

Environmental Impact Assessment Practice Guide
Assessment of Proposals in Western Australia
under Part IV of the *Environmental Protection Act 1986*

Environmental Protection Authority

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1. Introduction

1.1 Purpose and scope

Environmental impact assessment (EIA) is an orderly and systematic process for evaluating a proposal (including its alternatives) and its effects on the environment, and the mitigation of those effects. The process extends from the initial concept of the proposal through implementation to completion, and where appropriate, decommissioning.

This Practice Guide outlines the Environmental Protection Authority (EPA) practice of EIA including assessment processes and EPA expectations. This Practice Guide is intended to assist proponents, consultants and the community understand what to expect from the EIA process. It is not the intention that every clause and power available under Part IV of the *Environmental Protection Act 1986* (EP Act) is included and the reader should refer to the legislation for the statutory requirements.

This document has been prepared to be consistent with the EPA's functions under s. 16 and 122 of the EP Act, but is subject to, and does not replace or amend the requirements of the EP Act.

This document should be read in conjunction with the following documents as shown in Figure 1:

- [EP Act](#), which sets out the statutory requirements and procedures for referral and assessment
- [EPA Instructions](#), which outline the EPA expectations and information requirements for each process
- [Statement of environmental principles, factors, objectives and aims of EIA](#), which provides an overarching approach for the consideration of environmental factors through EIA.

The EPA also publishes guidance outlining EPA expectations and information requirements for each environmental factor, technical studies to support EIA and integrated EIA guidance.

Environmental factors: The EPA uses environmental factors as an organising principle for EIA. Environmental factors provide a systematic approach to organising environmental information for the purpose of EIA and a structure for EIA documents. Each environmental factor covers a range of environmental values (a beneficial use or an ecosystem health condition) depending on the nature of the environment. The EPA has 14 environmental factors, organised into five themes: Sea, Land, Water, Air and People. The EPA has developed an objective and Environmental Factor Guideline for each factor, which is available under the five key themes on the [Framework for environmental considerations in EIA](#) webpage.

The EPA also considers the environment in a holistic way, ensuring connections and interactions between impacts and factors, and the overall impact of the proposal on the environment as a whole, is assessed.

Technical guidance for EIA: The EPA has developed technical guidance to guide EIA for some specific environmental values. These include biological survey and sampling guidance, assessment of marine factors and assessment of some aspects of the Social Surroundings factor.

Integrated EIA guidance: This guidance suite has been developed to address assessment considerations that are not limited to a specific factor or environmental value. These are available on the EPA website and include environmental outcomes and outcomes-based conditions; taking account of other decision-making processes; cumulative impact assessment; and consideration of offsets at a regional scale.

The EPA also publishes [other advice and reference material](#) that may be relevant to EIA.

Key terms and acronyms used in this Practice Guide are outlined in Section 10.

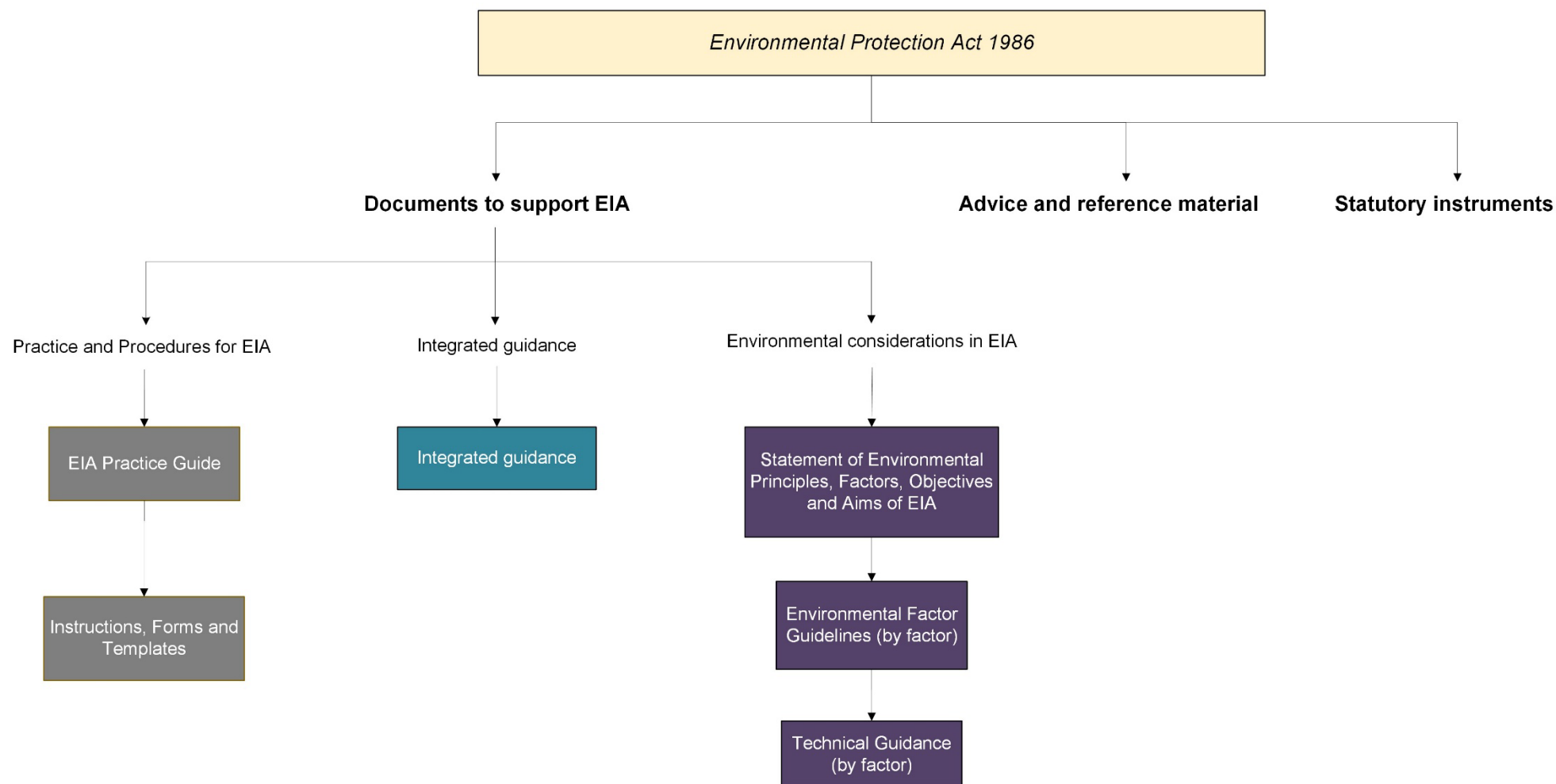


Figure 1: EPA documents to support EIA

1.2 Legislative context

Part IV of the EP Act provides the legal framework for EIA with Divisions 1 and 2 addressing proposals and Divisions 3 and 4 addressing planning schemes. This Practice Guide relates to assessments of proposals (Division 1 and 2) only.

Proposals include projects, plans, programs, policy, operation, undertaking, development or change in land use (including an amendment to any of these). Types of proposals include:

- significant proposal – any proposal that is likely, if implemented, to have a significant effect on the environment
- significant amendment – an amendment to an approved proposal or conditions which is likely, if implemented, to have a significant effect on the environment. A significant amendment is also a significant proposal
- strategic proposal – a future proposal or combination of future proposals that could have a significant effect on the environment
- derived proposal – a proposal that was identified as a future proposal in a strategic assessment and a Ministerial Statement has been issued in relation to that strategic proposal.

A proposal should be referred to the EPA under s. 38 of the EP Act if it is likely to have a significant impact on the environment.

Following assessment, the EPA provides an assessment report and recommendations to the Minister for Environment, who reaches a decision in consultation with key decision-making authorities regarding whether a proposal should be implemented, and if so, under what conditions. This decision may result in a Ministerial Statement, which documents the limitations and extent of the proposal along with the implementation conditions.

1.3 Who's who in EIA

The key participants in the EIA process and their role in relation to Part IV of the EP Act are described below.

Environmental Protection Authority

The EPA consists of five to nine members appointed by the Governor on the recommendation of the Minister for Environment. The EPA provides independent advice to Government on environmental matters including conducting EIA of proposals. The EPA also has regard to the Minister's [Statement of Expectation](#), provided to the EPA under s. 21B of the EP Act.

The EPA meets monthly to consider draft assessment reports as well as strategic advice and other functions. EPA members may conduct site visits to inform assessments.

Further information on the EPA's role is provided in the EPA [Statement of environmental principles, factors, objectives and aims of EIA](#).

In this Practice Guide, a reference to the EPA may mean the EPA Chair or the full EPA. To ensure efficient and orderly administration of EIA processes, the EPA can delegate some of its functions to the EPA Chair (or Deputy Chair where the Chair is not available). A full list of the EPA delegations are published in the Western Australian [Government Gazette](#), which is the official source for formal public notices.

The EPA has a [Stakeholder Engagement Plan](#) which sets out the EPA's commitment to ongoing stakeholder engagement and how the EPA engages with all stakeholders in the EIA process.

EPA Services

The EPA Services directorate within Department of Water and Environmental Regulation (DWER) provides support to the EPA including in relation to conducting EIA and developing policies to protect the environment. EPA Services are the day-to-day contact for all proposal assessment queries including post approval processes in relation to reviewing environmental management plans and s. 45C and s. 46 applications.

EPA Services has four key roles in EIA:

1. Ensuring there is adequate information for assessment
2. Providing EIA process support to proponents and the community
3. Liaising with other government agencies and technical experts to ensure adequate information for EIA
4. Once the EIA and consultation processes are complete, preparing a draft assessment report for the EPA to provide independent advice to the Minister.

The EPA expects that EPA Services, in fulfilling these roles, should aim to:

- support the EPA in achieving its aims and objectives
- ensure that the EIA process and information being sought is proportionate to the significance of potential environmental impacts and risks
- ensure that the proponent has an opportunity to respond to any information that is being considered by the EPA that may be adverse to the proponent
- provide clear guidance to agencies on the scope and timing of advice when seeking technical input or agency reviews, including during public review
- provide timely responses to proponents, the community and the EPA
- provide opportunities and contacts for proponents to discuss their proposals and assessment, including at the pre-referral stage.

EPA Services may conduct site visits of proposal locations in consultation with the proponent to inform their assessment.

To ensure efficient and orderly EIA practice, the EPA expects EPA Services to communicate anticipated assessment timeframes and develop and implement transparent escalation protocols (Section 9.1). The EPA will have oversight of these through the EPA Chair and monthly EPA meetings.

Department of Water and Environmental Regulation

In addition to providing support to the EPA through EPA Services, the DWER monitors compliance with conditions of Ministerial Statements and administers processes for works approvals, licences and clearing permits under Part V of the EP Act. DWER technical experts outside of EPA Services also provide technical advice on request in relation to EPA assessments.

A reference to DWER in this document is referring to functions of DWER outside EPA Services.

Appeals Convenor

The role of the Appeals Convenor is to investigate appeals under the EP Act and provide advice to the Minister (s. 107B). The Appeals Convenor is supported by a small team in the Office of the Appeals Convenor, which is separate to and independent from the EPA and DWER.

When an appeal is made in relation to an EPA assessment report, the Appeals Convenor will request input from the EPA and may consult with the appellant (person or entity who made the appeal), the proponent and any other appropriate person to inform their investigation.

Minister for Environment

The main duties of the Minister for Environment (the Minister, or their delegate) in relation to EIA are determination of appeals on the EPA assessment report and recommendations and deciding whether a proposal may be implemented and if so, under what conditions. In making that decision, the Minister must identify and consult with key decision-making authorities (DMAs) and, if possible, agree on implementation issues (s. 45(2) to (6)). While the EP Act restricts the EPA to consideration of environmental matters only, the Minister can consider broader social and economic implications.

The Minister also has powers under the EP Act to direct the EPA to assess a proposal.

The Minister also issues a [Statement of Expectations](#) to the EPA, setting out the Minister's objectives and priorities in relation to the functions of the EPA. The EP Act requires that the EPA have regard to that statement in the performance of its functions; however, this does not affect the independence of the EPA in fulfilling its obligation to use best endeavours to protect the environment and prevent, control and abate pollution and environmental harm.

The Statement of Expectations is published on the EPA website and must be reviewed and re-issued at least every four years.

Other decision-making authorities

DMAs is a term often used colloquially to refer to government agencies with portfolios related to the environment. DMAs however is defined in the EP Act to refer to any WA public authority empowered to make decisions in respect of a proposal under legislation other than Part IV of the EP Act. For example, Part V of the EP Act, the *Mining Act 1978*, *Rights in Water and Irrigation Act 1914*, *Planning and Development Act 2005*, *Biodiversity Conservation Act 2016* or the *Petroleum and Geothermal Energy Resources Act 1967*. The EP Act supports parallel assessment and decision-making for other WA public authorities.

The role of other DMAs in the EIA process may include:

- pre-referral consultation, including discussion on parallel processing
- providing advice on other decision-making processes in relation to assessment decisions
- review of technical information and provision of advice on that information
- consultation on specific draft implementation conditions
- engaging with proponents to advise what environmental impacts their processes can regulate to achieve the EPA's factor objectives for the proposal.

To ensure efficient and orderly EIA practice, the EPA expects other DMAs to provide EPA Services with advice within the timeframes requested, and to highlight matters which need to be resolved in the EIA process. Review by other agencies will be undertaken in parallel with EPA Services review to ensure efficient assessment.

It is important to note a DMA is different from the EP Act provisions that allows the EPA to take into account "other statutory decision-making processes" (s. 38G(4), s. 44(2AA) and s. 47A(3)(b)) that may be able to mitigate the potential impacts of a proposal on the environment. These provisions also allow the EPA to consider Commonwealth statutory decision-making processes.

Technical subject matter experts

Technical subject matter expertise requests from EPA and EPA Services to other agencies and external parties are limited to situations where the information required cannot be sourced from within DWER. If applicable, the relevant Memorandum of Understanding provisions will be followed.

Proponent

The proponent is the person or entity responsible for a proposal as nominated under s. 38(H).

Further information on the proponent's role is provided in the EPA [Statement of environmental principles, factors, objectives and aims of EIA](#).

A proponent can be changed at any stage of assessment or implementation after assessment under s. 38I on request of the proponent. See:

- [Instructions for notice of proposed transfer of responsibility for a proposal under section 38I of the Environmental Protection Act 1986 during assessment](#)
- [Instructions for notice of proposed transfer of responsibility for a proposal under s. 38I of the Environmental Protection Act 1986 after a Ministerial Statement has been published](#).

Community

Community stakeholders include Traditional Owners, landholders, non-government organisations and any member of the public with an interest in a proposal.

The EPA acknowledges the custodial responsibilities of Traditional Owners in relation to activities on their lands including those undergoing EIA.

Further information on the community's role is provided in the EPA [Statement of environmental principles, factors, objectives and aims of EIA](#).

Consultants

Consultants are typically engaged by proponents to undertake investigations and EIA where proponents do not have the technical expertise or capacity to undertake these in-house. Consultants may also be engaged by stakeholders or EPA to provide environmental services.

1.4 Environment Online

[Environment Online](#) is WA's digital platform for managing environmental and water regulatory activities, including proposals undergoing EIA. It is operated by DWER and supports the work of the EPA.

1.5 Cost recovery

Proponents with proposals being assessed under Part IV of the EP Act are required to pay cost recovery fees to the DWER for the referral, assessment and implementation of proposals. Most fees are on application, and invoices are issued through Environment Online once the application has been submitted. Further details are available on the WA Government website [here](#).

2. Overview of assessment process

2.1 Stages of assessment

The stages of assessment follow the order of the EP Act:

- Stage 1** Referral of a proposal to the EPA (s. 38 to s. 38D) (includes pre-referral meeting)
- Stage 2** EPA to decide whether to assess a referred proposal (s. 38E to s. 39)
- Stage 3** Assessment of proposals (s. 40 to s. 43A)
- Stage 4** EPA report on the assessment of a proposal (s. 44)
- Stage 5** Stage 5A - Decision on proposal (s. 44A to s. 45B)
Stage 5B - Implementation of proposals (s. 45C to s. 48).

2.2 Overview of assessment process

The process for assessment of proposals under Part IV of the EP Act is summarised in Figure 2. Following referral, the EPA needs to decide whether or not to assess the proposal (s. 38G).

If a proposal is to be assessed then the EPA will set the level of assessment (s. 39(b)), including the appropriate assessment steps and information required to inform the assessment of the proposal. The required assessment process depends on the complexity of the proposal, significance of potential impacts, public interest and completeness of the information provided at referral.

The assessment process is described in more detail in Section 3 to Section 5.

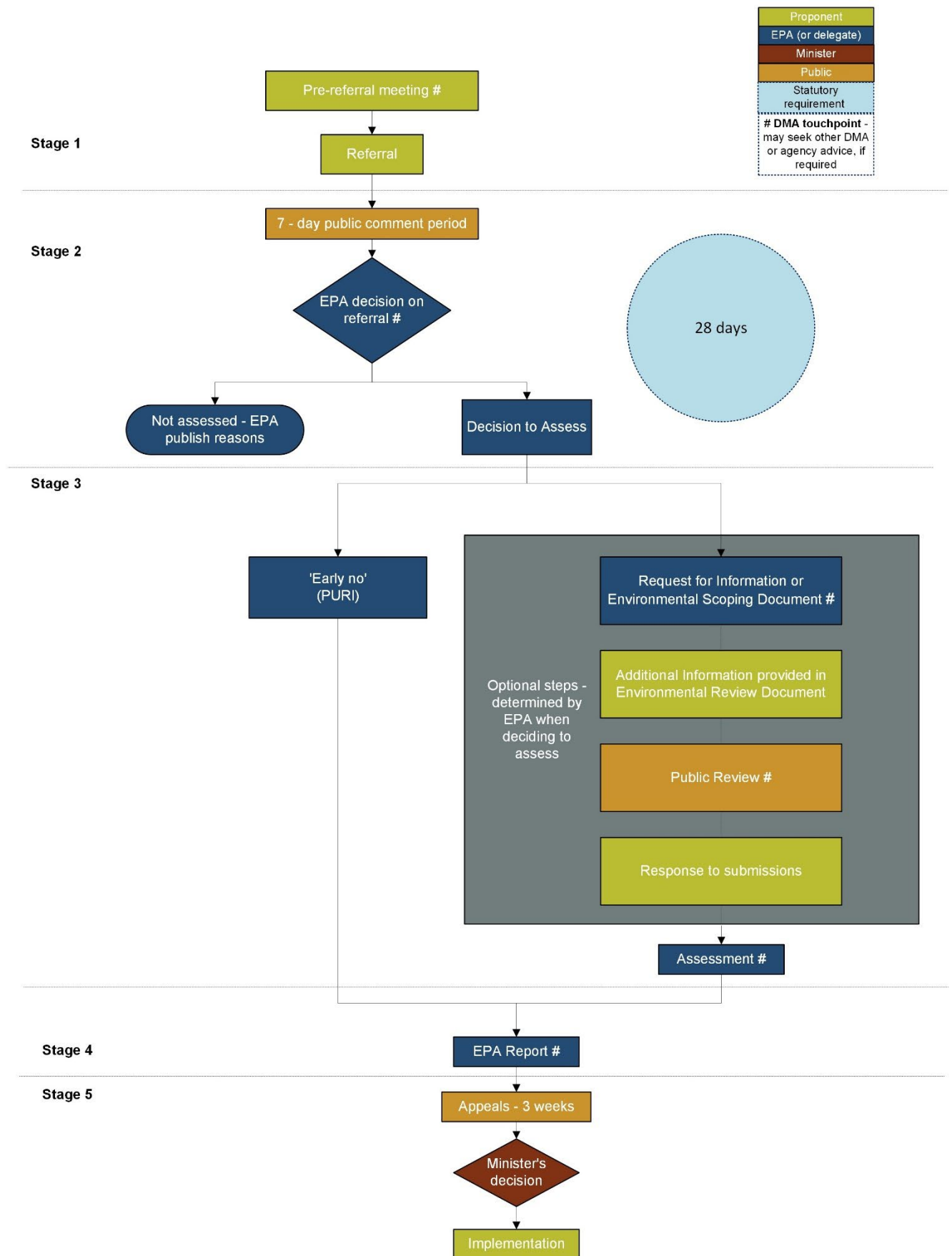


Figure 2: Assessment of proposals process overview

2.3 Summary of opportunities for public input

Public consultation is an integral part of any EIA. Table 1 provides a summary of opportunities for public input during the assessment. Submissions on the referral and during public review are made through the [Consultation Hub](#).

The EPA assessment report is also open to appeal for 21 days after publishing (s. 100). Appeals may be lodged against the content of, or recommendations in, an EPA assessment report (except reports on s. 46 change to conditions; see Section 7.4). EPA decisions on referral are not appealable.

Table 1: Summary of formal opportunities for public input

Assessment decision	During proposal development	Seven-day comment on referral	Public review period for assessed proposals	Appeals on EPA assessment report and recommendations
Not assessed		✓	NA	NA
Assessed proposal	The EPA expects all proponents to consult with stakeholders during proposal planning	✓	EPA decides whether public review required and if so, how long. Typically 4-12 weeks.	✓
Assessed proposal - Proposal unlikely to be recommended for implementation		✓	x	✓

2.4 Information required for the EPA's assessment

The EPA needs clear information defining the proposal and how the proposal will affect the environment. Proponents should consider the decisions that the EPA needs to make on each submission, and provide the relevant information to inform those decisions.

The specific information required to inform the EPA's decisions and assessment depends on the nature of the proposal, the receiving environment and potential impacts. The stage at which information is required also depends on the stage of assessment and anticipated assessment decision (Section 3.1.2). The EPA has published [Instructions on how to prepare an Environmental Review Document \(ERD\)](#). Proponents should prepare an ERD addressing these Instructions, as applicable, at referral and then update the ERD in response to any Environmental Scoping Document (ESD) requirements or request(s) for further information (RFIs).

The EPA has standard required work items outlining the usual information required to support EIA for each environmental factor for most common proposal types and locations. The standard required work items are available on the EPA website. Proponents should also consider whether additional work items may be required based on the specific aspects and location of their proposal.

The EPA's assessment and decisions are limited to environmental considerations, which include the effect of environmental impacts on social and economic values (see definition of 'social surroundings' in Section 10). Information about the economic or social benefits of a proposal is therefore not relevant to an EPA assessment.

The information provided needs to clearly outline the anticipated environmental outcomes, including the rationale for conclusions and supporting evidence. Information provided should be clear, readable and concise.

Proponents are encouraged to contact or meet with EPA Services staff prior to a submission or if they require clarification on what information to include.

If proponents submit a terrestrial biodiversity survey report or marine survey report at any point in the assessment and compliance process under Part IV of the EP Act, then the data should be submitted to DWER through Environment Online. The new [Index of Surveys for Assessment](#) replaces the previous Index of Biodiversity Surveys for Assessments (IBSA) and Index for Marine Surveys for Assessments (IMSA). More information, including how to submit data, is available [here](#).

2.5 Consequences for not meeting information requirements

The EPA makes decisions and undertakes assessment informed by proponent information. If adequate information is not provided at any stage, the EPA may issue an RFI, thereby prolonging the assessment and potentially incurring cost recovery fees. If information continues to not be provided the EPA may issue further RFIs, commission a peer review (at proponent cost), conservatively assess the referred proposal, initiate withdrawal of the referral or termination of assessment (last resort).

The EPA expects that EPA Services will discuss any RFI with the proponent prior to it being issued.

2.6 Approach to requests for more information

RFI's are issued, if needed, in response to a proponent's submission. Therefore, they are extra steps in the EIA process. The EPA and EPA Services will endeavour to limit the number of information requests, noting their ability to do this is affected by the quality and adequacy of the proponent's information. Generally, a maximum of one RFI will be issued in response to any of the following submissions:

- Referral (through s. 38F)
- s.38C application
- s. 40(2) RFI, if scoping via an ESD is not required
- s.41A(3) application
- s.43A application
- Assessment ERD
- Response to submissions
- s. 45C application.

The RFI will usually be issued by EPA Services if additional information is required. A second RFI may be issued by the EPA Chair if the original RFI is not adequately addressed. Any follow up RFI should be limited to missing information and not raise new issues unless the proposal has changed, environmental conditions or policy have changed, or the new information provided raises new issues. Confirmation will be sent by EPA Services to acknowledge that a submission has satisfied the assessment requirements.

It is noted that minor clarifications (not considered RFIs) may also be required. Minor clarifications include matters that can be resolved with the proponent by phone or email in a timely fashion.

2.7 Considering other decision-making processes throughout the assessment

The EPA may take account of other statutory decision-making processes when deciding whether to assess a proposal (s. 38G(4)) and deciding the preliminary key environmental factors, as well as during the assessment and when recommending conditions (s. 44(2AA)). Other decision-making processes and regulatory responsibilities will also be considered during requests to amend a proposal and/or implementation conditions. The EPA considers whether another process can effectively mitigate the potential impacts of the proposal on the environment in a manner that results in an outcome that is consistent with the EPA's environmental objectives. The EPA will seek to avoid regulatory duplication.

The EPA expects proponents to provide information regarding whether and how other decision-making processes can mitigate any of the environmental impacts to meet EPA objectives.

It is noted that the EP Act allows for other WA DMAs, on a case-by-case basis, to issue approvals or licences in parallel with a Part IV assessment.

In order to ensure efficient and orderly EIA, the EPA expects DMAs to engage with proponents to advise what potential impacts their DMA processes can mitigate to achieve EPA objectives. This DMA engagement is to enable the proponent to provide information to the EPA. Information may include approval conditions (if

already received) and/or expected environmental outcomes, as well as documentation of proponent consultation or correspondence with other DMAs regarding how other processes can manage the impacts.

In each case where another decision-making process has been taken into account, the EPA will include that information in its decision notice or assessment report. The EPA may also provide other advice to government on environmental aspects of the proposal.

The EPA has published [Interim guidance for taking decision making processes into account in EIA](#).

2.8 EPBC Act assessments

Some proposals will need to be assessed through the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) as they affect Matters of National Environmental Significance (MNES). This is in addition to assessment under the EP Act. The need to assess is based on a referral and decision to assess (controlled action decision) by the Commonwealth Minister for Environment.

The EPBC Act provides for the State and Commonwealth to enter a bilateral agreement to streamline environmental assessment and approval processes. At the time of publication of this Practice Guide, there was no operating Assessment Bilateral Agreement between the State of Western Australia and the Commonwealth for assessments under Part IV of the EP Act. However, the Commonwealth may accredit EPA assessments on a case-by-case basis. This process is referred to as an accredited assessment.

The proponent may request an accredited assessment in its referrals under both the EP Act and the EPBC Act. If undertaking an accredited assessment is supported by the Commonwealth, then the Commonwealth writes to the EPA to confirm that an accredited assessment is appropriate. The timing of submission of referrals under both the EP Act and the EPBC Act influences the agreement of an accredited assessment. The Commonwealth usually needs to be able to provide input to the RFI or ESD to enable accredited assessment to occur.

If an accredited assessment is agreed, the EPA assessment report will be used by the Commonwealth Department to inform their recommendations to the Commonwealth Environment Minister. The Commonwealth Department may also provide the Commonwealth Minister with additional information or request information from the proponent. The State and Commonwealth decisions are separate, with a State Ministerial Statement and separate Approval Decision with conditions from the Commonwealth Environment Minister issued, if the proposal is approved.

3. Stages 1 and 2 – referral and EPA decision to assess

3.1 Referral under s. 38

The EP Act sets out who may or must refer a proposal (s. 38). Most proposals are referred by proponents. However, third parties *may*, and other DMAs *must*, refer proposals if they consider that the proposal may result in significant impacts on the environment. The EPA may also call in a proposal if it has not been referred and is considered by the EPA to be a significant proposal (s.38A).

The referral process steps are outlined in Figure 3.

The EP Act requires the EPA to decide whether to assess a proposal within 28 days of receipt of that referral (s. 38G(1)). However, the EPA can pause the 28 day 'clock' if further information is required from the proponent to inform that decision (s. 38F RFI).

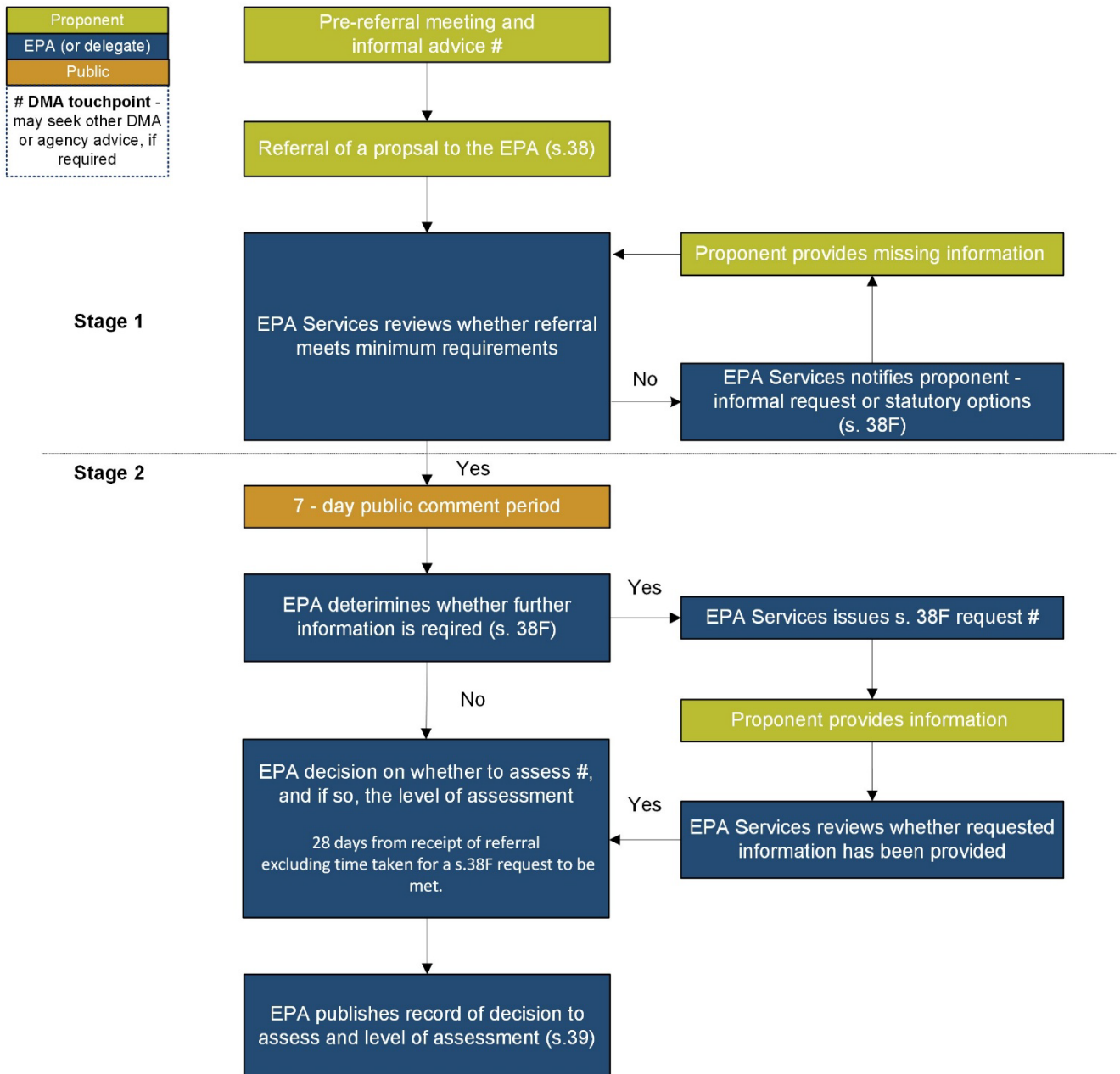


Figure 3: Referral and EPA decision whether to assess a proposal – Stage 1 and 2

3.1.1 Pre-referral

The EPA expects the proponent to request a pre-referral meeting with EPA Services and to provide pre-referral information as requested by EPA Services to discuss the proposal. The pre-referral meeting may:

- consider proposal definition and advise proponent to ensure all relevant proposal elements are included
- consider how a proposal relates to any existing approvals and whether the proposal is a significant amendment
- consider whether other statutory decision-making processes can effectively mitigate potential impacts and the evidence required to demonstrate this (the EPA encourages other relevant DMAs to be invited to attend the pre-referral meeting particularly if a proponent wishes to pursue a parallel approval)
- discuss potential assessment pathways, including possible level of assessment if the EPA is likely to assess the proposal
- identify possible preliminary key environmental factors, values and discuss key information requirements

- discuss the application of the mitigation hierarchy and whether environmental outcomes are likely to be consistent with EPA objectives
- discuss the potential requirement for offsets (measures that provide a conservation benefit to counterbalance an anticipated significant residual impact), and the need for these to be identified in the assessment process
- discuss adequacy of stakeholder consultation
- discuss whether an accredited assessment under the EPBC Act may be possible
- discuss scope of cumulative impact assessment
- clarify the role and responsibilities of the proponent.

In some circumstances, the pre-referral process may include a follow up meeting with EPA Services or the EPA Chair.

3.1.2 Referral

Referral of a proposal under s. 38 of the EP Act is the trigger that commences the formal EIA process. An invoice for the associated cost recovery fee (Section 1.4) is issued in response to the referral with payment due in 28 days.

When submitting a referral, it is important that sufficient information is provided to enable the EPA to make informed decisions. The minimum information required in a proponent referral is a proposal content document (PCD), accurate spatial data and sufficient information on the receiving environment, impacts, mitigation and likely environmental outcomes in the Referral ERD for the EPA to make the following decisions:

1. Whether to assess.
2. The level of assessment (Table 3); including:
 - a. whether further information is required
 - b. form of further information request:
 - i. RFI under s. 40(2) or
 - ii. an EPA prepared ESD
 - c. whether public review is required and the length of that review under s. 40(5)
 - d. Or, if proposal is unlikely to be recommended for implementation (PURI).
3. Preliminary key environmental factors.

If the EPA does not have sufficient information, an RFI will be issued under s. 38F (see Section 3.1.7) prior to making the decision to assess.

Following a decision to assess, if no further information or public review are required, the referral (and any subsequent information provided under s. 38F) is also the basis for the EPA assessment and used to inform the EPA assessment report and recommendations.

Information expectations at referral

The information expected to be submitted at referral is outlined in the [Referral Instructions for the referral of a proposal to the EPA under s. 38 of the EP Act](#) and [Instructions on how to prepare an Environmental Review Document](#).

The information required at referral depends on the nature of the proposal, receiving environment and potential impacts as well as the anticipated assessment decision. Proponents are encouraged to tailor the level of information provided at referral to suit the likely assessment pathway and support EPA decision making, which will help ensure that sufficient information is provided and will support decisions being made in a timely and efficient way. For example:

- if a proponent is expecting a 'not assessed' decision then all relevant information should be provided at referral to demonstrate that potential impacts are not so significant as to warrant assessment under Part IV and/or that another statutory decision-making process can appropriately mitigate any impacts on the environment.

- if a proponent is expecting the proposal to be assessed, they may either:
 - provide all information on the environmental factors at referral with the aim of minimising the amount of additional information EPA may require through a s. 40(2) RFI or ESD
 - provide a streamlined referral ERD that briefly identifies potential impacts and outlines where information will be provided in a future revision of the ERD following the scoping process.

Any known gaps in information being provided should be acknowledged and either a commitment made that the information will be provided in a future ERD (where assessment is anticipated) or a rationale provided as to why the information that is provided is fit for purpose.

It is expected that all proponent referrals will be submitted through Environment Online unless otherwise agreed with the EPA Services.

Proposal definition

When defining the proposal, it is important that all elements that could potentially have a significant effect on the environment are included in accordance with the [EPA Instructions and template: How to identify the content of a proposal](#). This includes the maximum extent or limit of physical and activity-based elements over the life of the proposal.

In addition, the EPA needs to be confident that the whole proposal has been referred. Identifying and referring only part of a proposal or referring parts of a larger proposal as separate referrals should be avoided.

Spatial extent of a proposal

Spatial extent is usually defined in one of two ways. If the specific or detailed location and extent of the proposal is known, the PCD can include the **proposal footprint**. If there is some uncertainty at the time of referral or future flexibility is required, then the PCD should include a **development envelope** within which the proposal footprint will occur. An **indicative footprint** should show the indicative location of the proposal elements when taking the development envelope approach.

If the proposal includes a development envelope, the proponent is seeking approval to implement the proposal anywhere within that development envelope. The EPA must therefore assess the impacts of the proposal on this basis. Accordingly, the EPA expects proponents to conduct environmental surveys of, and provide information on, potential impacts of the proposal to the entire development envelope and not just the indicative footprint (which is often different to the final proposal footprint).

Significant amendments

Based on the referral, the EPA also needs to determine whether the proposal is a significant amendment to an existing proposal. To be considered a significant amendment, the amendment must be related to an approved proposal, and be considered likely (if implemented) to have a significant effect on the environment, when considered in context of the approval proposal. The EPA will consider matters such as whether the significant amendment will cause any change to an approved proposal (including extending the life of the proposal) or whether there are new elements (or expansions of existing elements) of an approved proposal.

If there is any uncertainty about whether a proposal is a significant amendment or a new proposal, the EPA encourages proponents to request a meeting with EPA Services to discuss the proposal and information required to support this decision.

Specific requirements for the assessment of significant amendments under s.40AA are outlined in Section 4.1.3.

3.1.3 EPA Services determines referral is valid and meets minimum requirements

The EP Act requires that a referral is in writing and relates to a proposal that has not previously been referred (s. 38B). Any referral that does not meet the requirements of s. 38B would be considered invalid and the referring party notified. The EPA requires adequate information to make a determination as to whether to assess the proposal. Therefore, on receipt of a referral the EPA Services reviews whether the referral meets minimum information requirements:

- adequately defines the content of the proposal
- includes accurate spatial data on the proposal
- provides sufficient information on the proposals' potential impacts to the environment and expected environmental outcomes (as per [Referral instructions](#)).

If the EPA expectations for referrals are not met, EPA Services will notify the proponent and either seek informal clarification or issue a s. 38F request. An informal clarification request would only be appropriate if the matter could be resolved quickly and does not affect the ability of EPA to meet the 28 day timeframe to make a decision on the referral. If this isn't possible, then a s. 38F request would be issued to obtain the minimum information.

An RFI to obtain minimum information would be considered an 'extra' RFI caused by missing basic information. Following that, EPA Services may still issue an RFI if more information is required to inform the assessment decision (Section 3.1.7).

3.1.4 Third party referrals

Any person may refer a proposal if they consider that it is likely to have a significant impact on the environment. The EPA will consider whether the referral is a significant proposal.

Third parties will have less access to detailed proposal information than a proponent, however the following information is expected for third party referrals to be progressed by the EPA:

- identify the proponent
- outline the nature of the proposal
- provide the location of the proposal
- outline the potentially significant environmental impacts (that is, the basis of the referral).

EPA Services will usually write to the proponent for more information to establish whether they are the proponent for a proposal, the nature of the proposal and the status of proposal planning and/or implementation.

3.1.5 Decision-Making Authority referrals

As soon as a DMA has notice of a proposal that appears to it to be a significant proposal, the DMA must refer that proposal to the EPA (s. 38(4)) unless the proposal has already been referred.

3.1.6 Public comment on referred proposals

All referred proposals are published for a 7-day public comment period. Public comment is invited on whether the EPA should assess a proposal and why. Submissions must be made during the 7-day period and should be made via the EPA's [Consultation Hub](#) as this enables the EPA Services to track and acknowledge submissions as well as consider comments effectively within the 28 day statutory timeframe to make a decision whether to assess the referred proposal.

The public comment period may occur before or after a request for additional information, if required.

3.1.7 Request for additional information (s. 38F)

If there is not sufficient information to inform the decision on whether to assess and the level of assessment, the EPA Chair, on advice of EPA Services, will request additional information under s. 38F (with associated cost recovery fee and time delays) prior to the assessment decision (Figure 3). 'Sufficient information' depends on the nature of the proposal and the potential assessment pathway. Therefore, proponents should refer to the EPA instructions for guidance and discuss proposal specific requirements at the pre-referral meeting.

EPA Services will usually only issue one RFI at this stage although additional RFI's will be required if requested information has not been provided or is not fit for purpose. In this case, any follow up RFI will be limited to missing information and not raise new issues unless the proposal has changed, environmental conditions or policy have changed, or the further information provided has raised new issues.

The EPA Services will usually consult with the proponent prior to issuing an RFI to ensure the request is relevant and reasonably achievable.

Requests for additional information under s. 38F can also be issued to other DMAs and/or technical experts. Requesting advice from technical experts or other DMAs does not necessarily mean the proponent has not provided sufficient information.

Common issues that result in requests for further information from the proponent under s. 38F, and how to avoid them, are included in Table 2.

Table 2: Common issues resulting in RFIs at referral and how to avoid them

Common Issues resulting in RFIs	How to avoid them
Poorly defined proposal in PCD and lack of spatial data in a format accepted by DWER.	All elements of a proposal, including supporting infrastructure, that may have a significant effect on the environment are identified and maximum extents or limits identified.
Potential environmental impacts aren't adequately identified or described (for example, indirect impacts aren't considered).	Clearly identify potential direct, indirect and cumulative impacts. If a potential impact that has been identified in consultation is considered not likely to occur, provide evidence of this.
Insufficient information or justification as to why potential impacts to specific environmental values aren't likely to be significant and therefore does not warrant assessment.	Provide a rationale as to why environmental factors or values are not being addressed.
Lack of clarity that another statutory decision-making process can manage an impact and how it can do so to meet the EPA's objectives.	Provide evidence of consultation with the other DMA that confirms their decision-making process will regulate the proposal-specific impact to meet the EPA objectives. Outline the anticipated environmental outcomes
Missing studies or investigations that have been referred to. For example, a dieback assessment and management plan are referenced but not provided; or a groundwater investigation appears to have been completed but was not included in the referral package.	Only reference studies and investigations that are relevant to the EIA and are attached to the ERD. If surveys and studies are still in progress, outline the scope of the work being completed. Acknowledge any known limitations or information gaps and why the information provided is fit for purpose.
Consultation is listed but there is limited information on consultation outcomes in relation to the potential environmental impacts.	Address the ERD guidance in relation to stakeholder consultation; including both consultation details, issues raised and proponent response.
Cumulative impacts are not addressed, or the scope of the assessment (values, spatial extent and other proposals considered) is not clear.	Outline the scope of the cumulative impact assessment and provide a rationale for that scope. This may be discussed with EPA Services early in the EIA process.
Information is confined to discussing proposal impacts and proposed management actions, and does not consider likely environmental outcomes and/or propose how these will be monitored.	Describe the likely environmental outcomes to key environmental values and propose how these outcomes can be monitored.

The above information may not be required at referral if further assessment steps are anticipated. However, all information that a proponent wants the EPA to consider in their decision to assess, and the level of assessment, should be provided at the time of referral.

When requesting additional information from the proponent or any other party, the EPA will set a timeframe for the provision of additional information. If a request for additional information from the proponent is not met within the compliance period, the EPA may issue another request (with additional cost recovery fees) or declare in writing that the referral has been withdrawn (s. 38F(4)). The proponent would be consulted prior to either of these actions.

The EPA has 28 days to make the decision on whether to assess a proposal. If a s.38F RFI is issued, then the clock pauses until the proponent provides the information and EPA Services are satisfied it has received the requested information. For example:

- Day 1: Proponent refers a proposal – the EPA reviews the referral and considers it valid and contains the minimum information required
- Day 7: EPA releases the referral for seven-day public comment
- Day 14: Public comment period closes
- Day 21: EPA considers that further information is required and sends an additional information request with a set compliance period (usually two to four weeks depending on the complexity of the request) to the proponent (with cost recovery invoice) or other party – **the clock pauses**
- Proponent or other party provides additional information
- Day 22 (after additional information is provided): the proponent provides the information within the compliance period; the EPA reviews the information provided and considers that the information is satisfactory – **the clock restarts**
- Day 28: the EPA publishes its decision.

The EPA expects proponents, technical advisers and other DMAs to meet timeframes in addressing RFIs or advise EPA Services if they are unable to provide information in the timeframe, so all parties can be aware of timing considerations.

3.1.8 Amending or withdrawing a referral (s. 38C to 38D)

The content of a referred proposal can be amended after referral (s. 38C) and prior to the EPA decision on whether to assess. The EPA has published [Instructions for amending a proposal during referral under s.38C of the EP Act](#). The EPA has discretion as to whether to approve an amendment.

The EPA's decision has been delegated to the Chair (or the Deputy Chair if the Chair is absent) and will take into account:

- the significance of the proposed amendment
- whether the amended proposal will still be substantially the same character as the original proposal
- whether (if it approves the change) any EIA steps are required to be repeated due to the change (that is, re-publish the amended referral for 7-day public comment)
- efficient and orderly EIA processes.

Applications to amend a proposal under s. 38C should be prepared in accordance with the above EPA Instructions. The level of detail of the information the EPA requires depends on the nature of the amendment and its potential impacts on the environment.

EPA Services will review whether the EPA Instructions have been addressed and issue an RFI if there is material outstanding information. Once sufficient information has been received, the EPA Chair will decide whether to approve the amendment and notify the proponent.

The proponent application, EPA decision and summary of reasons will be published.

If the proponent provides written notice that the proponent does not wish to proceed with the proposal, the referral is taken to have been withdrawn (s. 38D(1)). This section applies regardless of whether the proposal was referred by the proponent or another party (s. 38D(2)).

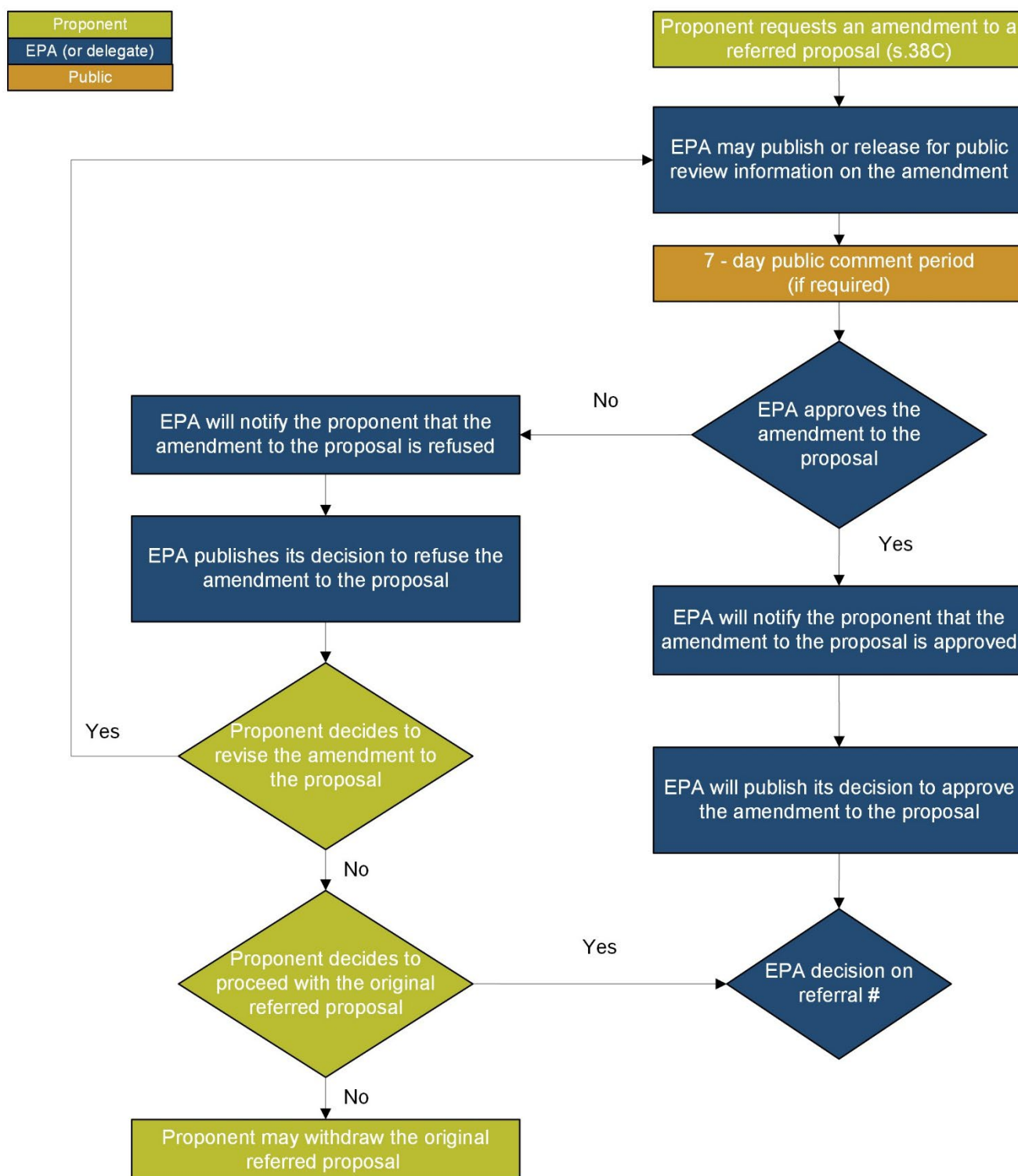


Figure 4: Amending a referred proposal under s. 38C

3.2 EPA to decide whether to assess a referred proposal (s. 38G)

The EPA decision whether to assess a proposal (Stage 2) is based on whether the proposal is likely to have a significant impact or impacts on the environment that warrant assessment under Part IV, and whether those impacts could be mitigated by other statutory decision-making processes to be consistent with the EPA factor objectives (Section 2.7). This decision is made in relation to each factor to determine whether assessment is required and whether the factor should be a preliminary key environmental factor for the EIA process (Figure 5). The EPA Chair also considers the holistic impacts of the proposal when making a decision.

It is noted that once the EPA Chair has made the decision to assess a proposal, the proposal may not be implemented (s. 41A) until a Ministerial Statement has been issued.

The decision not to assess a proposal is described in Section 3.4.

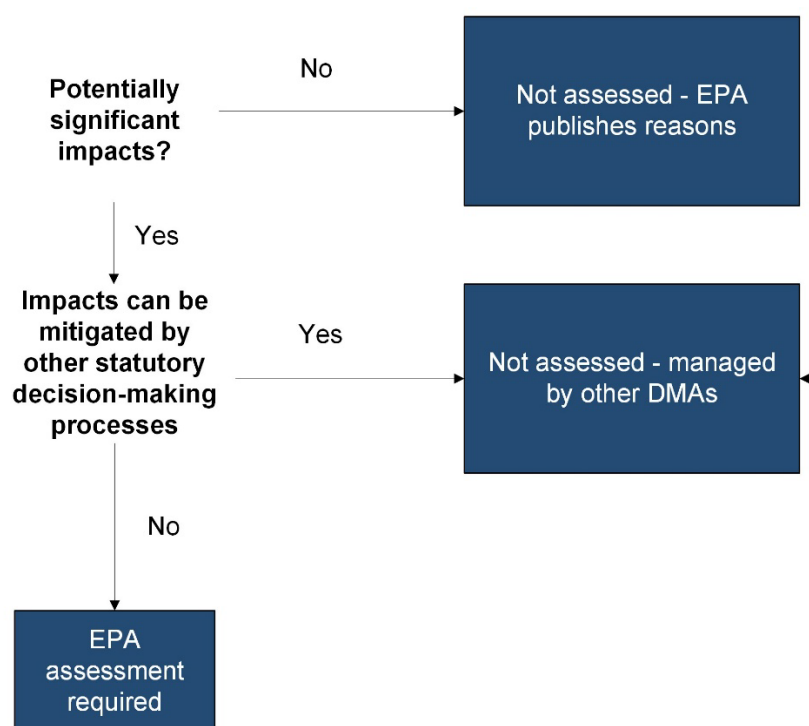


Figure 5: Basis of an EPA decision to assess

3.3 EPA to record level of assessment (s.39(b))

If a proposal is to be assessed, the EPA decides the level of assessment (i.e. the appropriate assessment steps) based on three questions (Table 3).

- 1) Does the referral contain all relevant information to inform EPA assessment or is additional assessment information required?
- 2) If additional information is required, will that be set out in either an RFI or ESD?
- 3) Is public review required, and if so how many weeks should it be available?

Table 3: Assessment steps to be outlined in the level of assessment decision

		Level of assessment is recorded based on the answers to the three questions						PURI
1.	Is additional information required?	Yes	Yes	Yes	Yes	No	No	No
2.	Form of additional information request?	ESD	ESD	RFI	RFI	-	-	-
3.	Is public review required? If yes, length of public review will be specified.	Yes	No	Yes	No	Yes	No	No

For example, if additional information is required with an ESD and public review of eight weeks, the level of assessment will be recorded under s.39(b) as:

Assess – s. 38G(1) (or Assess revised proposal – s. 39A):

- 1) Additional information required
- 2) EPA prepared ESD
- 3) Eight weeks public review.

If the proposal is considered unlikely to be recommended for implementation, then an Assess s. 38G(1) – PURI decision would be recorded (Section 3.5).

As outlined in Table 3, if additional assessment information is required, the EPA Chair has the option to either:

- write to the proponent to request further information (RFI) under s. 40(2)
- prepare an ESD that outlines the relevant standard scoping items and proposal specific information required (Section 4.1.1).

An RFI will usually be issued if there is limited and specific information missing. Otherwise, an ESD will be prepared.

Public consultation is considered an integral part of any EIA. Therefore, in addition to the public comment on the referral documents, most proposals will also include public review of the ERD during assessment. The decision regarding whether the assessment pathway will include public review will be informed by:

- The anticipated level of public interest in environmental impacts; informed by comments received during the 7-day public comment period on the referral and EPA judgement.
- The extent to which the proponent demonstrates they have consulted with stakeholders and addressed the issues raised regarding the potential environmental impacts.
- Whether public review is required to enable accredited or bilateral assessment under the Commonwealth EPBC Act.

The length of public review depends on the level of public interest and complexity of issues. Usually, the EPA will set public review periods between four to 12 weeks.

If the EPA Chair decides to assess the proposal with no further information or public review required, EPA Services proceeds to preparing the draft assessment report (Figure 2). This would usually only be appropriate when:

- The proposal is simple; environmental impacts, mitigation and outcomes are well understood and can be conditioned.
- The number and complexity of environmental factors and values is low.
- All relevant information on the proposal, receiving environment, impacts, offsets (if applicable) and expected environmental outcomes, is provided with the referral.
- Consultation with relevant stakeholders and other DMAs (if required) has been adequately completed and documented, particularly if the proponent considers that another DMA process can mitigate potential environmental impacts.
- Accredited or bilateral assessment under EPBC Act is not required.

3.4 Decision not to assess (s. 38G((7))

The EPA Chair may determine that a referred proposal is not so significant as to warrant assessment and/or that potential impacts can be mitigated by other decision-making processes to meet the EPA's objectives (Section 2.2).

The decision not to assess a proposal is made on the basis of the referral, any additional information provided under s. 38F and other information from the EPA's own inquiries. Therefore, a 'not assessed' decision requires all relevant information on the proposal, environmental values, predicted impacts and likely environmental outcomes to be provided at referral. This information should be sufficient for the EPA to determine that there is a) not likely to be a significant impact on the environment and/or b) that other statutory decision-making processes can effectively mitigate the potentially significant impacts of a proposal on the environment to meet the EPA's objectives. The EPA expects the proponent to consult directly with

relevant DMAs regarding how their proposal specific impacts will be regulated through other DMA processes to assist in efficient assessment of their referral. Furthermore, proponents may suggest including relevant DMAs in pre-referral discussions.

The EPA will publish a summary of reasons for its decision not to assess a proposal as part of the decision notice published under s. 39. The EPA may also decide to give advice or make recommendations on the environmental aspects of a proposal, which will be published on the EPA's website.

The EPA decision not to assess a proposal will be recorded as one of the following:

1. Not assessed – s. 38G(1).
2. Not assessed – s. 38G(1) – advice given.
Advice will usually be provided when the EPA considers advice to the public and/or other DMAs is needed about the environmental outcomes it expects to be achieved by the proposal.
3. Not assessed – s. 38G(1) – impacts can be mitigated by a statutory decision-making process to meet the EPA's objectives.

If the EPA Chair decides not to assess a proposal, this decision is made on the basis of the proposal as referred (described in the proponent's PCD) and consideration of other DMA processes (if relevant). If there is a change to the PCD, then the decision not to assess may no longer be applicable. Therefore, any changes to the proposal that may affect the environment after a 'not assessed' decision should be discussed with EPA Services.

While the decision not to assess a proposal is not appealable, the Minister can direct the EPA to assess a proposal under s. 43 after a decision not to assess has been made.

3.5 Proposal unlikely to be recommended to be implemented

If the EPA considers that a proposal is unlikely to be consistent with the principles of the EP Act and/or environmental factor objectives, there is an option for the EPA to assess the proposal as a PURI. This PURI option can be considered an 'early no' and may avoid a lengthy assessment of a proposal that the EPA considers has significant impacts that could not be appropriately mitigated. The EPA Chair will usually request the full EPA to consider whether such a decision is warranted. The assessment steps for a PURI decision are outlined in Figure 6.

If the EPA is of the view that an 'early no' is appropriate, the EPA will notify the proponent of that preliminary view and provide a summary of reasons. The proponent is then provided an opportunity to respond to the EPA by providing additional information, amending their proposal (s. 38C) or withdrawing the proposal (s. 38D).

If the proponent does provide sufficient information to satisfy the EPA that the proposal is not likely to be inconsistent with the EP Act and factor objectives, and/or amends the proposal so that it is consistent, the EPA would set an appropriate level of assessment and proceed to Stage 3.

If a proponent does not withdraw the proposal, nor provide additional information and/or amend the proposal to satisfy the EPA that the proposal will be consistent with the EP Act, factor objectives and holistic considerations, the EPA will usually proceed with an Assess – PURI decision under s. 38G. Following that decision, the EIA process would progress to the end of stage 3 and EPA Services would prepare a draft EPA assessment report and recommendations under s. 40 (refer section 4.3) that sets out the reasons for the decision. The EPA's Report and Recommendations is subject to appeal (Section 6.1) and determination of those appeals by the Minister for Environment. Following the appeal process, the Minister for Environment may reach a decision in consultation with key DMAs that the proposal should not be implemented under s. 45(13) or alternatively the Minister may direct the EPA to reconsider the proposal more fully or more publicly under s. 43, in which case the EPA would make a fresh decision regarding an appropriate level of assessment.

It is noted that the EPA may also recommend against implementation of a proposal after a full assessment process. This is distinct from the 'early no' PURI process.

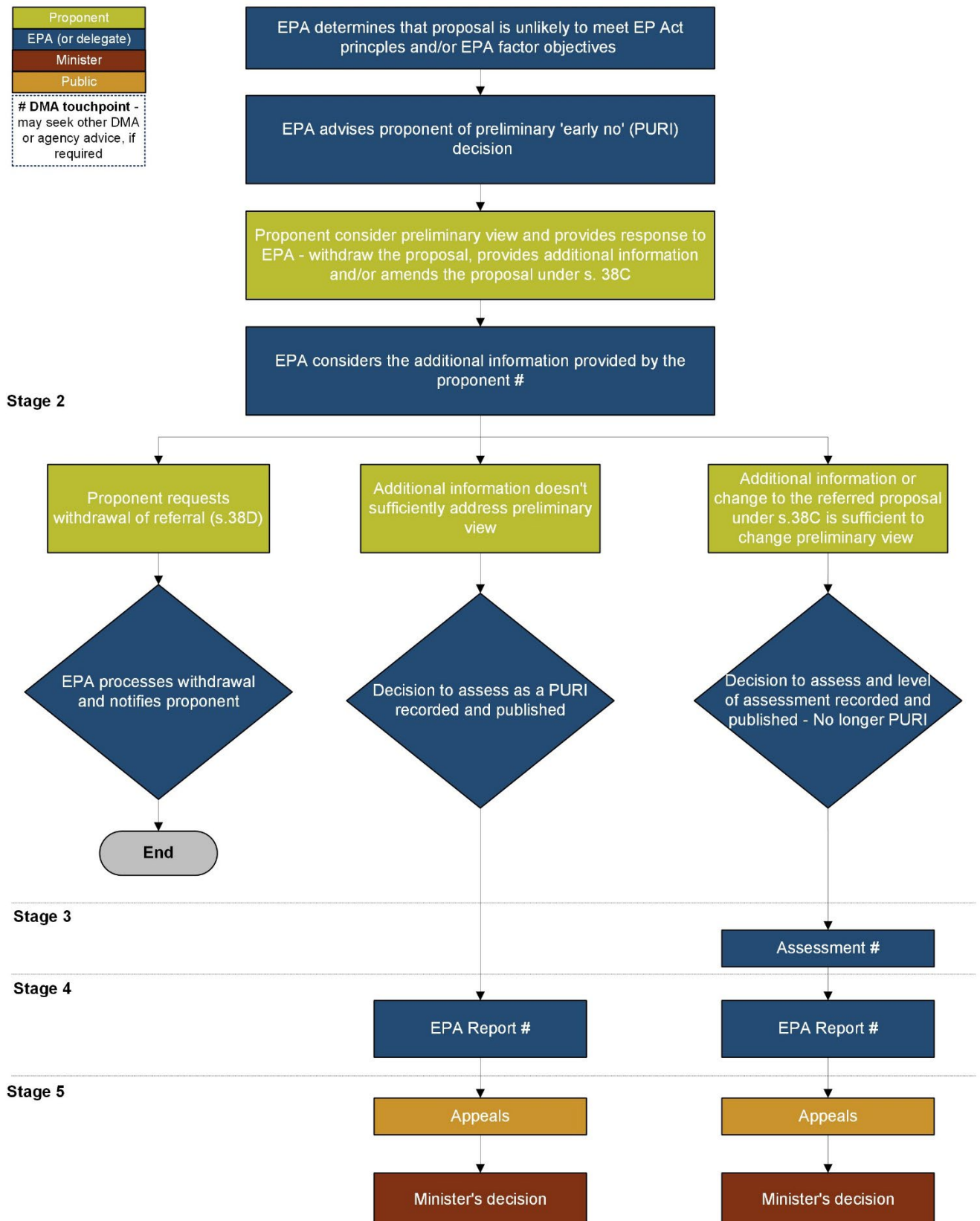


Figure 6: PURI assessment process – Stages 2 to 5

4. Stage 3 – assessment of proposals

In some cases, no further information is required for assessment after the decision to assess, and (subject to any public review) a draft assessment report can be prepared by the EPA Services (Section 4.3).

In other cases, the level of assessment decision will specify whether further information is required to be provided in an ERD through the issue of either an RFI or an ESD.

The EP Act specifies that the EPA shall set out the specific form, content, indicative timing and procedure of the proponent's environmental review under s. 40(3). These requirements are contained in the ESD or RFI for proposal specific requirements, and ERD Instructions. The following sections outline the assessment of proposals with RFI or ESD requirements as part of their assessment pathway.

4.1.1 Environmental scoping document

The ESD prescribes key content and timing for the EIA process. The ESD will include:

- The relevant standard required work items for each of the preliminary key environmental factors. The ESD will note where information has already been provided in the Referral ERD.
- Any proposal specific required work items, such as external peer review.
- Indicative timeline.

The ESD will be prepared by EPA Services in most cases and approved by the EPA Chair. EPA Services may seek technical advice from within DWER, other agencies or external technical experts if required to inform scoping. In some highly complex cases, the ESD may be published for public review and/or require consideration by the full EPA, extending the timeframe for finalisation of the ESD. In limited circumstances such as new or novel and highly complex proposals, the EPA may instead require the proponent to prepare the ESD. The EPA Services will consult with the proponent prior to finalising the ESD to ensure that required work items are reasonably achievable and proportionate to the significance and risk of potential impacts. If the proposal is being assessed as an accredited or bilateral assessment, the Commonwealth will usually need to agree that the ESD is fit for purpose for an assessment for MNES.

Once the ESD has been approved, the proponent will be notified and the ESD published on the EPA website (Figure 7).

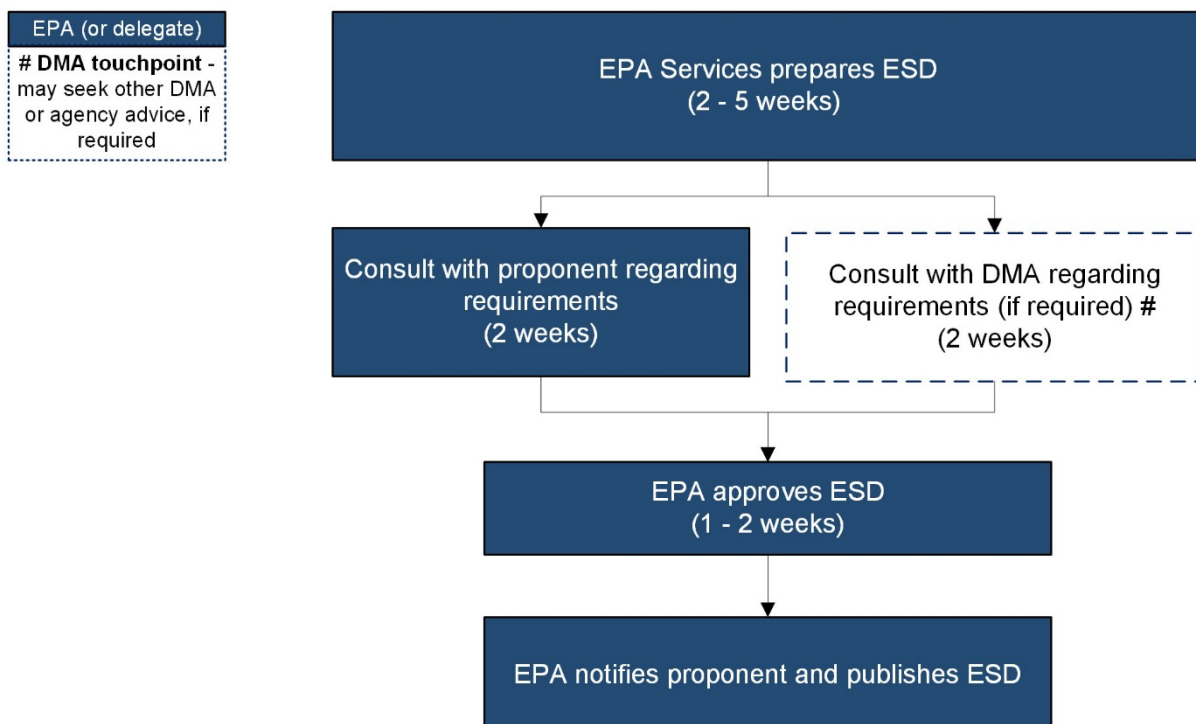


Figure 7: Preparation of the Environmental Scoping Document

4.1.2 Environmental review document

The EPA [Instructions on how to prepare an Environmental Review Document](#) set out the form and standard EIA content required for all ERDs to ensure consistency for EPA decision-making and to set expectations for proponents and the community. The ERD should include all relevant information for assessment; including and updating (if required) information already provided at referral. Where an RFI or an ESD has been prepared, the ERD must also address the required work items in the RFI or ESD.

EPA Services will not review incomplete draft ERDs, or seek comment from other agencies, until the ERD is complete. All required work items should have been addressed or an explanation provided as to why the information provided is fit for purpose. Following submission, EPA Services will undertake a high-level review to check the ERD is complete, readable and there is no obvious missing information. If the document is not complete, EPA Services will consult with the proponent and may return the ERD back to the proponent for completion (Figure 8). This will be an 'extra' RFI to obtain the missing information and ensure the proposal can be assessed in an efficient and orderly manner.

Once the complete draft ERD has been received, the EPA Services will then undertake one full review of the draft ERD and may seek advice from relevant DMAs and technical experts, if relevant.

When public review is required, the review of the draft ERD will focus on whether it has addressed the RFIs or ESD and complies with the ERD instructions in order for the documentation to be released for public review. Review by EPA Services and other DMAs at this stage is about whether the information is adequate for public review rather than assessing the significance of impacts or the adequacy of proposed mitigation. These comments will be provided following public review.

Comments on the draft ERD will be provided to the proponent as an RFI. Once the proponent has updated the ERD, EPA Services will then review the updates to determine whether they adequately address previous comments, and the information is suitable for public review as the 'Final ERD'.

When public review is not required, the EPA Services will review the draft ERD to determine that it both meets scoping and ERD requirements as well as whether the draft ERD provides sufficient information for EPA assessment (i.e. assess the environmental outcomes and the significance of impacts and adequacy of proposed mitigation).

Role of other DMAs during assessment

In reviewing the ERD, the EPA Services may seek information from the relevant DMAs to confirm proponent information regarding whether their decision-making processes are likely to mitigate potential impacts of the proposal. Other DMAs may also be requested to review the adequacy of the technical information, particularly if it differs from EPA guidance. Where relevant, requests to DMAs will be made under the terms of the relevant Memoranda of understanding or administrative agreements (available [here](#)).

Role of technical experts during assessment

EPA Services may seek advice from technical experts during the assessment. Technical advice is often sought from within DWER but may also be sought from other agencies and/or external experts (i.e. where a peer review is required).

EPA Services will usually ask specific questions for technical experts to address, such as the adequacy of surveys, veracity of modelling and predictions, feasibility of specific mitigation measures or the ability of proposed monitoring parameters to demonstrate that specific environmental outcomes can be achieved.

EPA Services may include comments received from technical experts, if appropriate, as part of an RFI or agency feedback following public review.

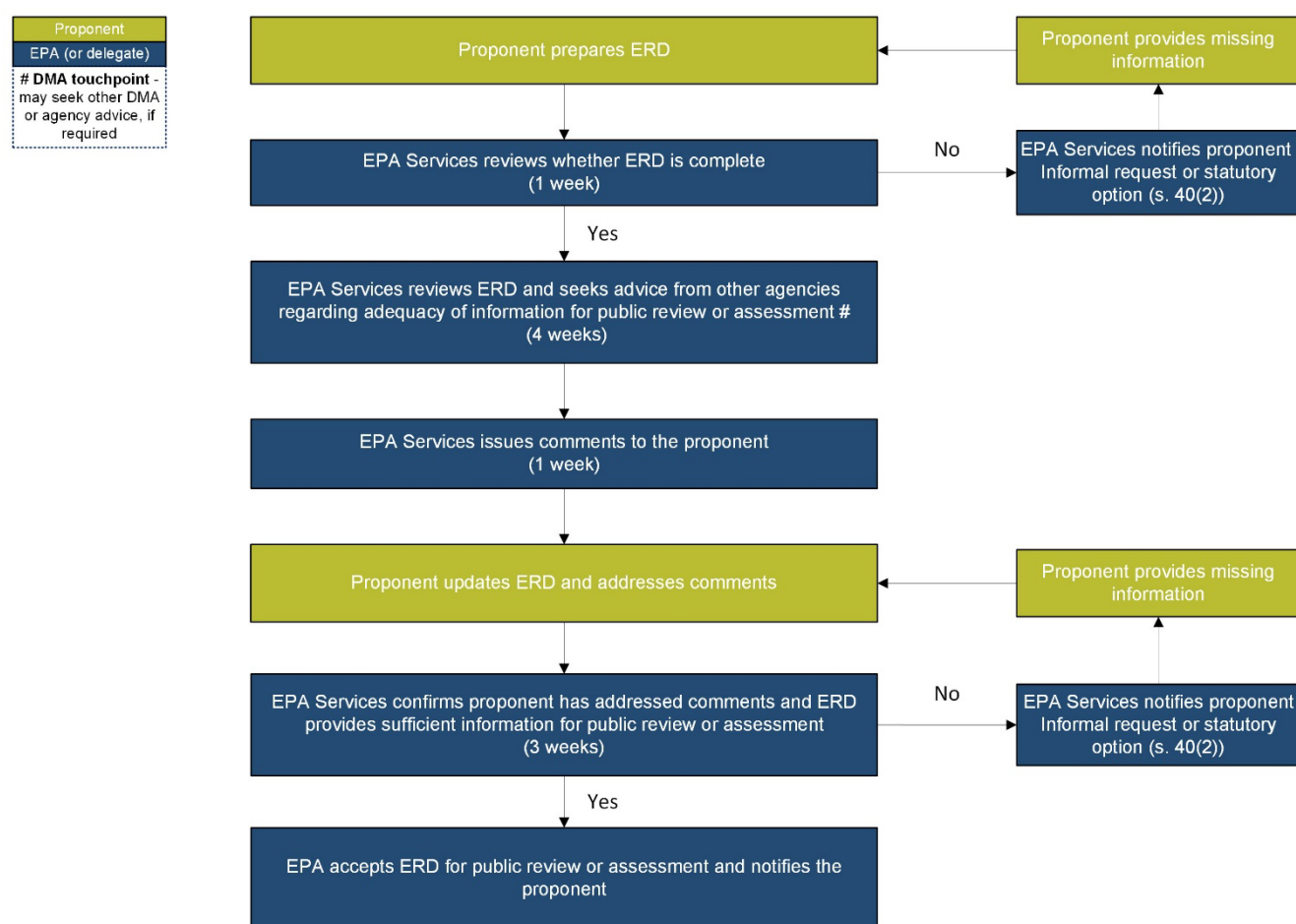


Figure 8: Preparation of the Environmental Review Document

4.1.3 Assessment of significant amendments (s. 40AA)

Significant amendments are assessed through the same processes as other proposals. However, there are some additional considerations for the EPA as set out in s. 40AA. The EPA must assess the significant amendment in the context of the approved proposal and have regard to their combined effect. The additional information requirements for significant amendments are set out in the EPA [Instructions on how to prepare an Environmental Review Document](#).

In the EPA assessment report, the EPA may also make recommendations in relation to the existing Ministerial Statement conditions for the approved proposal.

The proponent may continue to implement the approved proposal while a significant amendment is under assessment.

4.1.4 Requests for further information during assessment

An RFI under s. 40(2) may be issued following referral if an ESD is not required. These requests will usually be published on the EPA website. Following submission of a draft ERD by the proponent, a further RFI may be issued if there is material outstanding information or information provided is inadequate. The RFI may be:

- formal correspondence requesting amendments
- a formal notice under s. 40(2) that incurs a cost recovery fee.

An informal clarification is not considered an RFI. Informal clarifications may be requested where the information has been supplied but has some deficiencies (for example, ambiguous, incomplete, inaccurate or inconsistent information) that require clarification. However, if an RFI is being issued, it will usually also include any minor clarifications required. If the informal clarification request is not met, then a formal RFI may be issued.

EPA Services will contact the proponent prior to an RFI being issued, to explain why it is required and offer

a meeting with the proponent.

For assessments where an ESD or RFI has been issued based on the referral ERD; significant new additional work will not be required through an RFI if it was not already requested, unless new information has come to light. For example, changes to the proposal, new policy or new information is available on the environmental values or potential impacts.

Common gaps in ERDs that result in RFIs and how to avoid them are outlined in Table 4. These are examples only and not an exhaustive list.

Table 4: Common issues resulting in RFIs during assessment and how to avoid them

Common Issues resulting in RFIs	How to avoid them
Insufficient justification regarding why investigations or assessment has not been undertaken in accordance with EPA Guidance or ESD requirements and why the information that was provided is fit for purpose.	Acknowledge any gaps and provide a rationale regarding why the information provided is fit for purpose.
Insufficient consideration of alternatives, for example, other water management options for surplus water management before resorting to discharge; or location of a processing plant away from sensitive receptors.	Address guidance regarding providing information regarding alternatives. This may include the location, extent or type of proposal element.
Inadequate surveys that do not adequately characterise the receiving environment which affects the ability to appropriately assess the effect of potential direct and indirect impacts on environmental values.	Address survey guidance. Acknowledge any limitations and provide a rationale regarding why the information provided is fit for purpose.
Lack of clarity as to whether identified mitigation measures will be implemented, or may be implemented at proponent discretion.	Use terms such as <i>will</i> or <i>shall</i> rather than <i>may</i> when presenting mitigation. Include clear commitments to any proposed mitigation measures.
Inadequate assessment of indirect impacts, for example, groundwater drawdown impact on vegetation outside of the development envelope.	Clearly identify and assess potential indirect impacts. As for direct impacts, this includes characterising the receiving environment, predicting the impact, describing mitigation and assessing the significance of residual impacts. If a potential indirect impact that has been identified in consultation is considered not likely to occur, provide evidence of this.
Incomplete rationale and supporting evidence for impact predictions and/or the predicted effectiveness of mitigation measures.	Ensure that the rationale for all conclusions is clear and supported by evidence. Include rationale for why or how a particular mitigation measure will ensure an environmental outcome can be achieved.
Lengthy management plans are provided which include ambiguous commitments and don't clearly identify the environmental outcome.	Define the environmental outcomes and demonstrate they are achievable and measurable. If providing management plans, include clear environmental outcomes and/or objectives and auditable provisions tabulated as per the EPA Instructions on how to prepare EP Act Part IV environmental management plans . Management plans should be concise and only contain information relevant to monitoring and management actions (they should not contain any EIA).

Common Issues resulting in RFI	How to avoid them
The ERD focuses on impact prediction but does not sufficiently consider the environmental effects or outcomes of the proposal.	Predict the effect the proposal will have on environmental values and the value-specific environmental outcomes that are expected to be achieved. Evidence to support the predictions may include case studies and monitoring results from other proposals.
Insufficient information regarding offsets. Broad statements and assumptions without sufficient evidence. Proposals to develop offsets post-approvals or propose offsets which are not related to the environmental effects of the proposal.	Include offset proposals that details the anticipated environmental outcomes, how these will be achieved, monitoring and contingencies. Provide an evidence-based rationale for the offset proposal, which includes demonstrating that the value can be offset. Discuss potential offsets with EPA Services early in the EIA process.
Insufficient information on the description, assessment and management of cumulative impacts of the proposal.	Address the cumulative impact assessment guidance (in prep.). Discuss the scope of the cumulative impact assessment with EPA Services early in the EIA process.

4.1.5 Public review, if required by EPA under s. 40(5)

The EPA Chair will declare that the ERD and any supporting information is available for public review for the period specified in the EPA decision under s. 40(5). The proponent is responsible for meeting the EPA's publishing requirements as set out in the [Instructions for the publishing requirements for information or reports for public review](#).

During the public review, any person may make a submission including DMAs.

EPA Services and other agencies will prepare comments, including an assessment of the significance of impacts, adequacy of mitigation and conclusions regarding environmental outcomes during the public review period. In addition, EPA Services may request that relevant government agencies and/or experts provide specific advice.

If the EPA is assessing the proposal under an assessment bilateral agreement or as an accredited assessment, the Commonwealth may provide additional information.

Public submissions will not be accepted after the public review period has closed unless previously agreed by the EPA Chair before the end of the period.

4.1.6 Response to submissions

Following public review, the EPA Services will usually:

- provide a copy of the submissions to the proponent (with confidential material redacted) within one week of the close of the public comment period
- prepare a summary of the key issues raised in the submissions
- provide the summary of submissions to the proponent within three weeks of the close of the public review period.
- identify whether a proponent response is required in relation to submissions, key issues to address and the timing of the response
- meet with the proponent to discuss the response required.

The proponent will then address the EPA request for a response (Figure 9).

EPA Services will then review the proponent response to submissions and determine whether the request has been addressed and if the information provided is fit for purpose.

When required, advice will be sought from other DMAs and technical experts in relation to the adequacy of the proponent response.

The EPA Services will notify the proponent in writing if the proponent's response to submissions is adequate

to enable the EPA to prepare its draft assessment report. The EPA will usually publish the proponent's response to any submissions on the EPA's website before release of the EPA's assessment report.

If the requested information has been provided but is incomplete, ambiguous, inaccurate or inconsistent, EPA Services may informally request clarification. If the proponent's response to submissions is not adequate, or a clarification request is not met, a formal RFI may be issued. The EPA will usually only issue one RFI although minor clarifications may also be required. Any follow up RFI should not raise new issues (unless the proposal has changed or the further information provided has raised new issues).

If the proponent does not provide an adequate response to submissions within the timeframe agreed with the EPA, EPA Services may decide to proceed to prepare the draft assessment report without further input from the proponent. In this case, EPA Services will take a cautious approach in completing its assessment based on the information available. The EPA will usually write to the proponent offering a meeting and advising them of their intent to proceed with the assessment prior to commencing preparation of the draft report.

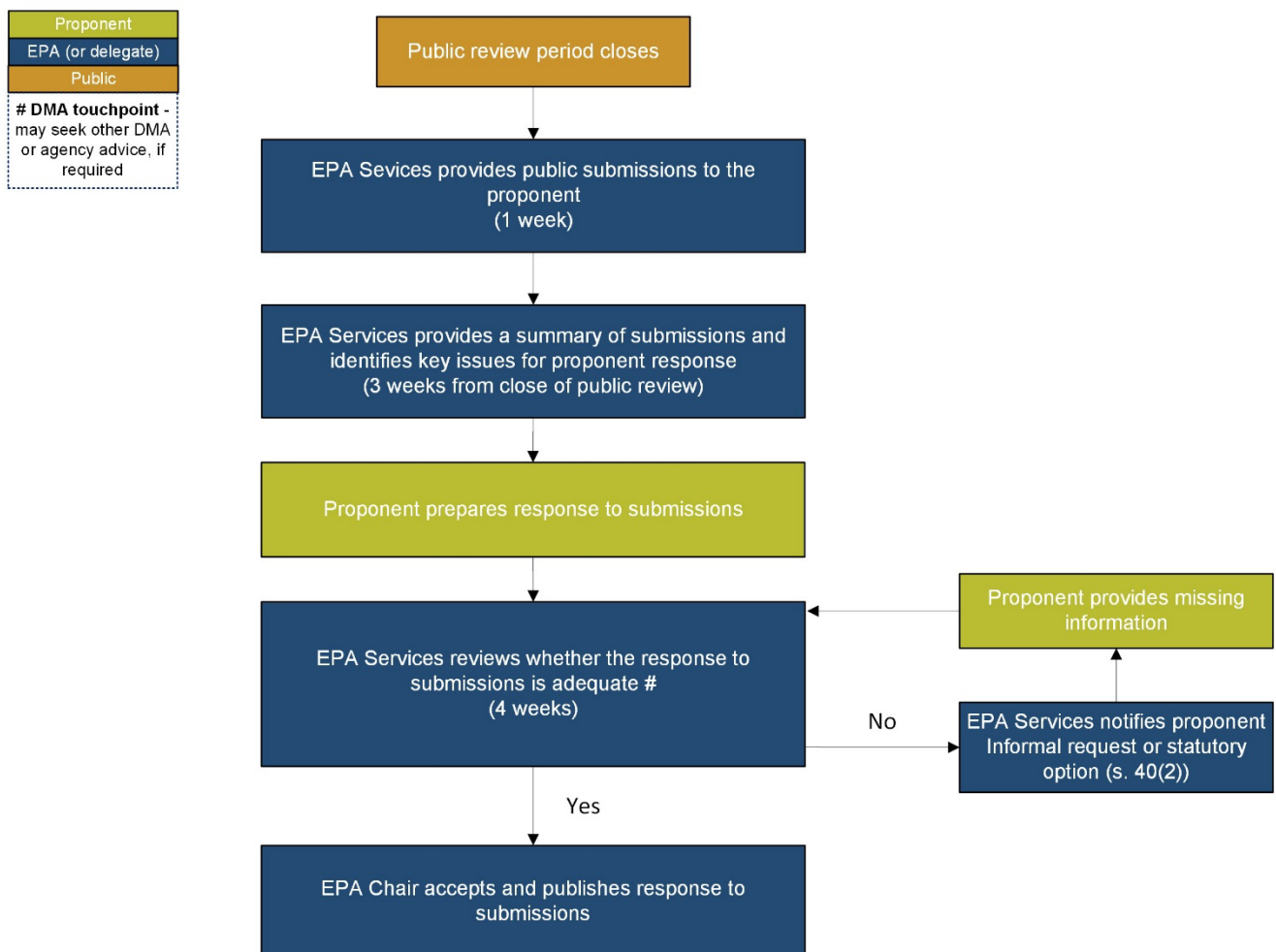


Figure 9: Response to submissions

4.2 Other processes that may occur during assessment

4.2.1 Amendments to proposal during assessment (s. 43A)

Section 43A of the EP Act allows for a proposal under assessment to be amended at the request of a proponent. The EPA has discretion as to whether to approve an amendment. The EPA may decide to advertise the amendment for public review depending on the nature of the amendment and level of public interest in the proposal.

The EPA's decision will take into account:

- the significance of the proposed amendment
- whether the amended proposal will still be substantially the same character as the original proposal

- whether (if it approves the change) any EIA assessment steps are required to be repeated due to the change
- efficient and orderly EIA processes.

Applications to amend a proposal during assessment should be prepared in accordance with the EPA [Instructions for amending a proposal during assessment under s. 43A of the EP Act](#). The level of detail the EPA requires depends on the nature of the amendment and its potential impacts on the environment. All s. 43A amendments will require an updated PCD.

EPA Services will review whether the EPA Instructions have been addressed when reviewing the adequacy of the submission. Once sufficient information has been received, the EPA will decide whether to approve the amendment and notify the proponent. This decision has been delegated to the EPA Chair (or Deputy Chair if the Chair is absent).

The proponent application, EPA decision and summary of reasons will be published. The process is summarised in Figure 10.

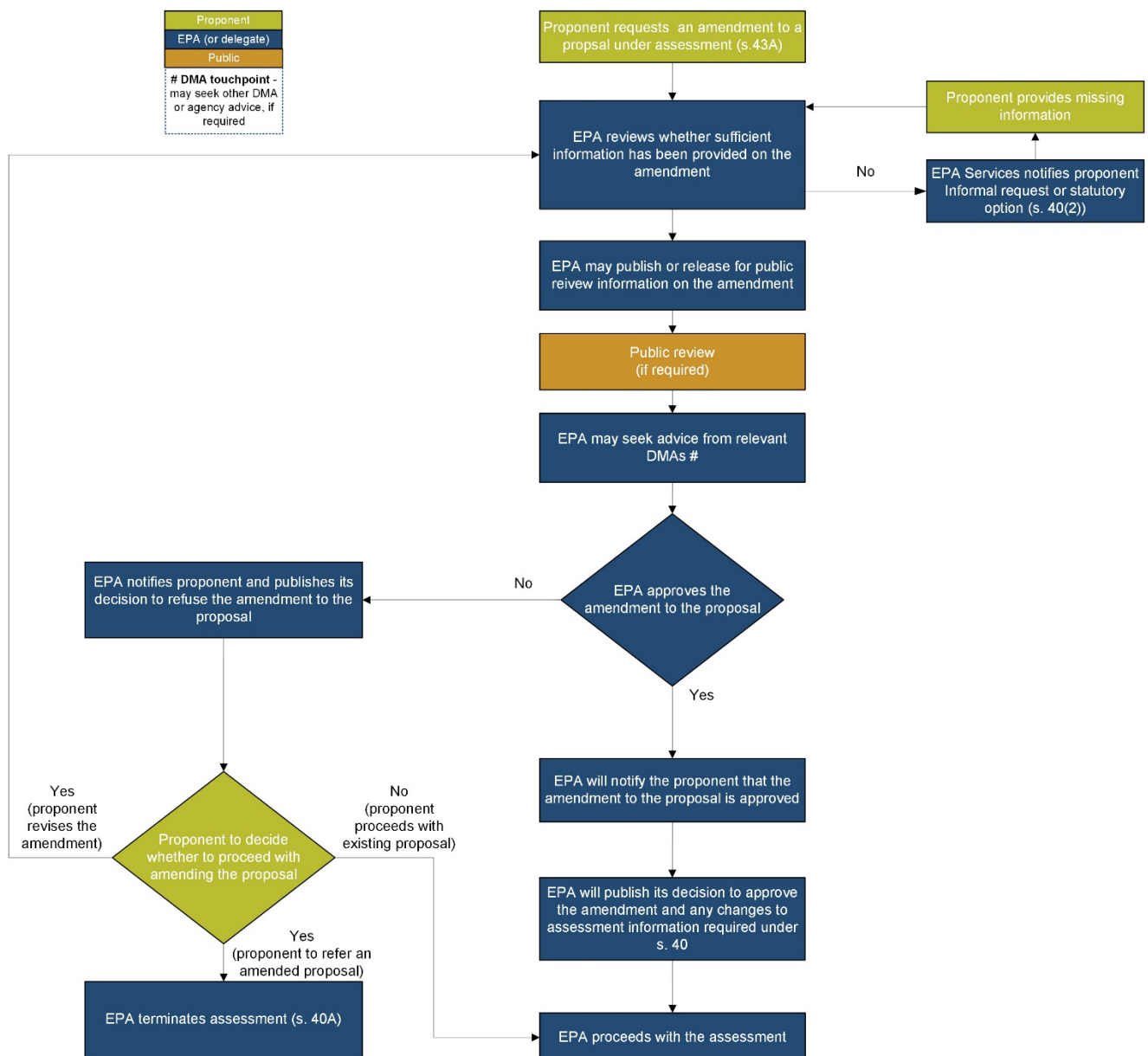


Figure 10: Amending a proposal during assessment (s. 43A)

4.2.2 Termination of assessment (s. 40A)

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

The EPA may also terminate the assessment if a proponent has failed to comply with a request for information or if any of the other criteria in s. 40A(1) are met. If the EPA intends to terminate the assessment, the EPA will first write to the proponent and have regard to the proponent's response before making the decision. The EPA's decision on termination will consider efficient and orderly EIA processes and the proponent's capacity to participate in EIA consistent with EPA expectations.

If the EPA terminates an assessment, the EPA will notify the proponent in writing and publish the notice of termination on the EPA website. If the proposal was terminated under s. 40A, it can be referred again as per s38B(2)(c).

4.2.3 Minor or preliminary work (s. 41A(3))

The proponent is prohibited by s. 41A from implementing a proposal that is under assessment (after a decision under s. 39B) until the Minister has issued a Ministerial Statement that the proposal may be implemented. However, s. 41A(3) allows this constraint to be removed for specific works related to implementation with the consent of the EPA. The consent will be given via a notice with the limits of the authorised minor or preliminary work along with basis of the decision.

Other approvals, permits or licences (such as a native vegetation clearing permit) may still be required to undertake the minor or preliminary works.

Minor or preliminary work is work that is part of the proposal implementation but is unlikely to have a significant impact on the environment and does not have the scale or significance that, if implemented, would compromise the EPA's assessment or the Minister's future decisions. See EPA [Instructions for request for EPA consent to undertake minor or preliminary work under s. 41A\(3\) of the EP Act](#).

Investigations, exploration or other works that are not related to the proposal may usually be implemented without EPA consent, subject to the appropriate other decision-making authority approvals. If the investigation work is likely to have a significant impact on the environment, it should be referred to the EPA.

4.3 Draft assessment report

EPA Services prepares a draft assessment report on behalf of, and for consideration by, the EPA. The report includes the assessment findings and whether the proposal is likely to be consistent with the EPA's environmental factor objectives. The draft report also includes a recommendation as to whether the proposal may be implemented and any recommended conditions.

In preparing its draft assessment report, EPA Services may conduct a site visit and/or seek advice from relevant DMAs, other government agencies, technical experts and the proponent on potential draft conditions (including the Commonwealth, if the EPA assesses the proposal under an assessment bilateral agreement or as an accredited assessment). This consultation is carried out at the discretion of EPA Services and is contingent on EPA Services having sufficient time to review an adequate response to submissions and prepare the draft assessment report for consideration at the EPA meeting. Any consultation on conditions in this stage is separate and additional to the consultation on conditions undertaken on behalf of the EPA in Stage 4 (Section 5.2) but would be on the same basis; that is, the consultation is not a negotiation but may inform drafting of technically feasible, clear and outcome-focused conditions.

The draft assessment report is prepared once proponent submissions and public review processes are complete. EPA Services will not normally provide the draft assessment report to any party for consultation. The target timeframe for the EPA Services to prepare a draft assessment report for EPA is six weeks from receipt of all required information. The draft report is then considered by the EPA at the next available monthly meeting.

The proponent is usually invited to the EPA meeting so that EPA questions can be discussed with the proponent to inform the assessment. Consideration of the report by the EPA is addressed in Stage 4.

5. Stage 4 – EPA assessment report and recommended conditions

5.1 EPA assessment report

Section 44 of the EP Act sets out the requirements for the EPA assessment report, which includes assessment findings and recommendations. If the EPA recommends that the proposal may be implemented, the EPA will recommend conditions and procedures which may be applied to the proposal's implementation.

The (final) EPA assessment report is prepared following the consideration of the draft assessment report and findings at an EPA meeting (Figure 11). The target timeframe for the provision of the report to the Minister is a further six weeks (that is, a total of 12 weeks from final information being received for the assessment).

The assessment report will include the EPA's assessment of whether the expected environmental outcomes of the proposal are likely to be consistent with the EPA's factor objectives, as well as holistic considerations. The EPA may also include other information, advice and recommendations in the assessment report (s. 44(2a)).

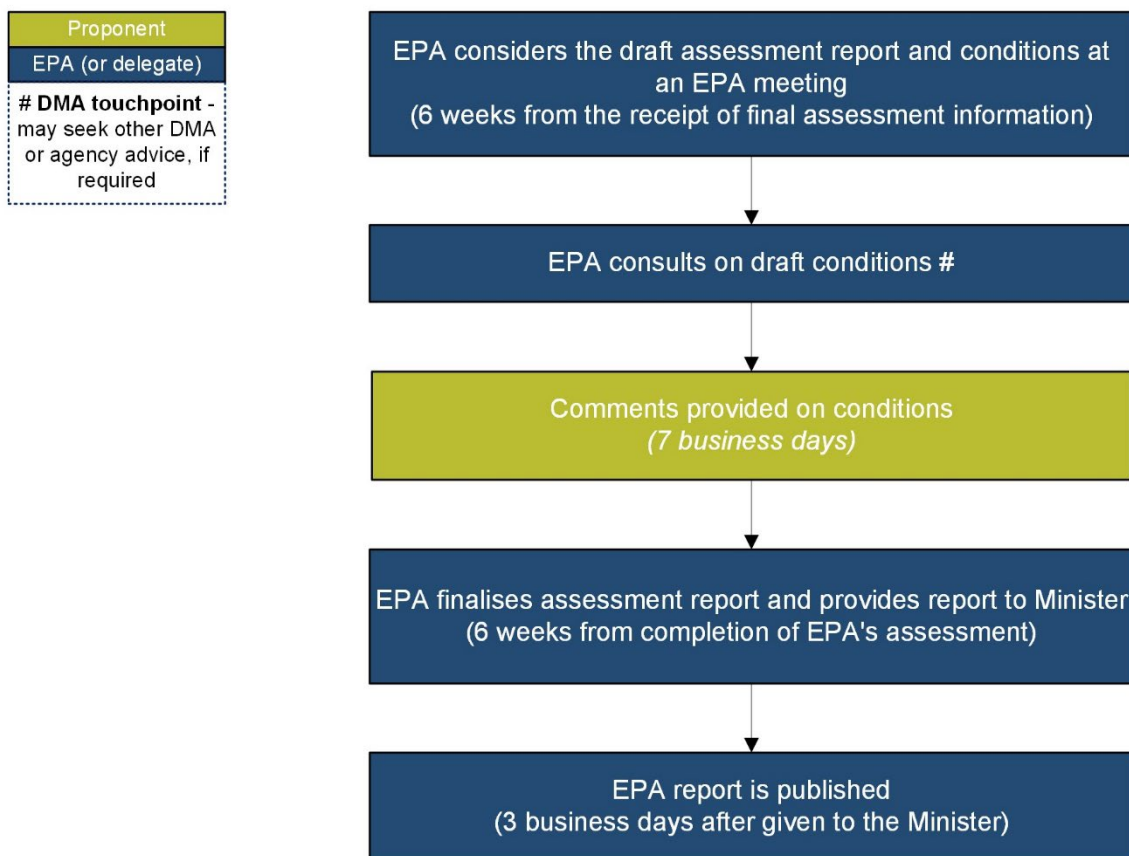


Figure 11: EPA assessment report – Stage 4

5.2 EPA recommended conditions

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

The EPA may also consider whether there are other statutory decision-making processes that can mitigate the proposal's potential impacts on the environment. In doing so, the EPA will consider the potential impacts of the specific proposal and whether the EPA's objectives for relevant environmental factors are likely to be met through the decision-making processes: see [Interim guidance: Taking decision making processes into account in EIA](#). The EPA may recommend that the mitigation of the impact is regulated through another decision-making process. An example of this might be an EP Act Part V works approval and/or licence.

5.2.1 Consultation on conditions

The EPA will seek comment on the recommended conditions from the proponent, relevant DMAs and other government agencies after a draft report and conditions have been considered at an EPA meeting but prior to finalising its report (Figure 11). This will usually occur even if those parties were consulted on conditions during preparation of the draft assessment report.

The EPA Services seeks this comment on behalf of the EPA before finalising the EPA assessment report in order to:

- correct any errors of fact
- confirm the conditions are clear and relevant to the proposal
- confirm that the conditions are technically feasible and can be complied with
- identify any practical opportunities for strengthening the environmental outcomes of the conditions
- confirm the environmental outcomes are reasonably achievable by the proponent.

The conditions consultation process is not a negotiation; the EPA is not able to take financial feasibility or broader economic or social considerations into account or negotiate about achievement of EPA objectives.

In addition to this consultation on recommended conditions after an EPA meeting, EPA Services may conduct informal consultation on the conditions before the EPA meeting to inform technical or factual matters to assist in drafting (Section 4.3). While informal consultation can help clarify some aspects of conditions, the EPA may strengthen, add or otherwise change the conditions during its consideration of the proposal.

5.2.2 Types of conditions

The EPA usually recommends conditions that:

- limit the extent or quantum of proposal elements
- specify the environmental outcomes to be achieved
- require mitigation to be implemented to achieve environmental objectives
- specify required management plans and monitoring
- specify offset requirements
- outline compliance reporting and procedural requirements.

The EPA preference is for outcome-based conditions where practical. The EPA's approach to recommended conditions is outlined in the [Interim guidance for environmental outcomes and outcomes-based conditions](#).

6. Stage 5a – Decision on proposal

The appeals process and the decision regarding implementation of a proposal are not conducted by EPA or EPA Services. However, information regarding these stages is included in this document for completeness in relation to EIA procedures under Part IV of the EP Act.

6.1 Appeals on EPA Assessment Report and recommended conditions

The content and recommendations of the EPA Assessment Report are open for appeal for 21 days from publication. Anyone may lodge an appeal in writing under s. 100(1) of the EP Act. Appeals may be lodged disagreeing with the content or recommendations of the EPA assessment report. If there are no appeals, then the process moves straight to the Minister consulting with key DMAs and reaching a decision on implementation of the proposal.

If appeals are lodged, the decision regarding implementation of the proposal cannot be made until the appeal(s) are resolved. The Appeals Convenor investigates the appeal(s) and issues a report to the Minister. The investigation usually includes consultation with the proponent, the EPA and the appellant. The Chair (or the Deputy Chair if the Chair is absent) has delegation from the EPA to respond to a request from the Appeals Convenor to report to the Minister on an appeal under s. 106(1)(a).

There is no set timeframe for determination of appeals.

More information on the appeals process, recent decisions and how to lodge an appeal is available at [Office of the Appeals Convenor](#).

6.2 Ministerial Statement

Following the EPA assessment report, appeals period and receipt of the report from the Appeals Convenor (if appeals were received), the Minister reaches a decision with key DMAs on whether the proposal may be implemented and issues the Ministerial Statement under s. 45 of the EP Act.

The proponent (only) can appeal the conditions of the Ministerial Statement within 14 days of the Statement being issued (s. 100(3)). If the proponent appeals the conditions, the proposal may not be implemented until the appeal is determined.

7. Stage 5b – Implementation of the proposal including any changes to the proposal and conditions

The proponent must comply with the Ministerial conditions when implementing the proposal. Conditions may include actions that must be completed prior to commencement of the proposal.

7.1 Compliance reporting and assessment

Ministerial Statements usually include conditions specifying compliance assessment and annual reporting requirements. The following post assessment guidelines are available on the [EPA website](#):

- [Making information publicly available](#)
- [Preparing a compliance assessment report](#)
- [Preparing a compliance assessment plan](#)
- [Preparing an audit table](#)
- [Statement of compliance form](#).

The proponent must comply with the implementation conditions included in the Ministerial Statement when implementing a proposal. Failure to comply is an offence under s. 47(1) of the EP Act. The potential penalties are listed under Schedule 1 of the EP Act.

Compliance assessment and enforcement is managed by DWER under s. 48 of the EP Act. The Chief Executive Officer (CEO) exercises the powers and duties relating to compliance and enforcement.

7.2 Changes to proposals and/or conditions under s. 45C

Proponents may request to amend an approved proposal, and/or implementation conditions under s. 45C of the EP Act. Provided an amendment is not a 'significant amendment' (i.e. an amendment that is likely to have a significant effect on the environment; see Table 6), the Minister (or delegate) has discretion to approve or refuse a s. 45C request. Any significant amendment of a proposal would not be approved under s. 45C and must be referred under s. 38 and assessed under s. 40AA (Section 4.1.3). This decision has been delegated to the EPA Chair (or Deputy Chair if the Chair is absent).

The EPA Chair will consider:

- whether the character of the proposed amended proposal will be substantially the same as the character of the approved proposal
- the environmental effects of the proposed amendment, on its own and in the context of the approved proposal, and if these are consistent with the EPA's environmental factor objectives
- whether an EPA assessment or report would be more appropriate than approval under s. 45C having regard to, for example:
 - whether the requested amendment requires consideration of significant matters that were not considered in the original assessment
 - the adequacy and currency of information where it affects what may be a significant impact
 - whether offsets are proposed (usually offsets are only required for significant impacts and so would not be able to be considered under 45C).

Changes to conditions and proposals can be made under s. 45C only at the request of the proponent and if

the changes will not result in environmental impacts that need to be assessed. Changes to conditions that require assessment will need to be addressed through a s. 46 inquiry (Section 7.3).

Proponents are expected to request a meeting with EPA Services prior to submitting a s. 45C request. [Instructions for request to amend a proposal and/or implementation conditions under s. 45C of the EP Act](#) are available on the EPA website. The EPA Services will review whether the Instructions have been addressed and/or an adequate explanation has been given about why the application is fit for purpose. The EPA Chair may issue an RFI if further information is required to assess the requested amendment and/or seek advice from other DMAs or technical experts.

The EPA Chair will notify the EPA, proponent and other DMAs regarding their decision.

The proponent's s. 45C request will be made public once the decision has been made. The EPA will publish a summary of reasons for their decision to approve or refuse a s. 45C request (Figure 12).

If a s. 45C request is refused, the proponent can continue to implement the approved proposal. The proponent may also amend the s.45C or refer the change as a significant amendment under s. 38 if they wish to proceed with the amendment. The decision to assess an amendment does not constrain the proponent from implementing the approved proposal.

Administrative changes to conditions, or changes that do not require assessment of environmental impacts, may be amended under s. 45C(4). These may include:

- correcting typographical errors.
- standardising terminology.
- formatting updates.

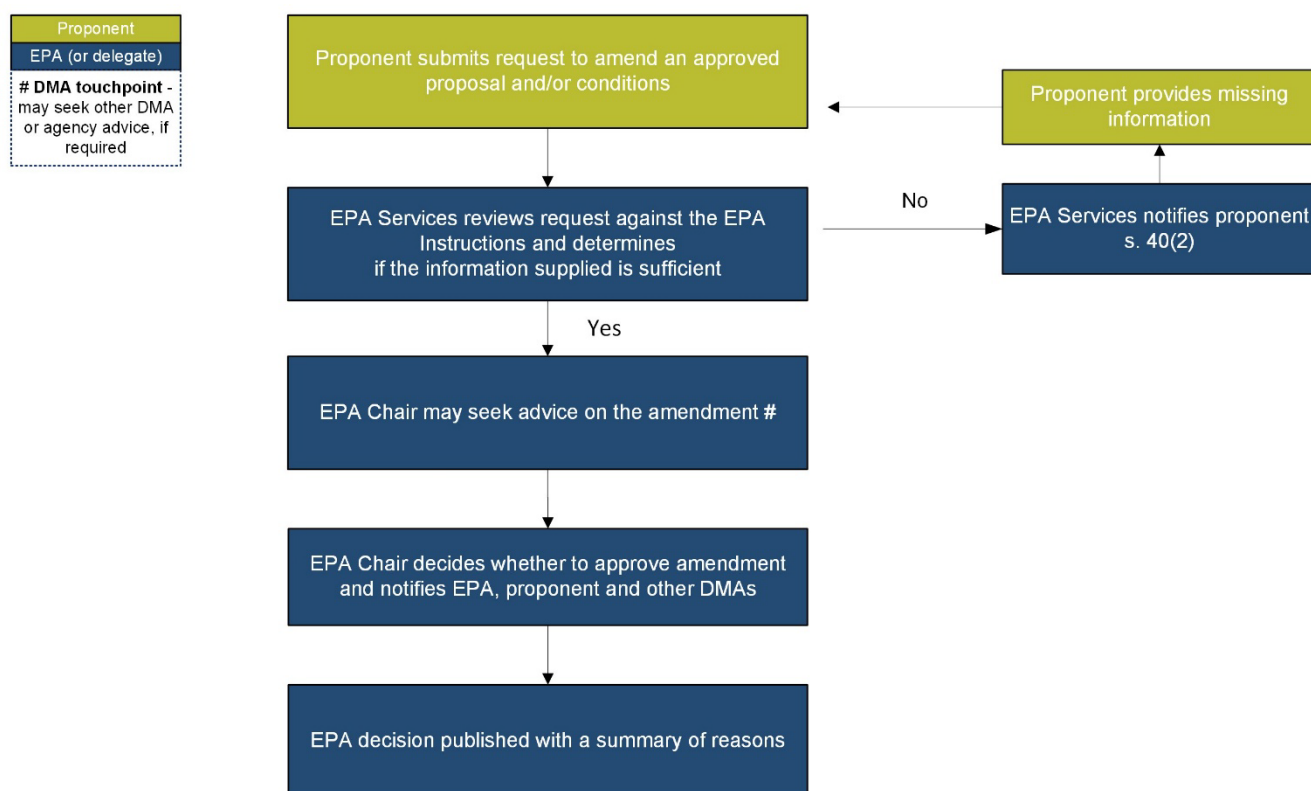


Figure 12: Assessment of a s. 45C request

7.3 Division or consolidation of proposals and issue of separate or combined Ministerial Statements (s. 45D)

Amendments to approval conditions under s. 45C(1) may comprise or include:

- the division of an approved proposal (and Ministerial Statement) into separate proposals (and Ministerial Statements) (s. 45D(1)(a))
- the consolidation of approved proposals (and Ministerial Statements) into a consolidated proposal (and Ministerial Statement) (s. 45D(1)(b)).

If a request for division or consolidation by a proponent is made in relation to s. 45D as part of a s. 45C request, additional information will usually be required and considered. In deciding whether to approve the proposed division or consolidation of a Ministerial Statement for an approved proposal as part of a s. 45C request, the decision-maker will have regard to the matters relevant to s. 45C, and may have regard to additional matters including, whether the:

- proposed separated or consolidated proposals are substantially the same character as relevant elements of the existing proposal(s)
- proposed separation or consolidation of the proposals is likely to affect the achievement of the EPA's objectives for environmental factors
- proposed separation or consolidation of the proposals is likely to be a significant amendment
- proposed division of the Ministerial Statements is likely to undermine environmental outcomes or achievement of compliance with, or assessment of compliance with, the conditions of the Ministerial Statement.

Proponents are expected to discuss the need to divide or consolidate Ministerial Statements as part of s. 45C discussions with EPA Services if relevant.

Applications for the consolidation or division of Ministerial Statements will usually be made public. A summary of reasons for the decision will also be published and made available on the EPA website.

7.4 Amending implementation conditions after inquiry (s. 46)

If the Minister considers that any of the implementation conditions of an existing Ministerial Statement should be amended and the changes require assessment, the Minister may request the EPA to inquire into (i.e. assess) and report on the matter. The Minister is the primary decision-maker for this section of the EP Act. The Minister may make the request to the EPA at the Minister's own initiative, or in response to a request from the proponent, EPA, other DMA or any member of the public.

The Minister's request and proponent application may be published on the EPA website.

The s. 46 process is distinct from a change to conditions under s. 45C as:

- the Minister is not constrained under s. 46 from requesting the EPA to consider amendments to conditions that may have a significant environmental impact
- the EPA sets the assessment steps which may include any of its usual powers of assessment; including obtaining information from the proponent, DMAs and technical experts, and seeking public comment
- there is always an EPA assessment report and recommendations to the Minister
- the Minister reaches a decision in consultation with key DMAs on whether to amend implementation conditions following the EPA assessment and report.

The request for a s. 46 inquiry may be made for any reason including, but not limited to:

- amendment of the conditions requiring commencement of the proposal by a certain date; to enable the authorisation to be extended
- changes to offset requirements
- removal or amendment of conditions that duplicate requirements of other decision-making processes; where assessment of potential environmental outcomes of the change is required
- amendment of conditions that have been found not to be feasible and the removal/amendment of the conditions needs to be assessed

- public concern that conditions are ineffective in ensuring intended environmental outcomes are met.

If the proponent has requested the s. 46 inquiry, the proponent request to the Minister should include the information outlined in the EPA [Instructions for request to amend implementation conditions under s. 46](#). Proponents are expected to request a meeting with EPA Services prior to submitting a request for a s. 46 inquiry.

Proponent applications for a s. 46 review of conditions should include the proponent's view on whether the existing implementation conditions:

- should be amended, or
- are adequate to ensure implementation of the ongoing elements of the proposal are consistent with the EPA's current environmental factor objectives.

The process for a s. 46 inquiry is outlined in Figure 13.

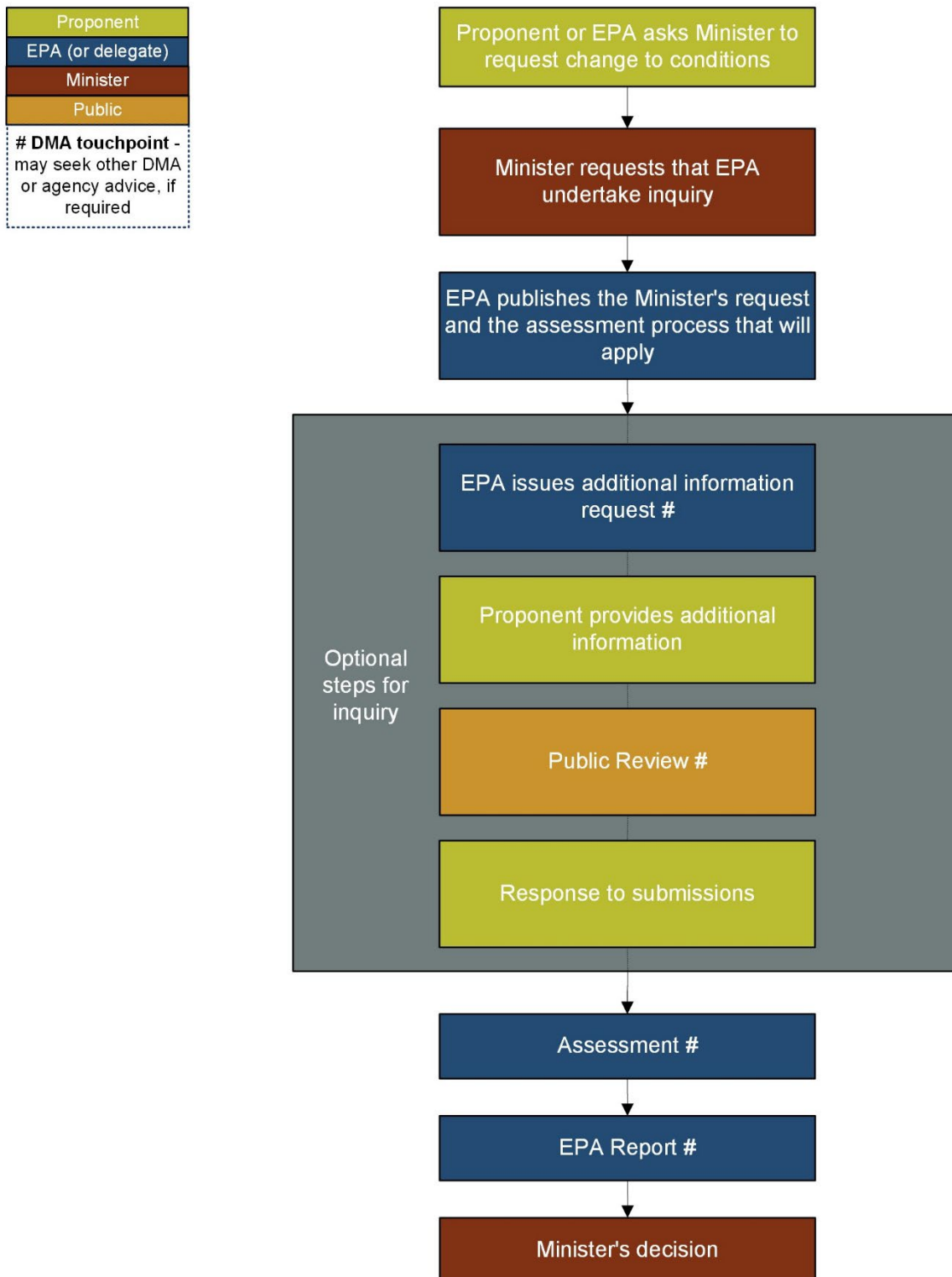


Figure 13: Section 46 inquiry process

7.5 Withdrawal of a Ministerial Statement (s. 47A)

Proponents of an approved proposal can request the Minister (or delegate) withdraw a Ministerial Statement relating to a proposal under s. 47A(3) of the EP Act on the grounds that either:

- a proposal has been implemented and its implementation conditions have been complied with, or are no longer required

- the impacts of the proposal's implementation can be mitigated by another decision-making process in a way that satisfies the EPA's objectives for the relevant environmental factors.

The EPA has published Instructions and forms for preparing a [Request to withdraw a Ministerial Statement under s. 47A\(3\) of the EP Act](#).

This process is administered by EPA Services on behalf of the Minister; the EPA does not have a role in this process.

8. Strategic and derived proposals

8.1 Overview

A strategic proposal is a future proposal or proposal(s) that are likely, if implemented, to have a significant effect on the environment (s. 37B(2)). A strategic proposal can only be referred by the proponent (s. 38(7)). Examples of strategic proposals may include:

- a plan for the future staged development of an industrial precinct
- a plan for the future staged mining of an area
- a structure plan for the future staged urban development of land
- options for alignments of future infrastructure
- a plan for the future staged development of an aquaculture zone.

The referral and assessment of a strategic proposal is the same as for any other significant proposal. At the completion of the assessment of a strategic proposal, the EPA publishes the outcomes of assessment and recommended conditions that may be applied to future derived proposals. This EPA assessment report is open to appeal for 21 days as for assessment of significant proposals.

The Minister then issues a Ministerial Statement with conditions or decides the strategic proposal and the future proposals it identified should not be implemented. Once a Ministerial Statement is issued, there is still no approval to undertake activities in relation to the strategic proposal until the derived proposal step has been completed.

A proponent *may* request that a referral proposal be declared as a derived proposal under s. 38E(2) where:

- there has been a strategic assessment of a strategic proposal and a Ministerial Statement has been issued in relation to a strategic proposal
- the referred proposal is identified in that Ministerial Statement.

To decide whether to declare a derived proposal, consistent with the requirements of s. 38E(4) and s. 38E(5), the EPA may require proponents to submit some or all of the plans and other relevant documents that the conditions in the strategic proposal Ministerial Statement may specify.

The decision of the EPA to declare a proposal to be a derived proposal or to refuse to declare a proposal to be a derived proposal is not appealable.

8.2 Defining the strategic proposal and identifying future proposals

The EPA recognises that detailed design of a future proposal identified in a strategic proposal will usually not be available when the EPA assesses a strategic proposal (strategic assessment). Therefore, the focus is on providing sufficient information regarding future proposals to enable a determination to be made when there is a request that a proposal is declared a derived proposal. Identifying future proposals should:

- define, as far as possible, the nature and extent of the future proposals
- define the maximum extent or limits to the scope of any future proposals as the scope relates to environmental impacts
- define the envelope within which any future proposals will occur
- identify how alternatives have been considered in the development of the strategic proposal
- identify the key environmental factors associated with the future proposals
- define the potential maximum cumulative environmental impacts and/or risks from the future proposals

- identify likely environmental outcomes and consistency with EPA objectives
- identify key avoidance and mitigation able to be subject to outcomes-based conditions

The information from the proponent or obtained by the EPA in the assessment of a strategic proposal should enable the EPA to undertake their assessment and define the overall environmental outcomes that must be achieved through implementation of any future derived proposals.

8.3 Outcomes of assessment of a strategic proposal

The EPA will recommend conditions that should apply to future derived proposals to ensure the assessed environmental outcomes are met. This could include recommended conditions that require future proposals to:

- define the development envelope and indicative footprint of the derived proposal and demonstrate that it fits within the scope and limits of the identified future proposals
- be consistent with outcomes-based conditions which specify outcomes required to be achieved by future proposals
- confirm the baseline environmental status within the area(s) that may be directly or indirectly impacted by the derived proposal, at the time of the future proposal
- outline how mitigation measures will ensure environmental outcomes or objectives are met
- outline the monitoring and assurance plan to demonstrate that implementation of the derived proposal is meeting the environmental outcomes
- offset significant residual environmental impacts if they occur.

The Minister will then reach a decision in consultation with key DMAs on whether the strategic proposal may be implemented and issue a Ministerial Statement with conditions that would then be applied to future derived proposals.

8.4 Derived proposals

The referral of a derived proposal needs to:

- demonstrate that the proposal was identified as a future proposal in the strategic proposal
- demonstrate how the proposal will meet the environmental outcomes defined through the assessment
- provide information required by conditions of the Ministerial Statement that has been issued in relation to the strategic proposal
- demonstrate that the proponent has consulted with relevant stakeholders.

The 7-day public comment period on referred proposals applies where there is a request to be declared a derived proposal. This process is outlined in Figure 14.

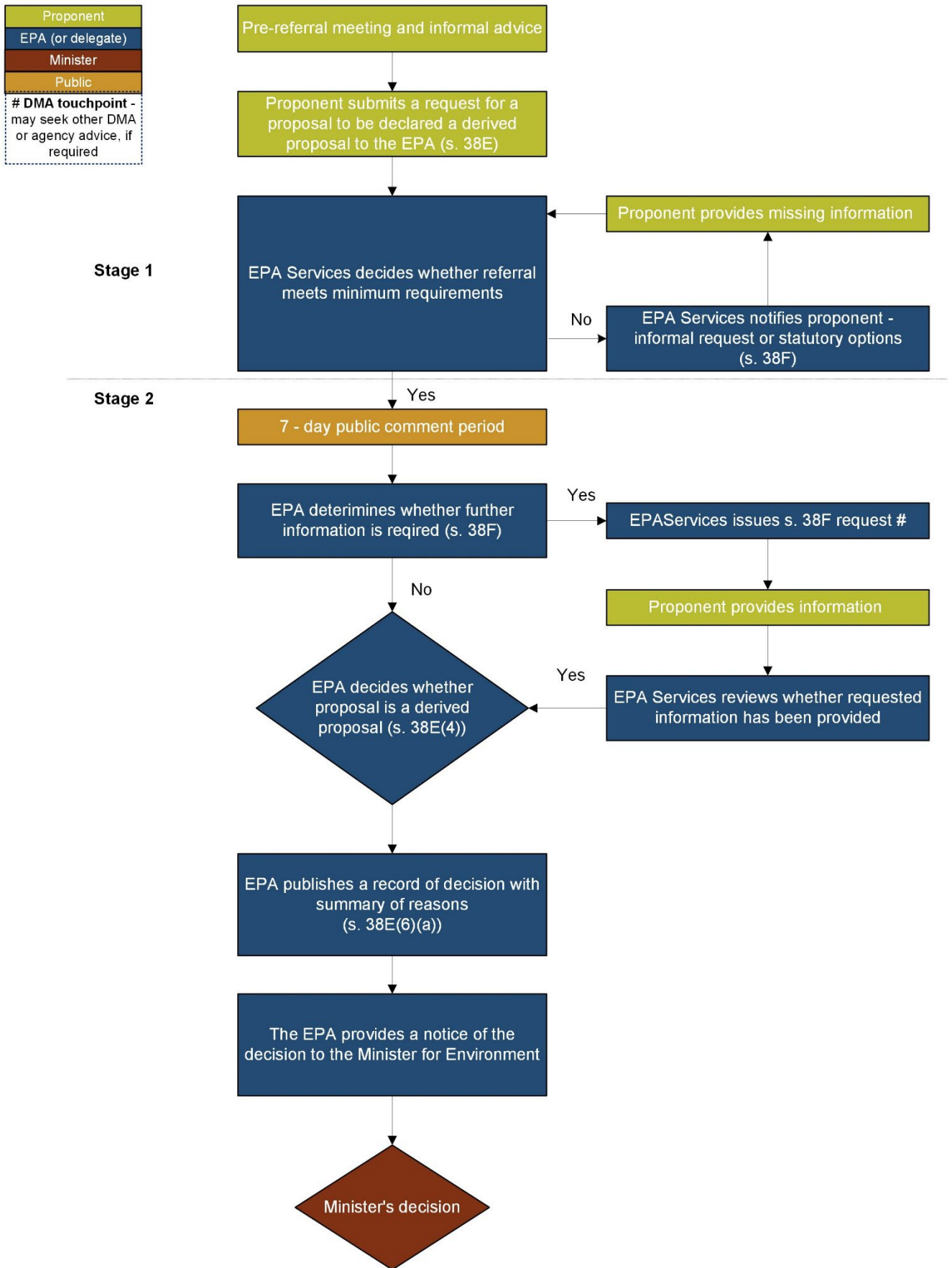


Figure 14: EPA decision on referral of a derived proposal

The EPA may refuse to declare the referred proposal to be a derived proposal (s. 38E(5)) if it considers that:

- the environmental issues raised by the referred proposal were not adequately assessed in the strategic assessment
- there is significant new or additional information that justifies the reassessment of the issues raised by the proposal
- there has been a significant change in the relevant environmental factors since the strategic assessment was completed.

Once the EPA has recorded a decision to declare a referred proposal to be a derived proposal, the EPA must give written notice to the Minister and will publish the reasons for the decision. The EPA will provide advice to the Minister as to which implementation conditions should apply to the derived proposals. The Minister then issues a s. 45B Notice that the strategic proposal implementation agreement has effect and identifies which conditions apply; this allows the implementation of the derived proposal.

If the EPA refuses to declare a derived proposal, the EPA will notify the proponent before the decision is finalised and offer the opportunity to modify the proposal. If the proposal is not modified and the decision to refuse is made, the decision and reasons will be published. The EPA may then assess the referred proposal as a significant proposal.

9. Timeframes

The EPA is required to publish an indicative outline of the timing of an environmental review under s. 40(3) of the EP Act. The EPA expects EPA Services to develop assessment timelines for each proposal, undertake efficient EIA and report on whether timelines are met or not. The EPA will have oversight of these through the EPA Chair and monthly EPA meetings.

The indicative timeline is usually agreed between the EPA and the proponent and includes target timeframes for both the EPA and EPA Services and the proponent for their respective parts of the assessment process. Indicative timelines are usually agreed as part of the ESD process or alternatively after the EPA decides to assess the proposal and records the level of assessment.

EPA Services will usually request the proponent to provide an indicative date for the resubmission of documents. This helps inform updates to the indicative timeline.

Table 5 provides an indicative timeline for EPA components of a s.38 assessment process.

Table 5: Indicative timeline for EPA components of an assessment process

Stage	Progress stages	Time (weeks)
<i>Assessment decision</i>		
2	EPA to decide whether to assess (s. 38 G) Includes 7 day public comment period Excludes any time taken for s. 38F requests to be met	4
<i>Request for further information under s. 40(2)</i>		
3	EPA Services issues RFI request, if required	Up to 6
<i>Environmental Scoping Document</i>		
3	EPA Services drafts ESD	2 – 5*
3	EPA Services provides ESD to proponent (and DMA if required) for review	2
3	EPA Services review comments and EPA Chair approves ESD	1 – 2*
<i>Assessment</i>		
3	EPA Services reviews first draft ERD (inclusive of DMA review if required)	6
3	Proponent submits revised ERD	

Stage	Progress stages	Time (weeks)
3	EPA Services reviews revised ERD and authorises it for public review (if public review required)	4
3	ERD released for public review	4 – 12
3	EPA Services provides Summary of Submissions following close of public review period	3
3	Proponent submits draft Response to Submissions	
3	EPA Services reviews the proponent's draft Response to Submissions	4
3	Proponent submits revised Response to Submissions (if required)	
3	EPA Services reviews revised Response to Submissions	3
3	EPA Services prepares draft assessment report (once final information received for assessment)	6
3	EPA considers draft assessment report	EPA meeting
4	EPA finalises assessment report (including two weeks consultation on draft conditions) and gives report to Minister	6
4	EPA assessment report published	1 day
4	Appeals on the EPA assessment report and recommendations	3

* The time taken to prepare an ESD may be shorter if standard scoping items are applicable or longer if public review and full EPA consideration is required.

The final assessment timeline is provided in an Appendix in the EPA assessment report.

9.1 Escalation protocol

To ensure efficient and orderly EIA practice, the EPA expects EPA Services to communicate anticipated assessment timeframes and develop and implement transparent escalation protocols. The EPA will have oversight of these through the EPA Chair and monthly EPA meetings.

DWER have developed an escalation protocol to provide a pathway for proponents of significant proposals under Part IV of the EP Act to escalate assessment issues directly to senior executive officers for timely resolution. The EPA Services assessing officer assigned to the proposal will be able to advise proponents whether the escalation protocol is an appropriate next step where timeframe concerns have been raised.

10. Key terms and acronyms

The key terms and acronyms are outlined in Table 6.

Table 6: Key terms and acronyms

Key terms	
Accredited assessment	Process where the Commonwealth accredits the State assessment process on a case-by-case basis and the State assesses the controlled action(s) on Matters of National Significance on behalf of the Commonwealth.
Amended proposal	Proposal as amended by a proponent and approved under s. 38C, s. 43A or s. 45C of the EP Act.
Assessment report	The report given by the EPA to the Minister under s. 44.
Bilateral Agreement	A bilateral agreement is an agreement made between the Commonwealth and the State under s. 45 of the EPBC Act. A bilateral agreement may accredit either the State's assessment processes (commonly referred to as an 'assessments bilateral') or the State's assessment and approvals processes (commonly referred to as an 'approvals bilateral'). There is no bilateral agreement currently in place between the State and Commonwealth.
Chief Executive Officer (CEO)	The CEO of the department responsible for the administration of the <i>Environmental Protection Act 1986</i> . Currently, the Director-General of the DWER.
Commonwealth	The Commonwealth agency responsible for administering the EPBC Act. If undertaking an accredited or bilateral assessment, the Commonwealth usually needs to have input into all stages of the EPA assessment.
Controlled action	As defined in the EPBC Act. An action under the EPBC Act includes proposals. A controlled action is one that requires assessment and approval under Part 9 of the EPBC Act.
Cumulative environmental impacts	The total impacts on the environment of a proposal combined with one or more past, present or future activities and pressures.
Decision-making Authorities (DMAs)	DMAs is defined in the EP Act and means any WA public authority empowered to make decisions in respect of a proposal under State legislation other than Part IV of the EP Act. DMAs is a term often used colloquially to refer to government agencies with portfolios related to the environment.
Derived proposal	A proposal that was identified as a future proposal in a strategic assessment and a Ministerial Statement issued in relation to that strategic proposal (s. 38E)
Development envelope	The maximum area within which the proposal footprint will be located
DWER	Department of Water and Environmental Regulation (WA)
Effect	Refer to Impact / effect
EIA	Environmental impact assessment
Environmental factors	The EPA uses environmental factors as an organising principle for EIA. Environmental factors provide a systematic approach to organising environmental information for the purpose of EIA and a structure for EIA documents. The EPA has 14 environmental factors, organised into five themes: Sea, Land, Water, Air and People. The proponent is expected to identify <i>relevant environmental factors</i>

Key terms	
	based on the environmental values likely to be impacted by the proposal. The proponent may also include information on <i>Other environmental factors</i> to demonstrate that a significant impact is not likely to occur. The EPA will then decide the <i>preliminary key environmental factors</i> if the proposal is to be assessed. The EPA sets out the <i>key environmental factors</i> in the EPA assessment report in accordance with s. 44 of the EP Act.
Environmental outcomes	Environmental outcomes, in the context of EIA, are the state of the environment at a particular point in time during implementation or after a proposal has been implemented. Environmental outcomes reflect specific and measurable environmental states. They are environment centric rather than impact centric and are a key EPA consideration to assess whether a proposal is likely to be consistent with an EPA factor objective. Environmental outcomes consider residual impacts, their effect on the environment as well as any offsets.
Environmental Review Document (ERD)	An ERD is prepared by the proponent to inform EPA decisions and assessment (if required under s. 40(2)(b)). An ERD should be provided with the referral and updated if further information is requested in a RFI or ESD.
Environmental Scoping Document (ESD)	An ESD is usually prepared by the EPA Services and approved by the EPA Chair and sets out the required work items to be addressed by a proponent in the ERD. The EPA Chair will decide whether an ESD is required when deciding the level of assessment after referral. Where the majority of the information has already been provided in the referral, and the remaining matters are not complex, an ESD is unlikely to be required. In these cases, any further information required will usually be set out in a RFI to the proponent under s. 40(2).
Environmental values	Section 3 of the EP Act defines an environmental value as a beneficial use or an ecosystem health condition.
EP Act	<i>Environmental Protection Act 1986</i>
EPA	Environmental Protection Authority
EPA Services	The EPA Services directorate within DWER provides support to the EPA and are the day-to-day contact for proponents and the public for the EIA process.
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
Holistic	Connections and interactions between impacts, and the effect of the proposal on the environment as a whole.
IBSA	Index of Biodiversity Surveys for Assessments. IBSA has been consolidated with IMSA under Index of Surveys for Assessment.
Impact / effect	The EP Act refers to both environmental effects and impacts of proposals. The term environmental impact refers to the physical change resulting from a proposal. The environmental effect refers to the consequence of that change for the environment.
IMSA	Index of Marine Surveys for Assessments. IMSA has been consolidated with IBSA under Index of Surveys for Assessment.
Indicative footprint	The indicative location of the proposal elements within a development envelope.

Key terms	
Integrated EIA guidance	Integrated EIA guidance addresses assessment considerations that are not limited to a specific factor or environmental value.
Level of assessment	When assessing a proposal, the EPA determines the additional information, scoping and public review requirements following referral. This level of assessment is published with the EPA's decision to assess (s. 39 of the EP Act). The typical levels of assessment are outlined in this document. However, the EPA has discretion in determining the form, content and procedure of any environmental review (s. 40(3) of the EP Act).
Matters of National Environmental Significance (MNES)	MNES are protected under the EPBC Act. Actions that will have, or are likely to have, a significant impact on a MNES must be referred to the Minister under the EPBC Act and may require assessment.
Minister	The Western Australian Minister for the Environment, or their delegate.
Ministerial Statement	The Minister's published decision under s. 45 of the EP Act that a proposal may be implemented and under what conditions. In making this decision, the Minister will consider the EPA assessment report and recommendations as well as any appeals and consultation with other DMAs.
Mitigation hierarchy	Strategies to, in order of preference; avoid, minimise, rehabilitate or offset the impacts of a proposal on the environment. The mitigation hierarchy for greenhouse gas emissions factor includes, in order of preference; avoid, reduce and offset. Further information on the mitigation hierarchy is included in the EPA Statement of environmental principles, factors, objectives and aims of EIA.
Offsets	Environmental offsets are actions that provide environmental benefits which counterbalance the significant residual environmental impacts or risks of a proposal. If offsets are proposed, they need to be assessed as part of the EIA and cannot be proposed to be developed after approval.
Outcome based conditions	Outcome-based conditions are the preferred condition type recommended by the EPA. Guidance regarding outcome-based conditions is provided in EPA Guidance .
Proponent	The person or entity responsible for a proposal as nominated under s. 38(H).
Proposal Content Document (PCD)	Proposal content document is the primary document that describes the scope, nature and extent of proposal being assessed under Part IV of the EP Act and amended before, during or after the EPA's or other decision-makers' assessment. The EPA has published Instructions for proponents on how to identify the content of a proposal.
Proposal footprint	The specific location of physical proposal elements that will usually be conditioned through a Ministerial Statement. If using a development envelope, a proponent may include an <i>indicative footprint</i> in their PCD showing the indicative location of the proposal elements within the development envelope.
Proposals	The EP Act (s. 3) defines a proposal as a project, plan, program, policy, operation, undertaking, development or change in land use (including an amendment to any of these). A planning scheme is not considered a proposal.
PURI	Proposal unlikely to be recommended for implementation.

Key terms	
Referral information	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. 38G(3)(c)).
Request for further information (RFI)	A request made by the EPA Chair or by EPA Services that identifies that further information is required or that the information provided is inadequate. The RFI may be: • a formal notice for additional information under s. 38F that is made during the referral stage (stage 1-2) • a formal correspondence during the assessment process (stages 3-4) • a formal notice under s. 40(2) made during assessment (stages 3-4) that incurs a cost recovery fee • a formal notice s. 45C(2) made during the assessment of a change to proposal or conditions under s. 45C that incurs a cost recovery fee. An informal clarification request is not considered an RFI. Informal clarifications may be requested where the information has been supplied but has some deficiencies (for example, ambiguous, incomplete, inaccurate or inconsistent) that require clarification. However, where an RFI is being issued, it will usually include the minor clarifications required.
Residual Impact	The predicted impact after mitigation actions have been applied. The residual impact may or may not be significant.
Significance	The term 'significance' is not defined in the Act. Significance for EIA means considering environmental values, impact extent, resilience of the environment, cumulative and holistic impacts and the level of confidence in the information. The matters that the EPA may have regard to in relation to considering significance are outlined in the EPA Statement of environmental principles, factors, objectives and aims of EIA.
Significant amendment	A significant amendment of an approved proposal is also a 'significant proposal'. A significant amendment means: • a proposal that is, or includes, an amendment to an approved proposal which is likely (if implemented) to have a significant effect on the environment; or • a proposed amendment to the implementation conditions of an approved proposal that is likely (if implemented) to have a significant detrimental effect on the environment in addition to, or different from, the existing implementation conditions.
Significant proposals	As defined in the EP Act. Any proposal that is likely, if implemented, to have a significant effect on the environment. The proponents of a significant proposal, or any other person, may refer the proposal to the EPA under s. 38 of the EP Act. A DMA must refer a significant proposal.
Social surroundings	The definition of environment in s. 3 of the EP Act includes social surroundings with the qualifier that these need to directly affect or be affected by physical or biological surroundings (s.3(2)). Further information regarding consideration of social surroundings in EIA is included in the Environmental Factor Guideline – Social Surroundings.
Statement of Expectation	A statement from the Minister to the EPA under s. 21B of the EP Act that specifies the Minister's objectives on matters relating to the EPA

Key terms	
	functions.
Strategic assessment	Assessment of a strategic proposal
Strategic proposal	As defined in the EP Act. A strategic proposal is a future proposal or combination of future proposals that could have a significant effect on the environment. A strategic proposal can only be referred by the proponent.

