

24 August 2026

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Ms Kylie Fitzpatrick
Environmental Assessment Unit
Department of Lands, Planning and Environment
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Our Ref: DLPE2026/0272

Dear Ms Fitzpatrick

Re: Invitation to comment on Referral and draft terms of reference – Project Ares

The information submitted for the above referral and the draft terms of reference (ToR) has been assessed by the relevant divisions within the department and the following comments are provided:

Flora and Fauna Division

The Flora and Fauna Division has reviewed the application and provides comment in **Attachment 1**.

The Flora and Fauna Division considers that, in the context of threatened species, there is potential for the project to have a significant impact on the Greater Bilby. The potential impacts to two other threatened species (Grey Falcon and Northern Brush-tailed Possum) and migratory waterbirds are uncertain based on the available information. The Flora and Fauna Division also considers that the status of wetland features within the project area and disturbance footprint requires clarification. The Flora and Division support the proponent's commitment to obtaining the information required to clarify these uncertainties through the completion of an environmental impact statement (EIS).

The Flora and Fauna Division recommends some amendments are made to the draft ToR to provide greater clarity on the information required.

Water Resources Division**Licensing and Regulation Team**

The Water Resources Division notes that Project Ares is expected to require groundwater extraction of approximately 2,500ML/year during the construction phase, increasing to an indicative upper estimate of 4,000ML/year during full operation. The proponent proposes to source the required water from a new borefield targeting the Montejinni Limestone aquifer within the Wiso Basin and has indicated that a groundwater extraction licence will be required under the *Water Act 1992*.

Further hydrogeological investigations are proposed to support the groundwater extraction licence application and to confirm the final water demand, borefield configuration and sustainable extraction capacity of the resource. This investigative work is essential and should include an assessment of the potential drawdown impacts on surrounding water users, declared beneficial uses, and throughflow from the groundwater resource at the northern boundary of the Georgina Wiso Water Allocation Plan.

The Water Resources Division also notes that the final project layout includes roads and infrastructure that may intersect drainage features. The proponent should identify all proposed works within waterways and determine whether permits to interfere with a waterway are required under the *Water Act 1992*.

The Water Resources Division recommends ongoing engagement with the proponent as the project design and supporting hydrogeological information are further developed.

Planning and Engagement Team

Project Ares is located on Murranji Station within the area covered by the Georgina Wiso Water Allocation Plan 2023-2031. The water allocation plan designates two water management zones and specifies the overall volume of water available for consumptive uses in each zone (the estimated sustainable yield (ESY)).

The proposal area is located within the Wiso Basin water management zone which has an ESY of 23,846ML per year. A portion of the ESY (13,178ML) is allocated to the combined consumptive beneficial uses of agriculture, aquaculture, cultural, industry and mining activities. A further 3,142ML of water is also allocated to an Aboriginal water reserve (AWR). This allocation is available to eligible Aboriginal people for economic development purposes. Use of this allocation can include establishing an agreement with a third party who, with the consent of eligible Aboriginal landowners, can apply for a water extraction licence from the AWR allocation.

Water Monitoring Group

The Water Monitoring Group advises that there are no current monitoring sites located on NT Portion 851 or within the buffer for NT Portion 2093 and, consequently there are no issues of concern requiring comment within their responsibilities.

Environment and Heritage Division

Heritage Branch

The Heritage Branch has reviewed the application and provides comment in **Attachment 2**.

Land Resources Division

Land Management Unit

The preliminary project documentation acknowledges that, despite large areas of generally flat landform, the large extent of the proposed clearing and earthworks will increase the risk of erosion by both wind and water.

The 1 second Shuttle Radar Topography Mission (SRTM) Digital Elevation Model (DEM) data indicate areas of slope within the disturbance footprint of up to and exceeding 5%, most notably within proposed PV Array Ares A. This has the potential to significantly increase the risk for erosion once the surface is disturbed.

The proponent could consider obtaining data to validate the 1 second SRTM DEM to determine slopes across the project area, and this information should be incorporated into the Erosion and Sediment Control Plan (ESCP) and any associated plans required for the construction and ongoing operations.

There are a number of locations where infrastructure appears to intersect mapped watercourses, in addition to a seasonally inundated area to the east of the primary clearing area. Where potential impacts to these features cannot be avoided through design, specific actions will be required during construction and subsequent operations to ensure impacts are limited.

Due to the significant size of the proposed disturbance area, the extended duration of works, the site's slope characteristics, modification to existing overland flows and infiltration patterns, and the sensitive receiving environment, the Land Management Unit recommends that an ESCP is developed and certified by a suitably qualified and experienced professional and independently reviewed and endorsed by an appropriately qualified auditor.

Weeds Management Branch

A desktop assessment of the Northern Territory (NT) weeds database for the proposed project area, surrounding parcels and roads has revealed current and/or previous data records of the following:

Common Name	Botanical Name	Declared
Gamba grass	<i>Andropogon gayanus</i>	Class A
Grader grass	<i>Themeda quadrivalvis</i>	Class B
Hyptis	<i>Mesosphaerum suaveolens</i>	Class B
Hyptis – Knob weed	<i>Hyptis capitata</i>	Class B
Parkinsonia	<i>Parkinsonia aculeata</i>	Class B
Prickly acacia	<i>Vachellia nilotica</i>	Class A
Rubber bush	<i>Calotropis procera</i>	Class B

All land in the NT is subject to the *Weeds Management Act 2001* (WM Act). The WM Act describes the legal requirements and responsibilities that apply to all persons, owners and occupiers of land regarding declared and potential weeds. General duties described in Division 1 of the WM Act include the requirement for owners or occupiers of land to take all reasonable measures to prevent land being infested with a declared weed and to prevent a declared weed from spreading.

Gamba grass, grader grass and prickly acacia are subject to statutory weed management plans. Management obligations outlined in these plans are legally binding on all owners and occupiers. Management requirements and copies of the statutory weed management plans are available online¹.

¹ <https://nt.gov.au/environment/weeds/weed-management-planning>

Prickly acacia and gamba grass are declared weeds, Class A and are listed in the Katherine Regional Weeds Strategy 2021-2026 as Category 1 – priority weeds for eradication, and Category 2, priority weeds for strategic control (including eradication of outliers) respectively.

Grader grass is a declared weed, Class B and is listed in the Katherine Regional Weeds Strategy 2021-2026 as Category 2, priority weed for strategic control (including eradication of outliers).

The proponent must ensure that all vehicles and machinery are free of weeds, weed seeds, soil and vegetative matter, prior to entering or exiting the proposed project area. Vehicles must avoid driving through weeds already present on-site to prevent further spread. Vehicles and machinery exhibiting such material must be thoroughly washed down before entering/departing.

Any works that cause disturbance to vegetation and soils will create conditions favourable for the growth of weed species and weed control will be required following any ground disturbance. Weed control prior to seed set should be carried out in all areas affected by these works.

Guidelines for the prevention of weed spread are outlined in '*Preventing Weed Spread is Everybody's Business*²', which highlights the areas of risk for all activities associated with weed spread. The document details the pathways through which weeds are spread and provides actions to reduce weed spread. Proponents seeking to develop land for any purpose should address these actions.

Further information as to weed management requirements are available on the Department of Lands, Planning and Environment (DLPE) website³, or alternatively contact the Weed Management Branch for further advice on (08) 8999 4567.

Lands and Planning Division

Crown Land Estate

Crown Land Estate has reviewed this application and provides comment in **Attachment 3**.

Development Assessment Services/Lands Planning

The Northern Territory Planning Scheme 2020 (NTPS) Overlay 'Land Adjacent to Designated Roads' (Clause 3.8) may apply to the proposal project area, therefore, the requirements of this overlay should be considered. The Overlay references:

- Access from a designated road requires development consent (unless the agency responsible for the management of the 'designated' road has provided written approval for the access e.g.: Department of Logistics and Infrastructure (DLI)); and
- Access must comply with requirements of the road-managing agency (e.g.: DLI).

This advice relates only to the requirements under the *Planning Act 1999*. Requirements under the *Pastoral Land Act 1992* are administered separately by the Pastoral Land Board.

² https://denr.nt.gov.au/_data/assets/pdf_file/0011/257987/preventing-weed-spread.pdf

³ <http://www.nt.gov.au/environment/weeds>

Environmental Regulation Division

The proponent should note that all persons are required to comply at all times with the General Environmental Duty under section 12 of the *Waste Management and Pollution Control Act 1998* (NT) (WMPC Act). To help satisfy the General Environmental Duty, the proponent is advised to take notice of the list of environmental considerations below. The list is not exhaustive, and the proponent is responsible for ensuring their activities do not result in non-compliance with NT laws.

A non-exhaustive list of environmental issues that should be considered to meet requirements under NT law are listed below:

1. **Dust:** The proposed activities have the potential to generate dust, particularly during the dry season. The proponent must ensure that nuisance dust and/or nuisance airborne particles are not discharged or emitted beyond the boundaries of the premises.
2. **Noise:** The proponent is to ensure that the noise levels from the proposed premises comply with the latest version of the NT EPA Northern Territory Noise Management Framework Guideline available online⁴.
3. **Erosion and Sediment Control (ESC):** The proponent must ensure that pollution and/or environmental harm do not result from soil erosion.

ESC measures should be employed prior to and throughout the construction stage of the development. Larger projects should plan, install and maintain ESC measures in accordance with the current International Erosion and Sediment Control Association (IECA) Australia guidelines and specifications.

Where sediment basins are required by the development, the NT EPA recommends the use of at least Type B basins, unless prevented by site specific topography or other physical constraints.

Basic advice for small development projects is provided by the NT EPA document: *Guidelines to Prevent Pollution from Building Sites*⁵.

4. **Storage:** If an Environment Protection Approval or Environment Protection Licence is not required, the proponent should store liquids only in secure bunded areas in accordance with VIC EPA Publication 1698: *Liquid storage and handling guidelines*, June 2018, as amended. Where these guidelines are not relevant, the storage should be at least 110% of the total capacity of the largest vessel in the area.

Where an Environment Protection Approval or Environment Protection Licence is required, the proponent must only accept, handle or store at the premises listed waste, including asbestos, as defined by the WMPC Act, in accordance with that authorisation.

5. **Site Contamination:** If the proposal relates to a change of land use or if the site is contaminated, including as a result from historical activities such as cyclones, a contaminated land assessment maybe required in accordance with the National Environment Protection (Assessment for Site Contamination) Measure (ASC NEPM). The proponent is encouraged to refer to the information provided on the NT EPA website⁶ and the NT Contaminated Land Guidelines⁷.

⁴ https://ntepa.nt.gov.au/_data/assets/pdf_file/0004/566356/noise_management_framework_guideline.pdf

⁵ https://ntepa.nt.gov.au/_data/assets/pdf_file/0010/284680/guideline_prevent_pollution_building_sites.pdf

⁶ <https://ntepa.nt.gov.au/your-environment/contaminated-land>

⁷ https://ntepa.nt.gov.au/_data/assets/pdf_file/0020/434540/guideline_contaminated_land.pdf

6. **Waste Management - Import and Export of Fill:** The proposed activities have the potential to generate fill and/or involve the importation of fill for use on-site. Untested fill material may already be present on the site. All fill imported or generated and exported as part of the activity must either be certified virgin excavated natural material (VENM) or be sampled and tested in line with the NSW EPA Guidelines⁸

All imported fill material must be accompanied by details of its nature, origin, volume, testing and transportation details. All records must be retained and made available to authorised officers, upon request. The proponent should also consider the following NT EPA fact sheets: How to avoid the dangers of accepting illegal fill onto your land⁹, and Illegal Dumping - What You Need to Know¹⁰.

7. **Odour or Smoke:** The proposed activities may have the potential to create odours and/or smoke. The proponent must ensure that nuisance odours or smoke are not emitted beyond the boundaries of the premises.

Should you have any further queries regarding these comments, please contact the Development Coordination Branch by email DevelopmentCoordination.DLPE@nt.gov.au or phone (08) 8999 4446.

Yours sincerely



Maria Wauchope
Executive Director Land Resources

Attachment 1 – Flora and Fauna Division

Attachment 2 – Environment and Heritage Division, Heritage Branch

Attachment 3 – Lands and Planning Division, Crown Land Estate

⁸ <https://www.epa.nsw.gov.au/your-environment/waste/classifying-waste/virgin-excavated-natural-material>

⁹ https://ntepa.nt.gov.au/_data/assets/pdf_file/0005/285728/factsheet_avoid_danger_accepting_illegal_fill_to_your_land.pdf

¹⁰ https://ntepa.nt.gov.au/_data/assets/pdf_file/0008/285740/factsheet_illegal_dumping_what_you_need_to_know.pdf

Attachment 1

Submission on the referral

Energy North Pty Ltd – Project Ares

This submission is made under regulation 53 of the Environment Protection Regulations 2020

Government authority: Department of Lands, Planning and Environment – Flora and Fauna Division

Section of Referral	Theme or issue	Comment
Referral report Section 5.2.1 Presence of environmental values Significant vegetation Table 5-5 Significant vegetation relevance to the Preliminary Disturbance Envelope Appendix A - Terrestrial Ecology Report Section 2.6.2 SREBA vegetation types	Terrestrial ecosystems Vegetation communities	The Strategic Regional Environmental and Baseline Assessment (SREBA) identified 25 'significant vegetation communities' from a total of 51 communities identified and mapped across the Beetaloo Basin. Of the 25 significant vegetation communities, five were also attributed as being of 'high ecological value' and another five as 'moderate ecological value'. This was based on their importance for supporting biodiversity, spatial extent and sensitivity to disturbance. The Terrestrial Ecology Report states that five vegetation communities have been merged into another group (or groups) on the basis that desktop assessments indicate the vegetation community is either unlikely to occur in the area, or a landform associated with it is not present (Terrestrial Ecology Report, p.18). The Flora and Fauna Division notes that the accuracy of the SREBA vegetation mapping is limited at finer scales and considers refinement of vegetation community mapping through field surveys is appropriate. The Flora and Fauna Division notes that Table 5-5 of the referral report only relates to the preliminary disturbance area and not the wider project area. Should refinement of the project design result in the disturbance area being relocated to another site within the project area, the potential impact to significant vegetation would need to be reassessed, noting that the referral states that "field verification of vegetation types will occur when a project footprint is selected." (Terrestrial Ecology Report, p.22).

Section of Referral	Theme or issue	Comment
Appendix A - Terrestrial Ecology Report Section 2.8 Groundwater-dependent ecosystems	Terrestrial ecosystems Vegetation communities	The report states that groundwater-dependent ecosystems are unlikely to be present. This is based on existing mapping and groundwater depth (of the regional Cambrian Limestone Aquifers (CAL)) being greater than 80m below ground level, which is beyond the reach of vegetation. The Normalised Difference Vegetation Index (NDVI) is often used to identify potential groundwater-dependent vegetation. Interpretation of NDVI imagery from 6 July 2026 shows patches of persistent 'greenness' throughout the project area and preliminary disturbance envelope. These areas appear to be predominantly associated with Lancewood forest, as mapped during the SREBA. Lancewood forest is not considered to be groundwater dependent. However, some areas were mapped during the SREBA as being groundwater dependent (i.e. <i>Corymbia bella</i> woodland on alluvial plains, Riparian woodland on ephemeral streams, and <i>Melaleuca</i> forests associated with springs or river channels). As discussed above, the referral has merged these vegetation communities into another group (or groups) on the basis that desktop assessments indicate the vegetation community is either unlikely to occur in the area or a landform associated with it is not present. The Flora and Fauna Division reiterates that the accuracy of the SREBA vegetation mapping is limited at finer scales. Refinement of vegetation community mapping through field surveys is therefore the only appropriate means for ensuring that groundwater-dependent vegetation is not impacted by the proposal. It is feasible that some groundwater-dependent vegetation may occur that is dependent on localised shallow aquifers, rather than the CLA.
Referral report Section 5.2.1 Presence of environmental values Threatened species Table 5-6 Summary of likelihood of occurrence of threatened species	Terrestrial ecosystems Threatened species	The Flora and Fauna Division generally agrees with the proponent's desktop assessment of the likelihood of occurrence of threatened species. The Flora and Fauna Division provides further discussion on some of the identified species below. <u>Greater Bilby</u>: This species is known to occur in the general area, with recent records of the species obtained from targeted surveys. These records are of animals that form part of the broader northern Tanami Desert population of Greater Bilby. This population is considered to be an 'important population' under the criteria in the Significant Impact Guidelines 1.1 – Matters of National Environmental Significance due to its size and the project area being located on the northern edge of the species' range.

Section of Referral	Theme or issue	Comment
Appendix A - Terrestrial Ecology Report Section 3.2 Threatened species		The Flora and Fauna Division considers that there is potential for the project to have a significant impact on the Greater Bilby through the loss of habitat, direct mortality and an increase in predators or predation efficiency that may be facilitated by infrastructure development. The Flora and Fauna Division notes that this is one of a number of large projects proposed, or in development within Greater Bilby habitat in this region, so the assessment and management of potential cumulative impacts will be important. <u>Grey Falcon</u>: The Flora and Fauna Division notes that the referral report says that there is a moderate likelihood of occurrence for this species (Table 5-6, p. 66), whereas the Desktop Ecological Assessment at Appendix A says the likelihood is low (Table 3-2, p. 36). Given the large spatial scale and long duration of the project, the Flora and Fauna Division considers that the Grey Falcon has at least moderate likelihood of occurrence within the project area and may have breeding sites within the area. The referral report discusses that the project area provides foraging habitat for the Grey Falcon, but that “<i>nesting habitat is likely limited to areas associated with larger waterways supporting tall emergent trees</i>” (Table 5-11, p. 78). Whilst the Flora and Fauna Division agrees that Grey Falcon nesting habitat includes tall trees along watercourses, it should be noted that the species also nests in topographically prominent trees on low hills and rises, as well as on artificial structures such as telecommunications towers. Due to the low fecundity of the Grey Falcon, active nest sites should be considered habitat critical to the survival of the species. As such, interference to even a single nesting pair of this species has the potential to have a significant impact. The Flora and Fauna Division recommends that the proposed field surveys are not focused solely on waterways but also incorporate other potential nesting areas as described above. <u>Northern Brush-tailed Possum</u>: The Desktop Ecological Assessment at Appendix A concluded that the likelihood of occurrence of this species is ‘none’, due to records in the area being historical and the species allegedly now being known to not occur in the region (Table 3-2, p. 36 and Appendix C). The Flora and Fauna Division notes that surveys undertaken in 2020 as part of SREBA in the Beetaloo Sub-basin identified this species at a number of properties, including Shenandoah Station, which is approximately 60km northeast of the project area. Although these records are shown in the NT Fauna

Section of Referral	Theme or issue	Comment
		Atlas as being the Common Brush-tailed Possum (<i>Trichosurus vulpecula vulpecula</i>), the Flora and Fauna Division considers the records are more likely attributable to the Northern Brush-tailed Possum (<i>Trichosurus vulpecula arnhemensis</i>). Given this, and that the same vegetation groups are mapped as occurring within Murrniji Station, the Flora and Fauna Division considers that there is potential for this species to occur in the project area. Therefore, the occurrence, abundance and potential impact from the project on the Northern Brush-tailed Possum should be determined by the proponent. <u>Migratory waterbirds</u>: Migratory waterbirds (and the partially migratory and nomadic Australian Painted Snipe) may occur intermittently within nearby wetland habitat when conditions are favourable. The Flora and Fauna Division considers that the occurrence and risk to these species is uncertain. Further information is required to identify any important population(s) and/or habitat(s) in the area to assess the potential risk and impact from the project. The referral does not consider the 'Lake Effect Hypothesis' (LEH), whereby solar panel arrays may be mistaken for water by overflying waterbirds; however, the requirement to address it is included in Table 2-4 of the draft ToR. Given that waterbirds fly between waterbodies within the NT and other states, plus fly through the area during trans-continental migrations, the Flora and Fauna Division considers the likelihood that waterbirds regularly fly over the solar array is high. The Flora and Fauna Division notes that there are other large-scale solar arrays proposed in the region and that these should also be considered by the proponent when assessing the potential impact (including cumulative impacts) from a possible 'lake effect'.
Draft ToR Section 2.8.2 Terrestrial ecosystems Table 2-4 Minimum information required for assessment of terrestrial ecosystems Environmental values row	Terrestrial ecosystems Vegetation communities	The second dot point on page 11 of the draft ToR should be amended to read, "sensitive and significant vegetation".

Section of Referral	Theme or issue	Comment
Draft ToR Section 2.8.2 Terrestrial ecosystems Table 2-4 Minimum information required for assessment of terrestrial ecosystems Avoidance, mitigation and management row	Terrestrial ecosystems Fauna	The Flora and Fauna Division does not consider fauna relocation or translocation to be an appropriate mitigation measure. These approaches should not be relied upon to address habitat loss, population-level impacts, or impacts to threatened species. This is because relocation or translocation are difficult to enact, difficult to monitor and often have high failure rates and animal welfare risks. In the context of development proposals, such activities are more appropriately termed 'salvage'. Should the salvage of fauna be proposed, the Flora and Fauna Division recommends that the ToR include that such proposals follow the <i>'Policy on the translocation of native wildlife for conservation in the Northern Territory'</i> and <i>'Guidelines for the translocation of native wildlife for conservation in the Northern Territory'</i> (DEPWS, 2022) ¹¹.
Draft ToR Section 2.8.3 Hydrological processes Table 2-5 Minimum information required for assessment of hydrological processes Environmental values row	Hydrological processes Surface water Waterways and wetlands	The second subpoint on page 14 of the draft ToR relating to the description of surface water resources should include all waterways, not just those considered to be "of significance" and also include reference to waterbodies and wetlands. The Flora and Fauna Division suggests the following wording: "surface water catchment systems of the potentially affected area including detail on all waterways, waterbodies, wetlands, drainage patterns, flow variations and flooding"
Draft ToR Section 2.4.2	Terrestrial Ecosystems	Table 4 requires the proponent to: "Identify the existing environment and the terrestrial ecosystem values of the project area and potentially affected area." The Flora and Fauna Division notes that the area covered by the referral and the future EIS is very large and providing this information for the activity extent rather than the proposal footprint would require substantial work. As such, it is recommended that the draft ToR is amended to reflect the

¹¹ <https://nt.gov.au/environment/animals/translocate-wildlife>

Section of Referral	Theme or issue	Comment
		actual proposal footprint. Alternatively, the proposal should be amended to revise the extent to the immediate area applicable for the EIS.
		Table 4 requires the EIS to include: “descriptive field verified spatial information (i.e. maps, geospatial data) of sensitive and significant vegetation (in accordance with the Northern Territory Planning Scheme Land Clearing Guidelines (NTPS LCG))”. The NTPS has been revised and only refers to ‘significant vegetation’, which has been explicitly defined. It is recommended that the draft ToR is also updated to reflect this recent change.
		The draft ToR require the EIS to: “Quantify the significance and extent of impacts, at the Project level and cumulatively, with use of and reference to relevant guideline thresholds”. It is unclear which ‘relevant guideline thresholds’ are being referred to in the draft ToR. This section should be updated to clarify which thresholds are relevant to the assessment.
		Table 4 requires the EIS to demonstrate: “<i>All clearing of native vegetation should comply with the NT Land Clearing Guidelines.</i>” The Flora and Fauna Division recommends that reference to the NTPS LCG is removed or modified (for example, to describe the extent to which clearing is compliant with the NTPS LCG). The NTPS LCG are guidelines and allow for discretion and are subservient to environmental approvals made under the <i>Environment Protection Act 2019</i> (EP Act).

Attachment 2

Submission on the referral

Energy North Pty Ltd – Project Ares

This submission is made under regulation 53 of the Environment Protection Regulations 2020

Government authority: Department of Lands, Planning and Environment, Environment and Heritage Division - Heritage Branch

Summary: Suggested changes clarify and differentiate the role of the Heritage Branch and *Heritage Act 2011* from the Aboriginal Areas Protection Authority and the *Northern Territory Aboriginal Sacred Sites Act 1989*. The proponent demonstrates a sound understanding of their obligations under the *Heritage Act 2011*.

Section of Referral	Theme or issue	Comment
Draft Statement of Reasons (SOR)	No issues.	The Heritage Branch is satisfied that the proponent recognises the risk of impact to protected Aboriginal archaeological places by this project. They have identified the need for archaeological surveys to effectively identify and manage these risks.
Draft ToR	Table 2.8.6 Suggested amendments	- Should the legislation specific to this Northern Territory Environment Protection Authority (NT EPA) objective be included in this table, specifically in relation to the cultural heritage values that the proponent must consider. Noted here as there has been confusion from proponents in previous referrals as to what legislation must be considered, and which agency is responsible for (or can provide advice to) a particular condition; - Under 'Potential significant impacts and risks', consider removing 'significant' from the following: <i>'direct and indirect disturbance to significant Aboriginal cultural heritage sites and values during construction, operation, and maintenance activities including vegetation clearance, topsoil stripping and subsoil excavation.'</i>; - Under the <i>Heritage Act 2011</i>, any unauthorised impacts to an Aboriginal archaeological place are an offence; and - Replace 'DLPE Heritage Unit' with DLPE Heritage Branch.

Section of Referral	Theme or issue	Comment
Stakeholder Engagement Plan	Heritage Branch absent in document.	• Recommend that the proponent amends their Stakeholder Engagement Plan to include the Heritage Branch. All Aboriginal archaeological places are protected under the <i>Heritage Act 2011</i>. Archaeological surveys are the primary mechanism for the identification of protected Aboriginal archaeological places. It is common nationally for Aboriginal Traditional Owners and Custodians to participate in these surveys; • Recommend that the proponent amends their Stakeholder Engagement Plan to reflect that the Aboriginal Areas Protection Authority (AAPA) are responsible for sacred sites, captured as part of their Authority Certificates; and • Recommend that the proponent considers removing the phrase '<i>heritage surveys</i>' from this document, as it may create confusion regarding the purpose of a particular assessment (Authority Certificate, archaeological survey, etc) and which government agency is responsible for its regulation.
Referral Report	Suggested Amendments	• Section 2.4.2, Page 21-22: Acknowledges that the proponent has identified avoidance as the primary strategy for management of protected Aboriginal archaeological places. The nature of the project is such that this is likely a feasible risk management approach; • Section 2.6.1 Page 32: As with the Stakeholder Engagement Plan, the Heritage Branch recommends that the proponent considers removing the phrase '<i>heritage surveys</i>' from this document, as it may create confusion regarding the purpose of a particular assessment (Authority Certificate, archaeological survey, etc) and which government agency is responsible for its regulation; • Table 3.1, Page 43: Acknowledges that the proponent has committed to undertaking archaeological surveys and developing a Cultural Heritage Management Plan (CHMP) to help meet their obligations under the <i>Heritage Act 2011</i>. This is the most effective method for the proponent to identify and manage risk of impacts to protected Aboriginal archaeological places; • Section 5.6.1, Page 96: Under 'Presence of environmental values', consider replacing 'Historic archaeological places and objects' with 'Heritage places and objects' from the following: <i>'Historic archaeological places and objects which are listed on the Heritage Register are also protected under the Heritage Act 2011.'</i>; ▪ Under the <i>Heritage Act 2011</i>, Heritage places and objects are not all historical archaeological places;

Section of Referral	Theme or issue	Comment
		- Section 5.6.1, Page 96: Under 'Archaeological features', proponent has acknowledged the need for appropriate approvals and permits. The proponent may consider revising to state that an approved application to carry out works is necessary before any works can impact a protected Aboriginal archaeological place (s72); and - Table 5-17, Page 97: The Heritage Branch recommends updating text under 'Archaeological features' to <i>"Impacts to protected Aboriginal archaeological places and objects from construction or operational activities"</i> or similar.
General Feedback	Heritage Branch Scope for Archaeological Surveys	- The Heritage Branch have commenced discussions with the proponent regarding the scope of archaeological surveys to satisfy obligations under the <i>Heritage Act 2011</i>. Once an agreed scope has been determined, we are satisfied with the proponent commencing archaeological surveys before the ToR have been finalised by the NT EPA. - It has been raised with the proponent that the Northern Land Council may wish to be a participant in developing a scope for archaeological surveys, to ensure the scope will also satisfy the conditions of any Indigenous Land Use Agreement or engagement framework. This may reduce the administrative burden and the risk of duplicating assessments for the proponent. It is the responsibility of the proponent if they wish to pursue this option.

Attachment 3

Submission on the referral

Energy North Pty Ltd – Project Ares

This submission is made under regulation 53 of the Environment Protection Regulations 2020

Government authority: Department of Lands, Planning and Environment, Lands and Planning Division - Crown Land Estate Unit

Section of Referral	Theme or issue	Comment
3.2	Legislation, policies and standards	The proposed uplift of tenure for the project footprint from pastoral lease to a Crown lease would require approvals under the <i>Pastoral Land Act 1992</i> and the <i>Crown Lands Act 1992</i> , including a determination by the Minister for Lands, Planning and Environment to grant Energy North a Crown lease. Early engagement with the Crown Land Estate Unit regarding the required approvals and commercial arrangements for the proposed tenure uplift is encouraged.