



Assessment on Proponent Information

This fact sheet explains the criteria for the two categories of Assessment on Proponent Information, and the process that is followed.

If a proposal is likely to have a significant effect on the environment, it may be referred to the Environmental Protection Authority (EPA) for a decision on whether or not it requires assessment under the *Environmental Protection Act 1986*.

Seven-day public comment period

All proposals referred to the EPA are subject to a seven-day public comment period before any decision on whether or not to assess the proposal and, if so, the level of assessment. The comment period is intended to gauge the level of public interest in a proposal and invite the public to raise any environmental issues about which they are concerned.

The referral documentation is placed on the EPA's consultation hub at <https://consultation.epa.wa.gov.au> for seven days. All comments are taken into consideration by the EPA when making its decision.

There are two levels of assessment:

1. Assessment on Proponent Information (API) category A or B
2. Public Environmental Review (PER)

Criteria for API categories

Assessment on Proponent Information – category A

A proposal will be assigned a level of API category A if:

- the proposal raises a limited number of key environmental factors than can be readily managed, and for which there is an established condition-setting framework;
- the proposal is consistent with established environmental policies, guidelines and standards;
- the proponent can demonstrate that it has conducted appropriate and effective stakeholder consultation, in particular with decision-making authorities (DMAs); and
- there is limited or local concern only about the likely effect of the proposal, if implemented, on the environment.



All comments are taken into consideration by the EPA when making its decision.

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Staff of the Office of the Environmental Protection Authority (OEPA) are available to discuss with the proponent before referral whether their proposal has the potential to be assessed under this category.

If a level of API category A is assigned, the EPA may still need additional information on which to base its assessment. In this situation, the EPA will provide an API scoping guideline and ask the proponent to prepare an API document.

Assessment on Proponent Information – category B

A proposal will be assigned a level of API category B (environmentally unacceptable) if:

- the proposal is inconsistent with established environmental policies, guidelines and standards;
- the proposal is likely to have a significant detrimental impact on an environmental value; or
- the proposal raises one or more key environmental factors or issues that do not meet the EPA's environmental objectives under the EP Act; and
- the proposal could not be reasonably modified or mitigated to meet the EPA's environmental objectives and principles.

A proposal may be assessed at the API category B level if there is potential for serious, wide-spread or irreversible environmental consequences from its implementation (even if the likelihood of this happening is low) and the consequences could not be mitigated.

In some instances, it is possible for the EPA to make a judgement that the proposal is fundamentally and fatally flawed, based on the proponent's referral information, specialist advice sought by the EPA, the EPA's own knowledge and experience in dealing with similar environmental risks and impacts, and the application of the precautionary principle.

In cases where the EPA considers that there is adequate information to demonstrate that the proposal is environmentally unacceptable, the Chairman of the EPA will inform the proponent of the likely decision on assessment.

Report and recommendations

If an API level of assessment has been assigned and once sufficient information either in the referral or in an API document has been received, preparation of the EPA report will begin. The OEPA will take as assessment strategy and relevant proponent information to the EPA who will decide the outcome of the assessment. The EPA's assessment report is then finalised.

When the EPA assesses a proposal and provides advice to the Minister, it may also recommend conditions and procedures which regulate the implementation of the proposal. The Minister, in consultation with the DMAs, determines whether or not the proposal should be implemented and if so, the conditions and procedures that are to apply.

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The EIA process identifies conditions that should be applied to manage the environmental impacts of a proposal.

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The Minister's decision is provided by way of a statement issued under section 45(5) of the EP Act. If a proponent does not implement the proposal in accordance with the conditions and procedures identified in the statement, the proponent commits an offence.

The EPA's preference is to recommend outcome-based conditions, which focus on the ultimate objective that is to be achieved. The aim of the outcome-based approach to condition-setting is to regulate "what" to achieve, not "how" to achieve it.

The EPA may consult with the proponent, relevant decision-making authorities, and other government agencies on the recommended conditions before the EPA report is finalised. This consultation is designed to:

- correct any errors
- confirm that the recommended conditions are technically feasible
- confirm that the conditions are clear and relevant to the proposal, and
- identify practical opportunities to strengthen environmental outcomes.

Any consultation on conditions is undertaken on a confidential basis and is not intended to be a negotiation, but to provide rigour and clarity to condition-setting.

When finalised, the EPA Report and recommendations are presented to the Minister and published on the EPA's website at <http://www.epa.wa.gov.au/EIA/EPAREports>

For more detail on the steps involved in preparation of an EPA Report, refer to *Environmental Assessment Guidelines No.6 - Timelines for Environmental Impact Assessment of Proposals*

Appeals

Once published, the EPA's Report and recommendations are open to appeal for 14 days.

Appeals are administered by the Appeals Convenor and determined by the Minister for Environment.

A decision on implementation of the proposal is made by the Minister on the basis of the EPA's advice and in consultation with other Ministers or decision-making authorities.

Contacting the Appeals Convenor

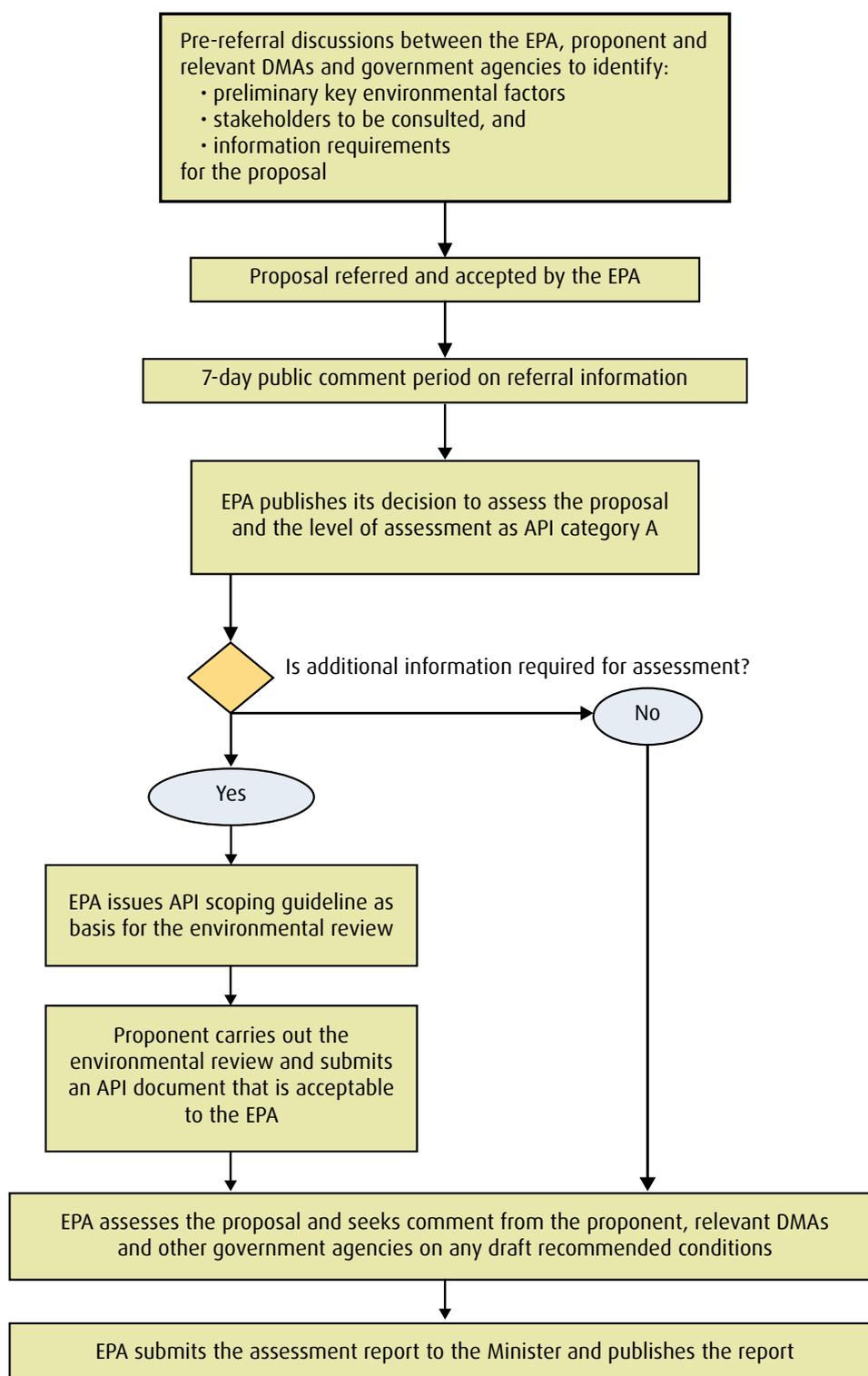
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