

Regulatory Framework 2



CONTENTS

2	Regulatory Framework	2-1
2.1	Introduction	2-1
2.2	Existing Project Approvals	2-1
2.3	Key Environmental Approvals	2-1
2.3.1	Commonwealth EPBC Act	2-2
2.3.2	Northern Territory Environmental Assessment Act	2-2
2.3.3	Northern Territory Mining Management Act	2-3
2.3.4	Process for Obtaining Key Environmental Approvals	2-3
2.4	Secondary Environmental Approvals	2-5
2.5	Other Approvals	2-9
2.5.1	Overview	2-9
2.5.2	Minerals Titles Act	2-10
2.5.3	Aboriginal Land Rights Act	2-10
2.5.4	Northern Territory Aboriginal Sacred Sites Act	2-10

Tables

Table 2-1	Key Project Approvals
Table 2-2	Other Relevant Environmental Legislation

Figures

Figure 2-1	Project Approval Process
------------	--------------------------

2 REGULATORY FRAMEWORK

2.1 INTRODUCTION

This section describes the regulatory framework relevant to the Eastern Leases Project (the project). It describes the existing approvals that are in place for exploration activities currently being undertaken on the project site (Section 2.2). It also describes the key environmental approvals (Section 2.3) and secondary environmental approvals (Section 2.4) that are required before project mining activities can commence.

Section 2.5 describes legislation related to mineral tenements, as well as approvals required because of the project's location on Aboriginal land. The approvals described in Section 2.5 are not environmental approvals and are only described to provide context to sections of the Environmental Impact Statement (EIS) that relate to these approvals.

2.2 EXISTING PROJECT APPROVALS

The following approvals are currently in place for exploration activities that are being undertaken on the project site:

- Exploration Licences in Retention (ELR 28161, and ELR 28162). These ELRs provide the proponent with approval to conduct exploration activities in accordance with the provisions of the NT *Mineral Titles Act*. (Mining tenements are discussed further in Section 3 – Project Description).
- Authorisation under the NT *Mining Management Act*. In accordance with the authorisation from the NT Government (authorisation number 0126-01), the proponent is authorised to undertake mining activities on the Eastern Leases in accordance with the provisions of the *Mining Management Act*.

The following Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) referrals have been made with regard to activities on the project site:

- EPBC 2008/4563 – Eastern Leases Manganese Exploration Drilling and EPBC 2013/6848 – Eastern Leases 2013 Exploration Drilling Program. The referral decision for both of these referrals was “Not a controlled action if undertaken in a particular manner”. The particulars of these referrals relate to sections 18 and 18a of the EPBC Act. The referrals describe the various management measures that are in place to prevent significant impacts on threatened species as a result of exploration activities. The referral decisions require that exploration be undertaken in accordance with these measures.
- EPBC 2010/5455 – Eastern Leases 2010 Exploration Drilling Program. The referral decision was “Not a controlled action”.

2.3 KEY ENVIRONMENTAL APPROVALS

This section describes the key environmental approvals required to be obtained prior to the commencement of the project (Table 2-1). It includes a summary of the legislation under which each approval is required (Section 2.3.1 to Section 2.3.3).

Table 2-1 Key Project Approvals

APPROVAL	LEGISLATION	ADMINISTERING AUTHORITY	EIS SECTION REFERENCE
EPBC Act Approval	Commonwealth EPBC Act	Federal Department of the Environment (DotE)	Section 2.3.1
Environmental Assessment Report	NT <i>Environmental Assessment Act</i> (EA Act) and <i>Environmental Assessment Administrative Procedures</i> (EAA Procedures)	NT Environment Protection Authority (NT EPA)	Section 2.3.2
Authorisation under the <i>Mining Management Act</i>	NT <i>Mining Management Act</i>	NT Department of Mines and Energy (DME)	Section 2.3.3

2.3.1 Commonwealth EPBC Act

The EPBC Act prescribes the Federal government's role in environmental assessment, biodiversity conservation and the management of protected Matters of National Environmental Significance (MNES). DotE is the administering authority for the EPBC Act.

The EPBC Act provides a mechanism for national environmental protection and biodiversity conservation. Biodiversity conservation is promoted by providing protection for MNES, including:

- Listed threatened species and communities and migratory species;
- Protected areas (e.g. world heritage properties, wetlands of international importance [Ramsar wetlands], conservation zones); and
- Indigenous heritage protected at a Federal level.

Actions that are likely to have a significant impact on a MNES are subject to a rigorous assessment and approvals process. On 23 June 2014 DotE accredited the NT environmental assessment process for the purposes of this project. This allows the NT's environmental assessment process to be used for the EPBC Act assessment.

2.3.2 Northern Territory Environmental Assessment Act

The EA Act and associated Administrative Procedures establish a framework for assessing potential environmental impacts of development projects. It allows for varying levels of environmental assessment, depending on the scale and complexity of the project and the potential for environmental impacts. The NT EPA is the administering authority for the EA Act.

The environmental assessment process provides for two levels of assessment for projects that have the potential to give rise to significant impacts:

- Public Environmental Report (PER) – for projects with potential impacts that are likely to be limited in number and extent; or
- EIS – for projects with potentially more significant impacts.

The environmental assessment process concludes with an Environmental Assessment Report being issued for a project by the NT EPA. An Environmental Assessment Report contains recommendations for the management of environmental issues. The process for obtaining Authorisation for the project under the *Mining Management Act* (Section 2.3.3) cannot commence until the Environmental Assessment Report has been issued.

The NT EPA is the administering authority for the environmental assessment process under the EA Act. The NT EPA is an independent corporation, with decisions made by a board and chairperson.

The NT EPA has produced a number of documents that provide guidance on the environmental assessment process, including:

- *Guidelines for Consultants Reporting on Environmental Issues* (NT EPA, 2013c);
- *Guidelines for the Preparation of an Economic and Social Impact Assessment (Version 2)* (NT EPA, 2013d);
- *Guidelines for Assessment of Impacts on Terrestrial Biodiversity* (NT EPA, 2013b); and
- *Guidelines on Environmental Offsets and Associated Approval Conditions* (NT EPA, 2013e).

These guidelines were reviewed and considered as part of the development of this EIS.

2.3.3 Northern Territory Mining Management Act

The *Mining Management Act* was established to ensure the development of the NT's mineral resources in accordance with environmental standards consistent with best practice in the mining industry (*Mining Management Act*, Section 3(a)). The *Mining Management Act* aims to protect the environment by establishing a system whereby mining activities that will result in a substantial disturbance of the ground require an Authorisation. The *Mining Management Act* is administered by the DME.

An application for Authorisation under the *Mining Management Act* can only be made once the environmental assessment process under the EA Act has concluded (i.e. the Environmental Assessment Report has been issued). The DME will take into account any recommendations contained in the Environmental Assessment Report when it assesses the application for Authorisation under the *Mining Management Act*.

The *Mining Management Act* also establishes a system whereby operators of mines are required to implement and maintain a management system for the site (as described in a Mining Management Plan). The Mining Management Plan describes the environmental management structure, environmental commitments, monitoring programs, rehabilitation and closure planning. The *Mining Management Act* also requires payment of security to provide for the rehabilitation of Mineral Leases or to rectify environmental harm caused by mining activities.

2.3.4 Process for Obtaining Key Environmental Approvals

This EIS is the key document supporting approval under the EPBC Act and EA Act.

The main steps involved in obtaining these environmental approvals for the project are described below and are illustrated in Figure 2-1.

Step 1 – Preliminary Planning

An integrated multi-disciplinary approach to mine planning, informed by an environmental risk assessment process, was undertaken. Environmental investigations were undertaken as part of this planning process. Preliminary investigations in surface water, groundwater, ecology and archaeology were undertaken in order to guide project design.

Step 2 – Notice of Intent

The NT EIS statutory process was initiated when the proponent submitted a Notice of Intent (NOI) to the NT EPA. The NOI provided high level information about the project, the baseline environment, potential project impacts and environmental management strategies. The NOI was used by the NT EPA to determine the level of environmental assessment required for the project, as well as to guide the preparation of draft EIS Terms of Reference (TOR) by the NT EPA.

The proponent lodged an NOI with the NT EPA on 6 May 2014.

Step 3 – Assessment Method Decision

The NT EPA determined on 19 June 2014 that an EIS was required for the project. This is the most comprehensive level of assessment available under the environmental assessment process.

Step 4 – EPBC Act Controlled Action Decision

The proponent referred the project to DotE under the EPBC Act (EPBC referral number 2014/7228) and it was determined to be a controlled action on 23 June 2014.

The controlling provisions are potential impacts on listed threatened species and communities (sections 18 and 18a) and migratory species (sections 20 and 20a). DotE indicated that it would make use of the NT EIS assessment process in assessing the project. Impacts on the controlling provisions are discussed in Section 7 – Terrestrial Ecology and Section 8 – Aquatic Ecology.

Step 5 – EIS Terms of Reference

The EIS TOR describes the required content of the EIS and the level of assessment required for various specialist studies (i.e. more comprehensive studies are required for high risk environmental areas).

The NT EPA prepared a draft TOR and placed it on public exhibition from the 30 August 2014 until 12 September 2014. The final TOR was issued to the proponent on 22 September 2014.

The NT EPA took into account stakeholder comments, including comments from DotE, in finalising the EIS TOR. The Anindilyakwa Land Council (ALC) also provided comprehensive comments on the EIS TOR and a copy of these comments is provided in Section 24 – Guide to the Terms of Reference.

Step 6 – EIS Preparation

The Draft EIS was prepared following the completion of baseline field and desktop studies, environmental input into project planning, and consideration of potential impacts and mitigation measures. The members of the EIS team and their experience are detailed in Section 23 – EIS Study Team. The Draft EIS has been prepared in accordance with the requirements of the EA Act and the EIS TOR. It also considers issues and feedback from the consultation program undertaken as part of the EIS process.

Studies were undertaken in the following areas:

- Geochemistry;
- Soils;
- Ecology (terrestrial and aquatic);
- Groundwater;
- Surface water;
- Air quality;
- Noise;
- Visual amenity;
- Socio-economics; and
- Archaeology.

Step 7 – Lodge the Draft EIS

The Draft EIS was lodged with the NT EPA in May 2015.

Step 8 – Public Exhibition of the Draft EIS

The EIS will be placed on public exhibition for a period of six weeks. Government agencies and the public can make submissions on the EIS during public exhibition period. DotE will also review the Draft EIS during the public exhibition period and provide a submission on the Draft EIS to the NT EPA. DotE's submission will relate to MNES.

Step 9 – Preparation of the Supplement to the EIS

Submissions received on the Draft EIS will be provided to the proponent by the NT EPA. The proponent will then prepare a Supplement to the EIS addressing the submissions. The Supplement to the EIS will be submitted to the NT EPA.

Step 10 – Preparation of the Environmental Assessment Report

The NT EPA will assess the EIS (including the Draft EIS, the Supplement to the EIS and any further information) and will produce an Environmental Assessment Report, which will be provided to the proponent, the DME and DotE. The Environmental Assessment Report will contain recommendations to ensure any project-related environmental risks are able to be managed. The NT EPA will place a newspaper advertisement to advise of the completion of its examination of the EIS and the availability of the Environmental Assessment Report.

Step 11 – Assessment under the EPBC Act

The NT EPA will provide the Environmental Assessment Report to DotE for its consideration of issues related to the EPBC Act approval. DotE will make a decision on approval within 30 business days of receiving the Environmental Assessment Report. Conditions will be imposed as part of the EPBC Act approval to ensure that the project will not have unacceptable impacts on MNES. Conditions may include requirements in relation to monitoring, record-keeping, regular reporting to DotE, notification of any non-compliances, and a provision for the regulator to require an independent audit to be undertaken.

Step 12 – Authorisation under the Mining Management Act

Once the Environmental Assessment Report has been issued, the proponent may lodge an application to the DME for Authorisation under the *Mining Management Act*. The application must be accompanied by a Mining Management Plan for the project. The Mining Management Plan is required to reflect any recommendations arising from the Environmental Assessment Report. The DME will process the application for Authorisation under the *Mining Management Act* once the Mineral Leases for the project have been granted (Section 2.5.2). Similar to the EPBC Act approval, the Authorisation may include requirements in relation to monitoring, reporting and notification of non-compliances.

2.4 SECONDARY ENVIRONMENTAL APPROVALS

Other environmental legislation and approvals relevant to the project are summarised in Table 2-2 with a reference to sections of the EIS that provide further detail.

Table 2-2 Other Relevant Environmental Legislation

LEGISLATION	ADMINISTERING AUTHORITY	INTENT OF LEGISLATION	RELEVANCE TO EASTERN LEASES PROJECT	EIS SECTION REFERENCE
<i>Bushfires Act</i>	Department of Land Resource Management – Bushfires NT	The <i>Bushfires Act</i> relates to the prevention and suppression of bushfires and outlines when permits are required for the lighting of fires.	As the project site is not located within a prescribed fire protection zone, fire breaks and permits to burn are not required. However, a fire danger period may be declared over parts of the NT. In the event of such a declaration applying to the project site, the proponent would ensure that a permit under the <i>Bushfires Act</i> is obtained prior to conducting controlled burns.	-
<i>Fisheries Act</i>	NT Department of Primary Industry and Fisheries	The <i>Fisheries Act</i> provides for the protection, conservation and management of fish, fish habitat and aquatic life in the NT. The purpose of the <i>Fisheries Act</i> is to maintain the sustainable utilisation of fisheries and fishery resources, to regulate the sale and processing of fish and aquatic life, and for related purposes. This includes overseeing licensing, permits, and offences related to fisheries.	There are no activities proposed to be undertaken on the project site that would require a licence or permit to be obtained under the <i>Fisheries Act</i> , and no approvals under this Act are required for the project.	-
<i>Marine Pollution Act</i>	Department of Transport – Marine Safety Branch; and the NT EPA	The purpose of the <i>Marine Pollution Act</i> is to protect the marine and coastal environment by minimising intentional and negligent discharges of ship-sourced pollutants into coastal waters. The <i>Marine Pollution Act</i> applies to all vessels in NT waters.	Manganese concentrate from the project will be shipped via the proponent's existing port. No changes to the port or shipping arrangements are required as a result of the project. Current shipping arrangements are required to comply with the <i>Marine Pollution Act</i> and the project would not give rise to any changes to these requirements.	-

LEGISLATION	ADMINISTERING AUTHORITY	INTENT OF LEGISLATION	RELEVANCE TO EASTERN LEASES PROJECT	EIS SECTION REFERENCE
<i>Heritage Act</i>	NT Department of Lands, Planning and the Environment (DLPE) – Heritage Branch	<p>The Heritage Act provides protection for the following two classes of cultural heritage:</p> <ul style="list-style-type: none"> ■ All places and objects formally assessed and added to the NT Heritage Register; and ■ All Aboriginal and Macassan places and objects (whether previously documented or not), as listed in the Aboriginal and Macassan Sites Database. 	It is a requirement of the Heritage Act that a Work Approval be obtained from DLPE prior to any disturbance of a heritage place or object as declared or protected under this Act.	Section 16 – Archaeology
<i>Public and Environmental Health Act, and Public and Environmental Health Regulations</i>	Department of Health	The <i>Public and Environmental Health Act</i> includes the objective to monitor, assess and control environmental conditions, factors and agents, facilities and equipment and activities, services and products that impact on or may impact on public and environmental health.	<p>The project will make use of the proponent's existing accommodation facilities (including food preparation facilities and potable water sources). No changes to these facilities are required as a result of the project and the project does not involve the construction of any water or sewage treatment facilities.</p> <p>The proponent's existing facilities are required to comply with the <i>Public and Environmental Health Act</i> and the project would not give rise to any changes to these requirements.</p>	-
<i>Radiation Protection Act</i>	Department of Health – Radiation Protection	The <i>Radiation Protection Act</i> aims to ensure the health and safety of people and their environment by protecting them from harmful effects of radiation. This protection is achieved through legislation that authorises the sale, acquisition, possession, use, storage, transport and disposal of radioactive materials and radiation apparatus.	There will be no sources of radiation or radioactive materials used on the project site.	-

LEGISLATION	ADMINISTERING AUTHORITY	INTENT OF LEGISLATION	RELEVANCE TO EASTERN LEASES PROJECT	EIS SECTION REFERENCE
<i>Territory Parks and Wildlife Conservation Act</i> (TPWC Act)	Parks and Wildlife Commission NT	The TPWC Act provides for the declaration of land to be a sanctuary, park, reserve or protected area by the Administrator. The Act also provides for the protection of animals and plants and the preparation of management plans for parks and reserves.	<p>A permit to take or interfere with protected wildlife is required under the TPWC Act, prior to undertaking any fauna surveys. As detailed in the <i>Terrestrial Ecology Report</i> (Appendix C) and the <i>Aquatic Ecology Report</i> (Appendix D), the necessary permits were obtained prior to the EIS field surveys being undertaken.</p> <p>No permits are required under this Act for clearing associated with the project, given that the project will be authorised under the <i>Mining Management Act</i>.</p>	Section 7 – Terrestrial Ecology
<i>Waste Management and Pollution Control Act</i>	Department of Health	The <i>Waste Management and Pollution Control Act</i> provides for the protection of the environment through the encouragement of effective waste management, pollution prevention and control practices. Activities listed in Schedule 2 of the Act require an Environmental Protection Approval or an Environmental Protection License under the Act.	<p>The proponent operates a waste disposal facility on Groote Eylandt in accordance with an Environmental Protection License (EPL08-04) issued under the <i>Waste Management and Pollution Control Act</i>.</p> <p>Project wastes will be disposed of in accordance with current practices and no changes to the facility are required as a result of the project.</p>	Section 17 – Non-mining Waste
<i>Water Act</i>	Department of Land Resource Management – Water Resources Division	The <i>Water Act</i> provides the legislative framework for water planning and entitlements for most water resources in the NT. The <i>Water Act</i> also provides for the investigation, allocation, use, control, protection, management and administration of surface water and groundwater resources.	The water licensing provisions of the <i>Water Act</i> do not apply to the take of water for mining operations or the discharge of water within mining tenements, given that these activities are authorised under the <i>Mining Management Act</i> .	Section 9 – Groundwater; Section 10 – Surface Water

LEGISLATION	ADMINISTERING AUTHORITY	INTENT OF LEGISLATION	RELEVANCE TO EASTERN LEASES PROJECT	EIS SECTION REFERENCE
<i>Weeds Management Act</i> (WM Act)	Department of Land Resource Management – Weed Management Branch	The WM Act aims to protect the NT from the adverse impacts of weeds and identifies the responsibilities of all landholders in relation to the management of declared weeds and prevention of their spread.	The proponent's existing Weed Management Manual prescribes management of weeds on all its tenements. The Weed Management Manual will be extended to include weed management on the project site during both the construction and operations phases of the project. No declared weed species were recorded on the project site during the terrestrial ecology field survey.	Section 7 – Terrestrial Ecology
<i>Work Health and Safety (National Uniform Legislation) Act</i>	Department of Business – NT WorkSafe Division	The <i>Work Health and Safety (National Uniform Legislation) Act</i> aims to promote health and safety in the workplace.	The proponent has an existing Risk Management Plan (RMP), which is an overarching plan designed to manage health, safety, environment and community (HSEC) risks associated with the operation of the existing mine. The RMP provides a framework for achieving the proponent's objectives in relation to health and safety and ensuring compliance with all applicable legislation. It will be extended to include HSEC risks associated with the construction, operation and decommissioning of the project.	Section 18 – Health and Safety

2.5 OTHER APPROVALS

2.5.1 Overview

In addition to the key environmental approvals described in Section 2.3, the project requires mineral tenements under the NT *Mineral Titles Act* and approvals under the Commonwealth *Aboriginal Land Rights (Northern Territory) Act 1976* (ALRA) and the *Northern Territory Aboriginal Sacred Sites Act 1989* (Sacred Sites Act) to be obtained before it may proceed. Although described in this section, these are not environmental approvals and separate processes are being undertaken to obtain these approvals. An overview of these approvals is included to provide context to a number of sections of the EIS that refer to these approvals (e.g. Section 15 – Socio-economics and Section 16 – Archaeology).

2.5.2 Minerals Titles Act

The *Mineral Titles Act* establishes a system of tenements for mining and associated activities, including Mineral Leases (MLs), Mineral Exploration Licences (MELs) and ELRs. The *Mineral Titles Act* is administered by the DME.

The Eastern Leases are covered by ELR28161 and ELR28162, which allow the proponent to undertake exploration activities. The proponent will apply to convert the ELRs to MLs to allow project mining activities to take place. The grant of the ML is a precursor to the grant of Authorisation under the *Mining Management Act* (Section 2.3.3). In addition, given that the project is located on Aboriginal land scheduled under ALRA, the ML cannot be granted until a Mining Agreement under the ALRA is in place (Section 2.5.3).

2.5.3 Aboriginal Land Rights Act

The ALRA is Federal legislation which provides for the claiming and granting of freehold title to traditional Aboriginal land in the NT. It provides Aboriginal landowners with legal title to traditional lands. Freehold land granted under ALRA is referred to as Aboriginal land. The ALRA establishes Land Councils to assist Aboriginal people in the claiming and management of their land, the protection of sacred sites and the financial management of income received under the Act. The ALRA also outlines a process for obtaining consent from the Traditional Owners for exploration and mining on Aboriginal land. Consent is obtained in the form of an Exploration Agreement or Mining Agreement with the relevant Land Council. The ALRA is administered by the Federal Minister for Indigenous Affairs.

Groote Eylandt, including the land within the Eastern Leases, is Aboriginal land under the ALRA. The Land Council responsible for this land is the ALC. The proponent has a Mining Agreement under the ALRA with the ALC for the existing mine and has Exploration Agreements for the Eastern Leases. The proponent will obtain a Mining Agreement from the ALC for the project. As noted in Section 2.5.2, the granting of a Mining Agreement is a precursor to granting an ML.

The proposed transport corridor, which will link the Eastern Leases to the existing mine site, is not within any exploration or mineral tenement and will consequently not be subject to the Mining Agreement for the project. Access to the land will be obtained through an agreement to be made with the ALC under Section 19 of the ALRA.

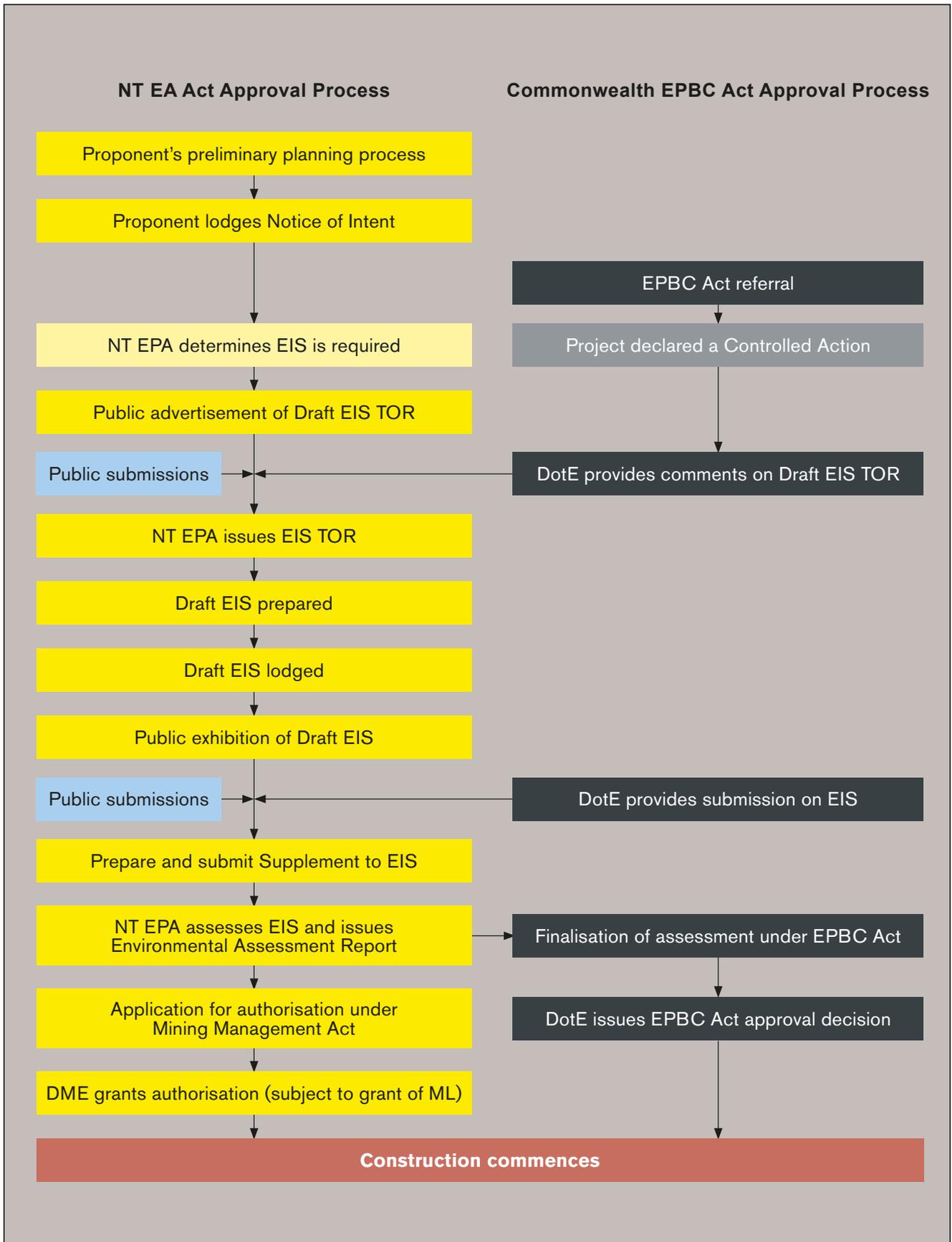
2.5.4 Northern Territory Aboriginal Sacred Sites Act

The Sacred Sites Act is designed to protect sacred Aboriginal sites. Sacred sites are places in the landscape that have a special significance under Aboriginal tradition. They are often features in the landscape such as rivers, trees or rocky outcrops. The Aboriginal Areas Protection Authority (AAPA) is an independent statutory organisation established under the Act, which is responsible for overseeing the protection of Aboriginal sacred sites. The AAPA is responsible for issuing Authority Certificates under the Act. An Authority Certificate provides conditions for any works undertaken on or near sacred sites. Although it is not a requirement to be in possession of an Authority Certificate, having an Authority Certificate and undertaking the work in accordance with the requirements of the certificate indemnifies the holder against prosecution under the Sacred Sites Act for damage to sacred sites in the area of the Authority Certificate.

The proponent is currently engaging with the ALC in relation to obtaining an Authority Certificate for the project and it is understood that the ALC is progressing an assessment of sacred sites. The ALC's sacred sites assessment, and the process for obtaining the Authority Certificate, is being undertaken in a separate process to the EIS process. The Mining Agreement between the proponent and the ALC will address the management of sacred sites. The process for developing a Mining Agreement under ALRA is discussed in Section 2.5.3, and it should be noted that mining cannot commence until a Mining Agreement is in place.

16 – Archaeology describes the archaeological study undertaken as part of the EIS. This study was restricted to considering physical archaeological evidence. It does not make any assessment of sacred sites as the ALC has indicated to the proponent that it is undertaking a separate sacred sites assessment.

FIGURES



EASTERN LEASES PROJECT

Project Approval Process

FIGURE 2-1