

CHAPTER 2 – Regulatory environment

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2.1 The project - background and context

The principal legislative requirements for the ABM Resources Twin Bonanza -1 project (the project) are outlined in this chapter, including project approvals, permits, and licences for specific activities. In addition, the Northern Territory Environment Protection Authority (NT EPA) and the Commonwealth Department of the Environment (DoE) requirements have been considered in relation to the project; together with the relevant legislation, policies, standards and codes of practice that are relevant to the project.

The project will require a number of approvals, permits and licences from the Northern Territory and Commonwealth Governments. A range of regulations and policy documents must also be considered during the assessment process. The project involves the mining of the Old Pirate deposit and an upgrade of the existing infrastructure. Pursuant to the *Mining Management Act 2001* a Mining Management Plan (MMP) will be submitted once the mineral lease is approved and before operations proceed.

The NT EPA (pursuant to the *Environmental Assessment Act 1982*) referred the project to the then Commonwealth Department of Sustainability, Environment, Water, Population and Communities (SEWPaC) on the grounds that the proposed activities may impact one or more Matters of National Environmental Significance (MNES) and therefore the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) was relevant to the project. Following its review, SEWPaC determined the project to be a controlled action. On 16 May 2013 SEWPaC accredited the Northern Territory Environmental Impact Statement (EIS) process under the *Environmental Assessment Act 1982* for the purposes of assessing the action.

Development of this EIS has taken into consideration the following commonwealth and Northern Territory legislation:

- *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act)
 - *Environment Protection and Biodiversity Conservation Regulations 2000*
- *Native Title Act 1993* (Cth)
- *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (ALR Act)
- *Environmental Assessment Act 1982* (NT)
 - *Environmental Assessment Administrative Procedures*

- *Mining Management Act 2001 (NT)*
 - *Mining Management Regulations*
- *Mineral Titles Act 2010 (NT)*
 - *Mineral Titles Regulations*
- *Territory Parks and Wildlife Conservation Act 2000 (NT) (TPWC Act)*
 - *Territory Parks and Wildlife Conservation Regulations*
- *Water Act 2004 (NT)*
 - *Water Regulations*
- *Heritage Act 2011 (NT)*
- *Aboriginal Land Act 1980 (NT)*
- *Northern Territory Aboriginal Sacred Sites Act 1989 (NT) (Sacred Sites Act)*
- *Planning Act 1999 (NT)*
 - *Planning Regulations*
- *Work Health and Safety (National Uniform Legislation) Act (and related Regulations) 2007 (NT) (WHS(NUA) Act)*
 - *Work Health and Safety (National Uniform Legislation) Regulations*

2.2 Previous impact assessments

There has been no previous Environmental Impact Assessments (EIA) for the project area prepared for, or relating to ABM Resources or any other party.

2.3 Commonwealth legislation and policy requirements

This section provides a summary of key Commonwealth requirements, their objectives and relevance to the project.

2.3.1 Environment Protection and Biodiversity Conservation Act 1999

The EPBC Act stipulates that projects and actions that have the potential to affect one or more Matters of National Environmental Significance (MNES) require assessment.

Projects will require an environmental approval if the mining activities will have a significant impact on:

1. a declared World Heritage property
2. a National Heritage place
3. a declared Ramsar wetland
4. a listed threatened species and endangered ecological community
5. a listed migratory species
6. a commonwealth marine area
7. the Great Barrier Reef Marine Park
8. a nuclear action (i.e Uranium Mining)
9. a water resource, in relation to coal seam gas development and large coal mining development
10. it is an action of a prescribed kind.

It was determined the ABM project will have a significant impact on the following matters of National Environmental Significance:

- listed threatened species and communities (protected under part 3 of the EPBC Act – section 18 and 18A)

The project was referred to SEWPaC and, on 23 April 2013, was determined to be a controlled action under the EPBC Act.

While approval under the EPBC Act is required as outlined above, SEWPaC has accredited the Northern Territory EIS process under the *Environmental Assessment Act* for the purposes of assessing the action and therefore a separate assessment process under the *EPBC Act* is not required.

2.3.2 Native Title Act 1993

The *Native Title Act* provides for the recognition and protection of native title and contains processes for effecting native title claims. The *Native Title Act* also sets out processes by which native title rights are established, protected and compensation determined, in addition to facilitating Indigenous Land Use Agreements (ILUA's) between native title parties and other interest holders.

ABM's Mineral Lease Application including its associated infrastructure is situated wholly on Aboriginal Freehold Land and therefore the *Native Title Act* has no current application in this matter.

2.3.3 Aboriginal Land Rights (Northern Territory) Act 1976

The *ALR Act* provides for the granting of Traditional Aboriginal Land in the Northern Territory for the benefit of Aboriginal people, and for other purposes.

Section 46 of *ALR Act* requires ABM Resources to enter into an agreement with the Central Land Council (CLC) (representing the Traditional Aboriginal Owners) before the mineral lease can be granted. The agreement under section 46 stipulates the parties must adhere to the terms and conditions to which the grant of the mineral lease will be subject and the minister has consented, in writing, to the grant of the mining interest. Such an agreement has been entered into with the CLC. The agreement is currently under consideration by the minister.

In addition to this, ABM require and have obtained from the Mt Frederick No.2 Aboriginal Land Trust of the Northern Territory of Australia as landowner, leases in respect of the areas required outside of the Mineral Lease for the establishment and upgrade of the access roads, an airstrip and water borefield. The CLC has consented to these leases.

2.3.4 Other Acts that may apply

There are other Acts that may be applicable for particular activities, or in particular circumstances, to ABM's application for a mining lease, construction and operation of the subsequent mine.

Other acts that may apply include:

a. *Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cth)*

- This Act makes provision for the preservation and protection from injury or desecration of areas and objects in Australia and in Australian waters, being areas and objects that are of particular significance to Aboriginal people in accordance with Aboriginal tradition. ABM will comply with relevant provisions of this Act. In addition ABM complies with a comprehensive sacred sites and objects protection process as set out in, and applied by, the CLC pursuant to the mining agreement (refer Chapter 13).

b. *Atomic Energy Act 1953*

- This Act would only be relevant to ABM if ABM were to discover a "prescribed substance" as defined in the Act in its natural condition, or in a

deposit or waste material obtained from an underground or surface working, or on or below the surface of land. If it became relevant, its provisions would be complied with.

c. *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*

- If ozone depleting substances and synthetic greenhouse gases are sold, purchased, acquired, disposed, stored, used, handled or labelled by ABM, this Act will be relevant to ABM and ABM must act pursuant to it. It is not anticipated by ABM that such substances or gases will be dealt with.

An overview of the above legislation and other commonwealth legislation that may be relevant to the project is set out in Appendix B.

2.3.5 Leading practice

The Leading Practice Sustainable Development Program for the Mining Industry (LPSD) is a program that promotes sustainable development and industry self-regulation through proactive adoption of leading practice principles. The program was launched in 2006 and is administered by the Department of Industry (DoI).

The LPSD provides practical guidance to the mining industry through handbooks and workshops. Such resources assist with the implementation of leading practice, and offer the mining industry and other stakeholders the opportunity to improve their social and environmental performance.

ABM acknowledges, and at every practicable opportunity undertakes, activities in line with the leading practice standards set out by the Leading Practice Sustainable Development Program for the Mining Industry. Applicable handbooks include:

- A Guide to Leading Practice Sustainable Development in Mining
- Airborne Contaminants, Noise and Vibration
- Biodiversity Management
- Community Engagement and Development
- Cyanide Management
- Evaluating Performance: Monitoring and Auditing
- Hazardous Materials Management
- Managing Acid and Metalliferous Drainage

- Mine Closure and Completion
- Mine Rehabilitation
- Risk Management
- Stewardship
- Tailings Management
- Water Management
- Working with Indigenous Communities

Also applicable are the International Erosion Control Associations (IECA) Best Practice Erosion and Sediment Control Guidelines (BPESC) (Books 1-6).

2.4 Northern Territory legislation and policy requirements

This section provides a summary of key Northern Territory requirements, their objectives and relevance to the project.

2.4.1 Environmental Assessment Act 1982

The environmental assessment process is administered under the *Environmental Assessment Act* taking into account the Environmental Assessment Administrative Procedures. The Act and procedures establish the framework for the assessment of potential or anticipated environmental impacts of development. The object of the Act is to ensure that matters affecting the environment to a significant extent are fully examined and taken into account by the Northern Territory Government.

Under the *Environmental Assessment Act* the Minister for Lands, Planning and the Environment has referred ABM's NOI to the NT EPA, who have subsequently requested an assessment under the Act at the level of an Environmental Impact Statement (EIS).

2.4.2 Mining Management Act 2001

The objectives of the *Mining Management Act* and regulations are to ensure the development of mineral resources in the Northern Territory is in accordance with the best practice health, safety and environmental standards and to protect the environment and health and safety of all persons on mining sites.

Pursuant to Section 35(3) of the Act, any entity proposing to undertake works that would cause "substantial disturbance" of the ground is required to have an Authorisation.

Pursuant to section 40 of the MMA an application to carry out mining activities must be supplemented by a Mining Management Plan (MMP).

ABM has an extensive tenement holding in and surrounding the project area. ABM is the sole operator for activities within these tenements. The project lies within Exploration Licence (EL) 28332 and the Mineral Lease Application (MLA) 29822. ABM will submit a MMP compliant with the MMA, which will describe the mining activities proposed, the company structure, and the management system to be implemented for environmental, health and safety aspects and the closure plan for the proposed activities.

ABM will comply with the MMP in force for the site. Pursuant to Section 37 of the MMA, ABM will make an Environmental Mining Report available to the public at intervals not exceeding 12 months. In addition, under Section 43 of the MMA ABM will provide a financial security (bond) to the Minister for the purposes of securing costs and expenses in the event the Minister requires action to be taken to prevent, minimise or rectify environmental harm.

2.4.3 Mineral Titles Act 2010

The *Mineral Titles Act 2010* (MTA) establishes a framework for granting and regulating mineral titles that authorise exploration for and extraction and processing of, minerals and extractive minerals.

Minerals may only be removed by miners who are authorised to do so under the *Mineral Titles Act* by the grant of a title.

ABM requires a mineral lease for the proposed project under the *Mineral Titles Act*. A mineral lease can only be granted if the Minister for Mines and Energy is satisfied ABM has obtained the permission, consent or agreement required under the ALR Act 1976 s. 74(1).

ABM Resources has lodged a Mineral Lease Application under section 41 and 66 of the *Mineral Titles Act*; including but not limited to:

- a description of the land comprising the proposed title area of the mining lease
- evidence of an ore body or anomalous zone of likely economic value in the proposed title area
- a summary of the work proposed to be carried out for conducting authorised activities under the mining lease
- details of the Aboriginal Land Trust whose land comprises all or part of the proposed title area.

ABM will report to the minister about the activities conducted under the mineral lease and will require written consent if it wishes to disturb improvements on land in the title area or damage or otherwise disturb a Territory or council road.

2.4.4 Territory Parks and Wildlife Conservation Act 2000

This Act lists those species of plants and animals that are protected within the Northern Territory. Under this Act, permits will be required to take or interfere with protected plants or animals. This may apply if protected plants or animals are encountered during the project's life.

The project has been determined a controlled action under the EPBC Act (Commonwealth Legislation) due to the project having the potential to impact listed threatened species and communities (see section 2.3.1). ABM may also be subject to monitoring under the *TPWC Act*.

ABM will seek all appropriate permits and approvals required under this Act.

2.4.5 Water Act 2004

The *Water Act* provides for the investigation, allocation, use, control, protection, management and administration of surface and groundwater resources, as well as the administrative process for licensing these activities and related purposes.

Pursuant to Section 7 of the *Water Act*, mining activities (as defined by the MMA) or another activity for a purpose ancillary to that mining activity, including the use of water as drinking water, are exempt from a number of provisions of the Act, including Parts 5 and 6 regarding surface water and ground water respectively. The other applicable provisions of the Act will be complied with. ABM will be extracting water from a current mineral lease or from an exploration licence and pursuant to a lease from the Mt Frederick (No.2) Aboriginal Land Trust.

ABM proposes to take and use water outside a water control district and therefore is required to notify the Department of Health and Families (DHF) pursuant to the *Public Health Act and the Public Health (Night-Soil, Garbage, Cesspits, Wells and Water) Regulations*, under sections 44 and 45 of the *Water Act 2004*.

ABM has a lease from the Aboriginal Land Trust for the land on which the bore is located and for a pipeline and road to be constructed and/or accessed from the bore to the mine site (See paragraph 2.3.3 above).

ABM will require a waste disposal licence if it proposes to dispose of water underground beyond the mining site, however such disposal is not contemplated.

2.4.6 Heritage Act 2011

The *Heritage Act* provides a system for the identification, assessment, protection and conservation of the Territory's natural and cultural heritage. Such heritage includes fossils, buildings, gardens, ruins, archaeological sites, landscapes, ecosystems, coastlines, plant and animal communities.

The *Heritage Act* provides protection for any heritage places or objects (European or Aboriginal). Under the *Heritage Act*, if any archaeological places or objects are to be disturbed by the project through mining, permission must be sought from the chief executive officer of the Department of Lands, Planning and Environment for an approval (a work approval) to carry out work on a heritage place or object. An application can only be made with the consent of the owner of the place or object (the relevant Land Trust).

ABM has conducted a thorough search of the public register (section 139) to identify archaeological sensitivity in the area of its proposed mining operations. Prior to the commencement of a bulk sampling process the Mineral Lease was surveyed for the presence of Aboriginal and non-Aboriginal archaeological sites. The survey focussed on areas that are seasonal water sources or have the presence of siltstone/mudstone/chert/quartz that could be used as a resource for stone tool production. The archaeological heritage assessment was undertaken by Tim Hill Heritage Agreement and Planning (See Appendix V - Twin Bonanza Archaeological Heritage Assessment Report – Tim Hill).

In accordance with the recommendations of Tim Hill's report, the *Heritage Act*, and in conjunction with the *Sacred Sites Act*, ABM will adhere to the following:

1. Where practicable avoid direct and indirect disturbance and/or damage to all recorded sites during proposed works.
2. With respect to sites near the mining activities restrict all future works to areas of existing exploration and install as soon as possible temporary fencing or marking of this area.
3. Apply for Ministerial consent to disturb or destroy archaeological sites within the proposed mineral lease area should the archaeological materials/artefacts be within the footprint of the proposed mine development. Additional documentation of the site for scientific- and potentially cultural- purposes should be considered during this process. In this instance relocation to another site or area is not considered an appropriate strategy as it may reduce the research integrity of other sites and the area as a whole.

2.4.7 Northern Territory Aboriginal Sacred Sites Act 1989

The *Sacred Sites Act* is an act to protect sacred sites for the Aboriginal and all other peoples of the Territory; by establishing a procedure for the protection and registration of sacred sites, providing for entry onto sacred sites and the conditions to which such entry is subject, establishing a procedure for the avoidance of sacred sites in the development and use of land. Under the *Sacred Sites Act* an authority certificate can be issued that provides legal indemnity against possible prosecution in relation to damage to sacred sites resulting from the works or uses covered by the certificate, as long as any conditions imposed are followed. The Aboriginal Areas Protection Authority (AAPA) administers the issue of authority certificates in consultation with the relevant custodians under the *Sacred Sites Act*. Authority certificates will be sought in respect of the site.

ABM acknowledges that it conducts exploration and proposes to conduct mining operations on land owned by Traditional Aboriginal Land Owners and that ABM's access to this land is through the process with the CLC set out in the Mining Agreement made under *ALR Act*. ABM respects the Traditional Owners' sacred sites in accordance with the *Sacred Sites Act* and no work is performed on the land without receiving a sacred site clearance certificate from the CLC.

ABM is committed to a close working relationship with the CLC, (operating on behalf of the Aboriginal Owners) the communities and the Traditional Owners. Exploration discovery by ABM is for the benefit of both the shareholders of ABM and all stakeholders including the Traditional Owners and the Northern Territory. ABM is committed to offer employment opportunities to people in local communities and the promotion of knowledge, understanding and respect for Indigenous Australian traditions and culture.

A number of Indigenous site investigation studies have been undertaken and agreements made with the Traditional Owners for the current Mineral Lease application including site investigations for the current open-pit proposal. Refer to Section 2.4.6.

2.4.8 Planning Act 1999

The *Planning Act* provides for appropriate and orderly planning and control of the use and development of land.

The Planning Act (and the Planning Scheme made under that Act) does not apply to the conduct of any mining activity under any mining interest (where the terms "mining activity" and "mining interest" have the same meaning as in the *Mining Management Act*).

In addition, the land use controls under the *Planning Act* and related planning scheme do not apply to any unzoned land where activities are proposed to be undertaken, with the exception of a subdivision of land, a clearance of in excess of 1ha of native vegetation that is

not otherwise controlled by legislation or (in certain circumstances) the use or development of land within 500m of a designated road.

Development approval may be required for other uses of, and works on, land. For example, the grant to ABM of a lease, licence or other right to use or occupy part of land for a term of more than 12 years will involve a subdivision of land requiring development approval. This is currently applicable to the leases obtained by ABM Resources from the Mt Frederick No. 2 Aboriginal Land Trust for access roads, airstrip and existing water borefield. Such approval is to be obtained.

2.4.9 Other relevant legislation

An overview of the above legislation and other Northern Territory legislation that may be relevant to the Project is set out in Appendix B.

2.5 Local government requirements

2.5.1 Central Desert Shire

The project area falls within the jurisdiction of the Central Desert Shire, which is covered by the Local Government Regional Management Plan (RMP) for the Central Australian Region. The Local Government Regional Management Plan (RMP) is a statutory instrument under part 3.1 of the *Local Government Act 2008 (NT)*. ABM Resources will adhere to any Central Desert Shire bylaws or requirements that may become applicable.

2.6 Standards and codes of practice

The proposed Project's construction and operation will take into consideration and adhere to all applicable standards and codes of practice. Table 2-1 outlines the most relevant standards and codes of practice to the project. The table is not exhaustive and is indicative of the standards ABM considers applicable to this EIS.

ABM aligns its practices where practicable with the Northern Territory Environmental Protection Authority (NT EPA) Draft and Current Guidelines including but not limited to;

- Guidelines for the Preparation of an Economic and Social Impact Assessment;
- Guidelines for Assessment of Impacts on Terrestrial Biodiversity;
- Environmental Assessment Guidelines on Acid and Metalliferous Drainage (AMD);
- Environmental Assessment Guidelines – Development proposals submitted under the Planning Act;

- Environmental Assessment Guidelines – Mining exploration or production proposals submitted under the Mining Management Act;
- Guideline for Disposal of Waste by Incineration.

Table 2-1. Standards and Codes of Practice

Standard	Description
AS/NZ ISO 31000:2009	Risk management— Principles and guidelines
HB 436:2004	Risk Management Guidelines Companion to AS/NZS 4360:2004
HB 158:2010	Delivering assurance based on ISO 31000:2009 - Risk management - Principles and guidelines
HB 203:2012	Managing environment-related risk
AS1940-2004	The storage and handling of flammable and combustible liquids
NOHSC:1007 (2000)	National Standard for Occupational Noise.
AS/NZS 1269.3:2005	Occupational noise management – hearing protector program.
AS 1726-1993	Geotechnical site investigations.
AGRD - applicable to Rural road design; AGRD02-06, AGRD03-1, AGRD04-09, AGRD04A-10, AGRD06-10, AGRD07-08, and others as necessary	Austrroads Guide to Road Design – A Guide to the Geometric Design of Rural Roads.
International Cyanide Management Code	International Cyanide Management Code For the Manufacture, Transport, and Use of Cyanide In the Production of Gold
ANCOLD Guidelines	Guidelines on tailings dams; planning, design, construction, operation and closure.

Additional Codes of practice and guidelines that ABM adheres to, where practicable, include but are not limited to;

- NT Code of Practice for Small On-site Sewage and Sullage Treatment Systems and the Disposal or Reuse of Sewage Effluent
- Mine Close Out Criteria: Life of Mine Planning Objectives. Northern Territory Government.
- Guidelines For Preparing Mine Closure Plans—Western Australia

2.7 Approval timeframes

The Northern Territory Environmental Impact Assessment (EIA) process is outlined in Figure 2-1. The process will follow the EIS assessment approach pathway for ABM Twin Bonanza 1 Project.

The anticipated approval timeframes for the project are those outlines in the *Environmental Assessment Act*, the EIS Guidelines and the information response times estimated by the proponent.

The submission of this draft EIS will be followed by its release for review from the public and relevant Northern Territory government agencies. During the review period the draft will be publically available through the NT EPA website, hardcopies of the draft for all stakeholders and neighbours of the property and public exhibition at the designated NT government agencies. The proponent will compile responses to the submissions through the EIS supplement. Following the submission of this report and the supplement, the NT EPA will prepare an Environmental Assessment report. The NT EPA will then provide the Minister for Lands, Planning and the Environment a copy of their report, who will then forward it onto the minister or ministers responsible for consent for inclusion in permit, lease or licence conditions.

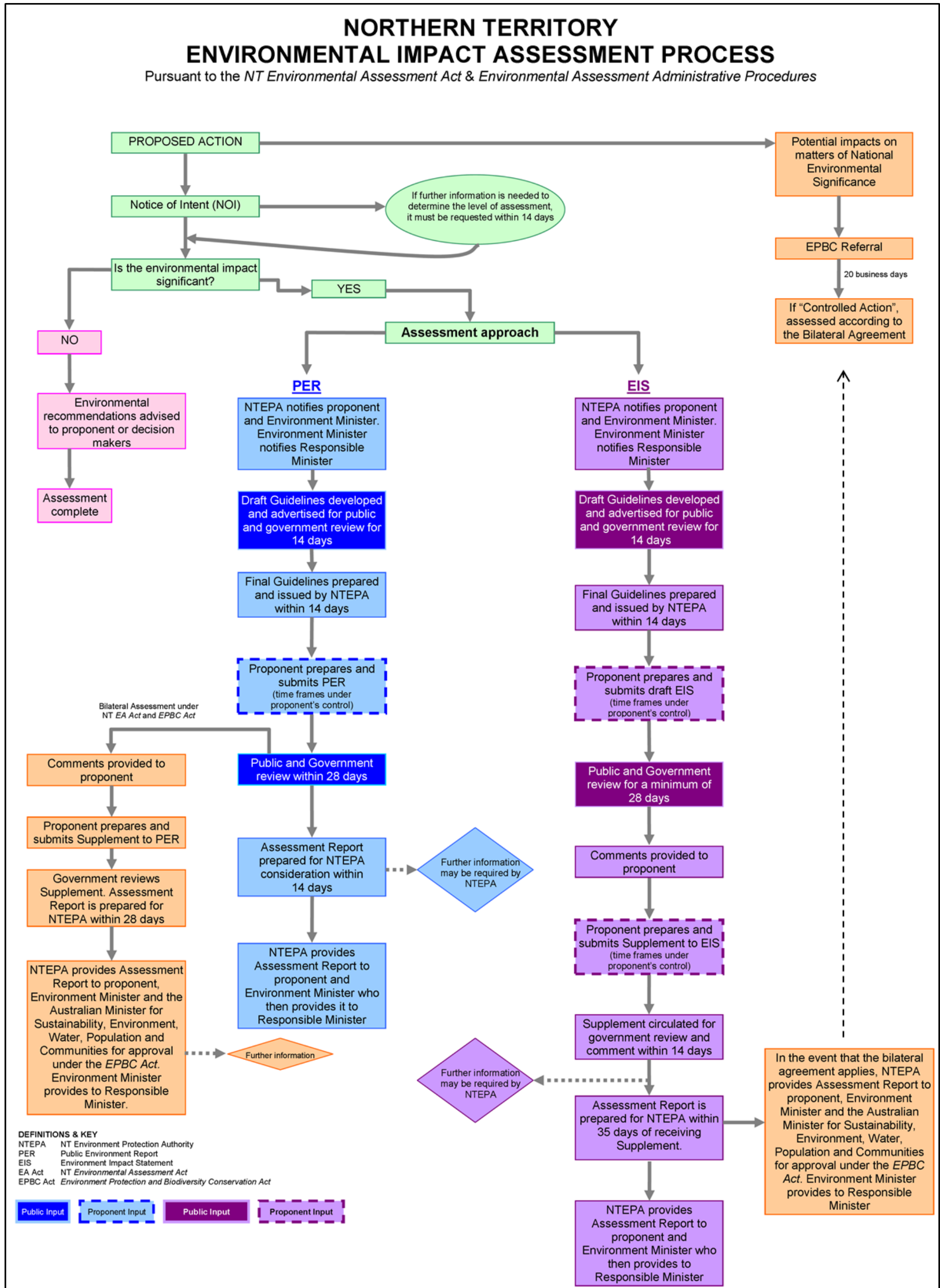


Figure 2-1. Northern Territory Environmental Impact Assessment Process (source: Northern Territory Environmental Protection Authority website); Version Modified.