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

## *Requirements under the Environmental Protection Act 1986*

### **Key changes from 2020 version (V3.0):**

- Incorporate procedures related to implementing EP Act amendments (including major amendments - new s. 38C and amended s. 43A and s. 45C).
- Incorporate amendments to facilitate implementation of cost recovery and a Bilateral Agreement.
- Support consistent and focused application of key principles throughout EIA process – consideration of significance; application of mitigation hierarchy; focus on environmental outcomes; key factor, holistic and cumulative assessment; transparency; and adaptive environmental management.
- Support focus on the mitigation hierarchy (and avoidance in particular) and environmental outcomes (instead of management plans), as key principles throughout EIA process, including for the design of proposals, the conduct of assessment, and for recommended conditions.
- Incorporates EPA's ability to take into account other statutory decision-making processes that can mitigate the potential impacts of proposals on the environment.
- Outline the EPA's expectations for the information proponents need to provide for EPA consideration in decision making.
- Clarify that information needs are dependent on the nature and risk of potentially significant impacts. Clarify that the EPA has power to seek more information if it needs it, and that information quality about Proposal elements and environmental impacts may affect expected timelines.
- Clarify requirements for consideration of alternatives and assessment of offsets.
- Clarify the nature of minor and preliminary works
- Include additional transparency measures, such as summary of reasons for decisions under s 43A and s 45C
- Includes definitions for EIA and significant amendments.

**Environmental Protection Authority**

April 2021

Version	Change	Date
1.0	(Initial version)	17 November 2016
1.1	Add text to Section 4.2.3.2 - legal obligations relating to EMPs	23 February 2017
1.2	Add text to Sections 3.1.2.2 and 4.2.5 - offsets for revised proposals Add text to Section 3.1.3 - accepting response to submissions	1 May 2017
1.3	Amend Section 5.4 -Changing implementation conditions (s.46) by including reference to Proponent Instructions Amend Section 5.5 -Other procedures related to implementation conditions (s46A, s46B and s46C) by providing guidance when s46A, s46B and s46C are used Add text Section 5.4 – 6 weeks from receipt of adequate information	17 October 2017
2.0	Amendments throughout document to update departmental name, position titles and address details Add text to Sections 1.2.3 and 3.1.2.2 – IBSA requirements Add text to Section 2.3.1 – consideration of significance Amend Sections 2.3.1.2 and 5.3.1 – clarifying considerations for public review Add text to Section 3.1 – delegation to Chairman for form, content, procedures and timing Amend Section 3.1.1.3 – public review of ESDs	30 April 2018
3.0	Additions of text to Sections 1.2.3 and 3.1.2.2 to reflect the addition of the Index of Marine Surveys for Assessment (IMSA) process Amendments to Sections 1.2.3 and 3.1.2.2 to reflect the new process of submitting IBSA data packages to the IBSA Submissions Portal. Amendments throughout the document to reflect the Department of Mines, Industry Regulation and Safety's (DMIRS) <i>Statutory Guideline for Mine Closure Plans and Mine Closure Plan Guidance - how to prepare in accordance with the Statutory Guidelines</i> , which has replaced the joint DMP/EPA 2015 Guidelines for Preparing Mine Closure Plans. Additions of text to Sections 3.1.1.1 and 3.1.2.2 to reflect the requirement that for proposals in the Pilbara IBRA Region, the EPA may require preparation of an Impact Reconciliation Procedure.	30 March 2020
4.0	Amendments throughout document to reflect 2020 <i>Environmental Protection Act 1986</i> amendments	DD MMM 2021

As Environmental Protection Authority (EPA) documents are updated from time to time, users should consult the EPA website ([www.epa.wa.gov.au](http://www.epa.wa.gov.au)) to ensure they have the most recent version.

Environmental Protection Authority 2021, *Environmental Impact Assessment (Part IV Divisions 1 and 2) Procedures Manual*, EPA, Western Australia.

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## Instructions, forms and templates

Further detail on how to fill out forms and how to prepare documents as part of the EIA process is provided in the following documents. Direct links to these documents are provided below. (These will be provided with the final version post consult)

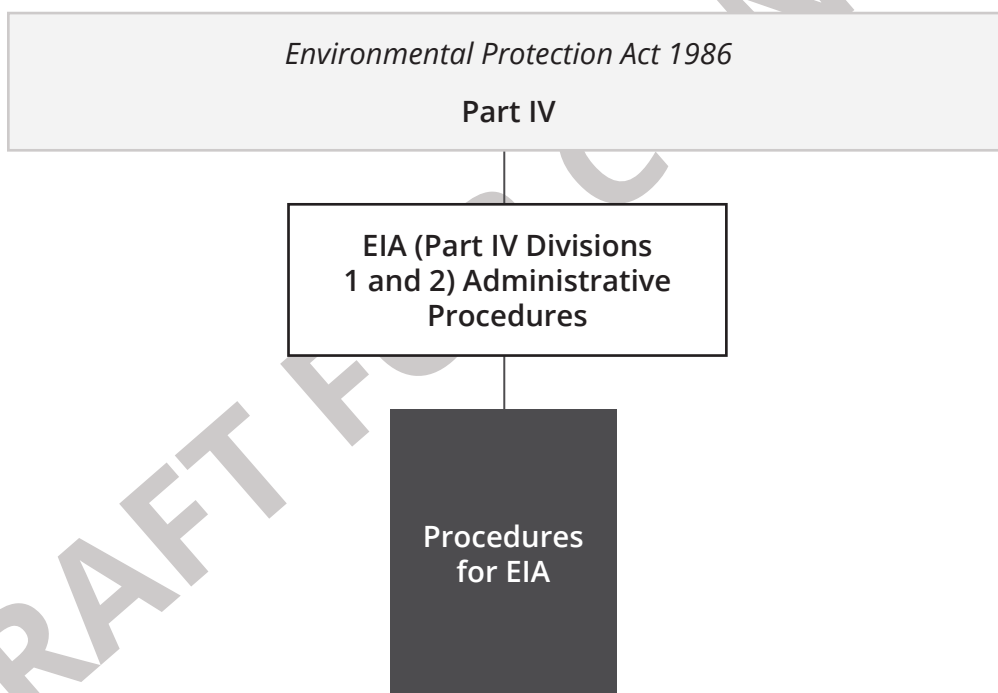
- Instructions: Referral of a proposal under s. 38
- Form: Referral of a proposal under s. 38  
Instructions and Template: Amending a referred proposal under s38C
- Instructions and Form: Change nominated proponent under s. 38I
- Instructions and Template: Proponent-prepared Environmental Scoping Document
- Instructions and Template: How to prepare an Environmental Review Document
- Instructions: Environmental outcomes and outcomes-based conditions
- Instructions and Template: How to prepare Part IV Environmental Management Plans
- Instructions and Form: Advertising requirements and release of a document for public review
- Checklist: Request for EPA consent to undertake minor or preliminary work under s. 41A
- Instructions: Amend proposal during assessment under s. 43A
- Instructions and Checklist: Request to amend proposal and/or implementation conditions under s. 45C
- Instructions: Amend implementation conditions after inquiry under s. 46
- Instructions, Template and Form: Preparing data packages for the Index of Biodiversity Surveys for Assessments (IBSA)
- Instructions and Form: Preparing data packages for the Index of Marine Surveys for Assessments (IMSA)
- WA Offsets Template

## Purpose and scope

The *Environmental Impact Assessment (Part IV Divisions 1 and 2) Procedures Manual* (**Procedures Manual**) forms part of the hierarchy of statutory and non-statutory documents dealing with environmental impact assessment (EIA) procedures under Part IV of the *Environmental Protection Act 1986* (EP Act) (Figure 1).

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

This Procedures Manual provides guidance in relation to the exercise of functions under Part IV of the *Environmental Protection Act 1986* (EP Act) by the Environmental Protection Authority (EPA) and by members of the EPA or officers of the Department of Water and Environmental Regulation (DWER) who may exercise functions delegated by the EPA or the Minister for the Environment.



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

The **Procedures Manual** is a non-statutory document that provides further detail, where required, on the procedures set out in the Environmental Impact Assessment (Part IV Divisions 1 and 2) Administrative Procedures 2021 (Administrative Procedures). **The Procedures Manual** is designed to be read with the Administrative Procedures. The Procedures Manual does not form part of the Administrative Procedures.

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

- Stage 1** Referral of a proposal to the EPA (s. 38 to s. 38D)
- Stage 2** EPA to decide whether or not 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** Decision on proposal and implementation of proposals (s. 45 to s. 48).



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

The procedures for **Stage 1 – Referral of a proposal** are summarised in the process diagram below (Figure 2). The procedures for amending a referred proposal are summarised in subprocess diagram Figure 3 in Section 1.5.

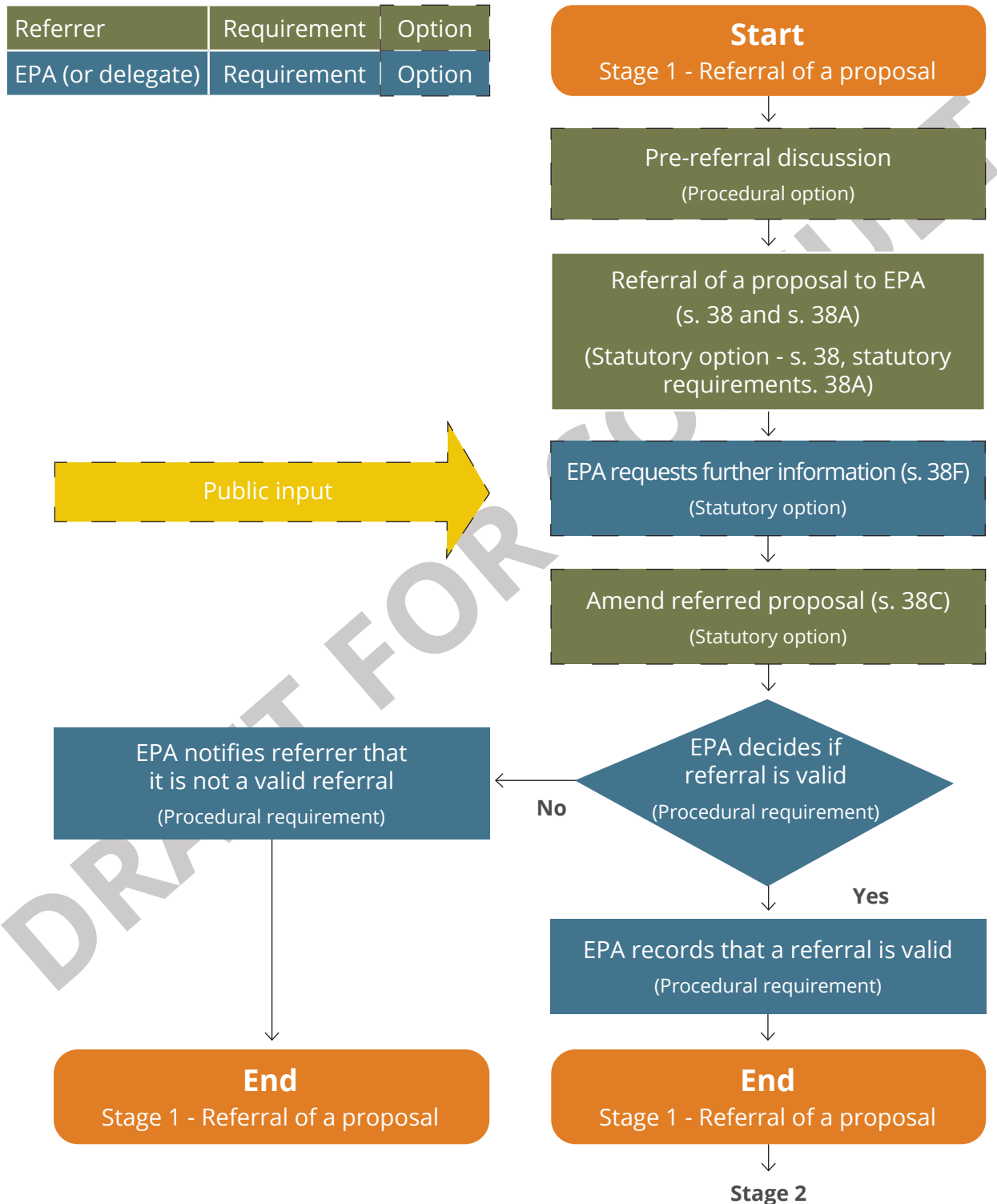


Figure 2: Stage 1 – Referral of a proposal

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

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

## 1.1 Pre-referral process

### 1.1.1 Proponent referrals

Where a proponent is intending to refer a proposal, or a proposal is of a prescribed class, the EPA encourages proponents to request a pre-referral meeting with the DWER to discuss the proposal, including:

- possible preliminary key environmental factors
- stakeholder consultation
- proposal alternatives
- potential environmental impacts, including cumulative and holistic impacts and impacts on Matters of National Environmental Significance
- application of the mitigation hierarchy
- preliminary consideration of significance of environmental effects
- consideration of environmental outcomes and the EPA's objectives for environmental factors
- potential assessment pathways for the proposal, including possible **level of assessment** requirements (see Section 2.3.1) if the EPA is likely to assess the proposal
- the aims of EIA

See the EPA's *Statement of Environmental Principles, Factors and Objectives, and Aims of EIA* for the EPA's objectives for environmental factors, and for guidance on cumulative and holistic environmental impacts, mitigation hierarchy and the aims of EIA.

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

- prepare a supplementary report/s as supporting documentation for the referral (see Section 1.4 for referral requirements) consistent with the requirements of an Environmental Review Document (see Section 3.1.2)
- request that the EPA review the draft supplementary report prior to referral.

## 1.2 Referral of proposal (s. 38)

### 1.2.1 Types of proposals

#### **Significant proposals**

Most referrals that the EPA receives under s. 38 of the EP Act are **significant proposals**. For guidance on "significance", see the EPA's *Statement of Environmental Principles, Factors and Objectives, and Aims of EIA* <insert hyperlink>.

#### **Significant amendments**

A significant proposal includes a significant amendment of an approved proposal (see Section 3.2).

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 if implementation of the proposal under the amendment is likely to have a significant detrimental effect on the environment in addition to, or different from, the effect the proposal has in its implementation under the existing implementation conditions.

#### **Strategic proposals**

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

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

## 1.3 Calling in a proposal (s. 38A)

The Chair (or the Deputy Chair if the Chair is absent) has a delegation from the EPA to exercise the powers and duties in s. 38A.

The EPA has the power to 'call in' a proposal under s. 38A. If the EPA uses this power, a proponent or decision-making authority is required to refer a proposal to the EPA.

If the EPA calls in a proposal, in addition to the Administrative Procedures, the procedures set out in this Stage 1 relating to referral of proposals for proponents or decision-making authorities apply.

## 1.4 Referral requirements (s. 38B)

A referral must be in writing. The EPA has developed a s38 Referral Form (see Instructions: Referral of a proposal under s. 38 and Form: Referral of a proposal under s. 38) for the provision of referral content.

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

The Act sets out who may or must refer (see also Section 1.2 and 1.3 of the Administrative Procedures).

Where a proponent refers a proposal, the EPA *requires* the referral to include the content of Section 1.4.1, below, so the EPA can decide whether to assess the proposal.

Where a proposal is referred by someone who is not the proponent, the EPA *requires* the referral to include the content in Section 1.4.1, below, as far as possible, and in any event requires sufficient information so the EPA can decide whether to assess the proposal.

### 1.4.1 Content of the referral

The form includes instructions for completing the referral form. Referrers are required to complete the following information (see Instructions and Form: Referral of a proposal under s. 38):

- Part A: Proposal information, including:
  - proposal type
  - Proposal content: including Proposal content document consistent with the Instructions and Template: How to identify the content of a proposal)
  - to the extent reasonably practicable, a description of any feasible alternatives to the proposal, including a comparative description of the environmental impacts of each alternative, and sufficient detail to make it clear why any alternative is preferred to another.
- Part B: Environmental impacts, including:
  - environmental factors
  - likely environmental impacts on environmental factors, including cumulative impacts
  - application of the mitigation hierarchy
  - assessment of residual environmental impacts, including whether there are significant residual impacts
  - likely environmental outcomes and the consistency of these with EP Act principles and the EPA's objectives for environmental factors
  - holistic impacts.
- Part C: Other approvals and regulation, including:
  - other statutory decision-making processes, including those which can mitigate the potential impacts of the proposal on the environment
  - a request that the proposal be dealt with as a bilateral matter for the purposes of a **Bilateral Agreement**, or that the assessment be undertaken as an **accredited assessment**.  
[HOLD: Subject to confirmation: Text relating to Bilateral Agreement]

The information provided on the referral form (with any supporting documents) should be appropriate for the elements of a proposal that have the potential to have a significant effect on the environment (Proposal elements). It should be appropriate for the environmental factors likely to be impacted, and for the stage of development of the proposal.

The quality of information provided to the EPA during the Referral stage about the nature of Proposal elements and likely environmental effects, may affect expected timeframes, and may also affect the EPA's decision on whether to assess a proposal. The EPA *may* also request further information (requisition) (see Section 2.1) if it does not have adequate information about the proposal to decide whether to assess the proposal.

The EPA *requires* that referrers identify the proposal according to the Instructions and Template: How to identify the content of a proposal. Where a supplementary report/s is submitted with the referral form, the EPA encourages proponents to follow the relevant guidance (Section 3.1.2), including:

- Instructions and Template: How to prepare an Environmental Review Document.
- Instructions and Template: How to prepare Part IV Environmental Management Plans.
- Instructions: Environmental outcomes and outcomes-based conditions
- Department of Mines, Industry Regulation and Safety's Statutory Guideline for Mine Closure Plans and Mine Closure Plan Guidance – how to prepare in accordance with the Statutory Guidelines (for mining proposals).

For each terrestrial biodiversity survey report, an Index of Biodiversity Surveys for Assessment (IBSA) data package should be submitted via the online Submissions portal in accordance with the Instructions and Form for IBSA data packages. Similarly, when a marine survey report is submitted, it must be accompanied by an Index of Marine Surveys for Assessment (IMSA) data package as part of the supporting documentation with the referral in accordance with the Instructions and Form: IMSA data packages.

#### 1.4.2 Supporting information for a significant amendment

In addition to the information required in section 1.4.1, referrals of significant amendments are also required to contain information about:

- the approved proposal, so that consideration can be given to the environmental effects of the significant amendment in the context of the approved proposal.
- the combined effects which the implementation of the approved proposal and the significant amendment might have on the environment.
- whether the significant amendment relates to an amendment to the approved proposal, an amendment to implementation conditions of an approved proposal, or both.

#### 1.4.3 Supporting information for request for derived proposal

Applications for requests for derived proposals *must* contain sufficient information to enable the EPA to decide whether to make that declaration (see Administrative Procedures relating to s. 38E of the EP Act and Section 2.5 below).

Information submitted with a request that the EPA declare a derived proposal needs to demonstrate how the proposal will meet the environmental outcomes defined through the assessment of the strategic proposal (see Section 3.4), including any conditions in the Ministerial Statement.

The EPA requires proponents of requests for derived proposals to consult with relevant stakeholders and provide evidence of this in the documentation accompanying their request.

### 1.5 Amending a referred proposal (s. 38C)

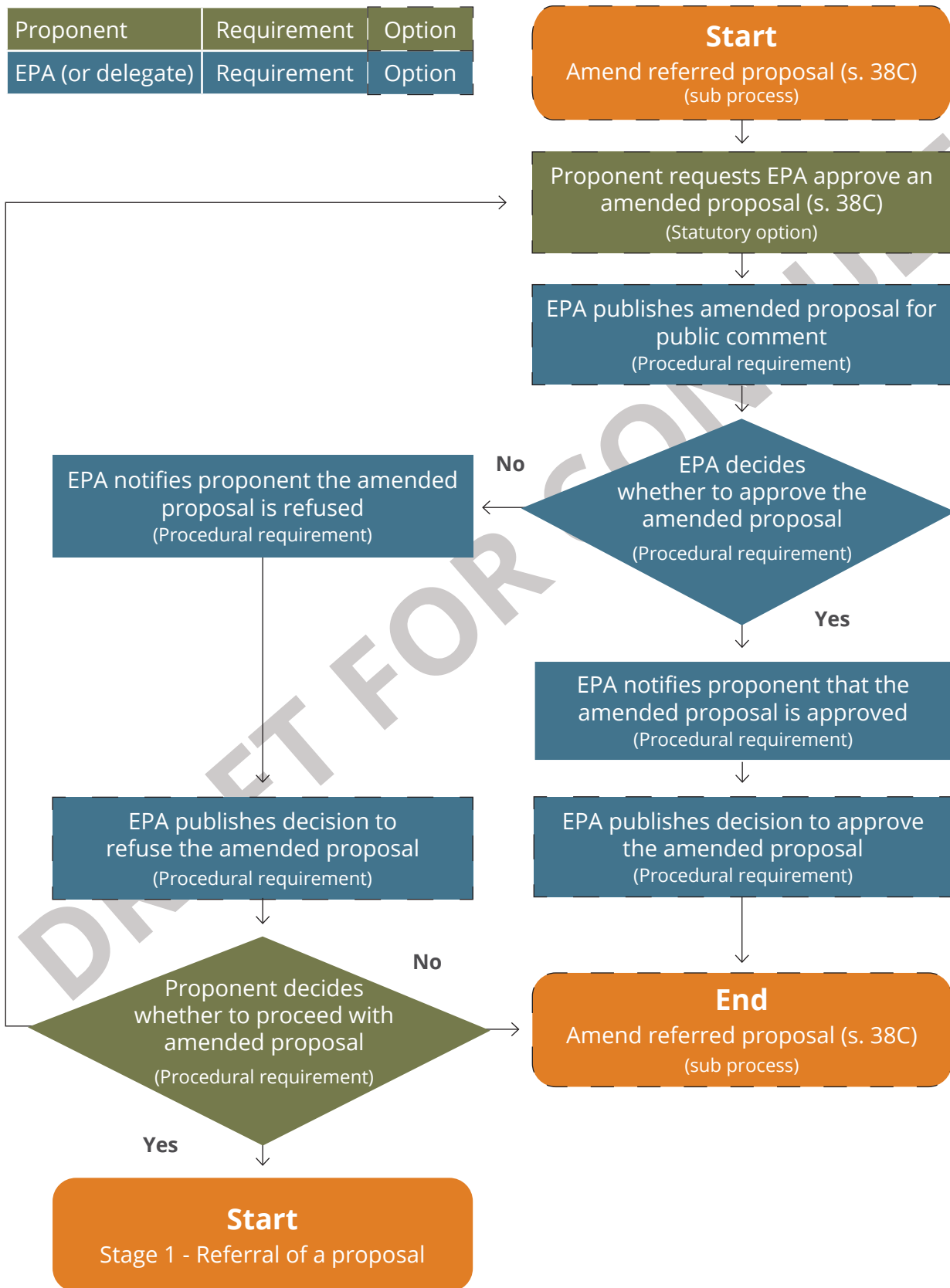


Figure 3: Stage 1 – Referral of a proposal: Amend referred proposal

Under s. 38C, the EPA may at its discretion give or refuse approval for a proposal to be amended before it decides whether or not to assess the referred proposal.

The Chair (or the Deputy Chair if the Chair is absent) has a delegation from the EPA to exercise the powers and duties in s. 38C.

Section 1.5.1 sets out the information that the EPA requires in order to make a decision about whether to approve the proposed amendment. The level of detail required depends on the nature of the amendment and its potential impacts on the environment.

The quality of information provided in the request about the nature of Proposal elements and likely environmental effects associated with the proposed amendment, may affect expected timeframes. It may also affect the EPA's decision whether to approve the proposed amendment. There may be also be delays to expected timeframes if adequate information is not provided and the EPA requires further information under s. 38F.

### 1.5.1 Content of the request for EPA approval for an amendment to a proposal

The EPA requires that the proponent provide information in accordance with the Instructions and Template: Amending a referred proposal under s38C, including the following:

#### 1. **Reason for and content of proposed amendment**

- The reasons for the proposed amendment.
- The content of the proposed amendment (including consolidated updated Proposal content document).
- Proposal alternatives.

#### 2. **Regulatory information**

- Referral details.
- Any changes to decision-making authorities or statutory processes and whether they can mitigate the potential impact of the proposal on the environment.

#### 3. **Identification of environmental factors and environmental effects**

- Identify which environmental factor/s are affected, and identify environmental effects
- Whether any additional information is needed to enable the EPA to continue processing the referral (see 5. And 6.).

#### 4. **Consultation**

Whether any consultation has been carried out on the proposed amendment and the outcomes of that consultation.

#### 5. **Additional surveys, investigations, and other information (if needed)**

- Discuss and provide additional information that has been obtained since the referral, such as surveys, investigations, and other information relating to the proposed amendment.

#### 6. **Discussion of significance of residual impacts (if needed)**

- Discuss the likely environmental impacts:
  - from the proposed amendment on its own
  - from the whole proposal if the amendment were approved.
- Discuss the significance of likely environmental impacts.
- Discuss likely environmental outcomes, and the consistency of these outcomes with the EP Act principles and the EPA's objectives for environmental factors.

## 1.5.2 Process for the request for EPA approval for an amendment to a proposal

The process for the request for EPA approval for an amendment to a proposal is:

- proponents *should* identify the need to amend a referred proposal as early as possible in the referral process
- proponents *must* request an amendment of a referred proposal in writing, according to the Instructions and Form: Amending a referred proposal under s. 38C
- The EPA may release the proposal as requested to be amended, and associated information for public comment before making its decision to assess the proposal
- the EPA *will* decide whether to approve the request, considering in particular:
  - whether the amended proposal will still be substantially the same character as the original proposal
  - the significance of the proposed amendment. For guidance on significance, refer to the EPA's *Statement of Environmental Principles, Factors and Objectives, and Aims of EIA* <insert hyperlink>..

If the EPA's view is that, if the proposal was already approved, the amendment would be a significant amendment, the EPA will usually refuse the amendment.

- the EPA *will* notify the proponent in writing of its decision to approve or refuse the request for an amendment of a referred proposal
- the EPA *may* publish its decision on the EPA's website.

If the EPA approves the amendment, the amended proposal will be considered to be the referred proposal. The EPA is then required to decide whether or not to assess.

If the EPA refuses the proposed amendment, the proponent may:

- decide not to proceed with the amendment, OR
- revise the amendment to reduce the environmental effect of the proposed amendment and resubmit the request, OR
- withdraw the referred proposal (see Section 1.6) and refer a new one.

## 1.6 Not proceeding with a referred proposal (s. 38D)

Where the EPA receives written notice that a proponent does not wish to proceed with the referred proposal:

- the EPA *will* acknowledge in writing to the proponent that the referred proposal is taken to have been withdrawn under s. 38D (1)
- the EPA *may* publish the proponent's notice on the EPA's website and will record on the EPA's website that the referred proposal is withdrawn.

## 1.7 EPA decides if referral is valid

Refer to the Administrative Procedures.

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

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



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

The procedures for **Stage 2 – EPA to decide whether to assess a referred proposal** relating to sections 38E to 39 of the EP Act are summarised in the following process diagrams: Figure 4 for significant and strategic proposals and Figure 5 for derived proposals

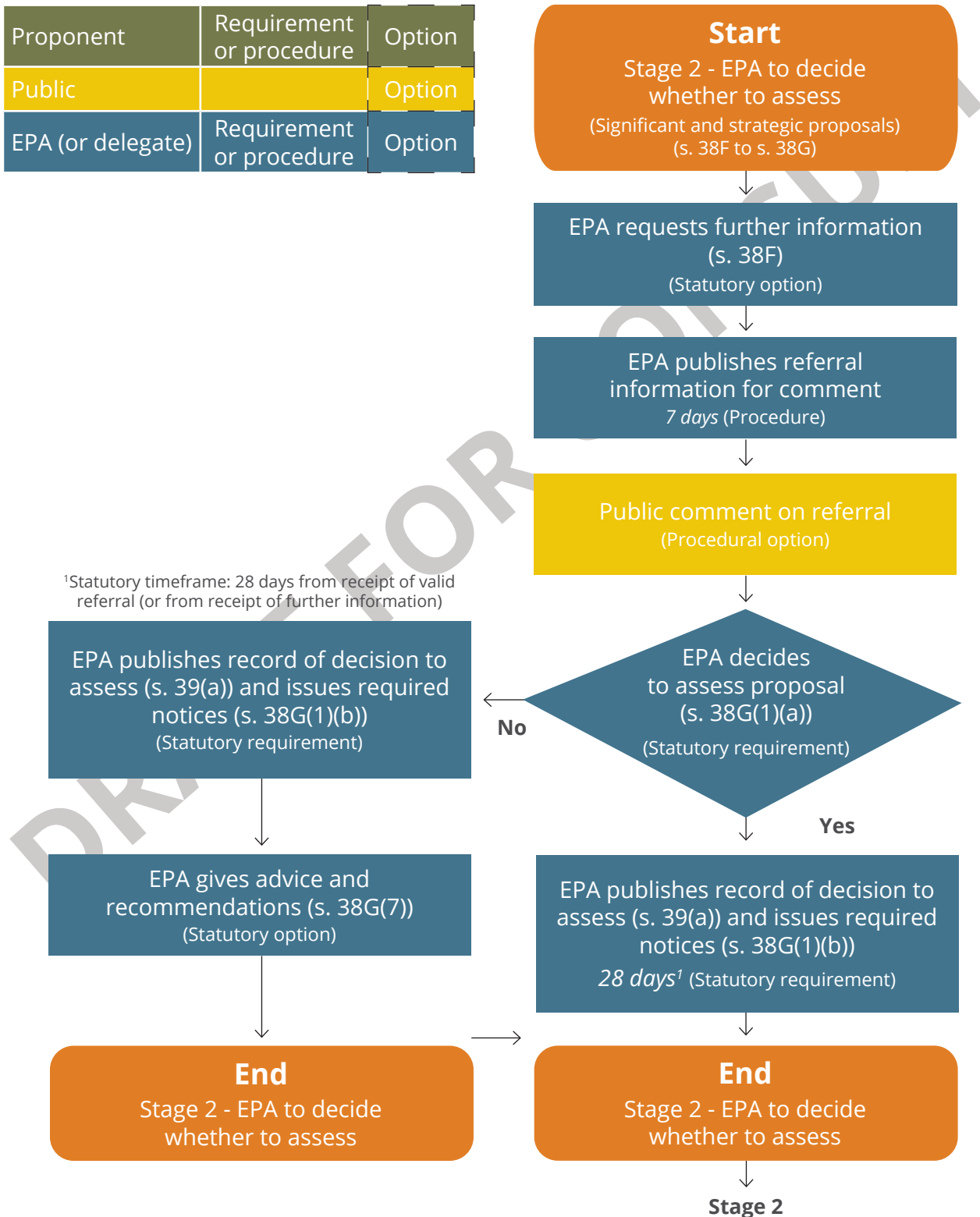


Figure 4: Stage 2 – EPA to decide whether to assess a proposal (significant and strategic proposals)

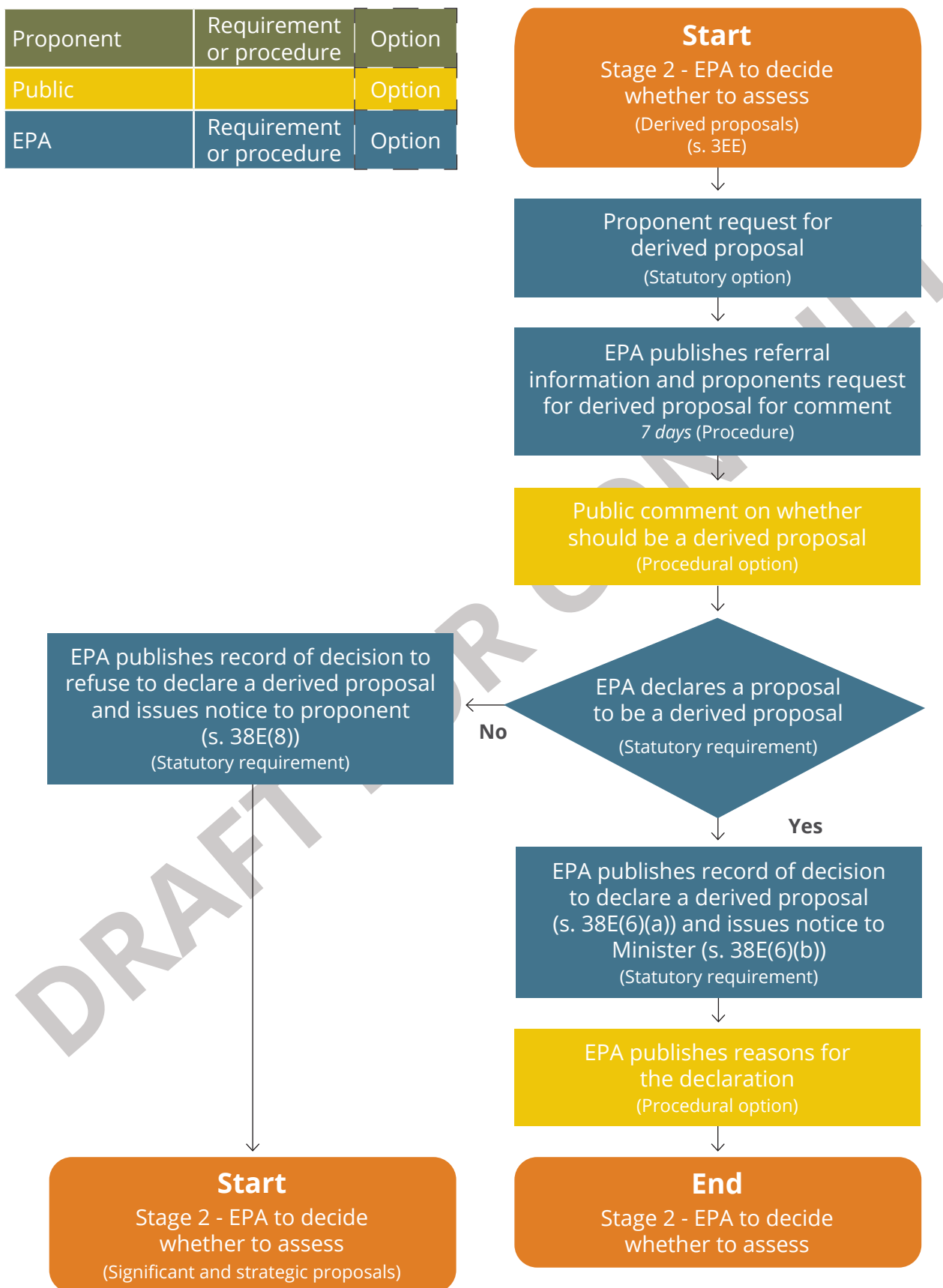


Figure 5: Stage 2 – EPA to decide whether to assess a proposal (derived proposals)

**Stage 2 – EPA to decide whether to assess a referred proposal starts**

when the EPA records that a referral is valid.

**2.1 Request for further information – Requisition (s. 38F)**

The Executive Director, EPA Services Directorate of the DWER has a delegation from the EPA to exercise the powers and duties in s. 38F.

Before making a decision on whether to assess a proposal, the EPA *will* consider whether it requires further information from the proponent and if so, will issue a requisition specifying a compliance period within which the information must be provided under section 38F.

Before making a decision on whether to assess a proposal, the EPA *will* consider whether any information upon which the EPA is going to base its decision is adverse to the proponent. If any information which the EPA may rely on may be adverse to the proponent and the proponent has not had an opportunity to comment, the EPA will give the proponent an opportunity to comment on the substance of this information.

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

The Chair (or the Deputy Chair if the Chair is absent) has a delegation from the EPA to exercise the powers and duties in s. 38G(1)(a) to decide whether to assess a proposal.

The Executive Director of the EPA Services Directorate of the DWER has a delegation from the EPA to exercise the powers and duties in s. 38G(1)(b) and s. 38G(5) to issue the required notices relating to the EPA's decision.

Refer to the Administrative Procedures for the procedures which apply to the EPA's decision whether to assess a proposal.

When deciding whether to assess a proposal, the EPA will usually consider significance. For guidance on what the EPA may have regard to in its consideration of significance see the EPA's *Statement of environmental principles, factors and objectives, and aims of EIA* <insert hyperlink>.

In addition to considering information submitted with the referral, the EPA *may* carry out its own investigations and inquiries before deciding whether to assess a proposal. The extent of the investigations and inquiries depends on the quality of information provided with the referral and the nature of Proposal elements and environmental effects. The EPA *may* also request further information under s. 38F, *usually* from the proponent and/or relevant decision-making authorities and other government agencies.

The EPA may also consider whether there are other statutory decision-making processes that can mitigate the potential impacts of the proposal on the environment (s. 38G(4)). If the EPA does so, the EPA *will* consider the capacity of the decision-making process to achieve the object and principles of the EP Act, and may consider whether the EPA's objectives for environmental factors are likely to be met through other decision-making processes.

## 2.2.1 Public comment on referred proposals

While it is not a statutory requirement, members of the public are invited to comment on whether or not the EPA should assess a proposal, and if so, the level of assessment (see Section 2.3.1) that should apply. The EPA may also invite public comment on amendments to referred proposals which the proponent requests before the EPA makes its decision whether to assess.

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

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

### 2.2.1.1 Making a submission to the EPA

The EPA prefers that submissions throughout the EIA process are made electronically via the EPA's Consultation Hub at [consultation.epa.wa.gov.au](http://consultation.epa.wa.gov.au). The Consultation Hub enables the EPA to track and acknowledge submissions.

Alternatively, submissions can be:

- posted to: Environmental Protection Authority  
Locked Bag 10  
Joondalup DC WA 6919
- delivered to: Environmental Protection Authority  
Prime House, 8 Davidson Terrace  
Joondalup WA 6027

The EPA cannot guarantee receipt of submissions delivered by other methods.

Submitters may request that their personal contact details are treated as confidential. A request for confidentiality does not make a submission automatically exempt from disclosure.

A submission (or part thereof) may still be disclosed if required under the *Freedom of Information Act 1992*, under court order, for procedural fairness purposes or under any other applicable law.

The EPA *will* not accept submissions received after the closing date unless there are exceptional circumstances.

## 2.3 Decision to assess

Refer to the Administrative Procedures for procedures that apply when the EPA decides to assess a proposal.

### 2.3.1 Level of assessment

Refer to Administrative Procedures <insert hyperlink> for the procedures which apply to the EPA's decision about the level of assessment.

When deciding the level of assessment requirements, the EPA *may* have regard to matters relevant to its decision whether to assess (see Section 2.2), and matters such as:

- the nature of the proposal and number and complexity of preliminary key environmental factors relevant to the proposal.
- whether any environmental impacts likely to arise from the proposal are well understood and there is an established condition-setting framework available to mitigate those impacts.
- the level of public interest in the likely effect of the proposal, if implemented, on the environment.

The EPA records the level of assessment (in the record required by s. 39(b)) by referring to the type of information required for its assessment, whether any of the additional assessment information is required to be made available for public review, and the section/s of the EP Act that any requirements relates to. The EPA will usually set one of the levels of assessment below:

**Referral Information (s. 38, and where applicable s. 38C, s. 38F and/or s. 39G(3)(c))** – where the EPA determines that it has enough information to assess the proposal from the referral information obtained under s. 38 (and where applicable, information provided as part of an amended proposal under s. 38C, information provided from a request/s for further information under s. 38F and/or information derived from the EPA's investigations and inquiries under s. 39G(3)(c)).

**Referral Information (with additional information) (s.40(2)(a)):** where the EPA determines that it needs information in addition to the information it has from the referral information. Any additional information will be required by a separate notice under s. 40 (2) (a) and can include information about the results of additional targeted consultation.

**Referral Information (with or without additional information) with public review (s.40(2)(a) and s.40 (5)):** where the EPA determines that the information it has from the referral information (and additional information where relevant) should be made available for public review. Any additional information will be required by a separate notice under s. 40 (2) (a).

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

**Public Environmental Review (s. 40(2)(b) and s. 40(5))** – where the EPA determines that an environmental review is required under s. 40(2)(b) and the Environmental Review Document is to be made available for public review under s. 40(5).

The EPA *may* also include other information with the level of assessment (in the record required by s. 39(b)), as the EPA has a discretion under s. 40 of the EP Act to determine the information which it requires for its assessment.

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

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

**Technical report and peer review of technical report – public review required  
(s. 40(2)(a) and s. 40(5))**

### 2.3.1.1 Type of information required for the EPA's assessment

The type of information the EPA requires for its assessment is initially set out in the level of assessment decision.

The EPA *may* also decide it requires other information for the purposes of assessing the proposal after its level of assessment decision. The EPA may make this decision at any time before the EPA Assessment report is published under s. 44 of the EP Act. And it may use its powers under s. 40 to obtain this information.

#### Environmental review document

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

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

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

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

#### Other information or reports

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

The EPA has wide discretion under s. 40 of the EP Act to determine other information required for its assessment.

### 2.3.1.2 Whether any information is made available for public review

Under s. 40, the EPA *may* make information or reports provided to it for the assessment available for public review. This usually takes the form of the Environmental Review Document but can also include additional information described in the level of assessment decision. The EPA *may* also specify public review of other information or reports described by s. 40 at any time before publishing its Assessment report under section 44 of the Act. The EPA *may* also make any referral information (provided under s. 38, s. 38C and s. 38F) available for public review.

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

The key considerations for the EPA in deciding whether to make information available for public review and the length of the public review period include, but are not limited to:

- the level of public interest in the likely effect of the proposal, if implemented, on the environment
- whether the public interest is at a local, regional or broader scale
- the significance of the potential impacts and risks on the environment
- the nature of the proposal, and its potential risks and impacts on the environment
- likely environmental outcomes and the consistency of these with the EP Act principles and the EPA's objectives for environmental factors,

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

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

## 2.4 Decision not to assess (s. 38G(7))

Refer to the Administrative Procedures for the procedures that apply when the EPA decides not to assess a proposal. In deciding not to formally assess a proposal, the EPA determines that no further assessment by the EPA is required. In deciding not to assess a proposal, the EPA *may* carry out its own investigations and inquiries, in addition to considering information submitted with the referral. The extent of the investigations and inquiries depends on the quality of information provided with the referral, and the nature of the proposal and its likely environmental effects. The EPA *may* also request further information under s. 38F, *usually* from the proponent and/or relevant decision-making authorities and other government agencies.

The EPA may also consider whether there are other statutory decision-making processes that can mitigate the potential impacts of the proposal on the environment (s. 38G(4), such as Part V Division 2 of the EP Act dealing with clearing of native vegetation. Where the EPA considers that the proposal can be dealt with under another statutory decision-making process, it *may* liaise with relevant decision-making authorities before making the decision.

The EPA will also decide whether to give advice and make recommendations on the environmental aspects of on the proposal. If the EPA gives advice and/or recommendations under s. 38G(7), it may provide advice at the time of its decision, including, but not limited to the following formats:

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

If the EPA decides not to assess a proposal, the Executive Director, EPA Services Directorate of the DWER has a delegation from the EPA to exercise the powers and duties in s. 38G(7) to give advice and make recommendations on the environmental aspects of the proposal.

### 2.4.1 Appeals on EPA decision not to assess

The Chair (or the Deputy Chair if the Chair is absent) has a delegation from the EPA to report to the Minister on an appeal, as requested by the Appeals Convenor under s. 106(1)(a).

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

If the EPA receives a remittal from the Minister, it will apply the procedures of the stage relevant to the remittal, subject to any direction of the Minister included in the remittal.



## 2.5 Derived proposals (s. 38E)

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

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

Examples of potential derived proposals include:

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

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

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

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

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

To decide whether to declare a derived proposal, consistent with the requirements of s. 38E(4) and s. 38E(5) (see Administrative Procedures) the EPA *may* require proponents to submit some or all of the plans that might be required through the conditions specified in the strategic proposal Ministerial Statement, that are relevant to the proposed derived proposal (see Section 4.2.6).

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

### 2.6.1 Record of decision to assess

If the EPA decides to assess a proposal, the EPA *will* include the following in the record (usually published as the Chair's Determination on the EPA's website):

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

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

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



## 2.6.2 Record of decision not to assess

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

- proposal and referral details
- decision not to assess and one of the following descriptors:
  - Referral Examined, preliminary investigations and inquiries conducted. Proposal not to be assessed under Part IV of the EP Act – No advice given.
  - Referral Examined, preliminary investigations and inquiries conducted. Proposal not to be assessed under Part IV of the EP Act – Advice given.
  - Referral Examined, preliminary investigations and inquiries conducted. Proposal not to be assessed under Part IV of the EP Act – Dealt with Under Part V Division 2 of the EP Act (Clearing).
  - Referral Examined, preliminary investigations and inquiries conducted. Proposal not to be assessed under Part IV of the EP Act – Dealt with under other statutory decision-making process.

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

- referrer details
- the potential effects of the proposal
- explanation of the EPA's decision.

## 2.6.3 Confidential information

[Subject to confirmation: Text relating to confidentiality]

Regulation X of the *Environmental Protection Regulations 2021* makes provision for maintaining confidentiality in respect of documentation.

A proponent may at the time of that referral or at any subsequent time request that the EPA keep any part or the whole proposal confidential in the public record of referred proposals.

If a request is made, the EPA will not release the information until it has dealt with the request. Once the EPA has dealt with the request it either:

- agrees that the information is of a confidential nature and does not include it in the public record (i.e does not publish the information on the EPA website), or
- disagrees that the information is of a confidential nature and includes it in the public record (i.e. may publish the information on the EPA website).

## 2.7 Nomination of proponent (s.38(H))

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

The Chair (or the Deputy Chair if the Chair is absent) has a delegation from the EPA for all of the powers and duties conferred or imposed under s. 38H.

The EPA *will* nominate the proponent:

- *usually* when the EPA decides whether to assess a proposal, in the notice under s. 38G(1)(b), or
- at any time, by notice under s. 38H(4).

## 2.8 Change of proponent (s. 38I)

The Chair (or the Deputy Chair if the Chair is absent) has a delegation from the EPA for all of the powers and duties conferred or imposed under s. 38I.

A change of proponent can be made at any stage of assessment, even if a report on the proposal has been published under section 44(3) or a statement has been published under section 45(8)(b).

In addition to the procedures set out in the *Administrative Procedures*, the current proponent is to give written notice (by using the Change of proponent form) advising the name of the person to whom the proponent proposes to transfer responsibility of the proposal to, and providing other information relevant to a decision as to whether the change of proponent is to be approved (s. 38I(1)).

The notification must be given before the transfer of responsibility can take place. The Change of proponent form should be submitted at least 30 days before proposing to cease to have responsibility for the proposal.

In making a decision to nominate a new proponent, the EPA will usually consider who will have the operational control required to implement the proposal and comply with implementation conditions.

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

1. publishes the record of its decision whether or not to assess a proposal (s. 39(a)) and issues the required notices under s. 38G(1)(b), or
2. publishes its decision whether to declare a proposal to be a derived proposal (s. 38E(6)) and issues the required notices under s. 38E.

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

The key assessment steps for **Stage 3 – Assessment of proposals** for s. 40 of the EP Act are summarised in the process diagram below (Figure 6). The procedures for the key steps within s. 40 are summarised in subprocess diagrams (Figures 7 to 11) in Sections 3.1.1 to 3.1.5. The procedures for amending a proposal during assessment are summarised in subprocess diagram Figure 12 in Section 3.9.

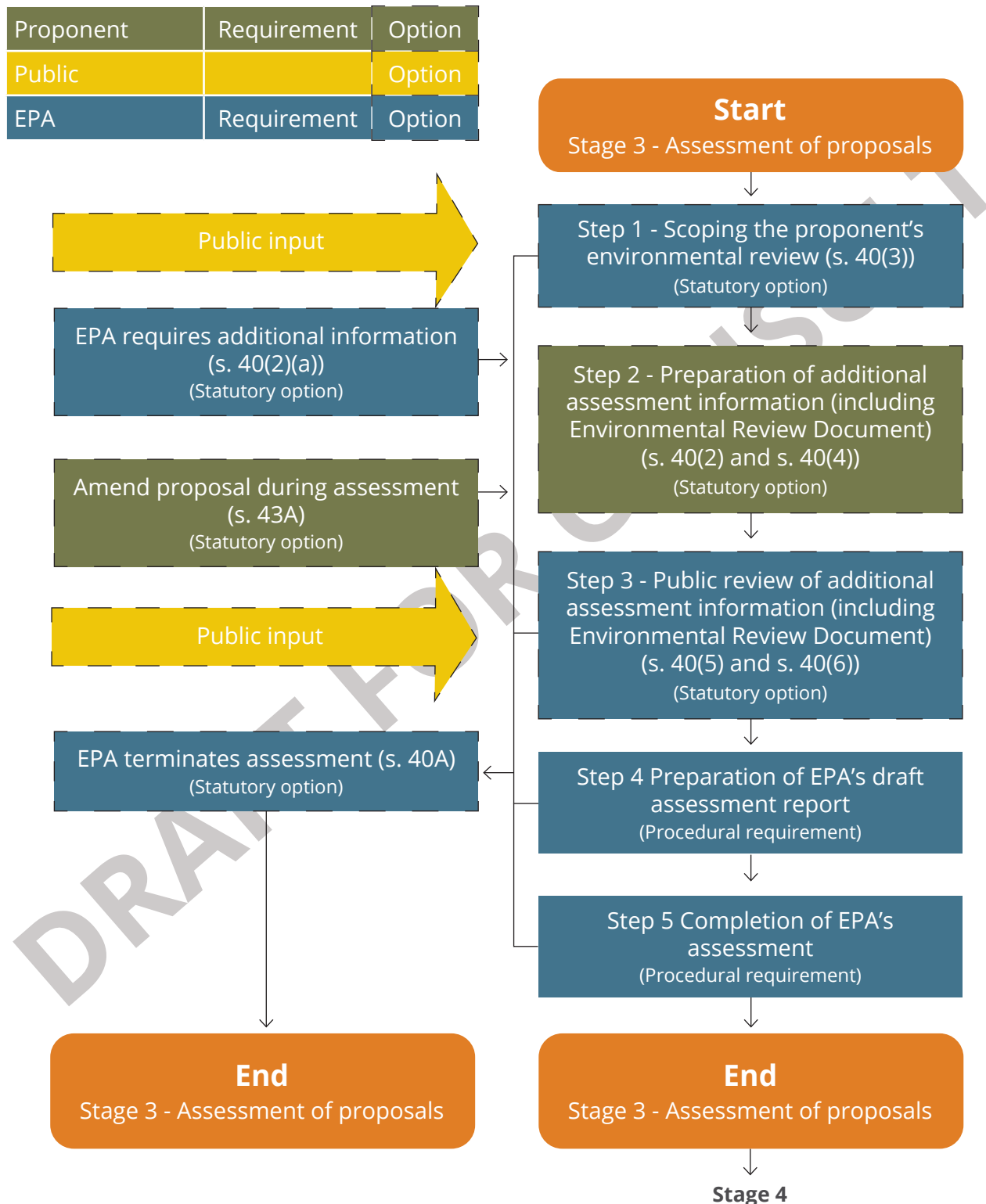


Figure 6: Stage 3 – Assessment of proposals

**Stage 3 – Assessment of proposals** starts when the EPA publishes its decision to assess a proposal (s. 39(a)) and issues the required notices under s. 38G(1)(b).

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

The Chair (or the Deputy Chair if the Chair is absent) has a delegation from the EPA to exercise the powers and duties in:

- s. 40(2)(a) to require any person to provide it with information
- s. 40(2)(aa) to require the proponent to provide a contaminated sites auditor's report on the proposal
- s. 40(2a) to make other investigations and inquiries
- s. 40(3) to determine the form, content, indicative timing and procedure of any environmental review where it has been decided, and set out in the public record, that the level of assessment includes a requirement for an environmental review with no public review
- s. 40(4)(a) and (b) to cause information or a report to be published
- s. 40(5) to declare information or a report published under s40(4) to be available for public review and specify the period, manner and extent in which submissions may be made
- s. 40(6)(b) to require the proponent to respond to submissions.

The Executive Director of the EPA Services Directorate of the DWER has a delegation from the EPA to administer:

- s. 40(4)(a), s. 40(4)(b) and s. 40(6)(b), as described above.

The same assessment procedures apply to the EPA's assessment of significant and strategic proposals.

The quality of information provided to the EPA during the assessment stage about the nature of Proposal elements and likely environmental effects, may affect expected timeframes. It may also affect other processes that the EPA decides to administer. The EPA *may* decide it requires information under s. 40(2)(a) in addition to the information initially set out in the record of the level of assessment (see Section 2.3.1) to assess a proposal, at any time until it publishes its Assessment report under s. 44 of the EP Act.

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

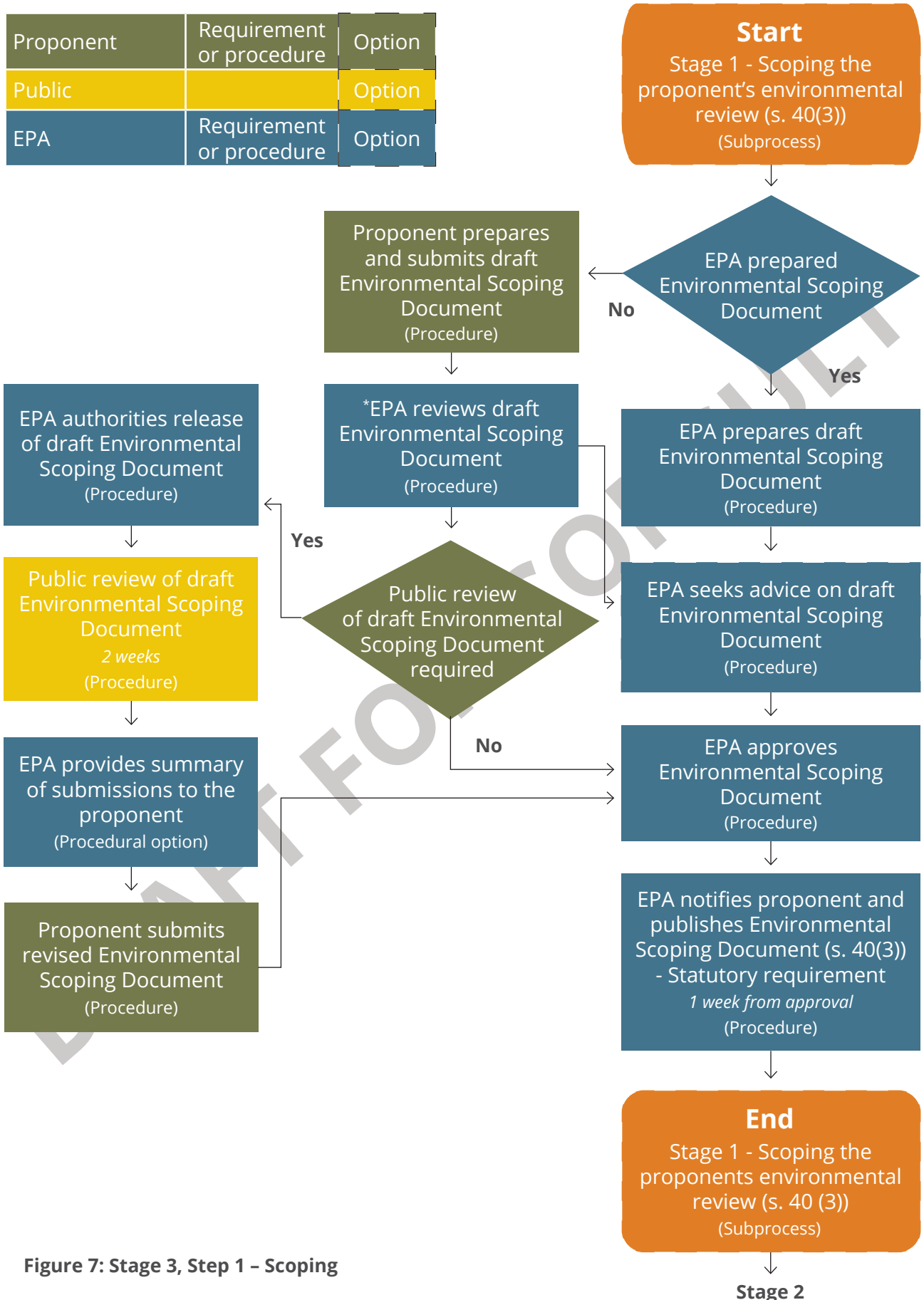


Figure 7: Stage 3, Step 1 - Scoping

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

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

The EPA *may* also decide it requires other additional information to assess a proposal at any time until the EPA Assessment report is published under section 44 of the Act.

### 3.1.1.1 Content of the Environmental Scoping Document

The EPA uses the Environmental Scoping Document template for an Environmental Scoping Document. The EPA requires that proponents follow the Instructions and Template: Proponent-prepared Environmental Scoping Document for a proponent-prepared Environmental Scoping Document.

The template includes instructions for preparing an Environmental Scoping Document.

The Environmental Scoping Document outlines the preliminary key environmental factors, any specific work required and key areas of focus for the environmental review.

The Environmental Scoping Document also requires that the environmental review must be prepared in accordance with the Instructions and Template: How to prepare an Environmental Review Document, which outlines the form and content requirements for *all* Environmental Review Documents.

An Environmental Scoping Document must include the following information:

1. Introduction
  - form, content, indicative timing and procedure of the environmental review
2. Required work:
  - Any work required for the assessment which was not completed as part of the referral process
  - Any work specific to the proposal required to be included in the Environmental Review Document
  - All work required under the Instructions and Template: Proponent-prepared Environmental Review Document (which applies for all Environmental Review Documents)
3. Decision-making authorities, and decision-making processes that can mitigate the potential impacts of the proposal on the environment.

The Environmental Scoping Document includes an indicative outline of the timing of the environmental review (indicative timeline), which the EPA is required to publish under s. 40(3).

Where there are major changes to the indicative timeline during the assessment, the EPA:

- *will* update the indicative timeline in consultation with the proponent
- *will* notify the proponent in writing
- *will* publish the updated indicative timeline on the EPA’s website.

The scope of the Environmental Scoping Document is usually the entire proposal subject to environmental review, even if the proponent has already completed some parts of the environmental review (e.g. surveys). However, where a supplementary report is provided with the referral that adequately addresses only some of the preliminary key environmental factors, the EPA *may* instead require the Environmental Scoping Document to cover only the factors that require further work.

For mining proposals, the EPA *may* require work relating to mine closure (e.g. rehabilitation of native vegetation, management of pit lakes), including the preparation of a Mine Closure Plan in accordance with Department of Mines, Industry Regulation and Safety's *Statutory Guideline for Mine Closure Plans and Mine Closure Plan Guidance – how to prepare in accordance with the Statutory Guidelines*.

For proposals in the Pilbara Interim Biogeographic Regionalisation for Australia (IBRA) region, the EPA may require preparation of an Impact Reconciliation Procedure in accordance with the Instructions: Preparing Impact Reconciliation Procedures and Impact Reconciliation Reports.

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

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

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

- the EPA and the proponent will consult with relevant stakeholders (including relevant decision-making authorities and other government agencies) on the content of the Environmental Scoping Document
- the EPA will confirm the preliminary key environmental factors having regard to the matters relating to significance in the EPA's *Statement of environmental principles, factors and objectives, and aims of EIA* <insert hyperlink> and the nature of the proposal
- the EPA *may* seek advice from relevant decision-making authorities and other government agencies (including the Commonwealth, if the proponent has requested that the proposal be assessed under a bilateral agreement or as an accredited assessment) ([HOLD: Subject to confirmation: Text relating to Bilateral Agreement]
- the EPA *will* consider advice received and:
  - *may* amend the draft EPA-prepared Environmental Scoping Document, or
  - *may* request that the proponent amend the proponent-prepared Environmental Scoping Document.

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

### **3.1.1.3 Public review of an Environmental Scoping Document**

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

- the EPA *will* authorise the release of the draft Environmental Scoping Document for public review, for the period specified (in the level of assessment required by s. 39(b)) (see Section 2.3.1.2)
- the EPA *will* release the draft Environmental Scoping Document for public review on its Consultation Hub at [consultation.epa.wa.gov.au](http://consultation.epa.wa.gov.au)
- any person or public authority (including decision-making authorities and other government agencies) can make a submission
- the EPA *may* acknowledge the persons who have made a submission
- the EPA *may* provide a summary of submissions to the proponent
- where the EPA receives any comments and/or information that may be adverse to the proponent, the EPA *will* give the proponent the opportunity to respond to the substance of the information
- the EPA *may* require that the draft Environmental Scoping Document be amended to address relevant comments received during the public review.

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

### 3.1.1.4 Approval of the Environmental Scoping Document

The EPA will:

- consider the draft Environmental Scoping Document.
- approve the Environmental Scoping Document, once it is satisfactory, as the basis for the environmental review.
- notify the proponent in writing once the EPA has approved the Environmental Scoping Document.
- provide the approved Environmental Scoping Document to the Commonwealth, if the EPA decides to assess the proposal under an assessment bilateral agreement or as an accredited assessment. [HOLD: Subject to confirmation: Text relating to Bilateral Agreement]
- publish the approved Environmental Scoping Document on the EPA's website, which includes an indicative outline of the timing of the environmental review, as required by s. 40(3).

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

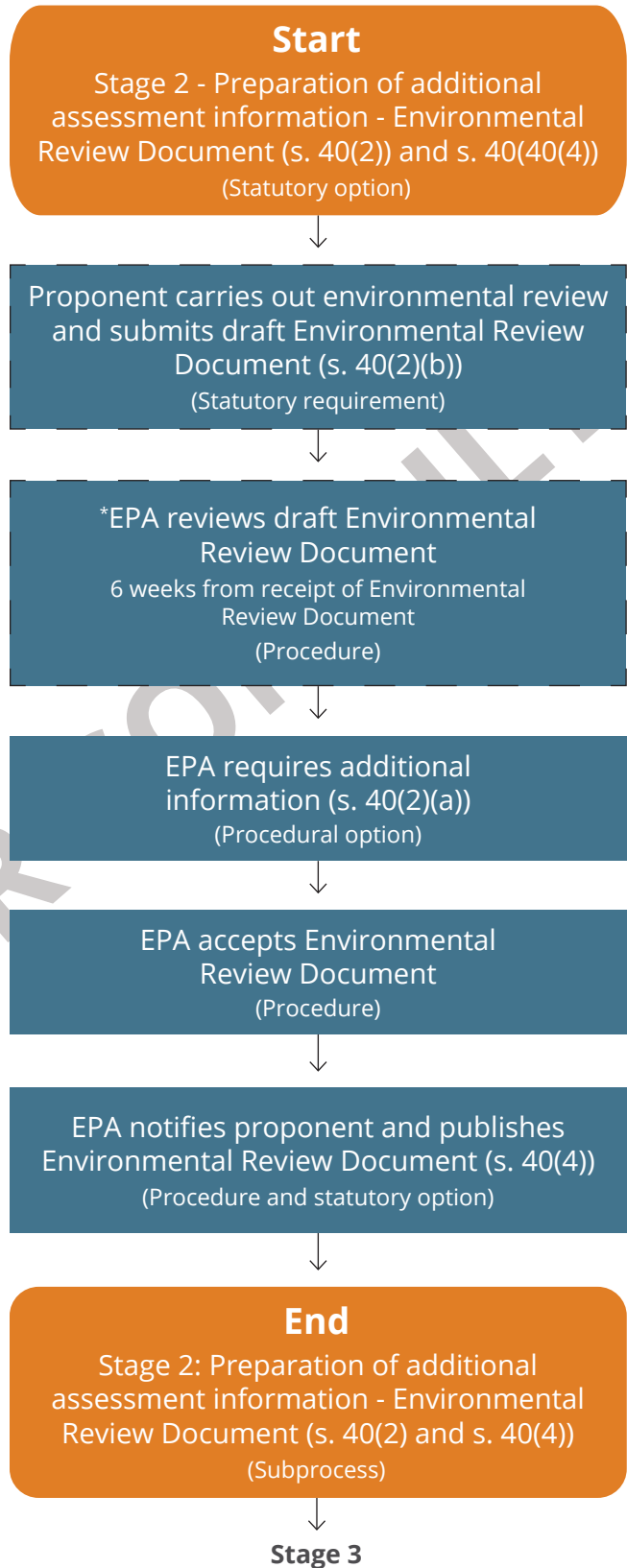
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**3.1.2 Step 2. Preparation of additional assessment information (including an Environmental Review Document)**

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

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



**Figure 8: Stage 3, Step 2 – Preparation of additional assessment information**

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

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

The EPA *requires* that proponents follow the Instructions and Template: How to prepare an Environmental Review Document. An Environmental Review Document must include the following information:

#### **1. Proposal**

- Proposal content
  - including Proposal content document consistent with the Instructions and Template: How to identify the content of a proposal.
- Proposal alternatives
  - to the extent reasonably practicable, describe any feasible alternatives to the proposal, including a comparative description of the environmental impacts of each alternative, and sufficient detail to make it clear why any alternative is preferred to another.

#### **2. Legislative context**

- Provide information on decision-making authorities, statutory decision-making processes and other approvals

#### **3. Stakeholder engagement**

#### **4. Object and principles of the EP Act**

- Apply these to the proposal

#### **5. Environmental factors.**

For each preliminary key environmental factor, discuss:

- EPA environmental factor objective
- relevant policy and guidance
- receiving environment
- potential environmental impacts, including:
  - cumulative impacts
  - impacts in all areas which may be affected by the implementation of the proposal.
- Mitigation
  - Apply the mitigation hierarchy
  - Discuss whether another statutory decision-making process can mitigate potential impacts of the proposal on the environment. If yes, provide reasons including how, in relation to the specific potential impacts of the Proposal, the decision-making process takes the EP Act object and principles, and the EPA's environmental factor objectives, into account
- Assessment and significance of residual environmental impacts
  - Identify whether there are any residual impacts after applying the mitigation hierarchy and whether these are significant
  - Assess impacts in all areas which may be affected by the implementation of the proposal. For example, if an indicative footprint has been proposed to seek flexibility of the location of the proposal footprint during implementation, the assessment must be carried out for environmental impacts in all areas which may be subject to a final footprint, not just within any indicative footprint.

- Environmental outcome
  - Specify the proposed environmental outcomes
  - Discuss whether the proposed environmental outcomes are consistent with the EPA's objectives for the relevant environmental factors
  - Discuss whether and how the environmental outcome can be regulated
  - Include proposed monitoring to achieve the environmental outcomes.

## **6. Other environmental factors or matters**

### **7. Offsets**

- Consideration of any offsets, where a significant residual environmental impact remains, including assessment of whether offsets are likely to counter-balance significant residual environmental impacts

### **8. Matters of National Environmental Significance**

### **9. Holistic environmental impact assessment, including**

- Discussion of the environmental effect of the proposal on the environment as a whole (rather than for each individual environmental factor).

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

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

Proponents:

- *must* conduct the environmental review to, as a minimum, meet the requirements of Instructions and Template: How to prepare an Environmental Review Document (as summarised in Section 3.1.2.1) and the approved Environmental Scoping Document (and Schedule 4 of the Environmental Protection and Biodiversity Conservation Regulations 2000, if the EPA is assessing the proposal under an assessment bilateral agreement or as an accredited assessment).
- *must* include any additional information the EPA has required, including requests for information under s. 40(2)(a).
- *may* include additional information relevant to the environment that would assist the EPA to prepare its report under s. 44 of the Act.
- *must* assess the proposal as defined by: the Instructions and Template: How to identify the content of a proposal; the proposal which the EPA decided to assess; and any approved amendments s. 43A.
- *should* specify proposed environmental outcomes according to the *Instructions: Environmental outcomes and outcomes-based conditions*.
- *may* prepare Environmental Management Plans as part of the mitigation measures for the key environmental factors where a particular impact may be significant without those management measures, and is not likely to be able to be managed by an environmental outcome or limitation on the extent of the proposal. In deciding whether to prepare Environmental Management Plans, proponents should however note the EPA's preference for outcomes-based conditions where practical.
- *must* prepare an Environmental Management Plan/s as part of the environmental review, if required in the Environmental Scoping Document.
- *must* follow the Instructions and Template: How to prepare Part IV Environmental Management Plans when preparing Environmental Management Plans.

- *may* be required to follow the Department of Mines, Industry Regulation and Safety's *Statutory Guideline for Mine Closure Plans* and *Mine Closure Plan Guidance – how to prepare in accordance with the Statutory Guidelines* when preparing a Mine Closure Plan.
- *should* consider offsets as early as possible in the assessment process.
- *must* follow the relevant offset guidance. If the proposal relates to a significant amendment of an approved proposal, current offsets practice applies. Current guidance is:
  - Biodiversity factors: *WA Environmental Offsets Policy and the WA Environmental Offsets Guidelines*, and complete the WA Environmental Offsets template
  - Greenhouse Gas Emissions factor: *State Emissions Policy and Environmental Factor Guideline – Greenhouse Gas Emissions*.
- *must* follow the Instructions for preparing Impact Reconciliation Procedures and Impact Reconciliation Reports when preparing Impact Reconciliation Procedures.
- *must* follow the *Instructions and Form: IBSA Data Packages* and *Instructions and Form: IMSA Data Packages* when preparing the IBSA and IMSA data packages.
- *must* provide an IBSA data package via the IBSA Submissions portal for each terrestrial biodiversity survey report and provide an IMSA data package for each marine survey report provided.

### **EPA review of the Environmental Review Document**

The EPA:

- *may* seek advice from relevant decision-making authorities and other government agencies (including the Commonwealth, if the EPA is assessing the proposal under an assessment bilateral agreement or as an accredited assessment). [HOLD: Subject to confirmation: Text relating to Bilateral Agreement]
- *may* identify new preliminary environmental factors and/or other environmental factors and matters.
- *will* consider whether the assessment has been carried out for environmental impacts in all areas which may be affected by the implementation of the proposal. (For example, if an indicative footprint has been proposed to seek flexibility of the location of the proposal footprint during implementation, the EPA will consider whether assessment has been carried out for environmental impacts in all areas which may be subject to a final footprint, not just within any indicative footprint).
- *will* consider advice received and *may* request that the proponent amend the draft Environmental Review Document, including by requiring additional information.
- *will* give the proponent the opportunity to respond on the substance of information, where the EPA receives any comments and/or information that may be adverse to the proponent.

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

### 3.1.2.3 EPA acceptance of the Environmental Review Document

The EPA *will*:

- accept the Environmental Review Document, when it meets the requirements of the approved Environmental Scoping Document and the requirements in the Instructions and Template: How to prepare an Environmental Review Document, and the EPA is satisfied at the time that it does not need additional information.
- notify the proponent in writing once the EPA has accepted the Environmental Review Document.
- provide the accepted Environmental Review Document to the Commonwealth, if the EPA assesses the proposal under an assessment bilateral agreement or as an accredited assessment. [HOLD: Subject to confirmation: Text relating to Bilateral Agreement]
- publish the accepted Environmental Review Document.

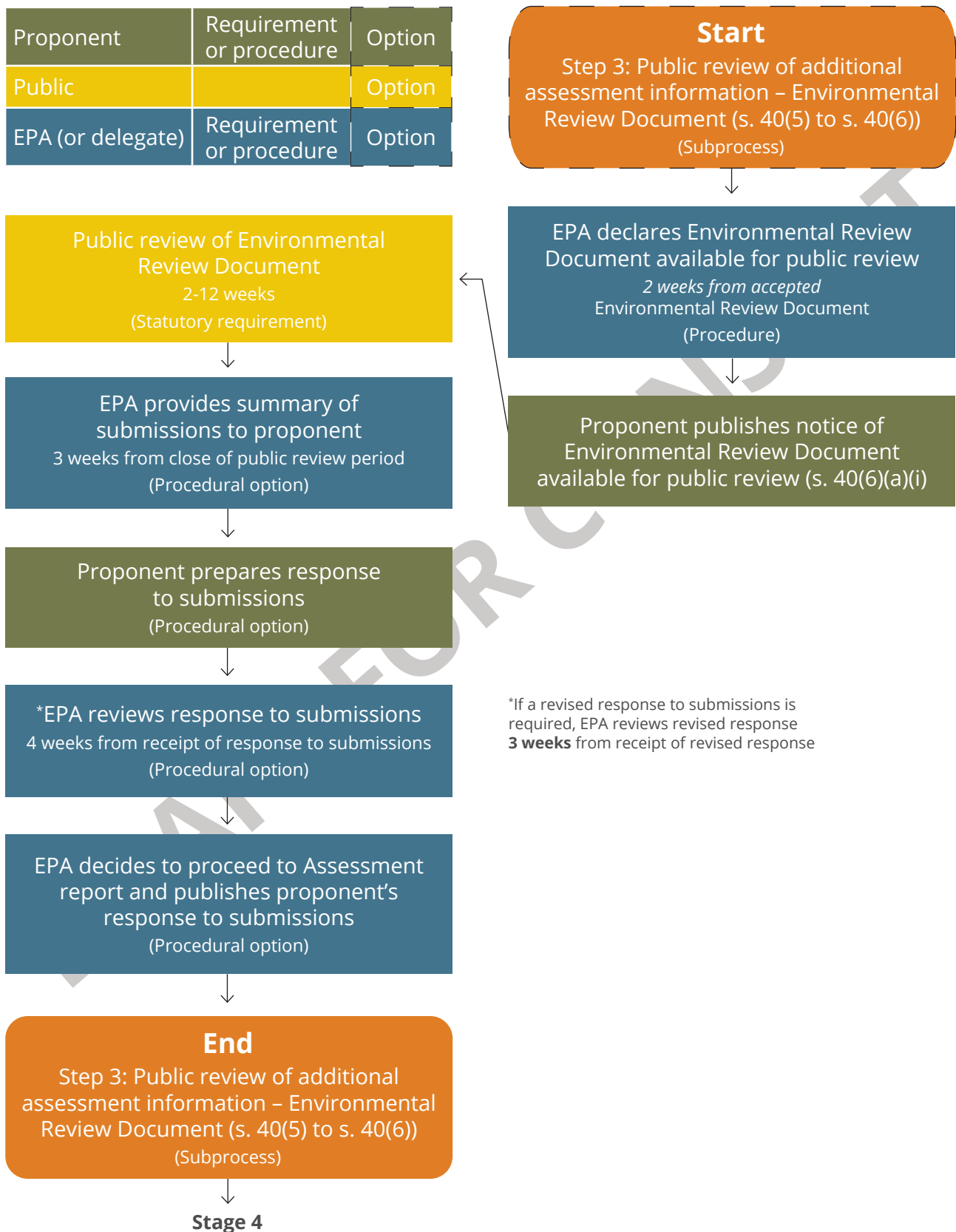
### 3.1.2.4 Additional assessment information (separate to Environmental Review Document)

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

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

**Stage 2 – Preparation of additional assessment information** ends when the EPA accepts the Environmental Review Document (and/or other additional assessment information, if required) and publishes it.

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



**Figure 9: Stage 3, Step 3 – Public review of additional assessment information – Environmental Review Document**

**Stage 3 – Public review of additional assessment information** starts when the EPA declares the Environmental Review Document (and/or other additional assessment information, if required) available for public review.

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

- the EPA *will* declare that the Environmental Review Document (and other additional assessment information, if relevant) is available for public review (for the period specified in the record required by s. 39(b))
- the proponent *will* publish notice of the Environmental Review Document (and other additional assessment information, if relevant) being available for public review (s. 40(6)(a)(i)) (see Instructions and template: Advertising requirements and release of a document for public review)
- any person or public authority (including decision-making authorities and other government agencies) can make a submission
- the EPA *may* request that relevant government agencies and/or experts provide advice (including the Commonwealth, if the EPA assesses the proposal under an assessment bilateral agreement or as an accredited assessment) [HOLD: Subject to confirmation: Text relating to Bilateral Agreement]
- the EPA *may* acknowledge the person(s) who has made a submission
- the EPA *may* provide a copy of the submissions and may provide a summary of the key issues raised in the submissions to the proponent after the close of the public review period
- the EPA *may* require the proponent to respond to any submissions (s. 40(6)(b)), and may also require the proponent to provide additional information under 40 (2) (a) of the EP Act
- the EPA *will* notify the proponent in writing if the EPA decides the proponent's response to submissions is adequate to enable the EPA to prepare its draft assessment report
- The EPA *may* publish the proponent's response to any submissions on the EPA's website prior to release of the EPA's Assessment report, for information only.

If the proponent does not provide an adequate response to submissions, the EPA may decide that it can proceed to prepare its draft assessment report, provided that a reasonable period has lapsed after the EPA provided the submissions to the proponent and the proponent has confirmed in writing that it has no further response. In this case, the EPA will take a cautious approach to complete its assessment, based on the information available.

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

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

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

1. the public review period closes if the EPA does not require the proponent to respond to submissions, or
2. the EPA decides that it can proceed to prepare its draft assessment report after receipt of the proponent's response to submissions (if the EPA requires the proponent to respond to submissions).



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

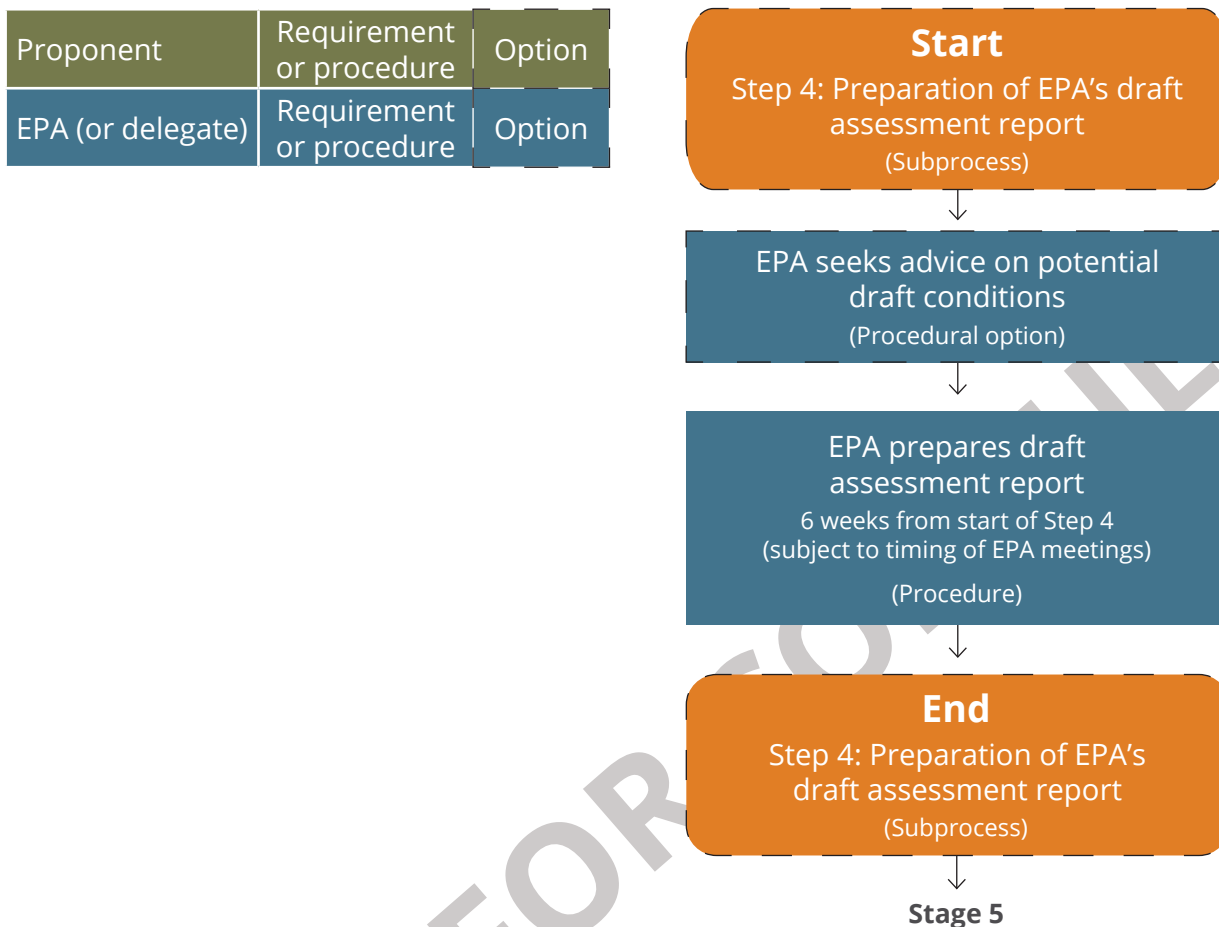


Figure 10: Stage 3, Step 4 – Preparation of EPA’s draft assessment report

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

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



### 3.1.4.1 Preparation and content of draft assessment report

In preparing its draft assessment report, the EPA will usually consider and include content about:

- the Proposal content, including amendments approved by the EPA under s. 43A
- the proponent's consideration of alternatives, including whether there are proposal alternatives which are likely to have a reduced environmental impact
- whether the preliminary key environmental factors are the final key environmental factors
- how the proponent has applied the mitigation hierarchy to the proposal.
- The residual environmental impacts of the proposal including:
  - impacts on key environmental factors
  - cumulative impacts
  - if the proposal is a significant amendment, the combined impacts with the existing approved proposal.
- assessment of residual environmental impacts and consideration of the significance of residual impacts
- whether the residual environmental impacts, and likely environmental outcomes after the application of conditions, are consistent with the EPA's objectives for the final key environmental factors
- whether any offsets (if proposed) are likely to counterbalance any significant residual environmental impacts
- assessment of holistic environmental impacts
- consideration of Matters of National Environmental Significance, where the EPA assesses the proposal under a bilateral agreement or as an accredited assessment [HOLD: Subject to confirmation: Text relating to Bilateral Agreement]
- whether the proposal may be implemented (see **Stage 4 EPA Report**), and if so, whether (see section 4.2):
  - any or all of the Proposal elements should be limited through conditions
  - any other conditions should be recommended (with a preference for outcomes-based conditions)
  - any offsets are required
  - any conditions are required to ensure proposal environmental impacts are monitored, that the monitoring results are reviewed and reported, and that contingency measures are implemented
  - any conditions are required to ensure the ongoing and continual improvement of environmental management of the proposal, including adaptive management
  - there are other statutory decision-making processes that can mitigate the potential impacts of the proposal on the environment
  - whether compliance with Environmental Management Plans should be recommended as a condition, and whether to require the proponent to amend any Environmental Management Plans.

In preparing its draft assessment report, the EPA may seek advice from relevant decision-making authorities, other government agencies and the proponent on potential draft conditions (including the Commonwealth, if the EPA assesses the proposal under an assessment bilateral agreement or as an accredited assessment). [HOLD: Subject to confirmation: Text relating to Bilateral Agreement]

### 3.1.4.2 Additional content of draft assessment report

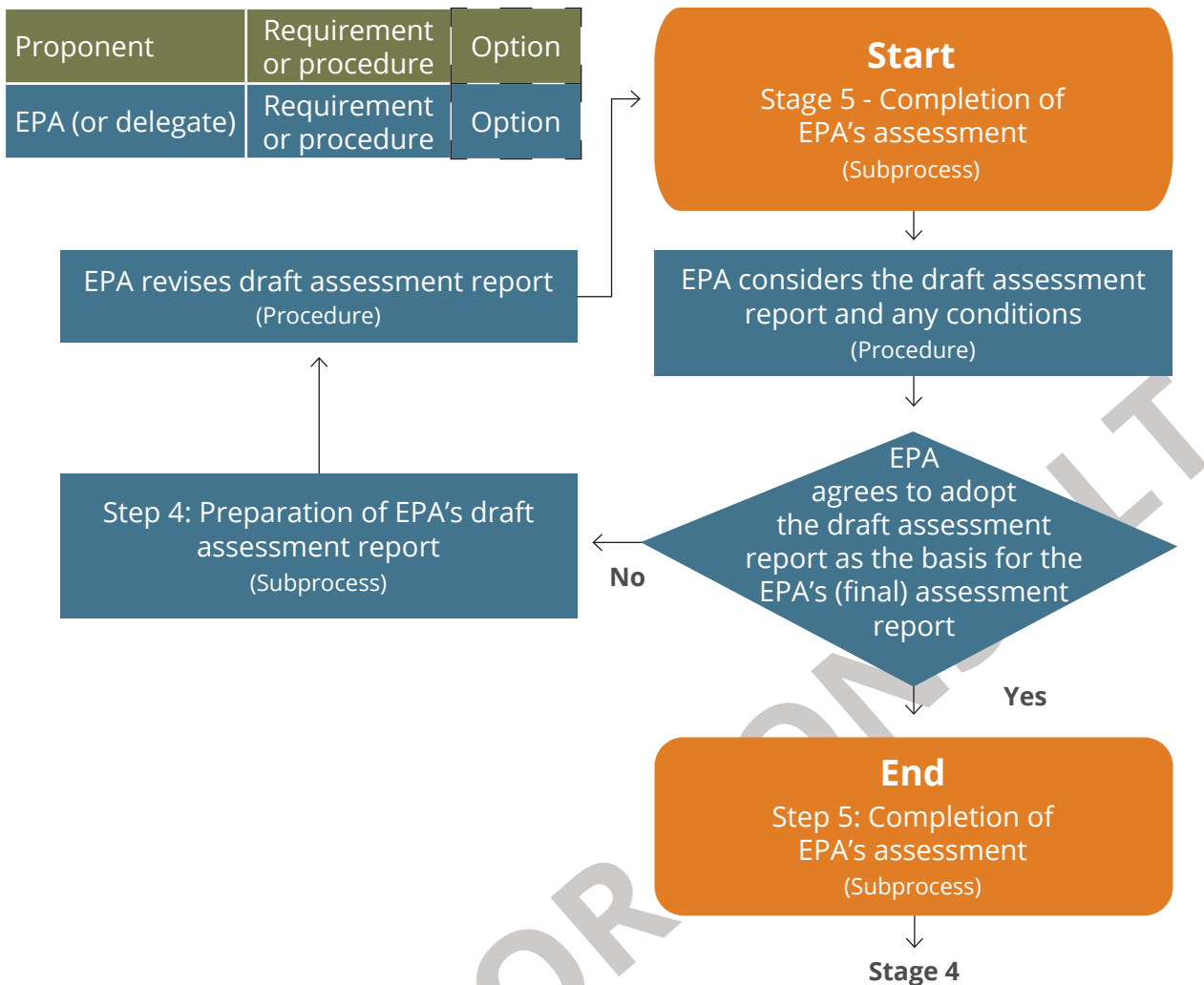
In addition to the requirements for the EPA's Assessment report set out in s. 44 (see Section 4.1), and the content of the draft assessment report in 3.1.4.1, the EPA *may* include information relating to the assessment of the proposal, including, but not limited to, the following:

- discussion of other environmental factors, not considered to be key environmental factors
- advice from relevant decision-making authorities, other government agencies, and from the Commonwealth (if the EPA assesses the proposal under an assessment bilateral agreement or as an accredited assessment) [HOLD: Subject to confirmation: Text relating to Bilateral Agreement]
- other information, advice and recommendations related to the environment.

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

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

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



**Figure 11: Stage 3, Step 5 – Completion of the EPA's assessment**

As outlined in the *Administrative Procedures*, the EPA completes its assessment when it agrees to adopt the draft assessment report as the basis for its (final) Assessment report. If the EPA does not agree, the EPA will revise the draft assessment report based on the additional information it needs to complete its assessment and will reconsider the draft assessment report. When the EPA agrees to adopt the draft assessment report as the basis for its (final) Assessment report, it will resolve that the EPA prepare the (final) Assessment report and give that report to the Minister, as required by s. 44 (see Section 4).

The EPA usually considers the draft assessment report at an EPA meeting. The EPA *may* invite the proponent to attend the EPA meeting.

## 3.2 Assessment of significant amendments (s. 40AA)

### Significant amendment of approved proposal

The procedures for the assessment of a significant amendment of an approved proposal are the same for the assessment of any new significant proposal. The EPA *must* also assess the significant amendment in the context of the approved proposal and have regard to the combined effect that the implementation of the approved proposal and the significant amendment might have on the environment, as required by s. 40AA(2).

The EPA's assessment of a significant amendment of an approved proposal *may* also include an inquiry into and report on the implementation conditions relating to the approved proposal, as permitted under s. 40AA(3), and will usually consider the implementation conditions which should be applied to manage the combined impacts of the amended proposal.

In assessing significant amendments and implementation conditions, the EPA will usually consider the procedures, instructions and guidance which are current at the time of assessment, including with respect to any ongoing combined impacts of significant amendment and existing approved proposal.

Specific requirements for proponents relating to the referral of significant amendments of approved proposals are outlined in the Instructions and Form: Referral of a proposal under s. 38 (see also Section 1.4).

If a significant amendment is approved to an existing approved proposal, the proposal is then known as the amended proposal.

### Significant amendment of implementation conditions

The procedures for the assessment of significant amendments to implementation conditions depend on whether the significant amendment is referred under s. 38 as a significant proposal, or the Minister requests it be dealt with under s. 46 and request the EPA conduct an inquiry into the significant amendment of conditions.

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

The Chair (or the Deputy Chair if the Chair is absent) has a delegation from the EPA to exercise the powers and duties in s. 40A in relation to the termination of a proposal.

A proponent may request in writing, at any time, that the EPA terminate the assessment of its proposal. The EPA *will* consider the request and terminate the assessment if it is appropriate to do so. The EPA may also terminate assessment of a proposal if any of the other criteria in s. 40A(1) are met.

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

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

If the EPA terminates an assessment, the EPA:

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

### 3.4 Strategic proposals and strategic assessments (s. 40B)

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

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

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

In addition to the EPA's assessment procedures outlined in Section 3.1, the EPA's strategic assessment *will* also:

- 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
- identify the key environmental factors associated with the future proposals, at a scale commensurate with the nature and extent of those future proposals
- define the maximum disturbance (impact) footprint of the future proposals (terrestrial, marine and air) and the envelope within which any future proposals will occur
- define the potential maximum cumulative environmental impacts and/or risks from the future proposals.

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

Refer to the *Administrative Procedures*.

#### 3.5.1 Investigation work

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

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

- environmental investigations such as biological surveys, and sampling for acid sulphate soils
- design investigations such as geotechnical work for determining proposal design and definition drilling of an ore body
- clearing to provide access for surveys.

In relation to proposed investigation work:

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

If the investigation work is likely to have significant impact on the environment, (for example, if the proposed work is located in an Environmentally Sensitive Area) the proponent may refer the proposal to the EPA and the proposal must be referred to the EPA by any decision maker that has notice of the proposal.

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

Refer to the *Administrative Procedures*.

### 3.6.1 Minor or preliminary work

**Minor or preliminary work** is work associated with the implementation of a proposal that is unlikely to have a significant impact on the environment and is not of a scale or significance that would compromise the EPA's assessment or the Minister's future decisions. This includes any activities that a proponent would normally undertake if it was not prevented under s. 41A(1) from doing anything to implement the proposal, but does not include substantial implementation of the proposal.

Minor or preliminary work may include the construction of infrastructure for the proposal in an area that is unlikely to have a significant environmental impact. An example of this might be for an airstrip for survey access on previously cleared pastoral land.

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

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

1. The work is minor or preliminary.
2. The work must be associated with the implementation of the proposal.
3. The potential environmental impacts of the work are not likely to be significant.

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

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

The request *must* include information regarding the proposed minor or preliminary work, including:

- details of the proposed work
- information to demonstrate that the work is associated with the implementation of the proposal
- why the work is minor or preliminary and is not substantial implementation of the proposal
- details of the potential environmental impacts likely to be caused by the work
- details of any decommissioning or rehabilitation work which would be carried out should the proposal not be approved for implementation
- information to demonstrate that the impact can be reversed, through rehabilitation for example
- environmental justification for the work
- why the works and their effects are not of a scale or significance that would compromise the EPA's assessment or the Minister's future decisions.

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

The Chair (or the Deputy Chair if the Chair is absent) has delegation from the EPA to exercise the powers and duties in s. 41A(3).

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

- proponents *must* submit a request for consent to the EPA for minor or preliminary work
- the EPA *will* consider the request
- the EPA *will* notify the proponent in writing of its decision to consent to or refuse the request to undertake the minor or preliminary work
- the EPA *may* publish its decision on the EPA's website
- proponents *may* carry out the minor or preliminary work requested once the EPA has granted consent and the relevant decision-making authorities have granted other necessary approvals, permits or licences (where required).

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

Refer to the Administrative Procedures.

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

Refer to the Administrative Procedures.

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### 3.9 Amendments to proposals during assessment (s. 43A)

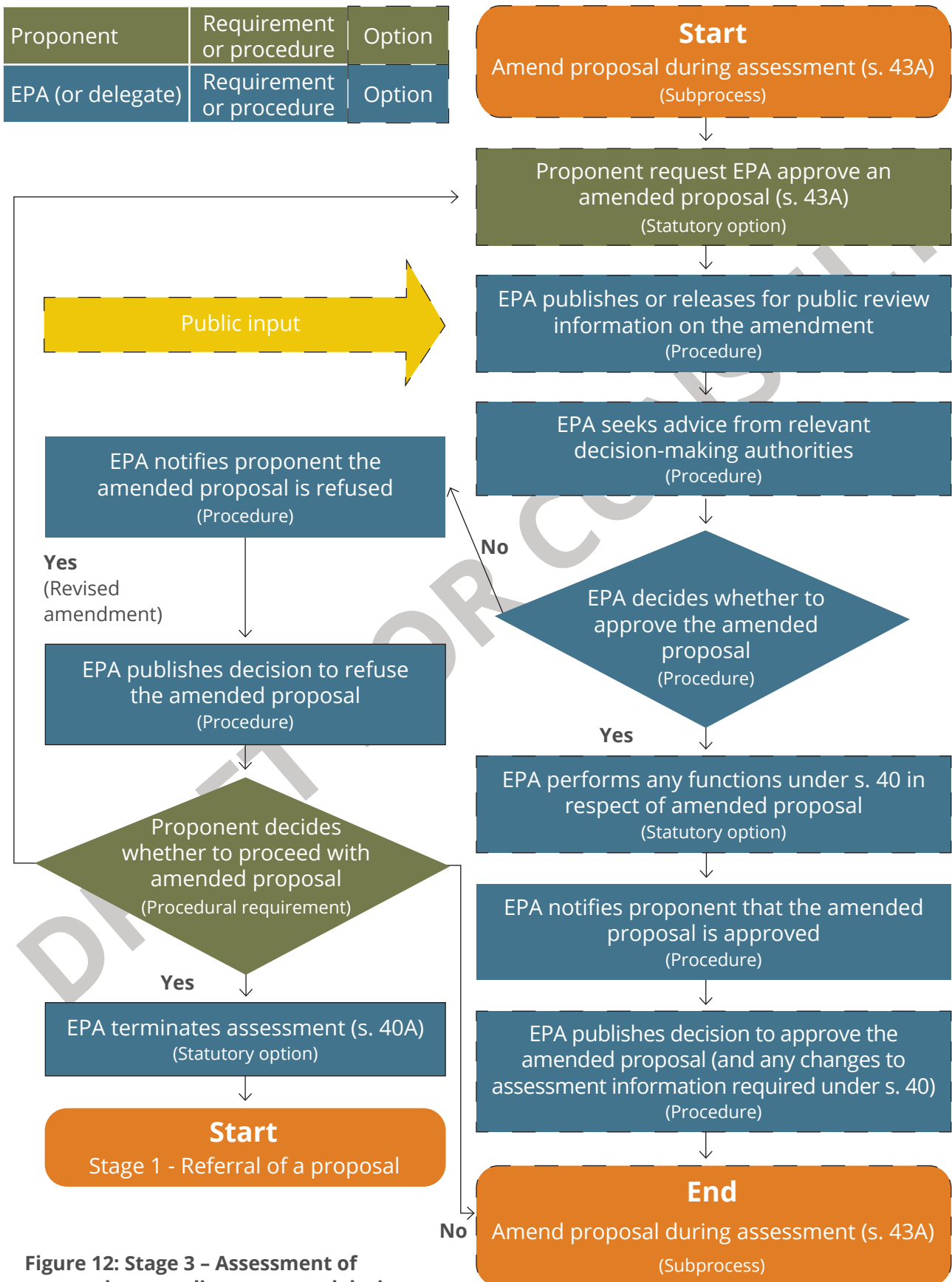


Figure 12: Stage 3 – Assessment of proposals: amending a proposal during assessment (s. 43A)



Under s. 43A, the EPA *may*, at its discretion, give or refuse approval for a proposal to be amended while a proposal is being assessed.

The Chair (or the Deputy Chair if the Chair is absent) has a delegation from the EPA to exercise the powers and duties in s. 43A. The EPA has discretion whether to approve an amendment.

Section 3.9.1 sets out the information the EPA requires, to decide whether to approve the proposed amendment. The level of detail of the information the EPA requires depends on the nature of the amendment and its potential impacts on the environment.

The quality of information provided to the EPA about the nature of the Proposal elements and likely environmental effects associated with the proposed amendment may affect expected timeframes. It may also affect the EPA's decision whether to approve the proposed amendment. There may be delays to expected timeframes if adequate information is not provided, and the EPA may also require further information under s. 40(2)(a).

### 3.9.1 Content of the request for EPA approval for an amendment to proposal

The EPA requires that the proponent provide it with information in accordance with the Instructions and Template: Amending a referred proposal during assessment under s. 43A, including the following:

#### 1. **Reason for and content of proposed amendment**

- The reasons for the proposed amendment
- The content of the proposed amendment (including consolidated updated Proposal content document)
- Proposal alternatives.

#### 2. **Regulatory information**

- Assessment details, and any proposed change to assessment form, content, indicative timing or procedure as a result of the amendment
- Any changes to decision-making authorities or statutory processes and whether they can mitigate the potential impact of the proposal on the environment.

#### 3. **Identification of environmental factors and environmental effects**

- Identify which environmental factor/s are affected, and identify environmental effects
- Whether any additional information is needed to enable the EPA to continue assessing the proposal (see 5. And 6.).

#### 4. **Consultation**

- Whether any consultation has been carried out on the proposed amendment and the outcomes of that consultation.

#### 5. **Additional surveys, investigations and other information (if needed)**

- Discuss and provide additional information that has been obtained since the referral, such as surveys, investigations and information in relation to the proposed amendment.

#### 6. **Discussion of significance of residual impacts (if needed)**

- Discuss the likely environmental impacts:
  - from the proposed amendment on its own
  - from the whole proposal if the amendment were approved.
- Discuss the significance of likely environmental impacts
- Discuss likely environmental outcomes, and the consistency of these outcomes with the EP Act principles and the EPA's objectives for environmental factors.

### 3.9.2 Process for requesting EPA approval for an amendment to proposal

The process for the request for EPA approval for an amendment to a proposal is as follows:

- The proponents *must* advise the EPA by Written Notice of a request for approval of an amendment to a proposal. The EPA requires that proponents provide the information in the *Instructions for request to amend a proposal during assessment under section 43A of the Environmental Protection Act 1986*
- The EPA *may* release information on the proposed amendment for public information or review, usually where there is potential for a significant impact
- The EPA *may* seek advice from relevant decision-making authorities and other government agencies and will consider advice received
- The EPA *will* decide whether to approve the request, considering in particular:
  - whether if it approved the change, it should perform any function that it could have performed, or has already performed, in respect of the proposal
  - whether the amended proposal will still be substantially the same character as the original proposal
  - the significance of the proposed amendment. For guidance on significance, refer to the EPA's Statement of environmental principles, factors and objectives, and aims of EIA.
- If the EPA's view is that, if the proposal was already approved, the amendment would be a significant amendment, the EPA will usually refuse the amendment.
  - The EPA *may* perform any function in respect of the proposal without limiting s. 40. For example, it may require further additional assessment information or require public review of any additional assessment information (s. 43A(3)(b)).
  - The EPA *will* notify the proponent in writing of its decision to approve or refuse the request for an amendment to a proposal
  - The EPA *may* publish its decision (including any changes to the additional assessment information it requires for its assessment) on the EPA's website
  - The EPA *will usually* publish a summary of reasons for its decision on the EPA's website.

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

- The nature of the proposed amendment
- The stage of the assessment process, such as whether information has been released for public review
- the currency, relevance and reliability of the information that exists, including any submissions
- the degree to which the proponent has consulted about the proposal and proposed amendment
- the level of public interest in the proposal.

If amendments which have the potential to have a significant environmental effect are proposed after public review, the EPA usually will usually require additional public review.

The EPA would usually expect there to be a s. 43A change to reflect any changes to the proposal which have been identified as likely to reduce its environmental effects.

If approved, the amended proposal is taken to be the referred proposal which the assessment process then applies to.

If the EPA refuses a proposed amendment, the proponent may:

- decide not to proceed with the amendment, OR
- revise the amendment to reduce the environmental effect of the proposed amendment so it is not a significant amendment and resubmit the request, OR
- request that the EPA terminate the assessment of the current proposal (see Section 3.3) and refer the amended proposal as a significant amendment under s. 38.

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

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

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

The procedures for **Stage 4 – EPA report on the assessment of a proposal** relating to section 44 of the EP Act are summarised in the process diagram below (Figure 13).

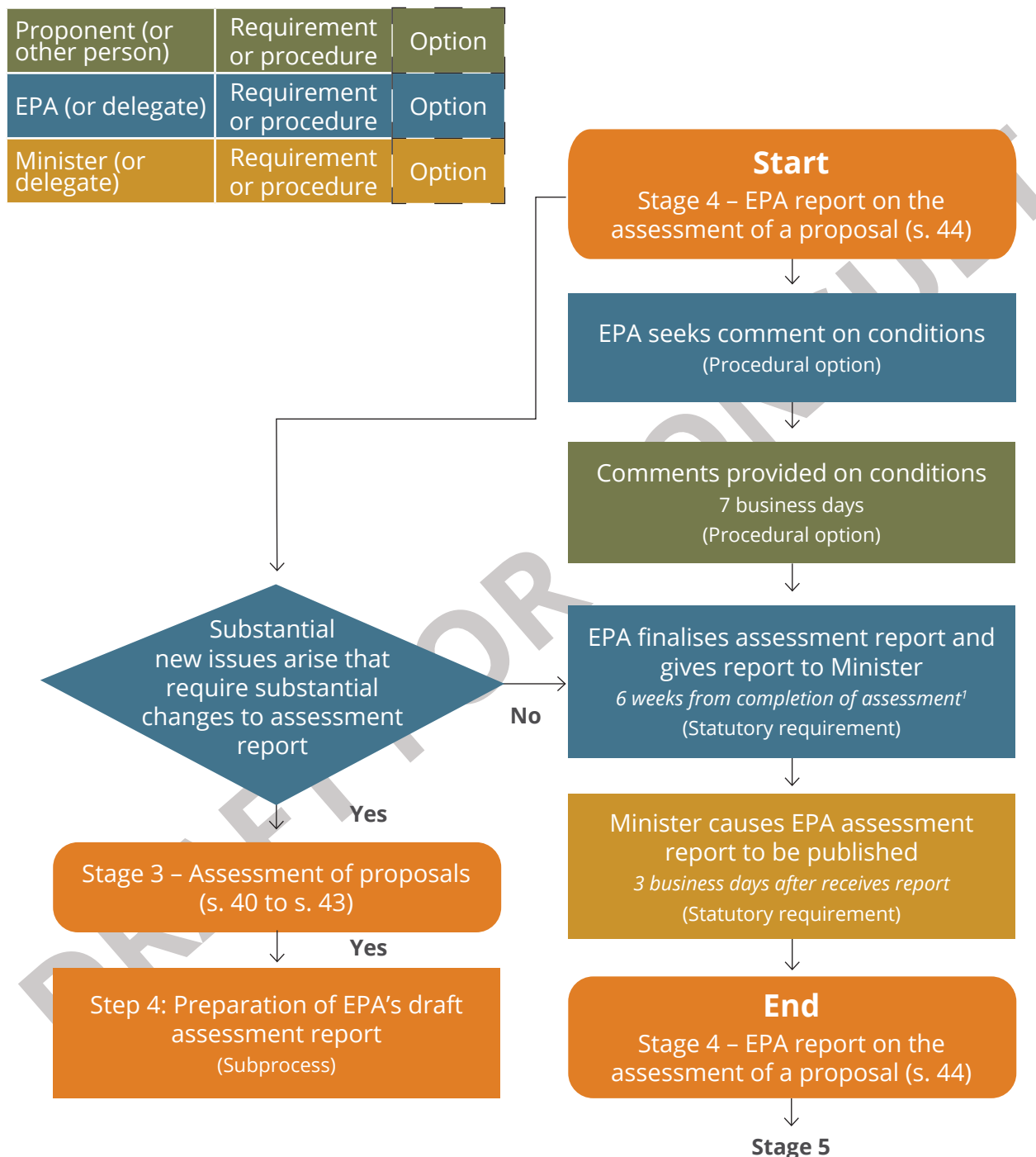


Figure 13: Stage 4 – EPA report on the assessment of a proposal

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

The Chair (or the Deputy Chair if the Chair is absent) has a delegation from the EPA to exercise the powers and duties in:

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

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

The Chair (or the Deputy Chair if the Chair is absent) has delegation from the Minister to exercise the powers and duties in s. 44(3) to cause the report to be published.

## 4.1 Assessment report

As outlined in the Administrative Procedures, the Assessment report that the EPA *must* give to the Minister under s. 44(2) must set out what the EPA considers are the key environmental factors identified in the course of the assessment and the EPA's recommendations as to whether or not the proposal may be implemented and if so, any conditions and procedures that should apply.

The (final) Assessment report is based on the draft assessment report (See Section 3.1.4) and *may* also include the advice and recommendations set out in section 4.1 of the Administrative Procedures.

## 4.2 Recommended conditions and procedures

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

The EPA *may* also take into account other statutory decision-making processes that can mitigate the potential impacts of the proposal on the environment. Where the EPA considers it appropriate, 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 environmental licence.

If the EPA does not recommend that the proposal may be implemented, it *may* still provide advice that, in the case that the Minister decides the proposal may be implemented, that any Ministerial statement which is decided should include appropriate conditions.

### 4.2.1 Types of conditions

The EPA *usually* recommends three types of conditions:

1. Limit on proposal extent or capacity
2. Proposal-specific environmental conditions
3. Standard matter conditions.

The EPA may recommend other environmental conditions, including those relating to any of the examples of things under s. 45A that a proponent can be required to do, but is not limited to recommending the conditions in those examples.

#### **4.2.1.1 Limit on proposal extent or capacity**

The EPA *may* recommend whether any or all of the Proposal elements need to be controlled and if so, will usually include a table (and figures) of the limit of Proposal elements (including physical and operational elements). The limits will be relevant to the content of the proposal identified by the proponent and may be specified where:

- a. an element is environmentally significant, such as extent of clearing within a development envelope
- b. an outcome-based condition is not practical to achieve consistency with an EPA environmental factor objective(s), but a limit on proposal extent or capacity is suitable to achieve consistency with the objective
- c. a potential environmental outcome of an identified proposal extent is significant, and could be limited to achieve consistency with an EPA environmental factor objective. An example of this might be where a proponent proposes groundwater abstraction of 20 GL/a but the EPA recommends it is limited to 15 GL/a.

#### **4.2.1.2 Proposal-specific environmental conditions**

The EPA will recommend environmental conditions (see Section 4.2.2), if at the end of its assessment, a condition/s is required to provide confidence that there will not be a significant impact on an environmental factor/s.

#### **4.2.1.3 Standard matter conditions**

The EPA *will* recommend conditions relating to standard matters including, but not limited to:

- notification of change of proponent contact details
- time limit for proposal implementation
- compliance reporting
- public availability of data
- environmental management plans, including compliance, amendment and review requirements
- reports relevant to the environmental performance of the proposal.

### **4.2.2 Proposal-specific environmental condition types**

The EPA uses three types for proposal specific environmental conditions, where the EPA's view is that regulatory control is required to mitigate the potential impacts of the proposal on the environment:

- 1. Outcomes-based conditions** –contain a measurable environmental outcome that must be met
- 2. Objectives-based management plan conditions** –contain a requirement for a management plan to achieve an environmental objective. May also contain plan components required to meet that environmental objective
- 3. prescriptive conditions** – contain specified actions or procedures.

The EPA uses the condition types as a guide and may recommend a hybrid of the types or depart from the types where there is a need for a case-specific approach.

The EPA's preference is for outcomes-based conditions where practical.

#### 4.2.2.1 Outcomes-based conditions

Outcomes-based conditions specify a measurable environmental outcome to be met, without prescribing how that outcome is to be achieved. This provides certainty and transparency, is consistent with adaptive environmental management and continuous improvement, and is recognised as regulatory best practice.

Outcomes-based conditions can directly prescribe an environmental outcome which is required to be met. They can also include a 'surrogate outcome', which is performance based. A surrogate is a physical, chemical, or biological characteristic that supports an aspect of the environment. For example, water quality could be a surrogate for the habitat condition of an aquatic species.

An outcomes-based condition may be expressed as:

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

An outcomes-based condition will:

- be associated with achievement of one or more of the EPA's objectives for environmental factors
- be measurable and achievable
- have a clear boundary, size, extent or limit.

The EPA will consider information provided by the proponent during the assessment (including but not limited to, baseline information, discussion of mitigation hierarchy and environmental outcomes), to determine whether an outcomes-based condition is practical.

For any recommended outcome-based condition/s, the EPA may also recommend a condition which requires that proponents monitor, review and report against the environmental outcomes, and adopt adaptive management approaches, to ensure that the environmental outcome is achieved. The EPA may recommend an outcomes-based management plan for this requirement.

If an outcomes-based management plan is appropriate, the EPA will usually require that proponents prepare management plans consistent with the Instructions and Template: How to prepare Part IV Environmental Management Plans. The Instructions include detail on outcomes-based components.



#### **4.2.2.2 Objectives-based management plan conditions**

The EPA will consider recommending objectives-based management plan conditions when outcome-based conditions are not practical.

While the EPA's preference is for outcome-based conditions, the EPA may decide objectives-based management plan conditions are appropriate in some cases, such as for new industries.

Objectives-based management plan conditions specify an environmental objectives/s, which is a desired state for a key environmental factor/s. The plan objective/s will be a specific objective associated with one or more of the EPA's objectives for environmental factors. The environmental objective will generally be expressed in terms such as 'minimise impacts as far as practicable' on an element of the environment such as flora, vegetation or fauna.

If an objectives based management plan condition is appropriate, the EPA will usually require a management plan that is consistent with the Instructions and Template: How to prepare Part IV Environmental Management Plans . The Instructions include detail on objectives-based components.

Exceptions to the requirement to prepare management plans consistent with the Instructions may include where management plans are required by other legislation (and have specific requirements), such as mine closure plans required under the *Mining Act 1978* and cultural heritage management plans required by Comprehensive Agreements under the *Aboriginal Heritage Act 1972*.

#### **4.2.2.3 Specific requirements for management plans (outcomes-based and objectives-based)**

Where the EPA recommends either an outcomes-based or objectives-based management plan condition, the EPA will *usually* recommend a condition to either:

- implement a management plan provided during an assessment that the EPA considers is acceptable, or
- prepare and implement a management plan.

A management plan required for an implementation condition is a legally enforceable document. Proponents must comply with the components set out in the management plan. It is therefore important that the requirements within the management plan are as precise as possible so proponents can fully understand their legal obligations in relation to the implementation condition, and also so that they are clearly auditable by the CEO. Management plans should therefore not include information that is not required by the DWER.

Any failure to implement required components in a management plan constitutes a non-compliance with the implementation conditions and may be subject to enforcement by the CEO (see Administrative Procedures Section 5.4).

#### **4.2.2.4 Prescriptive conditions**

Prescriptive conditions prescribe the required actions directly in the condition.

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

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

### **4.2.3 Case-specific conditions**

The conditions may also include case-specific matters.



#### 4.2.3.1 Baseline conditions

One case-specific condition that the EPA may recommend is a baseline survey.

In relation to the baseline survey:

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

The EPA will not recommend a baseline condition option that requires ongoing environmental impact assessment.

#### 4.2.3.2 Offset conditions

The EPA may recommend an offset condition, for example to counter balance any significant residual environmental impact.

Where the EPA recommends an offset condition/s, the EPA will have regard to offsets guidance which is relevant:

- biodiversity factors: the *WA Environmental Offsets Policy and the WA Environmental Offsets guidelines*
- Greenhouse Gas Emissions factor: State Emissions Policy and Environmental Factor Guideline – Greenhouse Gas Emissions).

The condition may require the proponent to undertake one or more of the following measures:

- At the proponent's expense, take environmental protection, abatement or restoration measures on other land in order to directly or indirectly offset the impacts of the proposal on the environment
- Funding by the proponent directly to a third party to undertake environmental protection, abatement or restoration measures on other land
- Contributions by the proponent to a fund for the purpose of undertaking offset actions
- an environmental undertaking be given in relation to other land.

The EPA *may* recommend any activities listed under s. 45A relating to offsets that a proponent can be required to undertake, but is not limited to (or required to impose) the conditions in this list.

The EPA's preference is to recommend specific offset conditions to the Minister. However, in some cases the EPA may recommend that an offset plan can be developed post-approval, to the approval of the Minister or other decision maker. In such cases the EPA will usually recommend that the Proposal elements which are likely to have a significant residual environmental impact and require counter-balancing by the offsets, do not commence until the offsets plan has been approved.

When considering significant amendments, the EPA must assess the amendment in the context of the approved proposal and have regard to the combined effect that the implementation of the approved proposal and the significant amendment might have on the environment. The EPA will also usually consider the implementation conditions relating to the existing approved proposal when considering significant amendments.

In assessing significant amendments, the EPA will usually consider the procedures, instructions, and guidance (including offsets practice) current at the time of assessment, including to any ongoing combined impacts of significant amendment and existing approved proposal. The EPA will not however apply offsets to existing environmental impacts which have already occurred as a result of implementation of the approved proposal. For example, the EPA will not require offsets for clearing of native vegetation which has already taken place.

#### 4.2.3.3 Conditions relating to mine closure

Where the EPA assesses the environmental impacts relating to mine closure, the EPA:

- *will* recommend a condition relating to mine closure for mining proposals that are not subject to the *Mining Act 1978*. The condition:
  - *will usually* require that the proponent implement (or prepare and implement) a Mine Closure Plan and/or
  - *may* specify other proposal-specific requirements.
- *may* recommend a condition relating to mine closure for other mining proposals, noting that it is a requirement under the *Mining Act 1978* that a Mine Closure Plan is prepared in accordance with Department of Mines, Industry Regulation and Safety's Statutory Guideline for Mine Closure Plans and Mine Closure Plan Guidance - how to prepare in accordance with the Statutory Guidelines.

#### 4.2.3.4 Strategic proposal conditions

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

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

#### 4.2.4 Consultation on conditions

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

Where the EPA seeks comment on the draft conditions:

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

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

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

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

The EPA does not exercise the powers and duties in Part IV Division 2 as a decision-maker. The Chair and Deputy Chair of the EPA have delegated powers to exercise the powers and duties relating to amending approved proposals or implementation conditions (s. 45C) [HOLD: Subject to confirmation of any delegation of powers under section 45C.]

If a proposal is approved for implementation, under s. 48 the CEO exercises the powers and duties relating to the control of the implementation of proposals.

The procedures for **Stage 5** relating to sections 45C and 46 of the EP Act are summarised in the relevant process diagrams: Figures 14 to 16 for s. 45C Amending approved proposals or implementation conditions without inquiry or assessment in Section 5.5 and Figure 17 for s. 46 Amending implementation conditions after inquiry in Section 5.7.

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

#### 5.1.1 Appeals on EPA Assessment report

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).

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

The EPA will generally follow the procedures applicable to the relevant assessment stage to respond to the Minister's remittal, subject to any direction by the Minister in the remittal.

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

Refer to the *Administrative Procedures*.

### 5.2 Implementation conditions (s. 45A)

Refer to the *Administrative Procedures* and Section 4.2.

### 5.3 Implementation of derived proposals (s. 45B)

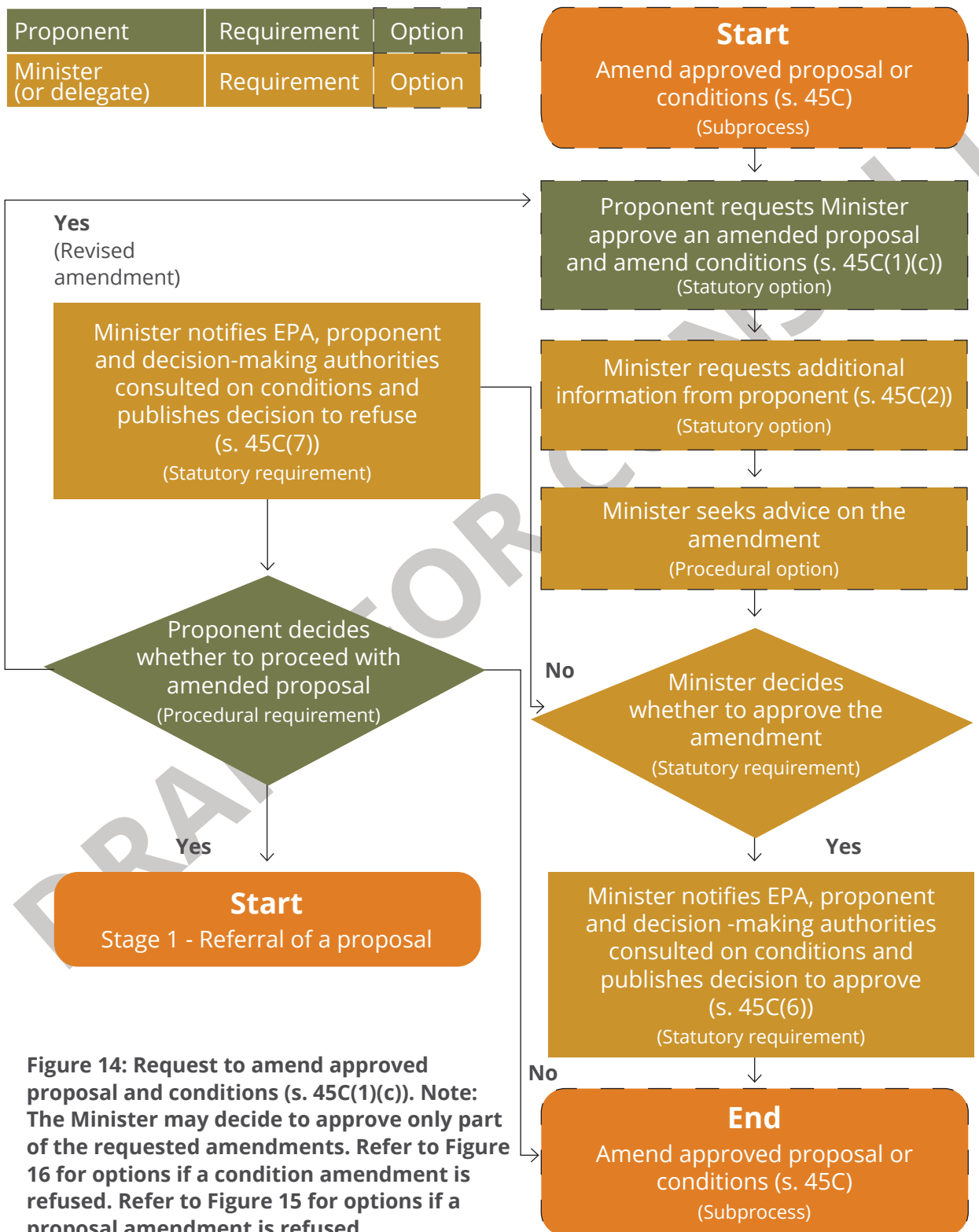
Refer to the *Administrative Procedures*.

### 5.4 Duties of proponents after service of Ministerial statement (s. 47)

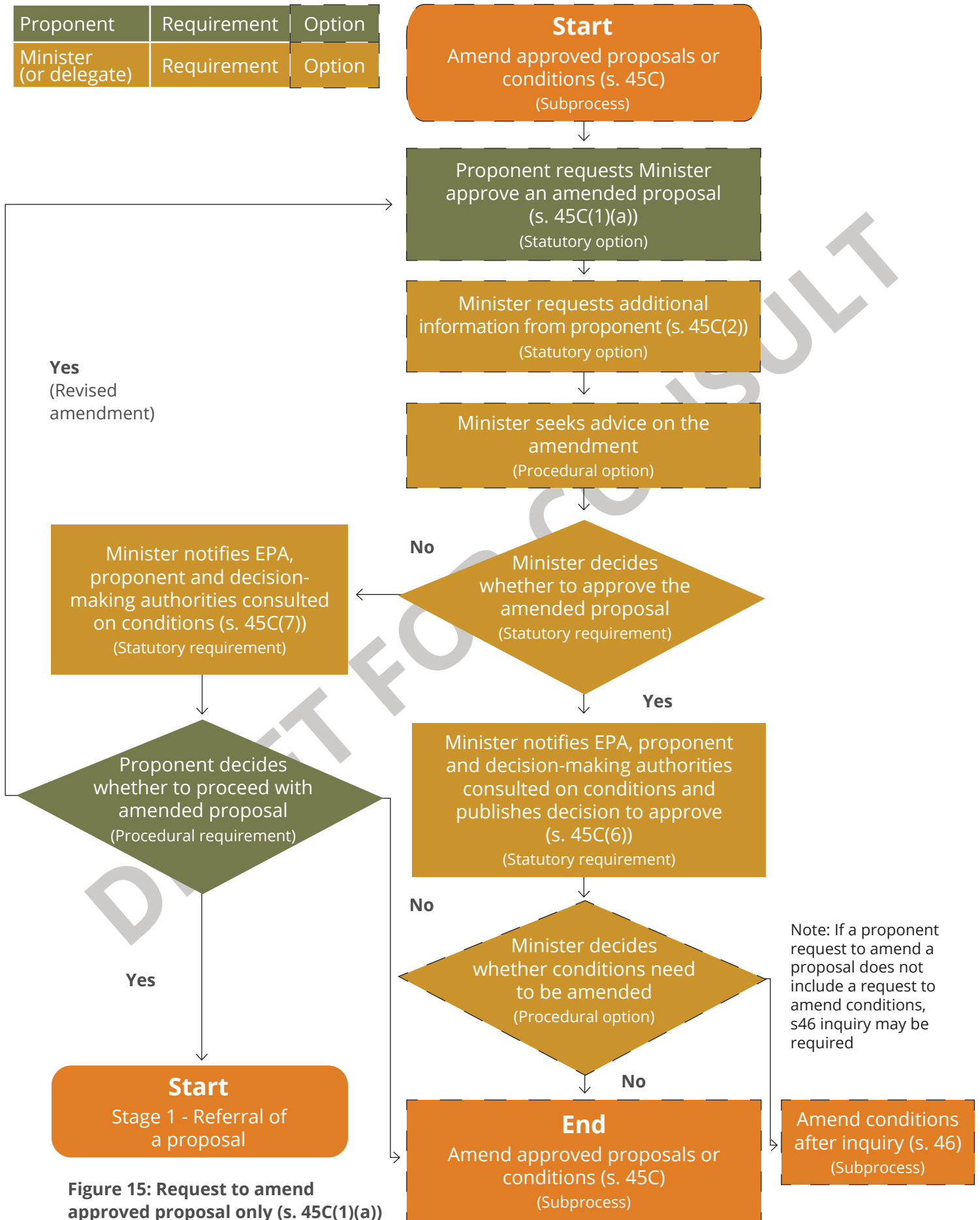
Refer to the *Administrative Procedures*.

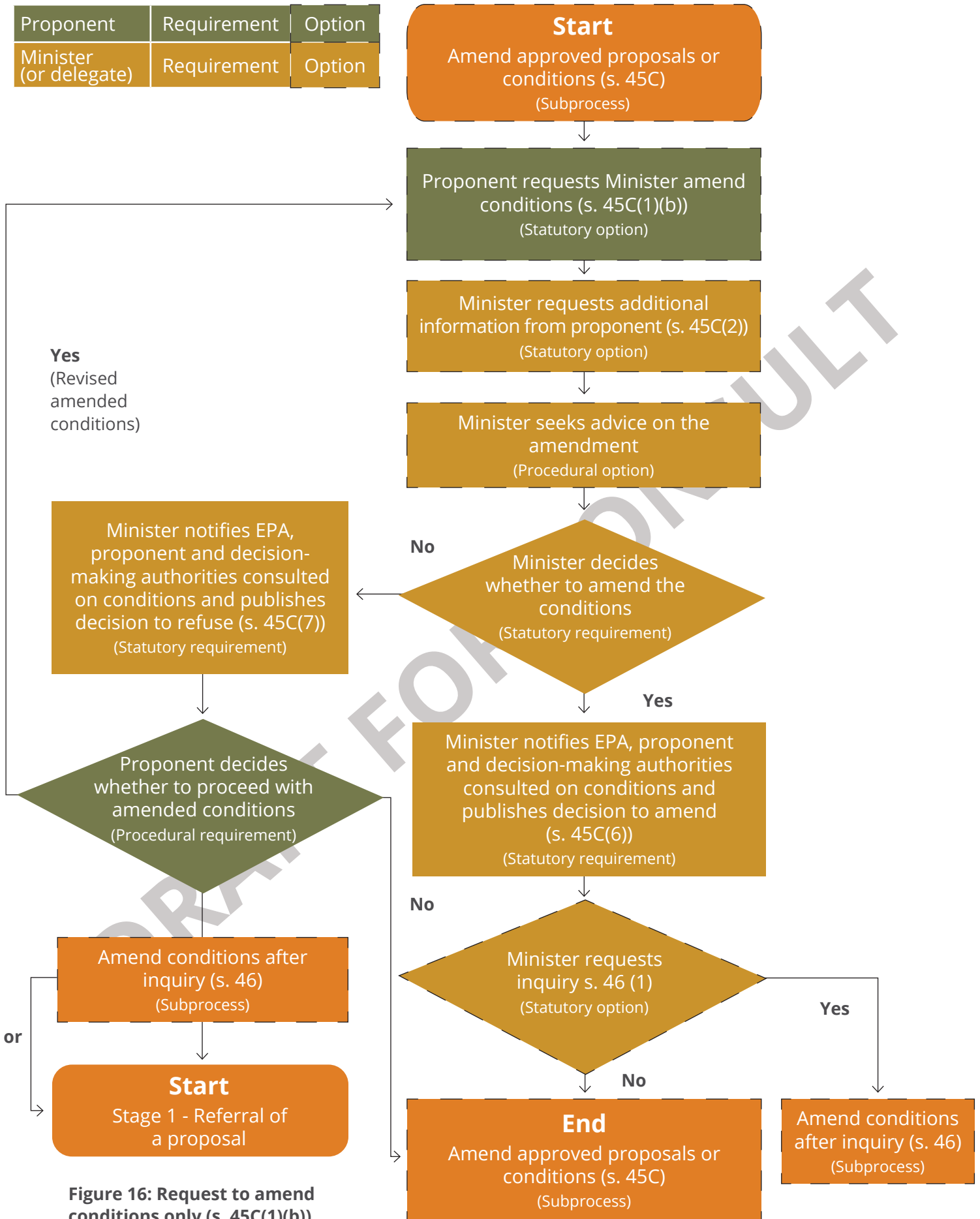
## 5.5 Amending approved proposals or implementation conditions without inquiry or assessment (s. 45C)

Proponents may make a request to amend an approved proposal, or implementation conditions, or both, without an inquiry. The procedures for amending an approved proposal and conditions are summarised in process diagram Figure 14. The procedures for amending an approved proposal only or conditions only are summarised in process diagrams Figure 15 and Figure 16.



**Figure 14: Request to amend approved proposal and conditions (s. 45C(1)(c)). Note: The Minister may decide to approve only part of the requested amendments. Refer to Figure 16 for options if a condition amendment is refused. Refer to Figure 15 for options if a proposal amendment is refused.**







Under s. 45C, the Minister *may* approve a request for an amendment to an approved proposal, its related implementation conditions, or both, unless it is a significant amendment.

[HOLD: Subject to confirmation of any delegation of powers under section 45C. This section to be removed if there is no delegation to the EPA Chair]

The Chair (or the Deputy Chair if the Chair is absent) has a delegation from the Minister to exercise the powers and duties in s. 45C.

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

The EPA Chair will not usually consider changes to proposals or implementation conditions more than every two years in the life of proposals, unless the proponent can show why additional changes are reasonable in its particular case. This is to ensure that the EPA's advice and recommendation on proposals is not affected by fragmented or future amendment applications which can undermine consideration of and decision-making for whole of proposal impacts. It is also for the purpose of efficient consideration of proposal amendment requests.

Section 5.5.1 sets out the information the EPA requires, to decide whether to approve the proposed amendment. The level of detail of the information the EPA Chair requires depends on the nature of the amendment and its potential impacts on the environment.

The quality of information provided to the EPA Chair about the nature of the proposal amendment and likely environmental effects associated with the proposed amendment may affect expected timeframes. It may also affect the EPA Chair's decision whether to approve the proposed amendment. There may be delays to expected timeframes if adequate information is not provided and the EPA Chair may also require additional information under s. 45C(2).

### **5.5.1 Content of the request to amend an approved proposal or implementation conditions**

The EPA Chair requires the proponent provide it with information in accordance with the Instructions and Checklist: Request to amend proposal and/or implementation conditions under s. 45C, including the following:

#### **1. Reason for and content of proposed amendment**

- The reasons for the amendment to the proposal, implementation conditions, or both.
- The content of the amendment to the proposal, implementation conditions, or both (including consolidated updated Proposal content document), consistent with the *Instructions and Template: How to identify the content of a proposal*.
- Alternatives to the proposed amendment.

#### **2. Regulatory information and environmental performance**

- Provide the history and current status of compliance of the approved proposal against its implementation conditions.
- Provide a report on the current environmental performance of the approved proposal against the EPA's environmental factors and any Ministerial statement condition environmental outcomes and/or objectives.

#### **3. Consultation**

- Whether any consultation has been carried out on the proposed amendment and the outcomes of any consultation.

*Note: The EPA would expect consultation with decision-making authorities relevant to any environmental factors which have the potential to be significantly affected by the amendment. The EPA would also usually expect some targeted public consultation if the original proposal (or any subsequent significant amendment) required a public review and the proposed amendment has the potential to result in a significant impact on the environment.*



#### **4. Control of implementation of amendment**

- Identify if there are any likely changes to decision-making authorities (addition or removal) as a result of the proposed amendment.
- Discuss whether any of the environmental effects of the proposed amendment are likely to be able to be mitigated by other statutory decision-making processes.
- Discuss whether the environmental effects of the amendment to the proposal are likely to be within the environmental outcomes and are likely to be able to be managed to meet environmental objectives, set by the approved proposal conditions.
- Discuss whether any other approved proposal conditions need to be amended because of the proposed amendment to the proposal.
- Discuss whether the management plans required by any existing conditions of the approved proposal will need to be amended to manage the proposed amendment to the proposal. If amendments to management plans are required, discuss whether an outcome-based condition can replace the management plan. If not, information about management plan amendments is required.
- Discuss whether any other minor amendments to conditions should be made.

#### **5. Assessment and significance**

##### **Assessment**

- Identify which environmental factor/s are affected by the amendment(s), including decrease or increase in environmental effects.
- Assess the likely impact of the amendment on the environment (including cumulative and holistic impacts) against the EPA's environmental factors.
- Assess the likely impact on the environment, including residual impacts after application of the mitigation hierarchy from:
  - the proposed amendment on its own
  - the proposed amendment combined with the current environmental performance of the approved proposal
  - the whole proposal if the amendment were approved (amended proposal).
- Discuss proposed environmental outcomes and the consistency of these outcomes with the EP Act principles and the EPA's objectives for environmental factors.

##### **Significance – amendments to proposals**

- Assess whether there is likely to be a significant effect on the environment (including cumulative and holistic impacts) from:
  - the proposed amendment on its own
  - the proposed amendment combined with the current environmental performance of the approved proposal
  - the whole proposal if the amendment were approved (amended proposal).

##### **Significance – Amendments to implementation conditions**

- Provide an assessment of whether if approved, the implementation of the proposal under the amended implementation conditions is likely to have a significant detrimental effect on the environment in addition to, or different from, the effect the approved proposal has in its implementation under the existing implementation conditions.

## 5.5.2 Process for amending approved proposal or implementation conditions

The process for an amendment to an approved proposal and/or implementation conditions is [HOLD: Subject to confirmation of any delegation of powers under section 45C. This section to be removed if there is no delegation to the EPA Chair]

- The proponent *will* consult with relevant stakeholders during the preparation of the request.
- The proponent must request an amendment to an approved proposal and/or implementation conditions in writing to the EPA Chair, using the Instructions and Checklist: Request to amend proposal and/or implementation conditions under s. 45C.
- The EPA *may*, by written notice, request the proponent provide the EPA with additional information about the proposed amendment (s. 45C(2)).
- The EPA *may* release information on the proposed amendment for public information or review, usually where there is a potential for a significant impact.
- The EPA *may* seek advice from relevant decision-making authorities and other government agencies and *will* consider advice received.
- The EPA *will* decide whether to approve the request, considering in particular:
  - whether the proposed amendment will result in a proposal of a substantially different character to the approved proposal
  - if the EPA considers the proposed amendment is a significant amendment to an approved proposal, it will refuse the amendment. This involves considering whether the amendment is likely, if implemented to have a significant effect on the environment.
  - if the EPA considers the proposed amendment to implementation conditions is a significant amendment, it will refuse the amendment. This involves consideration of whether there is a reasonable possibility that the amended implementation conditions will have a significant detrimental effect on the environment in addition to, or different from, the effect the proposal has in its implementation under the existing implementation conditions.
- The EPA *will* notify the proponent in writing of the decision whether or not to approve the amendment and will also notify the EPA, and decision-making authorities consulted on the conditions for the approved proposal (s. 45C(6) and (7)).
- The EPA *will* publish its decision, the updated consolidated proposal document, and any updated conditions to the Ministerial statement on the EPA's website.
- The EPA *will usually* publish a summary of reasons for its decision on the EPA website.

Under s. 45C(4) and (5), the EPA *may* also amend the approved proposal or implementation conditions to make minor amendments, whether or not a proponent request has been made.

Under s. 45C(7), if the EPA refuses to approve the amendment, the proponent may refer the requested amendment as a significant amendment under s. 38(1) (see Stage 1).

Under s. 45C(8), if the refusal is in relation to implementation conditions, the Minister *may* request an inquiry under s. 46(1) (s. 45C(8)) (see Section 5.7), or may agree with any decision-making authority that was consulted in relation to the existing implementation conditions that the proposed amendment is a significant amendment that must be referred by the decision-making authority under s. 38(4) (see Stage 1).

If the amendment to proposal triggers the need for a change to conditions which is not included in the proponent's request for the amendment to proposal and is not of a minor nature able to be made under s. 45C (5), any change to conditions can be the subject of an inquiry under s. 46 (see Section 5.7).

If the Minister approves an amendment to the proposal, the implementation conditions then apply to the amended proposal.

If the Minister approves an amendment to implementation conditions, the amended conditions then apply to the proposal (or amended proposal).

## 5.6 Division or consolidation of proposals and issue of separate or combined Ministerial statements (s. 45D)

Refer to the *Administrative Procedures*.

## 5.7 Amending implementation conditions after inquiry (s. 46)

The procedures for amending implementation conditions after an inquiry are summarised in process diagram Figure 17.

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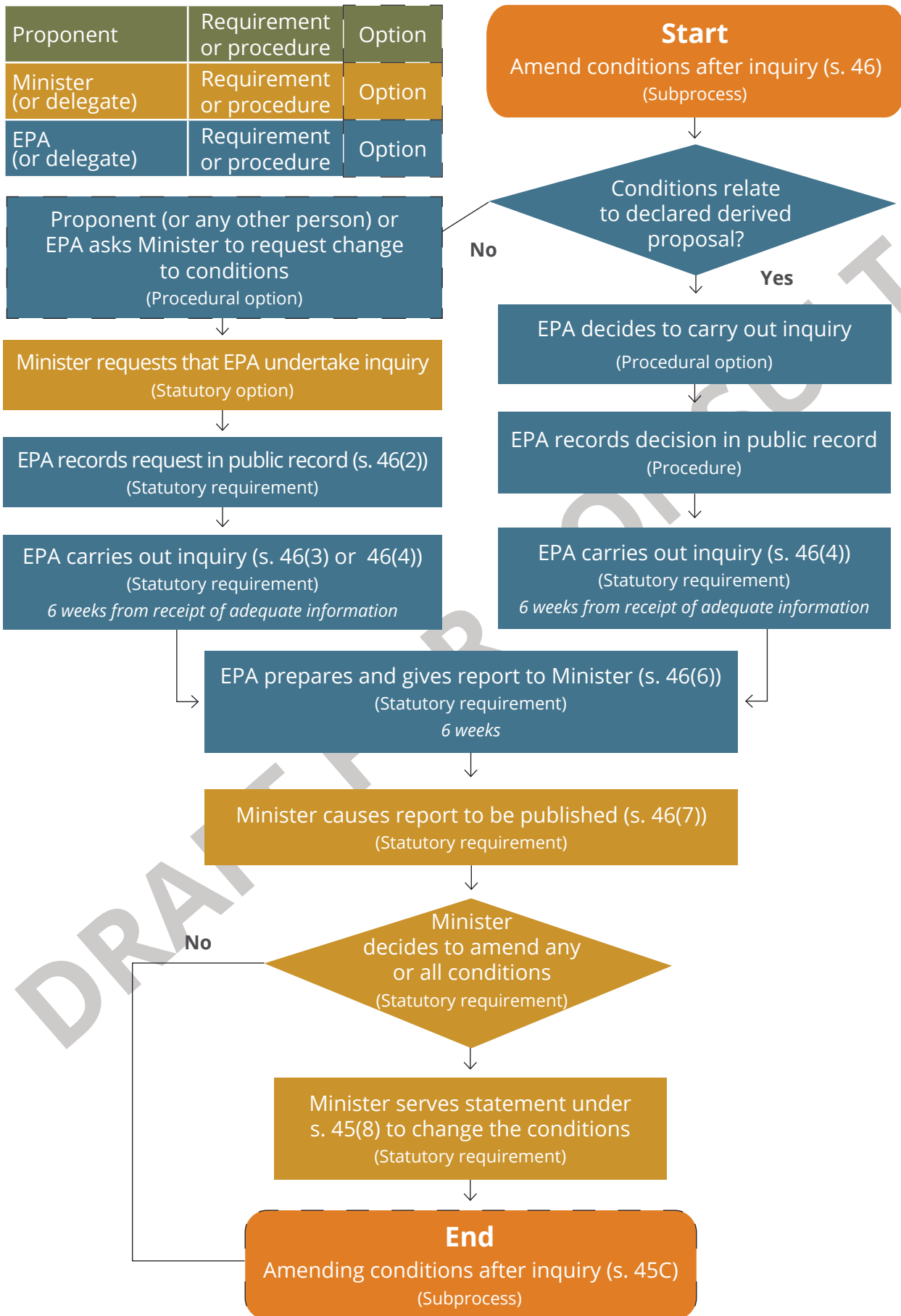


Figure 17: Amending implementation conditions after inquiry (s. 46)

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

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

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

For further guidance on how a proponent may request an amendment to conditions under s. 46 to the Minister, refer to the *Instructions: Amend implementation conditions after inquiry under s. 46*.

If a request to amend conditions is initially made under s. 45C (1), and this is refused, then under s. 45C(8), the Minister *may* request an inquiry under s. 46(1). The Minister may also agree with any decision-making authority that was consulted in relation to the existing implementation conditions that the proposed amendment is a significant amendment that must be referred by the decision-making authority under s. 38(4) (see Stage 1).

## 5.8 Interim conditions and procedures (s. 46A)

In addition to the procedures set out in the *Administrative Procedures*, the EP Act does not preclude a proponent from requesting interim conditions. Interim conditions may be issued under circumstances where a due date for an implementation condition may expire before the EPA completing its s. 46 inquiry into the changes to conditions.

## 5.9 Duration and withdrawal of Ministerial statement (s. 47A)

Refer to the *Administrative Procedures*.

## 5.10 Control of implementation of proposals (s. 48)

Refer to the *Administrative Procedures*.

## Delegations

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

- EPA to Chair of the EPA (and Deputy Chair if Chair is absent)
- EPA to senior officers of the DWER (Executive Director of the EPA Services Directorate)
- Minister to Chair of the EPA (and Deputy Chair if Chair is absent).

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

The DWER supports the EPA to perform its functions under the EP Act.

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

## Communications to the EPA

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

- to the EPA Registrar: registrar@dwer.wa.gov.au for direct communication, including the submission of proposal documentation
- the EPA's Consultation Hub for public comment.

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

Alternatively, communications may be made via the following methods:

- 1. Posted to:** Environmental Protection Authority  
or, Department of Water and Environmental Regulation  
Locked Bag 10  
Joondalup DC WA 6919
- 2. Delivered to:** Environmental Protection Authority  
or, Department of Water and Environmental Regulation  
Prime House 8 Davidson Terrace  
Joondalup WA 6027

## Timeframes

The process diagrams summarising the key procedures within stages and steps of the EIA process (Figures 2 to 17) include timeframes for the EPA's procedures, where applicable. The timeframes are administrative targets, except for the statutory requirements which are:

- s. 38G(1): within 28 days after the referral of the proposal the EPA is to give written notice of whether or not it is going to assess the proposal.
- s. 44(2b): the Assessment report may be given to the Minister at any time but, so far as is practicable, it must be given not later than six weeks after the EPA completes its assessment or reassessment of the proposal.

Figure 18 provides an overall summary of the stages and steps of the EIA process and the EPA's minimum target timeframes.

Note: The quality of information provided to the EPA stage about nature of Proposal elements and likely environmental effects may affect expected timeframes

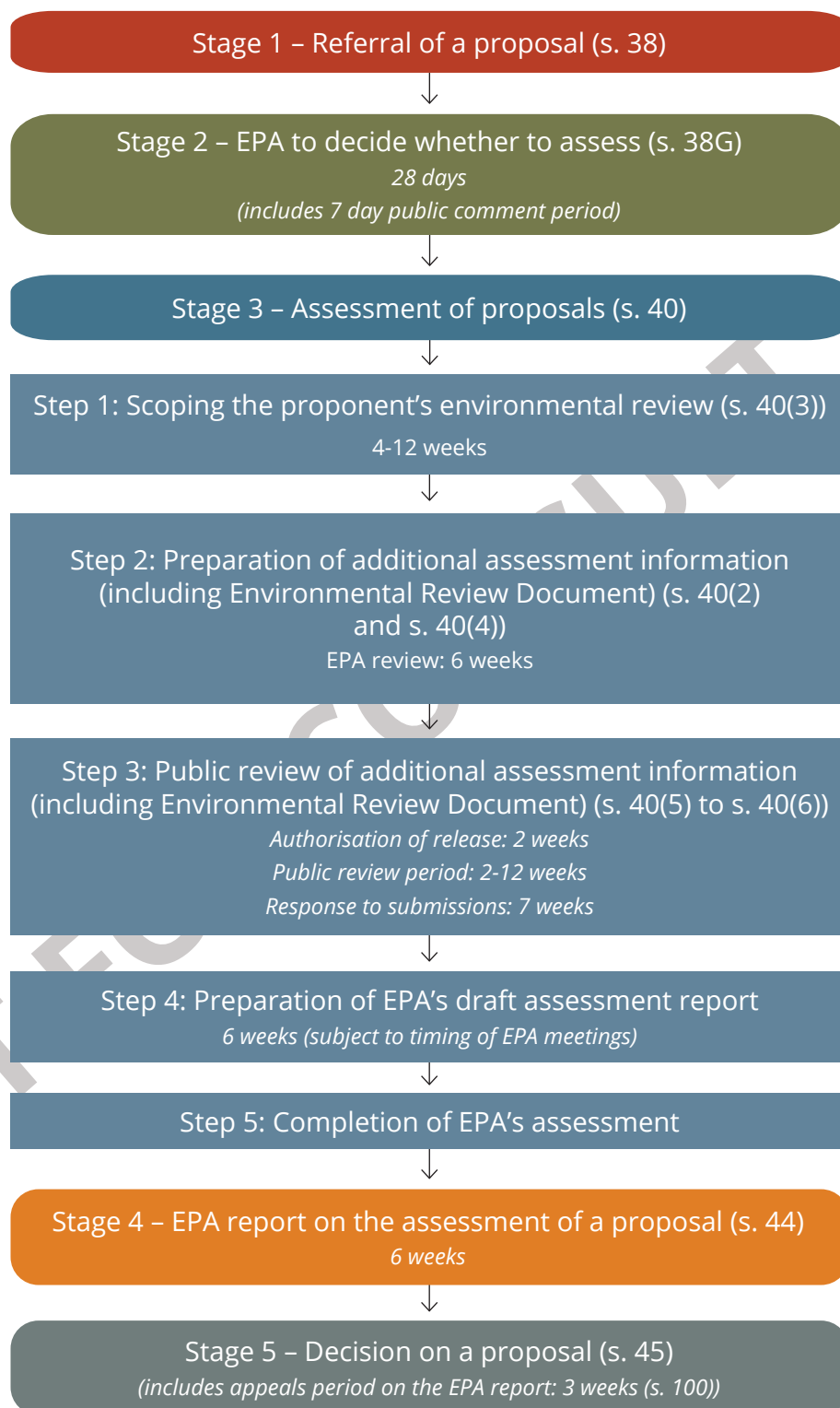


Figure 18: EIA process stages and steps and EPA's minimum target timeframes

## Definitions

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

Term	Definition
<b>Accredited assessment</b>	Process where the Commonwealth accredits the State assessment process on a case-by-case basis and the State assesses the controlled action on behalf of the Commonwealth.
<b>Additional assessment information</b>	The assessment information the EPA requires under s. 40 to assess a proposal.
<b>Amended proposal</b>	Proposal as amended by a proponent and approved under section 38C, 43A or 45C of the EP Act, or as amended after consideration under s40AA.
<b>Assessment information</b>	Referral information (s. 38 and where applicable, s. 38A and/or s. 39A(2) (b) and/or additional information (s. 40) that the EPA uses to assess a proposal (see also <b>Referral information and Additional assessment information</b> ).
<b>Assessment report</b>	The report given by the EPA to the Minister under s. 44.
<b>Bilateral Agreement</b>	A bilateral agreement is an agreement made between the Commonwealth and the State under s. 45 of the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth). 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'). [HOLD: Subject to confirmation: Text relating to Bilateral Agreement]
<b>CEO</b>	The Chief Executive Officer of the Department of the Public Service of the State responsible for the administration of the <i>Environmental Protection Act 1986</i> . Currently the Director General of the Department of Water and Environmental Regulation.
<b>Commonwealth</b>	The Commonwealth agency responsible for administering the <i>Environment Protection and Biodiversity Conservation Act 1999</i> .
<b>Controlled action</b>	As defined in the <i>Environment Protection and Biodiversity Conservation Act 1999</i> .
<b>Decision-maker</b>	The Minister, EPA or the CEO, who has specific powers and duties under the EP Act (see also <b>Delegate</b> ).
<b>Delegate</b>	Person or public authority who, by instrument of delegation made under sections 18, 19 or 20 of the EP Act, is authorised to perform all or any of the powers or duties under the EP Act of the decision maker (being either the Minister, the EPA or the CEO).
<b>DWER</b>	Department of Water and Environmental Regulation
<b>Environmental factors</b>	Segments of the environment the EPA uses for environmental impact assessment. See also EPA's <i>Statement of environmental Principles, factors and objectives, and aims of EIA</i>



Term	Definition
<b>Environmental Review Document</b>	Proponent's report on an environmental review under s.40(2)(b).
<b>Environmental Scoping Document</b>	The document that defines the form, content, indicative timing and procedure of the environmental review under s. 40(3).
<b>EP Act</b>	<i>Environmental Protection Act 1986</i>
<b>EPA</b>	Environmental Protection Authority, defined as the Authority in Part I, s. 3 of the EP Act, or their delegate.
<b>Future proposal</b>	A proposal identified in a strategic proposal.
<b>Investigation work</b>	Activity carried out to inform the EPA's decision to assess a proposal or its assessment of a proposal, or to inform design or planning that does not involve implementing of the proposal.
<b>In writing</b>	Any form of communication in writing, including but not limited to, letter, email etc. (see also <b>Written notice</b> ).
<b>Key environmental factors</b>	The environmental factors that the EPA reports on under s. 44.
<b>Level of assessment</b>	Proposal-specific requirements that the EPA determines are necessary to assess the proposal.
<b>Minister</b>	The Western Australian Minister for the Environment, or their delegate
<b>Mitigation hierarchy</b>	Strategies to reduce the impacts of a proposal on the environment. For guidance on the mitigation hierarchy, see the <i>Statement of environmental Principles, factors and objectives, and aims of EIA</i>
<b>Preliminary key environmental factors</b>	The environmental factor/s that may be significantly impacted by the proposal (that the EPA identifies when it decides to assess a proposal, identifies in the Environmental Scoping Document, or identifies at any time during its assessment).
<b>Referral information</b>	The information provided at referral (s. 38), and where applicable, from requests for further information (s. 38A) and/or from information derived from the EPA's investigations and inquiries (s. 38G(3)(c)).
<b>Significance/significant</b>	For guidance on 'significance' and 'significant' see the EPA's <i>Statement of environmental Principles, factors and objectives, and aims of EIA</i> .
<b>Statement of Environmental Principles, Factors and Objectives, and aims of EIA</b>	<i>Statement of environmental Principles, factors and objectives, and aims of EIA</i> (EPA 2021) or any subsequent updates or replacements
<b>Strategic assessment</b>	Assessment of a strategic proposal
<b>Validly referred proposal</b>	A proposal recorded by the EPA as a valid referral
<b>WA Environmental Offsets Guidelines</b>	<i>WA Environmental Offsets Guidelines</i> (Government of Western Australia, 2014) or any subsequent updates or replacements
<b>WA Environmental Offsets Policy</b>	<i>WA Environmental Offsets Policy</i> (Government of Western Australia, 2011) or any subsequent updates or replacements
<b>Written notice</b>	Any form of notice in writing, including but not limited to, letter, email etc.

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