

Pre-referral and Referral Advisory Note

 Guidance for proponents

Version [1.1]



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1. Introduction

About this advisory note

This advisory note is to assist proponents with understanding and undertaking effective and efficient pre-referrals and referrals under the *Environment Effects Act 1978* (the Act) and the *Ministerial Guidelines for Assessment of Environmental Effects under the Environment Effects Act 1978* (Eighth Edition, 2023) (Ministerial Guidelines). This note should be read in conjunction with the Ministerial Guidelines issued under section 10 of the Act by the Minister for Planning (Minister).

This new advisory note is one a suite of initiatives to support faster, more efficient and effective assessments under the Act, as part of the Victorian Government's commitments under the Economic Growth Statement.

Who this note is for

This note is for proponents, their consultants and technical advisors, when preparing to undertake pre-referral engagement and preparing for referrals. This should be considered ahead of meeting with the **Impact Assessment Unit** (IAU) of the Department of Transport and Planning, and ahead of considering whether and when to refer your project under the Act.

Overview of the pre-referral and referral stages

Pre-referral stage

The **pre-referral stage** is an informal, but important stage, providing proponents with an opportunity to meet with the IAU to:

- Seek guidance on the referral process.
- Understand the referral criteria prescribed within the Ministerial Guidelines.
- Present information on the project, its environmental setting and environmental risks.
- Discuss your self-assessment against the referral criteria and whether your project should be referred under the Act.
- Clarify the level of information required to support a referral and support decision of the Minister on the referral (i.e. the need for assessment).
- Understand the different decisions that the Minister can make under the Act.

Proponents should request a pre-referral meeting through the **IAU planning portal** once there is sufficient information to identify the potential for significant environmental effects from your project and wish to discuss the potential assessment pathways under the Act and how this could interface with other relevant statutory requirements and approvals.

Pre-referral meetings are normally convened within **two to four weeks** of a request being made. You may also use this meeting to discuss a **draft referral form** with the IAU.

Referral stage

The **referral stage** under the Act is formal process to determine whether a proposed project requires assessment under the Act. This stage involves:

- Formal submission of the referral to the Minister.
- Validation check of referral documents (ensuring the referral documents are complete and include sufficient information to inform the Minister's decision on the referral).
- Analysis of the referral by the IAU.
- A decision by the Minister for Planning (the Minister) on the assessment pathway (if assessment is required).



The **Ministerial Guidelines** (pages 12 – 18) provide:

- Details of the **pre-referral and referral process** – see Figure 1.
- **Referral criteria** to help identify a project’s potentially significant environment effects and if a referral should be submitted – see Table 1.
- An outline of the **information requirements for a referral submission** – see Table 2.

2. Roles and responsibilities

Proponent and their consultant

The proponent is responsible for undertaking sound due diligence, including conducting a thorough self-assessment with sufficient information, against the referral criteria, and where the project has potential for a significant environmental effect, to understand how to submit a referral.

The proponent (or consultant) is also responsible for requesting a pre-referral meeting and preparing information to support that engagement, and then when necessary, submitting an adequate referral. Meeting requests and submission of referral documentation is to be undertaken through the [Environment Assessment System](#).

The proponent is encouraged to use the pre-referral process (whether through meetings or draft referral reviews) to discuss the approach taken to avoiding and minimising the effects of the project. This pre-referral engagement with IAU (and other relevant agencies) provides an opportunity for proponents to de-risk the project to the extent possible, gain early feedback from IAU and other government agencies on how to approach regulatory requirements and to use this feedback to shape the project, including to respond to potentially significant environmental impacts.

IAU

The IAU will provide proponents and their consultants with advice and guidance throughout the pre-referral and referral stages to support your engagement with the process. This will also entail providing support and insights on how key environmental risks and relevant statutory requirements relate to the referral and assessment processes under the Environment Effect Act.

Minister for Planning

Under the Act, the Minister is responsible for determining if an assessment is required for your project, such an EES or environment report, and the requirements for that assessment.

The Minister can also direct a statutory decision-maker to refer your project where there is potential for it to have a significant adverse effect on the environment.

Other government agencies

Other government agencies may be involved in a proponent’s pre-referral and referral process, providing advice and input on the project. They respond to meeting requests from you or the IAU, and provide advice in the context of their regulatory and policy roles, on potential environmental effects that should be considered. They should also advise on any relevant statutory requirements that your project could trigger and how other statutory approval processes might interface with requirements under the Act.

3. Pre-referral

Objectives of pre-referral engagement

The objectives of the pre-referral meeting are outlined in Table 1.

Table 1. Objectives of a pre-referral meeting

Objectives of a pre-referral meeting
For proponents to engage early with the IAU, and other government agencies, to understand referral requirements, timing, relationship with other statutory requirements, and environmental impacts and risks that might influence how a proponent decides to develop the project and approach the assessment and approvals pathway for their project.
For the IAU to develop an understanding of your project including its environmental setting, project area, components, activities, staging, timing, potential environmental effects and the assessment and approvals pathway.
For the IAU to advise on possible assessment processes and interactions with other legislative approval requirements, including the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act).
For the proponent to share previous consultation with other government agencies/ regulators and how that has informed the proposed project and understanding of legislative and approvals requirements.
For the IAU to advise on any further engagement with other government agencies/ regulators that could assist with project development and understanding of relevant legislative and approvals requirements.
For the IAU to provide information on what a referral entails and to provide guidance to assist you in determining whether a referral is needed under the Act.
To discuss the most appropriate timing for your referral submission, including in terms of the stage of project planning and design.
To outline all necessary documentation IAU requires you to submit with your referral to support an adequate referral for the Minister to make a decision.

When to schedule a pre-referral meeting

Proponents may request a pre-referral meeting with the IAU at any stage of your project, once you have sufficient information to identify the potential for significant environmental effects, typically after developing an initial project concept. Early engagement with the IAU supports the preparation of your referral and enables a more efficient assessment process.

Pre-referral meetings can be held either in person or online, depending on your preference. If required, you may request additional pre-referral meetings with the IAU. For example, you might hold an initial meeting to discuss preliminary matters and then arrange a follow-up meeting once further project details are available. Pre-referral meetings might also be held to discuss comments on the review of a draft referral.

How to request a pre-referral meeting

All pre-referral meeting requests need to be submitted via the IAU's online [Environment Assessment System](#). When completing your request, consider whether representatives from other government agencies should be

invited. You can nominate relevant agencies in the 'Additional Meeting Notes' section of the request form for IAU's consideration.

Information required for a pre-referral meeting

Table 2 presents suggested information for your consideration to support preparation for a productive pre-referral meeting.

Table 2. Suggested information to support a pre-referral meeting

Suggested information
<ul style="list-style-type: none">• Project description: A description of your project, including its objectives, location, key components, staging, construction and operational activities, and any potential environmental impacts.• Environmental setting for the project.• Project alternatives: Information on any alternatives you are considering, ancillary components and project exclusions.• Preliminary studies: If undertaken, results of any preliminary studies that help understand environmental risks and approach to the delivery of the project.• Engagement: Information on any Traditional Owner and stakeholder engagement conducted to date.• Self-assessment against the referral criteria: self-assessment against the Ministerial Guidelines referral criteria. This helps identify whether your project is likely to have a significant environmental effect and inform whether a referral may be required. While formal documentation is not mandatory, keeping a record may be useful for future reference.• Avoidance and mitigation measures: If proposed, details of any proposed measures your project will commit to in order to avoid or mitigate environmental impacts.• Indicative project schedule: A schedule outlining key project milestones to support planning and coordination.• Approvals pathway: Information on the likely planning and environmental approvals required, and proposed approach to that, including any potential EPBC Act requirements.• Information gaps: Details on your current knowledge gaps, assumptions, and project uncertainties.

Pre-referral meetings

To support a productive discussion, proponents are encouraged to provide a meeting agenda and any supporting material to the IAU at least five business days before the meeting. The agenda can be guided by the suggested information in **Table 2**. Depending on the stage of your project, this may include a brief presentation to summarise key details or a more informal discussion. For early-stage or first-time proponents, the meeting may focus more on understanding the process, with the option for a more formal follow-up meeting if needed.

The IAU will endeavour to provide open, clear advice. This is an opportunity to discuss your project, its environmental risks and whether a referral is likely to be required, based on the potential for your proposal to meet individual referral criteria or result in a combination of potential environmental effects. It is also an opportunity to get feedback from IAU and/or other government agencies about environmental values or constraints that might influence how you develop your project or approach your assessment and approvals pathway.



These discussions can occur before your referral documentation is prepared and may also identify additional information that would support a robust referral. Written advice on whether a referral is required is not provided (that decision rests with the proponent, the Minister for Planning, or other statutory decision-makers). However, IAU can offer feedback on the proponent’s approach, the pre-referral documentation, including any uncertainties or additional considerations to inform the conclusions of your self-assessment.

Proponents should prepare **record/minutes** of the meeting and provide them to the IAU by uploading to the portal. The discussions during pre-referral meetings itself are treated as confidential by the IAU.

Other pre-referral engagement activities

Following the pre-referral meeting, further engagement may include:

- **Site meeting** – You may invite the IAU for a pre-referral site meeting to inspect major uncertainties and gain a site-specific understanding of the proposal. However, in most circumstances, site meetings are generally not required at this stage in the process.
- **Agency advice** – Depending on the nature of potential environmental effects, the IAU may recommend the proponent engage with and seek advice from other agencies or regulators during the pre-referral stage. IAU can assist with this and may consult with them directly as well to support the process.
- **Draft Referral review** – Should the project be referred, submission and review of a draft referral is strongly advised to occur as part of the pre-referral process to help reduce the risk of rework and delays caused by requests for more information during the referral assessment process. The draft referral review process is also an opportunity to get advice from IAU, and potentially other government agencies about how the potential for significant environmental impacts has been characterised that might influence how you characterise this in your referral or approach your assessment and approvals pathway.

Decision on whether referral of a project is required

Table 3 set outs the outcomes and pathway following the pre-referral stage.

Table 3. Proponent’s decision to refer a project or not

Decision option	Assessment	Proponent responsibility	IAU responsibility
Referral is not required	A project does not meet referral criteria either individually or in combination.	<ul style="list-style-type: none"> • Gather sufficient information to support the self-assessment conclusion that referral criteria are not met. • Prepare self-assessment documentation and keep records for future reference if required. • Communicate with the IAU advising of the conclusion of the self-assessment. It is not mandatory to provide the self-assessment documentation to the IAU. 	<ul style="list-style-type: none"> • If a self-assessment is provided to the IAU it will be filed in the department’s records. • IAU may request a meeting with the proponent to discuss the self-assessment if there are aspects that need to be clarified.

Decision option	Assessment	Proponent responsibility	IAU responsibility
Referral is required	A project meets referral criteria, either individually or in combination.	<ul style="list-style-type: none"> Proponent needs to prepare and submit a draft referral, supported by relevant assessments. Proponent needs to finalise and formally submit the referral to the Minister for a decision under the Act. 	<ul style="list-style-type: none"> Provide advice to assist proponent with referral preparation, such as through review of a draft referral. Facilitate a timely decision on the referred project after it is formally referred to the Minister, in accordance with targets in the Ministerial Guidelines.

4. Referral

When is a referral required?

Projects with the potential for a significant effect on the environment need to be referred to the Minister for Planning under the Act.

The criteria to help determine whether a referral is required are set out in **Table 1 of the Ministerial Guidelines**, which also outlines the type of information needed to support the referral process and documentation.

Where possible, refer the project in its entirety, including ancillary works or later project stages essential to the project's operation.

Who can refer a project under the Act?


A proponent typically refers their project under the Act. However, a proposed project can also be referred by others. Those that can refer a project are:

- A project proponent – an individual or organisation responsible for the project.
- A relevant statutory decision-maker.
- A Minister responsible for relevant legislation, can direct a relevant decision-maker to refer a project.
- The Minister for Planning can direct that a project be referred.

This advisory note applies to referrals prepared by proponents under s.8(3) of the Act and excludes public works order processes under s.3. of the Act.

Timing

You should refer your project once there's enough information to determine if there is the potential for significant environment effects. However, the appropriate timing for your project referral will need to strike a balance between a sufficiently early referral, when you know enough about the proposal and its potential for significant environmental effects, and referring at a later point, when there is sufficient certainty about the project approach, components and concept design. It is important to have completed specific investigations or studies to better understand the likely extent and significance of potential environmental effects and potential avoidance and mitigation measures.



Early referral may be appropriate if you have identified a limited number of feasible alternatives and you require further technical studies to identify and assess a preferred alternative. You could continue to develop these alternatives within the framework of an assessment, if required, under the Act. You should provide justification for selection of preferred sites and exclusion of alternatives.

Sometimes you will base your referral on more extensive investigations, particularly when you want to demonstrate that potential environmental effects are not likely to be significant. In other cases, where the potential for significant environmental effects is apparent, your investigations at the referral stage may be less extensive.

Matters of National Environmental Significance (MNES):

If the project is likely to impact on MNES you will also need to consider the requirements under the EPBC Act. If applicable, you should aim to lodge your EPBC Referral at the same time as your referral under the Environment Effects Act.

Further information is provided in the Ministerial Guidelines.

IAU can help advise on how best to approach the timing of your referral.

Information to include in a referral

To support the Minister's decision on whether assessment under the Act is required, your referral should clearly identify potential impacts and provide sufficient detail. You should endeavour to demonstrate where risks have been managed, and uncertainty reduced as far as reasonably practical at the time of referral.

- **Table 2 of the Ministerial Guidelines** outlines what you need to submit with a referral.
- The **Referral Form Template** provides further guidance on the level of detail expected.
- Your referral must include enough information for the Minister for Planning to assess the potential for the project to have significant environmental effects.

Draft referral

If you plan to refer a project, you are strongly advised to submit a draft Referral Form to the IAU for review. This early review helps reduce the risk of rework and delays caused by requests for more information during the referral assessment process.

The IAU typically requires three weeks to review a draft referral. The IAU's review of the draft primarily considers whether the referral form is complete, all questions answered, relevant boxes ticked, and enough information has been provided to enable the Minister's decision on the appropriate assessment pathway.

Tip

The Referral Form should be considered as a standalone document that clearly summarises and addresses the technical studies.

How to submit a referral

To submit a referral, please complete the [referral form](#) available on the IAU website and upload it in Microsoft word format via the [Environment Assessment System](#). You may include supporting documents in PDF format.

Once your referral has been accepted for processing, the documents will be published on the IAU's [website](#). You will receive an acknowledgment email when the electronic copy is received and formally accepted.



When will a decision be made?

Once your referral has been formally accepted, the IAU will assess the referral, liaise with technical agencies for their input, and prepare a briefing and recommendation to the Minister for Planning.

The Minister for Planning typically makes a decision within **20 business days** of the referral being formally accepted. There are **three possible decisions**, as outlined on **page 20 of the Ministerial Guidelines**. Following the Minister's decision:

- The **IAU will notify you in writing**, along with relevant decision-makers.
- A public notice of the decision and the reasons for decision will also be published on the [Victorian planning website](#).

5. Further Information

Please email the IAU at ees.referrals@transport.vic.gov.au if you have any general questions about the referral process or the referrals portal.

Further information can be found in the following:

- *Ministerial guidelines for assessment of environmental effects under the Environment Effects Act 1978*
- Referral Form Template
- [Submit an EES referral guide](#)



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