



Environmental Consultants Association submission on EPA Procedures

The Environmental Consultants' Association (ECA) represents a diverse range of practitioners from the environmental consulting industry in Western Australia. As such, in considering regulatory reform, the ECA's role is to advocate for a framework which results in robust, transparent decision making that is fit for purpose. As practitioners, we can add value to consultation processes by providing advice on the potential workability of regulatory reform.

There is no material benefit to the consulting industry in providing this advice. If anything, clearer guidance minimises the scope of the work that we do. Therefore, the comments provided below are provided in good faith and only for the purpose of developing effective and efficient processes.

INTRODUCTION

Amendments relating to Part IV of the *Environmental Protection Act 1986* (EP Act) are scheduled to come into force in August 2021. The EPA has revised its Environmental Impact Assessment (EIA) procedures suite to give effect to the amendments. The revised procedure suite aims to make the EIA process more efficient and improve the focus on environmental protection and rigour.

The EPA is seeking feedback on any practical and operational issues associated with its draft revised procedures suite.

The ECA acknowledges the significant amount of work that has been invested by EPA Services interpreting the EP Act amendments and considering how best to implement them. The update of the procedures suite and related instructions contain substantial changes to the EIA procedures and information requirements, and we would like to thank the EPA and DWER EPA Services for the engagement with the ECA in relation to these.

We do note that the Instructions were provided to the EPA Stakeholder Reference Group but not included on the EPA Consultation Hub for public comment.

This submission has regard to the 10 key questions that the EPA is seeking feedback on; and the EPA's objective to have efficient processes AND maintain strong environmental protection. As the questions are broad, we have considered them in our feedback on specific elements of the guidance as well as providing some overall comments below.

EPA 10 questions	ECA comment
Do you believe the amendments achieve the EPA's objective to have efficient processes and maintain strong environmental protection?	Overall yes, with some exceptions that are outlined in this submission.
Are there additional amendments you believe would ensure efficient processes and maintain strong environmental protection?	Specific suggestions for improvements are provided in response to the procedure suite.

EPA 10 questions	ECA comment
Do you believe any amendments undermine the EPA's objective to have efficient processes and maintain strong environmental protection?	Yes, and these instances are outlined in this submission.
Do you agree the EPA's key principles for EIA will ensure efficient processes and maintain strong environmental protection?	Yes
Do you support the principle of proportionality of information – information needs are dependent on the nature and risk of potentially significant impacts?	Yes. We would add that it should also depend on the stage of the assessment process.
Do you support the EPA's preference for outcomes based conditions?	Yes. Outcomes based conditions can and should achieve environmental certainty while allowing some flexibility for proponents in how they implement their proposals to achieve them. The draft guidance encourages outcomes based conditions but also includes guidance with highly prescriptive definitions of proposals. If outcome based conditions are paired with proposal definitions that are more similar to the level of detail required in recent years in Schedule 1, then that would be more likely to achieve the dual objectives of environmental protection and efficient processes.
Do you believe the proposed definition and aims of EIA are helpful to provide guidance?	Yes
Do you believe proponents should have the primary role for defining and adaptively managing their proposals to meet EPA objectives and specific environmental outcomes?	This makes sense at a conceptual level, however we have some comments on the guidance and questions about how proposal limits are given legal effect. We also note that no issues have been raised with us regarding how Schedule 1 has (or has not) worked in recent times.
Should the EPA include its expectations about the timing of proposal amendments post approval?	No, we are not supportive of this as it sets up a specific public expectation that does not take into account the rationale for the change, the magnitude of the change or the environmental effects. This guidance could have unintended consequences of discouraging amendments that have an environmental benefit or encouraging proponents to have smaller proposals rather than combined or hub-based proposals which allow for more holistic impact assessment.
Are there any areas where you think further guidance would be helpful, taking into account the EPA's need to provide procedures and guidance for all proposals, which then needs to be considered on a proposal by proposal basis?	<p>Additional guidance on cumulative and holistic impact assessment would be useful.</p> <p>The update of the Social Surroundings factor guidance should be prioritised as it is a key issue of stakeholders and proponents, and we need clarity on this important aspect of EIA.</p> <p>The ECA notes that the quality of EIA and in particular, consideration of cumulative impacts in Western Australia would be greatly assisted by a State-wide vegetation dataset. We acknowledge this is beyond the scope of the EPA, but that the EPA can provide advice on this in accordance with the objectives of the EPA.</p> <p>The ECA has been advocating for a more comprehensive review of the Technical Guidance on Vegetation and flora</p>

EPA 10 questions	ECA comment
	and fauna surveys. We would welcome participation in this process, as it directly links to the quality and rigour of the science that underpins strong EIA outcomes.

KEY ISSUES

The highest priority issue identified by the ECA in reviewing the procedure suite is the highly detailed nature of the required Proposal Content Document and how this relates to guidance on amending proposals.

The ECA suggests that the Procedures Manual and the relevant Instructions are amended to provide clarity regarding what legal limits there will be on a Proposal, and how will these limits be given legal effect. It is important that legal limits only apply to those Proposal elements that are likely to have a significant impact on the environment and that are not effectively controlled through other legal mechanisms such as outcome-based conditions or, where appropriate by other DMAs.

The consequence of not addressing this issue would be an increased need for changes to proposals, which is inefficient and does not improve environmental protection.

SPECIFIC FEEDBACK ON DOCUMENTS

The ECA has provided specific feedback on the documents released for public comment, where relevant, in the tables below.

The ECA is supportive of the new EIA Process Summary. That is a useful overarching explanation for proponents, stakeholders and consultants.

ENVIRONMENTAL IMPACT ASSESSMENT (PART IV DIVISIONS 1 AND 2) PROCEDURES MANUAL

Section	Description	Comment/question	Suggested alternative or way forward	Priority
	Overall	The Procedures Manual steps through the processes in a logical fashion and provides clear and relevant guidance along the way.	n/a	-
4.2.1.1	Limit on proposal extent or capacity	<p>Our reading of the Instructions on How to identify the content of a Proposal (and the s. 45C guidance) led to the conclusion that the PCD would be the legal definition of the approved proposal; although the question remained about how this would be given legal effect.</p> <p>This section of the Procedures Manual states that any or all of the Proposal elements may be recommended to be controlled and that a table of limits and figures will be included (presumably in the recommended conditions).</p> <p>This appears to be a new version of the Schedule 1 system where those limits relevant to the environmental outcomes are included. The ECA supports this approach, but the Instruction documents and the Procedures Manual should be amended to provide clarity on this crucial point; i.e. what legal limits will there be on a Proposal and how will these limits be given legal effect.</p>	<p>Amend the Procedures Manual and the relevant Instructions to provide clarity what legal limits there will be on a Proposal and how will these limits be given legal effect.</p> <p>It is important that legal limits only apply to those Proposal elements that are likely to have a significant impact on the environment and those impacts are not effectively controlled through other legal mechanisms such as outcome-based conditions or by other DMAs.</p>	High

Section	Description	Comment/question	Suggested alternative or way forward	Priority
4.2.2.2	<p>Objectives-based management plan conditions.</p> <p>The note that cultural heritage management plans required in response to an objectives-based condition may be prepared in accordance with requirements by Comprehensive Agreements under the <i>Aboriginal Heritage Act 1972</i> (AH Act).</p>	<p>It is our understanding that the scope of the AH Act is focussed on the direct protection and management of sites. The Aboriginal Cultural Heritage Bill 2020 (ACH Bill) broadens that to address any protected areas. While it is always desirable to have a single plan and reduce duplication of content in management plans prepared under different legislation; the EP Act can consider indirect and cumulative impacts and also address broader social and economic impacts from biophysical changes to the environment as a result of a project. This difference is particularly important where heritage is a lived experience rather than only historical.</p> <p>We understand that the Social Surroundings guidance will be updated once the ACH Bill (or future iterations) is passed.</p> <p>In the meantime, the text in s4.2.2.2 is concerning as it implies that a CHMP prepared under the AH Act may be adequate to meet EPA objectives. Based on the above understanding, this may not be the case and an additional plan addressing broader issues may be required.</p>	<p>The flexibility for cultural heritage management plans to be exempt from the strict requirements of the management plan guidance is welcome and would allow for more input from Traditional Owners. However, we suggest removing the reference to "required by Comprehensive Agreements under the <i>Aboriginal Heritage Act 1972</i>".</p>	Medium

Section	Description	Comment/question	Suggested alternative or way forward	Priority
5.5	"The EPA Chair will not usually consider changes to proposals or implementation conditions more than every two years in the life of proposals, unless..."	<p>Projects with a long implementation timeframe evolve in response to a range of internal and external factors, including environmental monitoring and stakeholder feedback.</p> <p>Therefore, a prescriptive expectation regarding the timing of proposal changes may not always be consistent with the EPA objectives of environmental protection.</p> <p>This prescriptive limit (even as a guide) is particularly concerning if detailed limits on highly specific Proposal elements are applied.</p> <p>It is noted that if the two year guideline remained, then there may be some unintended consequences.</p> <p>For instance, the trend towards hub-based assessments of multiple mines provides a much more complete assessment of water management and cumulative impacts by a proponent and encourages the co-location of infrastructure and use of existing infrastructure. Proponents may choose to refer smaller independent mining projects if they perceive that hub-based approvals would constrain project flexibility.</p>	Remove the statement of intent regarding limiting proposal changes to every two years. This decision should be made on a case by case basis without having to reference an arbitrary time period.	High

Section	Description	Comment/question	Suggested alternative or way forward	Priority
Throughout	The note that the quality of information provided to the EPA may affect timeframes.	This is a reasonable principle. However, we note that there is no guidance on what would constitute quality information. This leaves this as an open caveat that will be subjectively applied by the EPA Services officer.	Every effort should be made to communicate information requirements upfront and in review of draft documents. If a proponent or consultant considers that this caveat is being used without justification, there should be opportunity to consult with EPA Services manager or the EPA regarding timely resolution.	Medium

HOW TO IDENTIFY THE CONTENT OF A PROPOSAL

Section	Description	Comment/question	Suggested alternative or way forward	Priority
Template, p2	General Proposal Description instructions. Last dot point to include regional context, including other nearby land uses, activities and proposals.	<p>The instructions imply that the Proposal Content Document (PCD) will form the legal definition of the Proposal; and is not an assessment document by itself. The PCD will accompany a s. 38 referral or a request under s. 43A, s. 38C or s. 45C. These applications will include contextual information as relevant. Therefore, the requirement to include contextual information that is beyond the control of the proponent and may change, is not relevant to the purpose of the PCD.</p> <p>Having information in the PCD that is beyond the control of the proponent and may change, making the PCD out of date, could create an expectation that the PCD should be updated in response to external factors. This does not seem appropriate or efficient.</p>	Remove the last dot point from the guidance	Low
Template, p3	Proposal elements: 1 st and 7 th paragraphs Including elements that are regulated by other processes such as air emissions	<p>We agree with the principle of including elements in the PCD that have a significant effect on the environment.</p> <p>However, there are instances where the quantum of the proposal element may not affect environmental impacts because they will be regulated by an outcome based condition, or another DMA.</p>	Remove the requirement to provide quantified limits of proposal elements that will be regulated to achieve specific environmental outcomes through other legal processes, such as outcome based conditions (Part IV) or Part V licensing.	High

Section	Description	Comment/question	Suggested alternative or way forward	Priority
Template, p3	Proposal elements, 2 nd paragraph. Inclusion of duration in second paragraph	The wording seems to assume that a longer operational phase of a proposal will have greater environmental effects. This is not always the case. For instance, the rate of mining does not substantially change the total impacts associated with mining a deposit.	Include the words, "where relevant to environmental outcomes" to the second paragraph.	Medium
Template, p3	Proposal elements, 3 rd paragraph. Description of Proposal elements	<p>This information requirement is restrictive as it relates to 'how' a proposal is to be implemented and this may not always be relevant to environmental impacts.</p> <p>In fact, as technology and techniques improve, flexibility in the way a proposal is implemented may reduce environmental impacts. Requiring a s. 45C process to implement an environmental improvement would be a disincentive for proponents.</p>	Remove this requirement for descriptions which may result in PCD becoming out of date, without affecting environmental protection.	High

Section	Description	Comment/question	Suggested alternative or way forward	Priority
PCD requirements at each stage. Stage 1 – Referral	The list of information required includes a Development Envelope and a footprint (including flexibility, if proposed).	<p>We understand that the EPA needs to assess the full potential impacts of a Proposal and any flexibility. The clarifications made around this point are useful and when combined with outcome-based conditions are likely to achieve flexibility and environmental protection.</p> <p>However, the use of a Development Envelope is specifically to enable flexibility in the location of Proposal elements, within the assessed limits. Therefore, the guidance to include both a Development Envelope and a constraining footprint does not make sense as the specific footprint negates the purpose of having a Development Envelope.</p> <p>The previous use of indicative footprints would now be problematic as if the assessment is limited to these locations then proponents may not have sufficient flexibility to implement their proposals.</p>	<p>Change the information requirements (here and elsewhere in the guidance) to include a Development Envelope with assessed footprint flexibility (which may or may not include use of indicative areas/locations/options for Proposal elements) OR a footprint (i.e. specific project location and maximum extent).</p> <p>It is noted that indicative footprints are no longer relevant or appropriate in Proposal Content Documents as the EPA needs to assess the proposed extent of any footprint which may legally be implemented. Therefore, indicative footprints may still be a useful tool in EIA but they should not be included in a PCD unless they are the proposed legal extent of a Proposal (in which case a Development Envelope would no longer be relevant).</p>	High
As above	The note that proposal content cannot be identified in other information.	A proponent should be able to discuss how a Proposal might be implemented (to demonstrate feasibility, for instance) without being locked into that method. Therefore, it is important that the guidance allows proponents to include information regarding Proposal content elsewhere in assessment documentation.	Amend wording to clarify that no Proposal content <i>relevant to the legal definition of the Proposal</i> should be identified in other information.	Medium

Section	Description	Comment/question	Suggested alternative or way forward	Priority
Spatial data, p7	The spatial data lists a requirement for a Development Envelope and a footprint.	Given the clarification the EPA needs to assess the proposed extent of any footprint which may legally be implemented; the requirement for both a Development Envelope and a footprint (that is no longer indicative) should be removed.	The spatial data requirement should be, either: a) Development Envelope with assessed footprint flexibility (which may include exclusion zones/conservation areas but may or may not include use of indicative areas/locations of Proposal elements) OR b) a footprint (i.e. specific project location and maximum extent). Or, a combination of the above for different proposal elements.	High
Examples	The examples given contain highly specific detail that are not all relevant to environmental impacts.	<p>If proponents provided the level of detail included in the examples, then this guidance will result in far more s. 45C applications rather than less, which is contrary to the stated intention of the EPA in information sessions.</p> <p>For instance, in the first example given, the proponent would need to submit a s. 45C if they wanted to change the diameter of the water transfer pipeline; irrespective that this would not change the extent of environmental impact.</p> <p>This level of detail will decrease regulatory efficiency and does not improve environmental protection.</p>	<p>All quantification of proposal elements that does not change the scale of environmental impact should be removed from the examples provided. The number of elements that this applies to are too numerous to list.</p> <p>Duplication of limits should also be removed unless relevant to environmental outcomes. For example, the rate of seawater intake is regulated per second, per day and per year.</p>	High

Section	Description	Comment/question	Suggested alternative or way forward	Priority
	As above	<p><i>"The EPA recommends whether or not the Proposal may be implemented, and if so, recommends whether any or all of the Proposal elements should be subject to an implementation condition which limits the Proposal extent and capacity."</i></p> <p>It appears that even with a detailed PCD, a condition could further limit extent beyond the limits in the Proposal content document. So, an approved Proposal may not be able to be implemented in full as described?</p>	The solution to this potential for conflicting approval elements is to remove the requirement for detail from a PCD where certainty regarding environmental outcomes is being achieved through other mechanisms.	High

REQUEST TO AMEND A PROPOSAL OR IMPLEMENTATIONS CONDITIONS UNDER SECTION 45C

Section	Description	Comment/question	Suggested alternative or way forward	Priority
1. Reason for and content of proposed amendment, p3	<p>Proposal alternatives.</p> <p>There is a new requirement to consider Proposal alternatives. Need to provide information comparing environmental impacts of alternatives and justifying the option chosen "to the extent reasonably practicable".</p>	A comprehensive analysis of alternatives seems contrary to the EPA's principle of proportionality of information; as the s. 45C process only deals with amendments that are not likely to have a significant effect on the environment.	Remove the requirement to provide information on alternatives and their environmental effects.	Medium

Section	Description	Comment/question	Suggested alternative or way forward	Priority
As above	If there is no current Proposal content document for the approved proposal, the proponent is required to prepare one in accordance with the new guidance on PCDs. This would potentially mean including proposal elements, and adding proposal constraints, that had not previously been included.	<p>The mandatory requirement to do a wholesale review of a Schedule 1 proposal definition and replace with an updated PCD that complies with the new guidance does not allow consideration of the scale or nature of the proposed amendment. This mandatory full review and update of the proposal definition may not be relevant to, or proportionate with, the proposed amendments.</p> <p>Requiring a full review of the proposal definition does not have any direct benefit to environmental protection and certainly increases regulatory burden.</p>	Remove the mandatory nature of this requirement and make it voluntary for proponents to review the entire proposal definition. It is noted that this in no way dilutes the existing requirements regarding environmental protection.	High
1. Reason for and content of proposed amendment, p3	New option to propose amendments to conditions.	<p>The EPA may reject a s. 45C if a change to conditions is not requested, and is considered required to enable the proposed amendment to be managed to meet EPA objectives.</p> <p>This introduces a new risk of assessment delays and multiple processes.</p>	It should be made clear in the guidance that discussions with the EPA or review of draft documentation would aim to identify the potential need for condition updates and reduce the risk of amendment requests being rejected and having to be re-assessed.	Medium

Section	Description	Comment/question	Suggested alternative or way forward	Priority
2. Regulatory information and environmental performance, p4	<p>Environmental performance</p> <p>Provide a report on the current environmental performance of the approved proposal against the EPA's objectives for environmental factors and any Ministerial statement implementation condition environmental outcomes and /or objectives.</p>	<p>The requirement to discuss environmental performance of the approved proposal beyond compliance is new and will require a re-evaluation of the approved proposal and whether implementation is meeting EP Act Principles and EPA objectives. Re-assessment of already approved elements of the Proposal is inefficient and contrary to EPA objectives.</p> <p>This information may be relevant if it relates to the likely effectiveness of proposed mitigation of the amendment. However, this should be discussed specifically in relation to the justification of proposed mitigation.</p>	This requirement should be limited to discussion of compliance with condition outcomes or objectives and the assessment should not be revisited.	Low
4. Consultation	<p>Most of the requirements around consultation are reasonable and allow for proportional responses.</p> <p>The last requirement states... "the decision maker would usually expect some targeted public consultation if the level of assessment for the original proposal (or subsequent significant amendment) was public environmental review and the proposed amendment has the potential to result in a significant impact on the environment."</p>	There are regions such as the Pilbara where all clearing of vegetation is considered significant and is offset, due to cumulative impacts. The statement could be interpreted to imply that any project that had been assessed at PER, and involved clearing, would need to have public consultation, regardless of the scale of the changes.	Remove the example or provide additional clarification on intent.	Low

Section	Description	Comment/question	Suggested alternative or way forward	Priority
5. Assessment and significance	<p>An impact assessment is required for three Proposal scenarios being:</p> <ol style="list-style-type: none"> 1. The amendment on its own 2. The proposed amendment combined with the current status of environmental performance of the Approved Proposals 3. The Amended Proposal. 	<p>Consideration of the second scenario is a new requirement and brings 'current environmental performance' into the assessment which is not defined.</p> <p>The value of adding another line of enquiry (beyond compliance) into the s. 45C assessment is unclear.</p>	Remove the second scenario as consideration of the amendment on its own and holistically with the approved proposal (i.e. the full amended proposal) is considered sufficient basis for an assessment of whether an amendment is significant.	Medium
As above	The guidance includes headings related to Assessment, Significance – amendments to proposals and Significance – amendment to conditions.	The information requirements under these three headings are sometimes overlapping and may result in repetitive information being supplied which does not aid decision making. Assessing impacts and then separately assessing significance of amendments and then separately assessing the significance of amendments with conditions seems difficult and repetitive.	Suggest clarifying the guidance along the lines of identifying likely impacts and then assessing their significance and the amended implementation conditions required (if relevant).	Low

INSTRUCTIONS – HOW TO PREPARE AN ENVIRONMENTAL REVIEW DOCUMENT

Section	Description	Comment/question	Suggested alternative or way forward	Priority
Section 1.2 Proposal alternatives	This is a new requirement of the Instructions and is not in response to any of the EP Act amendments that we can identify.	A project EIA is a blunt instrument for true alternatives analysis <i>to</i> a proposal, which is really beyond a proponent's power to consider. Proposals are determined by the business that the proponent is in, market demand, tenure and commercial realities. Proposals represent a substantial investment in developing up that concept. Therefore, there may often be no real alternatives <i>to</i> a proposal that the proponent can consider.	Change the focus of this requirement to project optimisation and consideration of alternatives <i>within</i> a proposal rather than alternatives <i>to</i> a proposal.	Medium
S 5.1.3	Receiving environment	The description of the receiving environment should include the state/condition of the environment and existing threatening processes. This is relevant baseline information.	Add a requirement to describe the existing state/condition of the environment and threatening processes.	Low

Section	Description	Comment/question	Suggested alternative or way forward	Priority
S 5.1.4	Potential environmental impacts	<p>The information required in this section is about quantification of predicted impact. If the scope of this section stays the same, then it would be good to change the heading to Predicted Environmental Impacts.</p> <p>However, the current structure of presenting the predicted impacts separately from the assessment of impacts creates clunky EIA documents as the information on what will change is separated from the assessment of those changes. This necessitates some repetition in the assessment section so that readers know what is being assessed.</p> <p>It would improve the readability of documents if the discussion of predicted changes, mitigation and assessment of each impact could be discussed together. This is particularly relevant for complex assessments of factors such as Inland Waters where there are numerous potential impact pathways to consider.</p>	<p>Change the heading to Predicted environmental impacts, or preferably restructure the guidance by:</p> <ul style="list-style-type: none"> • keep the heading as Potential impacts and requiring that proponents list the potential impacts and discuss which ones are relevant to the assessment. Provide a rationale for any that are not considered relevant. • Allow mitigation, predicted impacts and assessment of significance to be discussed together in a way that improves readability and maintains line of logic. This would allow a full analysis of an impact pathway (e.g. dewatering or weeds) in one place rather spread over three sections of the chapter. 	Medium

S 5.1.6	<p>Assessment of cumulative impacts required using the definition in the Statement of environmental principles, factors and objectives, and aims of EIA.</p>	<p>The requirement to include cumulative impact assessment is supported. The definition of cumulative environmental impacts is also supported with one exception; the inclusion of past impacts in a cumulative impact assessment is problematic as past impacts are already part of the environmental baseline.</p> <p>When describing environmental values, their condition and conservation significance; past impacts are already taken into account. For example, previous development may have resulted in a species becoming threatened. A requirement to assess past impacts on that threatened species is misleading as the species may not have been threatened when those historical projects were implemented.</p> <p>This requirement will sometimes result in double counting of impact as past impacts affect the conservation significance of the receiving environment and they would be assessed again here.</p> <p>There is also a practical constraint to including past impacts, as environmental survey data may not be available for historical projects.</p> <p>The last complication with including past impacts in cumulative impact assessment is determining where to draw the line for consideration of past impacts. Is it everything that's happened in that area for twenty years or since European settlement? Is it limited to activities by the proponent? Does it include</p>	<p>Remove the reference to past impacts from the definition of cumulative environmental impacts in the Statement of environmental principles, factors and objectives, and aims of EIA. And include additional information requirements in relation to past impacts and threatening processes in the Receiving Environment section.</p>	High
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Section	Description	Comment/question	Suggested alternative or way forward	Priority
		<p>activities that have resulted in landscape scale changes such as land clearing or pastoral grazing that are not linked to the proponent or its' proposed activities?</p> <p>It is acknowledged that understanding the state of the environment, previous impacts and threatening processes are essential to the impact assessment. We consider that this information should be included as part of the Receiving Environment section.</p>		
S 5.1.5	Mitigation	<p>We support the renewed focus of identifying outcome-based conditions to set environmental limits. As noted previously, this should be paired with flexibility in how a proponent implements the proposal within those environmental limits.</p> <p>The flexibility to include objective based EMPs where needed is important.</p>	Remove the requirement for detailed Proposal Content Documents that constrain implementation of proposal elements that are effectively managed with outcome-based conditions.	High
s. 5.1.6	Assessment	The new link to the guidance regarding EPA's consideration of significance in the Statement of environmental principles, factors, objectives and aims of EIA is helpful as it used to be difficult to find if you did not know where it was within the Procedure Suite.	-	n/a
s. 7	Offsets	Dot point 1 and 5 contain duplicative information requirements	Remove dot point 5	Low
s. 9	Holistic impact assessment	The additional guidance in this section is useful. However, it is still unclear what information is required to summarise the environmental effect of the proposal as a whole.	Some additional guidance on the information requirements in this chapter would be beneficial.	Low

INSTRUCTIONS – HOW TO PREPARE AN ENVIRONMENTAL SCOPING DOCUMENT

Section	Description	Comment/question	Suggested alternative or way forward	Priority
Overall	Introduction	The removal of duplication with ERD requirements is supported.	-	n/a
Page 2	Indicative timing of the environmental review	In relation to the statement that " <i>Proponents are expected to meet the agreed indicative timeline and provide adequate, quality information to inform the assessment.</i> "; Proponents often delay submission of ERDs in response to the results of environmental surveys, modelling, stakeholder consultation or proposal amendments. These delays are often associated with improved environmental outcomes and there should be no penalty to proponents for delays when they are communicated ahead of time to EPA Services.	Remove the statement that proponents are expected to meet agreed timelines.	Low

INSTRUCTIONS – ENVIRONMENTAL OUTCOMES AND OUTCOME-BASED CONDITIONS

Section	Description	Comment/question	Suggested alternative or way forward	Priority
Overall	New guidance	The ECA is supportive of the renewed focus on environmental outcomes and the new instructions provide useful definitions and guidance regarding how to develop them.	n/a	n/a

Section	Description	Comment/question	Suggested alternative or way forward	Priority
Page 2	Stage 1 – Referral of a proposal to the EPA	Particularly when a Public Environmental Review (PER) level of assessment is expected, Proponents are expecting to go through a comprehensive assessment process which includes scoping, impact assessment and stakeholder consultation. Therefore, there may be insufficient information available at referral to provide preliminary environmental outcomes. This does not seem to be a relevant information constraint for setting the level of assessment at PER.	The requirement to provide information regarding preliminary environmental outcomes at referral should be applied only to proposals seeking an Assessment on Referral Information or Not assessed decision.	Medium

INSTRUCTIONS – S38 REFERRAL

Section	Description	Comment/question	Suggested alternative or way forward	Priority
Page 3 and Template, p10	Proposal alternatives	Consideration of alternatives at referral stage is not relevant to the EPA decision on whether to assess the proposal.	Remove the requirement in relation to Proposal alternatives	Low
Template, Part B	Items 5-7	These sections require information about mitigation, assessment and outcomes. However, as this is a referral, the information in these sections is preliminary and may change during assessment.	The fact that the information in Items 5-7 may be preliminary depending on the stage of the proposal should be made clear.	Medium

10 KEY SCENARIOS

Section	Description	Comment/question	Suggested alternative or way forward	Priority
Throughout	In response to key scenarios, the statement is made that "the EPA's new procedures suite will likely apply..."	This guidance could be interpreted to imply that the draft guidance applies before being finalised in response to public comment. The ECA would not be supportive of this.	Clarify that the updated guidance will apply to projects only once published as final.	High
Overall	The scenarios are useful in clarifying the intent of the EPA at each stage.	This document outlines the EPA expectations during transition to the new procedure suite. However, this is not clear in the document title and this information may be missed.	This document title should be amended to make it clear that it addresses transitional implementation of the procedure suite.	Low