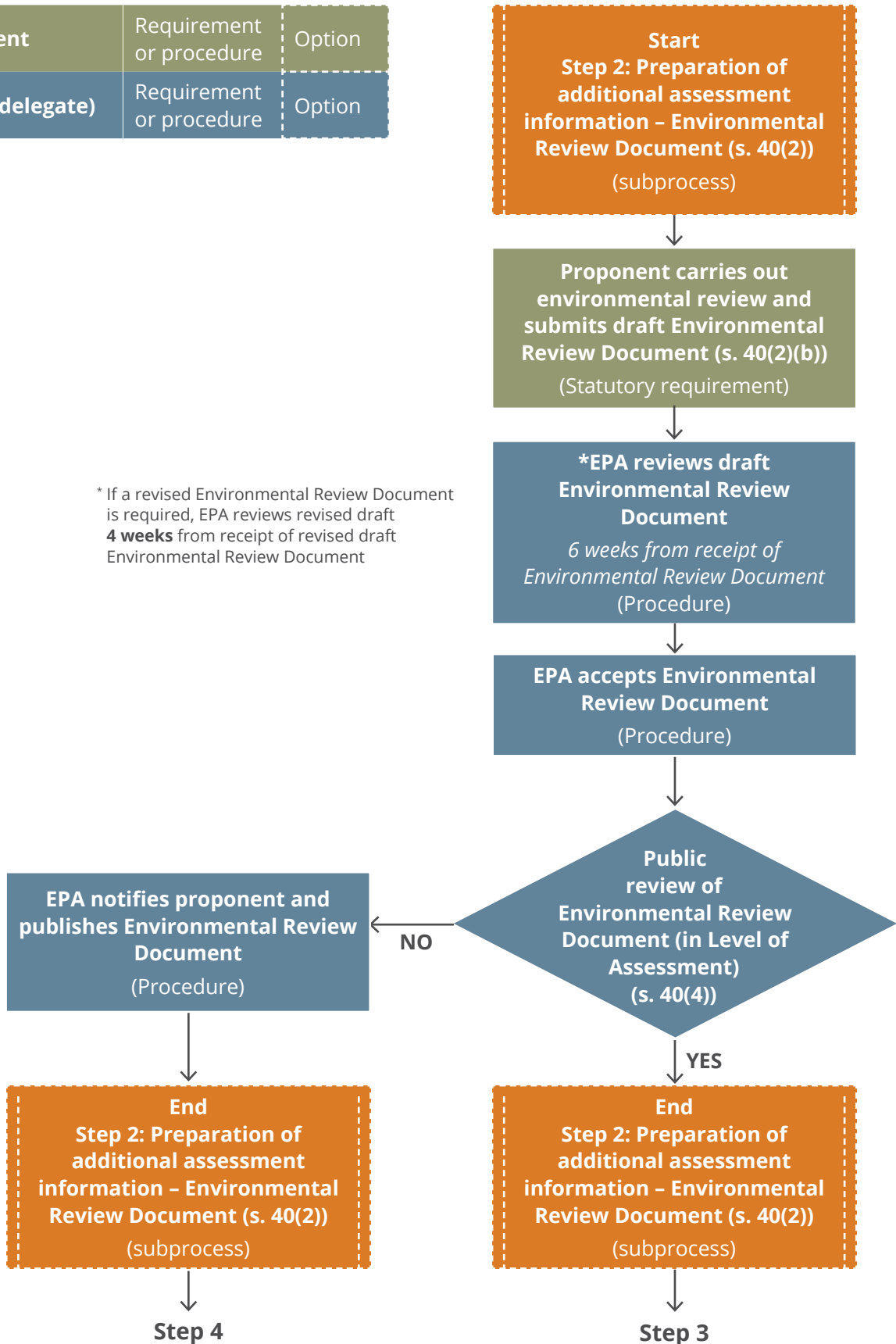


Figure 7: Stage 3, Step 2 – Preparation of additional assessment information

**Step 2 – Preparation of additional assessment information** starts when the EPA approves and publishes the Environmental Scoping Document, where an environmental review is required.

### **3.1.2.1 Content of the Environmental Review Document**

The EPA *requires* that proponents follow the Instructions and Template: Environmental Review Document for an Environmental Review Document.

An Environmental Review Document includes the following sections:

1. Introduction
2. The proposal (including key proposal characteristics)
3. Stakeholder engagement
4. Environmental principles and factors. For each preliminary key environmental factor:
  - EPA factor and objective
  - Relevant policy and guidance
  - Receiving environment
  - Potential impacts and assessment of impacts
  - Mitigation (application of mitigation hierarchy of avoid, minimise, rehabilitate)
  - Predicted outcome (including discussion of offsets)
5. Other environmental factors or matters
6. Matters of National Environmental Significance
7. Holistic impact assessment

### **3.1.2.2 Preparation and EPA review of the Environmental Review Document**

#### **Preparation of the Environmental Review Document**

Proponents:

- *Must* conduct the environmental review in accordance with the approved Environmental Scoping Document (and Schedule 4 of the Environmental Protection and Biodiversity Conservation Regulations 2000, if the EPA is assessing the proposal under the *Bilateral Agreement* or as an accredited assessment).
- *Must* define the proposal according to the Instructions: Defining the proposal key characteristics.
- *Should* prepare Environmental Management Plans as part of the management measures for the key environmental factors where a particular impact may be significant without those management measures.
- *Must* prepare an Environmental Management Plan/s as part of the environmental review, if required in the Environmental Scoping Document.
- *Must* follow the Instructions and Template: Environmental Management Plans (and *Guidelines for Preparing Mine Closure Plans* for mining proposals) when preparing Environmental Management Plans.
- *Should* consider offsets as early as possible in the assessment process, where a proposal is likely to have a significant residual impact that will remain after application of the mitigation hierarchy.
- *Must* follow the *WA Environmental Offsets Policy* and the *WA Environmental Offsets Guidelines*, and complete the WA Environmental Offsets template.



## EPA review of the Environmental Review Document

The EPA:

- *May* seek advice from relevant decision-making authorities and other government agencies (including the Commonwealth, if the EPA is assessing the proposal under the *Bilateral Agreement* or as an accredited assessment).
- *May* identify new preliminary environmental factors and/or other environmental factors and matters.
- *Will* consider advice received and *may* request that the proponent amend the draft Environmental Review Document.
- *Will* give the proponent the opportunity to respond, where the EPA receives any comments and/or information that may be adverse to the proponent.

The EPA will *usually* seek advice from relevant decision-making authorities and other government agencies *once* on the Environmental Review Document during its assessment. Where public review of the Environmental Review Document is required, the EPA will *usually* seek advice on the final Environmental Review Document that is released for public review (see **Step 3**, Section 3.1.3).

### 3.1.2.3 EPA acceptance of the Environmental Review Document

The EPA will:

- Accept the Environmental Review Document, when it meets the requirements of the approved Environmental Scoping Document.
- Notify the proponent in writing once the EPA has accepted the Environmental Review Document.
- Provide the accepted Environmental Review Document to the Commonwealth, if the EPA assesses the proposal under the *Bilateral Agreement* or as an accredited assessment.
- Publish the accepted Environmental Review Document on the EPA's website, if public review is not required.

### 3.1.2.4 Other additional assessment information

Where the EPA requires additional assessment information other than an Environmental Review Document (e.g. a technical report or peer review), the EPA:

- *Will* inform the proponent in writing that the EPA requires this information.
- *Will* provide proposal-specific instructions to the person who will prepare the information.
- *May* seek advice on the information from relevant decision-making authorities and other government agencies (including the Commonwealth, if the EPA assesses the proposal under the *Bilateral Agreement* or as an accredited assessment).
- *Will* provide the information to the proponent, if the person preparing the information is not the proponent.
- *Will* consider advice received and *may* request that the proponent or any other person amends the information.
- *Will* give the proponent the opportunity to respond, where the EPA receives any comments and/or information that may be adverse to the proponent.
- *Will* notify the person in writing, when the EPA accepts the additional assessment information.
- *Will* publish the additional assessment information on the EPA's website, if public review is not required.

**Step 2 – Preparation of additional assessment information ends** when the EPA either:

1. accepts the Environmental Review Document (or other additional assessment information) and publishes it, if public review is not required, or
2. accepts the Environmental Review Document (or other additional assessment information), if public review is required.

### 3.1.3 Step 3. Public review of additional assessment information (including a proponent Environmental Review Document)

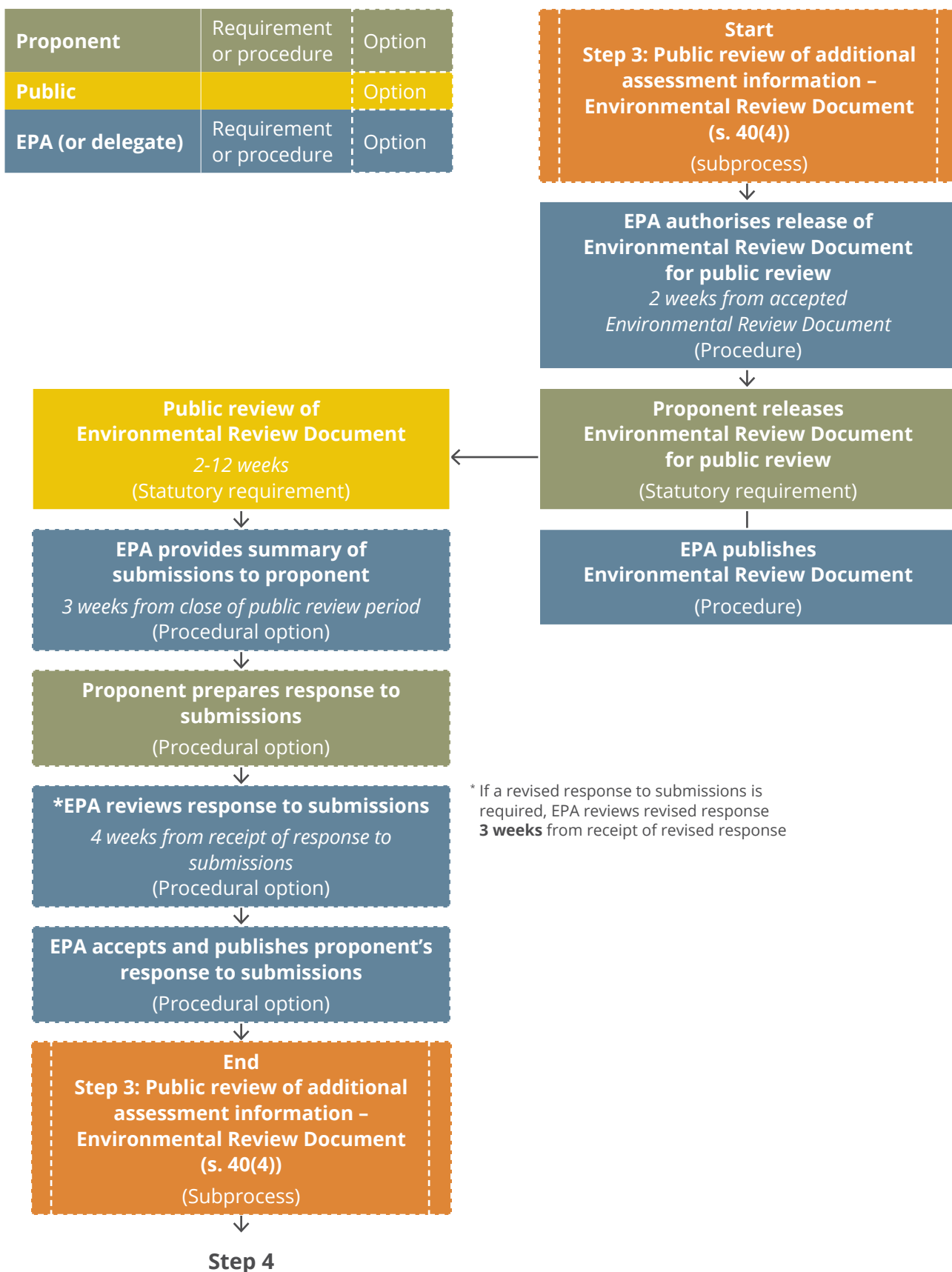


Figure 8: Stage 3, Step 3 – Public review of additional assessment information – Environmental Review Document

**Step 3 – Public review of additional assessment information** starts when the EPA accepts the Environmental Review Document (or other additional assessment information), if public review is required.

Where a public review of an Environmental Review Document is specified in the level of assessment (in the record required by s. 39(1)(b)):

- The EPA *will* authorise the release of the Environmental Review Document, (for the period specified in the record required by s. 39(1)(b)).
- The proponent *will* release the Environmental Review Document for public review (see Instructions and template: Public advertising and release requirements).
- The EPA *will* publish the Environmental Review Document.
- Any person or public authority (including decision-making authorities and other government agencies) can make a submission.
- The EPA *may* request that relevant government agencies and/or experts provide advice (including the Commonwealth, if the EPA assesses the proposal under the *Bilateral Agreement* or as an accredited assessment).
- The EPA *may* acknowledge the person(s) who have made a submission.
- The EPA *may* provide a copy of the submissions and *may* provide a summary of the key issues raised in the submissions to the proponent after the close of the public review period.
- The EPA *may* require the proponent to respond to any submissions (s. 40(6)(b)).
- The EPA *will* accept the proponent's response to submissions, if the EPA requires the proponent to respond to submissions, when the response is adequate to enable the EPA to prepare its draft assessment report.
- The EPA *will* notify the proponent in writing when the EPA accepts the proponent's response to submissions.
- The EPA *may* publish the proponent's response to any submissions on the EPA's website prior to release of the EPA's report, for information only.

See Section 2.2.1.1 for the procedures relating to making a submission to the EPA.

The procedures for the public review of other additional assessment information are the same as the procedures for the public review of an Environmental Review Document.

**Step 3 – Public review of additional assessment information** ends when either:

1. the public review period closes, if the EPA does not require the proponent to respond to submissions, or
2. the EPA accepts and publishes the proponent's response to submissions, if the EPA requires the proponent to respond to submissions.

### 3.1.4 Step 4. Preparation of draft assessment report

<b>Proponent</b>	Requirement or procedure	Option
<b>EPA (or delegate)</b>	Requirement or procedure	Option

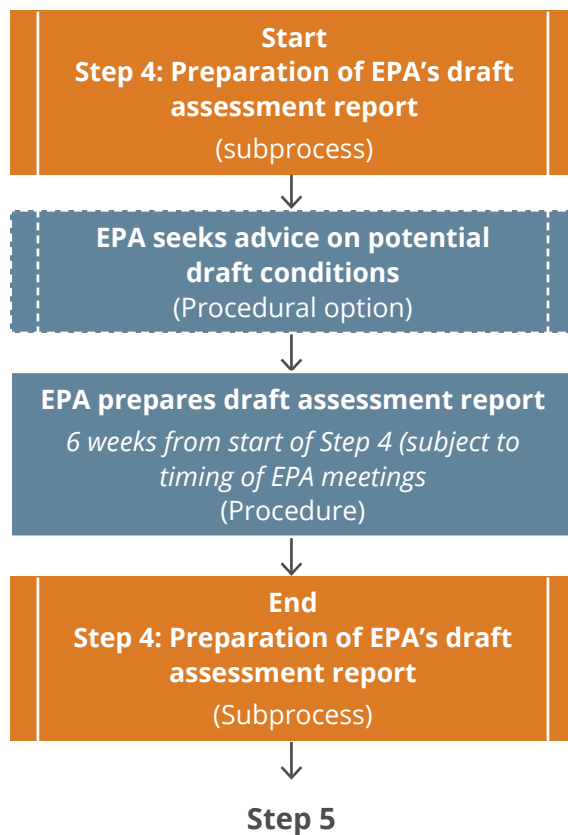


Figure 9: Stage 3, Step 4 – Preparation of EPA's draft assessment report

**Step 4 – Preparation of EPA’s draft assessment report** starts when either:

1. the EPA decides to assess a proposal, if the information required for the assessment is the referral information, or
2. the EPA approves additional assessment information (including an Environmental Review Document), if public review of that information is not required, or
3. the public review period closes, if public review of information is required and the EPA does not require the proponent to respond to submissions, or
4. the EPA accepts the proponent’s response to submissions, if the EPA requires the proponent to respond to submissions.

In preparing its draft assessment report, the EPA:

- Will confirm whether the preliminary key environmental factors are the final key environmental factors.
- Will usually assess the Environmental Management Plans provided during its assessment, and if so:
  - will consider whether the Environmental Management Plans are adequate
  - may require the proponent to amend the Environmental Management Plans.
- Will consider whether any proposed offsets are adequate, where offsets are relevant.
- May seek advice from the Commonwealth (if the EPA assesses the proposal under the Bilateral Agreement or as an accredited assessment) on the draft assessment report in addressing impacts on Matters of National Environmental Significance.
- Will consider whether the proposal may be implemented (see **Stage 4 EPA Report**), and if so:
  - will consider whether any or all of the proposal elements need to be controlled through an authorised extent
  - will consider whether any conditions (including those relating to Environmental Management Plans and/or offsets) are required
  - may seek advice from relevant decision-making authorities, other government agencies and the proponent on potential draft conditions (including the Commonwealth, if the EPA assesses the proposal under the *Bilateral Agreement* or as an accredited assessment).

The Environmental Management Plan/s *must* contain proposal-specific information consistent with Instructions and Template: Environmental Management Plans and/or *Guidelines for Preparing Mine Closure Plans*.

The EPA and/or the Office of the EPA *will* consider management plans that apply to multiple operations or a region and cover more than one proposal (and/or Ministerial Statement), where they meet the requirements of the documents above.

While the target timeframe for the EPA to prepare a draft assessment report is six weeks, in practice, this timeframe will vary, as the EPA *usually* considers a draft assessment at an EPA meeting (see Step 5), which are held monthly. The EPA’s target time to prepare the draft assessment report (six weeks) and to finalise the report and give the report to the Minister (six weeks) is 12 weeks (see also Stage 4).

**Step 4 – Preparation of EPA’s draft assessment report** ends when the EPA prepares a draft assessment report.

### 3.1.5 Step 5. Completion of the EPA's assessment

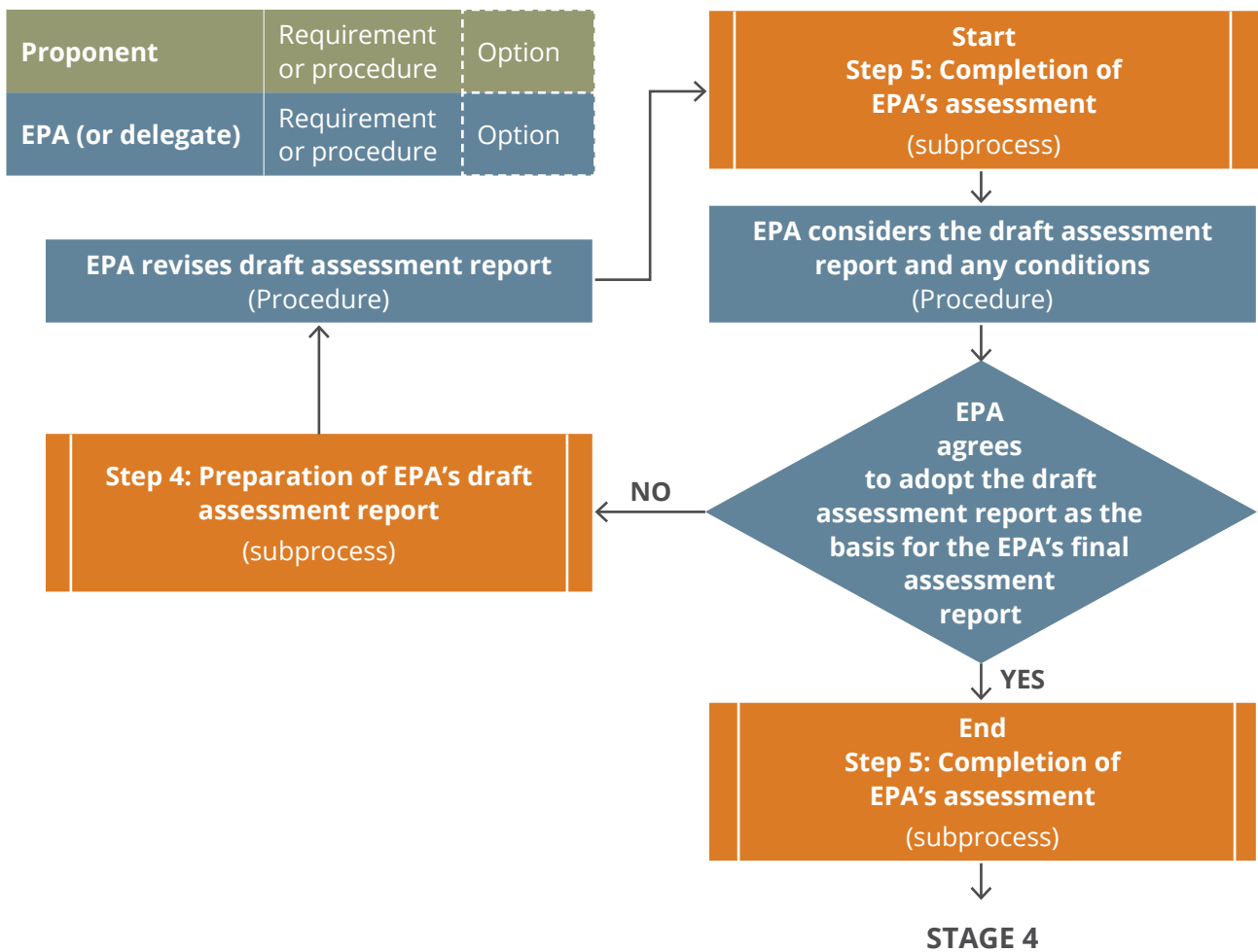


Figure 10: Stage 3, Step 5 – Completion of the EPA's assessment

In addition to the procedures set out in the *Administrative Procedures*, the EPA usually considers the draft assessment report at an EPA meeting. The EPA *usually* invites the proponent to attend the EPA meeting.

## 3.2 Termination of assessment (s. 40A)

The Chairman (or the Deputy Chairman if the Chairman is absent) has a delegation from the EPA to administer s. 40A in relation to the termination of a proposal.

A proponent may request in writing, at any time, that the EPA terminate the assessment of its proposal. The EPA will consider the request and terminate the assessment if it is appropriate to do so.

The EPA *may* also terminate assessment of a proposal if one of the criteria in s. 40A(1) are met.

Where a proponent fails to comply with a requirement under s. 40A(1)(b), before exercising its powers, the EPA:

- *will* notify the proponent of its intention to terminate the assessment and give them an opportunity to respond as to why the EPA should not exercise that power
- *will* have regard to the proponent's response before exercising its powers.

If the EPA terminates an assessment, the EPA:

- *will* notify the proponent in writing
- *may* publish the notice of termination on the EPA's website.

## 3.3 Assessment of strategic proposal (s. 40B)

The EPA recognises that detailed design of the future proposals identified in the strategic proposal may not be available at the time of the EPA's assessment of the strategic proposal.

However, the EPA expects that proponents will provide the EPA with sufficient information about the strategic proposal, and undertake an environmental review of its strategic proposal to the extent necessary, to enable the EPA to complete its assessment and provide a report to the Minister (see **Stage 4**).

The assessment of a strategic proposal should enable the EPA to define the overall environmental outcomes that must be achieved through implementation of any future derived proposals.

To do this, the EPA's assessment *will*:

- Define, as far as possible, the key characteristics of the future proposals.
- Define the maximum extent or limits to the scope of any future proposals.
- Identify the key environmental factors associated with the future proposals, at a scale commensurate with the nature and extent of those future proposals.
- Define the maximum disturbance (impact) footprint of the future proposals (terrestrial, marine and air) and the envelope within which any future proposals will occur.
- Define the potential maximum cumulative environmental impacts and/or risks from the future proposals, and demonstrate the acceptability of those impacts/risks.

## 3.4 Decision-making authority not to approve proposal until certain events occur (s. 41)

Refer to the *Administrative Procedures*.

### 3.4.1 Investigation work

**Investigation work** is an activity carried out to inform the EPA's decision to assess a proposal or assessment of a proposal, or to inform design or planning that does not involve the implementing the proposal.

Investigation work that informs the EPA's assessment of a proposal may include:

- environmental investigations (e.g. biological surveys, sampling for acid sulphate soils, etc)
- design investigations (e.g. geotechnical work for determining proposal design, definition drilling of an ore body)
- clearing to provide access for surveys.

In relation to proposed investigation work:

- EPA consent is *not* required for investigation work that does not involve the implementation of the proposal.
- Proponents *will* need to obtain separate approvals, permits or licences from relevant decision-making authorities for the investigation work, if required.
- Decision-making authorities *may* seek advice from the EPA if they are unsure whether the proposed work is implementing the proposal.
- Decision-making authorities *may* approve investigation work that is not implementing the proposal.

If the investigation work is likely to have significant impact on the environment, it *may* require referral to the EPA as a separate proposal (e.g. if the proposed work is located in an Environmentally Sensitive Area).

## 3.5 Proposal not to be implemented before action under s. 45 taken (s. 41A)

Refer to the *Administrative Procedures*.

### 3.5.1 Minor or preliminary work

**Minor or preliminary work** is work associated with the implementation of a proposal that is unlikely to have a significant impact on the environment. This includes any activities that a proponent would normally undertake if it was not prevented under s. 41A(1) from doing anything to implement the proposal.

Minor or preliminary work may include the construction of infrastructure for the proposal in an area that is unlikely to have a significant environmental impact (e.g. for an airstrip for survey access, on previously cleared pastoral land).

#### 3.5.1.1 Criteria for EPA consent to undertake minor or preliminary work

Proponents *must* demonstrate the following criteria for the EPA to consent to the minor or preliminary work:

1. The work must be associated with the implementation of the proposal.
2. The potential environmental impacts of the work must not be significant.



Proponents should also discuss:

3. Whether the impact can be reversed (e.g. through rehabilitation).
4. The environmental justification for the work (e.g. avoid breeding season, avoid phytophthora spread during winter rainfall etc).

### **3.5.1.2 Content of the request for EPA consent for minor or preliminary work**

The EPA *requires* that proponents follow the Checklist: Request for EPA consent for minor or preliminary work when preparing a request for EPA consent to undertake minor or preliminary work.

The request *must* include the following:

1. Assessment details.
2. Details of the proposed work (including key proposal characteristics according to the Instructions and Template: Defining the key proposal characteristics).
3. Information to demonstrate that the work is associated with the implementation of the proposal.
4. Details of the potential environmental impacts likely to be caused by the work.
5. Details of any decommissioning or rehabilitation work which would be carried out should the proposal not be approved for implementation.
6. Information to demonstrate that the impact can be reversed (e.g. through rehabilitation).
7. Environmental justification for the work.
8. Other approvals required for the work.

### **3.5.1.3 Process for the request for EPA consent to undertake minor or preliminary work**

The Chairman (or the Deputy Chairman if the Chairman is absent) has delegation from the EPA to administer s. 41A(3).

The process for the request for EPA consent under s. 41A(3) to undertake minor or preliminary work is:

- Proponents *should* identify the need for minor or preliminary work as early as possible in the assessment process (ideally at referral or scoping).
- Proponents *must* submit a request for consent to the EPA for minor or preliminary work.
- The EPA *will* consider the request.
- The EPA *will* notify the proponent in writing of its decision to consent to or refuse the request to undertake the minor or preliminary work.
- The EPA *may* publish its decision on the EPA's website.
- Proponents *may* carry out the minor or preliminary work requested once the EPA has granted consent and the relevant decision-making authorities have granted other necessary approvals, permits or licences (where required).

## **3.6 Conduct of public inquiries under s. 40(2)(c) (s. 42)**

Refer to the *Administrative Procedures*.

## **3.7 Minister to direct the EPA to assess a proposal (s. 43)**

Refer to the *Administrative Procedures*.

## 3.8 Changes to proposals during assessment (s. 43A)

### 3.8.1 Content of the request for EPA consent for a change to proposal

If a proponent wants to change a proposal during assessment, the proponent *must* seek the EPA's consent and provide the EPA with the following:

1. details of the proposed change
2. statement of the significance of the change and
3. rationale for the change.

### 3.8.2 Process for the request for EPA consent for a change to proposal

The Chairman (or the Deputy Chairman if the Chairman is absent) has a delegation from the EPA to administer s. 43A.

The process for the request for EPA consent for a change to proposal is:

- Proponents *should* identify the need for a change to proposal as early as possible in the assessment process (ideally at scoping).
- Proponents *must* submit a request for consent to the EPA for a change to proposal.
- The EPA *will* consider the request.
- The EPA *may* consult with the relevant decision-making authorities and other government agencies.
- The EPA *may* release information on the proposed change for public information or review.
- The EPA *will* notify the proponent in writing of its decision to consent to or refuse the request for a change to proposal.
- The EPA *may* publish its decision on the EPA's website.

The EPA *may* consider the following in deciding whether consultation or public review is necessary:

- the nature of the proposed change
- the stage of the assessment process (i.e. whether information has been released for public review)
- the currency, relevance and reliability of the information that exists, including any submissions
- the degree to which the proponent has engaged with the community that may be affected by the proposal
- the level of public interest about the proposal.

**Stage 3 – Assessment of proposals ends when:**

1. the EPA completes its assessment, or
2. the EPA terminates the assessment.

## Stage 4 – EPA report on the assessment of a proposal (s. 44)

The procedures for **Stage 4 – EPA report on the assessment of a proposal** relating to section 44 of the EP Act are summarised in the process diagram below (Figure 11).

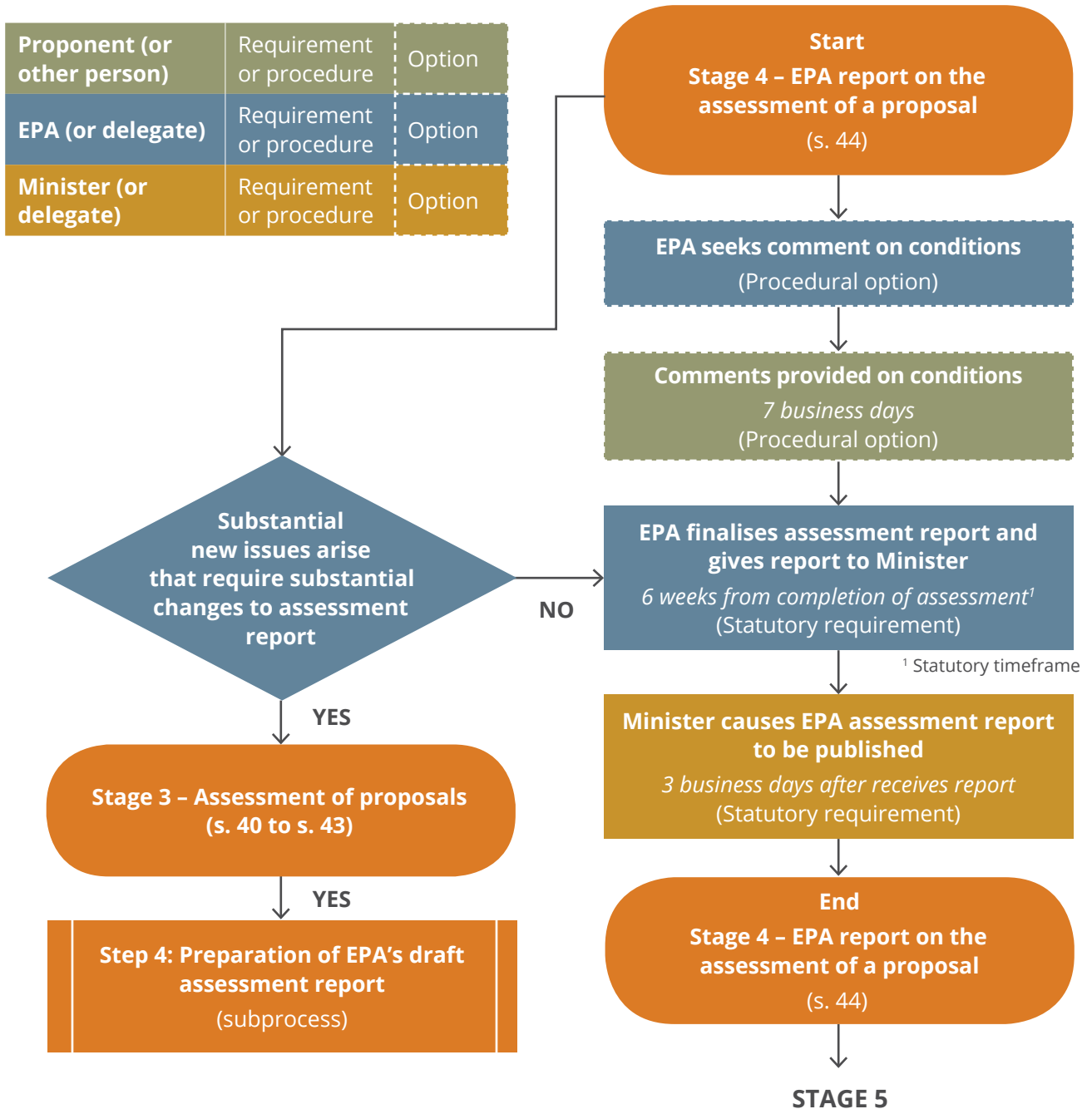


Figure 11: Stage 4 – EPA report on the assessment of a proposal

**Stage 4 – EPA report on the assessment of a proposal** starts when the EPA completes its assessment.

The Chairman (or the Deputy Chairman if the Chairman is absent) has a delegation from the EPA to administer:

- s. 44(1) in relation to the report to the Minister
- s. 44(2a) in relation to other information, advice and recommendations in the assessment report,

only when the EPA resolves that the Chairman (or Deputy Chairman) prepare and approve the final assessment report and give that report to the Minister (see Section 3.1.5).

The Chairman (or the Deputy Chairman if the Chairman is absent) has delegation from the Minister to administer s. 44(3) to cause the report to be published.

## 4.1 Assessment report

In addition to the requirements and options for the assessment report outlined in the *Administrative Procedures*, the report *may* also include information relating to the assessment of the proposal, including, but not limited to, the following:

- A description of the proposal and its key characteristics.
- The context of the proposal in its surrounds, including the cumulative impacts with other proposals (and with itself if the proposal is an extension/expansion of an approved proposal).
- A summary of stakeholder consultation and public input.
- An assessment of each key environmental factor.
- A holistic assessment of the acceptability of the whole proposal, considering:
  - the interconnected nature of the environment
  - the principles of the EP Act
  - the objectives for the key environmental factors
  - cumulative impacts with other proposals
  - impacts that integrate across a proposal (e.g. mine closure)
  - significant residual impacts and offsets.
- Consideration of Matters of National Environmental Significance, where the EPA assesses the proposal under the *Bilateral Agreement* or as an accredited assessment.

## 4.2 Implementation conditions and procedures

If the EPA recommends that the proposal may be implemented, the EPA *may* recommend conditions and procedures which should apply to the implementation of the proposal.

### 4.2.1 Authorised extent of the proposal

The EPA *will* recommend whether any or all of the proposal elements need to be controlled and if so, will provide a table of the location and authorised extent of physical and operational elements in the recommended conditions.

## 4.2.2 Types of conditions

The EPA *usually* recommends two types of conditions:

1. **Standard conditions**, relating to matters including, but not limited to
  - proposal implementation
  - proponent contact details
  - time limit for proposal implementation
  - compliance reporting
  - public availability of post-assessment information related to proposal implementation (e.g. Environmental Management Plans)
2. Proposal-specific **environmental conditions**.

## 4.2.3 Environmental conditions

The EPA *will* recommend environmental conditions, if at the end of its assessment, a condition/s is required to provide confidence that there will not be a significant impact on an environmental factor/s. Conditions will focus on the part of the environment where there remains a risk of a significant environmental impact, e.g. particular threatened species or ecosystems, or high value environmental assets.

The EPA uses three models for environmental conditions:

1. **Outcome conditions** – contain a measurable environmental outcome that must be met
2. **Management plan conditions** – contain an environmental objective to achieve and provisions (through an Environmental Management Plan)
3. **Prescriptive conditions** – contain specified actions or procedures.

The model types are set out in Table 1.

Model	Condition requirements			
	Environmental outcome	Environmental objective	Environmental Management Plan	Prescribed actions
<b>Model 1: Outcome condition</b>	✓			
<b>Model 2: Management plan condition</b>		✓	✓	
<b>Model 3: Prescriptive condition</b>				✓

**Table 1: Environmental condition models and requirements**

Any of the models may include condition options, such as baseline surveys (see Section 4.2.3.4).

The EPA uses the model types as a guide and may depart from the models where there is a clear and considered rationale for a case-specific approach, for example, for strategic proposals.

The EPA may also decide that no conditions are necessary.

#### 4.2.3.1 Model 1: Outcome conditions

Outcome conditions generally relate to the 'avoid' step of the mitigation hierarchy. If an outcome is clear when the EPA develops the conditions, the EPA may recommend an outcome condition. Outcome conditions specify a measurable environmental outcome to be met, to avoid a significant environmental impact on an environmental factor/s, such as:

- an impact that must be avoided
  - e.g. there is no disturbance to a Threatened Ecological Community in a defined area
- a level of impact that must not be exceeded
  - e.g. groundwater drawdown must not exceed X metres below ground level outside a defined area
- a level of protection that must be achieved
  - e.g. maintain a high level of ecological protection for marine waters within the Rottneest Island Marine Reserve boundary.

The outcome must:

- link to one or more of the EPA's objectives
- be measurable and achievable
- have a clear boundary, size, extent or limit.

In addition to the environmental outcome, an outcome condition *may* also include the following outcome-based provisions:

- Performance indicators expressed as environmental criteria, to measure whether the environmental outcome is being met:
  - **trigger criteria**
  - **threshold criteria.**
- Response actions, to be implemented when relevant criteria are exceeded:
  - **trigger level actions**
  - **threshold contingency actions.**
- **Monitoring**, to assess whether trigger criteria and threshold criteria have been exceeded.
- **Reporting**, to track whether the outcome is being achieved.

Any failure to meet threshold criteria constitutes a non-compliance with the implementation conditions and *may* be subject to enforcement by the Office of the EPA (see *Administrative Procedures* Section 5.2).

The EPA's preference is to set outcome conditions. The EPA will consider information provided during the assessment, including in Environmental Management Plans, to determine whether an outcome condition is possible. See Instructions and Template: Environmental Management Plans for further detail on outcome-based provisions.

#### 4.2.3.2 Model 2: Management plan conditions

Management plan conditions generally relate to the 'minimise' and 'rehabilitate' steps of the mitigation hierarchy. Management plan conditions specify an environmental objective, which is a desired state for a key environmental factor/s. The objective must link to one or more of the EPA's objectives.

The environmental objective will generally be expressed in terms such as 'minimise impacts as far as practicable' on an element of the environment, for example flora, vegetation or fauna.

A management plan condition will also include requirements relating to an Environmental Management Plan, either:

- to implement an Environmental Management Plan/s provided during an assessment that the EPA considers is adequate or
- to prepare and implement an Environmental Management Plan/s, consistent with the Instructions and Template: Environmental Management Plans.

In addition to the environmental objective and the requirements relating to an Environmental Management Plan, a management plan condition *may* specify particular outcome-based provisions (as described in Section 4.2.3.1) and/or management-based provisions that the Environmental Management Plan must include.

The management-based provisions are:

- **Management actions** to mitigate the significant impacts of the proposal on the environment.
- **Management targets** to measure the effectiveness of management actions.
- **Monitoring** to assess the effectiveness of management actions.
- **Reporting**, to track whether the objective is being achieved.

See Instructions and Template: Environmental Management Plans for further detail on management-based provisions.

Any failure to implement required management actions, or meet threshold criteria constitutes a non-compliance with the implementation conditions and may be subject to enforcement by the Office of the EPA (see *Administrative Procedures* section 5.2).

### **Conditions relating to mine closure**

Where the EPA assesses the environmental impacts relating to mine closure (see *Guidelines for Preparing Mine Closure Plans*), the EPA:

- *will* recommend a condition relating to mine closure for mining proposals that are not subject to the *Mining Act 1978*. The condition:
  - *will usually* require that the proponent implement (or prepare and implement) a Mine Closure Plan consistent with the *Guidelines for Preparing Mine Closure Plans* and/or
  - *may* require other proposal-specific provisions
- *may* recommend a condition relating to mine closure for other mining proposals, noting that
  - the *Guidelines for preparing mine closure plans* is a joint document prepared by the Department of Mines and Petroleum and the EPA to meet both *Mining Act 1978* and EP Act regulatory requirements
  - a Mine Closure Plan prepared in accordance with the guidelines is a requirement under the *Mining Act 1978*.

### **4.2.3.3 Model 3: Prescriptive conditions**

Prescriptive conditions prescribe the required actions directly in the condition.

The EPA may recommend prescriptive conditions where the actions represent standard practice for a particular environmental issue common to many proposals, e.g.:

- actions to minimise noise impacts on marine fauna from pile-driving
- actions to minimise impacts on terrestrial fauna from trenching.

#### 4.2.3.4 Condition options

The conditions may also include other options. The most common option that the EPA uses is a baseline survey, where existing information is not sufficient, e.g. because of temporal variability of a particular environmental characteristic.

In relation to the baseline survey:

- it will define the physical, chemical or biological characteristics of the existing environment as a reference for proposed monitoring and/or other activities
- the scope will be limited to the work necessary to be able to evaluate, through ongoing monitoring, performance against the requirements of the condition
- the results may be used to decide whether other parts of the condition are triggered.

#### 4.2.4 Consultation on conditions

The EPA *may* seek comment on the draft recommended conditions from the proponent, relevant decision-making authorities and other relevant government agencies (or any other person), prior to finalising its report.

Where the EPA seeks comment on the draft conditions:

- The EPA will *usually* seek comment on conditions after the EPA completes its assessment, but *may* seek comment prior to completing its assessment during the preparation of draft assessment report (see Section 3.1.4).
- The consultation period *will* be seven business days. The EPA may consider a longer consultation period at the written request of the proponent.
- Consultation (and the contents of the draft conditions) *will* be confidential, subject to any legislative or procedural fairness requirements.
- The EPA *will* consider comments received on the draft conditions.
- Where the EPA receives any comments and/or information that may be adverse to the proponent, the EPA *will* give the proponent the opportunity to respond.
- The EPA *may* amend the draft conditions.

#### 4.2.5 Offset conditions

The EPA may recommend an offset condition to counter-balance any significant residual impact.

Where the EPA recommends an offset condition/s, the EPA will have regard to the *WA Environmental Offsets Policy* and the *WA Environmental Offsets guidelines*.

The condition will require one or more of the options below:

- direct action
- funding by the proponent directly to a third party to undertake agreed offset action
- contributions by the proponent to a fund for the purpose of undertaking agreed offset actions.

The EPA will aim to recommend specific offset conditions to the Minister, however, in some cases the EPA may recommend that an offset plan is developed post-approval.



## 4.2.6 Strategic proposal conditions

The EPA *will* recommend conditions for future derived proposals that require proponents to demonstrate how they will meet the outcomes defined through the assessment of the strategic proposal. This could include recommended conditions that require the development of plans to:

- Define the actual footprint of the derived proposal and demonstrate that it fits within the environmental outcomes assessed and approved at the strategic proposal stage of the assessment.
- Confirm the baseline ecological status within the area of the footprint and the area outside the footprint that may be at risk or impacted during construction or operation of the proposal.
- Outline the management measures to be taken to meet the principles and strategies referred to in the strategic proposal, and to ensure there is no material or serious environment harm outside the footprint.
- Define and implement a long term program for environmental monitoring, management, reporting and incident response.
- Offset significant residual environmental impacts and risks if they occur.

**Stage 4 – EPA report on the assessment of a proposal** ends when the Minister causes the EPA's assessment report to be published.

## Stage 5 – Decision on proposal and implementation of proposals (s. 45 to s. 48)

**Stage 5 – Decision on proposal and implementation of proposals** starts when the Minister causes the EPA's assessment report to be published.

The EPA does not administer any of the procedures in Division 2 as a decision-maker. The Chairman and Deputy Chairman of the EPA have delegated powers to administer procedures relating to changes to proposals (s. 45C) and changes to conditions (s. 46).

If a proposal is approved for implementation, under s. 48 the CEO administers the procedures relating to the control of the implementation of proposals.

The procedures for **Stage 5** relating to sections 45 to 46 of the EP Act are summarised in the following process diagrams: Figure 12 for s. 45C change to proposal and Figure 13 for s. 46 changing implementation condition.

### 5.1 Procedure for deciding if proposal may be implemented (s. 45)

#### 5.1.1 Appeals on EPA assessment report

The Chairman (or the Deputy Chairman if the Chairman is absent) has delegation from the EPA to report to the Minister on an appeal under s. 107(1).

In addition to the procedures set out in the *Administrative Procedures*, where the Minister remits the proposal to the EPA following an appeal, the EPA may publish the remittal on the EPA's website.

The EPA will follow the procedures of the relevant stage, subject to any direction by the Minister in the remittal.

#### 5.1.2 Agreement or decision on whether proposal may be implemented

Refer to the *Administrative Procedures*.

### 5.2 Duties of proponents after service of s. 45 statement (s. 47)

Refer to the *Administrative Procedures*.

### 5.3 Changes to proposals after s. 45(5) statement issued (s. 45C)

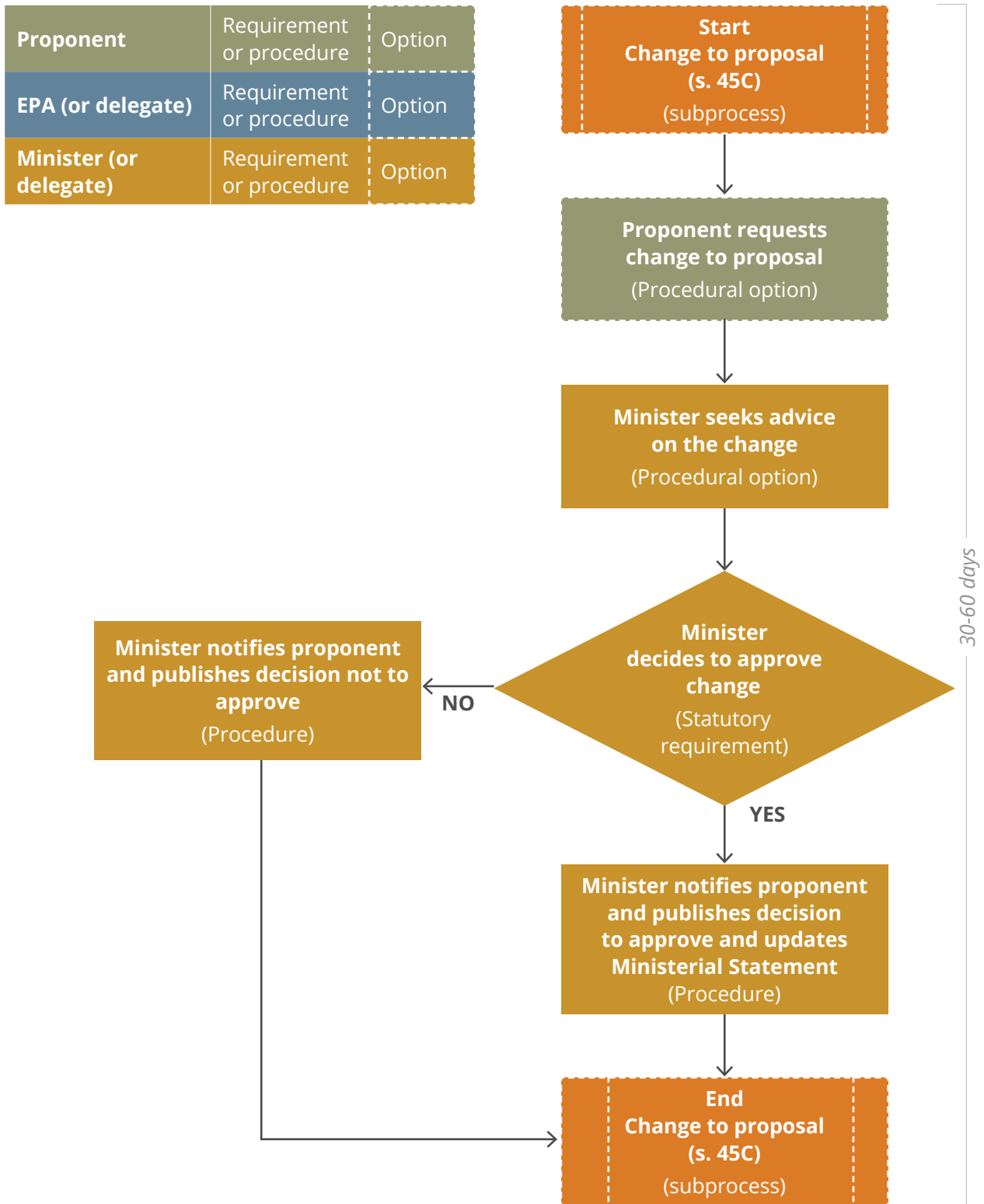


Figure 12: Changes to proposals (s. 45C)

As a guide, approval to change a proposal is required if there is a change to the key proposal characteristics (e.g. further clearing of vegetation, changes to the Development Envelope, or increase in emissions) (see Instructions: Defining the key proposal characteristics).

### 5.3.1 Process for change to proposal

The Chairman (or the Deputy Chairman if the Chairman is absent) has a delegation from the Minister to administer s. 45C.

The EPA requests that proponents send communications to the Chairman of the EPA, unless directed otherwise.

There are six aspects to the consideration of whether a change can be approved under s. 45C:

1. The content of the original proposal.
2. The content of the relevant change(s) and whether the change(s) involve a revision of the original proposal.
3. Whether the original proposal has had or will have any detrimental effect on the environment and, if so, what (taking into account the implementation conditions).
4. Whether the change(s) to the original proposal might have any detrimental effect on the environment and, if so, what.
5. Whether the detrimental effect (if any) which the change(s) in question might have on the environment is additional to, or different from, the detrimental effect (if any) which the original proposal has had or will have.
6. Whether any detrimental effect which the change(s) to the original proposal might have on the environment, which is additional to, or different from, any detrimental effect which the original proposal has had or will have, is significant.

The process for a change to proposal is:

- The proponent *will* consult with relevant stakeholders during the preparation of the request.
- The proponent requests a change to a proposal, in writing to the Minister, using the Instructions and Checklist: Preparing a Section 45C Request.
- The Minister assesses the proposed change.
- The Minister *may* seek advice from relevant decision-making authorities and other government agencies.
- The Minister *will* consider advice received.
- If the Minister approves the change, the Minister *will* prepare an Attachment to the Ministerial Statement detailing the approved change/s and include the Attachment in the Ministerial Statement.
- The Minister *will* notify the proponent in writing of the decision whether or not to approve a change to proposal.
- The Minister *will* publish the decision, the Attachment and the updated Ministerial Statement on the EPA's website.

If the change to proposal triggers the need for a change to conditions, any change to conditions *will* be made by way of an inquiry under s. 46 (see Section 5.4) or, if the change to the conditions is only minor, under s. 46C.

### 5.3 Changing implementation conditions (s. 46)

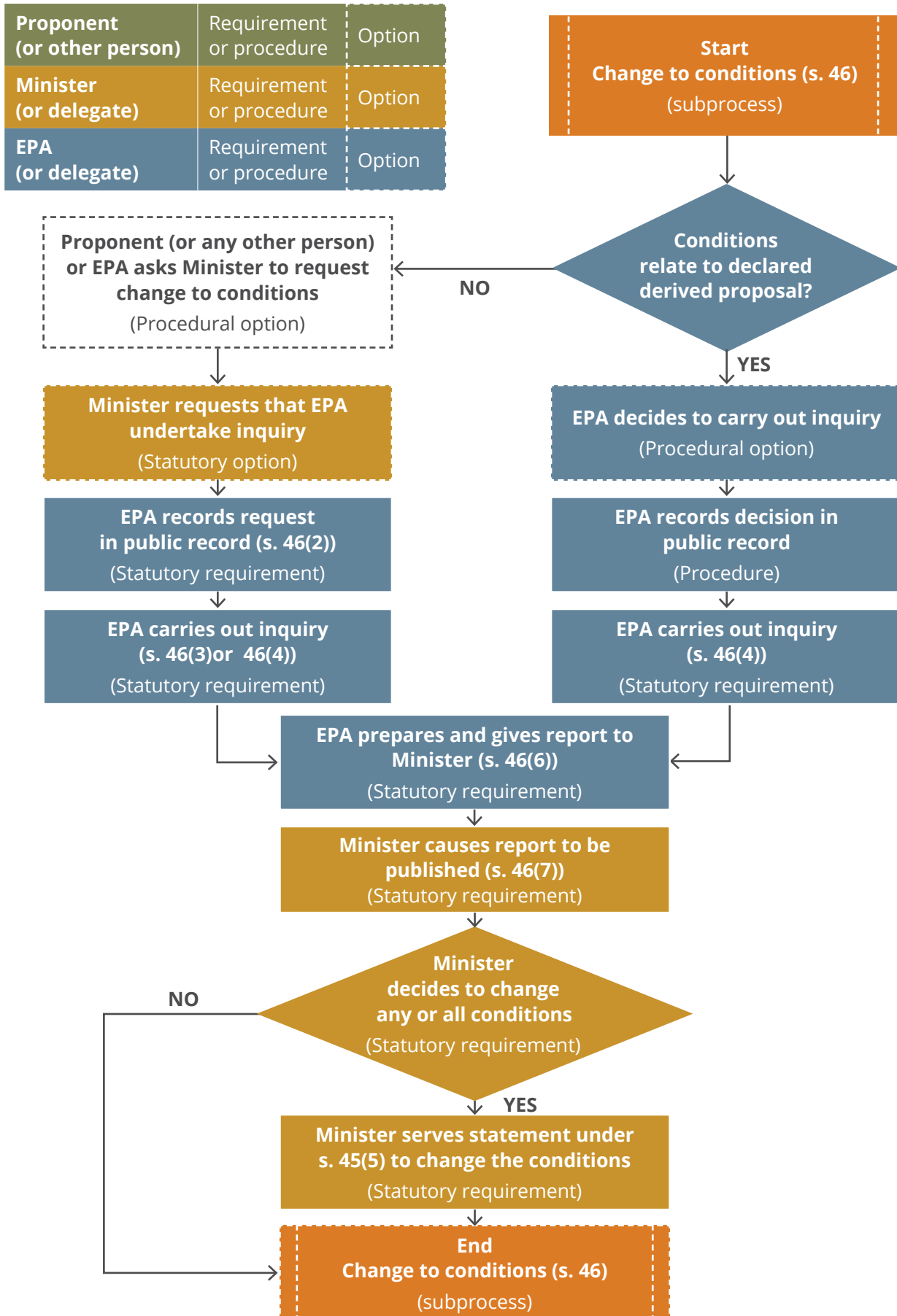


Figure 13: Changing implementation conditions (s. 46)

The Chairman (or the Deputy Chairman if the Chairman is absent) has a delegation from the EPA to administer s. 46(2) to (6) in relation to inquiring into changes to conditions and providing a report to the Minister.

In addition to the procedures set out in the *Administrative Procedures*, in conducting the inquiry, the EPA:

- *may* seek advice on the proposed change from any person, including relevant decision-making authorities and other government agencies
- *may* seek comment from the proponent, relevant decision-making authorities and other government agencies on the draft changes to the recommended conditions (see **Stage 4**, Section 4.2).

## **5.5 Other procedures related to implementation conditions (s. 46A, s. 46B and s. 46C)**

Refer to the *Administrative Procedures*.

## **5.6 Control of implementation of proposals (s. 48)**

Refer to the *Administrative Procedures*.

## Delegations

The following types of formal delegations are in place for a delegate to administer a sub-section or section/s of the EP Act, instead of the decision-maker:

- EPA to Chairman of the EPA (and Deputy Chairman if Chairman is absent)
- EPA to senior officers of the Office of the EPA (General Manager, Director Assessment and Compliance Division, Director Strategic Policy and Planning Division)
- Minister to Chairman of the EPA (and Deputy Chairman if Chairman is absent)
- Minister to General Manager of the Office of the EPA.

Where a delegation exists, the delegate *usually* administers that section of the EP Act, unless indicated otherwise.

The Office of the EPA supports the EPA to administer the EP Act.

The EPA requests that communications are sent to the EPA or the Office of the EPA, unless directed otherwise.

## Communications to the EPA

The EPA and the Office of the EPA prefer to receive (and send) communications **electronically**:

To the EPA Registrar: [registrar@epa.wa.gov.au](mailto:registrar@epa.wa.gov.au) for direct communication, including the submission of proposal documentation.

- Via the EPA's Consultation Hub for public comment.

Where a person submits a communication electronically, the EPA does not require a hard copy version of that communication.

Alternatively, communications may be made via the following methods:

1. **Posted to:** Environmental Protection Authority / Office of the EPA  
Locked Bag 10, East Perth 6892
2. **Delivered to:** Environmental Protection Authority / Office of the EPA  
Level 8, The Atrium, 168 St George's Tce, Perth 6000

## Timeframes

The process diagrams summarising the key procedures within stages and steps of the EIA process (Figures 2 to 13) include timeframes for the EPA's procedures, where applicable. The timeframes are administrative targets, except for the statutory requirements which are:

- s. 39A(3): within 28 days after the referral of the proposal the EPA is to give written notice of whether or not it is going to assess the proposal.
- s. 44(2b): the assessment report may be given to the Minister at any time but, so far as is practicable, it must be given not later than 6 weeks after the EPA completes its assessment or reassessment of the proposal.

Figure 14 provides an overall summary of the stages and steps of the EIA process and the EPA's minimum target timeframes.

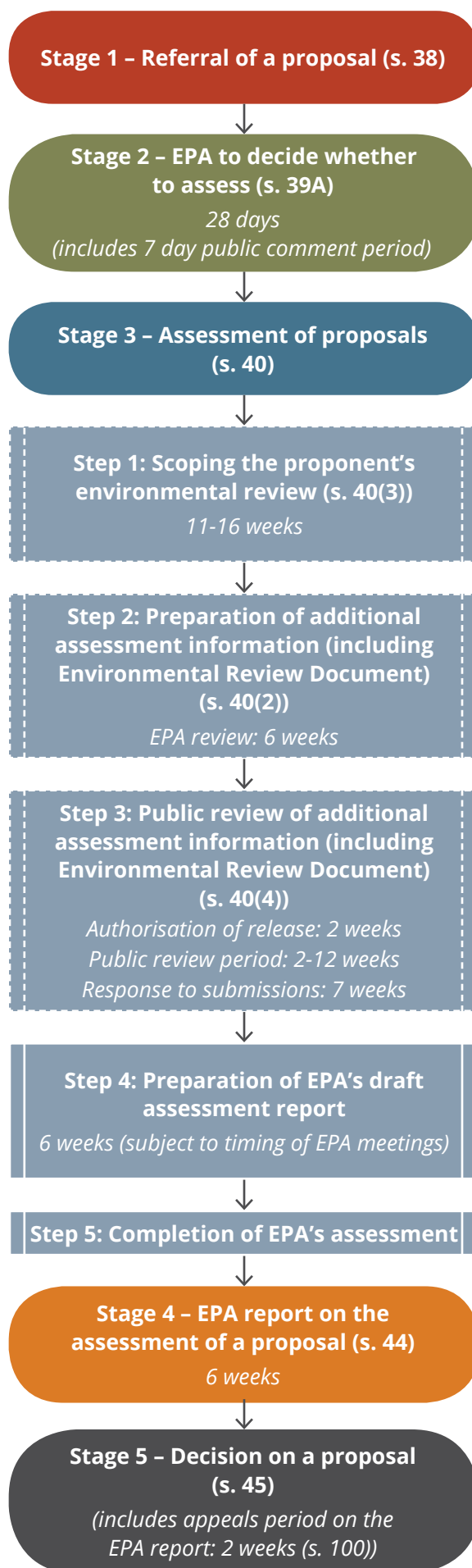


Figure 14: EIA process stages and steps and EPA's minimum target timeframes



## Definitions

Words and expressions used in the Procedures Manual shall have the same respective meanings as provided for in the EP Act or as provided for below.

<b>Accredited assessment</b>	Process where the Commonwealth accredits the State assessment process on a case-by-case basis and the State assesses the controlled action on behalf of the Commonwealth
<b>Additional assessment information</b>	The assessment information the EPA requires under s. 40 to assess a proposal
<b>Assessment information</b>	Referral information (s. 38 and where applicable, s. 38A and/or s. 39A(2)(b) and/or additional information (s. 40) that the EPA uses to assess a proposal (see also <b>Referral information</b> and <b>Additional assessment information</b> )
<b>Assessment report</b>	The report on the outcome of an assessment given by the EPA to the Minister under s. 44
<b>Bilateral Agreement</b>	<i>Bilateral agreement made under section 45 of the Environment Protection and Biodiversity Conservation Act 1999 (Cth) relating to environmental assessment (2014) between the Commonwealth of Australia and the State of Western Australia, or any subsequent updates or replacements</i>
<b>CEO</b>	The Chief Executive Officer of the Department of the Public Service of the State responsible for the administration of the <i>Environmental Protection Act 1986</i> . Currently General Manager of the Office of the EPA
<b>Commonwealth</b>	The Commonwealth agency responsible for administering the <i>Environment Protection and Biodiversity Conservation Act 1999</i>
<b>Controlled action</b>	As defined in the <i>Environment Protection and Biodiversity Conservation Act 1999</i>
<b>Decision-maker</b>	The Minister, EPA or the CEO, who have specific powers and duties under the EP Act (see also <b>Delegate</b> )
<b>Delegate</b>	Person or public authority who, by instrument of delegation made under sections 18, 19 or 20 of the EP Act, is authorised to perform all or any of the powers or duties under the EP Act of the decision-maker (being either the Minister, the EPA or the CEO)
<b>Director Assessment and Compliance Division</b>	Director Assessment and Compliance Division of the Office of the EPA
<b>Director Strategic Policy and Planning</b>	Director Strategic Policy and Planning of the Office of the EPA
<b>Environmental factors</b>	Segments of the environment the EPA uses for environmental impact assessment. See also EPA's <i>Statement of Principles, Factors and Objectives</i>
<b>Environmental Review Document</b>	Proponent's report on an environmental review under s. 40(2)(b)

<b>Environmental Scoping Document</b>	The document that defines the form, content, timing and procedure of the environmental review under s. 40(3)
<b>EP Act</b>	<i>Environmental Protection Act 1986</i>
<b>EPA</b>	Environmental Protection Authority, defined as the Authority in Part I, s. 3 of the EP Act, or their delegate.
<b>Future proposal</b>	A proposal identified in a strategic proposal
<b>General Manager</b>	General Manager of the Office of the EPA
<b>Investigation work</b>	Activity carried out to inform the EPA's decision to assess a proposal or its assessment of a proposal, or to inform design or planning that does not involve implementing of the proposal
<b>In writing</b>	Any form of communication in writing, including but not limited to, letter, email etc (see also <b>Written notice</b> )
<b>Key environmental factors</b>	The environmental factors that the EPA reports on under s. 44
<b>Level of assessment</b>	Proposal-specific requirements that the EPA determines are necessary to assess the proposal
<b>Minister</b>	The WA Minister for the Environment, or their delegate
<b>Ministerial Statement</b>	Statement issued under s 45 (or under s 45 as applied by section 46(8)) of the EP Act (which may include implementation conditions)
<b>Minor or preliminary work</b>	Work associated with the implementation of a proposal that is not of a scale or significance that would compromise the EPA's assessment or the Minister's future decisions
<b>Mitigation hierarchy</b>	Strategies to reduce the impacts of a proposal on the environment (as defined in the <i>WA Environmental Offsets Guidelines</i> )
<b>Office of the EPA</b>	Office of the Environmental Protection Authority, Department of the Public Service of the State responsible for the administration of Part IV of the EP Act
<b>Preliminary key environmental factors</b>	The environmental factor/s that may be significantly impacted by the proposal (that the EPA identifies when it decides to assess a proposal, identifies in the Environmental Scoping Document, or identifies at any time during its assessment)
<b>Referral information</b>	The information provided at referral (s. 38), and where applicable, from requests for further information (s. 38A) and/or from information derived from the EPA's investigations and inquiries (s. 39A(2)(b))
<b>Revised proposal</b>	A proposal that is revised after implementation conditions have been agreed or decided
<b>Statement of environmental principles, factors and objectives</b>	<i>Statement of environmental principles, factors and objectives</i> (EPA, 2016) or any subsequent updates or replacements
<b>Validly referred proposal</b>	A proposal recorded by the EPA as a valid referral

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<b>WA Environmental Offsets Guidelines</b>	<i>WA Environmental Offsets Guidelines</i> (Government of Western Australia, 2014) or any subsequent updates or replacements
<b>WA Environmental Offsets Policy</b>	<i>WA Environmental Offsets Policy</i> (Government of Western Australia, 2011) or any subsequent updates or replacements
<b>Written notice</b>	Any form of notice in writing, including but not limited to, letter, email etc

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