



**Notice of proposed transfer of
responsibility for a proposal under section 38I of the
Environmental Protection Act 1986 during
assessment**

Instructions

Environmental Protection Authority

June 2023

Version	Change	Date
1.0	Initial version	12 July 2018
2.0	Version aligned with EP Act amendments 2020	June 2023

As EPA documents are updated from time to time, users should consult the EPA website to ensure they have the most recent version.

Environmental Protection Authority 2023, *Instructions – Notice of proposed transfer of responsibility for a proposal under section 38I of the Environmental Protection Act 1986 during assessment*, EPA, Western Australia.

This document is available in alternative formats upon request. National Relay Service
TTY: 133 677

(To assist persons with hearing and voice impairment)

More information

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1. Purpose of these instructions

The Environmental Protection Authority (EPA) (or the EPA Chair or Deputy Chair as delegate) is the decision-maker for transferring responsibility of a proposal during assessment.

The purpose of this document is to provide advice to the nominated proponent of a proposal, who proposes to transfer responsibility for a proposal to another person. Following these instructions and using the associated form, will ensure the relevant information is provided to the EPA and the Department of Water and Environmental Regulation (DWER). The requested information will be taken into consideration to inform the EPA's decision, whether to revoke the nomination and nominate another person in relation to the proposal.

2. How to complete a request to transfer responsibility for a proposal during assessment

The EPA needs sufficient information from the proponent to decide whether to approve the request to transfer the responsibility for a proposal.

Approval will be conditional on being notified by both the past and new proponent, that the transaction leading to the proponent change has been completed.

Proponents should provide information described below in the corresponding form. This form should be submitted at least 30 days before a proponent proposes to cease responsibility for a proposal.

Advice

Proponents may contact EPA Services, DWER, if they need assistance to prepare a request. For more information on referring a proposal, refer to the EPA's [Administrative Procedures](#) and [Procedures Manual](#).

Content of a request to transfer responsibility for a proposal – during assessment

Section 38I(1) of the *Environmental Protection Act 1986* (EP Act) requires the nominated proponent of a proposal who proposes to transfer responsibility for the proposal to another person, to give the EPA written notice advising the name of the other person.

Regardless of whether the EPA receives such written notice, the EPA (or delegate) may revoke the nomination of the proponent and nominate another person as the proponent of the proposal.

A form is provided to assist proponents to provide the EPA (or delegate) with relevant information to make a decision under s. 38I. The submission of the completed form by the proponent serves as written notice for the purposes of s. 38I(1) of the EP Act.

3. Supporting information to be provided with a request to transfer responsibility of a proposal

The following information is provided to assist proponents to complete the *Form: Notice of proposed transfer of responsibility for a proposal under s. 38I of the EP Act during assessment*. The following sections are aligned with the key headings in the form for ease of completion.

1. Proposal

List the proposal/s for which the transfer of proponent responsibility for a proposal is

proposed.

Provide a brief description of the proposal and a reference to the proponent prepared Proposal Content document (if one exists), or to the appropriate document defining proposal content.

2. Reason for requesting transfer of responsibility

Briefly describe the nature of the transaction or change of circumstances that caused the proponent to give this notice, such as the sale of the business. Provide evidence to demonstrate the need to transfer responsibility.

3. Current and proposed proponent information

Complete the details for both current and proposed proponents, including the relevant Australian Company Numbers (or Australian Business Numbers for government agencies) if applicable.

4. Track record and ability of the proposed proponent

The proposed proponent is required to provide details of their ability and capacity, as well as their track record in environmental performance to provide DWER with confidence that it can meet statutory requirements and implement the proposal as approved. Provide supporting evidence as attachments.

The proposed proponent should also demonstrate that it is the entity that will be responsible for controlling the implementation of the proposal and ensuring compliance with the implementation conditions. Provide any supporting evidence as attachments.

5. Joint venture

Indicate if the current or proposed proponent is implementing the proposal on behalf of other joint venture parties and provide details and any evidence.

6. Legal access

Indicate if the proposed proponent owns or has legal access to the land where the proposal is located and provide details of tenure or access agreements and evidence.

7. State Agreement

Indicate if a State Agreement act applies to any part of the proposal and provide details of the act.

8. Date of proposed proponent declaration

State the legal name of the proposed proponent and date that responsibility of the proposal is proposed to be transferred.

9. Current proponent declaration

A notice that a proponent proposes to transfer responsibility for the proposal to another person must be signed by the proponent, or a person that has legal authority to provide the notice on behalf of the proponent.

If the current proponent is a company, the notice may be executed in accordance with s. 127 of the *Corporations Act 2001*.

Sufficient evidence of the authority/capacity to execute the document must be provided.

10. Proposed proponent declaration

The notice that a proponent proposes to transfer responsibility for the proposal to another person must also be signed by the proposed proponent or a person that has legal authority to provide the notice on behalf of the proposed proponent.

If the proposed proponent is a company, the notice may be executed in accordance

with s. 127 of the *Corporations Act 2001*.

Sufficient evidence of the authority/capacity to execute the notice must be provided.

Submitting a request

Ensure that all required information in the Form is provided with your request to DWER. It is preferred that requests are made via Environment Online; however, emailed and postal submissions will be accepted.

Submissions

EO portal: environmentonline.dwer.wa.gov.au

Email: EOsupport@dwer.wa.gov.au

Post: EPA Services

Department of Water and Environmental Regulation

Locked Bag 10, Joondalup DC, WA 6919

General Enquiries

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