

Guidelines

EIA and VIPA

Environmental Protection and Conservation Act [CAP 283]

Vanuatu Foreign Investment Act [CAP 248]



Introduction

As a foreign investor, you are required to obtain foreign investment approval from the Vanuatu Investment Promotion Authority (VIPA). However, this approval does not mean that your project can immediately proceed – you may require approvals from other government agencies.

These guidelines have been compiled to assist investors understand the requirements of Environmental Impact Assessment (EIA) in Vanuatu as set out in the *Environmental Protection and Conservation Act [CAP 283]* (the EPC Act) and accompanying EIA Regulations.

EIA is the process for identifying and managing the impacts of a project on the natural, social and custom environment. It is a proactive planning and decision-making tool that has an important role to play in identifying impacts, assessing risks, and evaluating the costs and benefits of development projects before they are implemented.

The number of steps in EIA varies based on the potential impacts of the project. While the number of steps in the process may vary, the process will always start with the project proponent submitting an application for an Environmental Permit and will always end with the Department of Environmental Protection and Conservation's (the Department) decision to grant or refuse an Environmental Permit under the EPC Act.

EIA and VIPA

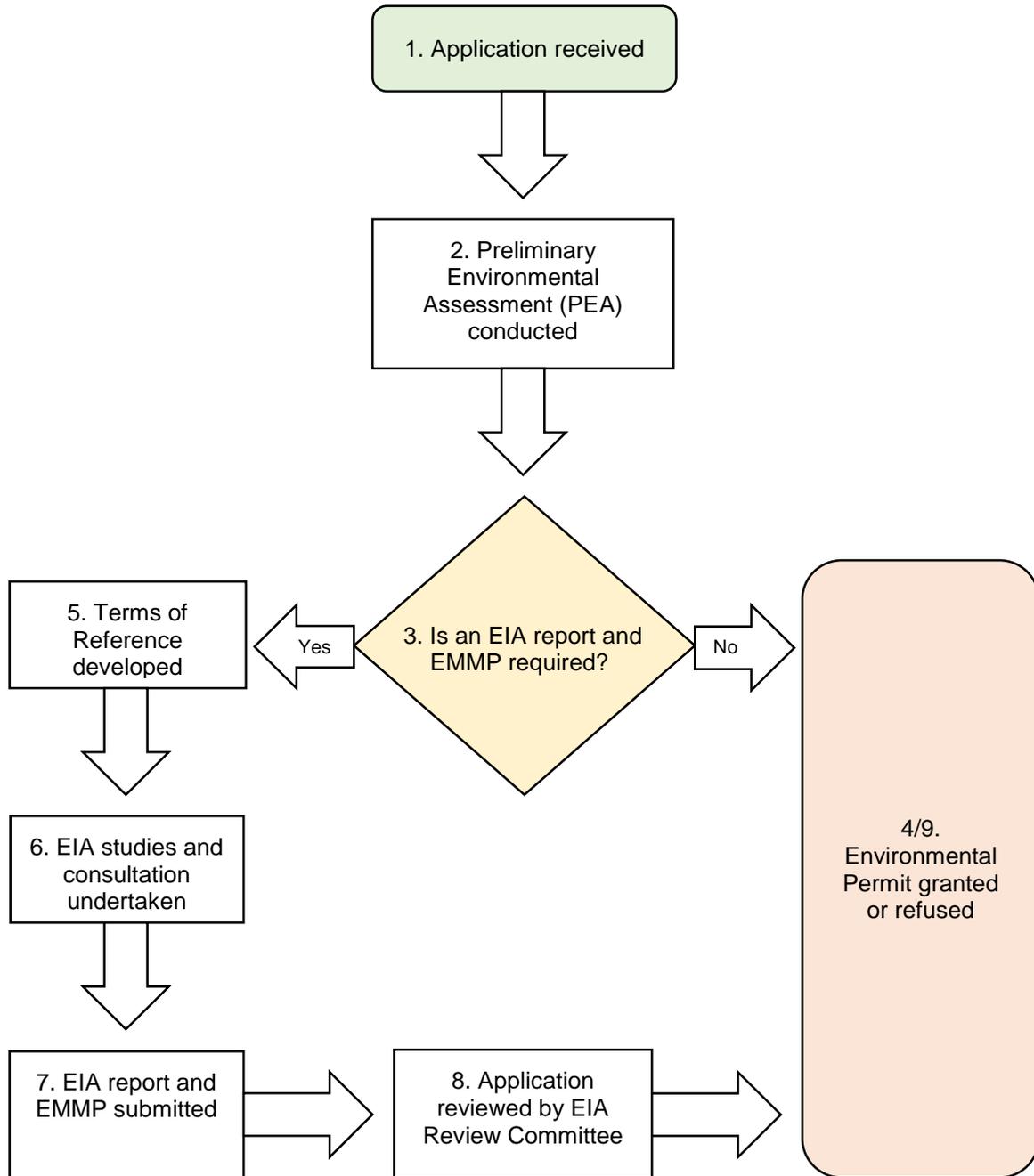
Your VIPA investment approval does not mean your project will be automatically approved under other laws of Vanuatu, including the EPC Act or other environmental and planning laws such as the Physical Planning Act, the Foreshore Development Act, the Quarry Act or the Water Resources Act.

Under the EPC Act, Environmental Permits are required for projects that will cause, or are likely to cause, environmental, social or custom impacts. If your project will cause, or is likely to cause, environmental, social or custom impacts you **MUST** apply for an Environmental Permit.

EIA in Vanuatu is designed to enable development to go ahead while helping ensure that environmental, social and custom impacts of projects are considered and managed through Environmental Permits. Environmental Permits authorise the construction and operation of clearly defined development projects and generally include a series of conditions that apply across the life of a project. This could be from the initial clearing of vegetation and site preparation through to project operation, closure and site rehabilitation. The process is designed so only larger projects or projects more likely to cause environmental, social or custom impacts require a formal EIA report.

This guideline sets out in some detail the process followed for projects requiring Environmental Permits.

The process for obtaining an Environmental Permit – EIA



1. Application received

EIA starts with your application to the Department. Application forms are available from the Department's offices in Port Vila and Luganville and are also available from the Department's website (www.environment.gov.vu). Your application must be complete and you are encouraged to provide as much information as possible about the proposed project and how you intend to minimise and manage environmental, social and custom impacts. The application form is designed to assist you in this. The completed application form and all the required supporting information, including a receipt showing payment of the application fee, must be lodged with the Department.

Please note that the application fee must be paid to the government cashier at the Department of Finance and Treasury, the Department cannot accept fees at its offices.

2. Preliminary Environmental Assessment (PEA) conducted

PEA is the name given to the Department's initial assessment of your application. This assessment is based on the information included in your application and usually includes a site visit. Departmental officers will consult with other government agencies and may consult with nearby residents about your project and its potential environmental, social and custom impacts. Departmental officers may also contact you for further information as part of their assessment. This may include asking you to consult with nearby residents about your project; asking you to submit an Environmental Management and Monitoring Plan (EMMP); or asking you to submit an EIA report and EMMP.

PEA is generally undertaken by departmental officers. However, the Department may require the services of an external, independent consultant to undertake this work on its behalf. If this is necessary it will be discussed with you beforehand as the cost of this consultant will be borne by you.

3. Is an EIA report and EMMP required?

The main purpose of PEA is to make an assessment as to whether an Environmental Permit can be issued based on the information in your application. Over 90 percent of all applications received by the Department are approved at this stage and an Environmental Permit is issued.

However, for some projects, the Department may require more information about your project and its potential environmental, social and custom impacts. For large projects, or those located in sensitive areas, or those applications where the Department is not convinced by the application and assessment that the environmental, social and custom

impacts of the project will be successfully managed, the Department may require further, formal EIA studies to be undertaken before a decision can be made. The results of these studies must be submitted to the Department in the form of an EIA report and EMMP.

4. Environmental permit granted or refused

If the Department determines that additional information in the form of an EIA report and EMMP is not required, the Department will decide whether to approve or refuse your application. If your application is approved, you will be granted an Environmental Permit. If your application is refused, the Department will provide you with reasons why your project was refused.

5. Terms of Reference (TOR) developed

If the Department determines that additional information in the form of an EIA report and EMMP is required, you will be notified and given an opportunity to comment on the draft TOR for the EIA report. The draft TOR set out the further studies and plans required for an EIA report to be prepared and submitted to the Department to further assess your application.

To ensure the quality of EIA reporting, the Department requires EIA reports to be prepared by registered consultants. To be registered, your consultant must be suitably qualified and experienced. The notification letter accompanying the draft TOR will include a list of registered consultants who you can contract to undertake the EIA studies and prepare the EIA report. You also have the option of finding another consultant. However, please note that any consultant needs to be formally approved by, and registered with, the Department before they can start work.

For all projects requiring an EIA report there must also be an EMMP that sets out the main impacts of each stage of the project (site preparation, construction, operation and if relevant, decommissioning) and how these impacts or potential impacts are to be managed.

6. EIA studies and consultation undertaken

Your consultant will arrange and manage the various studies and documents required for your EIA Report and EMMP. Your consultant may also require technical assistance from specialists for some of the EIA studies; for example coral or fisheries experts.

The TOR will include requirements for public or stakeholder consultation. It is important that this consultation starts as early as possible to help you identify any issues of concern and identify means for avoiding or reducing these. Some project proponents like to be involved in

stakeholder consultation while others prefer to have their consultant undertake the consultation on their behalf. The Department has produced separate guidelines on consultation and consultants to assist you.

7. EIA report and EMMP submitted

Once completed, the EIA report and EMMP, along with any other technical documents must be signed by the consultant and by you and delivered to the Department. You must make sure that eight copies are delivered and that an electronic copy is also provided. It is important to note that although the EIA report may be prepared and signed by a consultant, it remains your legal responsibility and forms part of your application for an Environmental Permit.

Departmental officers will review your application, including the EIA report and EMMP. For larger or more complex applications, the Department may request the services of an external, independent review consultant to undertake this work on behalf of the Department and to support the EIA Review Committee (the Committee). The cost of this consultant is to be borne by you.

8. Application reviewed by EIA Review Committee

A Committee is convened by the Department as part of assessing your application. The Committee may include representatives from relevant government departments, local government agencies or non-government organisations and will formally review your application, including the EIA Report and EMMP. As part of this review, each member of the Committee will review your application and your application will be discussed at a Committee meeting. It is expected that either you or your consultant (or both) will attend the first part of the Committee meeting to present the project and answer questions about the proposed development.

The Committee then makes recommendations about the application, including conditions for the Environmental Permit, and these are formally recorded and agreed.

9. Environmental Permit granted or refused

After the Committee meeting, the Department will decide whether to approve or refuse your application. If your application is approved, you will be granted an Environmental Permit. If your application is refused, the Department will provide you with reasons why your application was refused.

Environmental Permits authorise the project applied for (or as amended through the permit process) and include a series of conditions that must be met. Conditions are set for all stages of the development from initial site preparation through to construction, operation and, if appropriate, decommissioning. The Department will monitor compliance with your Environmental Permit and you should note that there are penalties for non-compliance. If, at a later date, you find that you need to make a change to an aspect of your project, you may apply to amend your Environmental Permit.

Where can I find more information?

The Department of Environmental Protection and Conservation has a number of publications to help guide you and your project through EIA. These publications are available on our website: www.environment.gov.vu

You may also arrange an appointment with a member of our Environmental Planning and Impact Assessment division or provincial extension officers by contacting us:

Department of Environmental Protection and Conservation

Port Vila: Ministry of Climate Change Adaptation, Meteorology & Geo-Hazards,
Environment, Energy and Disaster Management compound, Nambatu
PMB 9063, Port Vila
Phone: (678) 25302 / 33430

Espiritu Santo: Sanma Provincial Government Council, Luganville
PMB 239, Sanma