

A Guide to the Environmental Impact Assessment Process in the Northern Territory



Northern Territory Government

Office of Environment and Heritage

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1.0 INTRODUCTION

The purpose of this guide is to explain the environmental impact assessment process in the Northern Territory and to outline how it may affect proposed new projects. *The Environmental Assessment Act 1982* and *Environmental Assessment Administrative Procedures 1984*, which accompanies the Act, form the basis for this process. They will be referred to as the *Environmental Assessment Act* and *Administrative Procedures* throughout this document.

The environmental impact assessment process provides the government with the information needed to assist consideration and decision on matters which could significantly affect the environment. It enables environmental issues to be considered in a balanced way with other aspects involved in determining the acceptability of a proposal and it ensures that unnecessary and unacceptable harm to the environment can be avoided.

For these reasons it is important that any potential environmental impacts and constraints are identified early in the planning and design of the proposal. Early identification will ensure that environmental assessment is integrated with engineering and economic feasibility studies in the project formulation so as to produce the best and most appropriate project design.

2.0 APPLICATION

The primary purpose of the assessment process is to provide for appropriate examination of proposed new projects which may cause significant environmental impact. The legislation defines 'environment' to mean *all aspects of the surroundings of man including the physical, biological, economic, cultural and social aspects*.

The legislation applies to both public works and private projects and is essentially concerned with land use and development decisions. It should be noted, however, that the requirement for environmental impact assessment may also apply in situations where a project, previously the subject of assessment, is subsequently altered in such a way that it substantially changes the environmental impacts of that project. Similar circumstances also apply where major modifications or expansions are proposed for currently operating projects where these changes are likely to result in a significant effect on the environment.

The level of assessment will vary depending on the sensitivity of the local environment, the scale of the proposal and its potential impact on the environment. Information required from the proponent will either be to the level of a Public Environmental Report (PER) or an Environmental Impact Statement (EIS) and Supplement for those proposals where the environmental impact is likely to be of major significance.

3.0 RESPONSIBILITIES

The Minister for Natural Resources, Environment and Heritage (the Minister) is responsible for administering the *Environmental Assessment Act* and *Administrative Procedures*. The Minister determines which proposals should be subject to assessment under the Act and also decides on the appropriate level of assessment in each case.

The Environment Protection Agency assists with implementing the assessment procedures on behalf of the Minister.

The proponent of a proposal (proposed action) to which the *Act* may apply is required to notify the responsible Minister (e.g. for a mine, the Minister for Mines and Energy) who in turn provides the Minister with a notification of the proposed action and the details of the proponent. The Minister, after receiving notification may direct the proponent to provide further information to assist in determining whether or not a PER or an EIS is required. If the Minister considers that an EIS is warranted, he/ she must consult the responsible Minister and relevant advisory bodies. For proposed actions where a PER or an EIS is required, guidelines for the preparation of the PER or EIS are prepared, advertised for public review, and issued to the proponent by the Minister.

4.0 ADMINISTRATIVE PROCEDURES

This section summarises the key steps involved in the assessment process.

4.1 Initial Notification of Proposed Action

The initial notification of a proposed action to the Minister is known as a Notice of Intent (NOI). Information requirements for an NOI are detailed at Appendix 1. The NOI provides essential details on the proposed action to assist in determining whether a PER or an EIS is required.

The Environment Protection Agency may receive notification through the application processes of other government approvals, for example, applications for development consent, or land clearing may be circulated directly to the Environment Protection Agency by those approving agencies. These applications are assessed as NOIs.

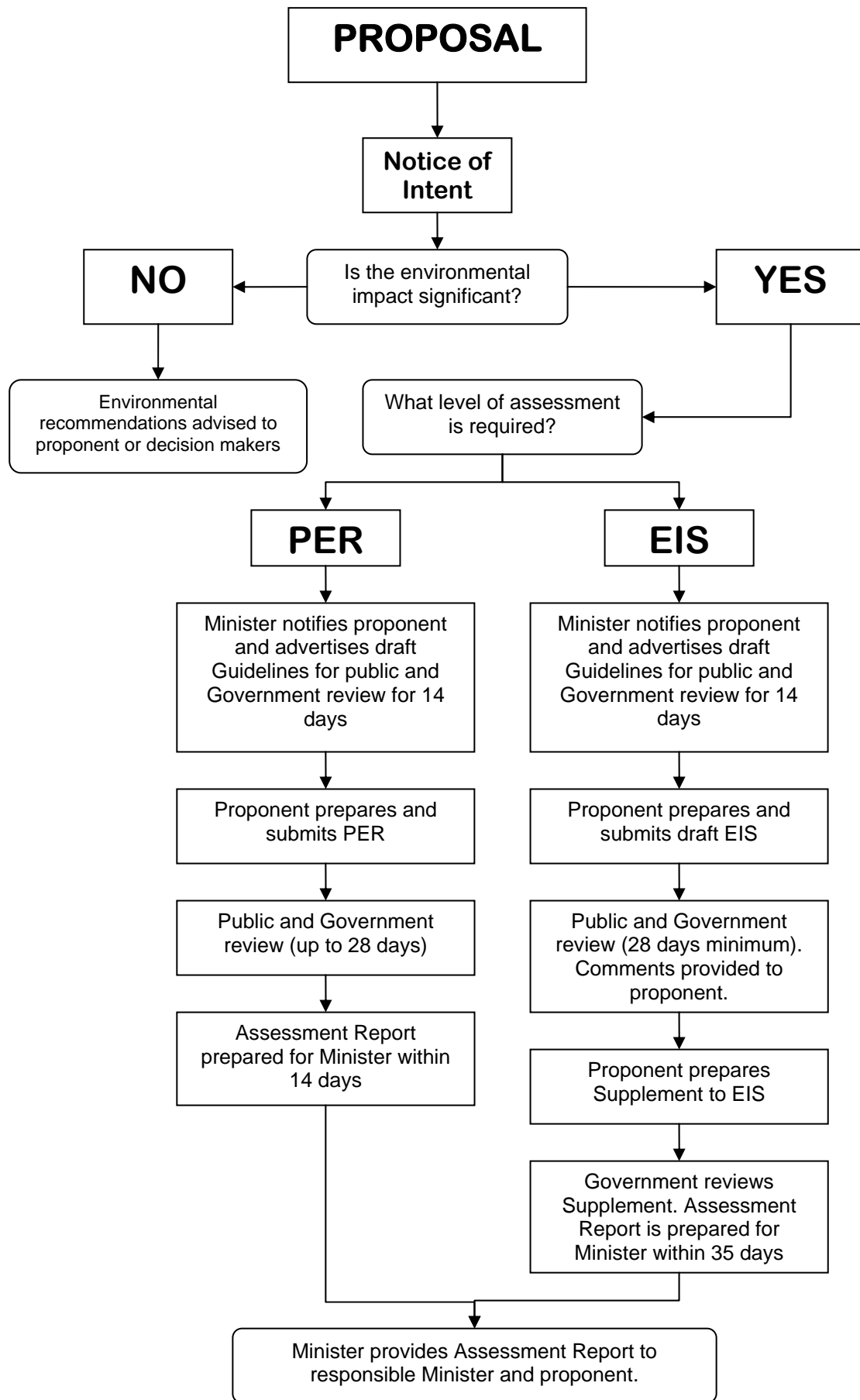
Once an NOI is received by the Minister, a decision is required in the first instance whether the proposal could have a significant effect on the environment. The NOI is examined in relation to:

- potentially significant environmental impacts, particularly magnitude, duration, frequency and extent of impacts;
- the significance of the surrounding biophysical environment;
- the processes inherent in the proposed action such as inputs and outputs, and subsequent on-site or off-site effects on the environment; and
- issues such as, statutory planning, heritage, public health, water resources, water quality and resource management.

If a proposal is considered to have a significant environmental impact, the Minister directs the proponent to prepare and submit a PER or an EIS and advises the responsible Minister.

If the proposal does not involve a significant effect on the environment, Environment Protection Agency provides comment on the NOI which is returned to the responsible authority for completion of the application.

Refer to Figure 1 for a flow chart of the environmental impact assessment process in the Northern Territory.



4.2 Determination of the Level of Assessment

a) Public Environmental Report

A PER is called for to assist in assessing environmental impacts which are considered significant but limited in extent. It is not a precursor to an EIS, hence the decision on a PER or an EIS has to be made on receipt of the NOI.

Key points on a PER:

- single or limited number of environmental issues; and
- limited magnitude, duration, frequency and extent of impacts.

A generic timetable for the assessment process for a PER is illustrated at Table 1

Table 1. GENERIC TIMETABLE FOR THE ASSESSMENT OF A PER

ACTION	TIMING
1. Proponent notifies the responsible Minister of a proposal including details (NOI).	OPEN
2. Responsible Minister notifies Minister for Natural Resources, Environment and Heritage (the Minister) of proposal.	OPEN
3. Minister may require further information from proponent to assist in determining level of environmental significance.	within 14 days
4. Minister determines the level of assessment and notifies responsible Minister and proponent that a PER is necessary.	OPEN
4a. <i>There may be a requirement here for Commonwealth input on type and level of assessment. It depends on the proposal and whether it requires a Commonwealth decision. If the Commonwealth determine that the proposal is a 'controlled action' under the Environment Protection and Biodiversity Conservation Act it is likely to be assessed under the bilateral agreement between the NT and the Commonwealth.</i>	
5. Draft Guidelines for a PER are prepared.	OPEN
6. Draft Guidelines available for public comment and referred to advisory bodies.	14 days
7. Minister finalises draft Guidelines, issues Guidelines to the proponent and directs the preparation of a PER.	within 14 days
8. Proponent prepares PER and submits it to the Minister (Minister can determine a date for submission).	OPEN (unless specified by the Minister)
9. PER advertised for public comment and circulated for advisory body comment.	Max 28 days
10. Minister can request further information. If further information is requested, the assessment clock stops until the information is received.	Within above 28 days
10a. <i>If the proposal is being assessed under the bilateral agreement, public and government advisory body comments are forwarded to the proponent. The proponent prepares a</i>	

<i>Supplement to the PER and submits it to the Minister.</i>	
11. Preparation of assessment report and recommendations on the PER. The Minister forwards report and recommendations to responsible Minister.	Within 14 days of expiration of the exhibition period <i>or within 21 days of supplement delivery</i>
11a. <i>If the bilateral agreement applies, the assessment report is forwarded to the Commonwealth for approval under the Environment Protection and Biodiversity Conservation Act.</i>	

b) Environmental Impact Statement

An EIS is called for to assist in assessing environmental impacts which are considered significant either in terms of site specific issues, offsite issues and conservation values and / or the nature of the proposal.

Key points on an EIS:

- number of environmental issues;
- greater magnitude, duration, frequency and extent of impacts;
- proposal affected by international, national or State / Territory legislation or treaties for the protection of natural habitats, flora and fauna;
- proposal has potential for significant environmental risk or hazard to adjacent users or uses; and
- proposal has potential for significant environmental impact to occur.

A generic timetable for the assessment of an EIS is illustrated at Table 2.

Table 2. GENERIC TIMETABLE FOR THE ASSESSMENT OF AN EIS

ACTION	TIMING
1. Proponent notifies the responsible Minister of a proposal including details (NOI).	OPEN
2. Responsible Minister notifies Minister for Natural Resources, Environment and Heritage (the Minister) of proposal.	OPEN
3. Minister may require further information from proponent to assist in determining level of environmental significance.	within 14 days
4. Minister determines the level of assessment and notifies responsible Minister and proponent that an EIS is necessary.	OPEN
4a. <i>There may be a requirement here for Commonwealth input on type and level of assessment. It depends on the proposal and whether it requires a Commonwealth decision. If the Commonwealth determine that the proposal is a 'controlled action' under the Environment Protection and Biodiversity Conservation Act it is likely to be assessed under the bilateral agreement between the NT and the Commonwealth.</i>	
5. Draft Guidelines for an EIS are prepared.	OPEN
6. Draft Guidelines available for public comment and referred to advisory bodies.	14 days

7. Minister finalises draft Guidelines, issues Guidelines to the proponent and directs the preparation of a draft EIS	within 14 days
8. Proponent prepares draft EIS and submits it to the Minister (Minister can determine a date for submission).	OPEN (unless specified by the Minister)
9. Draft EIS advertised for public comment and circulated for government advisory body comment	not less than 28 days
10. Public and government advisory body comments forwarded to proponent.	ASAP
11. Proponent prepares Supplement to draft EIS and submits Supplement to Minister, (date can be determined).	OPEN
12. Supplement to draft EIS circulated to advisory bodies for comment.	within 14 days
13. Minister can request further information. If further information is requested, the assessment clock stops until the information is received.	within 21 days of supplement delivery
14. Preparation of assessment report and recommendations based on draft EIS, Supplement and comments received. (Minister can extend period.) Minister forwards assessment report and recommendations to responsible Minister.	within 35 days of supplement delivery
14a. <i>If the bilateral agreement applies, the assessment report is forwarded to the Commonwealth for approval under the Environment Protection and Biodiversity Conservation Act.</i>	

4.3 Public Review of Guidelines

The Administrative Procedures provide for public comment and review of the draft Guidelines on the matters to be addressed in a PER or an EIS. The draft Guidelines are prepared by the Environment Protection Agency after consultation with relevant government advisory bodies on the issues associated with the proposed action. The draft Guidelines are made available to the public for comment and review for a 14 day period. The Environment Protection Agency advertises the availability of the draft Guidelines to the public and circulates them to the government advisory bodies for comment during this period.

At the close of the public review period, the Environment Protection Agency has 14 days to finalise the draft Guidelines for approval by the Minister. The approved Guidelines are forwarded by the Minister to the proponent with a direction to prepare a PER or an EIS.

4.4 Public Review of PER / EIS

Upon lodgement of the PER or the EIS (called a draft EIS) by the proponent, the document is exhibited for public review and comment. The public exhibition period provides an opportunity for those having an interest in, or living near a proposed development to provide their comment on the proposal or in respect to specific environmental issues of concern. In the Northern Territory the period for public review and comment on a PER is a maximum of 28 days, and for a draft EIS is a minimum of 28 days. Invitation for public comment is advertised in various media by the proponent and copies of the PER or the draft EIS are placed on display at relevant

public places as well as on the Environment Protection Authority's website. Copies are also made available for sale on request by the proponent.

During the period for public review, the PER or the draft EIS are circulated to government advisory bodies for comment in relation to their areas of expertise and responsibility.

4.5 Finalisation of Environmental Assessment Process

a) Public Environmental Report

For a PER, the Environment Protection Agency prepares an assessment report and recommendations for approval by the Minister, who in turn forwards the report and recommendations to the responsible Minister for incorporation in approval conditions, and relevant management procedures. The assessment report and recommendations address issues raised by the government advisory bodies and in the public comments.

During the circulation and comment period for the PER, the Minister may call for further information from the proponent if the PER falls short in some aspect of the description of the proposal and environmental discussion. This data is further circulated by the Environment Protection Agency to relevant government advisory bodies for comment.

b) Environmental Impact Statement

For a draft EIS, submissions from government advisory bodies and the public are made available to the proponent, who addresses the issues raised in the form of a Supplement to the draft EIS. The proponent prepares the Supplement and submits it to the Minister. The Supplement is circulated to advisory bodies for review and comment.

During the first 21 days from the receipt of the Supplement, the Minister may call for further information from the proponent if the draft EIS and Supplement fall short in some aspect of the description of the proposal and environmental discussion. This data is further circulated by the Environment Protection Agency to relevant government advisory bodies for comment.

The Environment Protection Agency then prepares an assessment report and recommendations based on the draft EIS and the Supplement.

The report takes into account the issues raised by the advisory bodies, the public and the response to the issues by the proponent. The assessment report and recommendations are forwarded by the Minister, to the responsible Minister for inclusion in approval conditions, and relevant management procedures.

4.6 Public Register

The concluding step in the assessment process is the placement of the assessment reports and environmental recommendations on the Public Register.

A hard copy of the register is available from the Environment Protection Agency (specific information such as final Guidelines and assessment reports can be supplied, while copies of PERs and EISs can be made available to read).

A computer-based register is available via the Environment Protection Agency internet site. The page includes an up to date list of actions that are currently on public review, a list of projects that are currently undergoing environmental assessment (with links to download final Guidelines and the PER or EIS document), and a list of completed projects, which include links to the full set of environmental assessment documents (where possible).

5.0 PROPONENTS' RESPONSIBILITIES

Proponents of proposed actions are responsible for preparing the PER or EIS. They may prepare the document themselves or employ consultants, however the reports are always produced at the expense of the proponent.

If it is a government sponsored proposal, the government, as proponent arranges for the preparation of the PER or EIS.

5.1 Early Consultation

It is in the proponent's interest to assist the assessment process as much as possible. Early consultation and close cooperation with the Environment Protection Agency is advised so that the environmental assessment process is timely and effective.

Early consultation assists by:

- ensuring early studies are made of environmental issues which can contribute to preparation of the PER or EIS and appropriate design of the proposal; and
- guiding the proponent through the process and therefore minimising the need for additional information requests late in the process;

The Environment Protection Agency encourages continued involvement and discussion between assessment staff and the proponent, throughout the formulation of a proposal.

5.2 Complying with Commonwealth Legislation

It is the responsibility of the proponent to ensure that their proposal meets the requirements of the Commonwealth *Environmental Protection and Biodiversity Conservation Act* 1999. This legislation is administered by the Commonwealth Department of Environment and Heritage. The proponent can access information on the requirements of the EPBC Act through that Department's internet site: (<http://www.deh.gov.au/epbc/index.html>).

The proponent should note that both jurisdictions have independent notification processes. However, a bilateral agreement is in place between the NT and the Commonwealth allowing a joint assessment to occur in the case that formal assessment is required at both a Territory and Commonwealth level. In this situation, a single environmental assessment process will satisfy the requirements of both jurisdictions.

Appendix 1.

INFORMATION GUIDELINES FOR A NOTICE OF INTENT (NOI)

The basic criteria for an NOI for the Environment Protection Agency consist of:

- 1.** The name of the proponent and consultant on behalf of the proponent.
- 2.** The address of proponent and contacts by phone, fax and email.
- 3.** Location of proposal including all relevant information such as Lot/Section No., Town/Hundred, tenement details and ancillary information such as:
 - adjacent roads;
 - property and sea boundaries;
 - detailed diagrams;
 - aerial photographs; and
 - topographic maps.
- 4.** Description of a proposal in sufficient detail to permit a full understanding of the scope and scale of the proposal. Provision of attachments such as site designs and diagrams help in the evaluation of the proposal.
- 5.** Outline of legislative consent and licensing requirements for approval of the proposal.
- 6.** Brief description of site selection details and environmental factors such as geology, hydrology, land unit, land capability, water resources, flora and fauna habitats, coastal and marine environments.
- 7.** Brief description of existing marine and land uses in and adjacent to the proposal.
- 8.** Brief description of waste management and pollution control on and offsite.
- 9.** Brief description of other environmental factors such as climate, heritage, feral and weed species, conservation, social, cultural, economic, endangered species and other relevant environmental issues.
- 10.** Aboriginal and sacred sites clearance.
- 11.** Description of timing of proposed action, including stages and decommissioning.
- 12.** Brief description of proposed environmental commitments, safeguards, monitoring and management systems relevant to the proposal.
- 13.** Brief description of proposed rehabilitation and decommissioning.

Appendix 2.

PROPOSALS WHICH MAY REQUIRE SOME LEVEL OF FORMAL ENVIRONMENTAL ASSESSMENT

- Proposals which could affect areas of high conservation value, endangered species, including wetlands, coastline, marine, arid areas, estuaries, and areas containing important or unique flora and fauna communities.
- Proposals which could affect important historic, cultural, archaeological, scenic, scientific or educational sites.
- Proposals involving significant land disturbance, e.g. land clearing for agriculture or forestry; urban and industrial sites; dredging; large extractive industries; surface paving; transport facilities.
- Proposals involving resource extraction, e.g. drilling; mining; blasting.
- Proposals involving modification of natural regimes, e.g. alteration of groundwater hydrology; drainage patterns; fauna movement; vegetation patterns.
- Major engineering works, e.g. power stations; transmission lines; roadworks; bridges; dams and impoundments; irrigation works; recreational structures.
- Establishment of:
 - major agro-industrial facilities, e.g. large piggeries; poultry farms; abattoirs; rendering plants; and
 - manufacturing and industrial process, e.g. oil refining and cement plants.
- Proposals involving waste treatment and disposal, or have the potential to pollute e.g. ocean dumpings; landfill; disposal of tailings, spoil and overburden; cooling water discharge; spray irrigation; liquid effluent discharge; stack and exhaust emissions.
- Proposals which are likely to have a major impact on the social environment of surrounding or nearby communities.
- Proposals which may involve a significant risk or hazard to public safety and the environment.

FURTHER INFORMATION

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<http://www.nt.gov.au/nreta/environment/assessment/index.html>