



One Stop Shop Assessment Bilateral Agreement

Western Australia (WA) has signed a new assessment bilateral agreement with the Commonwealth under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The agreement was signed on 3 October 2014.

The agreement will allow WA to assess proposals on behalf of the Commonwealth. The Commonwealth will still make the approval decision under the EPBC Act relying on the WA assessment report.

When does the new agreement start?

The new agreement will start to operate on 1 January 2015.

The previous assessment bilateral agreement between WA and the Commonwealth will continue to operate until 31 December 2014.

What processes does the agreement cover?

The agreement accredits the Environmental Protection Authority's (EPA's) Public Environmental Review (PER) and Assessment on Proponent Information - Category A (API-A) levels of assessment. The agreement also accredits the clearing permit assessment process under Part V Division 2 of the *Environmental Protection Act 1986* (EP Act).

What does the agreement mean?

Accreditation of the EPA's assessment processes means that the Commonwealth can rely on environmental assessments undertaken by the EPA for the purpose of its approval decisions under the EPBC Act on proposals that are likely to have a significant impact on a matter of national environmental significance. If the EPA assesses a proposal at the level of PER or API-A under the agreement, separate assessment by the Commonwealth is not required. Duplication of assessment is avoided as a result.

How is the new agreement different to the previous bilateral agreement with WA?

The key difference is the scope of the agreement. The previous bilateral agreement accredits the EPA's PER level of assessment only, whereas the new agreement also accredits the EPA's API-A level of assessment and the clearing permit assessment process under Part V of the EP Act.

The new bilateral agreement requires that proponents of proposals that are assessed under the agreement at the level of API-A release their assessment documentation for public comment for two weeks on the likely significant impacts of their proposals on matters of national environmental significance. The bilateral agreement sets out particular requirements for the invitation for public comment and the assessment documentation released for public comment. These requirements are from the Environment Protection and Biodiversity Conservation Regulations 2000.

The Office of the Environmental Protection Authority (OEPA) will release further information about this requirement before the commencement date of the agreement.

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Will the new agreement apply to proposals already in the WA assessment system?

Any proposals being assessed under the previous bilateral agreement between WA and the Commonwealth will automatically transition to the new agreement on 1 January 2015 and the assessment will continue.

Other proposals can start to be assessed under the new agreement on 1 January 2015 subject to the Commonwealth's 'controlled action' decision being made on or after that date and provided the WA assessment process is not too far progressed. For the EPA, the completion of the scoping stage of the environmental impact assessment is usually the limit of opportunity for an assessment under the bilateral agreement.

What matters of national environmental significance are covered?

All matters of national environmental significance (excluding the Great Barrier Reef) are covered by the agreement. The matters of national environmental significance are:

- world heritage properties
- national heritage places
- wetlands of international importance (listed under the Ramsar Convention)
- listed threatened species and ecological communities
- migratory species protected under international agreements
- Commonwealth marine areas
- nuclear actions (including uranium mines)
- a water resource, in relation to coal seam gas development and large coal mining development.

The agreement does not cover proposals located within the Commonwealth marine area or on Commonwealth land, either wholly or in part. Projects located outside those areas that may have a significant indirect impact on the environment of those areas are covered.

Does the agreement cover the assessment of planning schemes?

The agreement does not cover the assessment of planning schemes. Planning schemes are not 'actions' requiring referral and assessment under the EPBC Act. Therefore, the EPA's assessment of schemes under the EP Act is not a process that can be accredited or one that needs to be accredited because there is no duplication of environmental assessment of schemes.

Are referrals still made to the Commonwealth?

Proposals that are likely to have a significant impact on a matter of national environmental significance must still be referred to the Commonwealth under the EPBC Act and the approval decision will still be made by the Commonwealth.

The opportunity for a proposal to be assessed by the EPA under the bilateral agreement depends on the aligned referral of the proposal to both the Commonwealth and the EPA. If a proposal is referred to the EPA prior to the referral to the Commonwealth, the EPA's assessment process may be too far progressed to enable an assessment to occur under the bilateral agreement.

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What is happening with the bilateral agreement for approvals?

WA is still negotiating an approval bilateral agreement with the Commonwealth. A draft approval bilateral agreement will be made available for public comment before the agreement is finalised. The approval agreement will provide for WA to both assess and make approval decisions on proposals.

Where can I find out more?

The OEPA will release further information about the new agreement and guidance for proponents prior to the commencement of the agreement. This will be made available on the EPA's website.

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Front page image: The Grand Spider Orchid, Caladenia huegelii, is a Declared Rare plant under the Western Australian Wildlife Conservation Act 1950, and is listed as Endangered under the Commonwealth EPBC Act.

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