

Environmental impact assessment and environmental approval in the Northern Territory

Environmental impact assessment guidance

Document title	Environmental impact assessment and environmental approval in the Northern Territory
Contact details	Environment Division, Department of Environment, Parks and Water Security (DEPWS)
Approved by	Chief Executive Officer, DEPWS
Date approved	24 April 2020
Document review	3 years
TRM number	NTEPA2019/0141-002

Version	Date	Author	Changes made
1.0	24 April 2020	Environment Policy	First version
2.0	3 March 2021	DEPWS	Amended definitions, updated agency names, added hyperlinks to NT EPA guidance

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Glossary and acronyms

Term	Definition
action	<ul style="list-style-type: none"> • a project • a development • an undertaking • an activity or series of activities • works • a material alteration of any of the things listed above. <p>A decision by a government authority authorising another person to take an action is not an action.</p> <p>A grant of funding by a government authority for an action is not an action.</p>
DEPWS	The Department of Environment, Parks and Water Security
EIS	Environmental impact statement – a methodology of environmental impact assessment requiring the proponent to develop an environmental impact statement in response to terms of reference approved by the NT EPA.
environment	All aspects of the surroundings of humans including physical, biological, economic, cultural and social aspects.
environmental offset	A measure designed to compensate for the residual impact of an action or set of actions on the environment.
environmental decision-making hierarchy	<ol style="list-style-type: none"> 1. In making decisions in relation to actions that affect the environment, decision-makers, proponents and approval holders must apply the following hierarchy of approaches in order of priority: <ul style="list-style-type: none"> • ensure that actions are designed to avoid adverse impacts on the environment; • identify management options to mitigate adverse impacts on the environment to the greatest extent practicable; • if appropriate, provide for environmental offsets in accordance with the <i>Environment Protection Act 2019</i> for residual adverse impacts on the environment that cannot be avoided or mitigated. 2. In making decisions in relation to actions that affect the environment, decision-makers, proponents and approval holders must ensure that the potential for actions to enhance or restore environmental quality is identified and provided for to the extent practicable.

Term	Definition
EP Act	Environment Protection Act 2019
EP Regulations	Environment Protection Regulations 2020
impact	<p>Impact of an action is:</p> <ul style="list-style-type: none"> • an event or circumstance that is a direct consequence of the action; or • an event or circumstance that is an indirect consequence of the action and the action is a substantial cause of that event or circumstance. <p>An impact may be a cumulative impact and may occur over time.</p>
Minister	The Minister for Environment, Parks and Water Security (unless otherwise specified)
misleading information	Information that is misleading in a material particular or because of the omission of a material particular.
NT EPA	Northern Territory Environment Protection Authority – an independent statutory body comprising between 4 and 8 members established under the Northern Territory Environment Protection Authority Act 2012.
person	A person includes an individual as well as a body corporate.
proponent	A person proposing to carry out, or carrying out, an action.
proponent initiated environmental impact statement (EIS)	A referral for a proposed action or a strategic proposal where the proponent includes draft terms of reference for an environmental impact statement (EIS) with the referral as well as information to explain why they consider an EIS is appropriate for their proposal.
referral	<p>A proposed action or strategic proposal that must be referred to the NT EPA for assessment because:</p> <ul style="list-style-type: none"> • it has the potential to have a significant impact on the environment, or • it meets a referral trigger.
referral trigger	<ol style="list-style-type: none"> 1. A referral trigger requires a proponent of an action to refer the action to the NT EPA for assessment in accordance with the regulations. 2. An activity-based referral trigger identifies actions that the Minister considers are likely to have a significant impact on the environment. 3. A location-based referral trigger identifies areas that the Minister considers are: <ol style="list-style-type: none"> (a) of significance because of a feature of the natural or cultural environment; and (b) likely to be subject to significant impact by actions.

Term	Definition
SER	Supplementary environmental report – a methodology of environmental impact assessment
significant impact	<p>A significant impact of an action is an impact of major consequence having regard to:</p> <ul style="list-style-type: none"> • the context and intensity of the impact; and • the sensitivity, value and quality of the environment impacted on and the duration, magnitude and geographic extent of the impact.
significant variation	<p>A variation that:</p> <ul style="list-style-type: none"> • Will alter the action to the extent that a referral trigger that did not previously apply to the action now applies, or • Has the potential to have a significant impact on the environment, or • Will result in new or additional areas being subject to a potential significant impact on the environment.
statutory decision-maker	A person or a government authority authorised under an Act to make a decision in relation to that action.
strategic proposal	<ul style="list-style-type: none"> • a policy • a program • a plan • a methodology
waste management hierarchy	<ol style="list-style-type: none"> 1. In designing, implementing and managing an action, all reasonable and practicable measures should be taken to minimise the generation of waste and its discharge into the environment. 2. For subsection (1), waste should be managed in accordance with the following hierarchy of approaches in order of priority: <ul style="list-style-type: none"> • avoidance of the production of waste; • minimisation of the production of waste; • re-use of waste; • recycling of waste; • recovery of energy and other resources from waste; • treatment of waste to reduce potentially adverse impacts; • disposal of waste in an environmentally sound manner.

1. Introduction

The Northern Territory Environment Protection Authority (NT EPA) conducts an environmental impact assessment, on behalf of the Northern Territory (NT) Government, for all proposed actions that are likely to cause a significant impact. The Minister makes the final decision on approval or otherwise for the proposal. The Department of Environment, Parks and Water Security (DEPWS) monitors compliance with any approval conditions.

This Guide explains the environmental impact assessment and approval process for the NT as legislated under the Environment Protection Act 2019 (the EP Act) and Environment Protection Regulations 2020 (the EP Regulations).

The Guide has been written for proponents of proposed actions and the public to ensure there is a general understanding of how the environmental impact assessment and environmental approval system operates in the NT. The Guide outlines the intent of the environmental impact assessment and approval system and explains the process in step-by-step detail. This will allow readers to understand the obligations and opportunities within the system, and how and when, to actively participate with the process.

The Guide is provided as a general resource document only. A series of more detailed user guides to support the environmental impact assessment and environmental approval process are provided on the NT EPA's website. This Guide refers readers to these more specific user guides where appropriate.

The terms used in this guidance have the same meanings as in sections 4 and 5-13 in the EP Act and regulations 3 and 4 in 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 guideline. Proponents planning to undertake a proposed action or strategic proposal in the NT should obtain copies of the EP Act and EP Regulations and contact the Environment Division of the DEPWS before beginning an environmental impact assessment.

2. Purpose of the environmental impact assessment and approval system

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

Proposed actions that have the potential for *significant environmental impact* must be assessed by the NT EPA and must have an environmental approval granted by the Minister before they can proceed in the NT.

If a proposed action has the potential for 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 EP Act provides an explanation of these matters.

The environmental impact assessment process also requires that alternative approaches and technologies be identified and considered when planning and assessing an action to ensure the least environmentally damaging approach to the action is taken. Coupled with this the environmental impact assessment process allows opportunities for an action to enhance, restore or rehabilitate a site to be identified and assessed, further reducing the potential for significant impacts on the NT environment.

The environmental impact assessment and environmental approval process in the NT supports the community's right to know, allowing public scrutiny of potentially impacting actions and opportunity through the process for public comment and input. 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 proposed action 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 an action.

The assessment of environmental impacts administered by the NT EPA needs to deliver on the purpose outlined in s. 42 of the Act. To enable this, relevant information requirements and considerations are set out in NT EPA assessment guidelines.

Section 5 provides a snapshot of the environmental impact assessment process.

3. Principles of ecologically sustainable development

The EP Act is clear in its purpose of promoting the ecologically sustainable development of the NT.

A key purpose of environmental impact assessment is to ensure that all actions 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 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 seven principles of ecologically sustainable development. A copy of the principles is provided in Attachment A.

4. Roles and responsibilities

4.1. Proponent

The proponent is the person proposing to carry out, or carrying out, an action or undertaking a strategic proposal.

It is the responsibility of the proponent to refer the proposed action 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 proposed action, drawing on the definitions of 'impact' and 'significant impact' and guided by the 'NT EPA's Environmental Factors and Objectives' and the Minister's declared environmental objectives (if any)².

A proponent is required to give information to the NT EPA as directed, and 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 an action
- to consider the waste management hierarchy in the design of an action.

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 in a broad range of environmental, scientific, business and social disciplines.

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 action to the NT EPA.

The NT EPA conducts the environmental impact assessment of all proposed actions that have the potential for significant impact. It has been given powers to make sure an action with the potential for significant impact does not proceed without being subject to a review 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 proposed action (in respect to its potential for significant impact on the environment). If the NT EPA determines that a proposed action can proceed it will prepare a draft environmental approval for the Minister. If the NT EPA determines that a proposed action 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 proposed action requires environmental impact assessment (and the assessment methodology)
- directing a proponent on the information required to assess their action
- undertaking the environmental impact assessment of an action
- providing advice (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 Environment, Parks and Water Security

The Minister is responsible for deciding if a proposed action is to be granted an environmental approval and the conditions of an approval. This decision is based upon 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 proposed action is likely to have unacceptable impact they must consult with the proponent before refusing to grant an environmental approval.

4.4. Department of Environment, Parks and Water Security

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

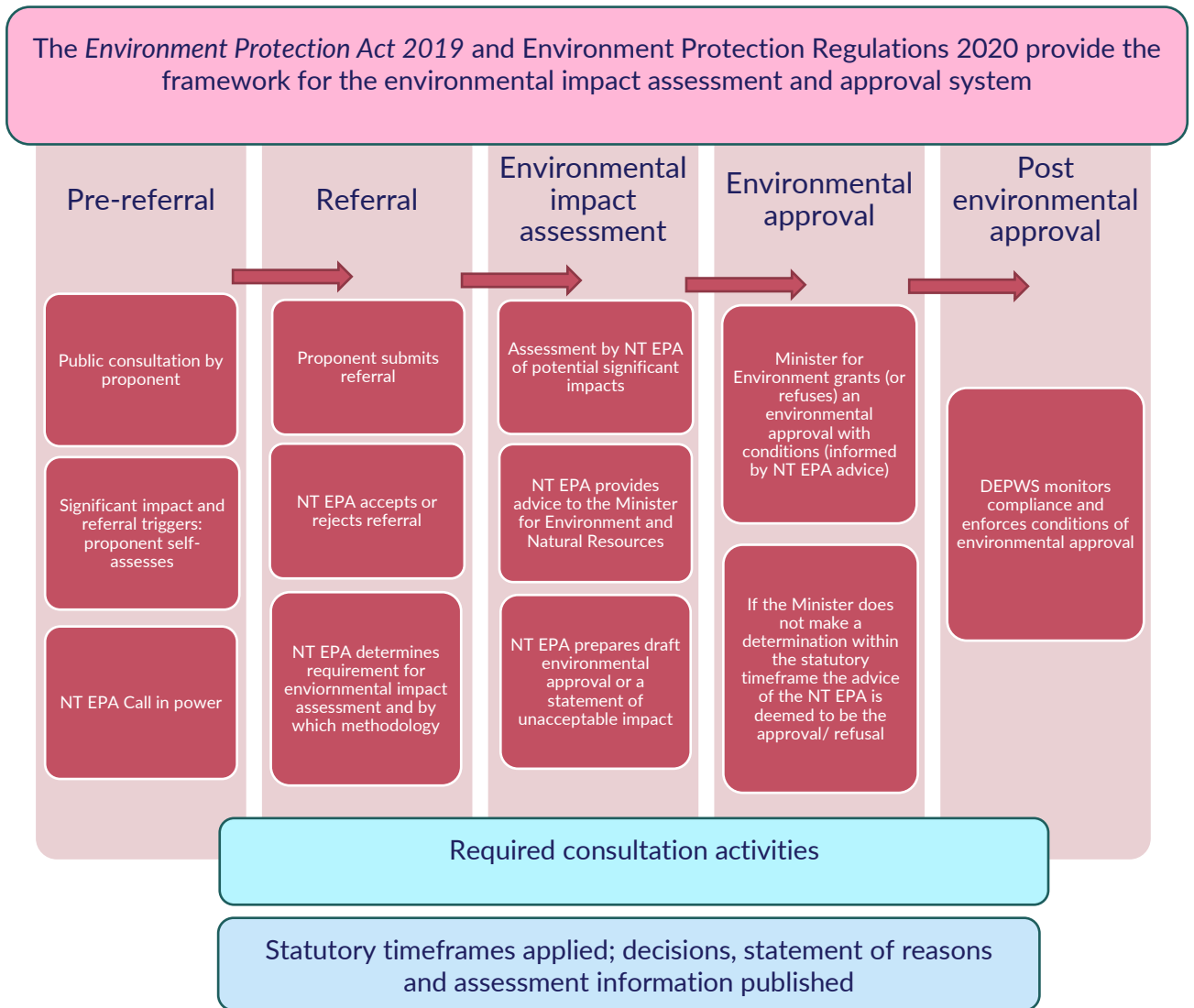
DEPWS is also responsible for monitoring a proponent's compliance with the conditions of its environmental approval. DEPWS has enforcement powers and can take action in the event of non-compliance.

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

The NT environmental impact assessment and environmental approval system is made up of five 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 action to determine the need for a referral. It is during this time that a proponent needs to commence engaging with potentially impacted or interested members of the NT community about their action. It is also at the pre-referral stage that a proponent may seek to have a preliminary meeting with staff from DEPWS, in their capacity of supporting the NT EPA, to discuss their proposed action.
2. **Referral** – the proponent refers an action to the NT EPA for its 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 if the action is required to undergo environmental impact assessment and if so, the appropriate assessment methodology.
3. **Environmental impact assessment** – the process of the NT EPA undertaking its review and evaluation of an action to ensure it presents no unacceptable impacts on the environment. There are four methodologies, or tiers, of impact assessment, each varying according to the information requirements of the NT EPA, the opportunity for public scrutiny 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 on whether an action 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 proposed action. The NT EPA must publish a notice advising where a copy of its advice to the Minister (including the assessment report) can be obtained and inspected.
4. **Environmental approval** – the decision that is made by the Minister, based on the advice received by the NT EPA, to grant or refuse to grant an environmental approval to an action.
5. **Post approval monitoring and compliance** – if an environmental approval is granted an action moves into the post approval stage of monitoring and compliance. DEPWS is responsible for monitoring 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 actions, and increased public acceptance of an action.

The pre-referral stage allows the proponent to undertake a preliminary analysis of risks associated with an action and to respond through site selection and project design, as well as operational approaches, to minimise and mitigate identified risks. 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 an action and deciding whether the action is required to be referred to the NT EPA, based on the action's potential for significant impact. The NT EPA has prepared a pre-referral screening tool to assist with this process. See [Guidance for proponents – Referring a proposed action to the NT EPA](#) on the NT EPA website.

During formulation of the proposed action, a proponent needs to commence engaging with potentially impacted or interested members of the NT community about its proposed action (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 DEPWS to discuss the proposed action 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 action has the potential for significant impact on the environment or it meets a referral trigger, it is required to refer the action to the NT EPA. The NT EPA may call in an action if the NT EPA believes that it should be referred and hasn't been.

The referral has the purpose of informing the NT EPA about an action and providing enough information for it to make a judgement on the action's potential for significant impact. The [Guidance for proponents referring a proposed action 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 the NT EPA will conduct a preliminary review to determine whether the referral:

- is a required referral (only actions with the potential to have a significant impact on the environment are required to be referred to the NT EPA) and
- contains sufficient information to inform stakeholders about the proposed action and its potential to have a significant impact on the environment.

The NT EPA will also consider whether the referred action is clearly just one element of a larger action that should be considered more holistically in order to appropriately assess the project impacts in their entirety.

The NT EPA is able to require additional information if the referral is insufficient for it to complete a preliminary review. The time taken to provide the additional information adds to the timeframe in which the NT EPA is to accept or refuse to accept the referral.

Based on this 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 basis on which the NT EPA can refuse to accept a referral is:

- If it is not required.

[The environmental impact assessment process has the purpose of ensuring that all actions that may have a significant impact on the environment are assessed. Accordingly, only actions that have (or may have) the potential for significant impact need to be referred. If the NT EPA receives a referral for an action that clearly will not have a significant impact it can refuse to accept the referral. For example, a referral to build a new house in an existing subdivision would not be required and would be refused on the basis that the referral was not required.]

The proponent will then need to seek other relevant approvals for the action.

- It does not provide sufficient information about the action.

[The NT EPA would only be able to refuse to accept a referral on this basis if the information required related to a material omission from the referral. An example of a material omission is where a referral is received for a marina and shopping centre development and the referral omits information on the potential impacts to the marine environment.]

- It only provides information about one element of a larger action that needs to be considered more holistically.

[For example, a referral for a new water treatment facility associated with a new dam that only provides information relating to the treatment facility (either because the proponent failed to recognise that information on the dam component was necessary for the NT EPA or because of an intent of making a separate referral for the dam at a later date).]

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

The NT EPA will prepare a notice of its 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 proposed action and provide input into the NT EPA's determination on whether the action requires environmental impact assessment.

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

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

- an action does not require an environmental approval and no further environmental impact assessment is required, or
- an action requires an environmental approval to proceed and will be subject to the environmental impact assessment process. If the NT EPA determines that an action requires an environmental approval and therefore needs to undergo environmental impact assessment, it must also determine the assessment methodology, or
- an action 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 written submission 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](#).

For information about how the NT EPA makes these decisions, refer to [Guidance for proponents – 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 provided to the proponent and published. The notice of decision will be supported by a statement of reasons.

7.3. Determining environmental impact assessment methodology

Where the NT EPA determines that an action is required to undergo environmental impact assessment it must also determine the assessment methodology, 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 on the action
- 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 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 this decision. This time allows the NT EPA to also finalise the terms of reference for the EIS.

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 methodologies, also known as tiers of assessment:

1. **Assessment on 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 on supplementary environmental report (SER)** – where the NT EPA is able to prepare an assessment report based on the original referral, any additional information and submissions provided as part of the acceptance of the referral, and a supplementary 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 form of impact assessment for an action.

8. Environmental impact assessment

8.1. Assessment on referral information

A proposed action 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 the consultation of the referral.

An assessment by referral information is the shortest assessment process of the four assessment methodologies. It reflects the circumstance that a proposed action 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 of a proposed action.

The NT EPA has 30 business days from when it made its determination on the referral to undertake its assessment and provide its assessment report and accompanying documentation to the Minister.

8.2. Assessment by supplementary environmental report (SER)

The NT EPA can select to assess a proposed action based on:

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

This methodology is known as an assessment by supplementary environmental report (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 methodology will be used for assessing an action 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 needs to complete its assessment of the proposed action (in the form of an assessment report) and provide its advice to the Minister within 40 business days of 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 proposed action is to be assessed as an environmental impact statement (EIS) the NT EPA must prepare terms of reference and publish them within 40 business days of 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 of the submission period ending after considering the submissions received during consultation on the draft terms of reference.

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. 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 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 of the action. 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 methodology 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 those actions where a proponent anticipates the likelihood of an EIS being required for its action. 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 of the action. 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 an action. 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 actions the NT EPA may decide that an assessment by inquiry methodology is used for just one element of the action coupled with another assessment methodology for the remainder of the action. Where the NT EPA takes this approach, it must ensure that the inquiry does not duplicate the matters addressed by the other assessment methodology.

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 proposed action is also being assessed by another environmental impact assessment methodology, 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 an action the NT EPA prepares an assessment report and advice to the Minister. An assessment report presents the findings of the NT EPA's review of an action. 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

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

A statement of unacceptable impact may be recommended when the NT EPA determines that a proposed action 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 an action.

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 approval 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 proposed action
- the significant impacts of the action 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, DEPWS is responsible for monitoring compliance with the conditions of the approval.

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

Environmental officers of DEPWS 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.
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.