

REFERRING A PROPOSAL TO THE NT EPA

A guide for proponents and referral agencies

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Abbreviations and glossary

Term	Definition
authorising agency	The department, agency, statutory body or official, other than a responsible Minister, responsible for authorising a proposed action
EA Act	<i>Environmental Assessment Act</i>
EAAP	<i>Environmental Assessment Administrative Procedures</i>
EIA	Environmental Impact Assessment
EIS	Environmental Impact Statement
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth)
Environmental Factor	Features of the environment that may be impacted by an aspect or activity of a proposal. The NT EPA will make judgements against objectives determined for each factor on whether the potential environmental impact on that factor may be significant
NOI	Notice of Intent – the name given to the collection of information that notifies the NT EPA about a proposed action and enables the NT EPA to decide if the proposal requires assessment under the Environmental Assessment Act, either as a Public Environmental Report or Environmental Impact Statement
NT EPA	Northern Territory Environment Protection Authority
PER	Public Environmental Report
proponent	Person or company seeking to pursue a proposed action
proposed action or proposal	<p>Specified in section 4 of the <i>Environmental Assessment Act</i> as:</p> <ul style="list-style-type: none"> the formulation of proposals the carrying out of works and other projects the negotiation, operation and enforcement of agreements and arrangements (including agreements and arrangements with, and with authorities of, the Commonwealth, the States and other Territories) the making of, or the participation in the making of, decisions and recommendations the incurring of expenditure <p>by, or on behalf of, a person, either alone or in association with another person.</p> <p>A proposed action considered by the NT EPA is typically a development project, and ‘proposal’ is sometimes used in this guideline as an alternative to ‘proposed action’</p> <p>A proposed action or proposal is often referred to by proponents as a ‘project’</p>

Term	Definition
responsible Minister	The Minister with primary responsibility for authorising an action/ proposal

1 Introduction

In the Northern Territory, proposed actions that have the potential to have a *significant effect* on the environment require environmental impact assessment (EIA) under the *Environmental Assessment Act* (EA Act). The EA Act is administered by the Northern Territory Environment Protection Authority (NT EPA).

EIA is a predictive tool for identifying and characterising environmental impacts and risks associated with a proposed development. The process provides the NT EPA with the information it needs to advise decision-makers on matters that could significantly affect the environment. It enables environmental issues to be considered in a systematic and structured way with other aspects relevant for determining the environmental acceptability of a proposal and identifies measures to avoid, mitigate and minimise unnecessary and unacceptable harm to the environment.

EIA may be necessary for proposed actions that require approval under a range of Northern Territory legislation. This includes, for example, developments requiring approval under the *Planning Act* or mining activities requiring approval under the *Mining Management Act*. It may also be required for actions that do not require approval under specific Northern Territory legislation, if the action has the potential to have a significant effect on the environment; e.g. a large residential development on unzoned land.

The EA Act and the *Environmental Assessment Administrative Procedures* (EAAP) set out the processes and procedures about how EIA is conducted in the Northern Territory.

1.1 Purpose

This guideline informs proponents and referral agencies about the content of referral documentation. It provides advice on:

- the process of a referral
- the use of environmental factors and objectives to organise environmental information in a systematic manner to facilitate the NT EPA's decision-making
- minimum information requirements to enable the NT EPA to make a decision on whether environmental assessment is required.

2 The process of referrals

2.1 The role of a Notice of Intent

The referral, or notification, document is generally referred to as a 'Notice of Intent'.

The purpose of an NOI is to enable the NT EPA to consider the proposed action and decide if the action is capable of having a significant effect on the environment (see Box 1). If so, either a Public Environmental Report (PER) or an Environmental Impact Statement (EIS) may be required (Figure 1).

If the NT EPA decides the potential environmental impacts and risks are not significant and can be adequately managed (for example, by adherence to an environmental management plan) then a PER or an EIS will not be required.

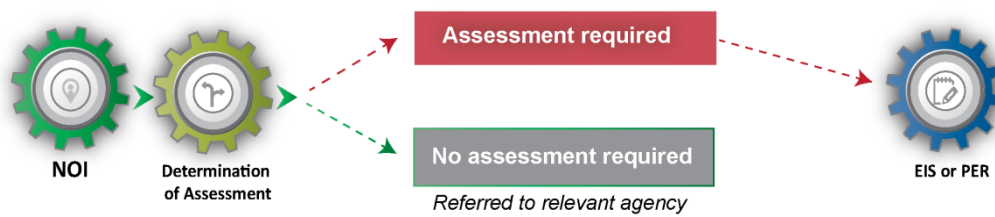


Figure 1: Commencing the EIA process

If the NOI does not provide sufficient information for the NT EPA to make an informed decision, or for advisory agencies to provide informed comment, the NT EPA may, within 14 days of receiving the NOI, request further information. Requests for further information can result in longer assessment timeframes so it is strongly advised that the information provided is sufficient to enable the NT EPA to make its determination.

The NT EPA aims to make a decision on whether assessment of a proposed action is required within six weeks of receipt of adequate information.

BOX 1. Significant effect – matters considered by the NT EPA

In determining whether a proposed action is capable of having a significant effect on the environment the NT EPA may have regard to various matters, including the following:

1. Objects of the EA Act, EAAP or other NT environmental legislation
2. Values (e.g. effects to **environmental factors and objectives**), sensitivity and quality of the environment which is likely to be impacted
3. Extent (intensity, duration, magnitude, frequency and geographic footprint) of likely impacts
4. Consequence of likely impacts (or change)
5. Resilience of the environment to cope with the impacts or change
6. Cumulative impact with other actions
7. Connections and interactions between parts of the environment to inform a holistic view of impacts to the environment
8. Level of confidence in the prediction of impacts and the success of proposed mitigation
9. Public interest about the likely effect of the proposed action on the environment and public information that informs the NT EPA's assessment.

2.2 Who makes a referral

The assessment process may commence in a number of ways:

1. A responsible Minister notifies the NT EPA of a proposed action.
2. The proponent notifies the NT EPA directly.
3. The NT EPA 'calls-in' a proposed action by providing a notice to the proponent, and, where applicable, the responsible Minister.

Where an application is received under approval legislation (such as the *Planning Act*), the authorising agency (on behalf of the responsible Minister) may refer the proposal to the NT EPA if the action may be capable of having a significant effect on the environment.

It is not uncommon for a proponent of a proposed action to submit an NOI to the NT EPA before making an application for project approval under the approval legislation. This is usually done in anticipation that the proposed action may be determined to have

the potential for a significant effect on the environment and therefore require assessment.

The NT EPA has the ability to call in a proposed action if it has not already been referred and there is potential for it to have a significant effect on the environment. This power may be used in circumstances where there is no approval legislation for a proposed action and a proponent has not made a referral; and where the responsible Minister and the proponent have not recognised the potential for the proposed action to have a significant effect on the environment.

The NT EPA has prepared a range of guidelines to assist proponents, responsible Ministers and authorising agencies to determine whether or not to submit or refer a proposed action to the NT EPA for consideration (<https://ntepa.nt.gov.au/environmental-assessments/assessment-guidelines>).

2.3 Environment Protection and Biodiversity Conservation Act 1999

Approval under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth; EPBC Act) may be required for any proposed action likely to have a significant impact on a matter protected by that Act. The environment assessment and approvals process of the EPBC Act aims to protect Matters of National Environmental Significance (see <http://www.environment.gov.au/epbc>).

Although the Commonwealth Minister for the Environment may rely on the NT EPA to assess controlled actions under the EPBC Act and in accordance with the Assessment Bilateral Agreement, actions must first be independently referred to the Commonwealth. Referral to the relevant Commonwealth department is the responsibility of the proponent.

Concurrent referrals of proposed actions are encouraged for both the NT and Commonwealth EIA processes where appropriate.

3 Information requirements

3.1 General matters

An NOI should be concise but sufficiently detailed to allow a reader to understand the nature, scale and scope of a proposed action, the environment in which it is proposed, and the likely environmental impacts or effects associated with the proposal.

In developing an NOI the NT EPA expects proponents to have conducted desktop investigations into relevant issues. Proponents are not expected to provide detailed reports of their own environmental monitoring or survey work at this stage of the process.

Proponents who directly refer to the NT EPA are encouraged to consult with the NT EPA when preparing an NOI.

3.2 Environmental factors and objectives

An NOI needs to be framed to address the NT EPA's environmental factors and objectives. Environmental factors are broad components of the environment such as flora, fauna, water or air quality that may be impacted by a proposal. Factors are grouped under themes of Land, Water, Sea, Air, People and Communities. Environmental objectives are the desired outcome, goal or direction for change identified for each environmental factor (Figure 2).

The environmental factors and objectives are used to organise and structure environmental information for the purpose of EIA and facilitate the determination of whether a proposed action has the potential for a significant effect on the environment. The NT EPA will determine if potential environmental impacts and risks of a proposed action may be significant when considered against the relevant environmental factors and their associated objective. If a proposed action requires further assessment in the form of a PER or EIS, the NT EPA will prepare the Terms of Reference focused on those environmental factors and objectives triggered by the action.



Figure 2: NT EPA environmental factors and objectives

Figure 3 broadly outlines how a proponent should apply the environmental factors and objectives with emphasis on the identification and evaluation of proposal specific factors and objectives. Minimum information requirements for proponents (Table 1) describe the important contextual information required by the NT EPA in addition to an evaluation of factors and objectives that are potentially impacted by a proposal.

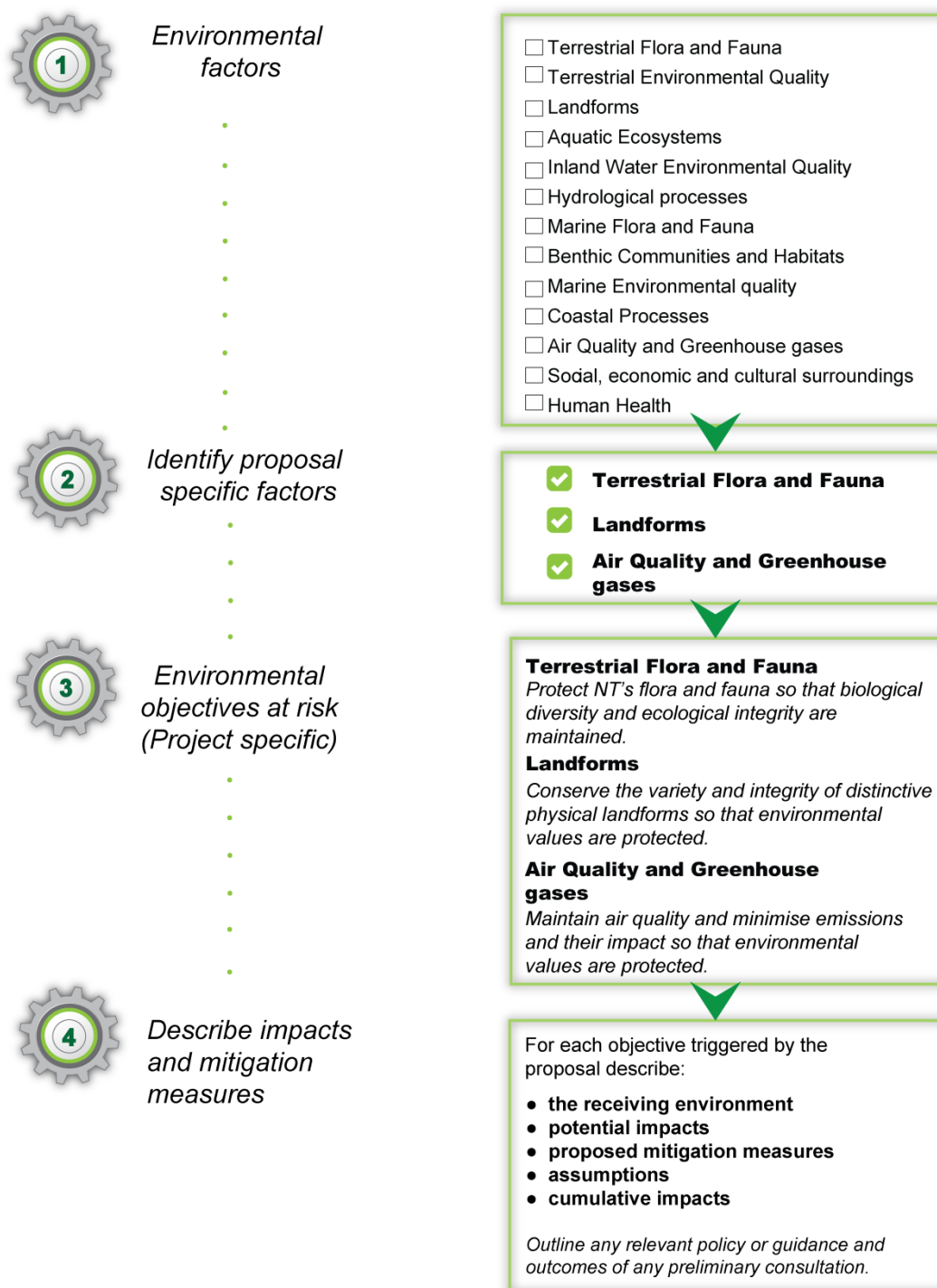


Figure 3: Application of environmental factors and objectives

In this example proposal specific factors of 'Terrestrial Flora and Fauna, Landforms and Air Quality and Greenhouse Gases' have been identified (2). (3) Requires that objectives at risk of being achieved are identified and (4) requires that the potential impacts to and mitigation measures proposed to achieve these objectives are described in the NOI.

4 Preparing a Notice of Intent

This section provides information about how to prepare an NOI.

Section 4.1 is targeted at proponents that are directly referring their project to the NT EPA.

Section 4.2 is targeted at those Government agencies which are referring proposals on behalf of a proponent in accordance with the requirements of the EAAP.

4.1 Information for proponents

The NOI needs to ensure that those environmental factors and objectives which might be impacted as a result of implementation of the proposed action are clearly described. Environmental factors which may be subject to potentially significant effects or impacts should be identified and the potential impacts and proposed mitigation measures (avoidance, minimisation, rehabilitation and offset) for these articulated in the NOI.

Table 1 provides the recommended minimum information required for an NOI, including further detail on how to address environmental factors and objectives in an NOI.

Table 1: Notice of Intent minimum information requirements

Proposal details
<i>Proposal title</i>
<i>Contact details</i>
<ul style="list-style-type: none"> proponent name, primary contact person, postal address, phone, email, organisational structure and responsibility; name of parent company/companies if applicable consultants (if acting on behalf of the proponent): business name, primary contact person, postal address, phone, email joint-venture partners (if applicable), name(s) and contact details.
<i>Location</i>
<p>A description of the proposal location, including:</p> <ul style="list-style-type: none"> latitude and longitude street address, tenement details, lot/section numbers, town/hundred, other ancillary information as applicable zoning/ land tenure and ownership of the location and surrounding areas location within a regional context planning context (e.g. any strategic planning, land use management plans and identified development corridors applying to the proposed site).
Other approvals and regulation
A brief outline of Northern Territory and Commonwealth legislation applicable to the proposal, and any approvals, licences or permits received and/or required for

the project to proceed, for example:

- development permit required under the *Planning Act*
- environment protection approval or licence required under the *Waste Management and Pollution Control Act*
- approval of Mining Management Plan required under the *Mining Management Act* or approval of an Environment Plan under the *Petroleum Act*.

Description of proposal

A description of the proposal addressing key physical components of the proposal and their purpose/function, including infrastructure and major equipment.

Where applicable detail:

- transport requirements, such as transport mode, route(s); frequency; and use of public roads
- social and economic details relating to the project (e.g. expected economic benefits, workforce and workforce accommodation requirements, local service requirements)
- water and energy source(s)
- the handling (storage and transport) of hazardous substances
- waste water and solid waste stream requirements / infrastructure
- decommissioning and rehabilitation measures.

Alternatives

A description of any alternatives being considered, such as alternatives in:

- location
- timeframe
- activities.

Land use history

An outline of the land-use history of the proposed site(s), to the extent possible from available information, including the extent and nature of previous activities that may have caused soil, surface water and/or groundwater contamination or degradation.

Where applicable:

- discuss the scope and extent of any previous or current investigations into or activities involving the remediation of soil, surface water or groundwater contamination on-site
- advise if the site is or has been regulated as a contaminated site under the *Waste Management and Pollution Control Act* (WMPC Act).

Existing environment

A description of the existing environment.

Information should focus on those aspects of the existing environment that are pertinent to the consideration of the potential environmental impacts from the proposal, including aspects of the environment:

- where the proposed action is to occur
- that are likely to be impacted by the proposal, and
- are likely to influence the extent of environmental impacts.

Natural environment

A description of the general characteristics of the proposed site(s) and the surrounding area that may be impacted by the proposal.

Descriptions should provide information sufficient to allow for preliminary assessment of potential impacts and suitability of the land (or water body) to support the proposed development.

Significant sites or features

A description of the proximity of the proposal to any significant sites or features such as significant landform, National Park or high conservation value waterways or land systems.

Potential impacts

A description of the nature and extent of potential impacts (direct, indirect and cumulative) from the proposal on environmental factors and objectives.

NB: the NT EPA's environmental objectives considered for each factor are described in Figure 2. An example for the application of environmental factors and objectives is presented in Figure 3.

Environmental factors

Using the table below, identify the environmental factors likely to be impacted by the proposal.

Land		Terrestrial Environmental Quality
		Landforms
		Terrestrial Flora and Fauna
Water		Aquatic Ecosystems
		Inland Water Environmental Quality
		Hydrological Processes
Sea		Marine Flora and Fauna
		Benthic Communities and Habitats
		Marine Environmental Quality

		Coastal Processes
Air		Air Quality and Greenhouse Gases
People and Communities		Social, Economic and Cultural Surroundings
		Human Health

For each of the identified proposal specific factors address the following in a table or provide supporting information in report form.

1. NT EPA factor and associated objective
2. Receiving environment – describe current condition and values potentially impacted in relation to this factor and corresponding objective
3. Potential impacts – assess the potential impacts (direct and indirect) of the proposal and review the impacts against the NT EPA factor(s) and objective(s)
4. Mitigation – describe measures proposed to manage and mitigate the potential environmental impacts on the applicable objective(s). Describe the effectiveness of proposed measure(s) and the level of confidence that the measure will be implemented. Include any relevant National or Territory standards, codes of practice and guidelines applicable.
5. Assumptions – describe any assumptions critical to your assessment e.g. specific mitigation measures or regulatory conditions.
6. Relevant policy and guidance
7. Consultation – outline any outcomes of preliminary consultation (if undertaken).

Include a description of any potential cumulative impacts (successive, incremental and combined impacts of past, present and foreseeable actions).

Matters of National Environmental Significance (NES)

State whether or not a referral has or will be submitted to the Australian Government responsible for administering the *Environment Protection and Biodiversity Conservation Act 1999*.

Proponent's statement of whether significant impacts are likely

State an opinion on whether the proposal is likely to have a significant impact on the environment and reasons why.

References and data

All sources must be appropriately referenced with preference for the Harvard Standard. A reference list should include the address of any internet pages used as data sources. Referenced supporting documentation and data, or documents cited in the NOI must be available upon request.

Where spatial data is included in the NOI, then this should be provided in GIS format, geo-referenced and conform to the following parameters:

- Data type: closed polygons that represent the proposal boundary

(development envelope) and the activity areas for all physical elements of the proposal (footprint)

- Attribution: Name the development envelope and each activity area in the attribute table of the spatial data
- Format: ESRI geodatabase or shapefile
- Coordinate System: GDA94 (datum) and projected into the appropriate Map Grid of Australia (MGA) zone.

All maps and figures contained in the NOI should be clear and readable, of appropriate scale, in either jpeg or pdf format and of good resolution (> 300 ppi). 'Flatten' figures to reduce the size of the NOI.

Any raw data collected or generated to support development of the NOI should be provided in csv or excel file formats. Data columns should be clearly titled for variables with relevant units.

4.2 Information for referring agencies

The referring agency should identify relevant factors and objectives that may be potentially significantly affected by the proposal or action and provide a brief rationale for making that judgement. Table 2 identifies the information that is required when making a referral.

Attach the rationale to any information submitted by a proponent to the agency which has formed the basis for the referral; e.g. the planning development proposal or mining management plan (MMP).

Potential impacts

A description of the nature and extent of potential impacts (direct, indirect and cumulative) from the proposal on environmental factors and objectives.

NB: the NT EPA's environmental objectives considered for each factor are described in Figure 2. An example for the application of environmental factors and objectives is presented in Figure 3.

Environmental factors

Using the table below, identify the environmental factors likely to be impacted by the proposal.

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Water		Aquatic Ecosystems
		Inland Water Environmental Quality
		Hydrological Processes
Sea		Marine Flora and Fauna

		Benthic Communities and Habitats
		Marine Environmental Quality
		Coastal Processes
Air		Air Quality and Greenhouse Gases
People and Communities		Social, Economic and Cultural Surroundings
		Human Health

For each of the identified proposal specific factors which may significantly impact environmental objective(s) provide reasons for the judgement including reference to material within the proponent submitted documents (see example below).

Examples

Factor/Objective	Reasons	Reference
<p>Example 1</p> <p>Factor 1. Terrestrial Flora and Fauna</p> <p>Objective: Protect NT's flora and fauna so that biological diversity and ecological integrity are maintained.</p>	<ul style="list-style-type: none"> Possible impact to threatened flora adjacent to proposed site Weed species introduction through machinery and transport. 	<p>Mine A MMP Chapter 4.1 pg 56-60.</p> <p>Mine A MMP Appendix 3.</p>
<p>Factor 2. Landforms</p> <p>Objective: Conserve the variety and integrity of distinctive physical landforms so that environmental values are protected.</p>	<ul style="list-style-type: none"> Removal of XYZ Hill on the west side of the site and 50m of associated rock plateau. 	<p>Mine A MMP Chapter 5.3-5.4</p>
<p>Factor 3. Social, economic and cultural surroundings.</p> <p>Objective: Protect the rich social, economic, cultural and heritage values of the Northern Territory.</p>	<ul style="list-style-type: none"> Rock outcrop adjacent to proposed landform removal is an area of cultural significance. Declared heritage zone 50m from proposed tailings dam and mine boundary. 	<p>Mine A MMP Chapter 5.6 pp112-115.</p> <p>Chapter 5.7 pp 120-125.</p>
<p>Example 2</p> <p>Factor 1. Aquatic Ecosystems</p> <p>Objective: Protect aquatic ecosystems to maintain the biological diversity of flora and fauna and the ecological functions they perform.</p>	<ul style="list-style-type: none"> Removal of riparian forest along XYZ creek in the Elizabeth River catchment. Drainage works proposed across a 2km² region of Sandsheet Heath in the Howard Sand Plains region. 	<p>Development Assessment Vol 2 Chpt 3, pp 60-70</p> <p>Development Assessment Vol 1. Chpt 4 pp71-75.</p>

5 Where to submit a Notice of Intent

An NOI may be submitted to the NT EPA in a number of ways:

- by email:
eia.ntepa@nt.gov.au
- by FTP:
contact the NT EPA for more information
- by post:
NT Environment Protection Authority GPO Box 3675
Darwin NT 0801
- by hand:
Level 1, Arnhemica House 16 Parap Road Parap.

The NT EPA prefers that documents are available in electronic format and are of a size that can be emailed or downloaded.

6 Further information

Further information and guidance on the EIA process is available on the NT EPA website at: <https://ntepa.nt.gov.au/environmental-assessments>.

If you require assistance in applying this guideline to your circumstances or you are unsure whether an NOI needs to be submitted for your proposal, please contact the NT EPA.

Comments on this guideline are welcomed and should be directed to the NT EPA:

GPO Box 3675 Darwin NT 0801

Email eia.ntepa@nt.gov.au

Tel 08 8924 4218

Fax 08 8924 4053