

STRATEGIC ASSESSMENTS: POLICY STATEMENT FOR EPBC ACT REFERRALS

Introduction

This policy statement describes the approach of the Department of Sustainability, Environment, Water, Population and Communities (the department) to assessing individual projects that are referred under the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*, but that are also covered by a strategic assessment under Part 10 of the legislation.

The aim is to ensure that individual projects do not result in outcomes that would be inconsistent with the objectives and expected outcomes of strategic assessments, and to avoid any risks and legal uncertainty resulting from dual approvals from both normal project assessment processes and strategic assessments.

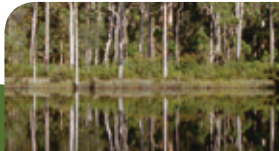
Background

The EPBC Act is the Australian Government's central environmental legislation and provides a legal framework to protect matters of national environmental significance including listed flora, fauna, ecological communities and heritage places. [More information about the EPBC Act](#) is available at www.environment.gov.au/epbc.

Individual projects that are likely to have a significant impact on matters of national environmental significance must be referred to the Australian Government for **assessment and approval** under Part 7 (referral), Part 8 (assessment) and Part 9 (approval) of the EPBC Act. Part 10 of the EPBC Act provides for strategic assessments at a landscape or regional scale and approval of 'classes of actions'.

Key steps in the strategic assessment process are:

- preparation of a Strategic Assessment Agreement and terms of reference describing the requirements of the strategic assessment, the geographic coverage of the strategic assessment (where relevant) and the 'classes of actions' to be assessed,
- public exhibition of the strategic assessment documents,
- endorsement of the final strategic assessment under Part 10 of the EPBC Act (this means that classes of actions addressed in the strategic assessment will have acceptable impacts on matters of national environmental significance if undertaken in accordance with the endorsed final strategic assessment), and



- approval of classes of actions under Part 10 (projects covered by the approval do not need individual referral, assessment or approval under the EPBC Act provided they are undertaken in accordance with the endorsed final strategic assessment).

At all times, decisions on whether a referred action is a controlled action (Part 7 of the EPBC Act), the assessment approach (Part 8) and approvals (Part 9) will continue to be made having regard to the circumstances of the individual proposal and the requirements of the EPBC Act. The Australian Government has released a number of guidelines and policies relevant to assessments that must be taken into account, including the EPBC Act *Significant Impact Guidelines* (October 2009) and *Environmental offset policy* (October 2012).

Policy Statement

This policy statement does not apply to projects:

- entirely outside the area to which a strategic assessment applies
- comprised of actions that fall outside the 'class of actions' assessed under a strategic assessment, or
- already approved under Part 9 of the EPBC Act.

The following principles and administrative arrangements (see accompanying boxes) will guide the consideration of individual actions and projects that are referred for approval during the course of a relevant strategic assessment. An illustrative flow chart is at Figure 1.

Applying these principles is expected to:

- provide greater certainty and transparency to proponents about the department's expectations,

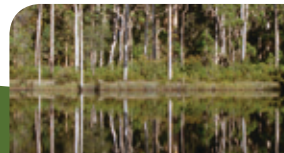
- help deliver more strategic outcomes for protection of matters of national environmental significance, and
- deliver administrative efficiency for developers and regulators.

Referral of projects while a strategic assessment is underway

Principle 1—The department will encourage proponents to have their proposals considered as part of the strategic assessment (if relevant), rather than assessed individually. This will help deliver consistent outcomes for proponents and the environment, and increase regulatory efficiency. However, the government's obligation to respond to all projects referred under national environmental law continues to apply.

The department will write to any party making a project referral within a relevant strategic assessment area to advise of the strategic assessment process and likely timings, and to provide the opportunity to withdraw the referral in the event that the project is determined to be a controlled action.

The department encourages proponents to contact the department if they intend making a referral and are aware of a relevant strategic assessment. In the event that an approval decision is required prior to the expected completion of the relevant strategic assessment, the department will advise on the actions that should be referred.



Assessment of projects while a strategic assessment is underway

Principle 2—The department expects proposals falling within a class of actions assessed under a relevant strategic assessment to demonstrate consistency with the likely environmental outcomes of that strategic assessment. This outcome will be supported through, for example, consideration of the terms of reference for the strategic assessment or any published strategic assessment reports.

Decisions on whether a referred action is a controlled action, the assessment approach and approvals will be made after considering the circumstances of the individual proposal and the requirements of the EPBC Act. Proposals that were determined controlled actions prior to the commencement of the strategic assessment will also be treated, where practicable, in accordance with the administrative arrangements described in the box below.

In the event an action is determined to be a controlled action, the department will provide the proponent with:

- advice on how to best align project outcomes with the expected outcomes of the strategic assessment
- publicly available information on the strategic assessment and matters of national environmental significance being considered. This information will, at a minimum, include the Strategic Assessment Agreement and assessment Terms of Reference, and
- web links to strategic assessment documents that have been released for public exhibition.

Assessment of projects following endorsement of a policy, plan or program PPP and prior to approval of actions

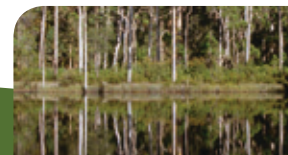
Principle 3—Information in the endorsed strategic assessment reports will be taken into account when assessing projects requiring referral (Part 7 of the EPBC Act), assessment (Part 8) or approval (Part 9) of the EPBC Act. Sections 87(3)(b) and 136(2)(e) of the EPBC Act state that information in the strategic assessment must be taken into account in determining the assessment approach (Part 8 of the EPBC Act) and any final project approvals and conditions (Part 9).

The department expects to be able to recommend approval (under Part 9 of the EPBC Act) of any proposal, falling within the class of actions described in the endorsed strategic assessment, where that proposal demonstrates full compliance with the commitments and requirements in the endorsed strategic assessment for protection of matters of national environmental significance.

Assessment of projects following approval of class of actions under a strategic assessment

Principle 4—Projects falling within a class of actions approved under Part 10 of the EPBC Act do not require individual referral (Part 7 of the EPBC Act), assessment (Part 8) or approval (Part 9) under the EPBC Act. An approval granted under Part 10 is taken to be an approval under Part 9 (s146 D1b).

The department will write to any party making a project referral covered by an approved class of actions, made under Part 10, to confirm that the proposal already has approval and the referral should be withdrawn.



What if a proposal already has a Part 9 approval before a strategic assessment commences?

Principle 5—Projects with existing approvals must be undertaken in accordance with any conditions attached to that approval. Any subsequent Part 10 approval will not apply even if the action is yet to commence.

There may be limited circumstances where the department could consider the variation of conditions of a Part 9 approval where this would demonstrably achieve better environmental outcomes and consistency with a Part 10 approval, particularly if state/territory requirements form part of the endorsed final strategic assessment.

Further information

If you have any questions about whether referral of a proposed action is required, or whether this policy applies to a particular proposal, please contact the department's Community Information Unit (CIU) on **1800 803 772**. The CIU will direct you to the right contact in the department.

Quick links

Further information that may be useful can be found at the following links:

- Strategic Assessments
<http://www.environment.gov.au/epbc/assessments/strategic.html>
- Project Assessments
<http://www.environment.gov.au/epbc/assessments/process.html>
- What is protected under the EPBC Act?
<http://www.environment.gov.au/epbc/protect/index.html>

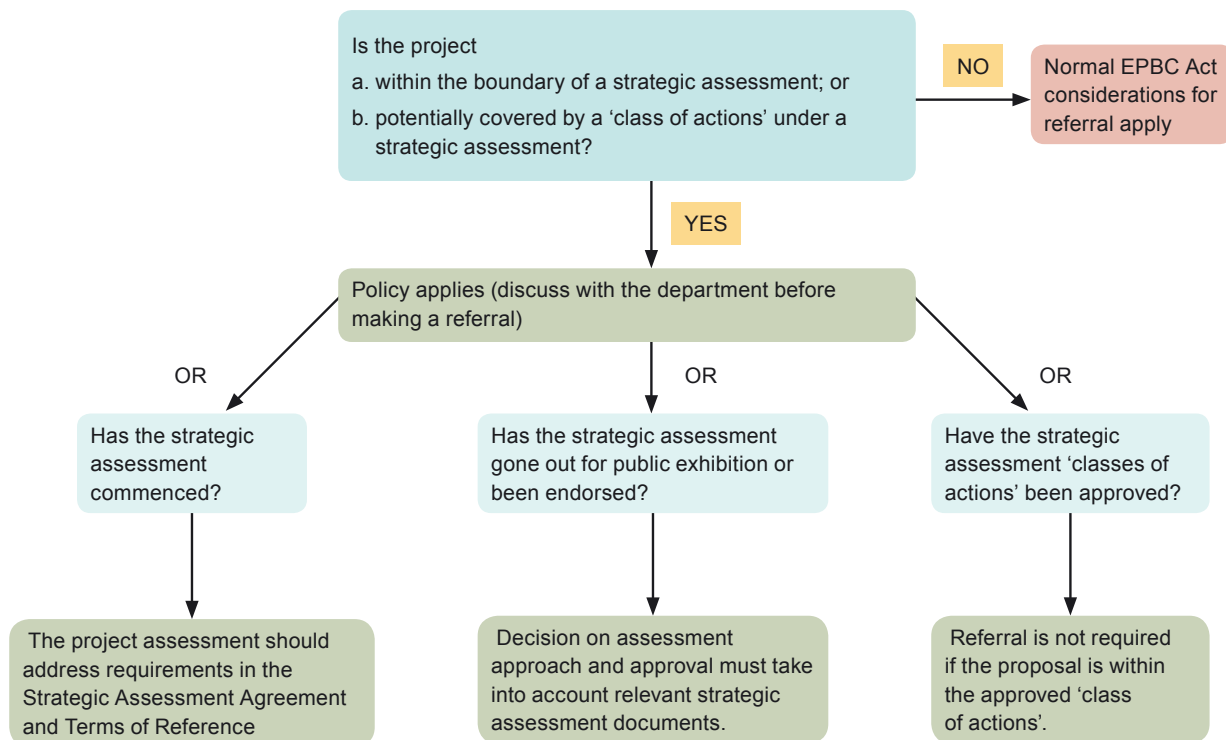


Figure 1: Administrative arrangements for project referrals to which this policy applies.