



Memorandum of Understanding for Collaborative Arrangements
between
the Office of the Environmental Protection Authority
and
the Department of Parks and Wildlife

Statement of Intent

This Memorandum of Understanding (MOU) is made between the Office of the Environmental Protection Authority (OEPA) and the Department of Parks and Wildlife (Parks and Wildlife) (the Parties).

The MOU confirms the principles of a valued and constructive working relationship between the Parties and establishes working arrangements for effective and efficient cooperation, to meet their statutory and other responsibilities and support the environment portfolio of the Minister for Environment.

The practical intent of the MOU is to agree on:

1. strategic principles that underpin a strong collaborative partnership; and
2. operational arrangements so that the Parties can plan the provision of resourcing, services and advice in order to meet their respective roles and responsibilities.

In establishing this MOU, the Parties undertake to engage in a cooperative manner through consultation, open communication and collaboration at a strategic and operational level to protect and conserve the environment.

1. Purpose

The purpose of this MOU is to outline principles that will foster a strong partnership and develop collaborative working arrangements between the Parties so that each Party can deliver its roles and responsibilities effectively and efficiently. Specifically the MOU covers:

- a) defining the respective roles and responsibilities of the Parties;
- b) principles that will foster a strong partnership between the Parties; and
- c) collaborative working arrangements that support efficient and effective environmental impact assessment (EIA) processes, implementation of Department of Parks and Wildlife roles and development of environmental policy.

In implementing the MOU the Parties will take account of the State Government's focus on improving assessment and approvals for major projects by:

- removing overlap and duplication; and
- supporting a clear and consistent risk based approach in EIA processes.

2. Roles and responsibilities of the Parties

Both Parties are departments of State established under the provisions of the *Public Sector Management Act 1999* and both fall within the responsibility of the Minister for Environment. The Parties share many common objectives. Sharing of resources, information and knowledge optimises the efficiency and quality of advice provided to the Minister for Environment and service delivery by the respective departments.

The OEPA was created to support the Environmental Protection Authority (EPA). The EPA is established under the *Environmental Protection Act 1986* (EP Act) and is independent, in that it is not subject to direction by the Minister (unless otherwise provided for in the EP Act), and its advice to Government is public. The statutory objective of the EPA is to use its best endeavours to protect the environment and to prevent, control and abate pollution and environmental harm. This is achieved by being a credible source of independent public advice on the impact on the environment of significant and strategic proposals and town planning schemes and environmental issues more generally.

The functions of the EPA are described in the EP Act and include:

- conducting environmental impact assessments;
- preparing statutory policies for environmental protection;
- preparing and publishing guidelines for managing environmental impacts; and
- providing strategic advice to the Minister for Environment.

The roles and responsibilities of the OEPA are to:

- a) provide advice and develop policy under Part II and Part III of the EP Act for the EPA and the Minister for Environment;
- b) provide advice to the EPA in conducting environmental impact assessments under Part IV of the EP Act; and
- c) monitor compliance with Ministerial conditions related to approvals.

Parks and Wildlife is responsible for administering the *Conservation and Land Management Act 1984*, *Wildlife Conservation Act 1950*, *Reserves (National Parks and Conservation Parks) Act 2004*, *Reserves (National Parks, Conservation Parks and Other Reserves) Act 2004*, *Sandalwood Act 1929*, *Swan and Canning Rivers (Consequential and Transitional Provisions) Act 2006* and *Swan and Canning Rivers Management Act 2006*.

The role and responsibilities of the Department of Parks and Wildlife are to:

- (a) manage lands subject to the CALM Act;
- (b) conserve the State's native flora and fauna;
- (c) support Aboriginal people in protecting their culture and heritage on parks and reserves; and
- (d) support community access to, and enjoyment of, the State's wildlife and natural areas.

3. Principles for a strong partnership

The key principles that form the basis for a strong partnership between the Parties are agreed as follows:

- respect for roles;
- planning and working cooperatively; and
- effective consultation and communication.

Respect for roles

The Parties acknowledge the statutory roles and other accountabilities of their respective organisations and will use their best endeavours to implement this agreement and any subsequent working arrangements. The key considerations are the:

- separate existence of the two departments;
- independence of the EPA;
- role of the Minister;
- responsibilities of the Parties as separate agencies of the State in the provision of advice, each in its own right, to the Minister; and
- arrangements under which each Party may access information, advice and services from the other and more generally from other government agencies and outside sources.

Planning and working cooperatively

The Parties will consider the workload implications, for both themselves and the other Party, of providing, exchanging and discussing information and data requests, including processing related to submitting and responding to requests for information. Where distinct workload pressures emerge, either Party may seek advice from the other Party about prioritising requests for information.

The Parties will plan and work cooperatively by:

- being open, honest and responsive to each other, respecting each other's roles and responsibilities, and assisting and supporting each other whenever possible;
- collaborating on matters of mutual interest for the protection of the environment and promotion of conservation values;
- ensuring relevant strategies and programmes are integrated and complementary;
- optimising the use of resources, information sharing and knowledge management to reduce overlap and avoid duplication; and
- supporting a clear and consistent risk based approach in approval processes.

Effective consultation and communication

Effective consultation and communication is recognised as essential to good working relationships between the Parties and will be based on the following principles:

- the Parties valuing a working relationship based on effective communication and good consultative processes with each other and the community;
- the Parties agreeing to collaborate on policy development where practical;
- the Parties endeavouring to ensure that all public announcements which reference, by name or implication, the role of the other Party are the subject of prior consultation;
- the Parties committing to timely consultation before making decisions that may affect the administration of the other Party's legislation, or role; and
- the Parties recognising the importance of confidentiality to good corporate governance and commit to ensuring the integrity of processes where commercial or other sensitive material is exchanged or discussed.

The Parties recognise that the exchange of information increases the effectiveness and efficiency of the environment portfolio of the Minister for Environment. The Parties will share information, documents, knowledge and views from a wide range of resources on matters where each Party has specialist expertise.

Parks and Wildlife will provide specialist knowledge and advice to the OEPA based on its recognised expertise in matters relating to conservation of biodiversity, management of the public marine and terrestrial conservation reserve system and protection and recovery of threatened species and ecosystems for the State.

The OEPA will also provide specialist knowledge and advice to Parks and Wildlife based on its special expertise in areas relevant to environmental management and impact assessment.

The Parties will consult each other, both informally and through the provision of formal advice. Formal requests for advice from the other Party are to be made in writing. The process for obtaining formal and informal advice and what constitutes advice is set out in the Schedules.

The Parties also agree to consult and communicate on policy development, when identified as a key stakeholder. Both Parties will endeavour to achieve a complimentary policy suite and aligned decision-making.

Both Parties will only refer to and use final endorsed policy positions of the other Party.

4. Commencement, duration and review

This MOU commences on the date it is signed by both Parties and will endure until such time as the Parties mutually determine otherwise.

Either Party may seek to review this MOU at any time, however this MOU is to be reviewed within two years of the commencement date and as required thereafter.

The Parties may appoint a Working Group to monitor and review the operation of this MOU. In the absence of any particular nomination, the signatories will monitor and review the operation of this MOU. The attached Schedules are to be reviewed annually from the date of the commencement of this MOU.

5. Status

This MOU does not create legally enforceable obligations between the Parties. Rather, it supports collaborative and consultative arrangements for the administration of both Parties respective roles and responsibilities and clarifies expectations regarding how the Parties will work together.

6. Use and release of information

The Parties recognise that the integrity and accuracy of the information provided under this MOU relies on both Parties implementing and maintaining appropriate recording keeping procedures.

The Parties will maintain the confidentiality of information provided to them in accordance with the requirements of the Party providing that information and to comply with all requirements that govern the use and release of that information.

The Parties will confer on required formatting, licenses and confidentiality of any data provided.

7. Schedules

Schedules may be developed by the Parties to give effect to specific arrangements. Schedules pertaining to this MOU will provide the administrative detail required for particular matters. Schedules will be attached to the MOU and can be updated or revised between the Parties without requiring amendment of the MOU.

Schedule 1 of this MOU provides a list of all Schedules and will be updated as arrangements are completed or revised.

MOU Schedules will be signed by the relevant Director, or nominated delegate, of each of the Parties.

8. Dispute resolution

The Parties will attempt to resolve any dispute arising in relation to this MOU by negotiation. The Parties agree that dispute resolution will be at the lowest, most informal level practicable.

9. Contentious issues management

The Parties will undertake to coordinate advice on contentious issues to the Minister for Environment and media.

Where both Parties are involved in an issue, a decision will be made as to which Party will have the lead and respond with advice from both Parties. Final sign-off and transmittal will be from the leading Party following agreement by both Parties (in consultation with media relations officers, where appropriate) with a copy of the final version to be sent to the non-lead Party.

It is noted that from time to time Parks and Wildlife is a proponent or affected party in relation to matters under consideration by the EPA, OEPA or where the Minister for Environment is the final decision maker. This will be taken into consideration in determining the lead, and in the preparation and provision of advice.

Signed by



Kim Taylor
General Manager
Office of the Environmental Protection
Authority

Date: 10/2/15



Jim Sharp
Director General
Department of Parks and Wildlife

Date: 3.2.15

**LIST OF SCHEDULES FOR THE MEMORANDUM OF UNDERSTANDING FOR
COLLABORATIVE ARRANGEMENTS BETWEEN THE OFFICE OF THE
ENVIRONMENTAL PROTECTION AUTHORITY AND THE DEPARTMENT OF
PARKS AND WILDLIFE**

Schedule 2	Communication Protocol between the Department of Parks and Wildlife and the Office of the Environmental Protection Authority	
	For advice to assist EPA assessment of major resource, industrial and infrastructure proposals under Part IV of the <i>Environmental Protection Act 1986</i>	
	Date approved	10 February 2015
Schedule 3	Status	Current
	Communication Protocol between the Department of Parks and Wildlife and the Office of the Environmental Protection Authority	
	For advice to assist EPA assessment of land planning proposals and schemes under Part IV of the <i>Environmental Protection Act 1986</i>	
	Date approved	18 February 2015
	Status	Current

**COMMUNICATION PROTOCOL BETWEEN
THE DEPARTMENT OF PARKS AND WILDLIFE AND
THE OFFICE OF THE ENVIRONMENTAL PROTECTION AUTHORITY**

**For advice to assist EPA assessment of major resource, industrial
and infrastructure proposals under Part IV of the *Environmental
Protection Act 1986***

It is recognised by both agencies that close interaction is necessary – both formal and informal – to allow for Department of Parks and Wildlife (Parks and Wildlife) advice to be considered in the environmental impact assessment of major resource development, industrial development and infrastructure proposals under Part IV of the *Environmental Protection Act 1986* (EP Act).

Separate arrangements will apply to Parks and Wildlife advice on land use planning proposals, planning schemes and state planning policies.

In undertaking environmental impact assessment of proposals under Part IV of the EP Act, the Office of the Environmental Protection Authority (OEPA) applies a risk-based approach as outlined in *Environmental Assessment Guideline for Application of a significance framework in the environmental impact assessment process* (EAG 9, EPA June 2013) and apply the environmental objectives as described in *Environmental Assessment Guideline for Environmental Factors and Objectives* (EAG 8, EPA, June 2013). Consistent with the EP Act, application of these guidelines ensures that the environmental impact assessment process focuses on those aspects that are likely to result in significant environmental impacts, rather than all environmental impacts. Duplication of assessment and approval processes will also be avoided where there is confidence that an alternative regulatory process can ensure that the environmental objectives for the factor(s) relevant to the proposal can be met.

While informal cooperation between individual officers and individual branches is assumed and expected, formal consultation procedures are detailed below. All requests for formal consultation will occur in writing from the Director Assessment and Compliance to the Manager of Environmental Management Branch (EMB) or delegate. Where a proposal is of State significance or particularly high public interest, the General Manager of the OEPA may write directly to the Director General of Parks and Wildlife with a copy of the letter emailed to the Manager EMB to assist Parks and Wildlife in meeting the requested response timeframe. In some cases a specific timeframe for the Director General's response may need to be agreed based on consideration of complexity and urgency.

The OEPA will encourage proponents of relevant proposals to discuss issues directly with Parks and Wildlife throughout the environmental impact assessment process. The extent to which Parks and Wildlife engages in those discussions is a matter for Parks and Wildlife to determine on a case-by-case basis.

The OEPA (or proponents as suggested by OEPA) may seek informal comment from Parks and Wildlife on draft documents on a case-by-case basis. Parks and Wildlife will determine the level of response based on potential environmental impacts and risks and available capacity.

Referral and assessment consultation

The OEPA will consult with Parks and Wildlife (via the Manager EMB) at referral, assessment, post assessment and compliance stages where appropriate, in cases where:

- Parks and Wildlife is a Decision Making Authority;
- a proposal affects Parks and Wildlife managed lands or waters;
- a proposal will have a significant impact on listed threatened species or ecological communities;
- Parks and Wildlife is considered to be a technical subject matter expert;
- compliance related activities requires Parks and Wildlife involvement; or
- a proponent is intending to use Parks and Wildlife as a third party to undertake an offset.

The attached Table 1 outlines process, timelines and expected information requirements for consultation throughout each of the stages of the environmental impact assessment process through to post assessment and compliance.

Parks and Wildlife will provide a consolidated response to the OEPA via the Manager EMB or delegate (or Director General where appropriate). Where Parks and Wildlife determines that comment is not necessary, a response to this effect from the Manager EMB will be provided within the timeframes outlined in Table 1.

Document distribution

The OEPA project officer should contact the Manager EMB (or nominated delegate) in the first instance at each stage of the assessment process, to determine who and where in Parks and Wildlife hardcopies or electronic copies of relevant documents need to be sent on a case-by-case basis. The Manager EMB (or delegate) will consult with the relevant Parks and Wildlife officers and advise the OEPA project officer of the requested document distribution, having regard for effective use of agency resources and the provision of effective, timely and relevant advice at each assessment process stage.

Timelines

Parks and Wildlife will use its best endeavours to meet the timelines for advice outlined in this protocol. Both parties recognise that this may not always be achievable. In these circumstances the OEPA will endeavor to accommodate reasonable delays in the provision of Parks and Wildlife advice.

To meet target times for formal advice requests referred to in this document, good communication between OEPA and Parks and Wildlife (EMB) staff during the assessment process on the progress of assessments and upcoming advice requests will be necessary.

Department of Parks and Wildlife contact

The Director General of Parks and Wildlife may nominate a particular Parks and Wildlife officer, other than the Manager of EMB, as the point of contact with respect to any specific proposal.

Problem solving/escalation of issues

It is desirable for officers of the OEPA and Parks and Wildlife to meet to clarify and resolve issues of a technical or policy nature, or matters of interpretation, that arise from time to time.

If issues remain unresolved, Managers of the relevant branches of Parks and Wildlife and the OEPA will meet to discuss the matter. If necessary, these issues will be escalated to the relevant Directors to resolve.

Where necessary, matters will be referred to the General Manager, OEPA and the Director General, Parks and Wildlife.

Review

These procedures are to be reviewed within six months of the date of this protocol and annually thereafter.



Anthony Sutton
Director
Assessment Compliance Division
Office of the Environmental Protection
Authority

Date: 10/2/15



Margaret Byrne
Director
Science and Conservation Division
Department of Parks and Wildlife

Date: 3/2/15

Table 1: Communications protocol between Office of the EPA (OEPA) and the Department of Parks and Wildlife for major resource, industrial and infrastructure development proposals assessed under Part IV of the *Environmental Protection Act 1986* (January 2015)

Pre-referral to Referral

Stage	Type and timeline	OEPA addressee and approving officer	Advice sought and information provided	Parks and Wildlife addressee and approving officer	Notes
Consultation on pre-referral issues	Informal Case-by case basis	Assessment Officer	Electronic copies only and spatial data where available.	Manager EMB	For proposals that are likely to be an API the proponents should consult with Parks and Wildlife at this stage.
Consultation on referral issues	Informal or Formal - 10 business days	Assessment Officer or Director Assessment & Compliance Division	Electronic copies only and spatial data**.	Manager EMB	

Assessment on Proponent Information (API)

Stage	Type and timeline	OEPA addressee and approving officer	Advice sought and information provided	Parks and Wildlife addressee and approving officer	Notes
Scoping issues	Informal	Assessment Officer	Electronic copies only and spatial data**.	Manager EMB	
Draft scoping guideline	Formal – 15 business days	Director Assessment & Compliance Division or delegate	Formal request plus hard and electronic copies and spatial data**. Does the Scoping Guideline identify: <ul style="list-style-type: none"> the work required to identify or predict the direct, indirect and cumulative environmental impacts of the proposal and demonstrate, with reasonable confidence, that the EPA's objectives could be met. 	Manager EMB	Scoping guidelines are not required where factors have been adequately addressed in the proponent's Draft API document.
Draft environmental review document (the proposal)	Formal – 15 business days	Director Assessment & Compliance Division or delegate	Formal request plus hard and electronic copies and spatial data**. Advice is requested regarding: <ul style="list-style-type: none"> whether the API document meets the requirements of the scoping guideline; and/or whether information presented is factually correct and proposed management is adequately defined; where information is inadequate, provide advice on what is required together with Parks and Wildlife reasons, in descending order of importance; the significance of the predicted impacts; the adequacy of the proponent's proposed mitigation and management; and any other issues the EPA should consider in making its decision. 	Manager EMB	The OEPA expects proponents to engage in consultation with Parks and Wildlife where the Department is interested in or affected by their proposals, to address any outstanding matters of concern prior to formal document submission to the OEPA. The proponent should provide a copy of Parks and Wildlife's written advice to the proponent, at the time of submission to the OEPA.

Draft API conditions	Formal – 5 business days	Director Assessment & Compliance Division	Formal request plus hard and electronic copies. Consistent with Environmental Protection Bulletin No.11 (EPA 2010), the consultation at this stage will be limited to matters of fact, and technical or implementation issues.	Manager EMB	The OEPA may consult informally with the Manager EMB during the development of draft environmental conditions. Where possible, the OEPA will provide contextual information on the results of the assessment (e.g. significant new information received after the response to submissions) to assist comment on the draft conditions. Wherever possible, the OEPA will endeavour to provide prior advice of its intention to seek advice on a particular condition set.
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EMB = Environmental Management Branch

Public Environmental Review (PER)

Stage	Type and timeline	OEPA addressee and approving officer	Advice sought and information provided	Parks and Wildlife addressee and approving officer	Notes
Scoping issues (EPA prepared scope)	Informal	Assessment Officer	Electronic copies only and spatial data**. Advice regarding: <ul style="list-style-type: none"> the relevant preliminary key environmental factors; work required to identify or predict the direct, indirect and cumulative environmental impacts of the proposal and demonstrate, with reasonable confidence, that the EPA's objectives could be met; and the relevant policy context. 	Manager EMB	
Draft scoping document (prepared by proponent)	With Public Review Period: Formal –Within public review period. Without Public Review Period Formal – 10 business days	Director Assessment & Compliance Division or delegate	Formal request plus hard and electronic copies and spatial data**. Does the Scoping Document identify: <ul style="list-style-type: none"> the relevant preliminary key environmental factors; work required to identify or predict the direct, indirect and cumulative environmental impacts of the proposal and demonstrate, with reasonable confidence, that the EPA's objectives could be met; and the relevant policy context. 	Manager EMB (Mailing list for documents as agreed)	
Draft scoping document (EPA prepared scope)	Formal – 10 business days	Director Assessment & Compliance Division or delegate	Formal request plus hard and electronic copies and spatial data **. Does the Scoping Document identify: <ul style="list-style-type: none"> the relevant preliminary key environmental factors; work required to identify or predict the direct, indirect and cumulative environmental impacts of the proposal and demonstrate, with reasonable confidence, that the EPA's objectives could be met; and the relevant policy context. 	Manager EMB	

Draft PER document	Informal – 15 business days	Relevant Branch Manager	Request plus hard and electronic copies and spatial data **. Does the PER document: <ul style="list-style-type: none"> • meet the requirements of the scoping document? (i.e. are the investigations and surveys adequate); • information presented is factually correct and proposed management is adequately defined; and • where information is inadequate, provide advice on what is required together with reasons, in descending order of importance. Formal request plus hard and electronic copies and spatial data**.	Manager EMB	Pre consultation to occur between the relevant OEPA Branch Manager and Manager EMB prior to advice requests to determine Parks and Wildlife capacity to review the draft PER.
PER document (the proposal) at time of public comment	Formal – within public comment period	Director Assessment & Compliance Division General Manager, OEPA (see note 3)	Formal request plus hard and electronic copies and spatial data **. Advice is requested regarding the department's view on: <ul style="list-style-type: none"> • the significance of the predicted impacts; • the adequacy of the proponent's proposed mitigation and management; and • any other issues the EPA should consider in making its decision. 	Manager EMB (Mailing list for documents as agreed) Director General (see note 3) (advising of request and whom copies provided to)	
Response to submissions	Informal	Officer	Electronic copy or hard copy For information.	Manager EMB	
Draft PER conditions	Formal – 5 business days	Director Assessment & Compliance Division	Formal request plus hard and electronic copies . Consistent with Environmental Protection Bulletin No.11 (EPA 2010), the consultation at this stage will be limited to matters of fact, and technical or implementation issues.	Manager EMB	The OEPA may consult informally with the Manager EMB during the development of draft environmental conditions. Where possible the OEPA will provide contextual information on the results of the assessment (e.g. significant new information received after the response to submissions) to assist comment on the draft conditions. Wherever possible, the OEPA will endeavour to provide prior advice of its intention to seek advice on a particular condition set.

EMB = Environmental Management Branch

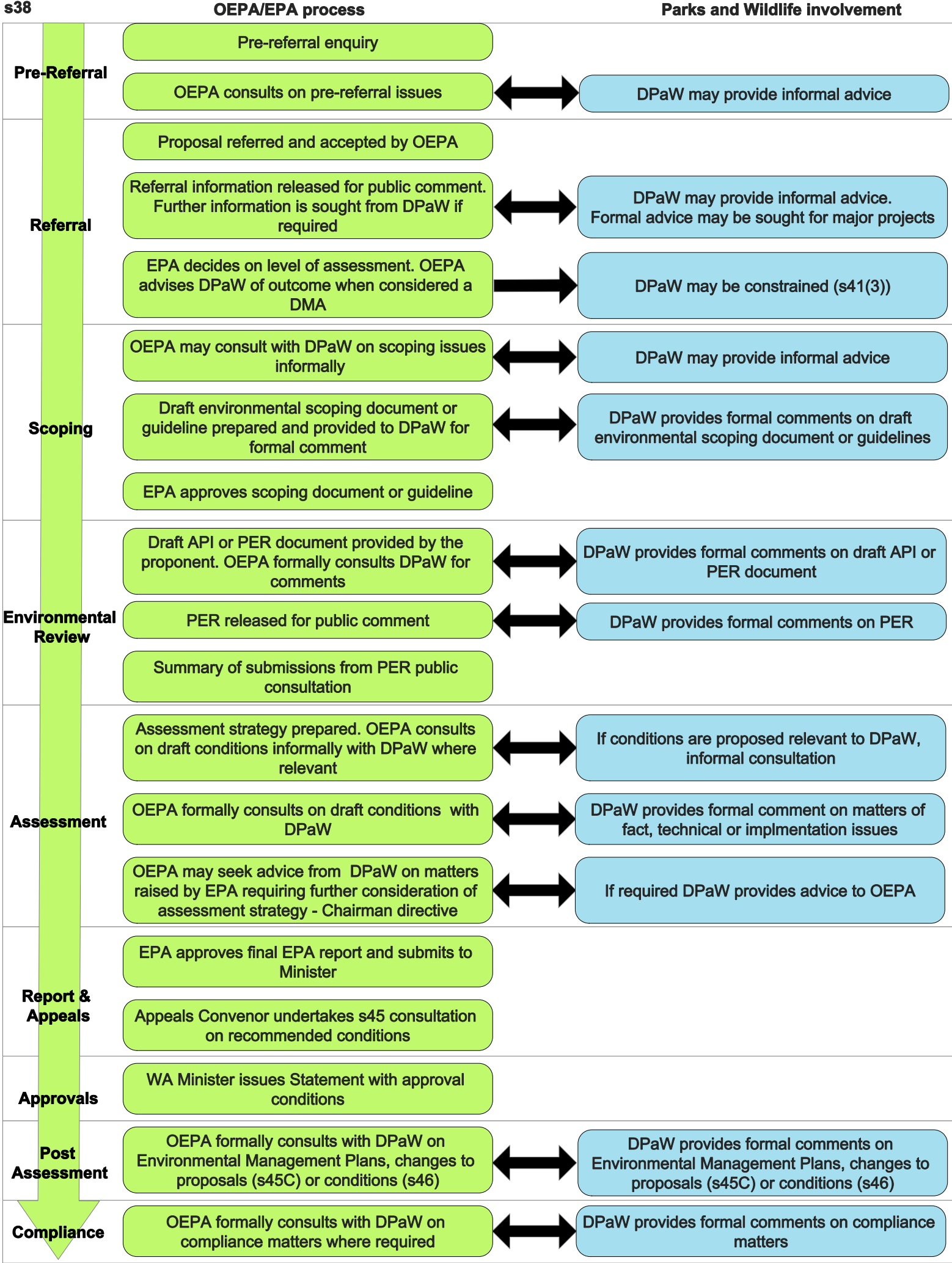
Other requests for advice

Stage	Type & timeline	OEPA addressee and approving officer	Advice sought and information provided	Request letter addressed to	Notes
s45C post assessment approvals	Formal – 10 business days	Director Assessment & Compliance Division	Formal request plus electronic copies only of documents and spatial data**.	Manager EMB (Mailing list for documents as agreed)	Consultation to occur prior to completion of process.
s46 amendment of conditions	Formal – 10 business days	Director Assessment & Compliance Division	Formal request plus electronic copies only of documents.	Manager EMB (Mailing list for documents as agreed)	Consultation to occur prior to completion of process.
Compliance	Formal – 15 business days with best endeavours for 10 business days where it is agreed that requests deal with straightforward matters	Manager Compliance Branch	Formal Request plus electronic copies only of documents.	Manager EMB	The OEPA will seek written advice from Parks and Wildlife in undertaking compliance activities where conditions require Parks and Wildlife involvement (ie to the satisfaction of, or advice of). OEPA will contact Parks and Wildlife regarding attendance at inspections as appropriate and will respond to Parks and Wildlife inquiries regarding Ministerial Statements within 10 business days (2 weeks).
Environmental management plans	Formal – 15 business days with best endeavours for 10 business days where it is agreed that plans deal with straightforward matters	Director Assessment & Compliance Division	Formal Request hard and electronic copies only of documents.	Manager EMB (Mailing list for documents as agreed)	Where Conditions that require the preparation and implementation of Environmental Management Plans (EMP) on the advice of or to the satisfaction of Parks and Wildlife the OEPA will encourage direct proponent communication and consultation with Parks and Wildlife, in order to address any outstanding matters of concern prior to submission of EMP's. Consultation to occur prior to completion of process.
Offsets - Compliance	Informal	Manager Strategic Policy Branch	Email and link to Register	Manager EMB	Where Parks and Wildlife is the delivery agent for an offset under Part IV, Parks and Wildlife will be responsible for updating the implementation milestones in the offsets register. This should be completed annually or in accordance with the Implementation Milestone Timeframe.
All other requests for advice	Informal	Officer		Manager EMB	

EMB = Environmental Management Branch

NOTES:

1. Parks and Wildlife will use its best endeavours to meet the timelines for advice outlined in this protocol and contact the OEPA as soon as possible following receipt of correspondence to discuss an acceptable timeframe where there may be difficulties in meeting these timelines. The OEPA will accommodate reasonable delays in the provision of advice. Timelines commence once all required areas of Parks and Wildlife have received copies of the documents to be reviewed.
2. In cases where Parks and Wildlife identifies omissions of key documentation provided or major deficiencies in information relative to written EPA or Ministerial requirements, the department will endeavour to advise the OEPA within a short period after receiving the request. Where agreed by the OEPA, the timeline for provision of advice may be suspended while documentation is provided or restarted from when the full complement of information becomes available.
3. Where a proposal is of State significance or particularly high public interest the General Manager, OEPA may write directly to the Director General, Parks and Wildlife. An additional five days is normally required to allow for the Director General sign-off process. Where this occurs a copy of the letter will be emailed to the Manager EMB to enable to assist in meeting the requested response timeframe. In some cases specific timeframes for responses may need to be agreed based on consideration of complexity and urgency.



Consultation will occur where appropriate, in cases where:

- Parks and Wildlife is a Decision Making Authority;
- a proposal affects Parks and Wildlife Managed lands or waters;
- a proposal will have a significant impact on listed threatened species or ecological communities;

- Parks and Wildlife is considered to be a technical subject matter expert;
- Compliance related activities requires Parks and Wildlife involvement; or
- a proponent is intending to use the Department of Parks and Wildlife as a third party to undertake an offset;

**COMMUNICATION PROTOCOL BETWEEN
THE DEPARTMENT OF PARKS AND WILDLIFE AND
THE OFFICE OF THE ENVIRONMENTAL PROTECTION AUTHORITY**

**For advice to assist EPA assessment of land use planning
proposals and schemes under Part IV of the
*Environmental Protection Act 1986***

It is recognised by both agencies that close interaction is necessary – both formal and informal – to allow for Department of Parks and Wildlife (Parks and Wildlife) advice to be considered in the environmental impact assessment of land use planning under Part IV of the *Environmental Protection Act 1986* (EP Act).

Separate arrangements will apply to Parks and Wildlife advice on major resource, industrial and infrastructure proposals.

In undertaking environmental impact assessment of proposals under Part IV of the EP Act, the Office of the Environmental Protection Authority (OEPA) applies a risk-based approach as outlined in *Environmental Assessment Guideline for Application of a significance framework in the environmental impact assessment process* (EAG 9, EPA June 2013) and apply the environmental objectives as described in *Environmental Assessment Guideline for Environmental Factors and Objectives* (EAG 8, EPA, June 2013). Consistent with the EP Act, application of these guidelines ensures that the environmental impact assessment process focuses on those aspects that are likely to result in significant environmental impacts, rather than all environmental impacts. Duplication of assessment and approval processes will also be avoided where there is confidence that an alternative regulatory process can ensure that the environmental objectives for the factor(s) relevant to the proposal can be met.

While informal cooperation between individual officers and individual branches is assumed and expected, formal consultation procedures are detailed below. All requests for formal consultation will occur in writing from the Director Strategic Planning and Policy (SPPD) or Director Assessment and Compliance Division (ACD) to the relevant Regional Manager or delegate, with a copy sent to the Coordinator Land Planning Program (CLPP). Where a land use planning proposal or scheme is of State significance or particularly high public interest the General Manager, OEPA may write directly to the Director General, Department of Parks and Wildlife with a copy of the letter emailed to the Regional Manager and CLPP to assist Parks and Wildlife in meeting the requested response timeframe. In some cases a specific timeframe for the Director General's response may need to be agreed based on consideration of complexity and urgency.

The OEPA will encourage proponents of relevant proposals or schemes to discuss issues directly with Parks and Wildlife throughout the environmental impact assessment process. The extent to which Parks and Wildlife engages in those discussions is a matter for Parks and Wildlife to determine on a case-by-case basis. The OEPA may provide advice to assist with planning matters where a consensus/agreement cannot be reached between Parks and Wildlife and a proponent.

The OEPA (or proponents as suggested by the OEPA) may seek informal comment from Parks and Wildlife's on draft documents on a case-by-case basis. Parks and Wildlife will determine the level of response based on potential environmental impacts and risks and available capacity.

Referral and assessment consultation

The OEPA will consult with Parks and Wildlife (via the Regional Manager and include the CLPP) during assessment and post assessment stages for compliance where appropriate, in cases where:

- Department of Parks and Wildlife is a Decision Making Authority;
- a proposal or scheme affects Parks and Wildlife managed lands or waters;
- a proposal or scheme will have a significant impact on listed threatened species or ecological communities;
- Parks and Wildlife is considered to be a technical subject matter expert;
- compliance related activities requires Parks and Wildlife involvement; or
- a proponent is intending to use Parks and Wildlife as a third party to undertake an offset.

The attached Table 1 outlines process, timelines and expected information requirements for consultation throughout each of the stages of the environmental impact assessment process through to post assessment and compliance.

Parks and Wildlife will provide a consolidated response to the OEPA via the Regional Manager and include the CLPP or delegate (or Director General where appropriate). Where Parks and Wildlife determines that comment is not necessary, a response to this effect from the Regional Manager with a copy to the CLPP will be provided within the timeframes outlined in Table 1.

Document distribution

The OEPA project officer should contact the Regional Manager (or nominated delegate) and copy the CLPP in the first instance at each stage of the assessment process, to determine who and where in Parks and Wildlife, hardcopies or electronic copies of relevant documents need to be sent on a case-by-case basis. The Regional Manager (or delegate) will consult with the relevant Parks and Wildlife officers and advise the OEPA project officer of the requested document distribution, having regard for effective use of agency resources and the provision of effective, timely and relevant advice at each assessment process stage.

Timelines

Parks and Wildlife will use its best endeavours to meet the timelines for advice outlined in this protocol. Both parties recognise that this may not always be achievable. In these circumstances the OEPA will endeavor to accommodate reasonable delays in the provision of Parks and Wildlife advice.

To meet target times for formal advice requests referred to in this document, good communication between OEPA and Department of Parks and Wildlife Regional staff and CLPP during the assessment process on the progress of assessments and upcoming advice requests will be necessary.

Department of Parks and Wildlife contact

The Director General of Parks and Wildlife may nominate a particular Parks and Wildlife officer, other than the Regional Manager as the point of contact in respect of any specific proposal or scheme.

Problem solving/escalation of issues

It is desirable for officers of the OEPA and Parks and Wildlife to meet to clarify and resolve issues of a technical or policy nature, or matters of interpretation, that arise from time to time.

If issues remain unresolved, Managers of the relevant branches of Parks and Wildlife and OEPA will meet to discuss the matter. If necessary, these issues will be escalated to the relevant Directors to resolve.

Where necessary, matters will be referred to the General Manager, OEPA and the Director General, Parks and Wildlife.

Review

These procedures are to be reviewed within six months of the date of this protocol and annually thereafter.



Darren Foster
Director
Strategic Policy and Planning

Office of the Environmental Protection
Authority

Date: 18/2/15



Peter Dans
Director
Regional and Fire Management
Services

Department of Parks and Wildlife

Date: 2/2/15

Table 1: Communications protocol between Office of the EPA (OEPA) and the Department of Parks and Wildlife for land planning proposals assessed under Part IV of the *Environmental Protection Act 1986* (January 2015)

Section 48A - Regional and Local Planning Schemes and Amendments

Referrals (and pre-referrals)

Stage	Type and timeline	OEPA addressee and approving officer	Advice sought and information provided	Parks and Wildlife addressee and approving officer	Notes
Consultation on pre-referrals issues	Informal Case-by-case basis	Assessment Officer	Electronic copies only and spatial data where available.	Regional Manager and copy sent to CLPP.	Regional officer to consult with specialist areas where/if required.
Consultation on referral issues	Informal – 5 days	Assessment Officer	Initially informal to discuss potential Parks and Wildlife input to determine if formal advice is required. Location and proposal information to be provided by email if required.	Regional Manager and copy sent to CLPP.	Officer to Officer communication between agencies is important at this stage to enable the provision of the most targeted advice.
	Formal – 2 - 4 weeks depending on complexity	Director - SPPD	<p>Electronic copies only and spatial data.</p> <p>OEPA request for information must identify the known environmental factors with detail of each significant issue:-</p> <ul style="list-style-type: none"> • under the <i>Wildlife Conservation Act 1950</i> (WC Act). • under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act). • under the <i>Conservation and Land Management Act 1984</i> (CLM Act). • under the <i>Environmental Protection Act 1996</i> (EP Act eg.(EPP's). • Conservation Category Wetlands and status of any request to amend wetland classification. • any Priority Ecological Community. • Bush Forever sites. • other environmentally significant areas. <p>Does the scheme/amendment documentation:</p> <ul style="list-style-type: none"> • Identify the significant environmental factors and matters falling under the WA, EPBC, CLM and EP Acts. • Has the work undertaken adequately assessed the above environmental factors or is additional information required? • Are proposed management actions and scheme provisions considered adequate? <p>Are there additional environmental factors and/or work Parks and Wildlife considers necessary at the current or subsequent stages of the planning process.</p>	Regional Manager and copy sent to CLPP.	<p>OEPA to determine if scheme/amendment identifies all the environmental factors (EAG 8).</p> <p>OEPA to initially consult with regional office or CLPP to determine if Parks and Wildlife advice should be sought.</p>

Level of Assessment – ENVIRONMENTAL REVIEW REQUIRED

Stage	Type and timeline	OEPA addressee and approving officer	Advice sought and information provided	Parks and Wildlife addressee and approving officer	Notes
Draft Instructions	Formal – 5 days	Director SPPD	Formal request plus hard and electronic copies and spatial data. Do the draft Instructions identify the:- <ul style="list-style-type: none"> relevant preliminary key environmental factors; work required to identify or predict the direct, indirect and cumulative environmental impacts of the Planning Scheme/Amendment and demonstrate, with reasonable confidence, that the EPA's objectives could be met; and, relevant policy context. 	Regional Manager and copy sent to CLPP.	
Issue Instructions	Within 60 days after referral	Director SPPD	Electronic Copy or Hard Copy For information.	Regional Manager and copy sent to CLPP	
Draft Environmental Review (ER) document (the proposal)	Formal – 15 business days	Director SPPD	Formal request plus hard and electronic copies and spatial data**. Does the ER document meet the requirements of the Instructions?	Regional Manager and copy sent to CLPP.	
ER document at time of public comment	Formal – within public comment period as determined by Responsible Authority	Responsible Authority and/or Director SPPD	Formal request plus hard and electronic copies and spatial data**. Advice is requested regarding the departments view on:- <ul style="list-style-type: none"> the significance of the predicted impacts; the adequacy of the proposed mitigation and management; and, any other issues the EPA should consider in making its decision. 	Regional Manager and copy sent to CLPP.	In addition to the Responsible Authority seeking comments during the public comment period, the OEPA may also seek comment separately from Parks and Wildlife.
Draft conditions	Formal – 5 business days	Director SPPD	Consistent with Environmental Protection Bulletin No.11 (EPA 2010), the consultation at this stage will be limited to matters of fact, and technical or implementation issues.	Regional Manager and copy sent to CLPP.	The OEPA may consult informally with the Regional Manager and CLPP during the development of draft environmental conditions. Wherever possible, the OEPA will endeavour to provide prior advice of its intention to seek advice on a particular condition set.

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Other requests for advice

Structure Plans; Outline Development Plans; Local Planning Strategies and other Land Use Planning related requests

Stage	Type and timeline	OEPA addressee and approving officer	Advice sought and information provided	Parks and Wildlife addressee and approving officer	Notes
General correspondence	Informal – 5 days	Assessment Officer	Initially informal to discuss potential Parks and Wildlife input and provisions of preliminary advice on broad issues. Location and proposal information to be provided by email if required.	Regional Manager and copy sent to CLPP.	
	Formal – 2 - 4 weeks depending on complexity	Director SPPD or Manager EPB	<p>Electronic copies only and spatial data</p> <p>OEPA request for information must identify the known environmental factors with detail of each significant issue:</p> <ul style="list-style-type: none"> • Under the WC Act • Under the EPBC Act • Conservation Category Wetlands and status of any Request to amend wetland classification. <p>Does the Plan/Strategy documentation identify the:</p> <ul style="list-style-type: none"> • Relevant environmental factors and matters falling under the WC Act & EPBC Act. • Has the work undertaken adequately assessed the above environmental factors? • Are proposed management actions considered adequate? <p>Are there additional environmental factors and/or work Parks and Wildlife considers necessary at the current or subsequent stages of the planning process.</p>	Regional Manager and copy sent to CLPP.	

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S38 - Strategic, subdivision and development proposals

Pre-referral

Stage	Type and timeline	OEPA addressee and approving officer	Advice sought and information provided	Parks and Wildlife addressee and approving officer	Notes
Consultation on pre-referral issues	Informal Case-by case basis	Assessment Officer	Electronic copies only and spatial data where available.	Regional Manager and copy sent to the CLPP	For proposals that are likely to be an API the proponents should consult with Parks and Wildlife at this stage.
Consultation on referral issues	Informal or Formal – 10 business days	Assessment Officer Or Director SPPD Or Director Assessment & Compliance Division	Electronic copies only and spatial data**.	Regional Manager and copy sent to the CLPP	

Assessment on Proponent Information (API)

Stage	Type and timeline	OEPA addressee and approving officer	Advice sought and information provided	Parks and Wildlife addressee and approving officer	Notes
Scoping issues	Informal	Assessment Officer	Electronic copies only and spatial data**.	Regional Manager and copy sent to the CLPP	
Draft scoping guideline	Formal – 15 business days	Director SPPD or Director Assessment & Compliance Division	Formal request plus hard and electronic copies and spatial data**. Does the Scoping Guideline identify: <ul style="list-style-type: none"> the work required to identify or predict the direct, indirect and cumulative environmental impacts of the proposal and demonstrate, with reasonable confidence, that the EPA's objectives could be met. 	Regional Manager and copy sent to the CLPP	Scoping guidelines are not required where factors have been adequately addressed in the proponents Draft API document.
Draft environmental review document (the proposal)	Formal – 15 business days	Director SPPD or Director Assessment & Compliance Division	Formal request plus hard and electronic copies and spatial data**. Advice is requested regarding: <ul style="list-style-type: none"> whether the API document meets the requirements of the scoping guideline; and/or whether information presented is factually correct and proposed management is adequately defined; where information is inadequate, provide advice on what is required together with Parks and Wildlife reasons, in descending order of importance; the significance of the predicted impacts; the adequacy of the proponent's proposed mitigation and management; and any other issues the EPA should consider in making its decision. 	Regional Manager and copy sent to the CLPP	The OEPA expects proponents to engage in consultation with Parks and Wildlife where the department is interested in or affected by their proposals, to address any outstanding matters of concern prior to formal document submission to the OEPA. The proponent should provide a copy of Parks and Wildlife's written advice to the proponent, at the time of submission to the OEPA.

Draft API conditions	Formal – 5 business days	Director SPPD or Director Assessment & Compliance Division	Formal request plus hard and electronic copies Consistent with Environmental Protection Bulletin No.11 (EPA 2010), the consultation at this stage will be limited to matters of fact, and technical or implementation issues.	Regional Manager and copy sent to the CLPP	The OEPA may consult informally with the Regional Manager or the CLPP during the development of draft environmental conditions. Where possible, the OEPA will provide contextual information on the results of the assessment (e.g. significant new information received after the response to submissions) to assist comment on the draft conditions. Wherever possible, the OEPA will endeavour to provide prior advice of its intention to seek advice on a particular condition set.
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Public Environmental Review (PER)

Stage	Type and timeline	OEPA addressee and approving officer	Advice sought and information provided	Parks and Wildlife addressee and approving officer	
Scoping issues (EPA prepared scope)	Informal	Assessment Officer	Electronic copies only and spatial data**. Advice regarding: <ul style="list-style-type: none"> the relevant preliminary key environmental factors; work required to identify or predict the direct, indirect and cumulative environmental impacts of the proposal and demonstrate, with reasonable confidence, that the EPA's objectives could be met; and the relevant policy context. 	Regional Manager and copy sent to the CLPP	
Draft scoping document (prepared by proponent)	With Public Review Period: Formal –Within public review period. Without Public Review Period Formal – 10 business days	Director SPPD Director Assessment & Compliance Division	Formal request plus hard and electronic copies and spatial data**. Does the Scoping Document identify: <ul style="list-style-type: none"> the relevant preliminary key environmental factors; work required to identify or predict the direct, indirect and cumulative environmental impacts of the proposal and demonstrate, with reasonable confidence, that the EPA's objectives could be met; and the relevant policy context. 	Regional Manager and copy sent to the CLPP (Mailing list for documents as agreed)	
Draft scoping document (EPA prepared scope)	Formal – 10 business days	Director SPPD Director Assessment & Compliance Division	Formal request plus hard and electronic copies and spatial data **. Does the Scoping Document identify: <ul style="list-style-type: none"> the relevant preliminary key environmental factors; work required to identify or predict the direct, indirect and cumulative environmental impacts of the proposal and demonstrate, with reasonable confidence, that the EPA's objectives could be met; and the relevant policy context. 	Regional Manager and copy sent to the CLPP	

Draft PER document	Informal – 15 business days	Relevant Branch Manager	Formal request plus hard and electronic copies and spatial data **. Does the PER document: <ul style="list-style-type: none"> • meet the requirements of the scoping document? (i.e. are the investigations and surveys adequate); • present factually correct information and adequately define proposed management; and • where information is inadequate, provide advice on what is required together with the reasons, in descending order of importance. 	Regional Manager and copy sent to the CLPP	Pre consultation to occur between the relevant OEPA Branch Manager and Regional Manager and the CLPP prior to advice requests to determine Parks and Wildlife capacity to review the draft PER.
PER document (the proposal) at time of public comment	Formal – within public comment period	Director SPPD Director Assessment & Compliance Division General Manager OEPA (see note 3)	Formal request plus hard and electronic copies and spatial data **. Advice is requested regarding the departments view on: <ul style="list-style-type: none"> • the significance of the predicted impacts; • the adequacy of the proponent's proposed mitigation and management; and • any other issues the EPA should consider in making its decision. 	Regional Manager and copy sent to the CLPP (Mailing list for documents as agreed) Director General (see note 3) (advising of request and whom copies provided to)	
Response to submissions	Informal	Officer	Electronic copy or hard copy For information.	Regional Manager and copy sent to the CLPP	
Draft PER conditions	Formal – 5 business days	Director SPPD Director Assessment & Compliance Division	Formal request plus hard and electronic copies. Consistent with Environmental Protection Bulletin No.11 (EPA 2010), the consultation at this stage will be limited to matters of fact, and technical or implementation issues.	Regional Manager and copy sent to the CLPP	The OEPA may consult informally with the Regional Manager and the CLPP during the development of draft environmental conditions. Where possible, the OEPA will provide contextual information on the results of the assessment (e.g. significant new information received after the response to submissions) to assist comment on the draft conditions. Wherever possible, the OEPA will endeavour to provide prior advice of its intention to seek advice on a particular condition set.

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Post Assessment and Compliance

Stage	Type & timeline	OEPA addressee and approving officer	Advice sought and information provided	Request letter addressed to	
s45C post assessment approvals	Formal – 10 business days	Director Assessment & Compliance Division	Formal request plus electronic copies only of documents and spatial data**.	Regional Manager and copy sent to the CLPP (Mailing list for documents as agreed)	Consultation to occur prior to completion of process.
s46 amendment of conditions	Formal – 10 business days	Director Assessment & Compliance Division	Formal request plus electronic copies only of documents.	Regional Manager and copy sent to the CLPP (Mailing list for documents as agreed)	Consultation to occur prior to completion of process.
Compliance	Formal – 15 business days with best endeavours for 10 business days where it is agreed that requests deal with straightforward matters	Manager Compliance Branch	Formal request plus electronic copies only of documents.	Regional Manager and copy sent to the CLPP	The OEPA will seek written advice from Parks and Wildlife in undertaking compliance activities where conditions require Parks and Wildlife involvement (i.e. to the satisfaction of, or advice of). The OEPA will contact Parks and Wildlife regarding attendance at inspections as appropriate and will respond to Parks and Wildlife inquiries regarding Ministerial Statements within 10 business days (two weeks).
Environmental management plans	Formal – 15 business days with best endeavours for 10 business days where it is agreed that plans deal with straightforward matters	Director Assessment & Compliance Division	Formal request hard and electronic copies only of documents.	Regional Manager and copy sent to the CLPP (Mailing list for documents as agreed)	Where conditions require the preparation and implementation of Environmental Management Plans (EMP) on the advice of or to the satisfaction of Parks and Wildlife, the OEPA will encourage direct proponent communication and consultation with Parks and Wildlife, in order to address any outstanding matters of concern prior to submission of EMPs. Consultation to occur prior to completion of process.
Offsets - Compliance	Informal	Manager Strategic Policy Branch	Email and link to Register	Regional Manager and copy sent to the CLPP	Where Parks and Wildlife is the delivery agent for an offset under Part IV, Parks and Wildlife will be responsible for updating the implementation milestones in the offsets register. This should be completed annually or in accordance with the Implementation Milestone Timeframe.
All other requests for advice	Informal	Officer		Regional Manager and copy sent to the CLPP	

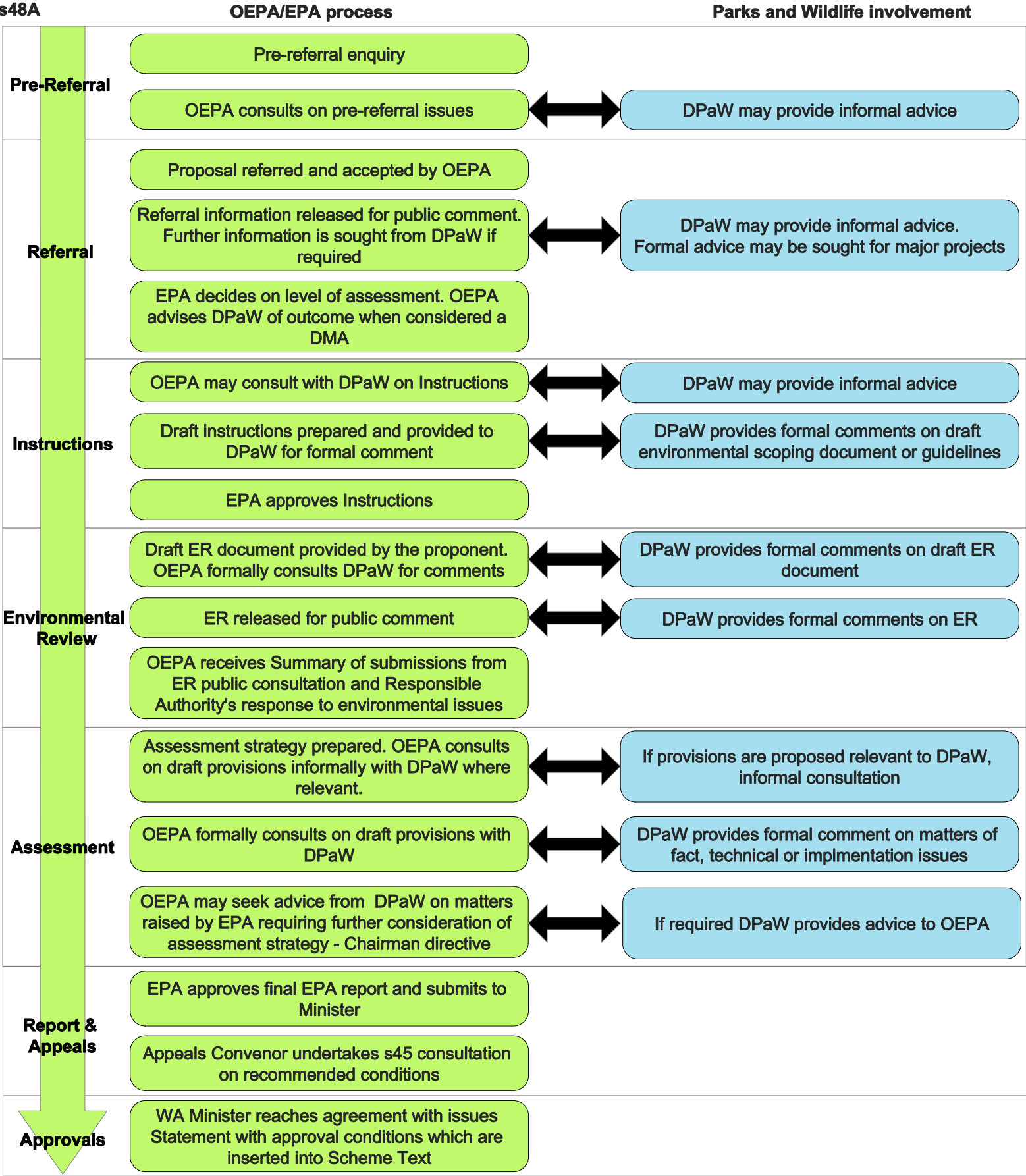
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NOTES:

1. Parks and Wildlife will use its best endeavours to meet the timelines for advice outlined in this protocol and will contact the OEPA as soon as possible following receipt of correspondence to discuss an acceptable timeframe where there may be difficulties in meeting these timelines. The OEPA will accommodate reasonable delays in the provision of advice. Timelines commence once all required areas of Parks and Wildlife have received copies of the documents to be reviewed.
2. In cases where Parks and Wildlife identifies omissions of key documentation provided or major deficiencies in information relative to written EPA or Ministerial requirements, the department will endeavour to advise the OEPA within a short period after receiving the request. Where agreed by the OEPA, the timeline for advice provision may be suspended while documentation is provided or restarted from when the full complement of information becomes available.
3. Where a proposal is of State significance or particularly high public interest the General Manager, OEPA may write directly to the Director General, Department of Parks and Wildlife. An additional five days is normally required to allow for the Director General sign-off process. Where this occurs a copy of the letter will be emailed to the Regional Manager and a copy sent to the CLPP to help assist in meeting the requested response timeframe. In some cases specific timeframes for responses may need to be agreed based on consideration of complexity and urgency.



Consultation will occur where appropriate, in cases where:

- Parks and Wildlife is a Decision Making Authority;

- a proposal affects Parks and Wildlife Managed lands or waters;

- a proposal will have a significant impact on listed threatened species or ecological communities;

- Parks and Wildlife is considered to be a technical subject matter expert;

- Compliance related activities requires Parks and Wildlife involvement; or

- a proponent is intending to use the Department of Parks and Wildlife as a third party to undertake an offset;

