

# NORTHERN TERRITORY OF AUSTRALIA

## ENVIRONMENTAL ASSESSMENT ADMINISTRATIVE PROCEDURES

As in force at 19 March 2003

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## NORTHERN TERRITORY OF AUSTRALIA

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This reprint shows the administrative procedures as in force at 19 March 2003. Any amendments that commence after that date are not included.

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### ENVIRONMENTAL ASSESSMENT ADMINISTRATIVE PROCEDURES

#### Administrative Procedures under the *Environmental Assessment Act*

##### 1 Citation

These administrative procedures may be cited as the *Environmental Assessment Administrative Procedures*.

##### 2 Commencement

These administrative procedures shall come into operation on the commencement of the *Environmental Assessment Act*.

##### 3 Definitions

In these administrative procedures, unless the contrary intention appears:

***advisory bodies***, in respect of a proposed action means the Agencies, if any, having administrative responsibilities in respect of the proposed action.

***approved*** means approved by the Minister.

***Commission*** means the Conservation Commission of the Northern Territory established by the *Conservation Commission Act*.

***proponent*** means the person, organisation or Agency responsible for the development and execution of a proposed action.

***report*** means a public environmental report.

***responsible Minister***, in relation to a proposed action, means the Minister primarily responsible for authorizing the proposed action.

***statement*** means an environmental impact statement.

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### **3A When do the modified procedures apply?**

The modified procedures apply in relation to a proposed action when the proposed action is assessed by the Territory in accordance with a bilateral agreement between the Territory and the Commonwealth made under section 45 of the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth.

### **4 Minister to keep records**

- (1) The Minister shall keep and maintain or cause to be kept and maintained a record, in such form (including an electronic form) or combination of forms as he thinks fit, of:
  - (a) each proposed action in respect of which the Minister directs a proponent, under clause 8(5)(b), to prepare and submit to him a public environmental report or an environmental impact statement;
  - (b) an alteration and re-assessment under clause 14A in respect of a proposed action;
  - (c) the recommendations of the Minister concerning a proposed action; and
  - (d) each delegation made by him under section 11 of the Act.
- (2) A person may inspect a record referred to in subclause (1), or a copy of it, at a regional office of the Commission in the Territory.

### **5 Compliance with procedures**

The proponent of a proposed action shall, for the purpose of ensuring that these administrative procedures are complied with in relation to the proposed action, comply with a direction given under these administrative procedures to him, within the period, if any, and in accordance with the terms and conditions, if any, specified in the direction.

### **6 Notification of proposed action to Minister**

- (1) A responsible Minister shall, as soon practicable after being informed of the formulation of a proposed action, cause notification to be given in writing (in an approved form) to the Minister specifying the proposed action and the name and address of the proponent in respect of the proposed action.

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- (2) Where the Minister receives notification under subclause (1), he may, not later than 14 days after receiving the notification, direct the proponent to provide him further information which, in his opinion, is necessary for determining whether or not a public environmental report or an environmental impact statement is necessary in respect of the proposed action, and which he specifies in the direction.
  - (3) Where a proponent receives a direction from the Minister under subclause (2), the proponent shall, not later than 14 days after receiving the direction or within such other period agreed to by the Minister as appropriate, provide the information specified in the direction to the Minister.

## **7 Minister may call for report**

Where, in respect of a matter, a notification has not been given to the Minister under clause 6 and the Minister is of the opinion that the matter may be a proposed action, the Minister may, after consulting with the minister who would be the responsible Minister if that matter were a proposed action, call for notification under clause 6 in respect of that matter and where the Minister does so call for notification, that matter shall be a proposed action and these administrative procedures shall apply accordingly.

## **8 Minister to decide whether or not report or statement required**

- (1) Where the Minister receives notification of a proposed action under clause 6 and, in his opinion, it appears that the environmental significance of the proposed action is such that an environmental impact statement in respect of the proposed action will be necessary, he shall consult with, and obtain comments from, advisory bodies and the responsible Minister as to the necessity for a statement in respect of the proposed action.
- (2) Having given due consideration as to whether or not it is necessary for a public environmental report or an environmental impact statement in respect of the proposed action and having complied with subclause (1), the Minister shall by notice in writing to the proponent and the responsible Minister in respect of the proposed action inform them that:
  - (a) he has decided that a report or a statement is necessary in respect of the proposed action; or
  - (b) subject to clause 14A, these administrative procedures are at an end in respect of the proposed action.

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- (3) Where the Minister informs them of his decision under subclause (2)(a) that a report or statement is necessary, the Minister shall prepare a description in writing of the matters relating to the environment which he considers are necessary to be dealt with in the report or statement.
- (4) The Minister shall cause a notice to be published in such newspapers and on such occasions as he considers appropriate:
- (a) advising that he will require a report or a statement in respect of the proposed action;
  - (b) advising that a description of the matters relating to the environment which he considers necessary to be dealt with in the report or statement is available for public comment;
  - (c) inviting interested persons to examine the description of the matters and make written submissions in respect of it:
    - (i) not later than 14 days after the date of publication of the notice; or
    - (ii) if the modified procedures apply – within the period (at least 14 days after the date of publication of the notice) specified in the notice;
  - (d) specifying the place or places where copies of the description of the matters may be obtained; and
  - (e) specifying an address to which interested persons may send or deliver their submissions,
- and the Minister shall cause the description of the matters to be made available as specified in the notice.
- (5) The Minister shall, not later than 14 days after the expiration of the period referred to in subclause (4)(c), having taken into account the submissions received from interested persons:
- (a) review and revise the matters relating to the environment he considers necessary to be dealt with in the report or statement in respect of the proposed action; and
  - (b) direct the proponent to prepare and submit to him a report or a statement in accordance with these procedures.

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(6) The Minister shall specify in the direction given to the proponent under subclause (5):

- (a) the matters relating to the environment which the proponent shall deal with in the report or statement;
- (b) the period within which the proponent shall prepare and submit the report or statement (not being a revised statement under clause 12) to the Minister;
- (c) the number of copies of the report or statement (whether or not revised under clause 12) the proponent shall provide to the Minister, the responsible Minister and such other Agencies and persons as the Minister considers appropriate and specifies in that direction; and
- (d) the newspapers in which, and occasions when, the proponent shall publish a notice under clause 9.

## **9 Report or statement to be made available for public comment**

- (1) Subject to clause 10, where a proponent prepares and submits to the Minister a public environmental report or an environmental impact statement (not being a revised statement under clause 12) in accordance with a direction under clause 8, the proponent shall make the report or statement (or part of it) available for public comment in accordance with this clause.
- (2) A proponent referred to in subclause (1) shall publish a notice, in an approved form in such newspapers and on such occasions as the Minister has directed under clause 8:
  - (a) advising that the report or statement, or (where the Minister has made a direction under clause 10(2)(a)) part of it, is available for public comment;
  - (b) inviting interested persons to examine a copy of the report or statement and make written comments on the proposed action the subject of the report or statement:
    - (i) in the case of a report:
      - (A) not later than 28 days after the date of publication of the notice; or
      - (B) if the modified procedures apply – by the date (at least 28 days after the date of publication of the notice) specified in the notice; or

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- (ii) in the case of a statement, by such date, being not less than 28 days after the date of publication of the notice, as is specified in the notice;
  - (c) if the notice is about a report, specifying the place or places where copies of the report (or part of it) may be:
    - (i) inspected; or
    - (ii) if the modified procedures apply – inspected or purchased;
  - (ca) if the notice is about a statement – specifying the place or places where copies of the statement (or part of it) may be inspected or purchased; and
  - (d) specifying an address to which interested persons may send or deliver their written comments,

and the proponent shall make the report or statement available as specified in the notice.

## **10 Withholding of material contained in report or statement**

- (1) A proponent referred to in clause 9(1) may, at the time of submitting the report or statement to the Minister, lodge with the Minister an objection (in an approved form) to the making of part of the report or statement available to the public setting out the reasons for the objection.
- (2) On receipt of an objection referred to in subclause (1), the Minister shall, as soon as practicable, consider the objection and, after consultation with the responsible Minister:
  - (a) accept the reasons for the objection (in whole or in part) and direct that the part of the report or statement to which the objection relates is not to be made available to the public under clause 9; or
  - (b) direct that the whole of the report or statement is to be made available to the public under clause 9.
- (3) A proponent who lodges an objection under subclause (1) is not required to publish a notice and make the report or statement available until the Minister makes a direction under subclause (2), but on the Minister making the direction the proponent shall, as soon as practicable, comply with clause 9.

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**10A      Revision of report if modified procedures apply**

- (1) This clause applies if the modified procedures apply.
- (2) If the proponent of a proposed action the subject of a public environmental report receives written comments in accordance with clause 9(2)(b)(i)(B), the proponent must revise the report and produce a supplement to the report taking account of those comments within the period the Minister directs under subclause (4).
- (3) On completion, a supplement produced under subclause (2) is part of the report it supplements and a reference to the report is reference to the report together with the supplement.
- (4) The proponent must revise the report, produce the supplement, and provide the Minister with copies of both, within the period the Minister (after consulting the proponent) directs.

**11          Examination of report**

- (1) On receipt of a public environmental report, the Minister shall, within the period specified in the notice referred to in clause 9(2)(b)(i), examine the report in consultation with such advisory bodies as the Minister considers appropriate.
- (2) During the period referred to in subclause (1), the Minister may, for the purpose of examining the report:
  - (a) direct the proponent to provide him such other information he considers necessary to facilitate the examination of the report and specifies in the direction; or
  - (b) request or engage a person or an organisation (being in his opinion suitably qualified) to provide him information in respect of the report or to make comments, suggestions or recommendations in respect of the report,within the period he thinks fit for the purpose of provision of the information or the comments, suggestions or recommendations and specifies to the proponent, the person or the organisation (as the case may be).
- (3) The Minister shall, not later than 14 days after the expiration of the period referred to in subclause (1), or subclause (2)(a) or (2)(b) (whichever is the later):
  - (a) having taken into account the written comments received from interested persons under clause 9, the information and comments, suggestions or recommendations supplied to him



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in accordance with subclause (2) and the results of an inquiry relating to the report conducted under section 10 of the Act (if any), make such comments, suggestions or recommendations concerning the proposed action (including suggestions or recommendations concerning conditions to which the proposed action should be subject) as the Minister thinks fit for the protection of the environment; and

- (b) provide a copy of those comments, suggestions or recommendations to the responsible Minister.

#### **11A Examination of report if modified procedures apply**

- (1) This clause applies if the modified procedures apply.
- (2) Within 28 days after receiving a public environment report and any supplement to the report, the Minister must:
  - (a) subject to subclause (3), examine the report and the supplement in consultation with the advisory bodies the Minister considers appropriate;
  - (b) subject to subclause (4), make the comments, suggestions or recommendations about the proposed action (including suggestions or recommendations concerning conditions to which the proposed action should be subject) the Minister considers appropriate; and
  - (c) provide a copy of those comments, suggestions or recommendations to the responsible Minister.
- (3) For the purpose of examining a report and any supplement under subclause (2)(a), the Minister may:
  - (a) direct the proponent to provide the Minister with the information the Minister considers necessary to facilitate the examination of the report and the supplement and specifies in the direction; or
  - (b) request or engage a person or an organisation that, in the Minister's opinion, is suitably qualified to provide the Minister with information in respect of the report and the supplement or to make comments, suggestions or recommendations in respect of the report and the supplement,

within the period the Minister thinks fit for providing the information, comments, suggestions or recommendations and specifies to the proponent, person or organisation, as the case may be.

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- (4) When making comments, suggestions or recommendations about a proposed action under subclause (2)(b), the Minister must take into account:
- (a) any written comments received under clause 9;
  - (b) the information, comments, suggestions and recommendations provided under subclause (3); and
  - (c) the results of any inquiry conducted under section 10 of the Act.

## **12 Revision of statement**

- (1) On the expiration of the period specified in the notice referred to in clause 9(2)(b)(ii), the proponent of a proposed action the subject of an environmental impact statement shall, having regard to the written comments received from interested persons under clause 9 and the results of an inquiry relating to the statement conducted under section 10 of the Act (if any), conduct a revision of the statement and produce a supplement to the statement to take account of those written comments and results of the inquiry.
- (2) A supplement referred to in subclause (1) shall, on its completion, become part of the statement it supplements and a reference to the statement then becomes a reference to the statement together with the supplement.
- (3) A proponent referred to in subclause (1) shall:
- (a) conduct the revision of the statement and produce the supplement within such period as the Minister, after consulting with the proponent, directs; and
  - (b) not later than the last day of the period referred to in paragraph (a), provide copies of the statement to the Minister, the responsible Minister and the Agencies and persons as directed under clause 8(6).

## **14 Examination of final statement**

- (1) Where the Minister receives a statement under clause 12(3), he shall, in consultation with such advisory bodies as the Minister thinks appropriate, within the relevant period under subclause (4), examine the statement.

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- (2) For the purpose of examining the statement under subclause (1), the Minister may, not later than 21 days after the receipt of a statement:

- (a) direct the proponent of the proposed action to provide him such other information he considers necessary to facilitate the examination of the statement and specifies in the direction; or
- (b) request or engage a person or an organisation (being in his opinion suitably qualified) to provide him information in respect of the statement or to make comments, suggestions or recommendations in respect of the statement,

within the period he thinks fit for the purpose of provision of the information or the comments, suggestions or recommendations and specifies to the proponent, the person or the organisation (as the case may be).

- (3) The Minister shall, within the relevant period under subclause (4), make such comments, suggestions or recommendations concerning a proposed action the subject of a statement examined under subclause (1), including suggestions or recommendations concerning conditions to which the proposed action should be subject, that he thinks fit for the protection of the environment, and shall inform the responsible Minister accordingly.
- (3A) The Minister shall, by notice in such newspapers circulating in the Territory as he considers necessary:
- (a) advise of the completion of his examination of a statement and the making of comments, suggestions or recommendations in respect of the statement; and
  - (b) specify a place or places where copies of the statement and those comments, suggestions or recommendations are available for inspection or purchase.
- (4) For the purposes of this clause, the relevant period shall be:
- (a) 35 days after the receipt under clause 12 of a statement;
  - (b) 35 days after the receipt of information required by a direction, if any, under subclause (2)(a) in respect of the statement; or
  - (c) such longer period as the Minister, after consultation with the proponent of the proposed action the subject of the statement, determines,

whichever is the longer.

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**14A Procedure where proposed action altered**

(1) Where a proponent who has received a notice in writing under clause 8(2), or who has been directed to prepare and submit a report or a statement under clause 8(5)(b), alters the proposed action the subject of the notice or direction, whether prior to commencing it or during the course of executing it, in such a manner that the environmental significance of the proposed action may be changed, the proponent shall:

- (a) as soon as practicable after the alteration, supply the Minister and the responsible Minister with details of the alteration; and
- (b) not execute any part of the proposed action as so altered unless he complies with the direction or notice that the Minister gives to him under subclause (3) in respect of the proposed action.

(2) Where:

- (a) a proponent alters a proposed action which is the subject of a notice under clause 8(2) or a direction under clause 8(5)(b);
- (b) details of the alteration of the proposed action have not been supplied to the Minister and the responsible Minister in accordance with subclause (1); and
- (c) the Minister forms the opinion that the proposed action has been altered in such a manner that the environmental significance of it may be changed,

the Minister may, after consulting with the responsible Minister, direct the proponent to comply with subclause (1).

(3) Where the Minister receives details of an alteration to a proposed action under subclause (1) he shall, in consultation with the responsible Minister and such advisory bodies as he considers appropriate, but not later than 14 days after the receipt of those details, re-consider the environmental significance of the proposed action and by notice in writing to the proponent and the responsible Minister inform them that:

- (a) these administrative procedures are at an end in respect of the proposed action; or
- (b) he has decided that a report or a statement is necessary in respect of the proposed action,

as appropriate on account of the alteration, and the notice shall be complied with and have effect as if a notice under clause 8(2).

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**15            Review of environmental aspects of proposed actions**

- (1) For the purposes of achieving the object of the Act, the Minister may, while a proposed action is being executed, or after the proposed action has been executed, review and assess or cause to be reviewed and assessed (whether or not in consultation with advisory bodies) the environmental aspects of that proposed action, including, in particular, the effectiveness of the safeguards or standards for the protection of the environment adopted or applied in respect of that proposed action and the accuracy of the forecasts of the environmental effects of that proposed action.
- (2) The Minister shall inform the responsible Minister in respect of a proposed action of the results of a review and assessment under subclause (1) of the environmental aspects of the proposed action and may make comments, suggestions or recommendations concerning safeguards or standards for the protection of the environment for and in relation to the proposed action and future similar proposed actions.

**16            Public access to assessment information if modified procedures apply**

- (1) This clause applies if the modified procedures apply.
- (2) Information about the assessment of a proposed action is available to the public unless the same information would not be available to the public if the proposed action was assessed by the Commonwealth under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth.

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## ENDNOTES

### 1 KEY

Key to abbreviations

<b>amd</b> = amended	<b>od</b> = order
<b>app</b> = appendix	<b>om</b> = omitted
<b>bl</b> = by-law	<b>pt</b> = Part
<b>ch</b> = Chapter	<b>r</b> = regulation/rule
<b>cl</b> = clause	<b>rem</b> = remainder
<b>div</b> = Division	<b>renum</b> = renumbered
<b>exp</b> = expires/expired	<b>rep</b> = repealed
<b>f</b> = forms	<b>s</b> = section
<b>Gaz</b> = <i>Gazette</i>	<b>sch</b> = Schedule
<b>hdg</b> = heading	<b>sdiv</b> = Subdivision
<b>ins</b> = inserted	<b>SL</b> = Subordinate Legislation
<b>lt</b> = long title	<b>sub</b> = substituted
<b>nc</b> = not commenced	

### 2 LIST OF LEGISLATION

#### ***Environmental Assessment Administrative Procedures***

Notified	4 July 1984
Commenced	4 July 1984

#### ***Variation of Environmental Assessment Administrative Procedures***

Notified	3 May 1995
Commenced	3 May 1995

#### ***Variation of Environmental Assessment Administrative Procedures***

Notified	19 March 2003
Commenced	19 March 2003

### 3 SAVINGS AND TRANSITIONAL PROVISIONS

cl 11 *Variation of Environmental Assessment Administrative Procedures*