

Written Question on Notice from Senator Hanson-Young

NT EPA assessment and advice regarding individual project consultation

In the NT, for projects that are assessed as part of a 'landscape scale' strategic assessment process, such as the proposed Middle Arm Industrial Precinct, they can apply to operate within a 'development area' rather than apply for project level approvals. However, the Minister's approval does not require formal public consultation. The NT EPA submission acknowledged that some stakeholders 'consider that [this arrangement] would preclude scrutiny of future industrial development at Middle Arm'. In its submission, the NT EPA advised it will provide advice to the NT Minister on this matter following further assessment.

Could you please explain the intended purpose of the NT EPA's assessment and advice? What will the assessment involve? Does the NT EPA consider that there should be opportunity for further public consultation of individual projects?

Response from NT EPA

The Middle Arm Sustainable Development Precinct (MASDP) (the strategic proposal) was referred to the Northern Territory Environment Protection Authority (NT EPA) for assessment under the *Environment Protection Act 2019* (EP Act) as a strategic assessment. The strategic assessment process assesses the potential impacts of proposed actions under a policy, program, plan or methodology, and has a minimum of three public consultation periods. To date, one public consultation period has been completed for the MASDP strategic proposal, which was for the referral and Terms of Reference. The next public consultation period will be when the NT EPA publishes an adequate draft EIS, which has not been received as yet.

At the conclusion of the strategic assessment process for the MASDP, the NT EPA must provide 'advice' to the NT Minister for Climate Change, Environment and Water Security in the form of an assessment report and a draft Environmental Approval or draft Statement of Unacceptable Impact. If the NT EPA recommends an Environmental Approval, conditions are likely to be provided with the draft approval to ensure the strategic proposal can be conducted without unacceptable impacts to the environment.

An environmental approval for the strategic proposal does not authorise substantial development or construction. A secondary assessment process called an 'approval notice' is required for all development activities associated with the strategic proposal.

NT EPA's submission to the inquiry with respect to the subsequent 'approval notice' process not having a formal public review included the following excerpt: *This step in the strategic process has attracted attention from environmental campaigners who consider that it would preclude scrutiny of future industrial development at Middle Arm. The NT EPA is considering this matter and will provide advice on it to the Minister, taking into account the proposed governance framework put forward by the proponent and the procedures for the preparation and assessment of approval notice applications.*

The question on notice blended the 'approval notice' function (the submission excerpt above), and the 'further assessment and advice' function. The two matters are separate, must be conducted in the correct order, and should not be considered together. The 'advice' function refers to the NT EPA completing its assessment of the MASDP strategic proposal and providing

its assessment report to the Minister. This advice would set out whether or not the strategic proposal is considered acceptable and the justification for that advice. If the advice to the Minister includes a draft Environmental Approval, the NT EPA can recommend a condition that requires public consultation on draft approval notice applications for subsequent individual industry proposals. Any conditioned public consultation process would most likely be a requirement of the precinct manager and proponent prior to the approval notice application being lodged with the Minister.

The separate approval notice process can only occur after the NT EPA's advice, and the Minister's granting of an environmental approval for the strategic proposal. When considering an approval notice application, the Minister is required to consult with the NT EPA. The NT EPA would review the application in the context of the Environmental Approval for the MASDP to determine whether the individual industry proposal is within the scope of the strategic assessment that was undertaken for the MASDP and whether it complies with the conditions of the strategic Environmental Approval. In its comments to the Minister about the proposal's application, the NT EPA can recommend that the approval notice be subject to conditions that may be necessary to manage potential environmental impacts. The NT EPA can also recommend that an individual development proposal be refused where there are grounds that it wasn't assessed within the scope of the MASDP strategic assessment. In such a case and where there is the potential for significant impact to the environment, the development would need to be referred as a proposed action for further assessment under the EP Act.