

Making a public submission during the environmental impact assessment process

Environmental impact assessment
guidance for stakeholders

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| Acronyms | Full form |
|----------------|---|
| EIS | environmental impact statement |
| EP Act | <i>Environment Protection Act 2019</i> |
| EP Regulations | Environment Protection Regulations 2020 |
| NT | Northern Territory |
| NT EPA | Northern Territory Environment Protection Authority |
| SER | supplementary environmental report |
| TOR | draft terms of reference |

The NT EPA acknowledge the rights, interests and stewardship role of Aboriginal people; relationship to country; and importance of participation by Aboriginal people and communities in environmental decision-making, as enacted by sub-section 3(e) of the *Environment Protection Act 2019*.

Further information and guidance on the environmental impact assessment process is available on the NT EPA website at: <https://ntepa.nt.gov.au/environmental-assessments>

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1. Introduction

The Northern Territory Environment Protection Authority (NT EPA) is responsible for administering the environmental impact assessment process in the Northern Territory (NT) under the *Environment Protection Act 2019* (EP Act) and Environment Protection Regulations 2020 (EP Regulations).

Public consultation is a key element of environmental impact assessment in the NT. The objects of the EP Act (section 3) require the NT EPA to seek broad community involvement during the process of environmental impact assessment and environmental approval. A purpose of the environmental impact assessment process in the NT is to involve the community in planning and to ensure the community has an opportunity to inform decisions on proposed activities (EP Act section 42(d)). Further, the EP Act requires a proponent to consult with communities, take account of their views, document their knowledge and address Aboriginal values and rights (sections 43(a) to 43(d)). This is discussed in detail in the *Environmental impact assessment guidance for proponents - stakeholder engagement and consultation* that is available on the NT EPA website.

Details on transition arrangements for proposals that are already at various stages of the environmental impact assessment process under the outgoing legislation can be found in the NT EPA policy position on *Managing the transition of existing environmental impact assessment processes after commencement of the Environment Protection Act 2019* available on the [NT EPA website](#).

The NT EPA encourages public consultation by inviting comments at several stages in the environmental impact assessment process, including:

- a referral of a proposed action
- a referral of a strategic proposal
- a significant variation to a proposed action or strategic proposal
- a supplementary environmental report (SER)
- a draft terms of reference (TOR) for an EIS
- an environmental impact statement (EIS) including the draft EIS and any supplement to the draft EIS (supplement).

The NT EPA may also invite public comments on additional information received from the proponent during the assessment. A flowchart on the environmental impact assessment and approval timelines, including opportunities for public comment, is provided on the [NT EPA website](#).

1.1. Purpose of this guidance

The purpose of this guidance is to inform stakeholders and interested persons how to submit comments in relation to the documents listed above during the assessment of a proposal, when the NT EPA has published a notice inviting public submissions within a specified period, including how to make an effective submission and provide appropriate comments

This guidance document is part of a range of guidance prepared by the NT EPA to describe the environmental impact assessment process to all stakeholders.

1.2. Purpose of public consultation

Public consultation provides the community, stakeholders and interested persons with the opportunity to put their concerns and preferences to proponents and regulatory agencies. It is best if community and stakeholder concerns are put to proponents early in the process of developing a project so that alternative or mitigating designs can be incorporated in the project going forward. As set out in section 42 of the EP Act, a purpose of the environmental impact assessment process is to ensure that the community has the opportunity to participate in, and to have its views considered by, proponents in developing projects and by regulators in making decisions on proposals. Proponents must provide communities that may be affected by a proposed action with information to assist each their understanding of the proposed action and its potential impacts and benefits, and opportunities for consultation about the proposal.

Proponents also have the following duties in relation to Aboriginal community and stakeholder engagement, under section 43 of the EP Act:

- to consult with affected Aboriginal communities, in a culturally appropriate manner
- to seek and document community knowledge and understanding (including scientific and traditional knowledge and understanding) of the natural and cultural values of areas that may be impacted by the proposed action
- to address Aboriginal values and the rights and interests of Aboriginal communities in relation to areas that may be impacted by the proposed action

The public consultation process includes the opportunity for the community to provide comments and suggestions to the NT EPA on draft terms of reference for proposals that proceed through a formal environmental impact assessment process, and also to provide comments and views on the environmental impact assessment document when issued for public review. Throughout the environmental impact assessment process, the proponent is expected to keep in touch with, and respond to, community and stakeholder expectations and concerns. In assessing a proposal, the NT EPA may undertake its own consultation with selected stakeholders or through site visits and community engagement. When will the NT EPA invite public submissions?

The NT EPA is required to invite interested persons to make a submission on a proposal at specific stages in the environmental impact assessment process (see NT EIA Flowchart on NT EPA webpage). Submission periods vary throughout the EP Act, ranging from 15 to 60 business days depending on the complexity of the process.

The relevant environmental impact assessment documentation will be open for public submissions until midnight Australian Central Standard Time (ACST) on the date listed in the public notice and on the NT EPA's consultation webpage. Comments must be provided before the closing time and any received after this time may not be considered. Comments sent by post must be stamped with a postmark dated prior to the end of the public comment period.

2. How to have your say

When the submission period for public comments commences, the documentation for consultation will be published on the NT EPA's consultation hub.

2.1. Methods of submitting a comment

Public submissions, including the submitter's full name, address and contact details, may be made:

- in writing via:
 - the NT EPA online platform, which will be accessible via the NT EPA's consultation webpage
 - email to the address listed in the public notice and on the NT EPA's consultation webpage
 - hard copy:
 - may be posted to Northern Territory Environment Protection Authority, GPO Box 3675 Darwin NT 0801, or
 - delivered in person to: Level 1, Arnhemica House, 16 Parap Road, Parap.
- orally in person or by audio or audio-visual communication or recording. If this method is used, the NT EPA must give the proponent a written statement of the substance of an oral submission made to the NT EPA, or
- in any other manner approved by the NT EPA pursuant to regulation 261 of the EP Regulations.

In order to ensure that your comment is received and taken into account, care should be taken to submit it in accordance with the above methods. The following types of comments are not considered to be submissions to the NT EPA:

- comments on online social media channels
- emails to other generic or personal NT government email addresses.

2.2. Making an effective submission

The public submission process provides an opportunity for community members to provide their comments on a proposal, contribute knowledge and make suggestions. Public submissions may assist the NT EPA in its assessment of the accuracy, adequacy and suitability of a proponent's environmental impact assessment documentation prepared for the proposal, and in its preparation of the assessment report for the proposal, which will contain recommended conditions for an environmental approval, or a recommendation for refusal. Individuals or groups may provide a joint submission, however, a group submission prepared and signed by one person is considered to be a single representation.

A submission may agree with, disagree with, or comment on, the issues raised in the environmental impact assessment documentation. It is helpful if reasons are provided for any conclusions made in the submission and supporting information provided, where relevant. This is particularly important when objections are made to assist proponents and the NT EPA to understand the context of the objection.

An effective comment will be one that considers the purpose of environmental impact assessment (section 42 of the EP Act) and that refers to a relevant issue or key matter in the environmental impact assessment documentation, noting that the definition of environment under the EP Act includes physical, biological, economic, cultural and social aspects. Comments could, for example, relate to:

- the way the existing environment is described in the environmental impact assessment document for the proposed activity, or items that have been missed or incorrectly described or represented
- the potential significant environmental impacts and environmental risks of the activity
- the proposed avoidance, mitigation, management of offset measures for reducing or controlling the potential environmental impacts and risks
- the proposed methods for monitoring and assessing the environmental performance of the activity
- the principles of ecologically sustainable development and how they apply to a proposal
- any anecdotal or recorded local knowledge that may assist in understanding and assessing any potential environmental impacts
- information that is inaccurate or missing
- alternative options for managing potential impacts or potential improvements to the proposal.

If there is new information that should be considered, submitters are encouraged to provide supporting documents, such as data or scientific reports, or clearly labelled photographs or maps.

2.2.1. Appropriate comments

- The public comment process provides an opportunity for community members to raise issues about environmental management matters that they feel have not been adequately addressed in the environmental impact assessment documentation. The NT EPA, or the proponent, will consider all comments that are relevant to the significant environmental impacts. Comments that may not be considered relevant include: statements that are not relevant to the environmental impact assessment process
- statements of general objection to a proposal that are not relevant to assessing the potential environmental impacts and risks of the proposal in question
- personal threats or profanities.

3. What happens to my comment once it is submitted?

All submissions received during an environmental impact assessment process will be published by the NT EPA as soon as practicable after they are received. Unless anonymity is requested, the full submission will be made public.

Proponents are required to consider submissions received on their environmental impact assessment documentation and respond to the issues raised when preparing an SER or Supplement.

The NT EPA will consider all submissions made within the submission period, and how a proponent has responded to them, when preparing an assessment report.

3.1. Publication of submissions received

The NT EPA must publish all submissions it receives during an environmental impact assessment process as soon as practicable after they are received pursuant to regulation 262. In accordance with regulation 263, however:

- if the NT EPA receives a number of submissions as a form response prepared by a body or organisation, it is sufficient for the NT EPA to publish:
 - at least one of the submissions or the substance of one of the submissions, and
 - the total number of submissions received.
- if the NT EPA receives a submission in the form of a petition, it is sufficient for the NT EPA to publish:
 - the substance or intent of the petition, and
 - the total number of persons who signed the petition.

In accordance with regulation 266, a person making a submission (other than the proponent or a person acting on behalf of the proponent), may request that the submission, or part of the submission, not be published. If the NT EPA receives such a request, it may withhold the submission or part of the submission from publication; or remove any identifying information from the submission prior to publication.

The NT EPA is required to provide copies of submissions received to the proponent in accordance with regulations 127, 135 and 146 of the EP Regulations. At the completion of the environmental impact assessment of a proposed action, the NT EPA provides an assessment report to the Minister which includes outcomes of public consultation. The Minister takes into outcomes of public consultation undertaken by the proponent and the NT EPA in considering the draft environmental approval provided with the assessment report.

4. Privacy and sensitive information

When submitting a submission, it is important that the submitter's name and contact details are provided. This allows the NT EPA to seek further information regarding the submission if necessary. It also increases the transparency and accountability of the public comment process (although only the names and postcodes of commenters will be made public).

All submissions received will be provided to the proponent prior to being published. If further discussion of a comment would assist to improve an environmental impact assessment process, the NT EPA may suggest that a submitter contact the proponent to discuss the issues further.

4.1. Anonymous comments and confidential information in comments

When a submission is published on the NT EPA website, the publication will also include some details about the submitter (name and postcode). All comments will be treated as public information. The commenter can ask the NT EPA not to publish certain parts of a comment on the basis they are:

- confidential, culturally sensitive or commercially sensitive, or

- personal information which the submitter does not consent to be published, such as a name.

A request can be made that all, or part of, your submission not be published. This request should be indicated clearly in the submission. When submitting, a reason should be provided for requesting confidentiality or anonymity, bearing in mind that for a non-confidential submission, only your name and postcode will be published.

You could also consider putting any confidential information in an appendix. This would allow for a simplified process for providing non-confidential information to the public and other stakeholders without the need for redactions or other form of removing information that has been determined as sensitive from the main submission.

4.2. What will not be published

The NT EPA may decide not to publish certain content for a range of reasons, despite the author wishing it to be public.

For example, the NT EPA may publish only part of a submission if it contains information that must not be published. This may include, but not be limited to information that:

- would breach privacy, or other, legislation
- contains inflammatory, offensive or inappropriate content
- is defamatory or may expose a person to legal action
- is confidential, culturally sensitive or commercially sensitive.

5. Further information

Guidance and fact sheets on the environmental impact assessment process are available on the NT EPA webpage: www.ntepa.nt.gov.au including *Environmental impact assessment guidance for proponents - stakeholder engagement and consultation*. The *Environment Protection Act 2019* and the *Environment Protection Regulations 2020* are available in full at www.legislation.nt.gov.au. Questions regarding the public submission process for environmental impact assessment in the NT can be directed to:

Department of Environment and Natural Resources
Environment Division – Environmental Assessments

Level 1, Arnhemica House
16 Parap Road, PARAP NT 0820

GPO Box 3675, Darwin NT 0801

p: (08) 8924 4218

e: eia.ntepa@nt.gov.au