

Submission Form for Comments and Feedback

NT EPA Draft Environmental Guidelines

Submissions close: **Monday 15 July 2013, 5pm**

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<p>Your comments will be publicly available.</p> <p>Mark the box here <input type="checkbox"/> if you do not want your comments to be made publicly available.</p> <p>Mark the box here <input type="checkbox"/> if you do not want your identity to be made publicly available.</p>			

Guideline Name	Section / Page of Draft Guideline	Comment
Overall Comments		<p>HIA understands that the purpose of the Guidelines is to assist proponents understand if their projects are required to be referred to the EPA for assessment or determination as to whether a full environment assessment process (EIS) is required.</p> <p>The Guidelines also provide an understanding of what is required at the various stages of environmental assessment, should it be deemed by the EPA to be required.</p> <p>The aim of the guidelines is to ensure the consistency of information presented. This is a</p>

Please complete the form and send it via one of the following by no later than *Monday 15 July 2013, 5pm*:

Email: NTEPA.Consult@nt.gov.au

Post: NT EPA, GPO Box 3675, Darwin NT, 0801

Privacy: Your personal information will be used for the purpose of collecting and collating comments received on the NT EPA draft guidelines. The NT EPA is subject to the *Information Act* and its Regulations. Information will not be disclosed to a third party, unless required by law or otherwise stated.

Guideline Name	Section / Page of Draft Guideline	Comment
		<p>good goal. However, there is a need for further definition around which projects the Guidelines are actually aimed at and the trigger points for their use. For example, it is not clear from the Guidelines as to what proposals will require a full environmental assessment process (EIS) versus a lower level of assessment, as opposed to not being required to be referred to the EPA at all.</p> <p>The checklist provided in appendix A of the “Environment Assessment Guidelines – Development Proposals Submitted under the Planning Act” is an endeavor to assist proponents understand this.</p> <p>However, the checklist approach will capture far too many building projects, particularly smaller ones, as the type of studies it requires the builder to have completed to make the judgment will not have been undertaken. This refers to cultural heritage studies and assessment of impacts on transport and infrastructure. The NT Government needs to create the right legislative environment to make it clear which types of proposals that are either meant to be captured by an EIS process which required some further environmental assessment by the EPA and which do not require referral at all.</p> <p>It should also be made clear that these guidelines should sit beneath that the legislation guiding proponents about their requirements.</p> <p>At this point the process seems to be geared towards proponents submitting developments and the Government deciding on whether an environment process is to be followed. Perhaps some thought could be given to having some guidance either in regulation or the guidelines about the scale of development the EPA envisages will trigger an EIS and which requires other forms of assessment.</p> <p>This could be considered under section 50A of the NT Planning Act where the types of development it envisages will be captured under the Environmental Assessment Act could be defined. Or planning schemes may identify this information however, this is not clear and they are not referred to in the guidelines either.</p> <p>Comments on the 4 Guidelines that could impact the housing industry are provided below:</p>

NORTHERN TERRITORY ENVIRONMENT PROTECTION AUTHORITY

<p>Environment Assessment Guidelines under the Planning Act</p>	<p>Section 4 Page 6 “when to refer a proposal”</p> <p>Section 5 Page 6 “When Not to refer a proposal”.</p> <p>Comments on Page 7 Attachment A – (the criteria required to determine whether a project should be referred to the EPA.)</p> <p>Specific Comments on the “Assessment Criterion” in the table.</p> <p>Stormwater Management Requirements</p>	<p>As per above comments the Guidelines need to be more specific about when to refer a proposal to the Department. It could be stated more clearly as to which type of development and land use the EIS process is intended to apply to.</p> <p>The first sentence needs to remove the word “generally”. If a proponent meets all criteria in attachment 1 then no further assessment should be required. It seems to imply that the Department has the right to make a decision rather than having actual criteria determine if an EIS or further assessment is required.</p> <p>The table has the potential to “capture” all projects and see a number of proposals referred to the EPA unnecessarily.</p> <p>It will be difficult for proponents using the table to determine which studies are applicable to their own proposal. In the absence of any project threshold guidance, proponents may gather the impression they are required to undertake a number of studies as outlined in the table. It may result in many unnecessary studies potentially being undertaken and many unnecessary referrals to the EPA for assessment.</p> <p>Further guidance should be provided to rule out large consultant based studies (eg weed management, transport studies etc) particularly for smaller projects. The scale of a development could help determine this – clearly ruling out studies where they are not required or acknowledging where they have been undertaken at an earlier stage of the planning process (eg at subdivision).</p> <p>It is also unclear how a proponent would determine when a “not applicable” response is appropriate.</p> <p>Regarding the statement in the table “Proposed Stormwater management is compliant with Department of Land Resource Management requirements and will be implemented to <i>the satisfaction of the DCA</i>”.....The statement “<i>to the satisfaction of the DCA</i> is unclear and too subjective. These requirements should be concrete requirements that the proponent either meets or doesn’t meet”.</p> <p>It is unclear what constitutes “significant soil erosion soil salinity, flooding or disturbance of acid sulphate soil “To find any of this out will require a geotech assessment so it could be more specific than this to give thresholds of what is considered to be “significant”.</p>
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	<p>Erosion requirements</p> <p>Flora and fauna assessments....</p> <p>A Weed management plan has been prepared.....</p> <p>A cultural heritage survey has been done and any identified values</p> <p>Environmental health assessments have been done ...</p> <p>Impacts on Transport and Infrastructure have been addressed.</p> <p>less than 1km from the NT coastline and will involve redevelopment of a previously used site without mobilization of</p>	<p>“to the satisfaction of the DCA” again implies there is flexibility in an assessment. According to the table, the site would either contain a threatened species (under the Territories and Wildlife Conservation Act or EPBC Act) or not. If it does, it requires addressing or if it doesn’t, it does not. The Government needs to be clear on the species that will require investigation...</p> <p>Many smaller development sites would need to undertake a biodiversity study as it may have been completed as part of the subdivision. Also the table shows that applicants must indicate assessing a site for a “habitat of potential significance to the listed species”. How is potential significance measured? This is considered too ambiguous and onerous.</p> <p>A small site would not generate this type of study so a “no” answer to this category would result in a (possibly unintended) referral to the EPA.</p> <p>This may not be completed on small housing sites so it would result in a (possibly unintended) referral to the EPA.</p> <p>As per above not all small housing sites would generate this so it may see a number of builders being unable to meet this criteria and then referring their project to the EPA.</p> <p>Again a smaller development would not necessarily generate this type of assessment so may result in a possibly unintended referral to the Department.</p> <p>This is information that a small builder might not know have without generating an expensive consultant study it will be impossible to tell.</p> <p>This is information that a small builder might not know have without generating an expensive consultant study it will be impossible to tell.</p>
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<p>Guidelines for the Preparation of an Economic and Social Impact Assessment</p>	<p>General Comment</p>	<p>It is unclear as to what the trigger point for these guidelines is - but it seems that they will need to be followed if a proposal triggers an Environmental Assessment or by the EPA. It needs to be clarified.</p> <p>It is envisaged that very few small scale housing developments would fall into this category - only the largest as they have triggered the need for an Environmental Assessment.</p> <p>However, HIA has noticed that the Guidelines outline the concept of having a “social license to operate which is in line with “community expectation”. This is a very subjective measure, unable to be determined and should not be a criterion upon which a Guideline is based. There should be better criteria than this and we do note that under 5 “Economic Assessment” more measurable criteria are utilised.</p>
<p>Guidelines on Environmental Offsets and Associated Approval Conditions</p>	<p>1. Introduction</p> <p>2. Objective of the Offsets Policy.</p> <p>3 Legislative requirements</p>	<p>The third dot point says that these guidelines apply to “negotiated benefits that allow projects to proceed”. Is this promoting the overall aim of consistency of requirements? An offset should only be required by legislation - it should not be a “condition of approval” set randomly by an authority. It should have legislative/regulatory foundation so as to be fair for all applicants.</p> <p>The statement refers to the “voluntary application of the ‘licence to operate’ concept. This seems very subjective - and it is unclear as to how it would be assessed. There should be measurable criteria and it is noted that under 5 “Economic Assessment” that more measurable criteria is utilised.</p> <p>The Guidelines refer proponents to the legislated requirements presumably to determine their offset requirements. It lists 7 Acts to check. However under “Offset and Similar requirements in the Northern Territory” it suggests there are only three pieces of actual legislation where offset conditions are able to be imposed – being the Commonwealth EPBC Act, the Aboriginal Land Act and the Native Title Act.</p>

General comments

Thank you for the opportunity to comment.

HIA understands that the NT Government is intending to provide some guidance and certainty for proponents around environmental processes. In principle this should be a good initiative.

It initially appeared that the majority of the draft Guidelines re intended to apply when an EIS is required. But the documentation is somewhat unclear in this respect and as per the comments provided throughout this submission, further clarity as to their intended applicability of the Guidelines is required.

The guideline for assessments under the Planning Act more rightly to relates to the initial 'head of power' or determination of whether an EIS is required. If this is the case, then the Planning Act guide should be listed as the first guide to consider for applicants. The other suites of guides should be separately published as related to the preparation of an EIS, rather than the preparation of a development application.