

The Role of Approving Authorities for EIA under the *Environment Management Act*

Fiji Environmental Law Association



Case Study 1 : IMEL & the “Naiqasiqasi”

Naiqasiqasi



Case Study 1 :Cleaning



Case Study 1 : Painting



Case Study 1 : In Lami Town Foreshore



Approving Authorities - EMA



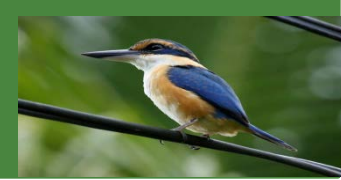
An ***approving authority*** is a Ministry, department, statutory authority, or person authorised under a written law to approve a development proposal.



Question : Who is authorized by Law to approve a development activity or undertaking?

- ❖ Town Planning Act
- ❖ Forest Decree
- ❖ Rivers and Streams Act
- ❖ i-Taukei Land Trust Act
- ❖ Crown Lands Act
- ❖ Mining Act
- ❖ State Land Act
- ❖ Ports Fiji Company Ltd
- ❖ Maritime Authority of Fiji

Key Terms [s 2 EMA]



❖ **PROPONENT**- person or body that proposes to carry out a development activity or is the owner or person having charge, management or control of the development activity or undertaking and includes a Ministry Department or Authority carrying out

❖ **Development Proposal** – Proposal for a development activity or undertaking submitted to an approving authority for approval under a written law

❖ **Development Activity or Undertaking** means any activity or undertaking likely to alter the physical nature of the land in any way and includes the construction of buildings or works, the deposits of wastes or other materials from outfalls, vessels or by other means, the removal of sand, coral, shells, natural vegetation, sea grass or other substances, dredging filling, land reclamation, mining or drilling for minerals, but does not include fishing.

Role of Approving Authorities & EIA

SCREEN THE PROPOSAL &
APPLY TEST!



Test : Is the development proposal likely to cause *significant environment* or **resource management** impact?
S.27(1).

STEP 1 : *Is this a development proposal under EMA?*

Question : *What if the Developer is also the Approving Authority?*

Step 2 : What is significant environmental or resource management impact?

An impact on the environment either in the context of the setting of the development proposal or in the context of the intensity of the proposed development's effect on the environment....
[s 2 EMA]



Scope of Activity



Significance of Impact



Public Concern

Mitigation

Significant Environment & Resource Management Impact

The degree to which the public health and safety are affected



Significant Environment & Resource Management Impact

The degree to which the unique characteristics of the geographic areas are affected.



Significant Environment & Resource Management Impact

The degree to which effects on the environment are likely to involve controversy



Significant Environment & Resource Management Impact

The degree to which unique and unknown risks are taken



Significant Environment & Resource Management Impact

The degree to which a precedent for future action is created



Significant Environment & Resource Management Impact

The potential for cumulative environmental impacts



Promoting Sustainable Natural Resource Management through Law

Significant Environment & Resource Management Impact

The degree to which the natural functioning of the ecosystem is likely to be inhibited



Significant Environment & Resource Management Impact

The degree to which a cultural, traditional, natural, scientific or historic resource may be threatened



Promoting Sustainable Natural Resource Management through Law

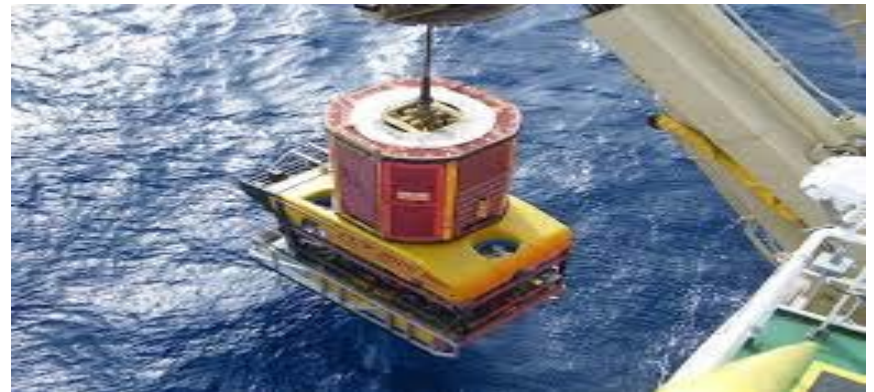
Significant Environment & Resource Management Impact

The potential threat to the existence of protected and endangered species or their critical habitat



Significant Environment & Resource Management Impact

The degree to which fish and wildlife resources of ecological, commercial subsistence and recreational importance are jeopardised



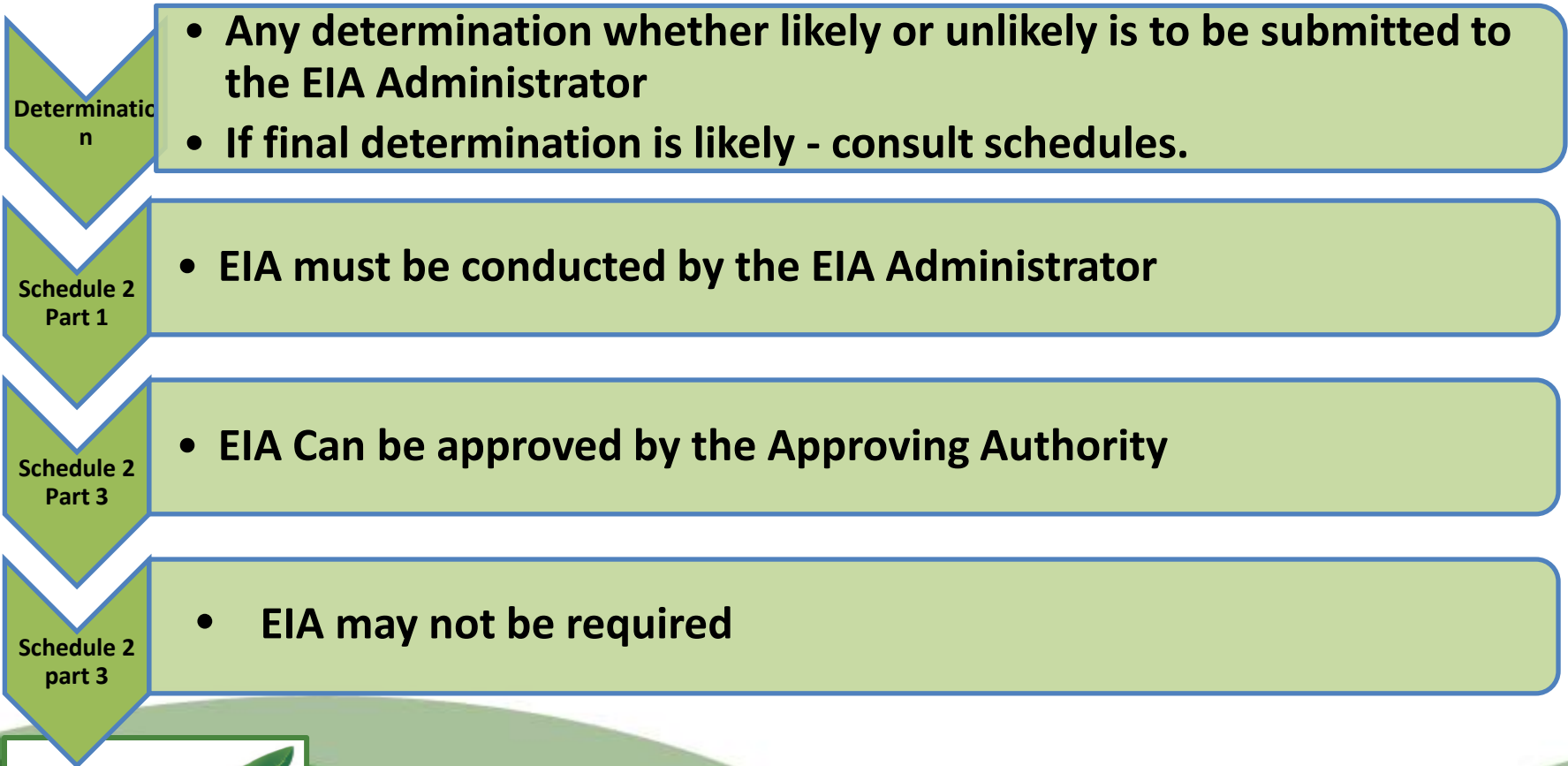
Significant Environment & Resource Management Impact

The extent to which one aspect of use of a resource may conflict or is contrary with another aspect of that resource



Approving Authorities and EMA

Determination & Next Steps



Summary of Procedure

Step 1: Screening: Role of Approving Authority

Is proposal likely to cause significant environmental impact?

YES – the DP requires EIA

NO - EIA not required

EIA Administrator for review

Which authority must process the DP?

Schedule 2 Part 1

Proposal that could:

- Erode beach, coast, foreshore
- Pollute water resource
- Pollute the air
- Degrade agricultural land
- Alter natural processes
- Damage an ecosystem

Dept of Environment

Schedule 2 Part 2

Proposal that might:

- endanger public health
- harm cultural resources; or
- is Civic/cultural development
- Is general commercial
- Is general industrial
- Is <11 residential lots

Approving authority

Schedule 2 Part 3

Proposal that is:

- Construction family home
- Traditional village structure
- Emergency measures

EIA Administrator -> EIA?

Approving Authorities & EMA

Determination & Next Steps [s 27(5)-(8)]

🌍 Wait until EIA process completed before:

- Considering application for DP; or
- Exercising any power, duty, function or responsibility that will permit DP to be commenced.

🌍 *If AA has conducted EIA process*, send to EIA Administrator:

- Assessed EIA report; and
- Results of the review of the EIA report

🌍 *If EIA Administrator has called in the EIA report* – submit EIA report.



Approving Authorities & EMA

Determination & Next Steps.

If a development proposal is subject to an EIA process, the approving authority MUST NOT approve the proposal or exercise any power, duty, function or responsibility that will permit the activity or undertaking to be carried out unless the EIA Report has been approved. s.27 (5).



Approving Authorities & EMA

Other Steps

Step 2 Scoping: TOR

- Define Terms of Reference
- Processing Authority :
 - Must inspect the site
 - May take samples
 - May consult proponent, expert, etc
 - May require public meeting(s)
 - May involve public
- Processing Authority approves TOR
 - Defines parameters of Study
 - Indicates environmental issues

Step 3 EIA Report

- EIA Study by registered consultant
 - Address TOR
 - Comprehensive report of possible impacts
 - Propose mitigation measures
 - Summarise results of public consultation
- EIA Report available to public

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Approving Authorities & EMA

Other Steps

Step 4 EIA Review

- Director DoE directs whether Review Committee or Consultant
- Authority appoints EIA Review Consultant /Committee
- Public Review meetings to be held
- At least one meeting near site
- Consultant/ Committee reports to Authority with recommendations

Step 5 EIA Decision

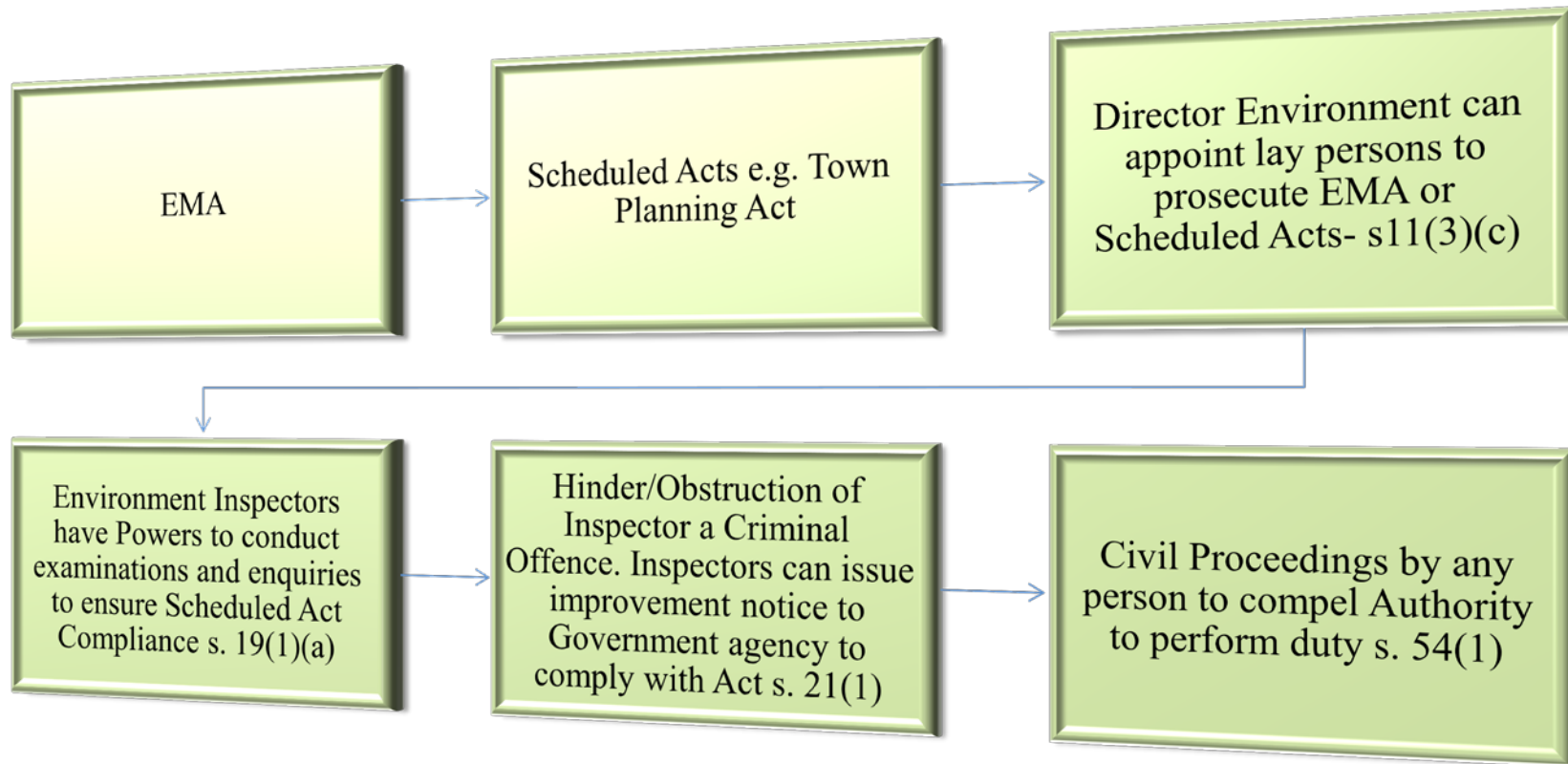
- Processing Authority must consider:
 - Nature & scope of development
 - Significance of any impacts
 - Feasibility of mitigation measures
 - Public concerns
- Processing Authority Review Report
- Processing Authority may:
 - approve with/without conditions
 - Not approve (reasons)
 - Recommend additional studies

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Scheduled Acts

Scheduled Acts



Approving Authorities & EMA

Determination & Next Steps

**Unlawful
Development
without EIA S.43(1)**



**Fine up to
\$750,000**



**Imprisonment
up to 10 years**



**Stop Order
s. 43(2)**



Thank You For Your Attention!

