
INTRODUCTION

An Environment Impact Assessment (EIA) is a tool for sustainable development. It identifies mitigation measures to enhance positive impacts and to avoid or minimize negative impacts. An EIA is a participatory process in that it involves the applicant, government and other relevant stakeholders (customary landowners, civil society organizations, industry groups and local businesses).

EIAs can assist with early identification of environmental constraints and impacts and how stakeholders and those involved in a project can work around these constraints and minimize adverse impacts to the environment and the people. It also provides clear procedural guidelines. This practice gives certainty to all stakeholders because it sets environmental performance and management standards that must be met. The monitoring component of the EIA ensures that environmental management and practices is put in place and executed efficiently.

Under the Environment Act 2015, definition of ‘environment’ includes:

- Land & marine areas
- Fresh water supplies
- Air
- Ecosystems & their parts (including people and communities)
- Natural & physical characteristics of an area – aesthetic, cultural & recreational values

FEES

An EIA application fee is \$50, payable to the Department of Environment.

EIA PROCESS

DEVELOPMENT PROPOSAL APPLICATION:

Prior to submission of the development proposal by the applicant to the EIA Administrator (Department of Environment), it is advisable that the applicant get into contact with the EIA administrator beforehand to seek advice. The proposal application should be in the form that is approved by the approving authority for the EIA.

The Environment (Development Consent and Environment Impact Assessment) Regulations 2017 has no prescribed forms available for a proposal application, but Schedule 1 of the Regulations highlights the required information to be included in the development proposal. Information to be provided in the application for development consent should include the following: *(Regulation 4(2)(a))*

- The name of applicant
- The telephone number, address for contact and, if different, address for service of the applicant
- The particulars, including name and designation, of the contact person for the applicant, if different to the applicant
- The names and addresses of the owner and occupier of the land to which the application relates (if different to the applicant)
- The location of the activity (described as it is commonly known and in a way that will enable it to be easily identified (for example, the street address, the legal description, the name of any relevant stream, river or other water body to which the application relates, proximity to any well-known landmark, or its grid reference (if known)))
- A description of the activity
- A map identifying the site and any area potentially affected by the activity
- A description of any possible alternative locations or methods for carrying out the activity
- An assessment of the actual or potential effect on the environment of the activity (whether adverse, positive, direct or indirect)
- If the activity includes the use of hazardous substances and installations, an assessment of any risks to the environment that are likely to arise from their use
- If the activity includes the discharge of any contaminant, a description of –
 - (a) The nature of the discharge and the sensitivity of the proposed receiving environment to adverse effects; and
 - (b) Any possible alternative methods of discharge, including into any other receiving environment
- A description of the mitigation measures to be undertaken to help prevent or reduce actual or potential effects (including, if relevant, any safeguards or contingency plans)
- Identification of the persons affected by the proposal (including any individuals or groups that exercise customary rights or traditions at the proposed location of the activity), the consultation undertaken, if any, and any response to the views of those consulted*
- If the scale or significance of the activity’s effects are such that monitoring is required, a description of how those effects would be monitored and by whom
- Any other information that the Department deems relevant and necessary.

*To avoid doubt, paragraph 13 obliges an applicant to identify the persons affected by the proposal, but does not oblige the applicant to consult with any person or create any ground for expecting that the applicant will consult with any person.

The following activities would always require an EIA: *(Regulation 13(1))*

Note: Department is checking this list. For example, whether quarantine services should be included.

<p>Food Industries:</p> <ul style="list-style-type: none"> - Commercial fruit processing, bottling, and canning - Commercial brewing or distilling - Operation of an abattoir - Commercial food processing requiring packaging - Commercial bottling of water 	<p>Non-metalling industries and processes:</p> <ul style="list-style-type: none"> - Lime production - Brick or tile manufacture - Extraction of minerals - Commercial extraction of aggregates, stones, shingles, sand, reef mud, or beach rock - Industries requiring the use of radio-active materials
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	<ul style="list-style-type: none"> - Cement manufacture
Wood industries <ul style="list-style-type: none"> - Commercial manufacturing of paper, pulp, and any other wood products 	Marine produce and products <ul style="list-style-type: none"> - Commercial fish processing (including sessile marine animals) - Commercial marine food collection, processing, or farming - Commercial fishing in Niuean marine areas
Chemical industries <ul style="list-style-type: none"> - Fertiliser production or use 	Tourism <ul style="list-style-type: none"> - Operation of a resort, hotel, motel, guesthouse, or other premises for commercial gain - Use of land or buildings, or both, as a golf course - Use of land or buildings, or both, as a recreational park
Agricultural, horticultural, and other land-based industries <ul style="list-style-type: none"> - Livestock development - Commercial animal schemes - Commercial agricultural development schemes - Commercial horticultural development schemes - Irrigation and water supply schemes - Logging operations - Timber milling or treatment - Removal of primary or secondary forest or primary vegetation - Removal of trees or other natural vegetation in other areas of more than half an acre 	Public Works <ul style="list-style-type: none"> - Landfills - Infrastructure developments - Recycling or collection stations - Soil erosion control activities - Desalination plants - Reservoir developments - Airport developments - Causeways - Drainage or disposal systems - Dredging or quarrying - Mining (whether terrestrial or marine) - Watershed management - Water bore drilling - Wastewater and sanitation schemes - Boat channels - Ports or harbours - Electricity generation stations and facilities - Marinas (pontoons, jetties, piers, dry storage, and moorings) for more than 5 vessels
Activities relating to Non-native species and Living Modified Organisms <ul style="list-style-type: none"> - Importation, development, processing, use, manufacture, propagation and sale - Introduction of non-native species 	Village Development <ul style="list-style-type: none"> - Settlement and resettlement projects - Sea track projects - Evacuation centres - Heritage projects and declaration sites
Other <ul style="list-style-type: none"> - Industrial estates - Multiple-unit housing - Petroleum storage - Human waste disposal systems other than those relating to a private home in a residential area 	

SCREENING:

The Screening process is a preliminary assessment of the development consent application. This is where the initial environmental impact assessment takes place. *(Regulation 6)*

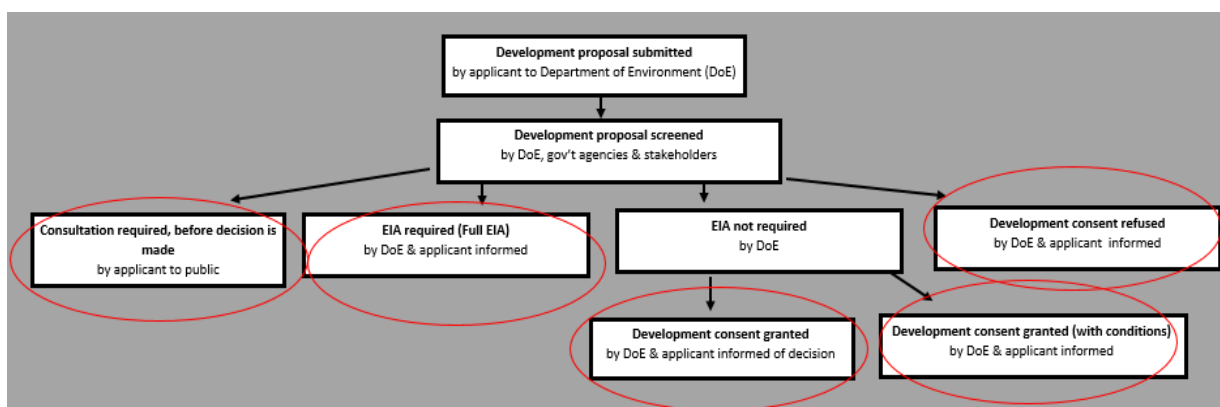
The main purpose of the screening is to verify whether the proposed development has the potential environment impact or not, based on the information provided in the development proposal application submitted.

Matters to be considered during screening: *(Regulation 8)*

- (a) The effect of the activity on the water lens; and
- (b) Any relevant environmental standard or standards; and
- (c) Any relevant general or specific objectives of government policy (for example, any coastal policy or national strategic plan); and
- (d) Any relevant reports of other departments or public authorities; and
- (e) If applicable, the results of any consultation required under regulation 6(1)(d); and
- (f) Any effect on those in the neighbourhood and, if relevant, the wider community; and
- (g) Any physical effect on the locality, including any landscape and visual effects; and
- (h) Any effect on ecosystems, including the effects on plants or animals and any physical disturbance of habitats in the vicinity; and
- (i) Any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural, or other special value for present or future generations; and
- (j) Any discharge of contaminants into the environment, including any unreasonable emission of noise and options for the treatment and disposal of contaminants; and
- (k) Any risk to the neighbourhood, the wider community, or the environment through natural hazards of the use of hazardous substances or hazardous installations; and
- (l) Any objections received under regulation 5; and
- (m) Any effect or risk to the national security of Niue or its reputation

The outcome of the Screening Process should yield one of the following five decisions: *(Regulation 7)*

1. Development consent granted *(Regulation 7(1)(a))*
2. Development consent granted WITH conditions *(Regulation 7(1)(b))*
3. Development consent refused *(Regulation 7(1)(c))*
4. Consultation required, before decision is made *(Regulation 7(1)(d))*
5. Full EIA required. *(Regulation 7(1)(e))*

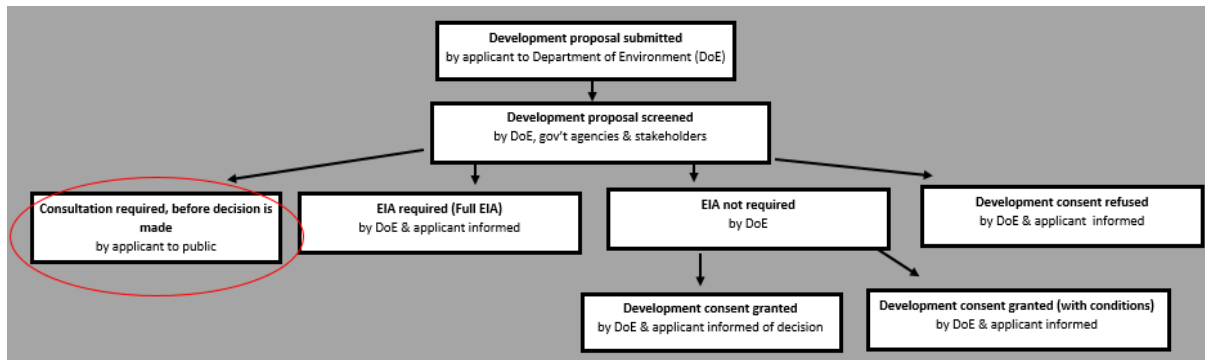


EIA PUBLIC ENGAGEMENT AND CONSULTATIONS:

The Director can sometimes request for the applicant to undertake consultation with specified persons, or the public generally in the case that consultation is required before decision is made.

Best practice EIA places strong emphasis on public engagement and consultation – the public is invited to express their opinion on the development’s environment performance, and whether it is complying with the development consent conditions.

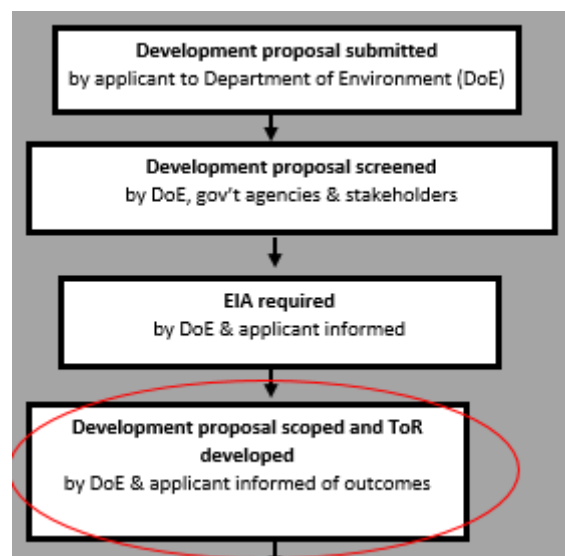
Evidence-based statements are generally considered as well as the focus on risks, a summary of key concerns upfront and straight to the point.



SCOPING:

Scoping should be led by the Department of Environment, and it involves determining what environmental, social and economic topics need to be investigated as part of the EIA for a development. At the end of the scoping process, the Department of Environment will inform the developer which topics are needed to be addressed in their impact studies and their EIA report – these topics are listed as terms of reference, or TOR.

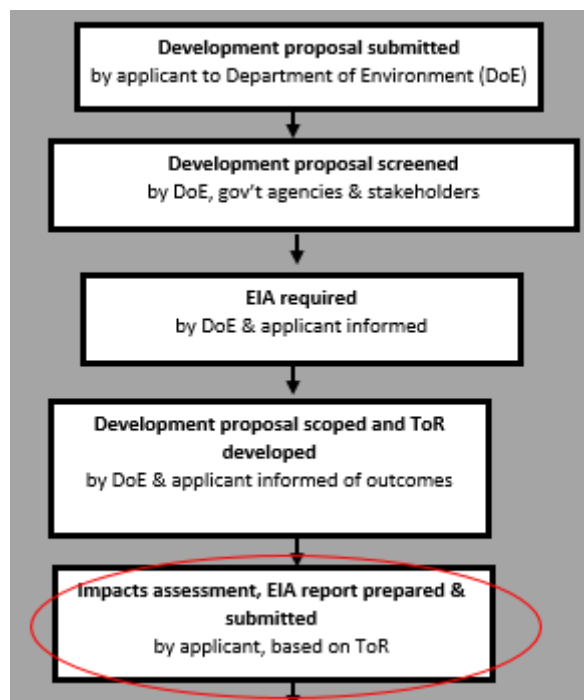
Based on the TOR, the developer will then undertake environmental impact studies, and prepare a report that describes the nature of their development, its impacts on the environment, the likely impacts of the environment on the development, and how they plan to avoid or minimize negative impacts and enhance positive impacts.



IMPACT ASSESSMENT STUDIES UNDERTAKEN:

The impact assessment studies subsequently follow the scoping process where the developer will carry out the impact assessment studies based on the recommendations by the Department of Environment provided in the Scoping process.

The EIA report is submitted to the Department of Environment where it undergoes a review and closely examine the environmental, social and economic impacts that are likely to arise from the development. Additionally, also consider the effectiveness of the developer's proposed impact mitigation actions which should be detailed in an environment management plan when the development consent is granted (this is the monitoring component of the EIA, through the management and close monitoring of the environment management plan).



REPORT REVIEW:

Reviewing and evaluating the EIA report is done by the EIA administrator (Department of Environment) to ensure all areas of interest highlighted in the Scoping process has been covered under the report. It addresses the TOR on whether it is complete and accurate, uses appropriate impact assessment methods and has reached fair conclusions. It also involves examining identified *impacts of the project* on the environment and the identified *impacts of the environment* on the project (climate change, coastal erosion, etc).

As is the case in the Screening process, matters to be considered during the Report Review process is outline in Regulations 8. Other factors in play include assessing the adequacy and likely effectiveness of proposed mitigation measures which are detailed in an Environmental Management Plan (EMP), determining the 'residual' impacts that will remain after mitigation measures have been implemented and considering if the residual impacts will be deemed acceptable by affected stakeholders.

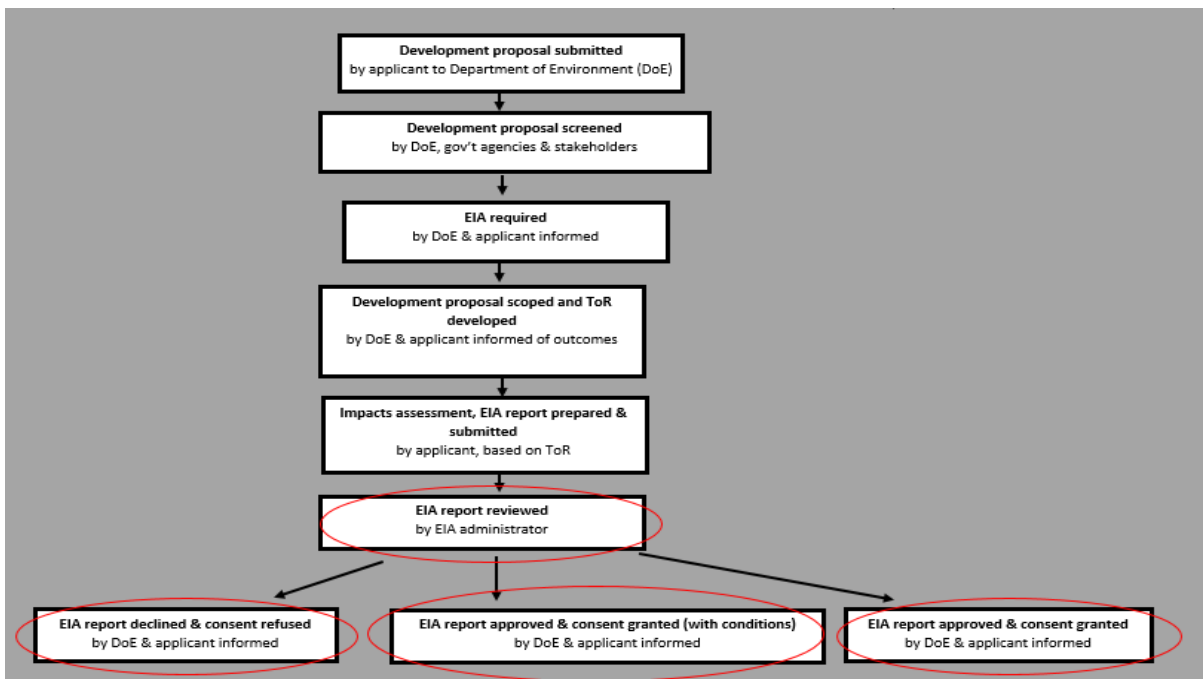
- **What** mitigation measures will be implemented?

- **Who** will do the implementing?
- **When** will the implementing be done?
- **Where** will the implementing be done?
- **Which** environment standards/requirements will be met?
- **What** residual impacts will remain, and will they be acceptable to affected stakeholders?

Outcome of the Report Review Process:

At the conclusion of the Report Review Process, the approval authority will make a decision: *(Regulation 11)*

1. Grant development consent
2. Grant development consent subject to 1 or more specified conditions
3. Refuse to grant development consent.



In the case that the decision-maker decides to grant development consent with conditions based on reasonable grounds necessary for the protection of the environment (Decision 2), the following conditions are liable: *(Regulation 12)*

1. Monitoring of an activity, with specification on who to monitor and when
2. Payment of a bond by the applicant to the government.

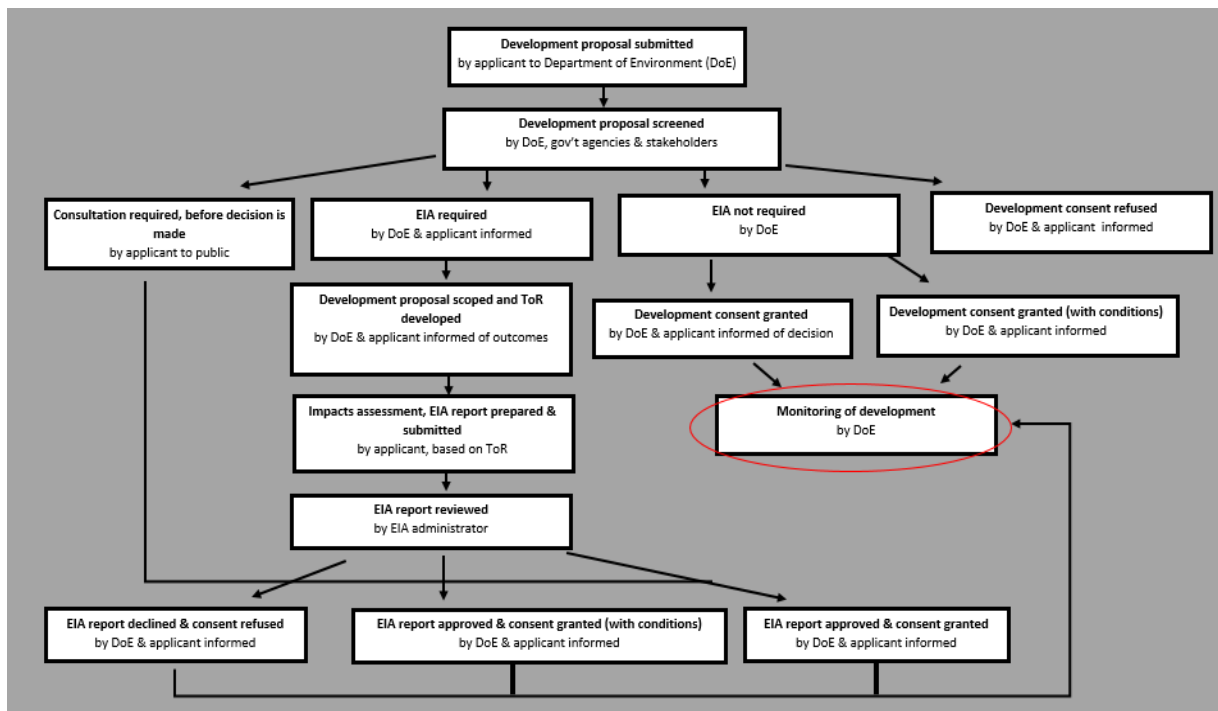
The Director to inform the applicant, in writing, of the decision.

MONITORING AND ENFORCEMENT:

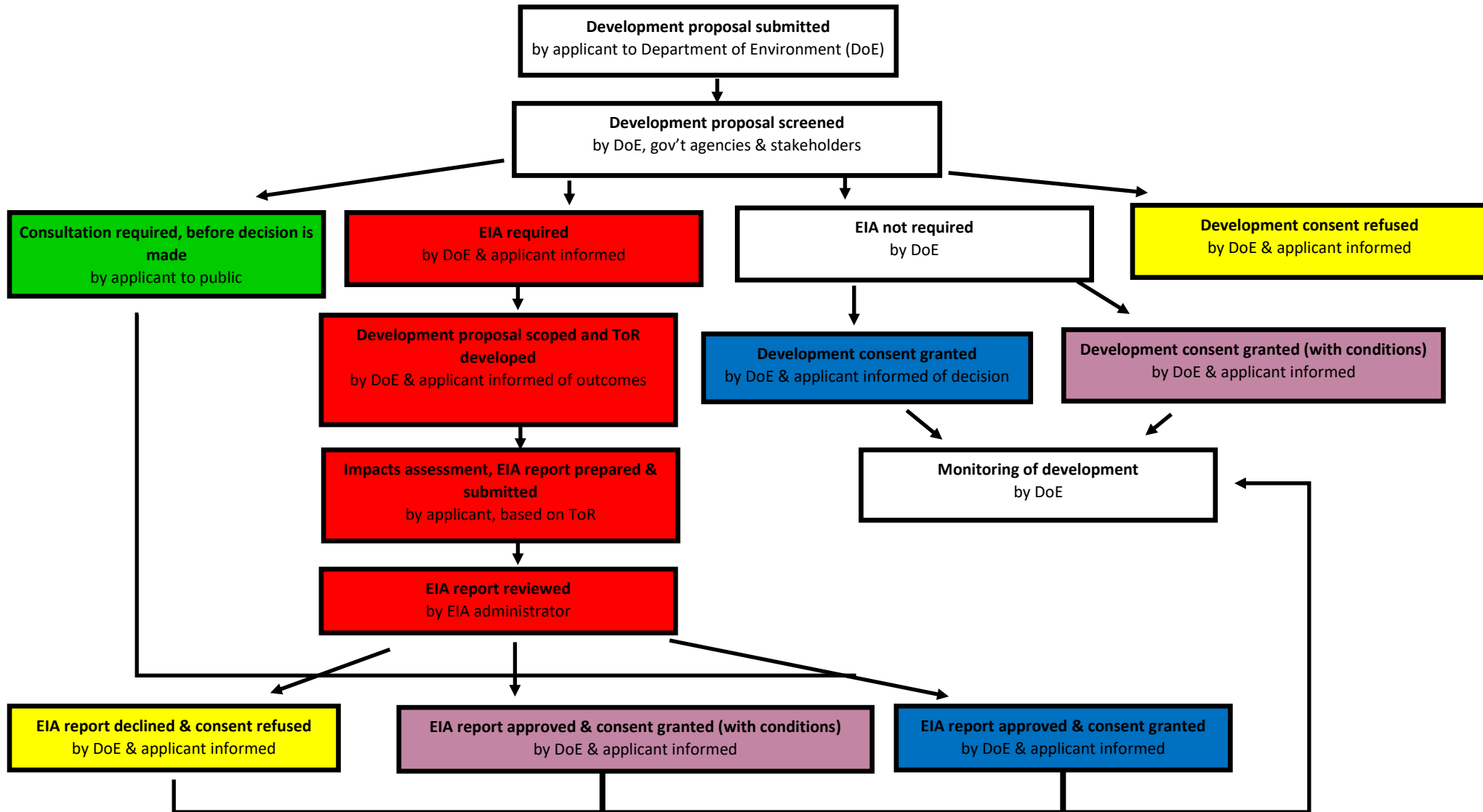
Collecting information that will help the Department of Environment answer questions about an activity carried out. Monitoring is done so that we are aware of the project’s development, how well it is doing, is the project doing the right things and whether we are having any difference.

Monitoring is an important part of project/policy implementation. Monitoring serves these purposes:

- (1) Ensuring that required mitigation measures and conditions are being implemented
- (2) Evaluating whether mitigation measures of models or projections that were used during the impact assessment process
- (3) Operation of Development – Application of regulation.



In-depth outline of a typical EIA process to highlight the different paths that can potentially be followed



Information required for Development Consent Application:

1. Name of the applicant
2. Telephone number, address for contact.
If different, address for service to the applicant
3. Particulars, including name and designation of applicant's contact person (*if different to applicant*)
4. The names and addresses of the owner and occupier of the land to which application relates (*if different to applicant*)
5. Location of the activity (*described in a way that it is easily identified, such as street address, legal description, proximity to well-known landmarks*)
6. A description of the activity
7. A map identifying the site and any area potentially affected by the activity
8. A description of any possible alternative locations or methods of carrying out activity

9. An assessment of the actual or potential effect on the environment of the activity (*whether adverse, positive, direct or indirect*)
10. If the activity includes the use of hazardous substances and installations, an assessment of any risks to the environment that are likely to arise from their use
11. If the activity includes the discharge of any contaminant, a description of –
 - (a) The nature of the discharge and the sensitivity of the proposed receiving environment to adverse effects; and
 - (b) Any possible alternative methods of discharge, including into any other receiving environment
12. A description of the mitigation measures to be undertaken to prevent or reduce actual or potential effects
13. Identification of the persons affected by the proposal (*including any individual or groups that may exercise customary rights or traditions at the proposed location of the activity*), the consultation undertaken, if any, and any response to the views of those conducted
14. If the scale or significance of the activity's effects are such that monitoring is required, a description of how those effects would be monitored.
15. Any other information deemed relevant and necessary