



Northern Territory Environment Protection Authority (NT EPA)
Department of Land, Planning and Environment
PO Box 496, Palmerston, NT 083

Submitted via online portal: [Draft environmental factor guidance: Landforms | NTEPA](#)

20 March 2026

Dear NT EPA

Central Land Council Submission

Environmental Factor Guidance: Terrestrial Environmental Quality (Draft for Consultation)

A. Introduction

1. The Central Land Council (CLC) welcomes the opportunity to provide feedback on the NT EPA's draft Environmental Factor Guidance on Terrestrial Environmental Quality (TEQ Guidance), which has been prepared pursuant to section 291 of the *Environment Protection Act 2019* (NT EP Act).
2. CLC is a statutory authority established under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (ALRA) and is a native title representative body under the *Native Title Act 1993* (Cth) (NT Act). One of CLC's statutory functions under the ALRA is to ascertain and express the wishes of Aboriginal people living in CLC's area region as to the management of Aboriginal land and as to appropriate legislation concerning that land. As such, CLC has a longstanding mandate to ascertain, and advocate for the rights, interests, and aspirations of Traditional Owners¹ across 780,000 km² of Aboriginal land in the southern half of the Northern Territory.
3. As this guidance will shape how environmental impact assessments (EIA) are conducted for proposals affecting Aboriginal land, it is directly relevant to the rights and interests of Traditional Owners, and by extension, to CLC's statutory responsibilities.

B. Overview of CLC's position

4. The TEQ Guidance's intended purpose is to provide proponents clear, practical, advice on when to refer potential proposals with impacts to land and soil to the NT EPA, and how to address these impacts as part of their EIA.
5. Land and soil do not just exist in biophysical terms for Traditional Owners; they also carry social, and cultural values. Given this, CLC is disappointed that the NT EPA seemingly did not seek early input from Aboriginal groups (including Land Councils), on the drafting of the TEQ Guidance.

¹ The use of the term 'Traditional Owners' is used to include all types of Aboriginal landowners including traditional Aboriginal owners as defined in ALRA and native title holders as defined in the *Native Title Act 1993* (Cth)



6. The lack of early engagement is reflected in the substance of the TEQ Guidance. In its current form, this document does not:
 - a. encourage proponents of proposals on Aboriginal or native title land to consult with Land Councils as part of the EIA process;
 - b. recognise the value of Indigenous Ecological Knowledge (**IEK**) in relation to soil quality, modelling, and impacts to land and soil;
 - c. meaningfully, or consistently, recognise that land and soil hold cultural values, in addition to environmental, social, ecological and economic values; and
 - d. contemplate the involvement of Ranger groups, in the implementation of any monitoring, or rehabilitation aspects of an EIA.
7. CLC's recommendations outlined below are intended to address these gaps, and thereby provide proponents practical guidance on how to fulfil their general duties under section 43 of the EP Act, which relevantly include:
 - a. consulting with affected communities, including Aboriginal communities, in a culturally appropriate manner;²
 - b. seeking and documenting community knowledge and understanding (including scientific and traditional knowledge and understanding) of the natural and cultural values of areas that may be impacted by the proposed action or strategic proposal;³
 - c. addressing Aboriginal values and the rights and interests of Aboriginal communities in relation to areas that may be impacted by the proposed action or strategic proposal;⁴
 - d. considering the principles of ecologically sustainable development in the design of the proposed action or strategic proposal;⁵ and
 - e. applying the environmental decision-making hierarchy.⁶
8. CLC welcomes the opportunity to work with NT EPA on a further draft of the TEQ Guidance. The new draft should offer clear, concise, and practical advice on Traditional Owner consultation expectations, and how proponents must consider cultural and heritage matters, as part of their EIA on impacts to TEQ.

C. Summary of Recommendations

Recommendation 1	Embed Indigenous co-design and consultation requirements
Recommendation 2	Recognise Traditional Owner knowledge and expertise
Recommendation 3	Recognise cultural values of land and soil
Recommendation 4	Encourage Indigenous involvement in monitoring, rehabilitation and remediation activities

² EP Act, section 43(b).

³ EP Act, section 43(c).

⁴ EP Act, section 43(d).

⁵ EP Act, section 43 (e).

⁶ EP Act, section 43(f).



D. Key issues

Consultation and co-design requirements

9. As noted above, the EP Act mandates that proponents engaged in the EIA process consult with affected Aboriginal communities (section 43(b)). However, the TEQ Guidance, which is intended to provide proponents advice on their EP Act obligations, does not currently require, or even reference, consultation expectations with respect to Traditional Owner groups.
10. CLC acknowledges the NT EPA is preparing a Factor Guidance on culture and heritage matters (**Culture Guidance**) which may address consultation matters.⁷
11. However, it is uncertain when the Culture Guidance will be published.
12. CLC also submits that unless consultation requirements matters are also included in this TEQ Guidance, there is a risk that proponents' consultation of Traditional Owners and Land Councils, (and their consideration of the cultural dimensions of land and soil impacts – more on this below), will be ad hoc and tokenistic.
13. Embedding Traditional Owner consultation requirements within this TEQ Guidance will provide proponents clarity on expectations, while ensuring Traditional Owners are appropriately involved in all aspects of the EIA process, in line with the objects of the EP Act.⁸
14. It is also essential that this TEQ Guidance is only operationalised at the same time as the Culture Guidance.

Recommendation 1: Embed Indigenous co-design and consultation requirements

- Proponents of proposed actions or strategic proposals on Aboriginal or native title land should be encouraged to engage early with the appropriate Land Councils at each stage of the EIA process, including: pre-referral; referral; EIA documentation preparation; and implementation.
- Traditional Owner input in relation to (or, if possible, co-design of) rehabilitation, remediation and monitoring plans, should be encouraged. The objectives of these plans should be aligned with Traditional Owner requirements, particularly for proposals concerning Aboriginal or Native Title land. These typically include the restoration of: cultural functionality; access to Country; ecological relationships supporting cultural practice, and long-term land use aspirations.

Traditional Owner Knowledge and Indigenous Data Governance

15. Traditional Owners possess long-term observational knowledge of:
 - a. soil stability and erosion patterns;
 - b. fire and vegetation interactions;
 - c. water–soil relationships; and
 - d. culturally significant landscape indicators.
16. The EP Act explicitly recognises the value of this IEK, and requires proponents to engage with IEK as part of the EIA process – see sections 3 and 43 of the EP Act.

⁷ CLC refers the EPA to its submission to the NT EPA on the Culture Factor Guidance.

⁸ EP Act, section 3(e).



17. Notwithstanding this, while the TEQ Guidance identifies extensive technical information requirements relating to soil quality, modelling and environmental values, it does not recognise, or require incorporation or consideration of, IEK in the EIA process.
18. We recommend this gap be rectified in the next version of the TEQ Guidance. Doing so would be entirely aligned with current best practice,⁹ and as such the NT EPA would not be imposing novel expectations on proponents.

Recommendation 2: Recognise Traditional Owner knowledge and expertise

- IEK should be explicitly referenced as a valid and relevant evidentiary input (to be given equal weight as Western science) in the EIA process.
- Proponents should be required to apply Indigenous Data Sovereignty principles where IEK is used, including culturally appropriate consent, attribution, and governance of information collected on Aboriginal land.

Cultural values

19. While the TEQ Guidance does contain high-level references to the cultural values of land and soil, it segregates consideration of these values to the Culture Guidance. Instead, the TEQ Guidance solely focuses on ‘how proposal-related changes to soil structure, composition, and quality impact environmental values’.¹⁰
20. This is even though, as the TEQ Guidance itself recognises, there is a complex interrelationship between the cultural and environmental values of land and soil. As such, any EIA on a proposal that could impact land and soil, will likely need to address *all* these impacts.
21. It is therefore impractical – and indeed, confusing – for the TEQ Guidance (which is intended to provide practical advice to proponents on the EIA process), to omit the cultural dimensions of a proposal that could impact land and soil, on the basis this may be addressed in the (as yet unpublished) Culture Guidance. The risk in not rectifying this in the next turn of the TEQ Guidance is this could result in EIAs that do not appropriately grapple with the cultural implications of impacts to TEQ.

Recommendation 3: Recognise cultural values of land and soil

- TEQ Guidance should expressly address impacts to cultural values (including by appropriate cross references to the Culture Guidance in due course). E.g.: the ‘EIA considerations’ in section 4 should expressly require consideration of the: (1) severity of any impacts to the cultural values supported by the TEQ; and (2) whether these cultural values are incommensurable / irreplaceable.
- TEQ Guidance should have a clear statement that as part of the application of the environmental decision-making hierarchy,¹¹ impacts to cultural values that can be permanently harmed or destroyed should be avoided by proponents.

⁹ See, by way of example, the findings of the Samuels Review with respect to access to and use of IEK. See also the Commonwealth’s draft National Environmental Standards on Matters of National Environmental Significance.

¹⁰ TEQ Guidance, section 3.

¹¹EP Act, sections 26 and 43(f).



- Clear expectations should be set on impacts to cultural values that are ‘significant impacts’ as defined under the EP Act.
- EIA documentation on TEQ matters should be required to include cultural impact assessments, conducted in collaboration with (and with appropriate sign-off from) the appropriate Land Councils (acting on behalf of the relevant Traditional Owners). These assessments should be required to address: (1) the cultural dimensions of land and soil; and (2) the potential cultural impacts associated with impacts to TEQ.
- TEQ Guidance should encourage proponents to address cumulative impacts to cultural values, and demonstrate consultation with Traditional Owners on this point, as part of their cumulative impact assessments.

Indigenous involvement in EIA activities

22. The TEQ Guidance is a missed opportunity to recognise Indigenous stewardship in caring for Country, and the role that Indigenous groups (particularly Ranger groups) can and should play in collecting baseline data, monitoring compliance with EIA requirements, and in the rehabilitation and remediation of Country affected by proposed actions or strategic proposals.
23. CLC acknowledges that mandating ranger involvement may not be appropriate in all circumstances due to varying regional capacity – however the TEQ Guidance should, at the very least, encourage proponents to facilitate such involvement where possible.

Recommendation 4: Encourage Indigenous involvement in monitoring, rehabilitation and remediation activities

- Require proponents to demonstrate that they have: (1) identified any relevant ranger groups; and (2) engaged with those groups to determine whether and how they could participate in baseline data collection, monitoring, rehabilitation and remediation activities.

E. Next steps

24. We would be very happy to work with the NT EPA on a re-draft of the TEQ Guidance.

Yours sincerely

Les Turner
Chief Executive Officer