

Fact Sheet 6: New timeframes for assessment and approval

Proposed timeframes in the draft environment protection legislation

Introduction

The Northern Territory is reviewing and reforming the current environmental regulatory system. Reforms are critical to achieving a robust regulatory system that the community will trust while encouraging industry investment and economic growth, and delivering improved environmental outcomes.

As part of these reforms, the Territory Government has made commitments to streamline processes, improve accountability and improve timeliness.

The draft environment protection legislation introduces timeframes for the majority of decisions made under the legislation. This paper provides an overview of the proposed timeframes in the new environmental impact assessment and approval system.

Table 1: Proposed timelines for environmental impact assessment and approvals

Section or Regulation	Action	Proposed timeframe	Existing timeframe
Referral processes			
s. 60 (1) (Bill)	A proponent must refer a proposed project that meets referral or approval trigger or has potential to have a significant impact on the environment to the NT EPA	Open – as the project is designed; before the project is implemented	Open – as the project is designed; before the project is implemented
r. 18 (regulations)	The NT EPA may request further information to enable the NT EPA to decide whether a referral should be accepted	Request must be made within 10 business days after the NT EPA receives the referral	Within 14 days of receiving a Notice of Intent (NOI)
r. 20 (1) (regulations)	NT EPA accepts or refuses to accept a referral for a standard assessment	Within 20 business days after the referral is made	N/A – NT EPA must consider a submitted NOI

Fact Sheet 6: New timeframes for assessment and approval

Section or Regulation	Action	Proposed timeframe	Existing timeframe
r. 20 (2) (regulations)	If the NT EPA does not make a decision to refuse or accept the referral within the required time, the referral is taken to be accepted	Within 20 business days after the referral is made	N/A – NT EPA must consider a submitted NOI
r. 26 (3) (regulations)	NT EPA publishes the accepted referral. In the case of an accepted proponent initiated EIS referral, the draft terms of reference is also published	Within 20 business days of acceptance of the referral	N/A – NOI is not published
r.26 (4) (regulations)	Accepted referral (and draft terms of reference for a proponent initiated EIS) open for public submissions to the NT EPA	Within the period specified in the notice requesting public submissions The submission period must be not less than 20 business days	N/A – NOI is not published
r.28 (regulations)	NT EPA makes a decision on whether environmental impact assessment is required or not and the method of assessment At this stage, the NT EPA can also recommend that the Minister refuse to give environmental approval if it is clearly unacceptable because it is likely to have significant impacts that cannot be appropriately avoided, mitigated or managed	Within 20 business days after the close of the public submission period	No current timeframe for decision on requirement for assessment of NOI
Assessment on referral information			
r. 114 and r. 119 (regulations)	The NT EPA must prepare an assessment report based on any referral information, information gained through the assessment process, any relevant environment protection policies, guidelines, standards, the NT EPA's own investigations and expertise, and any other information the NT EPA considers relevant	Within 30 business days of receiving the last information required to be provided to the NT EPA	N/A – assessment on referral information is not an existing assessment method

Fact Sheet 6: New timeframes for assessment and approval

Section or Regulation	Action	Proposed timeframe	Existing timeframe
r. 118 (regulations)	The NT EPA must give a copy of the draft assessment report, draft approval or draft statement of unacceptable impact to any relevant statutory decision-maker and the proponent and invite submissions	Within 30 business days of receiving the last information required to be provided to the NT EPA	N/A – not a statutory requirement
s. 88 (Bill)	The Minister must make a decision to grant or refuse an environmental approval	Within 30 business days of receiving the assessment report and draft approval	N/A – an environmental approval is not issued
Assessment by supplementary environmental report			
r. 57 (regulations)	Proponent prepares supplementary environmental report	Open – timeframe for submitting all required assessment documentation may be included in direction to prepare report	N/A – supplementary environmental report is not an existing assessment method
r. 59 (regulations)	Proponent publishes a notice of the supplementary environmental report inviting public submissions	Within the period specified in the notice requesting public submissions The submission period must be not less than 20 business days	N/A – supplementary environmental report is not an existing assessment method
r. 114 and r. 119 (regulations)	The NT EPA must prepare an assessment report based on any referral information, information gained through the assessment process, any relevant environment protection policies, guidelines, standards, the NT EPA's own investigations and expertise, and any other information the NT EPA considers relevant	Within 40 business days after of receiving the last information required to be provided to the NT EPA	Within 35 days of receiving Supplement or further information, whichever is later
r. 117 (regulations)	The NT EPA must give a copy of the draft assessment report, draft approval or draft statement of unacceptable impact to any relevant statutory decision-maker and the proponent and invite submissions	Within 40 business days after of receiving the last information required to be provided to the NT EPA	N/A – not a statutory requirement

Fact Sheet 6: New timeframes for assessment and approval

Section or Regulation	Action	Proposed timeframe	Existing timeframe
s. 88 (Bill)	The Minister must make a decision to grant or refuse an environmental approval	Within 40 business days of receiving the assessment report and draft approval	N/A – an environmental approval is not issued

Fact Sheet 6: New timeframes for assessment and approval

Section or Regulation	Action	Proposed timeframe	Existing timeframe
Assessment by environmental impact statement			
r. 66 and r. 67 (regulations)	NT EPA prepares and publishes the draft terms of reference (The NT EPA is not required to prepare terms of reference for an assessment if draft terms of reference were provided by the proponent and these were published by the NT EPA – see r. 65)	Within 30 business days after decision made about assessment method	No current timeframe for preparing draft terms of reference
r. 68 and r. 69 (regulations)	Draft terms of reference available for public comment and referred to government authorities	Within the period specified in the notice requesting public submissions The submission period must be not less than 20 business days	14 calendar days
r. 70 (regulations)	The NT EPA finalises and approves the terms of reference	Within 20 business days after the close of the public submission period	Within 14 calendar days
r. 85 (regulations)	Proponent prepares draft EIS in accordance with the terms of reference	Open – timeframe for submitting all required assessment documentation may be included in terms of reference	Open – timeframe for submitting all required assessment documentation may be included in terms of reference
r. 91 (regulations)	Proponent publishes a notice of the draft environmental impact statement inviting public submissions	Within the period specified in the notice requesting public submissions The submission period must be not less than 30 business days	Not less than 28 calendar days
r. 95 (regulations)	Proponent prepares supplement to the draft EIS	Open – timeframe for submitting all required assessment documentation may be included in terms of reference	Open – timeframe for submitting all required assessment documentation may be included in terms of reference

Fact Sheet 6: New timeframes for assessment and approval

Section or Regulation	Action	Proposed timeframe	Existing timeframe
r. 96 and r. 99 (regulations)	The proponent publishes the supplement and the NT EPA must consult with government authorities and invite any person who made a genuine and valid submission for the draft EIS to make a submission on the supplement	For the period specified in the notice requesting public submissions The submission period must be not less than 20 business days	N/A – supplement is not published until completion of assessment and no submissions invited on supplement
r. 102 (regulations)	The NT EPA may direct the proponent to provide further information the NT EPA considers necessary to facilitate consideration of the EIS	The direction must be given not later than 30 business days after the completion of the EIS (receipt of the supplement)	Within 21 calendar days of receiving the supplement
r. 114 and r. 119 (regulations)	The NT EPA must prepare an assessment report based on any referral information, information gained through the assessment process, any relevant environment protection policies, guidelines, standards, the NT EPA's own investigations and expertise, and any other information the NT EPA considers relevant	Within 40 business days after of receiving the last information required to be provided to the NT EPA	Within 35 days of receiving Supplement or further information, whichever is later
r. 117 (regulations)	The NT EPA must give a copy of the draft assessment report, draft approval or draft statement of unacceptable impact to any relevant statutory decision-maker and the proponent and invite submissions	Within 40 business days after of receiving the last information required to be provided to the NT EPA	N/A – not a statutory requirement
r. 119 (regulations)	The NT EPA must give assessment report and draft approval to the Minister and the proponent within the required period	Within 40 business days after receipt of the NT EPA of the last information required to be provided to the NT EPA	Within 35 days of Supplement or further information receipt
s. 88 (Bill)	The Minister must make a decision to grant or refuse an environmental approval	Within 40 business days of receiving the assessment report and draft approval	N/A – an environmental approval is not issued

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Section or Regulation	Action	Proposed timeframe	Existing timeframe
Assessment by inquiry			
r. 67 (regulations)	NT EPA prepares the draft terms of reference	Within 30 business days after decision made about assessment method	No defined process for conducting an inquiry under the <i>Inquiries Act</i>
r. 68 (regulations)	Draft terms of reference available for public comment and referred to government authorities	Within the period specified in the notice requesting public submissions The submission period must be not less than 20 business days	No defined process for conducting an inquiry under the <i>Inquiries Act</i>
r. 70 (regulations)	The NT EPA finalises and approves the terms of reference	Within 20 business days after the close of the public submission period	No defined process for conducting an inquiry under the <i>Inquiries Act</i>
r. 110 (regulations)	For assessment by inquiry: An inquiry report is to be prepared	Within the period specified in the terms of reference	No defined process for conducting an inquiry under the <i>Inquiries Act</i>
r. 114 and r. 119 (regulations)	The NT EPA must prepare an assessment report based on any referral information, information gained through the assessment process, any relevant environment protection policies, guidelines, standards, the NT EPA's own investigations and expertise, and any other information the NT EPA considers relevant	Within 40 business days after of receiving the last information required to be provided to the NT EPA	No clear process linking inquiry report to assessment report
r. 117 (regulations)	The NT EPA must give a copy of the draft assessment report, draft approval or draft statement of unacceptable impact to any relevant statutory decision-maker and the proponent and invite submissions	Within 40 business days after of receiving the last information required to be provided to the NT EPA	N/A – not a statutory requirement
r. 119 (regulations)	The NT EPA must give assessment report and draft approval to the Minister and the proponent within the required period	Within 40 business days after receipt of the NT EPA of the last information required to be provided to the NT EPA	Within 35 days of Supplement or further information receipt

Fact Sheet 6: New timeframes for assessment and approval

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s. 79 (Bill)	The Minister must make a decision to grant or refuse an environmental approval	Within 40 business days of receiving the assessment report and draft approval	N/A - an environmental approval is not issued
Other matters related to assessments			
r. 36 (regulations)	The NT EPA may request the Minister give an 'early refusal'. The early refusal is based on the potential for unacceptable environmental impact following consideration of the referral.	If this recommendation is accepted, the proponent may not submit substantially the same project to the NT EPA for consideration for a period of 12 months.	N/A – no early refusal provisions
r. 46 (regulations)	The NT EPA may request information from a proponent required to assist the assessment process. The information must be published. If the NT EPA considers it appropriate, the NT EPA may invite submissions on the information	Within the period specified in the notice requesting public submissions The submission period must be not less than 20 business days	Additional information requests prior to a determination that an EIS is required are not subject to timeframes; an additional information request following receipt of a supplement must be made within 21 calendar days
r. 33 (regulations)	The NT EPA may recommend to the Minister that a strategic assessment is conducted	The Minister must make a decision within 20 business days after receiving the recommendation	N/A – no current capacity to conduct strategic assessments

Fact Sheet 6: New timeframes for assessment and approval

Section or Regulation	Action	Proposed timeframe	Existing timeframe
r. 37 (regulations)	<p>Having considered the referral information, the NT EPA may recommend that the Minister refuse an approval for a proposed action</p> <p>The Minister may:</p> <p>(a) agree with the recommendation and decide to refuse to grant environmental approval for the proposed action;</p> <p>or</p> <p>(b) direct the NT EPA to carry out an assessment of the proposed action</p>	The Minister must make a decision within 20 business days after receiving the recommendation	N/A – no current capacity to give an ‘early refusal’

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Section or Regulation	Action	Proposed timeframe	Existing timeframe
Matters related to variations			
s. 60 (Bill)	A proponent must submit notice of a proposed variation of an action to the NT EPA	Open – as the variation is designed; before the variation is implemented	Open – as the variation is designed; before the variation is implemented
r. 140, r. 160 and r. 170 (regulations)	The NT EPA must publish a notice in relation to the notice of variation. The notice must: invite interested persons to make submissions to the NT EPA in relation to the variation within the period specified in the notice.	Within the period specified in the notice requesting public submissions The submission period must be not less than 20 business days	N/A – variation notices are not published
r.143 (regulations)	The NT EPA must determine what assessment or approval (if any) is required in relation to the variation	Within 20 business days after the close of the public submission period	N/A – variation notices are not published
Matters related to environmental approvals			
s. 91 (Bill)	Application to extend the validity period for an environmental approval An environmental approval relating to an action expires if the approval holder does not take a required step or steps specified in the approval in relation to the action within the time specified in the approval or that time as extended by the Minister on an application	An application for an extension of time must be made not later than 30 days before the date of expiry of the approval	N/A
s.98 (Bill)	Requirement for an approval holder to 'show cause' why an environmental approval should not be suspended or revoked	The date specified must be not less than 28 business days after the date of the notice	N/A