

Environmental impact assessment and environmental approval under the Environment Protection Act 2019

Environmental impact assessment guidance

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1. Introduction

This guidance provides an overview of the environmental impact assessment and approval process for the NT as legislated under the *Environment Protection Act 2019 (EP Act)* and Environment Protection Regulations 2020 (*EP Regulations*).

The Northern Territory Environment Protection Authority (**NT EPA**) conducts an environmental impact assessment for a proposed action or strategic proposal (hereafter collectively referred to as a **proposal**) that has the potential to cause a significant impact on the environment. The Minister for Lands, Planning and Environment (**Minister**) makes the decision to grant or refuse environmental approval for the proposal.

The guidance has been written for proponents and the public to assist with understanding how the environmental impact assessment and environmental approval process operates under the EP Act. The guidance provides step-by-step detail to assist readers to understand the obligations and opportunities within the process, and how and when to actively participate.

The guidance is provided as a general resource document only. A series of more specific user guides to support the environmental impact assessment and environmental approval process are available on the NT EPA website.

The terms used in this guidance have the same meanings as in sections 4 and 5-13 of the EP Act and regulations 3 and 4 of the EP Regulations.

This document is subject to, and does not substitute, replace or amend the requirements of the EP Act and associated EP Regulations, which should be read in conjunction with this guidance. Proponents planning to undertake a proposal in the NT should obtain copies of the EP Act and EP Regulations and contact the Environment Division of the DLPE before commencing an environmental impact assessment process.

2. Purpose of environmental impact assessment and environmental approval

The purpose of environmental impact assessment and environmental approval in the NT is to ensure there is no unacceptable impact on the environment resulting from proposals, now or in the future.

Proposals that have the potential for *significant environmental impact* must be referred to the NT EPA. If environmental impact assessment is required, an environmental approval must be granted by the Minister before the proposal can proceed in the NT.

If a proposal has the potential for a significant impact on the environment it is to be planned, assessed and carried out taking into account:

- the principles of ecologically sustainable development
- the environmental decision-making hierarchy
- the waste management hierarchy
- ecosystem-based management
- the impacts of a changing climate.

The environmental impact assessment process also requires that alternative approaches and technologies be identified and considered when planning and assessing a proposal to ensure the potential for less

environmentally damaging alternative approaches, methodologies or technologies is considered. Coupled with this, the environmental impact assessment process requires the potential for a proposal to enhance or restore environmental quality through restoration or rehabilitation to be identified and provided for to the greatest extent practicable, further reducing the potential for significant environmental impacts.

The environmental impact assessment and environmental approval process in the NT supports the community's right to know, allowing public scrutiny of the assessment of potential impacts and opportunity through the process for public comment. The EP Act places obligations on proponents to ensure the NT community is provided with adequate information to assist with their understanding of the potential environmental impacts and risks of a proposal and to seek community involvement and input in a culturally appropriate manner. This includes seeking community knowledge and understanding of an area and the requirement to address Aboriginal values, rights and interests in relation to the area that may be impacted by a proposal.

The assessment by the NT EPA needs to deliver on the purpose of the environmental impact assessment process outlined in section 42 of the EP Act. To enable this, relevant information requirements and considerations are set out in NT EPA guidance.

3. Principles of ecologically sustainable development

The EP Act is clear in its purpose of promoting the ecologically sustainable development of the NT so that the wellbeing of people is maintained or improved without adverse impact on the environment.

A key purpose of environmental impact assessment is to ensure that all proposals that may have a significant impact on the environment are assessed, planned and carried out taking into account the principles of ecologically sustainable development.

A decision-maker under the EP Act is also required to consider and apply the principles when making decisions.

The EP Act defines ecologically sustainable development as:

development that improves the total quality of human life, both now and in the future, in a way that:

- a) maintains the ecological processes on which all life depends; and*
- b) recognises the need for development to be equitable between current and future generations.*

The EP Act identifies eight principles of ecologically sustainable development. A copy of the principles is provided in Attachment A.

4. Roles and responsibilities

4.1. Proponent

A proponent is a person proposing to carry out, or carrying out, a proposal. It is the responsibility of a proponent to refer a proposal to the NT EPA if it has the potential to have a significant impact on the

environment, or if it meets a referral trigger¹. Accordingly, the proponent will need to undertake a self-assessment of the proposal, drawing on the definitions of ‘impact’ and ‘significant impact’ and guided by the [NT EPA’s Environmental Factors and Objectives](#) guidance and the Minister’s declared environmental objectives (if any)².

A proponent is required to give additional information to the NT EPA as directed, within timeframes specified, and is obligated to comply with terms of reference published for an environmental impact statement or an assessment by inquiry. The proponent must not provide misleading information during the environmental impact assessment process and must comply with any environmental approval that may be granted.

The EP Act sets out general obligations of a proponent, as follows:

- to provide communities with information and opportunities for consultation
- to consult with affected communities
- to seek and document community knowledge and understanding of the natural and cultural values of an area
- to address Aboriginal values and the rights and interests of Aboriginal communities in relation to an area
- to consider the principles of ecologically sustainable development
- to apply the environmental decision-making hierarchy in the design of a proposal
- to consider the waste management hierarchy in the design of a proposal.

4.2. NT EPA

The NT EPA is an independent authority established under the *Northern Territory Environment Protection Authority Act 2012*. The NT EPA consists of between four and seven members appointed by the Administrator of the Northern Territory and the Chair of the NT Planning Commission. Appointed members to the NT EPA are required to collectively provide knowledge and experience across a broad range of environmental, scientific, business and social disciplines.

The NT EPA conducts an environmental impact assessment for all proposals that have the potential for significant impact. It has been given powers to make sure a proposal with the potential for significant impact does not proceed without being subject to assessment by the NT EPA. At the conclusion of the environmental impact assessment process the NT EPA is required to prepare an assessment report summarising and presenting its findings on the acceptability, or not, of a proposal (in respect to its potential for significant impact on the environment). If the NT EPA determines that a proposal can proceed it will prepare a draft environmental approval for the Minister. If the NT EPA determines that a proposal

¹ Section 29 of the Act states “a referral trigger requires a proponent of an action to refer the action to the NT EPA for assessment in accordance with the regulations”. There are two types of referral triggers – an activity-based referral trigger (an action that is likely to have a significant impact on the environment) and a location-based referral trigger (due to a cultural or natural feature of significance which is likely to be impacted by actions). The Minister is responsible for declaring referral triggers.

² Note, there are currently no environmental objectives gazetted. In the longer term, environmental objectives will be developed to help proponents gauge significant impact and a decision on whether or not to refer their proposal to the NT EPA.

will have an unacceptable environmental impact and the impact cannot be appropriately avoided or mitigated, and an environmental offset is not appropriate, it may prepare a statement of unacceptable impact for the Minister.

Within the environmental impact assessment and environmental approval system the NT EPA is responsible for:

- determining if a proposal requires environmental impact assessment (and the assessment method)
- directing a proponent on the information required to assess their proposal
- undertaking the environmental impact assessment of a proposal
- providing advice and recommendations (in the form of an assessment report) to the Minister, including a draft environmental approval or a statement of unacceptable impact.

The NT EPA is required to:

- consider the principles of ecologically sustainable development
- apply the environmental decision-making and waste management hierarchies
- apply the terms of reference in carrying out the assessment by environmental impact statement or assessment by inquiry
- be informed by any environmental objectives gazetted under the EP Act.

4.3. Minister for Lands, Planning and Environment

The Minister is responsible for deciding if a proposal is to be granted an environmental approval and the conditions of an approval. This decision is based on the advice received from the NT EPA, although the Minister is not bound by the NT EPA's advice. If the Minister determines that a proposal is likely to have unacceptable impact they must consult with the proponent before refusing to grant an environmental approval.

4.4. Department of Lands, Planning and Environment

The DLPE supports the NT EPA in conducting the environmental impact assessment process, and provides the NT EPA with staff and facilities to enable it to properly exercise its powers and perform its functions.

The DLPE is also responsible for supporting the Minister to perform its functions, particularly regarding a proponent's compliance with the conditions of its environmental approval.

5. Snapshot of the environmental impact assessment and environmental approval process

The NT environmental impact assessment and environmental approval process is made up of five key stages, as illustrated in Figure 1. These stages are summarised below and discussed in further detail in sections 6 – 10.

1. **Pre-referral** – a proponent undertakes a self-assessment of their proposal to determine the need for a referral. It is during this time that a proponent is expected to commence engaging with potentially impacted or interested members of the NT community about their proposal. It is also at

the pre-referral stage that a proponent may seek to have a preliminary meeting with staff from DLPE, in their capacity of supporting the NT EPA, to discuss their proposal.

2. **Referral** – the proponent refers a proposal to the NT EPA for consideration. Once the NT EPA accepts the referral document it will be published and open for public consultation. At the conclusion of the public consultation process, the NT EPA will determine whether the proposal is required to undergo environmental impact assessment and if so, the appropriate assessment method ; or the proposal is not required to undergo environmental impact assessment.
3. **Environmental impact assessment** – the process of the NT EPA undertaking its review and evaluation of a proposal to ensure it presents no unacceptable impacts on the environment. There are four methods of assessment under the EP Act, each varying according to the information requirements of the NT EPA, the opportunity for public submissions and the timeframes involved. At the conclusion of the environmental impact assessment stage the NT EPA prepares an assessment report and provides it to the Minister with advice and recommendations on whether a proposal should be granted an environmental approval. The NT EPA also provides the Minister with either a draft environmental approval or a statement of unacceptable impact, depending on the findings of its assessment of the proposal. The NT EPA must publish a notice advising where a copy of its advice to the Minister (including the assessment report) can be obtained or inspected.
4. **Environmental approval** – the decision that is made by the Minister, based on the advice received from the NT EPA, to grant or refuse to grant an environmental approval for a proposal.
5. **Post-approval monitoring and compliance** – if an environmental approval is granted, a proposal moves into the post-approval stage of compliance monitoring and reporting, and is referred to as an “action”. The approval holder is responsible for monitoring regulatory compliance with, and enforcing the conditions of, an environmental approval.

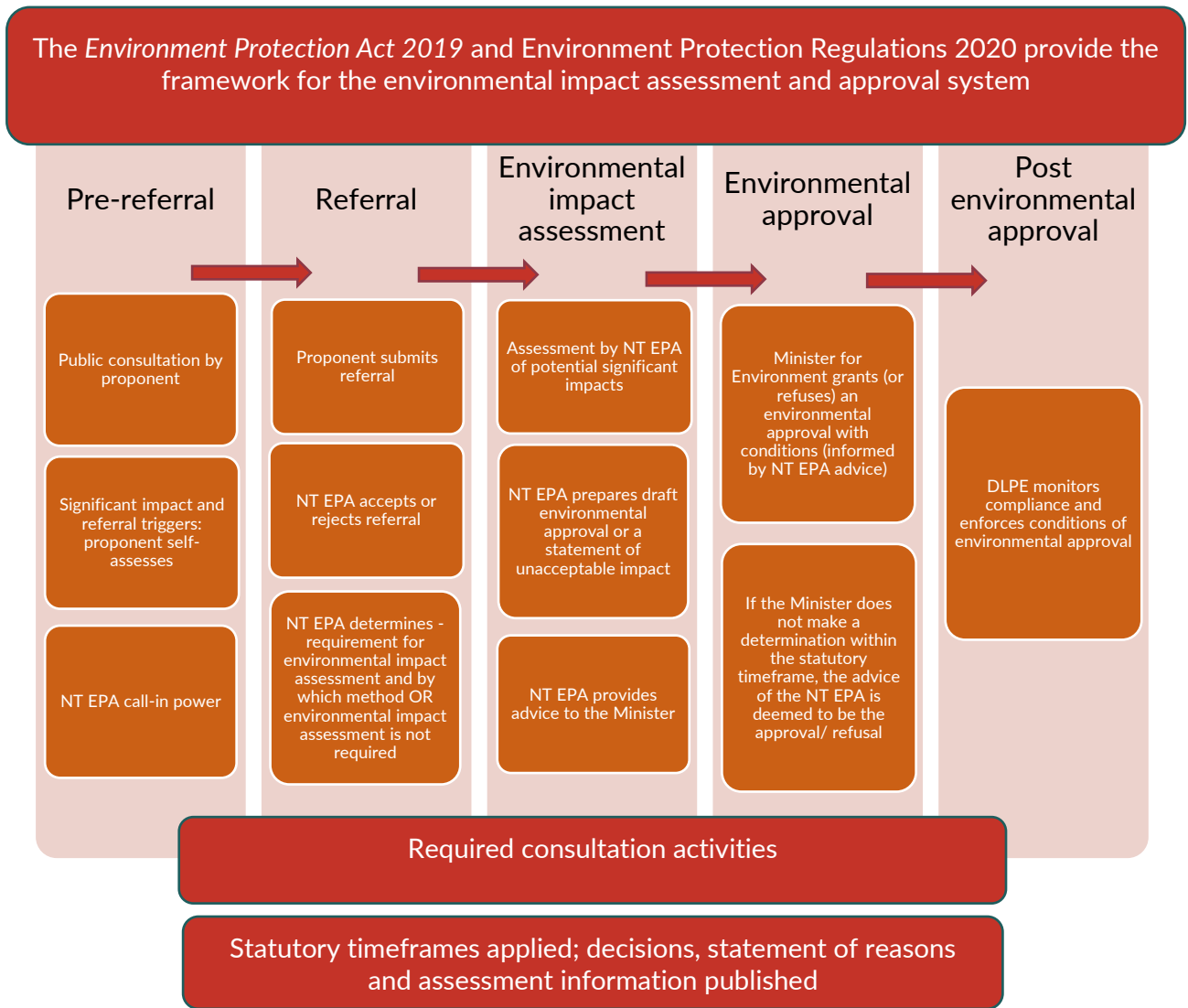


Figure 1: Stages of the environmental impact assessment and approval process

6. Pre-referral

The pre-referral stage of the process is key to a timely environmental impact assessment and approval process, better environmental planning and design of proposals, and increased public acceptance of a proposal.

The pre-referral stage allows the proponent to undertake a preliminary analysis of risks and impacts associated with a proposal and to respond through site selection and project design, as well as operational approaches, to avoid and mitigate identified risks and impacts. Before making a referral to the NT EPA the proponent should invest in information collection (such as technical studies, site surveys and early consultation), drawing on this information to complete a self-assessment of a proposal and deciding whether the proposal is required to be referred to the NT EPA, based on the potential for significant impact. The NT EPA has prepared a pre-referral screening tool to assist with this process. See [Referring a proposal to the NT EPA](#) guidance on the NT EPA website.

During formulation of the proposal, a proponent needs to commence engaging with potentially impacted or interested members of the NT community about its proposal (refer to [Guidance for proponents on stakeholder engagement](#) on the NT EPA website). At this stage the proponent may also elect to meet with the Environment Division of DLPE to discuss the proposal and the environmental impact assessment process.

Investment in the pre-referral stage, resulting in a referral that demonstrates a comprehensive understanding of project risks (drawing on the NT EPA's environmental factors and objectives [NT EPA's Environmental Factors and Objectives](#)), providing evidence that risks and impacts can be mitigated and including the outcomes of community consultation (demonstrating how any concerns have been addressed with input from the affected community), it is more likely to experience a timely and efficient environmental impact assessment process.

7. Referral

7.1. Preliminary review

If, during the pre-referral stage, a proponent determines its proposal has the potential for significant impact on the environment or it meets a referral trigger, it is required to refer the proposal to the NT EPA.

The NT EPA may call in (require a proponent to refer) a proposal if the NT EPA believes on reasonable grounds that it should be referred and hasn't been.

The referral has the purpose of informing the NT EPA about a proposal and providing enough information for it to make a judgement on the potential for significant environmental impact. The guidance [Referring a proposal to the NT EPA](#) (on the NT EPA's website) is available to proponents to assist with the preparation of a referral.

When a referral is first received DLPE will check that the proponent has provided a complete referral e.g. a completed referral form, referral document including any appendices, that figures are generally readable and that files are appropriately labelled and sized. Following receipt of a completed referral the timeframe for initial consideration of the referral will commence.

The NT EPA will conduct a preliminary review of the referral to determine whether additional information to the referral is required. If the NT EPA directs a proponent to provide additional information, it must be a material omission from the referral and required to enable the NT EPA to properly consider the referral and whether it is required to be made.

Based on its preliminary review the NT EPA will either accept or refuse to accept the referral (noting that a refusal to accept the referral is not a refusal of an environmental approval). The only grounds on which the NT EPA can refuse to accept a referral are:

- If it contains insufficient information for the NT EPA to make an assessment decision
- If it has not been prepared or certified in accordance with any gazetted requirements in line with regulation 263 of the EP Regulations
- If it relates to part of a larger action proposed by the proponent and information on the whole action is required to make an assessment decision
- If it relates to an area that is covered by a strategic proposal that has been referred for assessment

- If it is of a proposed action of a kind that will be assessed through the assessment of a strategic proposal that has been referred for assessment
- If it is of a proposed action that has been assessed as part of a strategic assessment.

The NT EPA is able to request additional information to support its consideration of the referral and its decision to accept or refuse it.

The NT EPA will prepare a notice of decision which will be provided to the proponent and published. If the NT EPA refuses to accept a referral, it will prepare and publish a supporting statement of reasons.

7.2. NT EPA determination on a referral

An accepted referral is published for 20 business days³, allowing members of the public and relevant government authorities to review the referral information and provide input into the NT EPA's determination on whether the proposal requires environmental impact assessment.

Within 30 business days⁴ after the public consultation period closing, the NT EPA will decide if:

- a proposal does not require an environmental approval and no environmental impact assessment is required, or
- a proposal requires an environmental approval to proceed and will be subject to an environmental impact assessment. If the NT EPA determines that a proposal needs to undergo environmental impact assessment, it must also determine the assessment method, or
- a proposal presents an unacceptable impact to the environment and it is recommended to the Minister to refuse to grant an environmental approval. Before making a recommendation to the Minister the NT EPA must consult with the proponent and consider any submissions received.

The NT EPA's determination on a referral is based upon a judgement of significant impact, informed by:

- the information provided in the referral
- any additional information required by the NT EPA and provided by the proponent
- any submissions received during the consultation process
- environmental objectives declared by the Minister (where they exist) and the [NT EPA's Environmental Factors and Objectives](#).

In determining whether a proposal has the potential to have a significant impact on the environment, the NT EPA may also consider other statutory decision-making processes that may mitigate the potential environmental impact of the proposal.

For information about how the NT EPA makes these decisions, refer to the guidance [Referring a proposal to the NT EPA](#) on the NT EPA website. The NT EPA will prepare a notice of its decision which will be

³ A referral of an action is published for 20 business days, unless the referral is a proponent initiated EIS referral which is published for 30 business days. A referral of a strategic proposal is published for 30 or 40 business days (for a proponent initiated EIS referral). This timeframe may be extended by the NT EPA in consultation with the proponent.

⁴ For a proponent initiated EIS process, the NT EPA has 35 business days to make its decision. This time allows the NT EPA to also finalise the terms of reference for the EIS.

provided to the proponent and published. The notice of decision will be supported by a statement of reasons.

7.3. Determining environmental impact assessment method

Where the NT EPA determines that a proposal is required to undergo environmental impact assessment it must also determine the assessment method, having regard to:

- the significance of the potential impact
- the level of confidence in the prediction of potential significant impacts
- the level of confidence in the effectiveness of proposed measures to avoid, mitigate or manage potential significant impacts
- the extent of community engagement that has occurred in relation to the proposal
- the capacity of communities and individuals (likely to be affected by the project) to access and understand information about the project (the adequacy and appropriateness of consultation with potentially impacted members of the public).

A proponent should be aware of these matters when preparing a referral to assist in the NT EPA's timely decision.

There are four assessment methods, also known as tiers of assessment:

1. **Assessment by referral information** – where the NT EPA is able to prepare an assessment report based on the original referral and any additional information and submissions provided as part of the acceptance of the referral.
2. **Assessment by supplementary environmental report (SER)** – where the NT EPA is able to prepare an assessment report based on the referral document, any additional information and submissions provided as part of the acceptance of the referral, and a supplementary environmental report that provides additional information in relation to specific aspects of potential significance.
3. **Assessment by environmental impact statement (EIS)** – where the NT EPA requires an EIS that addresses approved Terms of Reference.
4. **Assessment by inquiry** – where the NT EPA, or a panel appointed by the NT EPA, will undertake an inquiry that addresses approved Terms of Reference.

An assessment by inquiry may be undertaken in conjunction with any other method of impact assessment for a proposal.

7.4. Significant variation referral

If a proponent proposes a significant variation to a proposal that is either in an impact assessment process, or has been approved, the significant variation must be referred or notified to the NT EPA. The significant variation to the proposal will be considered by the NT EPA in a similar way to the referral for the proposal, with necessary changes, depending on what stage of assessment the proposal is in when the significant variation is notified or referred to the NT EPA.

Proponent's seeking further information about the process for a significant variation may refer to the guidance [Referring a proposal to the NT EPA](#) on the NT EPA website.

8. Environmental impact assessment

8.1. Assessment by referral information

A proposal can be assessed by the NT EPA based on the referral information provided by the proponent (supported by any additional information requested by the NT EPA during the referral process) and any submissions received during consultation on the referral information.

An assessment by referral information is the shortest assessment process of the four assessment methodologies. It reflects the circumstance that a proposal has the potential for a significant impact on the environment and that a referral contains the information required by the NT EPA to complete its assessment process.

The NT EPA has 30 business days after its determination on the referral is made, to undertake its assessment and provide the assessment report and accompanying documentation to the Minister.

8.2. Assessment by supplementary environmental report

The NT EPA can select to assess a proposal based on:

- the referral documentation
- any additional information provided during the referral stage
- public submissions on the referral, and
- a supplementary environmental report.

This method is known as an assessment by **SER**.

An SER responds to matters raised in submissions received on a published referral and provides additional information as directed by the NT EPA.

This method will be used for assessing a proposal when the referral information or submissions to the referral information raise an issue pertinent to the NT EPA's assessment requiring further investigation and information. The NT EPA has published guidance for proponents about [preparing an SER](#).

The proponent must publish the SER and the NT EPA must publish a notice inviting public review and submissions. Relevant government authorities will also be invited to make a submission on the report. The submission period is 25 business days.

The NT EPA is required to complete its assessment of the proposal (in the form of an assessment report) and provide its advice to the Minister within 40 business days after the submission period closing.

If the NT EPA is required to seek further information at the completion of the submission period on the supplementary environmental report, it must do so within 20 business days of the completion of the submission period. The time to prepare the assessment report is reduced by any period between completion of the submission period and the issue of the additional information request.

8.3. Assessment by environmental impact statement

If the NT EPA determines that a proposal is to be assessed by the EIS method, the NT EPA must prepare and publish terms of reference within 40 business days after the determination. The draft terms of reference are placed on public consultation for 15 business days and submissions invited. The NT EPA is to finalise and publish the terms of reference within 15 business days after the submission period ends, after it has considered the submissions received during consultation on the draft terms of reference.

The proponent will be directed on the timeframe in which the draft EIS is to be submitted to the NT EPA, although the proponent can request an extension to this timeframe. By placing a timeframe on this part of the process it ensures the environmental impact assessment is not prolonged to a point that referral information, terms of reference etc. are superseded by changes in knowledge, understanding or community expectations. The NT EPA has prepared guidance for proponents about [preparing an EIS](#).

The proponent must publish the draft EIS and the NT EPA must publish a notice inviting public review and submissions. Relevant government authorities will also be invited to make a submission on the EIS. The submission period will range from 30 to 60 business days.

The NT EPA will provide the proponent with copies of all submissions received on the draft EIS and may give direction on additional information that is required to complete the assessment process. The proponent must prepare a supplement to the draft EIS (supplement), providing information requested by the NT EPA and addressing the matters raised up in the submissions. The supplement is placed on public consultation for 15 business days.

The NT EPA must provide an assessment report and accompanying advice to the Minister within 45 business days of the completion of the submission period on the supplement. If the NT EPA is required to seek further information at the completion of the submission period on the supplement, it must do so within 20 business days of the completion of the submission period. The time to prepare the assessment report is reduced by any period between completion of the submission period and the issue of the additional information request.

8.3.1. Proponent initiated EIS process

The EP Regulations provide for a proponent initiated EIS referral which means a proponent can include draft terms of reference for an assessment by EIS and a statement of reasons of why an assessment by EIS is required with their referral. These are placed on consultation once the referral is accepted by the NT EPA for a period of 30 business days. If the NT EPA determines an EIS is the appropriate assessment method for the project, it has 35 business days to finalise and approve the proponent provided terms of reference.

A proponent initiated EIS referral is appropriate for proposals where a proponent anticipates the likelihood of an EIS being required. By choosing to lodge a proponent initiated EIS referral a proponent has the benefit of a more streamlined assessment process. The NT EPA's guidance for [preparing a proponent initiated EIS referral](#) should be considered alongside the guidance for [referring a proposal](#) to the NT EPA. The proponent should prepare its EIS in consideration of the NT EPA's guidance on [preparing an EIS](#).

The proponent will be directed on the timeframe in which the EIS is to be lodged with the NT EPA, although the proponent can request an extension to this timeframe.

The proponent must publish the EIS and the NT EPA must publish a notice inviting public review and submissions. Relevant government authorities will also be invited to make a submission on the EIS. The submission period will range from 30 to 60 business days.

The NT EPA will provide the proponent with copies of all submissions received on the EIS and may give direction on additional information that is required to complete the assessment process. The proponent must prepare a supplement, providing information requested by the NT EPA and addressing the matters raised up in the submissions. The supplement is placed on public consultation for (the period specified in the EP Regulations).

The NT EPA must provide an assessment report and accompanying advice to the Minister within 45 business days of the completion of the submission period on the supplement. If the NT EPA is required to seek further information at the completion of the submission period on the supplement, it must do so within 20 business days of the completion of the submission period. The time to prepare the assessment report is reduced by any period between completion of the submission period and the issue of the additional information request.

8.4. Assessment by inquiry

An assessment by inquiry can be used when a traditional environmental assessment approach will not produce the best assessment outcome for a proposal. For example, due to cultural or language issues prohibiting potentially impacted communities to easily engage in a paper-based environmental impact assessment approach.

For some proposals the NT EPA may decide that an assessment by inquiry method is used for just one element of the proposal coupled with another assessment method for the remainder of the proposal. Where the NT EPA takes this approach, it must ensure that the inquiry does not duplicate the matters addressed by the other assessment method.

The NT EPA is to conduct the inquiry and must determine and publish the procedure for the inquiry. To assist with the inquiry the NT EPA may appoint a panel of appropriately qualified persons.

Terms of reference for an assessment by inquiry must be prepared and published within 40 business days of the NT EPA's determination on the referral. The draft terms of reference are placed on public consultation for 15 business days and submissions invited. The NT EPA is to finalise and publish the terms of reference within 15 business days of the submission period ending.

The hearing of the inquiry panel must be held in public (unless the panel directs otherwise) and follow the form set out in the published procedures. The terms of reference communicate the information required by the assessment by inquiry. The inquiry must be complete within the timeframes specified in the terms of reference.

An assessment by inquiry concludes with an inquiry report which the NT EPA will publish.

If the proposal is also being assessed by another environmental impact assessment method, the proponent is to draw on the findings of the inquiry report when preparing other environmental impact assessment documentation.

The NT EPA must conclude its assessment and provide advice to the Minister within:

- 45 business days after the inquiry report is completed, or
- 45 business days after the receipt of the last environmental impact assessment information (if the inquiry report is received before the completion of other assessment methodologies).

The NT EPA may either refer to or adopt the inquiry report in its assessment report.

9. Assessment report

At the conclusion of an environmental impact assessment of a proposal the NT EPA prepares an assessment report and advice to the Minister. An assessment report presents the findings of the NT EPA's assessment of a proposal. An assessment report includes:

- an assessment of the potential environmental impacts and risks associated with an action to determine significance
- an examination of the efficacy of proposed avoidance, management and mitigation strategies
- a statement on the acceptability, or not, of residual impacts after all reasonable measures to avoid and mitigate impacts have been taken
- a recommendation for when an offset may be appropriate

In preparing its assessment report, the NT EPA may consider any other statutory decision-making processes that may mitigate the potential environmental impact of the proposal.

The NT EPA must provide a copy of its assessment report to the Minister with advice on whether a proposal should be granted an environmental approval. The NT EPA will provide the Minister a draft environmental approval or a statement of unacceptable impact together with the assessment report.

The NT EPA is required to consult with the proponent and relevant statutory decision-makers in relation to the draft environmental approval. Any submissions received during this consultation period (usually 20 business days) will be considered in the finalisation of the draft environmental approval. The time taken for consultation on the draft environmental approval is in addition to the timeframe for providing the assessment report to the Minister.

A statement of unacceptable impact may be recommended when the NT EPA determines that a proposal will have an unacceptable environmental impact and the impact cannot be appropriately avoided or mitigated and an environmental offset is not appropriate. This may occur because a proponent has not demonstrated that proposed mitigation or management measures would be effective in minimising impact, or if residual impacts (after the use of mitigation or management measures) are determined to be unacceptable, or if a proponent has proposed an offset that is either considered inappropriate or it has been proposed in lieu of avoiding or mitigating impacts.

10. Approval process

The Minister is the approval authority under the EP Act. The decision to grant, or refuse to grant, an environmental approval is informed by advice from the NT EPA. This process supports the objective assessment of a project by an independent authority while ensuring decisions on the future development of the NT sit with the elected government.

The purpose of the environmental approval is to manage the potentially significant environmental impacts of a proposal. This is achieved by imposing conditions of environmental approval on the approval holder.

With the receipt of the NT EPA's advice the Minister has 30 business days in which to grant, or not grant, an environmental approval. If a decision is not made within this time, the advice of the NT EPA is deemed to be the Minister's determination.

Where the Minister has received NT EPA advice to grant an environmental approval, the Minister may:

- accept the advice and grant the environmental approval, or
- receive the advice and grant an amended environmental approval, or
- receive the advice and determine not to grant an environmental approval.

Before granting an environmental approval, the Minister must be satisfied that:

- the community has been consulted on the potential environmental impacts and environmental benefits of the proposal
- the significant impacts of the proposal have been appropriately avoided or mitigated, and
- if appropriate, environmental offsets can be provided in accordance with the EP Act for significant residual adverse impacts on the environment that cannot be avoided or mitigated.

If the Minister amends, or does not follow the advice of the NT EPA they must consult with the NT EPA and seek the views of relevant statutory decision-makers. The Minister cannot refuse to grant an environmental approval before giving notice to the proponent inviting them to show cause as to why the environmental approval should be granted.

Where the Minister has received NT EPA advice to refuse to grant an environmental approval (a statement of unacceptable impact), the Minister may:

- determine to accept the advice and consult with relevant statutory decision-makers, as well as providing notice to the proponent inviting them to show cause, or
- determine not to accept the advice and grant an environmental approval.

If the Minister accepts the statement of unacceptable impact they must refuse to grant the environmental approval.

The Minister's decision is published, supported by a statement of reasons.

11. Post approval

When an environmental approval has been issued by the Minister, the proponent becomes an approval holder and is responsible for complying with the conditions of the approval.

The approval holder is responsible for designing, commissioning and operating a proposal in a manner that complies with the EP Act and the conditions of an environmental approval. The approval holder is also obliged to report any incidents that occur on site that cause or threaten material or significant environmental harm.

Environmental officers of DLPE have powers under the EP Act and a range of regulatory tools to monitor compliance at a site subject to an environmental approval and undertake any enforcement action, if needed.

Attachment A – Principles of Ecologically Sustainable Development

Principle name	Principle
Decision-making principle	<ol style="list-style-type: none"> 1. Decision-making processes should effectively integrate both long-term and short-term environmental and equitable considerations. 2. Decision-making processes should provide for community involvement in relation to decisions and actions that affect the community.
Principle of proportionality	<ol style="list-style-type: none"> 1. Decision-making processes should ensure that decisions or actions directed at minimising harm or a risk of harm or impact to the environment are proportionate to the harm or risk of harm or impact that is being addressed.
Precautionary principle	<ol style="list-style-type: none"> 1. If there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. 2. Decision-making should be guided by: <ul style="list-style-type: none"> • a careful evaluation to avoid serious or irreversible damage to the environment wherever practicable; and • an assessment of the risk-weighted consequences of various options.
Principle of evidence-based decision-making	Decisions should be based on the best available evidence in the circumstances that is relevant and reliable.
Principle of intergenerational and intragenerational equity	The present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of present and future generations.
Principle of sustainable use	Natural resources should be used in a manner that is sustainable, prudent, rational, wise and appropriate.
Principle of conservation of biological diversity and ecological integrity	Biological diversity and ecological integrity should be conserved and maintained.
Principle of improved valuation, pricing and incentive mechanisms	<ol style="list-style-type: none"> 1. Environmental factors should be included in the valuation of assets and services. 2. Persons who generate pollution and waste should bear the cost of containment, avoidance and abatement. 3. Users of goods and services should pay prices based on the full life cycle costs of providing the goods and services, including costs relating to the use of natural resources and the ultimate disposal of wastes. 4. Established environmental goals should be pursued in the most cost-effective way by establishing incentive structures, including market mechanisms, which enable persons best placed to maximise benefits or minimise costs to develop solutions and responses to environmental problems.