



Submitting a referral under the EPBC Act – A fact sheet for a person proposing to take an action

A person must not take an action that has, will have or is likely to have a significant impact on any of the matters of national environmental significance without approval from the Australian Government Minister for the Environment (the Minister).

An action is a project, a development, an undertaking, an activity or a series of activities, or an alteration of any of these things.

When you are deciding if your proposed action needs to be referred, you need to consider:

- Is the proposed action likely to have a significant impact on a matter of national environmental significance?
- Is the proposed action likely to have a significant impact on the environment in general (for actions by Commonwealth agencies or actions on Commonwealth land) or the environment on Commonwealth land (for actions outside Commonwealth land)?

The referral and assessment process under the EPBC Act may seem daunting to those that have little to no experience with environmental assessments or with the Department's processes.

Helpful Hint 1: Understanding the referral process

This link (environment.gov.au/protection/environment-assessments/assessment-and-approval-process) provides further information on the referral process including links to other fact sheets and the referral flowchart.

Our aim is to provide you with clear and up front guidance to help you navigate through the process as efficiently as possible, saving you time, money and frustration whilst still ensuring that environmental impacts are rigorously considered. This fact sheet will also provide links to further information provided on our website.

Pre-referral meeting

A pre-referral meeting provide an opportunity for you or your representative to discuss any issues directly with an assessment officer and to put together a comprehensive and targeted referral. Referral documentation that is incomplete or with limited supporting documentation will mean inevitable delays and costs for both you and the Department.

You may want to seek a pre-referral meeting with Departmental environment assessment officers at any time before you submit a formal referral of your proposed action if:

- you are unsure of the assessment and approval process

- you want to know what type of information and support documents you will need to produce as part of your referral
- you want to discuss possible options available for your proposed action that may reduce the potential for significant impacts on a protected matter, for example planning design and timing or investigate opportunities to pursue an outcomes based approval.

A pre-referral meeting can occur early in your planning process or when you have a draft version of your referral that you would like an assessment officer to consider. For information on how to work with us to achieve a smoother, faster referral process and to arrange a pre-referral meeting please refer to *Summary information to assist with pre-referral meeting - guidance for proponents and consultants.*

Referral form

The purpose of the referral process is to determine whether or not a proposed action will need formal assessment and approval under the EPBC Act. You may still make a referral if you believe your action is not going to have a significant impact, or if you are unsure.

Helpful Hint 2: The Referral Form

The [referral form](#) and accompanying instructions can be found on the Department's website.

The completed referral will be the principal basis for the Minister's decision as to whether approval under national environment law is necessary and if so the type of assessment that will be taken. See Attachment 1 in this document for additional guidance and helpful hints.

To help you decide whether or not your proposed action requires approval (and, therefore, if you should make a referral), refer to the following information that will help you decide whether a referral is required and provide you with the criteria used by the Department when considering your referral.

Significant impact guidelines

- [Significant Impact Guidelines 1.1 - Matters of national environmental significance](#)
- [Significant Impact Guidelines 1.2 - Actions on, or impacting upon, Commonwealth land and Actions by Commonwealth Agencies](#)
- [Significant Impact Guidelines 1.3 - Coal seam gas and large coal mining developments - Impacts on water resources.](#)

Search tools

Protected matters search tool

You can use the [protected matters search tool](#) to help determine whether matters of national environmental significance or other matters protected by the EPBC Act are likely to occur in your area of interest.

Species Profile and Threats (SPRAT) Database

Survey guidelines vary for different types of wildlife. You can find information as well as [policy statements on specific species and ecological communities](#) on the [SPRAT database](#). The [SPRAT database](#) will provide you with information about the species and ecological communities listed under the EPBC Act. It contains information on what species look like, their population and distribution, habitat, movements, feeding, reproduction and taxonomic comments.

Policy statements, guidance notes and environment assessment manual

The Department's website contains [guidance notes](#) on particular sections of the EPBC Act, other available EPBC Act publications and [EPBC Act policy statements](#). This includes the [EPBC Environmental Offsets Policy](#), including the advanced offsets policy and the [draft outcomes-based conditions policy and guidance](#). The site also provides a link to the [environment assessment manual](#) which provides advice and direction to Departmental assessment staff that are responsible for implementing Chapter 4 of the Act. A summary table of each assessment approach is at the end of this guide which highlights points to consider by assessment staff when identifying the appropriate assessment approach. Please note that the manual is not a substitute for legal or professional advice.

Cost recovery

Cost recovery arrangements for environmental and some strategic assessments have been in place since October 2014. The [cost recovery process](#) is explained on the Department's webpage.

Attachment 1: General guidance and helpful hints

Providing appropriate documentation

To ensure a timely decision and cost effective process, the Department suggest that *as best as practicable* referral should be supported by strong quantitative evidence that builds a clear and detailed picture of any possible direct, indirect and cumulative impacts of the proposed action on Matters of National Environmental Significance (MNES). Supporting documentation can range from desktop research to on-ground surveys and supporting visual evidence. Any surveys undertaken must use a methodology that is consistent with Commonwealth approved survey guidelines. Maps, figures or diagrams that show the extent of the proposal area, including boundaries, and that identify any impacted habitat are essential. These must be clear and to a suitable scale.

Don't assume that because an action involves a matter of national environmental significance, the action will have, or is likely to have, a significant impact on that matter. By providing all information available about the proposed action to the Department as well as proposed measures to reduce adverse impacts on protected matters, the Department can make an informed decision regarding the likelihood of a significant impact to a matter as a result of your project.

If the assessment officer requires further information to determine if your proposal is likely to have a significant impact (referral) or if the impacts of a proposed action are acceptable (assessment), you may be required to pay an additional fee and any statutory timeframe running will stop until the additional information is received.

Baseline data

The quality of the available baseline data about relevant matters of national environmental significance is an important consideration in your referral. Baseline data refers to environmental surveys undertaken or directly supervised by qualified environmental experts to record and collate statistics and other relevant information about the existing environmental conditions at the proposed project site, including information about matters of national environmental significance (such as population, location, available habitat, quality of habitat etc).

Good quality and statistically robust baseline data is important to the environmental impact assessment process as it provides a basis for determining the likely and actual impacts of the proposal. Baseline data surveys should be designed to provide information that is relevant to the identification and assessment of likely and actual impacts on matters of national environmental significance.

Providing the Department with good quality baseline data at the time of referral allows both the proponent of an action and the Department to identify the impacts that a proposed action will have, or is likely to have, on matters of national environmental significance. Proponents can work with environmental and data experts for assistance with developing baseline data that satisfies these requirements.

Measures to avoid or reduce impacts

In some cases, your proposed measures may be adequate to avoid or reduce impacts on matters of national environmental significance and further assessment and approval may not be required. For example, a proponent may commit to carrying out construction activities at a time that will avoid the breeding season of migratory birds, thereby avoiding significant disturbances to a protected species. Using appropriate avoidance measures may mean that the proponent can proceed without further assessment and approval under the EPBC Act. They will be able to do this on the condition that they carry out the proposed action in the manner prescribed in the referral documentation (**not controlled action – 'particular manner'**).

When preparing your referral, you are asked to provide a description of measures that will be implemented to avoid, reduce, manage or offset any relevant impacts of the action. Include, if appropriate and if available, any relevant survey data, maps, reports or technical advice relating to the feasibility and effectiveness of the proposed measures. For any measures intended to avoid or mitigate significant impacts on matters of national environmental significance, specify:

- what the measure is
- how the measure is expected to be effective
- the time frame or work plan for the measure.

Examples of relevant measures to avoid or reduce impacts may include the timing of works, avoidance of important habitat, specific design measures, or adoption of specific work practices. Provide information about the level of commitment by the person proposing to take the action to implement the proposed mitigation measures.

For example, clearly identify and explain any preliminary measures that have not been fully researched, or are dependent on a third party's agreement (e.g. council or landowner).

Description of environmental offsets (if applicable)

Including early information on potential environmental offsets may result in a quicker assessment process being applied to a controlled action. Note, that the Minister CANNOT take into account any proposed offsets in deciding whether the proposal is likely to have a significant impact on a matter of national environmental significance. However, these commitments will be relevant if your proposal proceeds to the later assessment and approval stages. The offsets policy does not apply to actions that have been declared as 'Not a Controlled Action'. Further information is available on the [EPBC Act environmental offsets policy](#) section of the website.

Outcomes-based conditions

The Department is working towards increasing the use of environmental approval conditions that focus on environmental outcomes. An outcomes-based condition sets out the environmental outcome that must be achieved without prescribing how that outcome is to be achieved.

Outcomes-based approvals benefit the environment by shifting the focus of attention to the environmental outcome the Government expects an approval holder to achieve. Business is accountable and responsible for achieving an outcome, rather than simply complying with a set of process-based management conditions.

Outcomes-based approvals require strong and transparent monitoring and reporting of environmental information. Requiring business to make this information public will result in greater and more accessible access to environmental information. This will improve our ability to understand and manage our environment.

Outcomes-based conditions also encourage innovation: business will be able to design the best solutions to achieve a given environmental outcome.

The Department has developed a [draft outcomes-based conditions policy and guidance](#), which will outline the approach for determining if projects are suitable for outcomes-based conditions.

Environmental Management Plans

Environmental management plans describe how an action might impact on the natural environment in which it occurs and set out clear commitments from the person taking the action on how those impacts will be avoided, minimised and managed so that they are environmentally acceptable. The [Environmental Management Plan Guidelines](#) on the Department's website provides general guidance to stakeholders preparing environmental management plans for environmental impact assessments and approvals under Chapter 4 of the EPBC Act. These plans may be submitted as part of the formal referral to the Department.



Koala and young in tree © Dan Lunney

Caveat

This guide has been developed to help you prepare your development referral for formal assessment and approval. It is not prescriptive and does not determine the referral outcome. The Department cannot give any assurance on a proposed action until it has been referred under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). Once the formal referral is received and the cost recovery fee is paid, the Minister (or delegate) will consider whether the proposed action is a 'controlled action' and thus requires assessment and approval under the EPBC Act. Further information may be requested by the Department for the purposes of making that decision, as well as deciding on the appropriate assessment approach for the action.

The following table provides an overview of the decision making process the Minister or delegate takes when determining an appropriate assessment methodology. The decision is at the discretion of the Minister or delegate.

Please note a bilateral assessment process will be used where appropriate.

More detailed information on each assessment process is provided in sections 3A-3E of the [environment assessment manual](#).

Points that the Minister or Delegate considers when identifying the appropriate assessment approach	Assessment on Referral Information	Assessment on Preliminary Documentation	Assessment by Public Environment Report	Assessment by Environmental Impact Statement
Number of NES matters affected (# controlling provisions)	1 or 2	Less than 3	Multiple	Multiple
Scale and nature of impacts. Complexity of issues	Low Short term impacts	Medium Short term or recoverable	High Some complexity	High Complex analysis required
Degree of confidence with which these impacts can be predicted	High	High	Medium – low	Medium – low
The adequacy and completeness of the information	Good	Good	Variable or low	Variable or low
The extent to which potential relevant impacts have already been assessed under state legislation	High	High	Low – unknown	Low – unknown
The degree of public concern associated with the proposal	Low	Low	Moderate – high	High



Southern Blue Devil Fish in Port Phillip Bay © Andrew Newton and Department of the Environment



Australian darter © Brian Furby