



**Australian Government**

**Department of the Environment and Energy**

# **National Radioactive Waste Management Facility**

**Regulation under the EPBC Act**

**Consultative Committee Meetings, April 2018**

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# What does the EPBC Act do?

- It provides a legal framework to protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places — defined in the EPBC Act as matters of national environmental significance
  - Conserve Australia's biodiversity
  - Provide a more efficient national environmental assessment and approvals process
  - Protect and manage important natural and cultural places
  - Promote ecologically sustainable development
  - Control international movement of plants and animals (wildlife), wildlife specimens, and products made or derived from wildlife
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# Matters of National Environmental Significance (MNES)



Threatened species



Migratory species



Commonwealth marine area



Great Barrier Reef Marine Park



National Heritage



World Heritage properties



Ramsar wetlands



Nuclear actions



Water  
(CSG & large coal mines)

If a proposal related to any of these matters is referred to the Department, it may require further assessment and approval

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# What does the EPBC Act regulate?

The EPBC Act regulates actions that have significant environmental impacts on protected matters

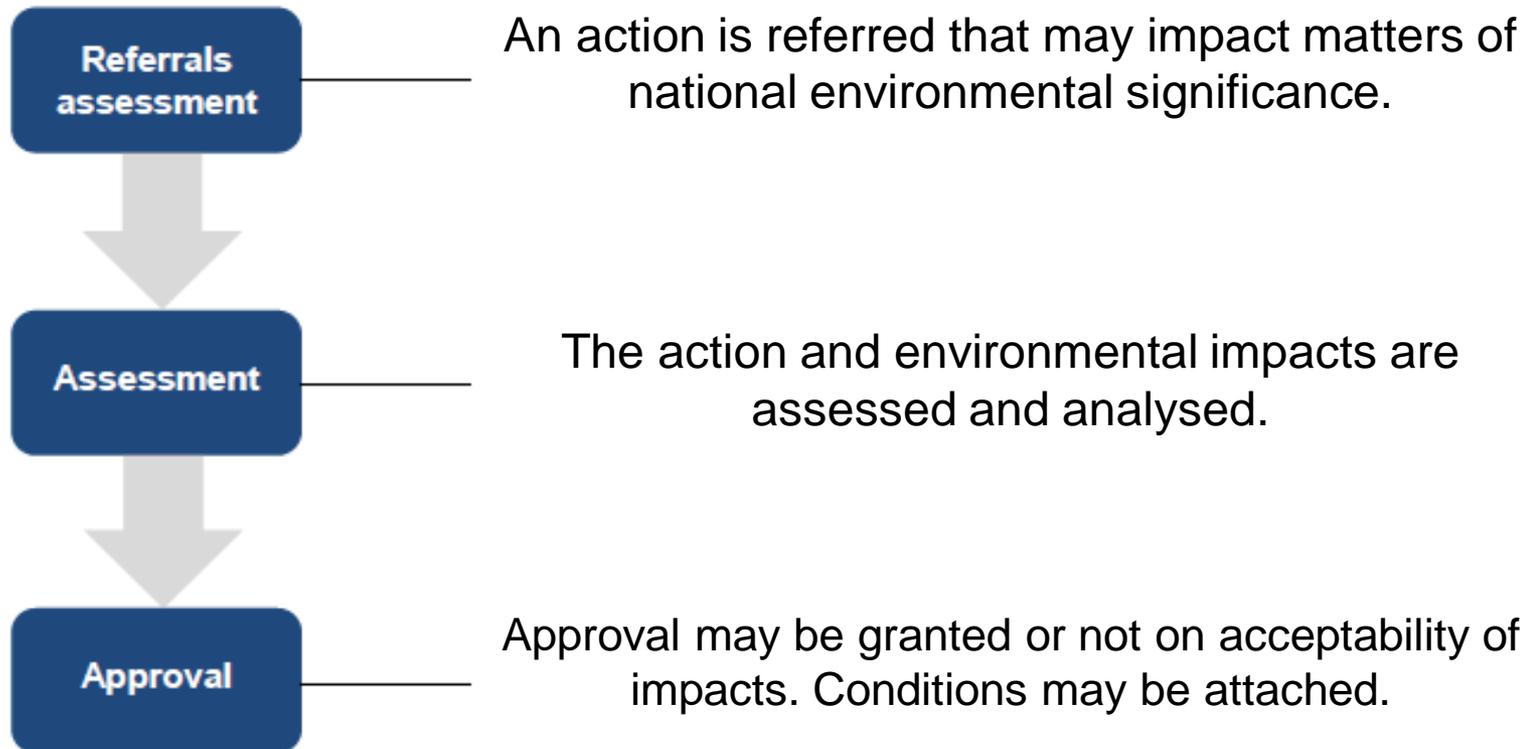
- An **action** is a proposed activity or development that may have a significant environmental impact on protected matters
  - A **referral** is an application made to the Minister for the Environment and Energy for a decision on whether or not the action requires environmental assessment and approval
  - The **proponent** is the person or business who proposes to undertake the action.
  - are taken on **Commonwealth land**
  - have been carried out by a **Commonwealth agency**
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# Who makes EPBC Act decisions?

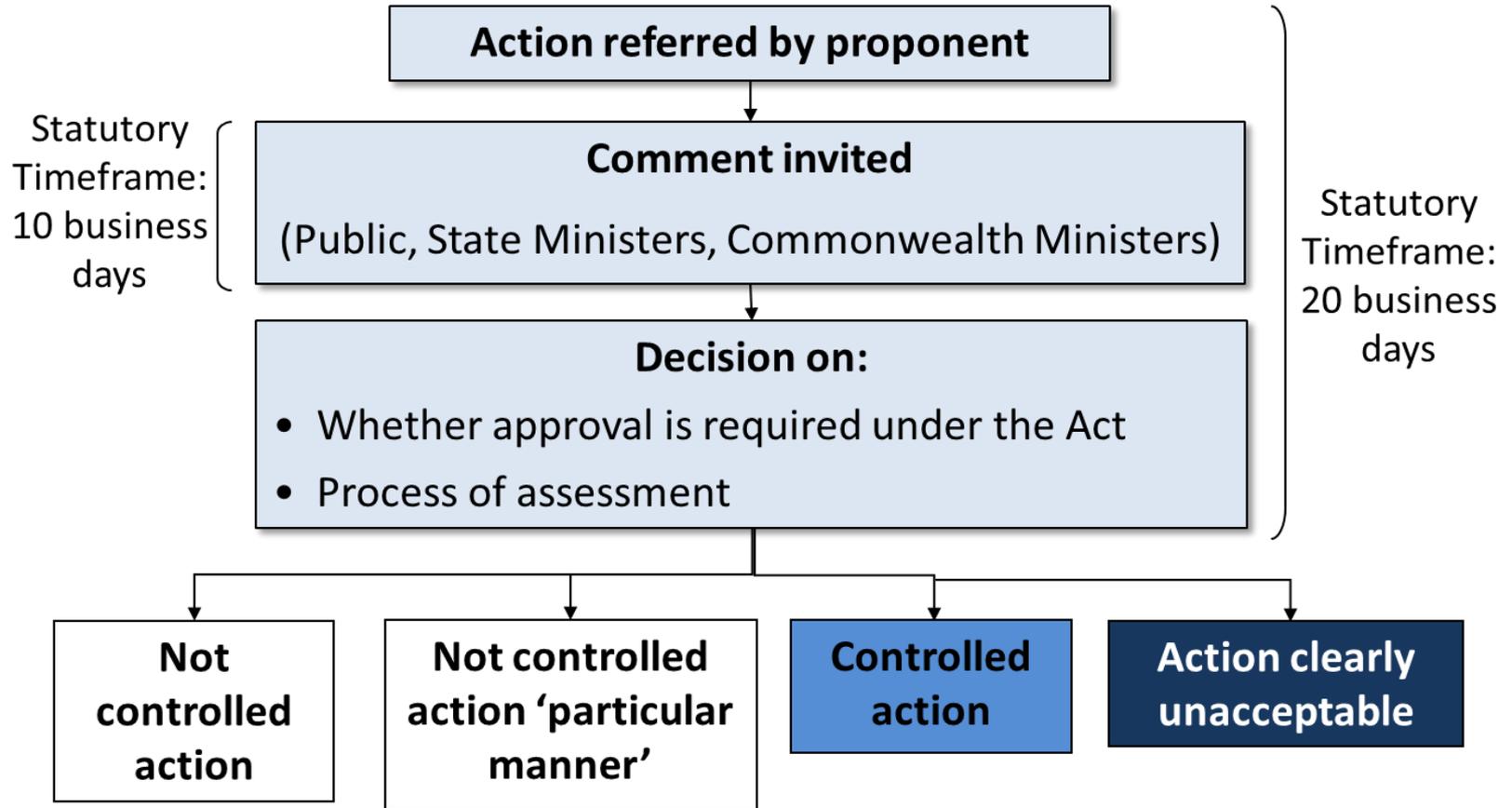
- the Minister and the Secretary of the Department can delegate their powers and functions to officers or employees in the Department
  - most of the approval decisions are delegated to senior executives in the Department
  - the Minister, however, retains the right to make a decision when he or she thinks it is appropriate.
  - a Minister decision could occur in the following circumstances:
    - High level of public interest
    - Level of environmental impact
    - Political sensitivities
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# Referrals, assessments and approvals

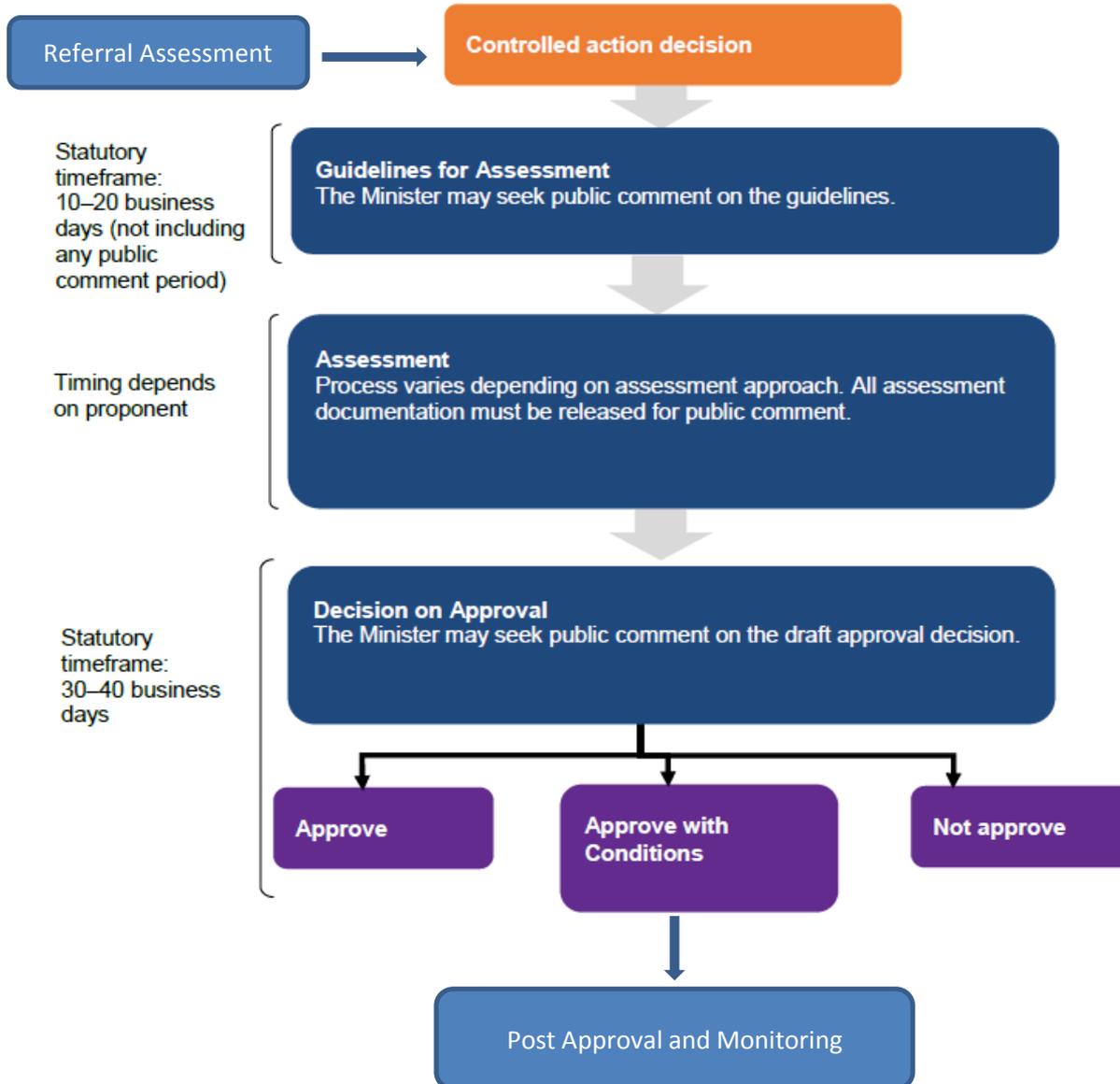
Assessments under the EPBC Act involves three broad steps:



# EPBC referral process



# EPBC Act assessment process



# EPBC Act assessment process

The EPBC Act sets out timeframes for some of the decisions in the referral, assessment and approval stages. The typical length of an assessment is 6–12 months.

There are four opportunities for public comment on a proposal:

1. Referral decision
  2. Assessment guidelines
  3. Assessment documents
  4. Proposed approval decision (optional)
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# Determining an assessment approach under the EPBC Act

There are different types of assessment approaches depending on the level of risk of the proposal.

Considerations in making a decision include:

- complexity of the project
  - quality of the referral
  - severity of the potential impacts
  - sensitivity and value of the protected matter
  - level of public interest.
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# Seven assessment approaches

The EPBC Act sets out the following seven approaches the Minister, or their delegate, may apply to assess the impacts of a controlled action:

- **Accredited assessment**—conducted under Commonwealth, state or territory law that meets the standards prescribed by the EPBC Act
  - **Assessment on referral information**—based only upon the referral information and internal advice already available
  - **Assessment on preliminary documentation**—could involve requesting further information from the proponent and requires public comment on the assessment documentation
  - **Public Environment Report (PER)**—conducted based on guidelines provided by the Minister. The PER process also includes public comment on the assessment documentation.
  - **Environmental Impact Statement (EIS)**—identical to the PER process above but wider and more encompassing. The EIS process is generally used for projects of very high complexity and public interest.
  - **Public inquiry**—a process where the Minister appoints commissioners to conduct the inquiry and report back.
  - **Assessment under a Bilateral Agreement**— conducted according to an agreement between the Commonwealth and a state/territory; and involves using state/territory assessment processes.
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# Summary of each assessment approach

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

# What is a nuclear action?

All nuclear actions, as detailed in the EPBC Act, should be referred to the Department for a decision on whether approval is required.

- a) establishing or significantly modifying a nuclear installation;
  - b) transporting spent nuclear fuel or radioactive waste products arising from reprocessing;
  - c) establishing or significantly modifying a facility for storing radioactive waste products arising from reprocessing;
  - d) mining or milling uranium ore;
  - e) **establishing or significantly modifying a large-scale disposal facility for radioactive waste;**
  - f) de-commissioning or rehabilitating any facility or area in which an activity described above has been undertaken;
  - g) any other action prescribed by the regulations.
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# What nuclear actions are not allowed under the EPBC Act?

The Minister **must not** approve an action consisting of the following nuclear installations:

- a) a nuclear fuel fabrication plant;
- b) a nuclear power plant;
- c) an enrichment plant;
- d) a reprocessing facility.

Other Commonwealth Ministers have regulatory responsibility over these types of actions/installations.

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# Definition of environment

A nuclear action will require approval if it has, will have, or is likely to have a significant impact on the environment.

The **environment** is defined in the EPBC Act and includes:

- a) ecosystems and their parts, including people and communities
  - b) natural and physical resources
  - c) qualities and characteristics of locations, places and areas
  - d) heritage values of places
  - e) the social, economic and cultural aspects of the above
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# Considerations for approval

- In determining whether an action should be approved, the Minister (or the delegate) must consider:
    - The impacts on matters of NES and any conditions necessary to protect matters of NES and/or to repair or mitigate damage to a matter of NES, taking into account:
      - : Conditions under other Commonwealth/State/Territory laws;
      - : Information provided by the proponent;
      - : The cost effectiveness of the conditions.
    - Economic and social matters;
    - The principles of ecologically sustainable development.
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# Key environmental impacts

- Groundwater and surface water
  - Flora and fauna
  - Air quality and greenhouse gas emissions
  - Indigenous heritage
  - Natural heritage
  - Social
  - Economic
  - Radiation exposure
  - Transport
  - Mine closure and rehabilitation
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**Australian Government**

**Department of the Environment and Energy**

# Thank you and Questions

