

ENVIRONMENT GUIDELINE

Identification of significant effects on the environment

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1 Introduction

The Objective of the *Environmental Assessment Act 2013* (EA Act) requires the NT EPA to:

“ensure to the greatest extent practicable, that each matter affecting the environment which could reasonably be considered to be capable of having a significant effect on the environment, is fully examined and taken into account...”

The Environmental Assessment Administrative Procedures (EAAPs) provide a series of processes for the assessment of significant effects on the environment. This requires identification of potentially significant effects on the environment that may be associated with a proposed action (e.g. development projects). The significance of those effects can then be assessed, together with proposed impact avoidance, minimisation, mitigation and management measures, and recommendations made to the Minister for the Environment on the environmental acceptability of the proposed action.

Clause 6 (1) of the EAAPs requires Responsible Ministers to provide the NT EPA with notification in writing when they receive proposed actions (e.g. development proposals). The NT EPA may then seek additional information (a NOI) from the proponent (EAAP cl. 6(2)). The NT EPA has the capacity to require notification under EAAP cl. 6, following consultation with the Responsible Minister when it is not notified of what it considers to be a proposed action (EAAP cl. 7).

The NT EPA uses the information contained in a NOI to determine the potential environmental significance of the proposed action, i.e. whether it considers the proposed action to be capable of having a significant effect on the environment. If so, the NT EPA determines whether Environmental Impact Assessment (EIA) in the form of aPER or an EIS is required, and the Environment Minister, the proponent and the responsible Minister are informed (EAAP cl. 8(1) (2) (2A)). In either case the NT EPA subsequently develops and provides the proponent with its information requirements for the PER or EIS (the Terms of Reference). These include addressing the relevant environmental issues, and information the NT EPA needs to be able to undertake an informed assessment of the proposed action (EAAP cl. 8(3) (4) (5) (6)).

In the final step of the process the NT EPA prepares and provides the Environment Minister with an assessment report about the proposed action and protection of the environment (EAAP cl. 14), i.e. protection from significant effects on the environment.

The EA Act and its procedures provide no guidance as to the meaning of “a significant effect on the environment”. The absence of guidance on this central feature of the EIA process creates considerable uncertainty and misunderstanding among Responsible Ministers, proponents, authorising agencies and the community in general.

Better understanding of how the NT EPA determines potentially significant effects on the environment would aid Responsible Ministers, proponents, authorising agencies and the community in the performance of their roles during the EIA process.

This guideline is provided in keeping with the NT EPA’s obligations under the *Northern Territory Environment Protection Authority Act 2014* to:

- protect the environment having regard to the need to enable ecologically sustainable development (s. 7(b))
- encourage community involvement and engagement (s. 8(3)(a))
- ensure transparent processes and provide certainty to business (s. 8(3)(b))
- make guidelines about its administrative practices and procedures (s. 34(1)).

2 Objective and scope

The objective and scope of this guideline are to provide proponents, Responsible Ministers, authorising agencies and the community with guidance on how the NT EPA determines when matters referred to the EPA in a NOI can reasonably be considered to have a potentially significant effect on the environment and therefore require environmental impact assessment in the form of a PER or EIS.

The determination that the NT EPA makes at this initial stage of the process about whether the proposed action should be subject to environmental impact assessment in no way pre-judges the outcome of its deliberations about the environmental acceptability of the proposed action should it be subject to such assessment.

3 A significant effect on the environment

3.1 Literal meaning of the words

The Oxford dictionary provides convenient definitions of the words “significant” and “effect”. “Significant” is defined as *“large or important enough to have an effect or to be noticed”*, and “effect” as *“a change which is a result or consequence of an action”*.

The EA Act defines the environment as *“all aspects of the surroundings of man including the physical, biological, economic, cultural and social aspect”*.

A significant effect on the environment in literal terms means *“a change in the surroundings of man that is large or important enough to be noticed”*.

So a potentially significant effect on the environment has the commensurate meaning.

3.2 Relevant considerations about a potentially significant effect

The NT EPA makes a decision about whether an action is likely to have a significant effect on the environment using professional judgement, which is gained through knowledge and experience in the application of environmental impact assessment.

In determining whether a proposed action is likely to have a significant effect on the environment and consequently whether or not a proposed action that is referred to the NT EPA should be assessed, some of the matters to which the EPA may have regard to include:

- values, sensitivity and quality of the environment which is likely to be impacted
- extent (intensity, duration, magnitude and geographic footprint) of the likely impacts
- consequence of the likely impacts (or change)
- resilience of the environment to cope with the impacts or change
- cumulative impact with other actions
- level of confidence in the prediction of impacts and the success of proposed mitigation
- objects of the EA Act, NT EPA policies, guidelines, and procedures, or other NT environmental acts
- public concern about the likely effect of the proposed action on the environment.

Identification of significant effects on the environment

These considerations provide an understanding of the internal and external contexts of the proposal and the nature of anticipated effects on the environment.

Determination of whether the effects on the environment are potentially significant can be additionally informed through reference to performance criteria, triggers or risk criteria. These may be provided by the proponent with reference to the particular contexts of the proposal, or by reference to:

- NT EPA guidelines on particular matters or standards endorsed by the NT EPA (<http://www.ntepa.nt.gov.au/waste-pollution/guidelines>).
- relevant definitions of significance under the EPBC Act and national standards, e.g. NEPMs, against which a proposed action can be assessed
- the presence of planning or policy frameworks and/or other statutory decision-making processes that can regulate the mitigation of the potential effects of a proposed action on the environment,

4 Potentially significant effects on the NOI

Applying the matters (section 3.2) that the NT EPA may consider in determining potentially significant effects on the environment will assist proponents in deciding whether a proposed action is likely to be referred to the NT EPA by a Responsible Minister, or when the NT EPA may request a NOI (referral).

Additional assistance is provided by the NT EPA guidelines for when it is not necessary to submit a NOI, and what is expected to be included in a NOI (<http://www.ntepa.nt.gov.au/environmental-assessments/guidelines>). Along with providing the internal and external contexts of a proposed action, a NOI necessarily provides a proponent's views on what potentially significant effects on the environment might occur (i.e. the potentially significant environmental impacts) and how they came to that view.

The NOI stage of an environmental assessment is often based on preliminary information about the proposed action and the environment in which it is to occur; often requiring no more than desk-top studies and concept plans. While lacking specific details, the NOI must provide clear and sound identification of potentially significant effects on the environment, sufficient to allow determination of whether the proposed action requires additional environmental assessment.

5 Further Information

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Abbreviations and glossary

authorising agency	The department, agency, statutory body or official, other than a Responsible Minister, responsible for authorising a proposed action.
EA Act	<i>Environmental Assessment Act 2013</i>
EAAP	<i>Environmental Assessment Administrative Procedures 2013</i>
EIA	Environmental Impact Assessment
EIS	Environmental Impact Statement
environment	As defined in the EA Act, “environment means all aspects of the surroundings of man, including the physical, biological, economic, cultural and social aspects”.
NEPM	National Environment Protection Measure
EPBC Act	<i>Environment Protection and Biodiversity and Conservation Act 1999 (Commonwealth)</i>
NOI	Notice of Intent (referral)
NT EPA	Northern Territory Environment Protection Authority
Objective of the EA Act	<p>The Objective as stated under section 4 of the EA Act:</p> <p>“..., the object of this Act is to ensure, to the greatest extent possible, that each matter affecting the environment which is, in the opinion of the NT EPA, a matter which could reasonably be considered to be capable of having a significant effect on the environment, is fully examined and taken into account in, and relation to:</p> <ul style="list-style-type: none"> • the formulation of proposals • the carrying out of works and other projects • the negotiation, operation and enforcement of agreements and arrangements (including agreements and arrangements with, and with authorities of, the Commonwealth, the States and other Territories) • the making of, or the participation or the participation in the making of, decisions and recommendations • the incurring of expenditure <p>by or on behalf of, a person, either alone or in association with another person”.</p>
PER	Public Environmental Report

proponent	A person, organisation or agency responsible for the development or execution of a proposed action
proposed action	means a matter referred to in the Object of the EA Act, under sections 4(a), 4(b), 4(c), 4(d) or 4(e)
Responsible Minister	The Minister primarily responsible for authorising an action/proposed action

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