# Terms of reference (TOR) template for a proponent initiated EIS referral

This template provides key information to be used as a guide for developing draft terms of reference (TOR) for a proponent initiated EIS.

Structure the draft TOR in the following way:

* Part 1 – Introduction: an overview of the proposal and decisions relating to its environmental assessment.
* Part 2 – Matters to be addressed in the draft EIS: a description of the information requirements specific to this proposal. The proponent is required to address all these matters relating to the proposal and the surrounding environment in its draft EIS.
* Part 3 – Other requirements for the draft EIS: a list of applicable guidelines and policies, and a description of the public consultation requirements such as the submission period, and locations the EIS will be available for viewing.

Examples of NT EPA TOR are also available on the NT EPA website.

# Part 1: Introduction

| Item | Information to be addressed in the TOR |
| --- | --- |
| *Overview* | Include a brief overview of the environmental impact process relevant to the proposal.  The draft TOR and associated statement of reasons (SOR) will be an attachment to the referral. There are relevant sections of the EP Regulations that will need to be referred to in the overview of the draft TOR to demonstrate which requirements are being met.  Some examples of statements that could provide a basis for the inclusion of such information are as follows (in blue, italics font): |
| *Background* | The proposal will have already been described in the referral and associated documentation. Include in the background section of the draft TOR a very brief description of the proposal. Whilst the referral form submitted will include this information, given that the draft TOR are a standalone document throughout the assessment process, a brief description of one to two sentences here is also required. List key components of the proposal as dot points, such as:   * construction activities include - (provide a brief description of construction activities) * infrastructure and activities for operation of the action * rehabilitation, decommissioning and closure activities. |
| *Assessment under bilateral agreement or accredited assessment process (as relevant)* | Approval under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) is required for an action which has, will have, or is likely to have, a significant impact on a matter of national environmental significance, or a significant impact on the environment on Commonwealth land.  If the proposal has been, or is likely to be, referred to the Australian Government, include as much information as is available on the assessment approach in this section of the draft TOR. For example, if the Australian Government Minister has determined (or is likely to determine) that the proposal is, or is not, a controlled action for matters protected under the EPBC Act, include the relevant EPBC referral number (where relevant) in the draft TOR and details of the decision as to whether the proposal does or does not require further assessment and approval under the EPBC Act before it can proceed.  If the NT EPA assesses the proposal under a Bilateral Agreement between the Australian and Northern Territory governments in accordance with section 45 of the *Environment Protection and Biodiversity Conservation Act 1999* (or as an accredited process), the TOR will need to include:   * required work to address the potential impacts on MNES under the relevant key environmental factor and explain how the proponent has adequately regarded the conservation advices of each EPBC listed species (for example) that is likely to impacted, that the project is not inconsistent with any Threat Abatement Plans, Bioregional Plans or Recovery Plans * a separate section that consolidates Australian Government requirements the relevant MNES for the proposal (refer to EPBC Act guidance on the Australian Department of Agriculture, Water and the Environment (DAWE)). |
| *Assessment timeline* | The proponent will need to set out a proposed assessment timeline for the proposal. Prior discussions with DEPWS staff would be an advantage before submitting your referral. Table 1 provides an indicative example. |

**Table 1 Assessment timeline**

| **Key assessment milestones** | **Proposed / Completion date** |
| --- | --- |
| Proponent submits the referral for a proponent initiated EIS with draft TOR and SOR | *date* |
| NT EPA accepts the proponent initiated EIS referral with draft TOR and SOR | *date (15 days after referral submission)* |
| Consultation period commences on proponent initiated EIS referral with draft TOR | *date* |
| Close of public consultation period | *date (30 days after consultation commences)* |
| NT EPA decides assessment method and approves terms of reference | *date (35 days after consultation closes)* |
| Draft EIS submitted to the NT EPA | *date* |
| Public and government authority consultation period | *date (30 – 60 days)* |
| Direction to prepare supplement issued (if required) | *date (25 days after consultation closes)* |
| Supplement submitted | *date* |
| Public and government authority consultation period | *date (15 days)* |
| Assessment report provided to Minister | *date (45 days after consultation closes)* |
| NT Minister’s approval decision | *date* |

# Part 2: TOR for the draft EIS

| Item | Information to be addressed in the TOR |
| --- | --- |
| *Summary* | A summary of the draft EIS is required to provide a clear and concise overview of the proposal, its environmental implications, the approvals process and the function of the EIS in the context of the approvals process.  Write the summary as a stand-alone document, able to be provided on request to interested parties who may not wish to read the full EIS.  Address the site selection process, existing environment including location of the nearest sensitive receptors, the proposed activities, a summary of the potential environmental impacts of the proposal, measures to avoid, mitigate and, if applicable, offset potential impacts, and closure outcomes and the intended future use of the site. |
| *Proposal description and overview* | Provide a clear description of the proposal and the full scope of works for which approval is sought. Include in the proposal description:   * a summary table listing the key physical components of the proposal * maps, figures, images, diagrams and flow charts * any variations or modifications to the proposal since the referral information was submitted * where there is uncertainty in the detailed design, footprint, capacity or life of the proposal, clearly explain the approach to resolving this uncertainty and the provide the maximum extent or range for each parameter. |
| *Construction and Operation* | The TOR will require a detailed description of all construction and operation aspects of the proposal to be provided in the draft EIS. Table 2 below provides an example of the minimum information requirements to be included as part of the matters to be addressed in the draft EIS. |
| *Rehabilitation and Closure* | Provide details of information required in the EIS for the proposed decommissioning, closure and rehabilitation of the proposal, with consideration of section 42 of the EP Act (Purpose of environmental impact assessment) and the need to ensure that the potential for actions to enhance or restore environmental quality through restoration or rehabilitation is identified and provided for to the extent practicable. |
| *Environmental Factors and Objectives* | Proponents will need to identify the key environmental factors for the EIS that need to be addressed during the assessment. Further information can be found in the guidance document [NT EPA Environmental factors and objectives](https://ntepa.nt.gov.au/__data/assets/pdf_file/0020/804602/guide-ntepa-environmental-factors-objectives.pdf).  Sufficient information will be needed to enable assessment of whether the proposal is likely to meet the NT EPA’s objective so that environmental values are protected.  The proposal footprint (direct disturbance) and area of influence (indirect disturbance) are to be delineated/defined to identify the environmental factors and environmental values and sensitivities that could be impacted by implementation of the proposal.  Table 3 below provides an example of how the proposed structure for an environmental factor/objective could be included in the proposed proponent initiated EIS TOR. Proponents would need to repeat this approach and include as many environmental factors/objectives as relevant.  Consider potentially significant environmental impacts associated with normal operations, abnormal operations, unplanned shutdowns of part or all of the operations, and emergency shutdowns of part or all of the operations.  If additional potential environmental impacts are identified during the environmental impact assessment process, include assessment of those additional impacts in the draft EIS, even if this requires addressing additional environmental factors not specified in the NT EPA’s statement of reasons for the accepted referral decision.  The TOR requires the following information for each of the key environmental factors to be included:   * The NT EPA’s environmental objective or Minister’s declared environmental objective[[1]](#footnote-1) * Environmental values relevant to the factor * Potential impacts and risks – any change to the environment, whether adverse or beneficial, resulting from the proposal (direct, indirect and cumulative impacts at a local and regional scale) * Specific information that will be required in the draft EIS to assess the environmental impacts for that factor, with tasks written in sequential numerical order according to the following, where relevant:   + characterise the environment relating to that factor (e.g. type of surveys, baseline data collection etc.)   + describe elements of the proposal which affect the environment (e.g. temporary construction versus operation, impacts/pressures from the proposal etc.)   + predict inherent and residual impacts before and after applying the environmental decision-making hierarchy   + describe proposed monitoring and management (in terms of the environmental decision-making hierarchy) to achieve predicted outcomes/objectives   + describe proposed monitoring and reporting   + provide a statement of residual impact   + identify offsets, if appropriate, if a significant residual impact may remain after applying the environmental decision-making hierarchy   Consider the specific information requirement such as:   * undertaking technical studies and investigations, and provide associated reports and data packages * developing spatial information * developing environmental management plans for proposed monitoring and management * undertaking a peer review of the scope, methodologies, findings and/or conclusions of surveys, investigations, monitoring programs, modelling and/or other information * relevant policy and guidance (list the policy and guidance applicable to the EIS) |

**Table 2 Minimum information requirements for the proposal description**

| **Topic** | **Required information** |
| --- | --- |
| *Site layout maps* | Include in the proposal description, detailed maps and graphic illustrations of:   * the location and dimensions of existing disturbance, infrastructure and roads/tracks, and natural and modified landforms (including a depiction of these overlaid on aerial photos or high resolution satellite imagery) * the location and approximate dimensions of areas to be disturbed, structures to be built or repurposed for the proposal including (as relevant):   + all areas to be cleared[[2]](#footnote-2) or disturbed   + roads and service infrastructure   + stormwater and drainage infrastructure   + buildings and structures   + temporary stockpiles   + waste storage facilities * the proposal layout overlain with the environmental values and existing infrastructure * the boundaries of the proponent’s private property, mineral lease(s); any overlapping or adjacent permits (mineral, petroleum or other); and any other interests in land including Native Title (claims or determined), Aboriginal freehold land, and pastoral land. |
| *Design* | Describe design options considered, reasons for selection and how the proposed design avoids and/or mitigates environmental constraints and potential impacts and risks to the surrounding environment. Outline and justify any trade-offs in the design.  Describe how the proposal has been designed, or allows for, adaptation to a changing climate e.g. capacity and efficiency of water facilities to allow for potential increase in evaporation and/or large rainfall events |
| *Construction and operation* | Describe all elements of the construction phase including:   * construction methods and any limitation of these in the area of the proposal * equipment and machinery required * construction materials required – major types, quantities, qualities, sources, storage requirements and potential hazards * timeframes * any new ancillary infrastructure and upgrades required to service the proposal, including supply of electricity, water, sewerage and road access * environmental management of all aspects of the proposed construction with detailed maps and diagrams where relevant, including:   + erosion and sediment control and stormwater drainage   + dust management * water demand, use and management * biosecurity * waste classification[[3]](#footnote-3) and management, including containment and disposal of contaminated wastewater and solids with details of pits, bunds, treatment and recycling * noise and vibration management * controls to prevent creation of biting insects habitat * applicable legislation, guidelines and standards * any feasible construction alternatives (where multiple alternatives exist, clearly explain the choice of the preferred option(s), and provide a comparison against other options in terms of potential environmental impacts).   Describe environmental management of all aspects of the proposed operation with detailed maps, diagrams and facility design specifications and standards where relevant, including:   * erosion and sediment control * water requirements * water management including stormwater drainage * biosecurity measures * waste management * air quality management * ongoing maintenance of components and servicing infrastructure * noise management (above and underwater) * applicable legislation, guidelines, and standards * (where multiple alternatives exist, clearly explain the choice of the preferred option(s), and provide a comparison against other options in terms of potential environmental impacts. |
| *Transport and traffic* | Describe transport activities during construction and operation, including but not limited to:   * type, size, draft, number and frequency of vessels and hours of operation, if applicable * details on access, haulage/transport routes, vehicle types, and volumes of traffic. |
| *Energy* | Provide relevant information with respect to energy during construction and operation, including but not limited to:   * energy requirements and sources * consideration of renewable sources of energy and justification of selected option * estimate of greenhouse gas emissions (scope 1 and 2)[[4]](#footnote-4) * measures and or initiatives to maximise energy efficiency and avoid and/or reduce greenhouse gas emissions, particularly relating to source and consumption of energy, and consistent with the NT Government’s target of achieving net zero greenhouse gas emissions by 2050 (NT Government 2019). |
| *Workforce* | Provide a summary for each phase of the proposal, of the:   * estimated number of people to be employed * skills base required * likely sources (local, regional, overseas) * onsite facilities provided (including any accommodation). |

**Table 3: Minimum information required for assessment of** *Relevant environmental factor 1*

| **Aspect** | **Specific information required** |
| --- | --- |
| *(State factor objective here)* | |
| *Environmental values* | * List environmental values * the outcomes of geotechnical investigations and surveys of the area of influence and an assessment of the site’s suitability * water quality (chemical, physical and biological) of the proposal footprint (surveyed baseline), area of influence including temporal and spatial variations and reference to the metric by which water quality is measured * water quality objectives and declared beneficial uses * the physical and chemical characteristics within the proposal footprint and area of influence (surveyed baseline) |
| *Potential impacts and risks* | Utilise surveys and field-verified modelling to determine the areas that could feasibly experience impacts associated with the proposed activities. This is to take into account (list relevant matters for consideration). Classify the areas as:   * Areas of impact – or direct disturbance footprint (proposal footprint). These are the areas of proposed infrastructure, vegetation clearing and direct use * Areas of influence – or indirect disturbance footprint. These are surrounding areas that may be indirectly affected by proposed activities, for example via the release of contaminants (air, water, land), changes to land, water etc.   Provide a detailed and comprehensive assessment of potential impacts, benefits and risks to (environmental factor) utilising modelling, geotechnical investigations, outcomes of investigations and other relevant information. As a minimum, the assessment will take into consideration:   * methods, equipment, timing and frequency * the likely scale, extent and fate of contaminants/pollutants/materials * other industries and proposals that may contribute to cumulative impacts of this proposal * environmental management requirements associated with seasonal weather, extreme weather conditions such as storms and cyclones for the 2, 10 and 100 year average recurrence interval events * details of containment, dewatering, settlement etc. * the physical and chemical characteristics of discharge * potential contaminants and sources   Take into account all construction and operation activities of the proposal in the assessment (list all relevant activities).  Identify potential impacts and risks to (environmental factor) and quantify their significance:   * against relevant guideline thresholds * on the beneficial uses, water quality objectives and identified environmental values * consider cumulative impacts and the reversibility of potential impacts in the assessment of each aspect. |
| *Mitigation and management* | Outline the measures for avoiding, mitigating, or offsetting adverse impacts identified above, with consideration of sections 26 (Environmental decision making hierarchy) and section 27 (Waste management hierarchy) of the EP Act. Also include here measures to enhance or restore environmental quality. Proposed measures need to be unambiguous, auditable and measurable.  These may be incorporated into management plans and address at a minimum*:*   * facility design and layout * water management, including stormwater and wastewater management * waste management including a detailed description of management methods for all types of wastes (including bilge water, and anti-foul materials removed from and/or added to boats) * dredging management * dredge spoil management * erosion and sediment control * acid sulfate soil management (if present)2 * emergency response management * compliance with any statutory or policy basis for the proposed measures.   Discuss adaptation to a changing climate including design and resultant viability of the proposal.  Substantiate all proposed mitigation measures in accordance with best practice, including advice from relevant Northern Territory Government advisory agencies. |
| *Monitoring and reporting* | Outline how the Proponent will monitor and report on potential impacts and risks to (environmental factor) as outlined above, including:   * e.g. water quality * e.g. sediment quality * e.g. spoil and spoil leachate, including acid sulfate soils * e.g. erosion and sediment * e.g. waste management, including antifoul removal, disposal and application.   Substantiate all monitoring activities in accordance with best practice advice from relevant Northern Territory Government advisory agencies. |
| *Residual impact* | Assess the significance of any residual impact or risk of the proposal to identified values. |
| *Offsets* | Where a significant residual impact may remain after applying the environmental decision-making hierarchy, identify offsets and describe how any proposed offset is consistent with the NT Offset Policy[[5]](#footnote-5) (and Australian Government offsets requirements were applicable). |

# Part 3: Other requirements

| Item | Information to be addressed in the TOR |
| --- | --- |
| Other environmental matters | Address relevant EPBC Act requirements (if the proposal is likely to be a controlled action and a bilateral or accredited assessment). |
| Stakeholder engagement and consultation | Proponents have a general duty under section 43 of the EP Act to provide communities that may be affected by a proposal, an opportunity for consultation to assist community understanding of the proposed action and its potential impacts and benefits.  Engage and consult with stakeholders[[6]](#footnote-6) who are affected by, and interested in, the proposal. Document the following in the EIS:   * identified stakeholders * the stakeholder consultation undertaken and the outcomes, including decision-making * agencies’ or authorities’ specific regulatory consultation * any adjustments to the proposal as a result of consultation * any future plans for consultation. |
| Public consultation requirements | The public consultation requirements for the draft TOR are outlined in Part 5 Division 5 of the EP Regulations. Additional specific details are provided below. Further information can be found in the guidance for proponents: [Stakeholder](https://ntepa.nt.gov.au/__data/assets/pdf_file/0005/884696/guidance-proponents-stakeholder-engagement-and-consultation.pdf) Engagement and Consultation.  The proponent will need to identify the submission period for the draft TOR/draft EIS. This may be adjusted following consultation with the Proponent. The proponent will also need to identify where the draft EIS will be published and the locations where it will be made available for public consultation. Include these locations:   * NT EPA, Level 1, Arnhemica House, 16 Parap Road, Parap, NT 0820 * Northern Territory Library, Parliament House, Darwin, NT 0800 * Environment Centre Northern Territory, Unit 3, 98 Woods St, Darwin, NT 0800.   Add additional locations that are relevant to the location of the proposal, as considered necessary, such as relevant Land Council offices. Further information can be found in the guidance for stakeholders[: Making a public submission during the environmental impact assessment process](https://ntepa.nt.gov.au/__data/assets/pdf_file/0008/815471/guidance-public-submissions-during-eia-process.pdf). |
| Appendix A – List of relevant guidance material | List guidance material as relevant to the proposed draft TOR and to inform preparation of the draft EIS, including but not limited to:   * NT EPA guidance * NT Government guidance * Commonwealth guidance * Guidance from other Australian jurisdictions * Best practice guidance * Industry guidance * Australian Standards * Codes of practice * Specifications. |

1. Note – there have been no environmental objectives declared by the Minister to date. [↑](#footnote-ref-1)
2. *In accordance with the NT Land Clearing Guidelines and/or requirements under the NT Planning Scheme.* [↑](#footnote-ref-2)
3. In accordance with NSW *Waste Classification Guidelines* [https://www.epa.nsw.gov.au/your‐](http://www.epa.nsw.gov.au/your) environment/waste/classifying‐waste/waste‐classification‐guidelines [↑](#footnote-ref-3)
4. Greenhouse Gas Protocol available at: <https://ghgprotocol.org/corporate-standard> [↑](#footnote-ref-4)
5. NT Offset Policy is currently in draft form and will be available on the [NT EPA website](http://www.ntepa.nt.gov.au) once finalised. [↑](#footnote-ref-5)
6. As defined in the NT EPA Guidance for Proponents - Stakeholder Engagement (NT EPA 2020) [↑](#footnote-ref-6)