

Standard EPBC Act assessment and approval process for renewable energy projects

Depending on the environmental impact assessment process, referral, assessment and approval of an action under the EPBC Act can take between 18 months to 3 years.

Renewable Energy Project Pathways Commonwealth Approvals Process



Prepared by MinterEllison. © MinterEllison 2024. Current as at January 2024.
This is a high-level summary for a Queensland land-based renewable energy project and is not intended as legal advice. Project-specific legal advice to identify the optimal legislative pathway for your project is recommended at the outset.

Pre-referral meeting

Proponents can book a pre-referral meeting to:

- understand referral process
- discuss potential impacts
- review preliminary information with the Department (if using for **environmental impact assessment**)

Referrals – 3-6 months

Self-assessment

Project may have a significant impact on MNES?

- Proposed actions which may impact on MNES must be referred.
- Related projects can be referred individually or combined (e.g. renewable energy generation and transmission infrastructure)
- Referring a component of a larger action may result in a Ministerial request for referral of the larger action

Projects requiring an EIS or IAR can be assessed by Qld through bilateral agreement between Qld and Cth

Submit referral to Minister

Public Notification

- Relevant Ministers and government bodies can comment on referral

Minister's decision Within 20 b.d. of referral

- Controlled action
- Not a controlled action (particular manner)
- Not a controlled action
- Clearly unacceptable

Minister gives notice of decision and publishes decision

Environmental impact assessment and public notification

Consider measures to avoid and mitigate impact, and **offset requirements** from referral.¹

Notice of decision

Request reconsideration

Refer a modified action

Withdraw application

Environmental impact assessment and public notification – 9-24 months

Assessment types:

- Accredited assessment through bilateral agreement with Qld (IAR or EIS)
- Assessment on referral information
- Assessment on preliminary documentation (if no further information required)
- Assessment by EIS
- Assessment by public inquiry

See EPBC Act impact assessment process

Common assessment stages (dependant on assessment type):

Applicant notified of type of assessment → Public comment period → Assessment revised considering public submissions → Department prepares recommendation report

Approvals – 3-9 months

Minister receives copy of environmental assessment and any recommendation

Minister can invite comment on proposed decision from:

- other Environment Ministers
- the proponent
- the public

Minister makes decision

- Approve
- Approve with conditions
- Refuse

Notice of decision to proponent

Appeals: Judicial review only for a person with standing under the ADJRA²

EPBC Act Environmental Offsets Policy

Offset requirements should be considered from referral. Current policy requires minimum 90% offsets through direct land-based offsets

Referral: include information about impacts and any mitigation

Approval decisions may state impact area and require OAMP before commencement of action

OAMP or approval conditions may require offset to be secured within 9 to 12 months from date of approval

Post-approval requirements

Approval conditions may require approval of plans (e.g. offset plan) before commencing action

Applications to vary conditions of approvals for controlled action may require a new referral

Additional requirements

Offshore renewable energy projects in the Cth marine area will require licensing under the *Offshore Electricity Infrastructure Act 2021*

Activities within or which will impact Australian marine and national parks may require approval from the Director of National Parks

Consider technical requirements for connection with AEMO

Strategic assessment pathway

Strategic assessments offer an alternative to standard project-by-project referrals by providing landscape-scale assessments to identify protected and development areas in collaboration with Qld State Government.

Agreement with Environment Minister and State government for assessment Program

Public review and comment of draft impact assessment report and Program

Approval provided for development within Minister-endorsed Program, **no referral required**

DCCEEW estimates **17+ months** from scoping to implementation of strategic assessment: see DCCEEW's [Guide to Undertaking Strategic Assessments](#)

Bioregional planning

Bioregional plans can set regional priorities and biodiversity and socioeconomic values for a wholly Cth area, or including State or Territory areas if prepared in collaboration with the relevant State or Territory government. The Plan can identify strategies to address these priorities and values.

Minister may prepare a bioregional plan, including public consultation on the draft Plan.

Minister can cooperate with State or Territory Government or Agencies to prepare Plan that touches on State or Territory areas.

The Minister may declare **certain actions or a class of actions** that do not require approval if they are taken in accordance with the Plan.

Declarations must be consistent with Australia's national and intentional obligations for MNES

Bioregional plans are currently in place for Cth marine areas. No declarations have been made to date for existing Plans.

Proposed reformed assessment pathway

- The *Nature Positive Plan* (December 2022) sets out blueprint for EPBC Act reforms.
- Reforms include a revised referral and assessment process and Ministerial call-in power.³
- Proponents can **self-assess** and elect a **low-impact pathway**.⁴ This does not result in an approval and will have a standard 20 b.d. timeframe (subject to 'stop the clock' provisions).
- Revised standard assessment pathway will have a 60-day timeframe with 'stop the clock' option for further information.

The Department of Climate Change, Energy, Environment and Water is preparing sweeping changes to the EPBC Act, which will affect many of the stages identified in these flowcharts.

Register proposed project with EPA → Community consultation → Application to CEO EPA must include e.g. consistency with NES and Scope 1 +2 GHG estimate

Assessment ← Application published ← CEO EPA may request additional info

Proposed decision → Decision

See DCCEEW's [Nature Positive laws consultation material](#)

Glossary

ADJRA	Administrative Decisions (Judicial Review) Act 1977	EPBC Act	Environment Protection and Biodiversity Conservation Act 1999 (Cth)
AEMO	Australian Energy Market Operator	GHG IAR	Greenhouse gas Impact Assessment Report
b.d.	Business days	Minister	Minister Environment
CG	Old Coordinator-General	MNES	Matters of National Environmental Significance
Cth	Commonwealth of Australia	NES	National Environmental Standards
DCCEEW	Department of Climate Change, Energy, Environment and Water	OAMP	Offset Area Management Plan
EIS	Environmental Impact Statement	Qld	Queensland
EPA	Environment Protection Australia (National)	TOR	Terms of Reference
EP Act	Environment Protection Act 1994 (Qld)		

Footnotes

- Offsets may also be required as a condition of State approvals
- Reconsideration of controlled action decisions possible for significant new information or significant change in circumstances: see EPBC Act's 75
- Advice based on public consultation material from DCCEEW in December 2023 and may be subject to change.
- Low impact pathway applies to proponents who are 'relatively certain' that their action is not likely to have a significant impact.

Ministerial decision

Action from proponent

Additional information