NORTHERN TERRITORY OF AUSTRALIA

ENVIRONMENT PROTECTION REGULATIONS 2020

As in force at 1 March 2024

Table of provisions

Part 1 Preliminary matters

1 Citation 1
2 Commencement 1
3 Definitions 1

Part 2 Important concepts

4 Meaning of *significant environmental harm* 3
5 Methods of environmental impact assessment 3
6 Fit and proper person 3

Part 3 Environment protection declarations

Division 1 Environmental objectives and referral triggers

Subdivision 1 Purpose of Division

7 Purpose of Division 6

Subdivision 2 Process for declaring objective or trigger

8 Application of Subdivision 6
9 Draft declaration to be prepared 6
10 Consultation with NT EPA 7
11 Public consultation 7
12 Decision on draft declaration 7

Subdivision 3 Process for review of objectives and triggers

13 Application of Subdivision 7
14 Consultation with NT EPA 8
15 Public consultation 8
16 Decision on review 8

Subdivision 4 Process for amending objective or trigger

17 Application of Subdivision 9
18 Draft amendment declaration to be prepared 9
19 Consultation with NT EPA 9
20 Public consultation 9

21 Decision on draft amendment declaration 9

Subdivision 5 Process for revoking objective or trigger

22 Application of Subdivision 10
23 Draft revocation to be prepared 10
24 Consultation with NT EPA 10
25 Public consultation 10
26 Decision on draft revocation 11

Division 2 Protected environmental areas and prohibited actions

Subdivision 1 Purpose of Division

27 Purpose of Division 11

Subdivision 2 Process for declaring protected environmental area or prohibited action

28 Application of Subdivision 12
29 Draft declaration to be prepared 12
30 Consultation with NT EPA 12
31 Public consultation 12
32 Decision on draft declaration 12

Subdivision 3 Process for revoking temporary declaration of area

33 Consultation with NT EPA 13

Subdivision 4 Process for revoking permanent declaration of area or declaration of action

34 Application of Subdivision 13
35 Draft revocation declaration to be prepared 13
36 Consultation with NT EPA 14
37 Public consultation 14
38 Decision on draft revocation 14

Part 4 Referrals of proposed actions and strategic proposals

Division 1 Preliminary matters

39 Purpose of Part 15

Division 2 Initial consideration of referrals

40 Additional information about referral 15
41 Decision not to proceed with referral process 15
42 Show cause process 16
43 Proponent initiated EIS referral 16
44 Decision whether to accept referral for standard assessment 17
45 Decision in relation to referral for strategic assessment 17
46 Decision on proponent initiated EIS referral 17
47 General grounds for refusal to accept referral 17
47A Grounds for refusal to accept referral for standard assessment 18
48 Ground for refusal to accept referral for strategic assessment 18
49 Ground for refusal to accept referral as proponent initiated EIS referral 18
50 Notice to proponent of decision 18
51 Publication of documents 19
52 Public consultation 19
53 Consultation with government authorities 20

Division 3 Consideration of accepted referral

54 Application of Division 20
55 NT EPA to consider accepted referral 20
56 Matters NT EPA must consider 21
57 Decision or recommendation on accepted referral except proponent initiated EIS referral 21
58 Decision or recommendation on proponent initiated EIS referral 22
59 Method of environmental impact assessment 23
60 Consultation on assessment by inquiry 23
61 Consultation on proposed recommendation for strategic assessment 23
62 Consultation on proposed recommendation to refuse environmental approval 24
63 Statement of reasons 24
64 Notice to proponent of decision or recommendation 24
65 Notice of decision or recommendation to be published 24

Division 4 Minister's decision on recommendation

66 Minister's decision on recommendation 25
67 Consultation on proposal to refuse to grant environmental approval 25
68 Show cause process 26
69 Time for making decision 26
70 Statement of reasons 27
71 Notice of decision 27
72 Decision to direct different method of assessment 27
73 Decision to direct standard or strategic assessment 28

74 Effect of decision to refuse environmental approval 28
75 Notice of decision 28

Part 5 Environmental impact assessment

Division 1 Purpose of Part

76 Purpose of Part 29

Division 2 General provisions for environmental impact assessment

Subdivision 1 Assessment process

77 NT EPA must consider environmental objectives 29
78 Proponent must consider environmental objectives 29
79 Matters that may be included in environmental impact assessment 29
80 Health impact assessment 30
81 Social impact assessment 30
82 Cultural impact assessment 31
83 Additional information during environmental impact assessment 31
84 Publication of documents and information 31
85 Public consultation 32
86 Power to obtain advice 32
87 Direction to proponent to obtain independent review 33

Subdivision 2 Suspension and termination of assessment process

88 Suspension of assessment process on referral to Commonwealth 33
88A Suspension of standard assessment process 34
89 Suspension of assessment process at request of proponent 34
90 Suspension of assessment process pending receipt of advice 35
91 Effect of suspension on required period to make decision 35
92 Termination of assessment process 35
93 Show cause process 37
94 Withdrawal from assessment process 37

Subdivision 3 Reconsideration of method of environmental impact assessment

95 NT EPA may reconsider method of environmental impact assessment 37
96 Show cause process 39
97 Decision on method of assessment 39

Division 3 Terms of reference

Subdivision 1 Approval of terms of reference

98 Terms of reference 40
99 Assessment period 40
100 Consultation with proponent 41
101 NT EPA to publish draft terms of reference 41
102 Public consultation 42
103 Consultation with government authorities 42
104 Decision on terms of reference 42
105 Notice to proponent of decision 43
106 Notice of decision to be published 44

Subdivision 2 Amendment of approved terms of reference

107 Amendment of approved terms of reference 44
108 Preparation of draft amending terms of reference 45
109 Consultation with proponent 45
110 Publication of draft amending terms of reference 45
111 Public consultation 45
112 Consultation with government authorities 46
113 Decision on draft amending terms of reference 46
114 Approved amending terms of reference to be given to proponent 46
115 Publication of approved amending terms of reference 47
116 Existing assessment process may continue during amendment process 47

Division 4 Assessment by referral information

117 Assessment by referral information 47

Division 5 Assessment by supplementary environmental report

118 Assessment by supplementary environmental report 47
119 Preparation of supplementary environmental report 48
119A Publication of direction 48
120 Assessment period for supplementary environmental report 48
121 Proponent to publish supplementary environmental report 49
122 Public consultation 49
123 Consultation with government authorities 49
124 Additional information in relation to supplementary environmental report 50
125 Publication of direction and information 50
126 NT EPA may invite submissions 50
127 NT EPA may invite proponent to address submissions 51

Division 6 Assessment by environmental impact statement process

Subdivision 1 Preliminary matters

128 Application of Division 51
129 Terms of reference 51

Subdivision 2 Draft environmental impact statement

130 Preparation of draft environmental impact statement 52
131 Submission of draft environmental impact statement to NT EPA 52
132 Proponent to publish draft environmental impact statement 52
133 Public consultation 52
134 Consultation with government authorities 52

Subdivision 3 Preparation of supplement

135 Preparation of supplement to draft environmental impact statement 53
136 Additional information to be included in supplement 53
136A Publication of direction 53
137 Assessment period for supplement 53
138 Proponent to publish supplement 54
139 Public consultation 54
140 Consultation with government authorities 55
141 Waiver of requirement for supplement 55
142 Status of supplement 56
143 Additional information in relation to environmental impact statement 56
144 Publication of direction and information 56
145 NT EPA may invite submissions 56
146 NT EPA may invite proponent to address submissions 57

Division 7 Assessment by inquiry

147 Application of Division 57
148 NT EPA to conduct inquiry 57
149 Terms of reference 57
150 Appointment of inquiry panel 57
151 Procedure of inquiry panel 58
152 Hearings of inquiry panel to be in public 58
153 Timing of report of inquiry or inquiry panel 58
154 Publication of report of inquiry or inquiry panel 58
155 Proponent must consider report 59

Part 6 Assessment reports

156 Assessment report 59
157 Preparation of assessment report 60
158 Draft environmental approval 61
159 Draft statement of unacceptable impact 61
160 Consultation on draft environmental approval or draft statement of unacceptable impact 61
161 Period for providing assessment report 62

Part 7 Significant variations

Division 1 Process for significant variation notified during assessment process

Subdivision 1 Preliminary matters

162 Application of Division 63
163 NT EPA may suspend assessment process 63

Subdivision 2 Initial consideration of notice of significant variation

164 Additional information about significant variation 64
165 Proponent may provide draft terms of reference or draft amendments 64
166 Decision whether to accept notice of significant variation 65
167 Grounds for refusal to accept notice of significant variation 65
168 Notice to proponent of decision 65
169 Publication of documents 66
170 Public consultation 66
171 Consultation with government authorities 67

Subdivision 3 Consideration of accepted notice of significant variation

172 Matters NT EPA must consider in relation to significant variation 67
173 Decision or recommendation on significant variation 68
174 Statement of reasons 71
175 Notice to proponent of decision or recommendation 71
176 Notice of decision or recommendation to be published 71

Subdivision 4 Implementation of decision on assessment

177 Assessment to continue without change 71
178 Alternative method of assessment required 73
179 New assessment for significant variation 73

180 Application of Part 5 if draft terms of reference for variation already published 73
181 Assessment is no longer required 74

Subdivision 5 Amendment of terms of reference

182 Application of Subdivision 75
183 Preparation of draft amending terms of reference 75
184 Consultation with proponent 75
185 Publication of draft amending terms of reference 76
186 Public consultation 76
187 Consultation with government authorities 76
188 Decision on draft amending terms of reference for significant variation 76
189 Notice to proponent of decision 77
190 Notice of decision to be published 78
191 Assessment process after amending terms of reference approved 78

Division 2 Process for significant variation notified after assessment report

Subdivision 1 Preliminary matters

192 Application of Division 79
193 NT EPA to notify Minister of receipt of notice of significant variation 79

Subdivision 2 Initial consideration of notice of significant variation

194 Additional information about significant variation 79
195 Proponent may provide draft terms of reference 80
196 Decision whether to accept notice of significant variation 80
197 Grounds for refusal to accept notice of significant variation 80
198 Matters to be provided to Minister if notice of variation refused 81
199 Notice to proponent of decision 81
200 Publication of documents 81
201 Public consultation 82
202 Consultation with government authorities 82

Subdivision 3 Consideration of accepted notice of significant variation

203 Matters NT EPA must consider in relation to significant variation 83
204 Decision or recommendation on significant variation 83
205 Decision or recommendation if statement of unacceptable impact prepared 85

206 Notice to proponent of decision or recommendation 86
207 Notice of decision or recommendation to be published 86

Subdivision 4 Implementation of decision on assessment

208 Matters to be provided to Minister if additional assessment not required 86
209 Documents to be provided to Minister if new assessment not required 87
210 New assessment for significant variation 88
211 Application of Part 5 if draft terms of reference for variation already published 88
212 Consultation on draft or revised draft environmental approval 89

Division 2A Process for significant variation notified in other specified circumstances

Subdivision 1 Preliminary matters

212A Definitions 90
212B Application of Division 91

Subdivision 2 Initial consideration of notice of significant variation

212C Additional information about significant variation 91
212D Proponent may provide draft terms of reference 92
212E Decision whether to accept notice of significant variation 92
212F Grounds for refusal to accept notice of significant variation 92
212G Notice to proponent of decision 92
212H Publication of documents 93
212J Public consultation 93
212K Consultation with government authorities 94

Subdivision 3 Consideration after acceptance of notice of significant variation

212L NT EPA to consider significant variation 94
212M Matters NT EPA must consider in relation to significant variation 94
212N Decision on significant variation 96
212P Notice to proponent of decision or recommendation 96
212Q Notice of decision to be published 97

Subdivision 4 Implementation of decision on assessment

212R Assessment for significant variation 97
212S Environmental approval for significant variation if specified statutory authorisation granted 97

212T Environmental approval for significant variation if other statutory authorisation granted 98
212U Environmental approval for significant variation if statutory authorisation not required or not granted 98
212V Application of Part 5 if draft terms of reference for variation already published 98
212W Consultation on draft environmental approval 99

Division 3 Process for referral of significant variation after environmental approval granted

Subdivision 1 Preliminary matters

213 Application of Division 100

Subdivision 2 Initial consideration of referral of significant variation

214 Additional information about referral 100
215 Approval holder initiated EIS referral 101
216 Decision whether to accept referral for standard assessment 101
217 Decision whether to accept referral for strategic assessment 101
218 Decision on approval holder initiated EIS referral 102
219 General grounds for refusal to accept referral 102
220 Ground for refusal to accept referral for strategic assessment 102
221 Ground for refusal to accept referral as approval holder initiated EIS referral 102
222 Notice to approval holder of decision 103
223 Publication of documents 103
224 Public consultation 104
225 Consultation with government authorities 104

Subdivision 3 Consideration of accepted referral of significant variation

226 Matters NT EPA must consider in relation to significant variation 105
227 Decision or recommendation on significant variation 105
228 Notice to approval holder of decision or recommendation 106
229 Notice of decision or recommendation to be published 107

Subdivision 4 Implementation of decision on accepted referral of significant variation

230 Documents to be provided to Minister if environmental impact assessment not required 107
231 New assessment for significant variation 107
232 Application of Part 5 if draft terms of reference for variation already published 108

233 Consultation on draft amended environmental approval 109

Part 8 Environment protection bonds

234 Claim on environment protection bond 110

Part 9 Registration of environmental auditors and environmental practitioners

Division 1 Preliminary matters

235 Meaning of *fit and proper person* 111
236 Determinations of CEO 111

Division 2 Registration and renewal of registration

237 Application for registration 112
238 Grant of registration as environmental auditor 112
239 Grant of registration as environmental practitioner 113
240 Show cause process 113
241 Notice of registration 113
242 Conditions of registration 114
243 Application for renewal of registration 114
244 Grant of renewal of registration 115
245 Show cause process 115
246 Notice of renewal of registration 115

Division 3 Suspension or revocation of registration

247 Suspension or revocation of registration 116
248 Show cause process 117
249 Notice of suspension 117
250 Notice of revocation 118
251 When suspension or revocation has effect 118

Division 4 Review of decisions

252 Review by NTCAT 118

Division 5 Registers

253 Register of environmental auditors 118
254 Register of environmental practitioners 119

Part 9A Environment protection notices

254A Information to be provided in notice of entry to land 120

Part 9B Chain of responsibility

254B Prescribed Act, approval and direction 121
254C Prescribed enactments for section 192N of Act 121
254D Declaration under section 5F of the *Corporations Act 2001* (Cth) 122
254E Declaration under section 5G of the *Corporations Act 2001* (Cth) 122

Part 10 Notice of environmental incidents

255 Relevant information to be given 123

Part 11 Infringement notice offences

256 Infringement notice offence and prescribed amount payable 124
257 When infringement notice may be given 124
258 Contents of infringement notice 125
259 Electronic payment and payment by cheque 125
260 Withdrawal of infringement notice 126
261 Application of Part 126

Part 12 General matters

Division 1 Documents and information

Subdivision 1 Referral and assessment documents

262 Definition 127
263 Document and information requirements 127
264 Proponent or approval holder must consider objectives in preparing documents 127

Subdivision 2 Submissions to NT EPA

265 Form of submissions to NT EPA 128
266 NT EPA to give copies of submissions to proponent or approval holder 128
267 Publication of submissions received during assessment process 128
268 Publication relating to form response or petition 128
269 Request not to publish submission 129

Subdivision 3 Prescribed documents

270 Prescribed documents 129

Subdivision 4 Confidential information

271 Confidential information 130

Division 1A Environmental offsets – prescribed enactment

271A Environmental offsets framework and guidelines – prescribed enactment 130

Division 2 Specified periods and extensions of specified periods

Subdivision 1 Extension of specified period for proponent or approval holder

272 Definition 130
273 Application for extension of specified period 131
274 Decision on application for extension 131
275 Statement of reasons 132
276 Notice to proponent or approval holder of decision 132
277 Notice of decision 132

Subdivision 1A Extension of specified submission period

277A Definition 132
277B Application for extension of submission period 132
277C Decision on application for extension 133
277D Statement of reasons 133
277E Notice to proponent or approval holder of decision 133
277F Notice of decision 134

Subdivision 2 Required period for NT EPA to do thing

278 Extension of period for NT EPA or inquiry panel to do thing 134
279 Failure of NT EPA to make decision or give direction within specified time 134

Division 3 Costs and fees

280 Recovery of costs 135
281 Fees and charges not refunded 135

Division 4 Public register

282 Public register 136

Schedule 1 Reviewable decisions and affected persons

Schedule 2 Infringement notice offences and prescribed amounts

ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 March 2024

ENVIRONMENT PROTECTION REGULATIONS 2020

Regulations under the *Environment Protection Act 2019*

Part 1 Preliminary matters

1 Citation

These Regulations may be cited as the *Environment Protection Regulations 2020*.

2 Commencement

These Regulations commence on the day on which section 17 of the *Environment Protection Act 2019* commences.

3 Definitions

In these Regulations:

amend includes substitute.

approval holder initiated EIS referral means a referral mentioned in regulation 215.

Commonwealth Act means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

director, in relation to a body corporate, includes a person concerned in the management of the body corporate.

EAA referred action, see regulation 212A.

EIS means environmental impact statement.

environmental work means any of the following:

(a) preparing environmental impact assessment documents and amending documents;

(b) providing an independent review of environmental impact assessment documents and information;

(c) providing advice on the environmental impact assessment process;

(d) undertaking any investigation under the Act or these Regulations;

(e) preparing or reviewing any other document required under the Act or these Regulations.

fit and proper person, for Part 9, see regulation 235.

infringement notice, see regulation 257.

infringement notice offence, see regulation 256(1).

inquiry panel means a panel appointed under regulation 150(1).

method of environmental impact assessment, see regulation 5.

non-assessed action, see regulation 212A.

non-assessed strategic proposal, see regulation 212A.

prescribed amount, see regulation 256(2).

proponent initiated EIS referral means a referral mentioned in regulation 43.

referred action means a proposed action referred to the NT EPA under section 48 or 50(2)(c) of the Act for standard assessment.

referred significant variation means:

(a) a proposed significant variation of an action notified under section 51(1) of the Act; or

(b) a proposed significant variation of a strategic proposal notified under section 51(2) of the Act; or

(c) a proposed significant variation of an action that has been referred to the NT EPA under section 52(1) of the Act.

referred strategic proposal means a strategic proposal referred to the NT EPA under section 49 of the Act for strategic assessment.

submission period, for Part 12, Division 2, Subdivision 1A, see regulation 277A.

terms of reference, in relation to an environmental impact assessment, means:

(a) the terms of reference approved under Part 5, Division 3 or Part 7 for the assessment; or

(b) if the terms of reference are amended under these Regulations – the terms of reference as amended.

Part 2 Important concepts

4 Meaning of *significant environmental harm*

For section 9(b) of the Act, the amount prescribed is $50 000.

5 Methods of environmental impact assessment

(1) The methods of environmental impact assessment that may be required for a referred action, a referred strategic proposal or a referred significant variation are:

(a) assessment by referral information; or

(b) assessment by supplementary environmental report; or

(c) assessment by environmental impact statement; or

(d) assessment by inquiry.

(2) An assessment by inquiry may be carried out separately or with any other method of environmental impact assessment.

(3) An assessment by inquiry that is carried out with another method of assessment must not duplicate any matters being assessed by that other method.

6 Fit and proper person

(1) For section 62(1)(b) of the Act, the following matters are prescribed:

(a) whether, in the Minister's opinion, the person is of good repute, having regard to character, honesty and integrity;

(b) if the person is a body corporate – whether, in the Minister's opinion, each director of the body corporate is of good repute, having regard to character, honesty and integrity;

(c) if the person is a member of a partnership – whether, in the Minister's opinion, each member of the partnership is of good repute, having regard to character, honesty and integrity.

(2) If the Minister has regard to the matters in section 62(1)(a) of the Act in relation to a person that is a body corporate, the following additional matters are prescribed for section 62(1)(b) of the Act:

(a) whether the Minister believes on reasonable grounds that a director of the body corporate:

(i) has contravened a law of the Territory or another jurisdiction that relates to the physical or biological environment, including matters relating to pollution, biodiversity, natural resources, planning, development or waste; or

(ii) has contravened a law of the Territory or another jurisdiction that relates to heritage, health or cultural matters, including matters relating to sacred sites; or

(iii) has contravened a law of the Territory or another jurisdiction that relates to work health and safety; or

(iiia) has contravened a law of the Territory under which a tax or royalty is payable to the Territory; or

(iv) has committed an offence against any law of the Territory or another jurisdiction that involves an element of fraud or dishonesty; or

(v) has behaved or is likely to behave in a way that is inconsistent with the person's duties as an approval holder;

(b) whether the Minister believes on reasonable grounds that a director of the body corporate is or has been the director of another body corporate that has engaged in conduct of a kind mentioned in paragraph (a);

(c) if the body corporate is the subsidiary of another body or company (the ***parent company***) – whether the Minister believes on reasonable grounds that:

(i) the parent company or a director of the parent company has engaged in conduct of a kind mentioned in paragraph (a); or

(ii) a director of the parent company is or has been the director of another body corporate that has engaged in conduct of a kind mentioned in paragraph (a).

(3) Subregulation (2) does not apply in relation to conduct by a person to the extent that the Minister, having regard to the following matters, considers that the conduct should not be taken into account:

(a) the seriousness of the conduct;

(b) the length of time since the conduct occurred;

(c) any other matters that appear relevant to the Minister.

(4) For section 62(1)(b) of the Act, the following additional matters are prescribed:

(a) whether the person, during the previous 3 years:

(i) was an undischarged bankrupt; or

(ii) applied to take the benefit of any law for the relief of bankrupt or insolvent debtors; or

(iii) compounded with the person's creditors or made an assignment of the person's remuneration for their benefit;

(b) whether the person is or was a director of a body corporate:

(i) that is the subject of a winding up order; or

(ii) for which a controller or administrator has been appointed during the previous 3 years;

(c) if the person is a body corporate – whether the body corporate:

(i) is the subject of a winding up order; or

(ii) has had a controller or administrator appointed during the previous 3 years;

(d) whether, in the Minister's opinion, the person has the financial capacity to comply with the person's obligations under the environmental approval;

(e) whether, in the Minister's opinion, actions or things authorised by the environmental approval will be carried out by a technically competent person.

(5) If the Minister is considering, under Part 5 of the Act, whether a person is a fit and proper person to hold an environmental approval, the person must provide to the NT EPA or the Minister any information required by the NT EPA or the Minister for that consideration.

Part 3 Environment protection declarations

Division 1 Environmental objectives and referral triggers

Subdivision 1 Purpose of Division

7 Purpose of Division

This Division sets out processes for preparing the following:

(a) the declaration of an environmental objective under section 28 of the Act;

(b) the declaration of a referral trigger under section 30 of the Act;

(c) a review of environmental objectives and referral triggers under section 32 of the Act;

(d) the amendment of an environmental objective or referral trigger under section 33 of the Act;

(e) the revocation of an environmental objective or referral trigger under section 33 of the Act.

Subdivision 2 Process for declaring objective or trigger

8 Application of Subdivision

This Subdivision applies if the Minister proposes to declare:

(a) an environmental objective; or

(b) a referral trigger.

9 Draft declaration to be prepared

The Minister must prepare a draft declaration of the environmental objective or referral trigger.

10 Consultation with NT EPA

The Minister must consult with the NT EPA in relation to the draft declaration.

11 Public consultation

(1) The Minister must publish a notice of the draft declaration prepared under regulation 9.

(2) The notice must:

(a) state where the draft declaration, and a statement of reasons for the draft declaration, may be inspected and obtained; and

(b) invite interested persons to make written comments to the Minister on the draft declaration within the period specified in the notice.

(3) The comment period must be not less than 30 business days after the date of the notice.

12 Decision on draft declaration

(1) The Minister must consider:

(a) the comments of the NT EPA on the draft declaration; and

(b) any written comments received on the draft declaration within the comment period specified in the notice under regulation 11.

(2) After considering the comments, the Minister may decide:

(a) to declare the environmental objective or referral trigger; or

(b) to amend the draft environmental objective or referral trigger and declare the amended objective or trigger; or

(c) not to declare the environmental objective or referral trigger.

Subdivision 3 Process for review of objectives and triggers

13 Application of Subdivision

This Subdivision applies if the Minister proposes to review the environmental objectives and referral triggers.

14 Consultation with NT EPA

The Minister must consult with the NT EPA in relation to the review of the environmental objectives and referral triggers.

15 Public consultation

(1) The Minister must publish a notice of the review of the environmental objectives and referral triggers.

(2) The notice must invite interested persons to make written comments to the Minister on the review within the period specified in the notice.

(3) The comment period must be not less than 30 business days after the date of the notice.

16 Decision on review

(1) The Minister must consider:

(a) the comments of the NT EPA on the review; and

(b) any written comments received on the review within the comment period specified in the notice under regulation 15.

(2) After considering the comments, the Minister may decide:

(a) that a new or amended environmental objective or referral trigger is required; or

(b) that the existing environmental objectives and referral triggers are to remain unchanged.

(3) The Minister must publish a decision and a statement of reasons for the decision under subregulation (2) as soon as practicable after the decision is made.

(4) Subdivision 2 applies to the declaration of a new environmental objective or referral trigger after a review.

(5) Subdivision 4 applies to the amendment of an environmental objective or referral trigger after a review.

Subdivision 4 Process for amending objective or trigger

17 Application of Subdivision

(1) This Subdivision applies if the Minister proposes to amend:

(a) an environmental objective; or

(b) a referral trigger.

(2) This Subdivision does not apply to an administrative amendment.

18 Draft amendment declaration to be prepared

The Minister must prepare a draft amendment declaration to amend the environmental objective or referral trigger.

19 Consultation with NT EPA

The Minister must consult with the NT EPA in relation to the draft amendment declaration.

20 Public consultation

(1) The Minister must publish a notice of the draft amendment declaration prepared under regulation 18.

(2) The notice must:

(a) state where the draft amendment declaration, and a statement of reasons for the draft amendment declaration, may be inspected and obtained; and

(b) invite interested persons to make written comments to the Minister on the draft amendment declaration within the period specified in the notice.

(3) The comment period must be not less than 30 business days after the date of the notice.

21 Decision on draft amendment declaration

(1) The Minister must consider:

(a) the comments of the NT EPA on the draft amendment declaration; and

(b) any written comments received on the draft amendment declaration within the comment period specified in the notice under regulation 20.

(2) After considering the comments, the Minister may decide:

(a) to declare the amendment to the environmental objective or referral trigger; or

(b) to amend the draft amendment declaration and declare the amendment to the environmental objective or referral trigger as so amended; or

(c) not to declare the amendment to the environmental objective or referral trigger.

Subdivision 5 Process for revoking objective or trigger

22 Application of Subdivision

(1) This Subdivision applies if the Minister proposes to revoke:

(a) an environmental objective; or

(b) a referral trigger.

(2) This Subdivision does not apply to an amendment that substitutes an environmental objective or referral trigger.

23 Draft revocation to be prepared

The Minister must prepare a draft revocation of the environmental objective or referral trigger.

24 Consultation with NT EPA

The Minister must consult with the NT EPA in relation to the draft revocation.

25 Public consultation

(1) The Minister must publish a notice of the draft revocation prepared under regulation 23.

(2) The notice must:

(a) state where the draft revocation, and a statement of reasons for the draft revocation, may be inspected and obtained; and

(b) invite interested persons to make written comments to the Minister on the draft revocation within the period specified in the notice.

(3) The comment period must be not less than 30 business days after the date of the notice.

26 Decision on draft revocation

(1) The Minister must consider:

(a) the comments of the NT EPA on the draft revocation; and

(b) any written comments received on the draft revocation within the comment period specified in the notice under regulation 25.

(2) After considering the comments, the Minister may decide:

(a) to revoke the environmental objective or referral trigger; or

(b) not to revoke the environmental objective or referral trigger and to declare an amendment to the objective or trigger instead; or

(c) not to revoke the environmental objective or referral trigger.

Division 2 Protected environmental areas and prohibited actions

Subdivision 1 Purpose of Division

27 Purpose of Division

(1) This Division sets out processes for preparing the following:

(a) a permanent declaration of a protected environmental area under section 36 of the Act;

(b) a declaration of a prohibited action or a class of prohibited actions under section 38 of the Act;

(c) a revocation of a declaration under section 39 of the Act.

(2) This Division does not apply to an administrative amendment.

Subdivision 2 Process for declaring protected environmental area or prohibited action

28 Application of Subdivision

This Subdivision applies if the Minister proposes to declare:

(a) an area of land to be a protected environmental area; or

(b) a prohibited action or a class of prohibited actions.

29 Draft declaration to be prepared

The Minister must prepare:

(a) a draft permanent declaration of the protected environmental area; or

(b) a draft declaration of the prohibited action or a class of prohibited actions.

30 Consultation with NT EPA

The Minister must consult with the NT EPA in relation to the draft declaration.

31 Public consultation

(1) The Minister must publish a notice of the draft declaration prepared under regulation 29.

(2) The notice must:

(a) state where the draft declaration, and a statement of reasons for the draft declaration, may be inspected and obtained; and

(b) invite interested persons to make written comments to the Minister on the draft declaration within the period specified in the notice.

(3) The comment period must be not less than 30 business days after the date of the notice.

32 Decision on draft declaration

(1) The Minister must consider:

(a) the comments of the NT EPA on the draft declaration; and

(b) any written comments received on the draft declaration within the comment period specified in the notice under regulation 31.

(2) After considering the comments, the Minister may decide:

(a) to declare the protected environmental area or the prohibited action or class of prohibited actions; or

(b) to amend the draft declaration and declare the protected environmental area or the prohibited action or class of prohibited actions in accordance with the amended draft declaration; or

(c) not to declare the protected environmental area or the prohibited action or class of prohibited actions.

(3) The Minister must make reasonable efforts to advise any owner or occupier of land in the protected environmental area of the making of the permanent declaration of the area.

Subdivision 3 Process for revoking temporary declaration of area

33 Consultation with NT EPA

The Minister must consult with the NT EPA and consider the comments of the NT EPA before revoking a temporary declaration in whole or in part under section 39(1) of the Act.

Subdivision 4 Process for revoking permanent declaration of area or declaration of action

34 Application of Subdivision

This Subdivision applies if the Minister proposes to revoke:

(a) the permanent declaration of a protected environmental area; or

(b) the declaration of a prohibited action or class of prohibited actions.

35 Draft revocation declaration to be prepared

The Minister must prepare a draft revocation of:

(a) the permanent declaration of a protected environmental area; or

(b) the declaration of a prohibited action or class of prohibited actions.

36 Consultation with NT EPA

The Minister must consult with the NT EPA in relation to the draft revocation.

37 Public consultation

(1) The Minister must publish a notice of the draft revocation prepared under regulation 35.

(2) The notice must:

(a) state where the draft revocation, and a statement of reasons for the draft revocation, may be inspected and obtained; and

(b) invite interested persons to make written comments to the Minister on the draft revocation within the period specified in the notice.

(3) The comment period must be not less than 30 business days after the date of the notice.

38 Decision on draft revocation

(1) The Minister must consider:

(a) the comments of the NT EPA on the draft revocation; and

(b) any written comments received on the draft revocation within the comment period specified in the notice under regulation 37.

(2) After considering the comments, the Minister may decide:

(a) to revoke:

(i) the permanent declaration of the protected environmental area; or

(ii) the declaration of the prohibited action or class of prohibited actions; or

(b) not to revoke the declaration of the protected environmental area or prohibited action or class of prohibited actions and to declare an amendment to the declaration instead; or

(c) not to revoke the declaration of the protected environmental area or prohibited action or class of prohibited actions.

Part 4 Referrals of proposed actions and strategic proposals

Division 1 Preliminary matters

39 Purpose of Part

This Part sets out processes for considering and dealing with the following:

(a) a referral of a proposed action for a standard assessment under section 48 or 50(2)(c) of the Act;

(b) a referral of a strategic proposal for a strategic assessment under section 49 of the Act.

Division 2 Initial consideration of referrals

40 Additional information about referral

(1) On receipt of a referral of a proposed action for a standard assessment under section 48 or 50(2)(c) of the Act or a strategic proposal for a strategic assessment under section 49 of the Act, the NT EPA may direct the proponent to give it additional information in relation to the referral, within a specified period.

(2) The additional information must be:

(a) a material omission from the referral; and

(b) required to enable the NT EPA to properly consider the referral and whether it is required to be made.

(3) A direction must be given within 10 business days after the NT EPA receives the referral.

(4) If the NT EPA gives a direction under this regulation, the required period for the NT EPA to make a decision on the referral under regulation 44, 45 or 46 ceases to run until the information is given.

41 Decision not to proceed with referral process

(1) The NT EPA may decide not to proceed with a referral of a proposed action or strategic proposal if the NT EPA has directed the proponent to give it additional information under regulation 40 and the proponent has failed to give that information within the period specified in that direction.

(2) The NT EPA must give written notice to the proponent of a decision under subregulation (1).

42 Show cause process

(1) The NT EPA must not make a decision under regulation 41 unless the NT EPA has first complied with this regulation.

(2) The NT EPA must give written notice (a ***show cause notice***) to the proponent:

(a) stating the NT EPA's intention not to proceed with the referral of the proposed action or strategic proposal; and

(b) asking the proponent to show cause why the referral should proceed.

(3) The show cause notice must specify the date by which the proponent may show cause.

(4) The date specified in the show cause notice must be not less than 10 business days after the date of the notice.

(5) The NT EPA must consider any response given by the proponent to the show cause notice in making a decision under regulation 41.

43 Proponent initiated EIS referral

A proponent may include in a referral of a proposed action for a standard assessment under section 48 or 50(2)(c) of the Act or a strategic proposal for a strategic assessment under section 49 of the Act:

(a) draft terms of reference for an assessment by environmental impact statement for the proposed action or strategic proposal; and

(b) a statement of reasons why:

(i) an assessment by environmental impact statement is required for the proposed action or strategic proposal; and

(ii) the draft terms of reference are appropriate.

44 Decision whether to accept referral for standard assessment

(1) The NT EPA must accept or refuse to accept a referral of a proposed action for a standard assessment under section 48 or 50(2)(c) of the Act within 15 business days after the referral is made.

(2) If the NT EPA does not make a decision under subregulation (1) within the required period, the referral is taken to be accepted.

(3) This regulation does not apply if the NT EPA decides under regulation 41 not to proceed with the referral.

45 Decision in relation to referral for strategic assessment

(1) The NT EPA may accept a referral of a strategic proposal for a strategic assessment under section 49 of the Act if it considers it appropriate to do so.

(2) The NT EPA must make a decision whether to accept or refuse to accept a referral of a strategic proposal for a strategic assessment under section 49 of the Act within 15 business days after the referral is made.

(3) This regulation does not apply if the NT EPA decides under regulation 41 not to proceed with the referral.

46 Decision on proponent initiated EIS referral

If a referral of a proposed action or strategic proposal includes the matters mentioned in regulation 43(a) and (b), the NT EPA may decide to accept the referral as a proponent initiated EIS referral.

47 General grounds for refusal to accept referral

The NT EPA may refuse to accept a referral of a proposed action for a standard assessment under section 48 or 50(2)(c) of the Act or a strategic proposal for a strategic assessment under section 49 of the Act if the NT EPA considers that the referral:

(a) contains insufficient information to make an assessment decision; or

(b) has not been prepared or certified in accordance with the requirements determined under regulation 263; or

(c) relates to part of a larger action proposed by the proponent and information on the whole action is required to make an assessment decision; or

(d) was not required to be made.

47A Grounds for refusal to accept referral for standard assessment

The NT EPA may refuse to accept a referral of a proposed action for a standard assessment under section 48 or 50(2)(c) of the Act if the NT EPA considers that the referral:

(a) relates to an area that is covered by a strategic proposal that has been referred for assessment; or

(b) is of a proposed action of a kind that will be assessed through the assessment of a strategic proposal that has been referred for assessment; or

(c) is of a proposed action that has been assessed as part of a strategic assessment.

48 Ground for refusal to accept referral for strategic assessment

(1) Without limiting regulation 47, the NT EPA may refuse to accept a referral of a strategic proposal for a strategic assessment if it considers that a standard assessment is more appropriate.

(2) If the NT EPA refuses to accept a referral of a strategic proposal for a strategic assessment, it may accept the referral as a referral of a proposed action for a standard assessment.

49 Ground for refusal to accept referral as proponent initiated EIS referral

(1) Without limiting regulation 47 or 48, the NT EPA may refuse to accept a referral as a proponent initiated EIS referral if the NT EPA considers that an assessment by environmental impact statement is unlikely to be required for the proposed action or strategic proposal.

(2) If the NT EPA refuses to accept a referral as a proponent initiated EIS referral, it may accept the referral as a referral for a standard assessment or strategic assessment.

50 Notice to proponent of decision

(1) The NT EPA must give notice of a decision under regulation 44, 45 or 46 to the proponent.

(2) The notice of decision must contain the following information:

(a) a statement that the referral has been accepted or refused;

(b) the name of the proponent;

(c) the name of the proposed action or strategic proposal to which the referral relates;

(d) the nature of the proposed action or strategic proposal to which the referral relates.

(3) If the NT EPA refuses to accept a referral, the NT EPA must give the proponent a statement of reasons for the decision.

(4) The notice of decision and, if the decision is to refuse to accept the referral, the statement of reasons must be given to the proponent as soon as practicable after the decision is made.

51 Publication of documents

(1) The NT EPA must publish the following as soon as practicable after the decision is made:

(a) the notice of decision;

(b) if the decision is to refuse to accept the referral – the statement of reasons for the decision.

(2) If the referral is accepted, the NT EPA must also publish the following as soon as practicable after the decision is made:

(a) a copy of the accepted referral;

(b) any direction given under regulation 40;

(c) any additional information given in response to the direction given under regulation 40;

(d) for an accepted proponent initiated EIS referral – the draft terms of reference and statement of reasons provided under regulation 43.

52 Public consultation

(1) If the referral is accepted, the NT EPA must publish a notice:

(a) advising where the documents mentioned in regulation 51 may be inspected and obtained; and

(b) inviting interested persons to make a submission to the NT EPA on the referral within the period specified in the notice.

(2) The submission period is to be:

(a) for a referral for a standard assessment that is not an accepted proponent initiated EIS referral – 20 business days after the date of the notice; or

(b) for a referral for a standard assessment that is an accepted proponent initiated EIS referral – 30 business days after the date of the notice; or

(c) for a referral for a strategic assessment that is not an accepted proponent initiated EIS referral – 30 business days after the date of the notice; or

(d) for a referral for a strategic assessment that is an accepted proponent initiated EIS referral – 40 business days after the date of the notice.

53 Consultation with government authorities

If the referral is accepted, the NT EPA must:

(a) make reasonable efforts to obtain the views of any government authority that the NT EPA considers may have a view on the referral; and

(b) invite the government authority to make a submission to the NT EPA about the referral within the submission period specified in the notice under regulation 52.

Division 3 Consideration of accepted referral

54 Application of Division

This Division applies if either of the following is accepted under Division 2:

(a) a referral of a proposed action for a standard assessment under section 48 or 50(2)(c) of the Act;

(b) a referral of a strategic proposal for a strategic assessment under section 49 of the Act.

55 NT EPA to consider accepted referral

The NT EPA must consider whether the proposed action or strategic proposal specified in the accepted referral requires an environmental impact assessment.

56 Matters NT EPA must consider

Before making a decision or recommendation under regulation 57 or 58, the NT EPA must consider the following:

(a) the accepted referral;

(b) any additional information given to the NT EPA under regulation 40;

(c) any submissions made under regulation 52 or 53.

57 Decision or recommendation on accepted referral except proponent initiated EIS referral

(1) This regulation does not apply to a proponent initiated EIS referral.

(2) The NT EPA may, in relation to an accepted referral:

(a) decide that an environmental impact assessment is not required; or

(b) decide:

(i) that a standard assessment is required; and

(ii) the required method of environmental impact assessment; or

(c) in the case of a referred strategic proposal – recommend to the Minister:

(i) that a strategic assessment be carried out; and

(ii) the proposed method of environmental impact assessment; or

(d) recommend to the Minister that the Minister refuse to grant environmental approval for the proposed action or strategic proposal.

(3) A decision or recommendation under this regulation must be made within 30 business days after the end of the submission period specified in the notice under regulation 52.

(4) The required period for the NT EPA to make a decision or recommendation under this regulation ceases to run during the period of any consultation required under regulation 60, 61 or 62.

58 Decision or recommendation on proponent initiated EIS referral

(1) The NT EPA may, in relation to a proponent initiated EIS referral:

(a) decide that an environmental impact assessment is not required; or

(b) decide:

(i) that a standard assessment is required; and

(ii) that the required method of environmental impact assessment is an assessment by environmental impact statement; or

(c) decide:

(i) that a standard assessment other than an assessment by environmental impact statement is required; and

(ii) the required method of environmental impact assessment; or

(d) in the case of a referred strategic proposal – recommend to the Minister:

(i) that a strategic assessment be carried out; and

(ii) the proposed method of environmental impact assessment; or

(e) recommend to the Minister that the Minister refuse to grant environmental approval for the proposed action or strategic proposal.

(2) A decision or recommendation under this regulation must be made within 35 business days after the end of the submission period specified in the notice under regulation 52.

(3) The required period for the NT EPA to do any of the following in relation to a proponent initiated EIS referral ceases to run during the period of any consultation required under regulation 60, 61 or 62:

(a) make a decision or recommendation under subregulation (1);

(b) give a direction under regulation 119(2);

(c) approve terms of reference for an assessment by environmental impact statement under regulation 104(3).

59 Method of environmental impact assessment

In deciding or recommending a method of environmental impact assessment of a proposed action or strategic proposal under regulation 57 or 58, the NT EPA must consider the following criteria:

(a) the significance of the potential impact of the proposed action or the strategic proposal;

(b) the level of confidence in predicting potential significant impacts of the proposed action or strategic proposal taking into account the extent and currency of existing knowledge;

(c) the level of confidence in the effectiveness of any proposed measures identified in the referral to avoid, mitigate or manage potential significant impacts of the proposed action or strategic proposal;

(d) the extent of community engagement that has occurred in relation to the proposed action or strategic proposal;

(e) the capacity of communities and individuals likely to be affected to access and understand information about the proposed action or strategic proposal and its potential significant impacts.

60 Consultation on assessment by inquiry

Before deciding or recommending a method of environmental impact assessment that is, or includes, an assessment by inquiry, the NT EPA must:

(a) consult with the Minister and consider the Minister's views; and

(b) consult with the proponent and consider any written submission received from the proponent within the period specified in writing by the NT EPA.

61 Consultation on proposed recommendation for strategic assessment

Before making a recommendation under regulation 57(2)(c) or 58(1)(d), the NT EPA must consult with the Minister and consider the Minister's views.

62 Consultation on proposed recommendation to refuse environmental approval

(1) Before making a recommendation under regulation 57(2)(d) or 58(1)(e), the NT EPA must:

(a) consult with the proponent; and

(b) consider any written submission received from the proponent within the period specified in writing by the NT EPA.

(2) The NT EPA may only make a recommendation under regulation 57(2)(d) or 58(1)(e) if it considers that the action is unacceptable because it is likely to have significant impacts that cannot be appropriately avoided, mitigated or managed.

63 Statement of reasons

(1) The NT EPA must prepare a statement of reasons for a decision or recommendation under regulation 57 or 58.

(2) The statement of reasons for a decision under regulation 57(2)(b) or 58(1)(b) or (c) must specify the reasons for the required method of environmental impact assessment.

(3) The statement of reasons for a recommendation under regulation 57(2)(c) or 58(1)(d) must specify the reasons for the recommendation and the recommended method of environmental impact assessment.

64 Notice to proponent of decision or recommendation

(1) The NT EPA must give the proponent:

(a) notice of a decision or recommendation under regulation 57 or 58; and

(b) the statement of reasons for the decision or recommendation.

(2) The notice and statement of reasons must be given as soon as practicable after the decision or recommendation is made.

65 Notice of decision or recommendation to be published

The NT EPA must publish the following as soon as practicable after the decision or recommendation under regulation 57 or 58 is made:

(a) the notice of decision or recommendation;

(b) the statement of reasons for the decision or recommendation.

Division 4 Minister's decision on recommendation

66 Minister's decision on recommendation

(1) If the NT EPA recommends to the Minister under regulation 57(2)(c) or 58(1)(d) that a strategic assessment be carried out, the Minister may:

(a) accept the recommendation for the strategic assessment and the proposed method of environmental impact assessment; or

(b) if the recommendation is for a strategic assessment that is, or includes, an assessment by inquiry – accept the recommendation for the strategic assessment and direct the NT EPA to decide a different method of assessment; or

(c) refuse to accept the recommendation for the strategic assessment and direct the NT EPA to carry out a standard assessment of the proposed action.

(2) If the NT EPA recommends to the Minister under regulation 57(2)(d) or 58(1)(e) that the Minister refuse to grant environmental approval for a proposed action or strategic proposal, the Minister may:

(a) accept the recommendation and decide to refuse to grant environmental approval for the proposed action or strategic proposal; or

(b) direct the NT EPA to carry out:

(i) a standard assessment of the proposed action; or

(ii) a strategic assessment of the strategic proposal.

67 Consultation on proposal to refuse to grant environmental approval

(1) If the Minister proposes to refuse to grant an environmental approval for a proposed action or strategic proposal under regulation 66(2)(a), the Minister must:

(a) make reasonable efforts to obtain the views of any statutory decision-maker who the Minister considers may have a view on the matter; and

(b) consider any written comments received from the statutory decision-maker within the time specified in writing by the Minister.

(2) The required period under regulation 69 for the Minister to make a decision under regulation 66(2) ceases to run during any period that the Minister carries out a consultation under subregulation (1).

68 Show cause process

(1) The Minister must not refuse to grant an environmental approval for a proposed action or strategic proposal under regulation 66(2)(a) unless the Minister has first complied with this regulation.

(2) The Minister must give written notice (a ***show cause notice***) to the proponent:

(a) stating the Minister's intention to refuse to grant the environmental approval; and

(b) asking the proponent to show cause why the recommendation of the NT EPA under regulation 57(2)(d) or 58(1)(e) should not be accepted.

(3) The show cause notice must specify the date by which the proponent may show cause.

(4) The date specified in the show cause notice must be not less than 10 business days after the date of the notice.

(5) The Minister must consider any response given by the proponent to the show cause notice in making a decision under regulation 66(2).

(6) The required period under regulation 69 for the Minister to make a decision under regulation 66(2) ceases to run from the date of the show cause notice until the date by which the proponent may show cause.

69 Time for making decision

(1) The Minister must make a decision under regulation 66(1) within 20 business days after receiving the recommendation under regulation 57(2)(c) or 58(1)(d).

(2) If the Minister does not make a decision under regulation 66(1) within the required period:

(a) the Minister is taken to have made a decision accepting the NT EPA recommendation; and

(b) the method of environmental impact assessment recommended by the NT EPA is taken to be the required method of environmental impact assessment.

(3) The Minister must make a decision under regulation 66(2) within 30 business days after receiving the recommendation under regulation 57(2)(d) or 58(1)(e).

(4) If the Minister does not make a decision under regulation 66(2) within the required period, the Minister is taken to have made a decision refusing to grant environmental approval for the proposed action or strategic proposal.

70 Statement of reasons

(1) The Minister must prepare a statement of reasons for a decision under regulation 66.

(2) The statement of reasons may refer to or adopt the recommendation of the NT EPA under regulation 57(2)(c) or (d) or 58(1)(d) or (e).

71 Notice of decision

(1) The Minister must give notice of a decision under regulation 66 and the statement of reasons for the decision to:

(a) the NT EPA; and

(b) the proponent.

(2) The notice and statement of reasons must be given as soon as practicable after the decision is made.

(3) The Minister must publish the following as soon as practicable after a decision is made under regulation 66:

(a) the notice of decision;

(b) the statement of reasons for the decision.

(4) If a decision is taken to be made under regulation 69(2) or (4), the NT EPA must, as soon as practicable after the decision is made:

(a) publish a statement that the decision was made under regulation 69(2) or (4) (as the case requires); and

(b) give the proponent a copy of that statement.

72 Decision to direct different method of assessment

(1) This regulation applies if the Minister directs the NT EPA under regulation 66(1)(b) to decide a different method of assessment for a strategic assessment.

(2) The NT EPA must decide a different method of environmental impact assessment for the strategic assessment within 15 business days after being advised of the Minister's direction.

(3) Regulation 59 applies to the consideration of the method of environmental impact assessment under subregulation (2).

73 Decision to direct standard or strategic assessment

(1) This regulation applies if the Minister directs the NT EPA:

(a) under regulation 66(1)(c) to carry out a standard assessment; or

(b) under regulation 66(2)(b) to carry out a standard assessment or strategic assessment.

(2) The NT EPA must carry out the assessment unless the proponent withdraws from the assessment process under regulation 94.

(3) The NT EPA must decide the method of environmental impact assessment for the standard assessment or strategic assessment within 15 business days after being advised of the Minister's direction.

(4) Regulations 59 and 60 apply to the consideration of the method of environmental impact assessment under subregulation (3).

(5) The required period for the NT EPA to make a decision under subregulation (3) ceases to run during the period of any consultation required under regulation 60.

74 Effect of decision to refuse environmental approval

If the Minister makes a decision to refuse to grant an environmental approval for a proposed action or strategic proposal under regulation 66(2)(a), the proponent is not eligible to refer the same or substantially the same proposed action or strategic proposal to the NT EPA under Part 4, Division 3 of the Act for the period of 2 years after the decision is made.

75 Notice of decision

(1) The NT EPA must give notice of a decision under regulation 72 or 73 to the proponent as soon as practicable after the decision is made.

(2) The NT EPA must publish the notice of decision under regulation 72 or 73 as soon as practicable after the decision is made.

Part 5 Environmental impact assessment

Division 1 Purpose of Part

76 Purpose of Part

This Part sets out the processes for an environmental impact assessment that is required under:

(a) Part 4; or

(b) subject to that Part – Part 7.

Division 2 General provisions for environmental impact assessment

Subdivision 1 Assessment process

77 NT EPA must consider environmental objectives

The NT EPA must consider the environmental objectives in carrying out an environmental impact assessment.

78 Proponent must consider environmental objectives

A proponent must consider the environmental objectives when doing anything required of the proponent under an environmental impact assessment process.

79 Matters that may be included in environmental impact assessment

The matters to be included in an environmental impact assessment may include all or any of the following:

(a) an assessment that considers the potential impact of a proposed action or strategic proposal on the biological or physical environment (a ***biological or physical environment assessment***);

(b) an assessment that considers the potential impacts of a proposed action or strategic proposal on human health or wellbeing (a ***health impact assessment***);

(c) an assessment that considers the potential impact of a proposed action or strategic proposal on communities (including Aboriginal communities) or on individuals (a ***social impact assessment***);

(d) an assessment that considers the potential impact of a proposed action or strategic proposal on the natural and cultural values of an area, including Aboriginal cultural values and sacred sites and the Territory's natural and built heritage (a ***cultural impact assessment***);

(e) an assessment that considers the potential economic costs and benefits of a proposed action or strategic proposal to the Territory or to a regional or local area of the Territory (an ***economic assessment***);

(f) an assessment that considers the potential cumulative impacts of a proposed action or strategic proposal and takes into account the combined impact of the action or proposal and other actions (a ***cumulative impact assessment***):

(i) for which environmental approval has been granted; or

(ii) which are the subject of environmental impact assessment; or

(iii) for which an approval (however described) has been given under another enactment; or

(iv) for which an application for approval (however described) is being assessed under another enactment; or

(v) that are occurring or proposed in or near the area of the proposed action or strategic proposal.

80 Health impact assessment

(1) The NT EPA must consult with the Chief Health Officer before requiring a health impact assessment.

(2) A health impact assessment must be carried out in accordance with any guidelines specified for this subregulation by the Chief Health Officer.

81 Social impact assessment

A social impact assessment must be carried out in accordance with any guidelines specified for this regulation by the Minister responsible for social policy.

82 Cultural impact assessment

A cultural impact assessment must be carried out in accordance with any guidelines specified for this regulation by the relevant Minister responsible for preserving the values, sites or heritage that may be subject to that impact.

83 Additional information during environmental impact assessment

(1) The NT EPA may direct the proponent to give the NT EPA, within a specified period, any additional information that the NT EPA considers is reasonably necessary to carry out an environmental impact assessment to meet the objects of the Act.

(2) A direction to give information may include a direction to the proponent to give the NT EPA draft terms of reference for an assessment by environmental impact statement.

(3) A direction to give information may be made at any time during the carrying out of the environmental impact assessment.

(4) If the NT EPA gives a direction under this regulation, the required period for the NT EPA to make a decision or take any action in relation to the environmental impact assessment ceases to run until the later of the following occurs:

(a) the information is given;

(b) if applicable – the end of the submission period specified in the notice under regulation 85.

(5) This regulation does not apply to an assessment by referral information.

(6) This regulation does not limit the operation of regulation 124 or 143.

84 Publication of documents and information

The NT EPA must publish the following as soon as practicable after they are given:

(a) a direction under regulation 83;

(b) the information and any draft terms of reference for the assessment given in response to the direction.

85 Public consultation

(1) The NT EPA may publish a notice of a direction under regulation 83, if the NT EPA considers it appropriate to invite submissions.

(2) The NT EPA must publish a notice of a direction under regulation 83 if the NT EPA has directed the proponent to provide draft terms of reference for the assessment.

(3) A notice under subregulation (1) or (2) must:

(a) state where the direction and information and any draft terms of reference for the assessment given in response to the direction may be inspected and obtained; and

(b) invite interested persons to make a submission to the NT EPA on the direction and information and, if applicable, the draft terms of reference for the assessment within the period specified in the notice.

(4) The submission period must be not less than 15 business days after the date of the notice.

(5) The notice must be published as soon as practicable after the proponent gives the information and any draft terms of reference for the assessment to the NT EPA under regulation 83(1).

86 Power to obtain advice

(1) The NT EPA may engage or request a person or body that the NT EPA considers is suitably qualified to give advice in relation to any material, information or documents given to the NT EPA during an environmental impact assessment process.

(2) The NT EPA must consult with the proponent before engaging a person or body under subregulation (1) if the NT EPA proposes that the proponent is to be required to pay the costs of that engagement.

Note for regulation 86(2)

Regulation 280(1) empowers the CEO to recover these costs from the proponent.

87 Direction to proponent to obtain independent review

(1) The NT EPA may direct the proponent to include in the material, information or documents given to the NT EPA as part of an environmental impact assessment process an independent review by a person in a specified class of qualified reviewer of:

(a) one or more elements of the proposed action or strategic proposal; and

(b) the management response proposed by the proponent to manage those elements.

(2) In this regulation:

qualified reviewer means:

(a) a qualified person; or

(b) a person, or a class of persons, who have the qualifications and experience determined by the NT EPA for the purpose of this definition.

Subdivision 2 Suspension and termination of assessment process

88 Suspension of assessment process on referral to Commonwealth

(1) The NT EPA may suspend the environmental impact assessment process for a proposed action or strategic proposal if:

(a) the NT EPA reasonably considers that the proposed action or strategic proposal may have an impact on a matter of national environmental significance; and

(b) the proponent is required, or is likely to be required, to refer the proposed action or strategic proposal to the relevant Commonwealth Minister under the Commonwealth Act; and

(c) the proposed action or strategic proposal:

(i) has not been so referred; or

(ii) has been referred and the Commonwealth Minister has not made a decision on the proposed action or strategic proposal, the assessment process under the Commonwealth Act or the matters to be included in the assessment.

(2) The NT EPA must recommence the environmental impact assessment process within 10 business days after the NT EPA is notified of the last of the following:

(a) the Commonwealth Minister's decision on the referral;

(b) if applicable – the assessment process under the Commonwealth Act;

(c) the matters to be included in the assessment process.

88A Suspension of standard assessment process

(1) The NT EPA may suspend an environmental impact assessment process for a standard assessment of a proposed action at any time if the NT EPA considers that the proposed action:

(a) relates to an area that is covered by a strategic proposal that has been referred for assessment; or

(b) is of a kind that will be assessed through the assessment of a strategic proposal that has been referred for assessment.

(2) If the NT EPA suspends an environmental impact assessment process under subregulation (1), the NT EPA must recommence the assessment process within 10 business days after the Minister:

(a) grants an environmental approval for the strategic proposal; or

(b) issues a statement of unacceptable impact for the strategic proposal.

(3) Subject to subregulation (2), if the NT EPA suspends an environmental impact assessment process under subregulation (1), the NT EPA may recommence the assessment process at any time.

89 Suspension of assessment process at request of proponent

(1) The NT EPA may suspend the environmental impact assessment process for a proposed action or strategic proposal at any time at the request of the proponent.

(2) If the NT EPA suspends an environmental impact assessment process at the request of a proponent, the NT EPA must recommence the assessment process within 10 business days after receiving a request from the proponent to do so.

90 Suspension of assessment process pending receipt of advice

(1) This regulation applies if the NT EPA engages or requests a person or body under regulation 86 to give advice.

(2) The NT EPA may suspend the environmental impact assessment process until the advice is given.

(3) If the NT EPA suspends an environmental impact assessment process under subregulation (2), the NT EPA must recommence the assessment process within 10 business days after receiving the advice.

91 Effect of suspension on required period to make decision

If the NT EPA suspends an environmental impact assessment process under regulation 88, 88A, 89 or 90, the required period to complete the assessment process ceases to run during the period of suspension.

92 Termination of assessment process

(1) The NT EPA may, by written notice to the proponent, terminate the environmental impact assessment process in relation to a proposed action or strategic proposal if:

(a) the NT EPA has directed the proponent to give it additional information during the assessment process and the proponent has failed to give that information within the period specified in the direction; or

(b) the proponent has failed to prepare a supplementary environmental report as required under Division 5; or

(c) the proponent has failed to submit a draft environmental impact statement within the period specified in the terms of reference; or

(d) the proponent has failed to prepare a supplement to an environmental impact statement as required under Division 6; or

(e) the proponent has proposed variations to the proposed action or strategic proposal to an extent that the proposed action or strategic proposal as varied is no longer the same as that for which the original decision or recommendation in relation to the method of environmental impact assessment was made; or

(f) the proponent has requested the NT EPA to suspend the assessment process for the proposed action or strategic proposal and a period of 2 years has passed since that suspension and the assessment process has not recommenced.

(1A) The NT EPA may, by written notice to the proponent, terminate the environmental impact assessment process for a standard assessment of a proposed action if the NT EPA considers that the proposed action:

(a) relates to an area that is covered by a strategic proposal that has been referred for assessment; or

(b) is of a kind that will be assessed through the assessment of a strategic proposal that has been referred for assessment; or

(c) has been assessed as part of a strategic assessment and the Minister has granted an environmental approval for the strategic proposal.

(2) The NT EPA must not issue a notice on a ground in subregulation (1)(a), (b), (c) or (d) in relation to an assessment by supplementary environmental report or by environmental impact statement unless a period of at least 12 months has passed since the last of the following that is applicable occurs in relation to the assessment:

(a) the end of the period specified in the direction to give the information;

(b) the end of the specified period for submitting the supplementary environmental report;

(c) the end of the specified period for submitting the draft environmental impact statement;

(d) the giving to the proponent of the direction to include information in the supplement.

(3) The NT EPA may terminate the environmental impact assessment process for a proposed action or strategic proposal under this regulation even if the assessment process is suspended under regulation 88, 88A or 89.

(4) This regulation does not apply to the termination of an assessment process under regulation 178 or 181.

93 Show cause process

(1) The NT EPA must not terminate an environmental impact assessment process under regulation 92 unless the NT EPA has first complied with this regulation.

(2) The NT EPA must give written notice (a ***show cause notice***) to the proponent:

(a) stating the NT EPA's intention to terminate the environmental impact assessment process; and

(b) asking the proponent to show cause why the environmental impact assessment process should not be terminated.

(3) The show cause notice must specify the date by which the proponent may show cause.

(4) The date specified in the show cause notice must be not less than 10 business days after the date of the notice.

(5) The NT EPA must consider any response given by the proponent to the show cause notice in making a decision under regulation 92.

94 Withdrawal from assessment process

The proponent may, by written notice to the NT EPA, withdraw from an environmental impact assessment process.

Subdivision 3 Reconsideration of method of environmental impact assessment

95 NT EPA may reconsider method of environmental impact assessment

(1) The NT EPA may reconsider the method of environmental impact assessment during the environmental impact assessment process for a proposed action or strategic proposal if:

(a) any of the following circumstances apply:

(i) substantial new information about the impacts of the proposed action or strategic proposal has become available and the NT EPA would have made a different decision or recommendation if that information had been available when the original decision or recommendation in relation to the method of environmental impact assessment was made;

(ii) there has been a substantial change in circumstances not foreseen when the original decision or recommendation in relation to the method of environmental impact assessment was made;

(iii) the proposed action or strategic proposal was to have had an environmental impact assessment under a cooperative agreement under section 45 of the Act, but the cooperative agreement was cancelled before the assessment was carried out or completed;

(iv) the proponent has proposed variations to the proposed action or strategic proposal to an extent that the proposed action or strategic proposal as varied is no longer the same as that for which the original decision or recommendation in relation to the method of environmental impact assessment was made; and

(b) the NT EPA considers that it is necessary to reconsider the method of environmental impact assessment:

(i) to meet the objects of the Act; and

(ii) to achieve the purpose of the environmental impact assessment process set out in section 42 of the Act.

(2) The NT EPA must not reconsider the method of environmental impact assessment under this regulation after:

(a) the assessment report on the proposed action or strategic proposal has been completed; or

(b) the environmental approval for the proposed action or strategic proposal has been granted.

(2A) The NT EPA must not reconsider a determination that an environmental impact assessment is not required for the proposed action or strategic proposal if another statutory authorisation of the proposed action or the strategic proposal (other than an authorisation under section 58(3) of the Act) has been granted after that determination.

(3) This regulation does not apply to a reconsideration of a method of environmental impact assessment in relation to a significant variation to which Part 7 applies.

96 Show cause process

(1) The NT EPA must not decide a new method of environmental impact assessment under regulation 97 unless the NT EPA has first complied with this regulation.

(2) The NT EPA must give written notice (a ***show cause notice***) to the proponent:

(a) stating the NT EPA's intention to decide a new method of environmental impact assessment; and

(b) stating the NT EPA's reasons for that intention; and

(c) asking the proponent to show cause why the method of environmental impact assessment should not be changed.

(3) The show cause notice must specify the date by which the proponent may show cause.

(4) The date specified in the show cause notice must be not less than 10 business days after the date of the notice.

(5) The NT EPA must consider any response given by the proponent to the show cause notice in making a decision under regulation 97.

97 Decision on method of assessment

(1) If the NT EPA reconsiders the method of environmental impact assessment under regulation 95(1), the NT EPA must either:

(a) decide the new method of environmental impact assessment and direct the proponent to carry out the environmental impact assessment in accordance with that new assessment method; or

(b) decide to continue the assessment with the existing assessment method.

(2) Regulations 59 and 60 apply to the consideration of the method of environmental impact assessment under subregulation (1).

(3) The NT EPA must make a decision under subregulation (2) within 15 business days after the earlier of the following occurs:

(a) the receipt of the response of the proponent to the show cause notice under regulation 96;

(b) the date specified under regulation 96 for the proponent to show cause.

(4) The required period for the NT EPA to make any decision or take any action in relation to the existing environmental impact assessment process ceases to run from the time the show cause notice is given under regulation 96 until a decision is made under subregulation (1).

Division 3 Terms of reference

Subdivision 1 Approval of terms of reference

98 Terms of reference

(1) The NT EPA must prepare terms of reference for an environmental impact assessment that:

(a) is an assessment by environmental impact statement; or

(b) is, or includes, an assessment by inquiry.

(2) Terms of reference may include any terms the NT EPA considers appropriate.

(3) Subregulation (1) and regulations 100 to 103 do not apply if draft terms of reference for the assessment were published:

(a) with an accepted proponent initiated EIS referral under regulation 51; or

(b) under regulation 84.

(4) Subregulation (3) does not affect the requirement in regulation 104(6) to prepare terms of reference.

99 Assessment period

(1) In preparing terms of reference for an assessment by environmental impact statement, the NT EPA must specify the assessment period within which the draft environmental impact statement is to be submitted to the NT EPA.

(2) In preparing terms of reference for an assessment by inquiry, the NT EPA must specify the assessment period within which:

(a) the NT EPA must complete the report of the inquiry; or

(b) an inquiry panel must complete the report of the inquiry and give it to the NT EPA.

(3) In determining the assessment period, the NT EPA must consider the following:

(a) the level of certainty provided by the descriptions in the referral and any information provided under Part 4 or 7 or Division 2 of this Part of:

(i) the proposed action or strategic proposal; and

(ii) any proposed measures to avoid, mitigate or manage potential significant impacts of the proposed action or strategic proposal;

(b) the extent and currency of existing knowledge about the potential significant impacts of the proposed action or strategic proposal;

(c) the nature and extent of requirements for additional information to inform the assessment of the proposed action or strategic proposal;

(d) the likelihood of significant change to the environment during the assessment period, including any potential cumulative impacts associated with other actions that are occurring or proposed in or near the area of the proposed action or strategic proposal;

(e) any other matter the NT EPA considers relevant.

100 Consultation with proponent

(1) Before publishing the draft terms of reference under regulation 101, the NT EPA:

(a) may consult with the proponent; and

(b) if the proponent is consulted – must consider any written submission received from the proponent within the period specified by the NT EPA.

(2) The required period for the NT EPA to publish the draft terms of reference ceases to run during any period that the NT EPA carries out a consultation under subregulation (1).

101 NT EPA to publish draft terms of reference

The NT EPA must publish draft terms of reference prepared under regulation 98 within 40 business days after the decision about the method of environmental impact assessment is made under regulation 57, 72 or 73.

102 Public consultation

(1) The NT EPA must publish a notice of the draft terms of reference prepared under regulation 98.

(2) The notice must:

(a) state where the draft terms of reference may be inspected and obtained; and

(b) invite interested persons to make a submission to the NT EPA on the draft terms of reference within the period specified in the notice.

(3) The submission period must be 15 business days after the notice is published under subregulation (1).

103 Consultation with government authorities

The NT EPA must:

(a) make reasonable efforts to obtain the views of any government authority that the NT EPA considers may have a view on the draft terms of reference prepared under regulation 98; and

(b) invite the government authority to make a submission on the draft terms of reference within the submission period specified in the notice under regulation 102.

104 Decision on terms of reference

(1) After considering any submissions received under regulations 102 and 103, the NT EPA may:

(a) approve the draft terms of reference; or

(b) approve the draft terms of reference with any changes the NT EPA considers appropriate; or

(c) refuse to approve the draft terms of reference.

(2) Subregulation (3) applies if a decision is made under regulation 58(1)(b), 66(1)(a), 72 or 73 to require an assessment by environmental impact statement for a proposed action or strategic proposal to which a proponent initiated EIS referral applies.

(3) After considering any submissions received under Part 4 in relation to draft terms of reference published under regulation 51, the NT EPA may:

(a) approve the draft terms of reference; or

(b) approve the draft terms of reference with any changes the NT EPA considers appropriate; or

(c) refuse to approve the draft terms of reference.

(4) After considering any submissions received under regulation 85 in relation to draft terms of reference published under regulation 84, the NT EPA may:

(a) approve the draft terms of reference; or

(b) approve the draft terms of reference with any changes the NT EPA considers appropriate; or

(c) refuse to approve the draft terms of reference.

(5) The NT EPA must make the decision on the draft terms of reference within:

(a) for a decision under subregulation (1) – 15 business days after the end of the submission period specified in the notice under regulation 102; or

(b) for a decision under subregulation (3):

(i) if a decision is made under regulation 58(1)(b) – 35 business days after the end of the submission period specified in the notice under regulation 52; or

(ii) 25 business days after the decision is made under regulation 66(1)(a), 72 or 73; or

(c) for a decision under subregulation (4) – 25 business days after the end of the submission period specified in the notice under regulation 85.

(6) If the NT EPA refuses to approve the draft terms of reference for an assessment, the NT EPA must prepare terms of reference for the assessment under regulation 98(1).

105 Notice to proponent of decision

(1) The NT EPA must give notice of a decision under regulation 104(1), (3) or (4) to the proponent.

(2) If the NT EPA approves the draft terms of reference (with or without changes), the NT EPA must give the proponent a copy of the approved terms of reference.

(3) If the NT EPA refuses to approve the draft terms of reference, the NT EPA must give the proponent a statement of reasons for the decision.

(4) The notice of decision and either the approved terms of reference or, if the decision is to refuse to approve the terms of reference, the statement of reasons must be given to the proponent as soon as practicable after the decision is made.

106 Notice of decision to be published

The NT EPA must publish the following as soon as practicable after a decision is made under regulation 104(1), (3) or (4):

(a) the notice of decision;

(b) if the draft terms of reference are approved, with or without changes – the approved terms of reference;

(c) if the NT EPA refuses to approve the draft terms of reference – the statement of reasons for the decision.

Subdivision 2 Amendment of approved terms of reference

107 Amendment of approved terms of reference

(1) The NT EPA may amend the approved terms of reference for an environmental impact assessment process during the assessment process if:

(a) either of the following circumstances apply:

(i) the NT EPA becomes aware of information that was not available at the time of approval of the terms of reference and the NT EPA would have specified different terms of reference if the information had been available;

(ii) new information becomes available that indicates a new threat or change in circumstance relating to the environment and the NT EPA reasonably considers that an amendment to the terms of reference is required; and

(b) the NT EPA considers that the amendment is necessary:

(i) to meet the objects of the Act; and

(ii) to achieve the purpose of the environmental impact assessment process set out in section 42 of the Act.

(2) If the NT EPA proposes to amend approved terms of reference, the NT EPA must advise the proponent as soon as practicable of the proposal and the reasons for the amendment.

(3) This Subdivision does not apply to an administrative amendment.

108 Preparation of draft amending terms of reference

(1) If the NT EPA proposes to amend approved terms of reference, the NT EPA must prepare draft amending terms of reference.

(2) The terms of reference may be amended by preparing:

(a) amended terms of reference; or

(b) new terms of reference; or

(c) an addendum to the terms of reference.

109 Consultation with proponent

(1) Before publishing the draft amending terms of reference under regulation 110, the NT EPA:

(a) may consult with the proponent; and

(b) if the proponent is consulted – must consider any written submission received from the proponent within the period specified by the NT EPA.

(2) The required period for the NT EPA to publish the draft amending terms of reference under regulation 110 ceases to run during any period that the NT EPA carries out a consultation under subregulation (1).

110 Publication of draft amending terms of reference

The NT EPA must publish the draft amending terms of reference within 20 business days after the NT EPA decides that the terms of reference need to be amended.

111 Public consultation

(1) The NT EPA must publish a notice of the draft amending terms of reference prepared under regulation 108.

(2) The notice must:

(a) state where the draft amending terms of reference may be inspected and obtained; and

(b) invite interested persons to make a submission to the NT EPA on the draft amending terms of reference within the period specified in the notice.

(3) The submission period must be 15 business days after the notice is published under subregulation (1).

112 Consultation with government authorities

The NT EPA must:

(a) give a copy of the draft amending terms of reference prepared under regulation 108 to any government authority that the NT EPA considers may have a view on the matter; and

(b) invite the government authority to make a submission on the draft amending terms of reference within the submission period specified in the notice under regulation 111.

113 Decision on draft amending terms of reference

(1) After considering any submissions received under regulations 111 and 112 and making any changes to the draft amending terms of reference the NT EPA considers appropriate, the NT EPA must approve the draft amending terms of reference.

(2) The NT EPA must approve the draft amending terms of reference under subregulation (1) within 15 business days after the end of the submission period specified in the notice under regulation 111.

(3) The terms of reference have effect as amended:

(a) on the date that the approved amending terms of reference are published under regulation 115; or

(b) on a later date specified in the approved amending terms of reference.

114 Approved amending terms of reference to be given to proponent

The NT EPA must give the proponent a copy of the approved amending terms of reference as soon as practicable after they are approved.

115 Publication of approved amending terms of reference

The NT EPA must publish the approved amending terms of reference as soon as practicable after they are approved.

116 Existing assessment process may continue during amendment process

If the NT EPA proposes to amend approved terms of reference under this Subdivision:

(a) the proponent may continue to prepare a draft environmental impact statement for the proposed action or strategic proposal on the basis of the existing terms of reference until they are amended under this Subdivision; and

(b) an assessment that is, or includes, an assessment by inquiry may continue in relation to the proposed action or strategic proposal on the basis of the existing terms of reference until they are amended under this Subdivision.

Division 4 Assessment by referral information

117 Assessment by referral information

An assessment by referral information required under Part 4 or 7 assesses a proposed action or strategic proposal on the basis of:

(a) the information given with the referral; and

(b) any additional information, submissions or advice given to the NT EPA under:

(i) Part 4 or 7; or

(ii) Division 2 of this Part (except regulation 83).

Division 5 Assessment by supplementary environmental report

118 Assessment by supplementary environmental report

An assessment by supplementary environmental report required under Part 4 or 7 assesses a proposed action or strategic proposal on the basis of:

(a) the information given with the referral; and

(b) any additional information, submissions or advice given to the NT EPA under:

(i) Part 4 or 7; or

(ii) Division 2 of this Part; and

(c) a supplementary environmental report prepared under this Division.

119 Preparation of supplementary environmental report

(1) The proponent must prepare a supplementary environmental report to address the submissions received in relation to the referral information and submit it to the NT EPA.

(2) The NT EPA may direct the proponent to include additional information in the supplementary environmental report:

(a) to address the submissions; and

(b) to ensure that the NT EPA has sufficient information to complete the environmental impact assessment process.

(3) A direction under subregulation (2) must be given within 25 business days after the assessment decision is made under regulation 57, 58, 72 or 73.

119A Publication of direction

The NT EPA must publish a direction under regulation 119 as soon as practicable after the direction is given.

120 Assessment period for supplementary environmental report

(1) A direction under regulation 119(2) may specify the period (the ***assessment period***) within which the supplementary environmental report is to be submitted to the NT EPA.

(2) In determining the assessment period, the NT EPA must consider the following:

(a) the level of certainty provided by the descriptions in the referral and any information provided under Part 4 or 7 or Division 2 of this Part of:

(i) the proposed action or strategic proposal; and

(ii) any proposed measures to avoid, mitigate or manage potential significant impacts of the proposed action or strategic proposal;

(b) the extent and currency of existing knowledge about the potential significant impacts of the proposed action or strategic proposal;

(c) the nature and extent of requirements for additional information to inform the assessment of the proposed action or strategic proposal;

(d) the likelihood of significant change to the environment during the assessment period, including any potential cumulative impacts associated with other actions that are occurring or proposed in or near the area of the proposed action or strategic proposal;

(e) any other matter the NT EPA considers relevant.

121 Proponent to publish supplementary environmental report

(1) The proponent must publish the supplementary environmental report prepared under regulation 119 in the manner determined by the NT EPA.

(2) The NT EPA may give directions to the proponent about the form and manner in which the supplementary environmental report is to be published.

122 Public consultation

(1) The NT EPA must publish a notice of the supplementary environmental report prepared under regulation 119.

(2) The notice must:

(a) state where the supplementary environmental report may be inspected and obtained; and

(b) invite interested persons to make a submission to the NT EPA on the supplementary environmental report within the period specified in the notice.

(3) The submission period must be 25 business days after the notice is published under subregulation (1).

123 Consultation with government authorities

(1) The proponent must give a copy of the supplementary environmental report prepared under regulation 119 to any government authority that the NT EPA specifies.

(2) The NT EPA must:

(a) make reasonable efforts to obtain the views of any government authority to which the supplementary environmental report is given under subregulation (1); and

(b) invite the government authority to make a submission to the NT EPA on the supplementary environmental report within the submission period specified in the notice under regulation 122.

124 Additional information in relation to supplementary environmental report

(1) The NT EPA may direct the proponent to give the NT EPA, within a specified period, any additional information the NT EPA considers necessary to facilitate consideration of the supplementary environmental report.

(2) The direction must be given not later than 20 business days after the end of the submission period specified in the notice under regulation 122.

(3) If the NT EPA gives a direction under this regulation, the required period for the NT EPA to give an assessment report to the Minister under regulation 161(1) for the assessment under this Division ceases to run until the later of the following occurs:

(a) the information is given;

(b) if applicable – the end of the submission period specified under regulation 126(1).

125 Publication of direction and information

The NT EPA must publish a direction under regulation 124 and the information given in response to the direction as soon as practicable after being given the information.

126 NT EPA may invite submissions

(1) The NT EPA may invite interested persons or specified persons or government authorities to make submissions within the period specified by the NT EPA about:

(a) the information given in response to a direction under regulation 124; or

(b) a specified aspect of the information given in response to a direction under regulation 124.

(2) The submission period must not exceed 15 business days.

(3) If the NT EPA invites submissions under subregulation (1), the required period for the NT EPA to prepare an assessment report under regulation 161(1) for the assessment under this Division ceases to run until the end of the submission period.

127 NT EPA may invite proponent to address submissions

(1) This regulation applies if the NT EPA receives submissions under regulation 126.

(2) The NT EPA may invite the proponent to provide a response addressing the submissions within the period specified by the NT EPA.

(3) If the NT EPA invites the proponent to provide a response to the submissions, the required period for the NT EPA to prepare an assessment report under regulation 161(1) for the assessment under this Division ceases to run until the NT EPA receives the proponent's response.

Division 6 Assessment by environmental impact statement process

Subdivision 1 Preliminary matters

128 Application of Division

This Division applies if an assessment by environmental impact statement is required under Part 4 or 7.

129 Terms of reference

(1) The terms of reference for an assessment by environmental impact statement are the terms of reference approved under Division 3 or Part 7 for that assessment or those terms of reference as amended under these Regulations.

(2) The NT EPA must apply the terms of reference in carrying out the assessment by environmental impact statement.

(3) The proponent must comply with the terms of reference in preparing the environmental impact statement and doing anything required of the proponent under the assessment by environmental impact statement process.

Subdivision 2 Draft environmental impact statement

130 Preparation of draft environmental impact statement

The proponent must prepare a draft environmental impact statement and must submit the statement to the NT EPA within the assessment period for the statement specified by the NT EPA under regulation 99(1).

131 Submission of draft environmental impact statement to NT EPA

(1) The proponent must submit a draft environmental impact statement to the NT EPA in the form required by the terms of reference for the assessment.

(2) The proponent must comply with any requirements of the NT EPA in relation to the draft environmental impact statement.

132 Proponent to publish draft environmental impact statement

(1) The proponent must publish the draft environmental impact statement in accordance with any directions given by the NT EPA.

(2) The NT EPA may give directions to the proponent about the manner in which the draft environmental impact statement is to be published.

133 Public consultation

(1) The NT EPA must publish a notice of the draft environmental impact statement prepared under regulation 130 as soon as practicable after it is submitted to the NT EPA.

(2) The notice must:

(a) state where the draft environmental impact statement may be inspected and obtained; and

(b) invite interested persons to make a submission on the draft environmental impact statement to the NT EPA within the period specified in the notice.

(3) The submission period must be not less than 30 business days and not more than 60 business days after the date of the notice.

134 Consultation with government authorities

(1) The proponent must give a copy of the draft environmental impact statement to any government authority that the NT EPA specifies.

(2) The NT EPA must:

(a) make reasonable efforts to obtain the views of any government authority to which the draft environmental impact statement has been given under subregulation (1); and

(b) invite the government authority to make a submission to the NT EPA on the draft environmental impact statement within the submission period specified in the notice under regulation 133.

Subdivision 3 Preparation of supplement

135 Preparation of supplement to draft environmental impact statement

The proponent must:

(a) consider any submissions received on the draft environmental impact statement; and

(b) prepare a supplement to the draft environmental impact statement to address any issues raised in the submissions.

136 Additional information to be included in supplement

(1) The NT EPA may direct the proponent to include additional information in the supplement to the draft environmental impact statement:

(a) to address the submissions; and

(b) to ensure that the NT EPA has sufficient information to complete the environmental impact assessment process.

(2) A direction under subregulation (1) must be given within 25 business days after the end of the submission period specified in the notice under regulation 133.

136A Publication of direction

The NT EPA must publish a direction under regulation 136 as soon as practicable after the direction is given.

137 Assessment period for supplement

(1) A direction under regulation 136(1) may specify the period (the ***assessment period***) within which the supplement to the draft environmental impact statement is to be submitted to the NT EPA.

(2) In determining the assessment period, the NT EPA must consider the following:

(a) the nature of the matters raised in the submissions received on the draft environmental impact statement;

(b) the extent and currency of existing knowledge about the potential significant impacts on the environment associated with the proposed action or strategic proposal;

(c) the nature and extent of the need for additional information to inform the assessment of the proposed action or strategic proposal;

(d) the likelihood of significant change to the environment during the assessment period, including any potential cumulative impacts associated with other actions that are occurring or proposed in or near the area of the proposed action or strategic proposal;

(e) any other matter the NT EPA considers relevant.

138 Proponent to publish supplement

(1) The proponent must publish a supplement to a draft environmental impact statement prepared under regulation 135 in accordance with any directions of the NT EPA.

(2) The NT EPA may give directions to the proponent about the form and manner in which the supplement to the statement is to be published.

139 Public consultation

(1) The NT EPA must publish a notice of a supplement to a draft environmental impact statement prepared under regulation 135 as soon as practicable after it is submitted to the NT EPA.

(2) The notice must:

(a) state where the supplement to the draft environmental impact statement may be inspected and obtained; and

(b) invite interested persons to make a submission to the NT EPA on the supplement to the draft environmental impact statement within the period specified in the notice.

(3) The submission period must be 15 business days after the notice is published under subregulation (1).

140 Consultation with government authorities

(1) The proponent must give a copy of the supplement to the draft environmental impact statement to any government authority that the NT EPA specifies.

(2) The NT EPA must:

(a) make reasonable efforts to obtain the views of any government authority to which the supplement to the draft environmental impact statement is given under subregulation (1); and

(b) invite the government authority to make a submission to the NT EPA on the supplement to the draft environmental impact statement within the submission period specified in the notice under regulation 139.

141 Waiver of requirement for supplement

(1) The NT EPA may waive a requirement for a supplement to a draft environmental impact statement on its own initiative or at the request of the proponent.

(2) A request from a proponent for a waiver must set out the reasons why a supplement to the statement is not required.

(3) On a request from a proponent for a waiver, the NT EPA may:

(a) waive the requirement for a supplement; or

(b) refuse to waive the requirement for a supplement.

(4) The NT EPA must make a decision under subregulation (3) within 10 business days after receiving the request for a waiver from the proponent.

(5) The NT EPA must give notice to the proponent of a decision to waive or refuse to waive the requirement for a supplement and a statement of reasons for the decision.

(6) If the NT EPA decides to waive the requirement for a supplement, the NT EPA must publish the decision and a statement of reasons for the decision.

(7) The NT EPA must not waive the requirement for a supplement if the action is being assessed under a Bilateral Agreement with the Commonwealth in accordance with section 45 of the Commonwealth Act.

142 Status of supplement

A supplement to a draft environmental impact statement forms part of that statement.

143 Additional information in relation to environmental impact statement

(1) If the proponent provides a supplement to a draft environmental impact statement to the NT EPA, the NT EPA may direct the proponent to give the NT EPA, within a specified period, any additional information the NT EPA considers necessary to facilitate consideration of the environmental impact statement.

(2) The direction must be given not later than 20 business days after the end of the submission period specified in the notice under regulation 139.

(3) If the NT EPA gives a direction under this regulation, the required period for the NT EPA to prepare an assessment report under regulation 161(1) for the assessment under this Division ceases to run until the information is given to the NT EPA.

144 Publication of direction and information

The NT EPA must publish a direction under regulation 143 and the information given in response to the direction as soon as practicable after being given the information.

145 NT EPA may invite submissions

(1) The NT EPA may invite interested persons or specified persons or government authorities to make submissions within a period specified by the NT EPA about:

(a) the information given in response to the direction under regulation 143; or

(b) a specified aspect of the information given in response to the direction under regulation 143.

(2) The submission period must not exceed 15 business days.

(3) If the NT EPA invites submissions under this regulation, the required period for the NT EPA to prepare an assessment report under regulation 161(1) for the assessment under this Division ceases to run until the end of the submission period.

146 NT EPA may invite proponent to address submissions

(1) This regulation applies if the NT EPA receives submissions under regulation 145.

(2) The NT EPA may invite the proponent to provide a response addressing the submissions within the period specified by the NT EPA.

(3) The period specified by the NT EPA under subregulation (2) must not exceed 15 business days.

(4) If the NT EPA invites the proponent to provide a response to the submissions, the required period for the NT EPA to prepare an assessment report under regulation 161(1) for the assessment under this Division ceases to run until the NT EPA receives the proponent's response.

Division 7 Assessment by inquiry

147 Application of Division

This Division applies if a method of assessment that is, or includes, an assessment by inquiry is required under Part 4 or 7.

148 NT EPA to conduct inquiry

(1) The NT EPA is to conduct the inquiry.

(2) Subject to regulation 151, the NT EPA must determine and publish the procedure for the inquiry.

149 Terms of reference

(1) The terms of reference for an assessment by inquiry are the terms of reference approved under Division 3 or Part 7 for that assessment or those terms of reference as amended under these Regulations.

(2) The NT EPA and any inquiry panel must apply the terms of reference in conducting an inquiry.

150 Appointment of inquiry panel

(1) The NT EPA may appoint a panel of one or more persons to assist the inquiry.

(2) The NT EPA must ensure that any person appointed to an inquiry panel has the appropriate qualifications or experience to assist the inquiry.

151 Procedure of inquiry panel

(1) Subject to this Division, in assisting an inquiry, an inquiry panel:

(a) must determine the procedure to be followed by the panel; and

(b) is not subject to direction in its decisions by the NT EPA or the Minister; and

(c) is not bound by the rules of evidence.

(2) The inquiry panel must publish the procedure determined under subregulation (1)(a).

152 Hearings of inquiry panel to be in public

(1) A hearing held by an inquiry panel as part of an inquiry must be held in public, unless the panel directs otherwise.

(2) Subject to subregulation (3), the inquiry panel must publish all written submissions as soon as practicable after they are received by the panel.

(3) If the inquiry panel considers it desirable in the public interest, the panel may:

(a) give directions that all or part of a hearing be held in private, specifying the persons who may be present; and

(b) give directions prohibiting or restricting the publication of all or part of any submission or evidence given orally or in writing to the panel.

153 Timing of report of inquiry or inquiry panel

(1) The NT EPA must complete a report of an inquiry within the period specified in the terms of reference.

(2) An inquiry panel must complete a report of an inquiry and give it to the NT EPA within the period specified in the terms of reference.

154 Publication of report of inquiry or inquiry panel

(1) The NT EPA must publish the report of an inquiry or an inquiry panel prepared under regulation 153 as soon as practicable after the inquiry is completed.

(2) The NT EPA must give a copy of the report to the proponent.

(3) However, the NT EPA must not publish, or give a copy of, the report to the extent that it sets out any submission or evidence if the inquiry panel has directed under regulation 152(3)(b) that publication of the submission or evidence is prohibited or restricted.

(4) The NT EPA must give the proponent a statement of the substance of the submission or evidence that is prohibited or restricted from publication under subregulation (3).

155 Proponent must consider report

The proponent must consider the report of an inquiry or an inquiry panel in relation to a proposed action or strategic proposal in:

(a) if applicable – preparing any supplementary environmental report under Division 5 or draft environmental impact statement or supplement under Division 6 in relation to the proposed action or strategic proposal; or

(b) giving any additional information at the direction of the NT EPA under these Regulations in relation to the proposed action or strategic proposal.

Part 6 Assessment reports

156 Assessment report

(1) The NT EPA must prepare an assessment report on completion of an environmental impact assessment process.

(2) The assessment report is to be given to the Minister under Part 5 of the Act.

(3) The purpose of the assessment report is:

(a) to assess whether the proposed action or strategic proposal is likely to meet the environmental objectives; and

(b) to assess the potential significant environmental impacts of a proposed action or strategic proposal; and

(c) to make recommendations for avoiding, mitigating and managing those impacts; and

(d) to advise the Minister as to the environmental acceptability of the proposed action or strategic proposal.

(4) The assessment report must assess:

(a) the potential environmental impacts and risks of the proposed action or strategic proposal; and

(b) whether there are any significant residual impacts remaining after all reasonable measures to avoid and then mitigate and manage the risks have been taken.

(5) The assessment report may identify that an offset may be appropriate in respect of the significant residual impacts identified in the report.

157 Preparation of assessment report

(1) The NT EPA must consider the following in preparing an assessment report:

(a) any referral information given to the NT EPA;

(b) any additional information provided under regulation 40 or 83;

(c) any advice obtained by the NT EPA under regulation 86;

(d) any supplementary environmental report completed under Part 5, Division 5 in relation to the proposed action or strategic proposal;

(e) any environmental impact statement completed under Part 5, Division 6 in relation to the proposed action or strategic proposal;

(f) the report of an inquiry or an inquiry panel under Part 5, Division 7 in relation to the proposed action or strategic proposal;

(g) any submissions made within the relevant submission period in Part 4, 5 or 7.

(2) The NT EPA may also consider the following in preparing an assessment report:

(a) information based on the NT EPA's own investigations and knowledge;

(ab) any other statutory decision-making processes that may mitigate the potential environmental impact of the referred action or strategic proposal;

(b) any independent review received under regulation 87;

(c) any other information that the NT EPA considers relevant.

(3) The NT EPA may:

(a) refer to an inquiry report or an inquiry panel report in its assessment report; or

(b) adopt an inquiry report or inquiry panel report as its assessment report.

158 Draft environmental approval

(1) The NT EPA must prepare a draft environmental approval to be given to the Minister with the assessment report prepared under regulation 156.

(2) Subregulation (1) does not apply if the NT EPA proposes to give the Minister a statement of unacceptable impact.

159 Draft statement of unacceptable impact

The NT EPA may prepare a draft statement of unacceptable impact.

160 Consultation on draft environmental approval or draft statement of unacceptable impact

(1) The NT EPA:

(a) must give a copy of the draft environmental approval (if any) to the proponent; and

(b) may give a copy of the draft statement of unacceptable impact (if any) to the proponent; and

(c) must invite the proponent to make a submission to the NT EPA on:

(i) the draft approval; or

(ii) if a copy of the draft statement is given to the proponent – the draft statement.

(2) The NT EPA must:

(a) make reasonable efforts to obtain the views of the following in relation to a draft environmental approval or draft statement of unacceptable impact:

(i) any statutory decision-maker that the NT EPA considers may have a view on the draft approval or draft statement;

(ii) if the draft approval includes conditions that relate to a potential health impact of an action – the Chief Health Officer;

(iii) if the draft approval includes conditions that relate to a potential impact of an action on a social or cultural matter – the relevant government authority and

(b) invite each entity consulted under paragraph (a) to make a submission on the draft environmental approval or draft statement of unacceptable impact.

(3) The NT EPA must specify a period for submissions under subregulations (1) and (2).

(4) The NT EPA must consider any submissions made within the submission period.

(5) The required period for the NT EPA to give an assessment report to the Minister under regulation 161(1) ceases to run during the submission period.

161 Period for providing assessment report

(1) The NT EPA must give the assessment report to the Minister and the proponent within the required period.

(2) In this regulation:

required period means:

(a) for an assessment by referral information – 30 business days after the decision or recommendation on the method of assessment is made under regulation 57 or 58; or

(b) for an assessment by supplementary environmental report – 40 business days after the end of the submission period specified in the notice under regulation 122; or

(c) for an assessment by environmental impact statement – 45 business days after, as the case requires:

(i) the end of the submission period specified in the notice under regulation 139 for the supplement to the statement; or

(ii) the NT EPA giving to the proponent under regulation 141 notice of the decision to waive the requirement for a supplement to the statement; or

(d) for an assessment that is an assessment by inquiry – 45 business days after completion or receipt by the NT EPA of the report of the inquiry in relation to the assessment under regulation 153; or

(e) for an assessment that includes an assessment by inquiry – 45 business days after receipt by the NT EPA of the last of the information required to be given to the NT EPA under Part 5 in relation to the assessment.

Part 7 Significant variations

Division 1 Process for significant variation notified during assessment process

Subdivision 1 Preliminary matters

162 Application of Division

This Division applies if the NT EPA receives either of the following before the NT EPA prepares an assessment report for the Minister in relation to a proposed action or strategic proposal:

(a) a notice of significant variation of the proposed action under section 51(1) of the Act;

(b) a notice of significant variation of the strategic proposal under section 51(2) of the Act.

163 NT EPA may suspend assessment process

(1) The NT EPA may suspend the environmental impact assessment process for the proposed action or strategic proposal until it has made a decision on the significant variation.

(2) If the NT EPA suspends the environmental impact assessment process under subregulation (1), the required period for the NT

EPA to make a decision on the proposed action or strategic proposal under Part 4, 5 or 6 ceases to run until the NT EPA makes a decision on the significant variation.

Subdivision 2 Initial consideration of notice of significant variation

164 Additional information about significant variation

(1) On receipt of the notice of significant variation, the NT EPA may direct the proponent to give it additional information in relation to the significant variation.

(2) The additional information must be:

(a) a material omission from the notice of significant variation; and

(b) required to enable the NT EPA to properly consider the notice of significant variation and whether the notice was required to be given.

(3) A direction must be given within 10 business days after the NT EPA receives the notice of significant variation.

(4) If the NT EPA gives a direction under this regulation, the required period in regulation 166 for the NT EPA to make a decision on the notice of significant variation ceases to run until the information is given.

(5) Regulations 41 and 42 apply, with the necessary changes, in relation to a failure to comply with a direction under this regulation as if the notice of significant variation were a referral of a proposed action or strategic proposal.

165 Proponent may provide draft terms of reference or draft amendments

(1) The proponent may provide to the NT EPA, with the notice of significant variation:

(a) draft terms of reference that may be appropriate as a result of the significant variation; or

(b) draft amendments to existing approved terms of reference that may be appropriate as a result of the significant variation.

(2) The proponent must provide a statement of reasons stating why the draft terms of reference or draft amendments to existing terms of reference are appropriate.

166 Decision whether to accept notice of significant variation

(1) The NT EPA must accept or refuse to accept a notice of significant variation of a proposed action or strategic proposal within 15 business days after the notice is given under section 51(1) or (2) of the Act.

(2) If the NT EPA does not make a decision under subregulation (1) within the required period, the notice of significant variation is taken to be accepted.

(3) This regulation does not apply if the NT EPA decides under regulation 41 (as applied by regulation 164(5)) not to proceed with the notice of significant variation.

167 Grounds for refusal to accept notice of significant variation

The NT EPA may refuse to accept a notice of significant variation under regulation 166 if the NT EPA considers that the notice:

(a) contains insufficient information to make an assessment decision; or

(b) has not been prepared or certified in accordance with the requirements determined under regulation 263; or

(c) relates to part of a larger action proposed by the proponent and information on the whole action is required to make an assessment decision; or

(d) was not required to be given.

168 Notice to proponent of decision

(1) The NT EPA must give notice of a decision under regulation 166 to the proponent.

(2) The notice of decision must contain the following information:

(a) a statement that the notice of significant variation has been accepted or refused;

(b) the name of the proponent;

(c) the name of the proposed action or strategic proposal to which the notice relates;

(d) the nature of the variation.

(3) If the NT EPA refuses to accept a notice of significant variation, the NT EPA must give the proponent a statement of reasons for the decision.

(4) The notice of decision and, if the decision is to refuse to accept the notice of significant variation, the statement of reasons must be given to the proponent as soon as practicable after the decision is made.

169 Publication of documents

(1) The NT EPA must publish the following as soon as practicable after the decision is made:

(a) the notice of decision;

(b) if the decision is to refuse to accept the notice of significant variation – the statement of reasons for the decision.

(2) If the notice of significant variation is accepted, the NT EPA must also publish the following as soon as practicable after the decision is made:

(a) a copy of the accepted notice of significant variation;

(b) any direction given under regulation 164;

(c) any additional information given in response to the direction given under regulation 164;

(d) if the proponent has provided draft terms of reference or draft amendments to the existing approved terms of reference under regulation 165 – the draft terms of reference or draft amendments and statement of reasons provided under that regulation.

170 Public consultation

(1) If the notice of significant variation is accepted, the NT EPA must publish a notice:

(a) advising where the documents mentioned in regulation 169 may be inspected and obtained; and

(b) inviting interested persons to make a submission to the NT EPA on the significant variation within the period specified in the notice.

(2) The submission period must be:

(a) for a notice relating to a standard assessment other than a notice mentioned in paragraph (b) – 20 business days after the date of the notice; or

(b) for a notice relating to a standard assessment for which the proponent has provided draft terms of reference or draft amendments to the existing approved terms of reference – 30 business days after the date of the notice; or

(c) for a notice relating to a strategic assessment other than a notice mentioned in paragraph (d) – 30 business days after the date of the notice; or

(d) for a notice relating to a strategic assessment for which the proponent has provided draft terms of reference or draft amendments to the existing approved terms of reference – 40 business days after the date of the notice.

171 Consultation with government authorities

If the notice of significant variation is accepted, the NT EPA must:

(a) give a copy of the documents mentioned in regulation 169 to any government authority that the NT EPA considers may have a view on the matter; and

(b) invite the government authority to make a submission to the NT EPA on the significant variation within the relevant submission period specified in the notice under regulation 170.

Subdivision 3 Consideration of accepted notice of significant variation

172 Matters NT EPA must consider in relation to significant variation

(1) The NT EPA must consider the following before making a decision under regulation 173 on the significant variation:

(a) the notice of significant variation;

(b) any additional information given to the NT EPA under regulation 164;

(c) any submissions received under regulation 170 or 171;

(d) the matters mentioned in subregulation (2).

(2) In assessing a significant variation to determine whether a proposed action or strategic proposal requires a different method of environmental impact assessment or whether a new environmental impact assessment is required for the significant variation, the NT EPA must consider the following:

(a) whether the potential for a significant impact on the environment of the significant variation differs in a material way from the impacts already identified in the assessment process for the proposed action or strategic proposal;

(b) whether, and the extent to which, the significant variation will result in a substantial change to the type or amount of any output of the proposed action or strategic proposal in a way that significantly changes the potential significant impacts from those already identified in the assessment process for the proposed action or strategic proposal;

(c) whether the objects of the Act and the purpose of the environmental impact assessment process set out in section 42 of the Act would be undermined if the matters raised in the significant variation were not assessed.

173 Decision or recommendation on significant variation

(1) The NT EPA may decide that:

(a) for an assessment by referral information:

(i) the assessment can continue to assess the proposed action or strategic proposal and the significant variation with the existing assessment method; or

(ii) the existing assessment method is no longer appropriate and an alternative method of environmental impact assessment is required; or

(iii) the assessment can continue to assess the proposed action or strategic proposal with the existing assessment method, but a new assessment is required for the matters in the significant variation; or

(iv) the assessment is no longer required; or

(b) for an assessment by supplementary environmental report:

(i) the assessment can continue to assess the proposed action or strategic proposal and the significant variation with the existing assessment method; or

(ii) the existing assessment method is no longer appropriate and an alternative method of environmental impact assessment is required; or

(iii) the assessment can continue to assess the proposed action or strategic proposal with the existing assessment method, but a new assessment is required for the matters in the significant variation; or

(iv) the assessment is no longer required; or

(c) for an environmental impact statement process:

(i) the assessment can continue to assess the proposed action or strategic proposal and the significant variation within the existing terms of reference; or

(ia) if terms of reference have not yet been published for the assessment – the assessment can continue with the approval of terms of reference; or

(ii) the assessment can continue with amended terms of reference; or

(iii) the existing assessment method is no longer appropriate and an alternative method of environmental impact assessment is required; or

(iv) the assessment can continue to assess the proposed action or strategic proposal within the existing terms of reference, but a new assessment is required for the matters in the significant variation; or

(v) the assessment is no longer required; or

(d) for an assessment that is, or includes, an assessment by inquiry:

(i) the assessment can continue to assess the proposed action or strategic proposal and the significant variation with the existing terms of reference; or

(ia) if terms of reference have not yet been published for the assessment – the assessment can continue with the approval of terms of reference; or

(ii) the assessment can continue with amended terms of reference; or

(iii) the existing assessment method is no longer appropriate and an alternative method of environmental impact assessment is required; or

(iv) the assessment can continue to assess the proposed action or strategic proposal within the existing terms of reference, but a new assessment is required for the matters in the significant variation; or

(v) the assessment is no longer required.

(2) A decision under subregulation (1)(c) that the terms of reference need to be amended may be made whether the notice of variation is given before or after a draft environmental impact statement is published.

(3) A decision under subregulation (1)(d) that the terms of reference need to be amended may be made before the assessment by inquiry is completed.

(4) The NT EPA must consult with the proponent before deciding a method of environmental impact assessment that is, or includes, an assessment by inquiry and consider any written submission received from the proponent within the period specified in writing by the NT EPA.

(5) If the NT EPA decides that a new assessment is required for a significant variation, the NT EPA must:

(a) if the existing assessment is a standard assessment – decide:

(i) that the assessment of the significant variation is to be a standard assessment; and

(ii) the required method of environmental impact assessment; or

(b) if the existing assessment is a strategic assessment – recommend to the Minister:

(i) that the assessment of the significant variation is to be a strategic assessment; and

(ii) the proposed method of environmental impact assessment.

(6) Regulations 59 and 60 apply to the decision or recommendation on the method of environmental impact assessment.

(7) A decision or recommendation under subregulation (1) or (5) must be made within 30 business days after the end of the submission period specified in the notice under regulation 170.

(8) The required period for the NT EPA to make a decision or recommendation under subregulation (1) or (5) ceases to run during any period that the NT EPA carries out a consultation under regulation 60.

174 Statement of reasons

The NT EPA must prepare a statement of reasons for a decision or recommendation under regulation 173.

175 Notice to proponent of decision or recommendation

(1) The NT EPA must give the proponent:

(a) notice of a decision or recommendation under regulation 173; and

(b) the statement of reasons for the decision or recommendation.

(2) The notice of decision or recommendation and the statement of reasons must be given to the proponent as soon as practicable after the decision or recommendation is made.

176 Notice of decision or recommendation to be published

The NT EPA must publish the following as soon as practicable after the decision or recommendation is made under regulation 173:

(a) the notice of decision or recommendation;

(b) the statement of reasons for the decision or recommendation.

Subdivision 4 Implementation of decision on assessment

177 Assessment to continue without change

(1) If the NT EPA makes a decision under regulation 173(1)(a)(i) that an assessment can continue, the NT EPA must recommence the environmental impact assessment process in accordance with Parts 5 and 6 within 10 business days after the decision is made.

(2) If the NT EPA makes a decision under regulation 173(1)(b)(i) that an assessment can continue, the NT EPA:

(a) may direct that additional information be given under regulation 83 or 124; and

(b) may amend a direction given under regulation 119(2)(b) or 124; and

(c) must recommence the environmental impact assessment process in accordance with Parts 5 and 6 within 10 business days after the decision is made.

(3) If the NT EPA makes a decision under regulation 173(1)(c)(i) that an assessment can continue within the existing terms of reference, the NT EPA:

(a) may direct that additional information be given under regulation 83 or 143; and

(b) may amend a direction given under regulation 136(1) or 143; and

(c) must recommence the environmental impact assessment process in accordance with Parts 5 and 6 within 10 business days after the decision is made.

(3A) If a decision is made under regulation 173(1)(c)(ia) or (d)(ia) that the assessment can continue with the approval of terms of reference:

(a) the NT EPA must commence the process for the approval of terms of reference under regulation 98 within 10 business days after the decision under regulation 173(1)(c)(ia) or (d)(ia) is made; and

(b) regulation 101 applies as if it required the terms of reference to be published within 40 business days after the decision under regulation 173(1)(c)(ia) or (d)(ia) is made.

(4) If the NT EPA makes a decision under regulation 173(1)(d)(i) that an assessment can continue within the existing terms of reference, the NT EPA:

(a) may direct that additional information be given under regulation 83; and

(b) must recommence the environmental impact assessment process in accordance with Parts 5 and 6 within 10 business days after the decision is made.

178 Alternative method of assessment required

(1) If the NT EPA makes a decision under regulation 173 that an alternative method of environmental impact assessment is required, the NT EPA must:

(a) by written notice to the proponent, terminate the existing environmental impact assessment process; and

(b) decide the method of environmental impact assessment in accordance with regulations 59, 60 and 61 as soon as practicable after the decision is made; and

(c) carry out the new environmental impact assessment process in accordance with Parts 5 and 6.

(2) The NT EPA may consider any information provided to it under the existing environmental impact assessment process in carrying out the new assessment process.

179 New assessment for significant variation

(1) If the NT EPA makes a decision under regulation 173(1) that an assessment can continue, but that a new assessment is required for the matters in the significant variation, the NT EPA must:

(a) recommence the existing environmental impact assessment process in accordance with Parts 5 and 6; and

(b) subject to subregulations (2) and (3), carry out an assessment of the significant variation.

(2) If the NT EPA recommends to the Minister under regulation 173(5) that the assessment of the significant variation be a strategic assessment, Part 4, Division 4 applies, with the necessary changes, as if the variation were a strategic proposal.

(3) Subject to regulation 180, Parts 5 and 6 apply, with the necessary changes, to a new assessment of a significant variation mentioned in regulation 173 as if the variation were a proposed action or strategic proposal.

180 Application of Part 5 if draft terms of reference for variation already published

(1) This regulation applies if:

(a) the NT EPA has determined under regulation 173 that the new assessment of a significant variation is to be an assessment by environmental impact statement; and

(b) draft terms of reference or draft amendments to the existing approved terms of reference for the significant variation (the ***draft terms of reference for the significant variation***) were published under regulation 169.

(2) Except as set out in subregulation (5), regulations 98(1), (3) and (4) and 100 to 104 do not apply to the draft terms of reference for the significant variation.

(3) After considering any submissions received under regulations 170 and 171 in relation to the draft terms of reference for the significant variation, the NT EPA may:

(a) approve the draft terms of reference for the new assessment of the significant variation; or

(b) approve the draft terms of reference for the new assessment of the significant variation with any changes the NT EPA considers appropriate; or

(c) refuse to approve the draft terms of reference.

(4) The NT EPA must make the decision on the draft terms of reference for the significant variation within 35 business days after the end of the submission period specified in the notice under regulation 170.

(5) If the NT EPA refuses to approve the draft terms of reference under subregulation (3), the NT EPA must prepare draft terms of reference for the assessment under regulation 98(1).

(6) Regulations 105 and 106 apply to a decision under subregulation (3) as if it were a decision under regulation 104(1),(3) or (4).

181 Assessment is no longer required

(1) This regulation applies if the NT EPA decides under regulation 173 that an assessment is no longer required.

(2) The NT EPA must, by written notice to the proponent, terminate the environmental impact assessment process for the proposed action or strategic proposal.

Subdivision 5 Amendment of terms of reference

182 Application of Subdivision

This Subdivision applies if the NT EPA decides under:

(a) regulation 173(1)(c)(ii) that the terms of reference for an assessment by environmental impact statement need to be amended; or

(b) regulation 173(1)(d)(ii) that the terms of reference for an assessment by inquiry need to be amended.

183 Preparation of draft amending terms of reference

(1) The NT EPA must prepare draft amending terms of reference that may be:

(a) amended terms of reference; or

(b) new terms of reference; or

(c) an addendum to the terms of reference.

(2) Subregulation (1) and regulations 184 to 187 do not apply if draft terms of reference or draft amendments to the existing terms of reference for the assessment (the ***draft amending terms of reference***) were published under regulation 169.

(3) Subregulation (2) does not affect the requirement in regulation 188(6) to prepare draft amending terms of reference.

184 Consultation with proponent

(1) Before publishing the draft amending terms of reference under regulation 185, the NT EPA:

(a) may consult with the proponent; and

(b) if the proponent is consulted – must consider any written submission from the proponent received within the time specified by the NT EPA.

(2) The required period for the NT EPA to publish the draft amending terms of reference ceases to run during any period that the NT EPA carries out a consultation under subregulation (1).

185 Publication of draft amending terms of reference

The NT EPA must publish the draft amending terms of reference prepared under regulation 183 within 40 business days after the decision is made under regulation 173(1)(c)(ii) or (d)(ii).

186 Public consultation

(1) The NT EPA must publish a notice of the draft amending terms of reference prepared under regulation 183.

(2) The notice must:

(a) state where the draft amending terms of reference may be inspected and obtained; and

(b) invite interested persons to make a submission to the NT EPA on the draft amending terms of reference within the period specified in the notice.

(3) The submission period must be 15 business days after the notice is published under subregulation (1).

187 Consultation with government authorities

The NT EPA must:

(a) give a copy of the draft amending terms of reference to any government authority that the NT EPA considers may have a view on the matter; and

(b) invite the government authority to make a submission to the NT EPA on the draft amending terms of reference within the submission period specified in the notice under regulation 186.

188 Decision on draft amending terms of reference for significant variation

(1) After considering any submissions received under regulations 186 and 187, the NT EPA may:

(a) approve the draft amending terms of reference; or

(b) approve the draft amending terms of reference with any changes the NT EPA considers appropriate; or

(c) refuse to approve the draft amending terms of reference.

(2) Subregulation (3) applies if draft terms of reference or draft amendments to the existing approved terms of reference (the ***draft amending terms of reference***) for the significant variation were published under regulation 169.

(3) After considering any submissions received under regulations 170 and 171, the NT EPA may:

(a) approve the draft amending terms of reference published under regulation 169; or

(b) approve the draft amending terms of reference with any changes the NT EPA considers appropriate; or

(c) refuse to approve the draft amending terms of reference.

(4) The NT EPA must make a decision under subregulation (1) within 15 business days after the end of the submission period specified in the notice under regulation 186.

(5) The NT EPA must make a decision under subregulation (3) within 30 business days after the end of the submission period specified in the notice under regulation 170.

(6) If the NT EPA refuses to approve the draft amending terms of reference for an assessment under subregulation (3), the NT EPA must prepare draft amending terms of reference for the assessment under regulation 183(1).

(7) If the draft amending terms of reference are approved under subregulation (1) or (3), the terms of reference have effect as amended:

(a) on the date that the approved amending terms of reference are published under regulation 190; or

(b) on a later date specified in the amending terms of reference.

189 Notice to proponent of decision

(1) The NT EPA must give notice of a decision under regulation 188(1) or (3) to the proponent.

(2) If the NT EPA approves the draft amending terms of reference (with or without changes), the NT EPA must give the proponent a copy of the approved amending terms of reference.

(3) If the NT EPA refuses to approve the amending terms of reference, the NT EPA must give the proponent a statement of reasons for the decision.

(4) The notice of decision and either the approved amending terms of reference or, if the decision is to refuse to approve the draft amending terms of reference, the statement of reasons must be given to the proponent as soon as practicable after the decision is made.

190 Notice of decision to be published

The NT EPA must publish the following as soon as practicable after the decision is made under regulation 188(1) or (3):

(a) the notice of decision;

(b) if the draft amending terms of reference are approved, with or without changes – the approved amending terms of reference;

(c) if the NT EPA refuses to approve the draft amending terms of reference – the statement of reasons for the decision.

191 Assessment process after amending terms of reference approved

(1) This regulation applies if the NT EPA approves draft amending terms of reference under regulation 188.

(2) If the terms of reference are for an assessment by environmental impact statement:

(a) the NT EPA and the proponent must carry out the environmental impact assessment process under Part 5 in accordance with the amended terms of reference; and

(b) the proponent must prepare any documents for the assessment as directed by the NT EPA in accordance with the amended terms of reference.

(3) If the terms of reference are for an assessment by inquiry, the NT EPA and the proponent must carry out the environmental impact assessment process under Part 5 in accordance with the amended terms of reference.

Division 2 Process for significant variation notified after assessment report

Subdivision 1 Preliminary matters

192 Application of Division

This Division applies if the NT EPA receives a notice of significant variation under section 51(1) or (2) of the Act:

(a) after the assessment report on the proposed action or strategic proposal is prepared by the NT EPA; and

(b) before an environmental approval is given for the proposed action or strategic proposal.

Note for regulation 192

Section 56(2) of the Act provides that the approval process under Part 5 of the Act ceases until the assessment of the variation is completed.

193 NT EPA to notify Minister of receipt of notice of significant variation

The NT EPA must notify the Minister without delay of the receipt of the notice of significant variation.

Subdivision 2 Initial consideration of notice of significant variation

194 Additional information about significant variation

(1) On receipt of the notice of significant variation under section 51(1) or (2) of the Act, the NT EPA may direct the proponent to give it additional information in relation to the significant variation.

(2) The additional information must be:

(a) a material omission from the notice of significant variation; and

(b) required to enable the NT EPA to properly consider the notice of significant variation and whether the notice was required to be given.

(3) A direction must be made within 10 business days after the NT EPA receives the notice of significant variation.

(4) If the NT EPA gives a direction under this regulation, the required period for the NT EPA to make a decision under regulation 196 on the notice of significant variation ceases to run until the information is given.

(5) Regulations 41 and 42 apply, with the necessary changes, in relation to a failure to comply with a direction under this regulation as if the notice of significant variation were a referral of a proposed action or strategic proposal.

195 Proponent may provide draft terms of reference

(1) The proponent may provide to the NT EPA, with the notice of significant variation, draft terms of reference that may be appropriate as a result of the significant variation.

(2) The proponent must provide a statement of reasons stating why the draft terms of reference are appropriate.

196 Decision whether to accept notice of significant variation

(1) The NT EPA must accept or refuse to accept a notice of significant variation of a proposed action or strategic proposal within 15 business days after the notice is given under section 51(1) or (2) of the Act.

(2) If the NT EPA does not make a decision under subregulation (1) within the required period, the notice of significant variation is taken to be accepted.

(3) This regulation does not apply if the NT EPA decides under regulation 41 (as applied by regulation 194(5)) not to proceed with the notice of significant variation.

197 Grounds for refusal to accept notice of significant variation

The NT EPA may refuse to accept a notice of significant variation under regulation 196 if the NT EPA considers that the notice:

(a) contains insufficient information to make an assessment decision; or

(b) has not been prepared or certified in accordance with the requirements determined under regulation 263; or

(c) relates to part of a larger action proposed by the proponent and information on the whole action is required to make an assessment decision; or

(d) was not required to be given.

198 Matters to be provided to Minister if notice of variation refused

If the NT EPA refuses to accept a notice of significant variation, the NT EPA must provide to the Minister:

(a) a statement that the notice of significant variation has been refused; and

(b) a statement of reasons for the decision.

199 Notice to proponent of decision

(1) The NT EPA must give notice of a decision under regulation 196 to the proponent.

(2) The notice of decision must contain the following information:

(a) a statement that the notice of strategic variation has been accepted or refused;

(b) the name of the proponent;

(c) the name of the proposed action or strategic proposal to which the notice relates;

(d) the nature of the significant variation.

(3) If the NT EPA refuses to accept a notice of significant variation, the NT EPA must give the proponent a statement of reasons for the decision.

(4) The notice of decision and, if the decision is to refuse to accept the notice of significant variation, the statement of reasons must be given to the proponent as soon as practicable after the decision is made.

200 Publication of documents

(1) The NT EPA must publish the following as soon as practicable after the decision is made:

(a) the notice of decision;

(b) if the decision is to refuse to accept the notice of significant variation – the statement of reasons for the decision.

(2) If a notice of significant variation is accepted, the NT EPA must also publish the following as soon as practicable after the decision is made:

(a) a copy of the accepted notice of significant variation;

(b) any direction given under regulation 194;

(c) any additional information given in response to the direction given under regulation 194;

(d) if the proponent has provided draft terms of reference under regulation 195 – the draft terms of reference and the statement of reasons provided under that regulation.

201 Public consultation

(1) If a notice of significant variation is accepted, the NT EPA must publish a notice:

(a) advising where the documents mentioned in regulation 200 may be inspected and obtained; and

(b) inviting interested persons to make a submission to the NT EPA on the significant variation within the period specified in the notice.

(2) The submission period must be:

(a) for a notice relating to a standard assessment other than a notice mentioned in paragraph (b) – 20 business days after the date of the notice; or

(b) for a notice relating to a standard assessment for which the proponent has provided draft terms of reference under regulation 195 – 30 business days after the date of the notice; or

(c) for a notice relating to a strategic assessment other than a notice mentioned in paragraph (d) – 30 business days after the date of the notice; or

(d) for a notice relating to a strategic assessment for which the proponent has provided draft terms of reference under regulation 195 – 40 business days after the date of the notice.

202 Consultation with government authorities

If a notice of significant variation is accepted, the NT EPA must:

(a) give a copy of the documents mentioned in regulation 200 to any government authority that the NT EPA considers may have a view on the matter; and

(b) invite the government authority to make a submission to the NT EPA on the significant variation within the relevant submission period specified in the notice under regulation 201.

Subdivision 3 Consideration of accepted notice of significant variation

203 Matters NT EPA must consider in relation to significant variation

(1) The NT EPA must consider the following before making a decision under regulation 204 or 205 on a significant variation:

(a) the notice of significant variation;

(b) any additional information given to the NT EPA under regulation 194;

(c) any submissions received under regulation 201 or 202;

(d) the matters mentioned in subregulation (2).

(2) In assessing a significant variation to determine whether or not the variation requires a new environmental impact assessment, the NT EPA must consider the following:

(a) whether the potential for a significant impact on the environment of the significant variation differs in a material way from the impacts already identified in the assessment process for the proposed action or strategic proposal;

(b) whether, and the extent to which, the significant variation will result in a substantial change to the type or amount of any output of the proposed action or strategic proposal in a way that significantly changes the potential significant impacts from those already identified in the assessment process for the proposed action or strategic proposal;

(c) whether the objects of the Act and the purpose of the environmental impact assessment process set out in section 42 of the Act would be undermined if the matters raised in the significant variation were not assessed.

204 Decision or recommendation on significant variation

(1) This regulation does not apply to a significant variation of a proposed action or strategic proposal if the NT EPA has prepared a statement of unacceptable impact in relation to the proposed action or strategic proposal.

(2) The NT EPA must consider a significant variation of a proposed action or strategic proposal and decide whether:

(a) the potential significant impacts of the variation can be avoided or mitigated or managed through the proposed conditions of the draft environmental approval given to the Minister with the assessment report; or

(b) the potential significant impacts of the variation can be avoided or mitigated or managed if an amendment is made to the proposed conditions of the draft environmental approval given to the Minister with the assessment report; or

(c) the potential significant impacts of the variation are such that a new assessment is required for the matters in the significant variation.

(3) If the NT EPA decides that a new assessment is required for a significant variation, the NT EPA must:

(a) if the existing assessment is a standard assessment – decide:

(i) that the assessment of the significant variation is to be a standard assessment; and

(ii) the required method of environmental impact assessment; or

(b) if the existing assessment is a strategic assessment – recommend to the Minister:

(i) that the assessment of the significant variation is to be a strategic assessment; and

(ii) the proposed method of environmental impact assessment.

(4) Regulations 59 and 60 apply to the decision or recommendation on the method of environmental impact assessment.

(5) A decision or recommendation under subregulation (2) or (3) must be made within 30 business days after the end of the submission period specified in the notice under regulation 201.

(6) The required period for the NT EPA to make a decision or recommendation under subregulation (2) or (3) ceases to run during any period that the NT EPA carries out a consultation under regulation 60.

205 Decision or recommendation if statement of unacceptable impact prepared

(1) This regulation applies to a significant variation of a proposed action or strategic proposal if the NT EPA has prepared a statement of unacceptable impact in relation to the proposed action or strategic proposal.

(2) The NT EPA must consider the significant variation and decide whether:

(a) the potential significant impacts of the proposed action or strategic proposal can be avoided or mitigated or managed through the conditions of an environmental approval; or

(b) the potential significant impacts of the proposed action or strategic proposal cannot be avoided or mitigated or managed through the conditions of an environmental approval; or

(c) the environmental impacts of the significant variation are such that a new assessment is required for the matters in the significant variation.

(3) The NT EPA may consult with the proponent if it proposes to make a decision under subregulation (2)(b) and must consider any written submission received from the proponent within the period specified in writing by the NT EPA.

(4) If the NT EPA decides that a new assessment is required for a significant variation, the NT EPA must:

(a) if the existing assessment is a standard assessment – decide:

(i) that the assessment of the significant variation is to be a standard assessment; and

(ii) the required method of environmental impact assessment; or

(b) if the existing assessment is a strategic assessment – recommend to the Minister:

(i) that the assessment of the significant variation is to be a strategic assessment; and

(ii) the proposed method of environmental impact assessment.

(5) Regulations 59 and 60 apply to the decision or recommendation on the method of environmental impact assessment.

(6) A decision or recommendation under subregulation (2) or (4) must be made within 30 business days after the end of the submission period specified in the notice under regulation 201.

(7) The required period for the NT EPA to make a decision or recommendation under subregulation (2) or (4) ceases to run during any period that the NT EPA carries out a consultation under regulation 60.

206 Notice to proponent of decision or recommendation

(1) The NT EPA must give the proponent:

(a) notice of a decision or recommendation under regulation 204 or 205; and

(b) a statement of reasons for the decision or recommendation.

(2) The notice of decision or recommendation and the statement of reasons must be given as soon as practicable after the decision or recommendation is made.

207 Notice of decision or recommendation to be published

The NT EPA must publish the following as soon as practicable after a decision or recommendation is made under regulation 204 or 205:

(a) the notice of decision or recommendation;

(b) the statement of reasons for the decision or recommendation.

Subdivision 4 Implementation of decision on assessment

208 Matters to be provided to Minister if additional assessment not required

(1) If the NT EPA makes a decision under regulation 204(2)(a), the NT EPA must prepare and provide to the Minister under section 56(2)(b) of the Act a report or addendum that contains:

(a) a statement setting out the decision; and

(b) a statement of reasons for the decision.

(2) If the NT EPA makes a decision under regulation 204(2)(b), the NT EPA must prepare and provide to the Minister under section 56(2) of the Act:

(a) a report or addendum that contains:

(i) a statement setting out the decision; and

(ii) a statement of reasons for the decision; and

(b) a revised draft environmental approval prepared in accordance with regulation 212.

(3) A document mentioned in subregulation (1) or (2) must be provided within 30 business days after the relevant decision is made under regulation 204.

(4) The required period for the NT EPA to provide a document mentioned in subregulation (1) or (2) ceases to run during any period that the NT EPA carries out a consultation under regulation 212 in relation to the revised draft environmental approval.

209 Documents to be provided to Minister if new assessment not required

(1) If the NT EPA makes a decision under regulation 205(2)(a), the NT EPA must:

(a) prepare and provide to the Minister under section 56(2)(b) of the Act a report or addendum that contains:

(i) a statement setting out the decision; and

(ii) a statement of reasons for the decision; and

(b) prepare and provide to the Minister under section 56(2)(c) of the Act a draft environmental approval prepared in accordance with regulation 212; and

(c) cancel the statement of unacceptable impact.

(2) If the NT EPA makes a decision under regulation 205(2)(b), the NT EPA must prepare and provide to the Minister under section 56(2) of the Act:

(a) a report or addendum that contains:

(i) a statement setting out the decision; and

(ii) a statement of reasons for the decision; and

(b) a revised statement of unacceptable impact.

(3) A document mentioned in subregulation (1) or (2) must be provided within 30 business days after the relevant decision is made under regulation 205.

(4) The required period for the NT EPA to provide a document mentioned in subregulation (1) ceases to run during any period that the NT EPA carries out a consultation under regulation 212 in relation to the draft environmental approval.

210 New assessment for significant variation

(1) This regulation applies if the NT EPA makes a decision under regulation 204(2)(c) or 205(2)(c) that a new assessment is required for the matters in the significant variation.

(2) Subject to subregulations (3) and (4), the NT EPA must carry out an assessment of the significant variation.

(3) If the NT EPA recommends to the Minister under regulation 204(3) that the assessment of the significant variation be a strategic assessment, Part 4, Division 4 applies, with the necessary changes, as if the variation were a strategic proposal.

(4) Subject to regulation 211, Parts 5 and 6 apply, with the necessary changes, to the assessment of the significant variation as if:

(a) the variation were a proposed action or strategic proposal; and

(b) a reference in Part 6 to:

(i) an assessment report were a reference to a new or revised assessment report mentioned in section 56(2)(b) of the Act; and

(ii) a draft environmental approval were a reference to a revised draft environmental approval mentioned in section 56(2)(c) of the Act.

211 Application of Part 5 if draft terms of reference for variation already published

(1) This regulation applies if:

(a) the NT EPA has determined under regulation 204 or 205 or Part 4, Division 4 that the new assessment of a significant variation is to be an assessment by environmental impact statement; and

(b) draft terms of reference for the significant variation were published under regulation 200.

(2) Except as set out in subregulation (5), regulations 98(1), (3) and (4) and 100 to 104 do not apply to the terms of reference for the significant variation.

(3) After considering any submissions received under regulations 201 and 202 in relation to the draft terms of reference published under regulation 200, the NT EPA may:

(a) approve the draft terms of reference for the new assessment of the significant variation; or

(b) approve the draft terms of reference for the new assessment of the significant variation with any changes the NT EPA considers appropriate; or

(c) refuse to approve the draft terms of reference.

(4) The NT EPA must make the decision on the draft terms of reference within 35 business days after the end of the submission period specified in the notice under regulation 201.

(5) If the NT EPA refuses to approve the draft terms of reference for an assessment under subregulation (3), the NT EPA must prepare terms of reference for the assessment under regulation 98(1).

(6) Regulations 105 and 106 apply to a decision under subregulation (3) on the draft terms of reference as if it were a decision under regulation 104(1), (3) or (4).

212 Consultation on draft or revised draft environmental approval

(1) This regulation applies to the preparation of:

(a) a revised draft environmental approval mentioned in regulation 208; or

(b) a draft environmental approval mentioned in regulation 209.

(2) The NT EPA must:

(a) consult with the proponent on:

(i) the proposed revisions to the draft environmental approval; or

(ii) the proposed draft environmental approval; and

(b) invite the proponent to make a submission to the NT EPA on the matters on which the proponent is consulted.

(3) The NT EPA must:

(a) make reasonable efforts to obtain the views of the following:

(i) any statutory decision-maker that the NT EPA considers may have a view on the proposed revisions or the draft environmental approval, as the case requires;

(ii) in relation to any proposed revisions to the draft environmental approval or conditions of the proposed draft environmental approval that relate to a potential health impact of an action – the Chief Health Officer;

(iii) in relation to any proposed revisions to the draft environmental approval or conditions of the proposed draft environmental approval that relate to a potential impact of an action on a social or cultural matter – the relevant government authority; and

(b) invite each entity consulted under paragraph (a) to make a submission on matters on which the entity is consulted.

(4) The NT EPA must specify a period for submissions under subregulations (2) and (3).

(5) The NT EPA must consider any submissions made under subregulation (2) or (3) within the submission period on the relevant matters.

Division 2A Process for significant variation notified in other specified circumstances

Subdivision 1 Preliminary matters

212A Definitions

In this Part:

EAA referred action means an action that was referred, notified or submitted (however described) for assessment under the *Environmental Assessment Act 1982.*

non-assessed action means an action referred under section 48 of the Act for which a decision was made under regulation 57(2)(a) or 58(1)(a) that an assessment was not required.

non-assessed strategic proposal means a strategic proposal referred under section 49 of the Act for which a decision was made under regulation 57(2)(a) or 58(1)(a) that an assessment was not required.

212B Application of Division

This Division applies if the NT EPA receives any of the following:

(a) a notice under section 51(1) of the Act of a significant variation of a non-assessed action;

(b) a notice under section 51(1) of the Act of a significant variation of an EAA referred action;

(c) a notice under section 51(2) of the Act of a significant variation of a non-assessed strategic proposal.

Subdivision 2 Initial consideration of notice of significant variation

212C Additional information about significant variation

(1) On receipt of the notice of significant variation under section 51(1) or (2) of the Act, the NT EPA may direct the proponent to give it additional information in relation to the significant variation.

(2) The additional information must be:

(a) a material omission from the notice of significant variation; and

(b) required to enable the NT EPA to properly consider the notice of significant variation and whether the notice was required to be given.

(3) A direction must be made within 10 business days after the NT EPA receives the notice of significant variation.

(4) If the NT EPA gives a direction under this regulation, the required period for the NT EPA to make a decision under regulation 212E on the notice of significant variation ceases to run until the information is given.

(5) Regulations 41 and 42 apply, with the necessary changes, in relation to a failure to comply with a direction under this regulation as if the notice of significant variation were a referral of a proposed action or strategic proposal, as the case requires.

212D Proponent may provide draft terms of reference

(1) The proponent may provide to the NT EPA, with the notice of significant variation, draft terms of reference that may be appropriate as a result of the significant variation.

(2) The proponent must provide a statement of reasons stating why the draft terms of reference are appropriate.

212E Decision whether to accept notice of significant variation

(1) The NT EPA must accept or refuse to accept a notice of significant variation within 15 business days after the notice is given under section 51(1) or (2) of the Act.

(2) If the NT EPA does not make a decision under subregulation (1) within the required period, the notice of significant variation is taken to be accepted.

(3) This regulation does not apply if the NT EPA decides under regulation 41 (as applied by regulation 212C(5)) not to proceed with the notice of significant variation.

212F Grounds for refusal to accept notice of significant variation

The NT EPA may refuse to accept a notice of significant variation under regulation 212E if the NT EPA considers that the notice:

(a) contains insufficient information to make an assessment decision; or

(b) has not been prepared or certified in accordance with the requirements determined under regulation 263; or

(c) relates to part of a larger action proposed by the proponent and information on the whole action is required to make an assessment decision; or

(d) was not required to be given.

212G Notice to proponent of decision

(1) The NT EPA must give notice of a decision under regulation 212E to the proponent.

(2) The notice of decision must contain the following information:

(a) a statement that the notice of significant variation has been accepted or refused;

(b) the name of the proponent;

(c) the name of the action or strategic proposal to which the notice relates;

(d) the nature of the significant variation.

(3) If the NT EPA refuses to accept a notice of significant variation, the NT EPA must give the proponent a statement of reasons for the decision.

(4) The notice of decision and, if the decision is to refuse to accept the notice of significant variation, the statement of reasons must be given to the proponent as soon as practicable after the decision is made.

212H Publication of documents

(1) The NT EPA must publish the following as soon as practicable after the decision is made:

(a) the notice of decision;

(b) if the decision is to refuse to accept the notice of significant variation – the statement of reasons for the decision.

(2) If a notice of significant variation is accepted, the NT EPA must also publish the following as soon as practicable after the decision is made:

(a) a copy of the accepted notice of significant variation;

(b) any direction given under regulation 212C;

(c) any additional information given in response to the direction given under regulation 212C;

(d) if the proponent has provided draft terms of reference under regulation 212D – the draft terms of reference and the statement of reasons provided under that regulation.

212J Public consultation

(1) If a notice of significant variation is accepted, the NT EPA must publish a notice:

(a) advising where the documents mentioned in regulation 212H may be inspected and obtained; and

(b) inviting interested persons to make a submission to the NT EPA on the significant variation within the period specified in the notice.

(2) The submission period must be:

(a) for a notice relating to a significant variation other than a notice mentioned in paragraph (b) – 20 business days after the date of the notice; or

(b) for a notice relating to a significant variation for which the proponent has provided draft terms of reference under regulation 212D – 30 business days after the date of the notice.

212K Consultation with government authorities

If a notice of significant variation is accepted, the NT EPA must:

(a) give a copy of the documents mentioned in regulation 212H to any government authority that the NT EPA considers may have a view on the matter; and

(b) invite the government authority to make a submission to the NT EPA on the significant variation within the relevant submission period specified in the notice under regulation 212J.

Subdivision 3 Consideration after acceptance of notice of significant variation

212L NT EPA to consider significant variation

If a notice of significant variation is accepted, the NT EPA must consider whether an environmental impact assessment is required for the significant variation.

212M Matters NT EPA must consider in relation to significant variation

(1) The NT EPA must consider the following before making a decision under regulation 212N on a significant variation:

(a) the notice of significant variation;

(b) any additional information given to the NT EPA under regulation 212C;

(c) any submissions received under regulation 212J or 212K;

(d) in the case of a significant variation of a non-assessed action or non-assessed strategic proposal:

(i) the referral made under section 48 or 49 of the Act of the action or strategic proposal; and

(ii) any additional information given to the NT EPA under regulation 40 in relation to the referral mentioned in subparagraph (i); and

(iii) any submissions received under regulation 52 or 53 in relation to the referral mentioned in subparagraph (i);

(e) the matters mentioned in subregulation (2) or (3), as the case requires.

(2) In assessing a significant variation of an EAA referred action to determine whether or not the variation requires an environmental impact assessment, the NT EPA must consider the following:

(a) whether the potential for a significant impact on the environment of the significant variation differs in a material way from the impacts already identified in any assessment process under the *Environmental Assessment Act 1982* for the action;

(b) whether, and the extent to which, the significant variation will result in a substantial change to the type or amount of any output of the action in a way that significantly changes the potential significant impacts from those already identified in any assessment process under the *Environmental Assessment Act 1982* for the action;

(c) whether the objects of the Act and the purpose of the environmental impact assessment process set out in section 42 of the Act would be undermined if the matters raised in the significant variation were not assessed.

(3) In assessing a significant variation of a non-assessed action or a non-assessed strategic proposal to determine whether or not the variation requires an environmental impact assessment, the NT EPA must consider the following:

(a) whether the potential for a significant impact on the environment of the significant variation differs in a material way from the impacts already identified in relation to the action or strategic proposal referred under section 48 or 49 of the Act;

(b) whether, and the extent to which, the significant variation will result in a substantial change to the type or amount of any output of an action in a way that significantly changes the potential significant impacts from those already identified in relation to the action or strategic proposal referred under section 48 or 49 of the Act;

(c) whether the objects of the Act and the purpose of the environmental impact assessment process set out in section 42 of the Act would be undermined if the matters raised in the significant variation were not assessed.

212N Decision on significant variation

(1) The NT EPA may, in relation to a significant variation:

(a) decide that an environmental impact assessment is not required for the matters in the significant variation; or

(b) decide:

(i) that a standard assessment or strategic assessment is required; and

(ii) the required method of environmental impact assessment.

(2) Regulations 59 and 60 apply (with any necessary changes) to the decision on the method of environmental impact assessment.

(3) A decision under subregulation (1) must be made within 30 business days after the end of the submission period specified in the notice under regulation 212J.

(4) The required period for the NT EPA to make a decision under subregulation (1) ceases to run during any period that the NT EPA carries out a consultation under regulation 60.

212P Notice to proponent of decision or recommendation

(1) The NT EPA must give the proponent:

(a) notice of a decision under regulation 212N; and

(b) a statement of reasons for the decision.

(2) The notice of decision and the statement of reasons must be given as soon as practicable after the decision is made.

212Q Notice of decision to be published

The NT EPA must publish the following as soon as practicable after a decision is made under regulation 212N:

(a) the notice of decision;

(b) the statement of reasons for the decision.

Subdivision 4 Implementation of decision on assessment

212R Assessment for significant variation

(1) This regulation applies if the NT EPA makes a decision under regulation 212N(1)(b) that a standard assessment or strategic assessment is required for the matters in the significant variation.

(2) Subject to subregulation (3), the NT EPA must carry out an environmental impact assessment of the significant variation.

(3) Subject to regulations 212S and 212T, Parts 5 and 6 apply, with the necessary changes, to the assessment of the significant variation as if:

(a) the variation were a proposed action or strategic proposal, as the case requires; and

(b) in the case of the significant variation of an EAA referred action – a reference in Part 6 to an assessment report includes an addendum to an existing assessment report under the *Environmental Assessment Act 1982.*

212S Environmental approval for significant variation if specified statutory authorisation granted

(1) This regulation applies if, at the time the assessment of a significant variation of an action or strategic proposal is carried out under this Subdivision, a statutory authorisation had been granted under any of the following Acts for the action or the actions under the strategic proposal:

(a) *Energy Pipelines Act 1981*;

(b) *Mining Management Act 2001*;

(c) *Petroleum Act 1984*;

(d) *Planning Act 1999*;

(e) *Waste Management and Pollution Control Act 1998*.

(2) An environmental approval prepared under Part 6 for the significant variation may only address the significant impacts that relate to the significant variation, which may include the cumulative impacts of the action or actions, any changes to the action or actions and the significant variation.

212T Environmental approval for significant variation if other statutory authorisation granted

(1) This regulation applies if, at the time the assessment of a significant variation of an action or strategic proposal is carried out under this Subdivision, a statutory authorisation other than a statutory authorisation mentioned in section 212S had been granted under any Act for the action or the actions under the strategic proposal.

(2) An environmental approval prepared under Part 6 for the significant variation may address all significant impacts that are identified in relation to the action or actions and the significant variation, including, in the case of a significant variation of an EAA referred action, any impacts assessed in the assessment of the action under the *Environmental Assessment Act 1982*.

212U Environmental approval for significant variation if statutory authorisation not required or not granted

(1) This regulation applies if, at the time the assessment of a significant variation of an action or strategic proposal is carried out under this Subdivision, a statutory authorisation was not required or had not been granted under any Act for the action or the actions under the strategic proposal.

(2) An environmental approval prepared under Part 6 for the significant variation may address all significant impacts that are identified in relation to the action or actions and the significant variation, including, in the case of a significant variation of an EAA referred action, any impacts assessed in the assessment of the action under the *Environmental Assessment Act 1982*.

212V Application of Part 5 if draft terms of reference for variation already published

(1) This regulation applies if:

(a) the NT EPA has determined under regulation 212N or Part 4, Division 3 that the assessment of a significant variation is to be an assessment by environmental impact statement; and

(b) draft terms of reference for the significant variation were published under regulation 212H.

(2) Except as set out in subregulation (5), regulations 98(1), (3) and (4) and 100 to 104 do not apply to the terms of reference for the significant variation.

(3) After considering any submissions received under regulations 212J and 212K in relation to the draft terms of reference published under regulation 212H, the NT EPA may:

(a) approve the draft terms of reference for the assessment of the significant variation; or

(b) approve the draft terms of reference for the assessment of the significant variation with any changes the NT EPA considers appropriate; or

(c) refuse to approve the draft terms of reference.

(4) The NT EPA must make the decision on the draft terms of reference within 35 business days after the end of the submission period specified in the notice under regulation 212J.

(5) If the NT EPA refuses to approve the draft terms of reference for an assessment under subregulation (3)(c), the NT EPA must prepare terms of reference for the assessment under regulation 98(1).

(6) Regulations 105 and 106 apply to a decision under subregulation (3) on the draft terms of reference as if it were a decision under regulation 104(1), (3) or (4).

212W Consultation on draft environmental approval

(1) This regulation applies to the preparation of a draft environmental approval under Part 6 (as applied by regulation 212R) for a significant variation.

(2) The NT EPA must:

(a) consult with the proponent on the proposed draft environmental approval; and

(b) invite the proponent to make a submission to the NT EPA on the matters on which the proponent is consulted.

(3) The NT EPA must:

(a) make reasonable efforts to obtain the views of the following:

(i) any statutory decision-maker that the NT EPA considers may have a view on the draft environmental approval;

(ii) in relation to any conditions of the proposed draft environmental approval that relate to a potential health impact of an action – the Chief Health Officer;

(iii) in relation to any conditions of the proposed draft environmental approval that relate to a potential impact of an action on a social or cultural matter – the relevant government authority; and

(b) invite each entity consulted under paragraph (a) to make a submission on matters on which the entity is consulted.

(4) The NT EPA must specify a period for submissions under subregulations (2) and (3).

(5) The NT EPA must consider any submissions made under subregulation (2) or (3) within the submission period on the relevant matters.

Division 3 Process for referral of significant variation after environmental approval granted

Subdivision 1 Preliminary matters

213 Application of Division

This Division applies if a proposed significant variation of an action is referred to the NT EPA under section 52 of the Act after the environmental approval for the action is granted.

Subdivision 2 Initial consideration of referral of significant variation

214 Additional information about referral

(1) On receipt of a referral of a significant variation under section 52 of the Act, the NT EPA may direct the approval holder to give it additional information in relation to the referral within a specified period.

(2) The additional information must be:

(a) a material omission from the referral; and

(b) required to enable the NT EPA to properly consider the referral and whether the referral was required to be made.

(3) A direction must be made within 10 business days after the NT EPA receives the referral.

(4) If the NT EPA gives a direction under this regulation, the required period for the NT EPA to make a decision on the referral under regulation 216, 217 or 218 ceases to run until the information is given.

(5) Regulations 41 and 42 apply, with the necessary changes, in relation to a failure to comply with a direction under this regulation as if the referral of the significant variation were a referral of a proposed action or strategic proposal.

215 Approval holder initiated EIS referral

An approval holder may include in a referral of a significant variation under section 52 of the Act:

(a) draft terms of reference for an assessment by environmental impact statement for the significant variation; and

(b) a statement of reasons why:

(i) an assessment by environmental impact statement is required for the significant variation; and

(ii) the draft terms of reference are appropriate.

216 Decision whether to accept referral for standard assessment

(1) The NT EPA must accept or refuse to accept a referral of a significant variation under section 52 of the Act for a standard assessment if the environmental approval was granted on the basis of a standard assessment.

(2) The NT EPA must make a decision under subregulation (1) within 15 business days after the referral is made.

(3) If the NT EPA does not make a decision under subregulation (1) within the required period, the referral is taken to be accepted.

(4) This regulation does not apply if the NT EPA decides under regulation 41 (as applied by regulation 214(5)) not to proceed with the referral.

217 Decision whether to accept referral for strategic assessment

(1) The NT EPA may accept or refuse to accept a referral of a significant variation under section 52 of the Act for a strategic assessment if it considers it appropriate to do so.

(2) The NT EPA must make a decision under subregulation (1) within 15 business days after the referral is made.

(3) This regulation does not apply if the NT EPA decides under regulation 41 (as applied by regulation 214(5)) not to proceed with the referral.

218 Decision on approval holder initiated EIS referral

If a referral of a significant variation includes the matters mentioned in regulation 215(a) and (b), the NT EPA may decide to accept the referral as an approval holder initiated EIS referral.

219 General grounds for refusal to accept referral

The NT EPA may refuse to accept a referral of a significant variation under section 52 of the Act if the NT EPA considers that the referral:

(a) contains insufficient information to make an assessment decision; or

(b) has not been prepared or certified in accordance with the requirements determined under regulation 263; or

(c) relates to part of a larger action proposed by the approval holder and information on the whole action is required to make an assessment decision; or

(d) was not required to be made.

220 Ground for refusal to accept referral for strategic assessment

(1) Without limiting regulation 219, the NT EPA may refuse to accept a referral of a significant variation for a strategic assessment if it considers that a standard assessment is more appropriate.

(2) If the NT EPA refuses to accept a referral of a significant variation for a strategic assessment, it may accept the referral as a referral for a standard assessment.

221 Ground for refusal to accept referral as approval holder initiated EIS referral

(1) Without limiting regulation 219 or 220, the NT EPA may refuse to accept a referral of a significant variation as an approval holder initiated EIS referral if the NT EPA considers that an assessment by environmental impact statement is unlikely to be required for the significant variation.

(2) If the NT EPA refuses to accept a referral of a significant variation as an approval holder initiated EIS referral, it may accept the referral as a referral for a standard assessment or strategic assessment.

222 Notice to approval holder of decision

(1) The NT EPA must give notice of a decision under regulation 216, 217 or 218 to the approval holder.

(2) The notice of decision must contain the following information:

(a) a statement that the referral of a significant variation has been accepted or refused;

(b) the name of the approval holder;

(c) the name of the action or strategic proposal;

(d) the nature of the proposed significant variation.

(3) If the NT EPA refuses to accept a referral of a significant variation, the NT EPA must give the approval holder a statement of reasons for the decision.

(4) The notice of decision and, if the decision is to refuse to accept the referral of the significant variation, the statement of reasons must be given to the approval holder as soon as practicable after the decision is made.

223 Publication of documents

(1) The NT EPA must publish the following as soon as practicable after the decision is made:

(a) the notice of decision;

(b) if the decision is to refuse to accept the referral – a statement of reasons for the decision.

(2) If the referral is accepted, the NT EPA must also publish the following as soon as practicable after the decision is made:

(a) a copy of the referral of the significant variation;

(b) any direction given under regulation 214;

(c) any additional information given in response to the direction given under regulation 214;

(d) for an accepted approval holder initiated EIS referral – the draft terms of reference and statement of reasons provided under regulation 215.

224 Public consultation

(1) If a referral of a significant variation is accepted, the NT EPA must publish a notice:

(a) advising where the documents mentioned in regulation 223 may be inspected and obtained; and

(b) inviting interested persons to make a submission to the NT EPA on the referral of the significant variation within the period specified in the notice.

(2) The submission period must be:

(a) for a referral of a significant variation relating to a standard assessment that is not an accepted approval holder initiated EIS referral – 20 business days after the date of the notice; or

(b) for a referral of a significant variation relating to a standard assessment that is an accepted approval holder initiated EIS referral – 30 business days after the date of the notice; or

(c) for a referral of a significant variation relating to a strategic assessment that is not an accepted approval holder initiated EIS referral – 30 business days after the date of the notice; or

(d) for a referral of a significant variation relating to a strategic assessment that is an accepted approval holder initiated EIS referral – 40 business days after the date of the notice.

225 Consultation with government authorities

If a referral of a significant variation is accepted, the NT EPA must:

(a) give a copy of the documents mentioned in regulation 223 to any government authority that the NT EPA considers may have a view on the referral; and

(b) invite the government authority to make a submission to the NT EPA about the referral within the submission period specified in the notice under regulation 224.

Subdivision 3 Consideration of accepted referral of significant variation

226 Matters NT EPA must consider in relation to significant variation

(1) The NT EPA must consider the following before making a decision or recommendation under regulation 227:

(a) the referral of the significant variation;

(b) any additional information given to the NT EPA under regulation 214;

(c) any submissions received under regulation 224 or 225;

(d) the matters mentioned in subregulation (2).

(2) In making a decision or recommendation under regulation 227, the NT EPA must consider the following:

(a) whether the potential for significant impact on the environment of the significant variation differs in a material way from the impacts identified in the environmental impact assessment process for the proposed action or strategic proposal;

(b) whether, and the extent to which, the significant variation will result in a substantial change to the type or amount of any output of the proposed action or strategic proposal in a way that significantly changes the potential significant impacts from those identified in the environmental impact assessment process for the proposed action or strategic proposal;

(c) whether the objects of the Act and the purpose of the environmental impact assessment process set out in section 42 of the Act would be undermined if the matters raised in the significant variation were not assessed.

227 Decision or recommendation on significant variation

(1) The NT EPA must consider the significant variation and decide whether:

(a) the environmental impact of the variation can be managed through the existing conditions of the environmental approval; or

(b) the environmental impact of the variation can be managed through amendments to the environmental approval; or

(c) the environmental impacts of the variation are such that a new environmental impact assessment of the variation is required.

(2) If the NT EPA decides that a new assessment is required for a significant variation, the NT EPA must:

(a) decide:

(i) that the assessment of the significant variation is to be a standard assessment; and

(ii) the required method of environmental impact assessment; or

(b) recommend to the Minister:

(i) that the assessment of the significant variation be a strategic assessment; and

(ii) the proposed method of environmental impact assessment.

(3) Regulations 59, 60 and 61 apply to the decision or recommendation on the method of environmental impact assessment.

(4) A decision or recommendation under subregulations (1) and (2) must be made within 30 business days after the end of the submission period specified in the notice under regulation 224.

(5) The required period for the NT EPA to make a decision or recommendation under subregulation (1) or (2) ceases to run during any period that the NT EPA carries out a consultation under regulation 60 or 61.

228 Notice to approval holder of decision or recommendation

(1) The NT EPA must give the approval holder:

(a) notice of a decision or recommendation under regulation 227; and

(b) a statement of reasons for the decision or recommendation.

(2) The notice of decision or recommendation and the statement of reasons must be given as soon as practicable after the decision or recommendation is made.

229 Notice of decision or recommendation to be published

The NT EPA must publish the following as soon as practicable after a decision or recommendation is made under regulation 227:

(a) the notice of decision or recommendation;

(b) the statement of reasons for the decision or recommendation.

Subdivision 4 Implementation of decision on accepted referral of significant variation

230 Documents to be provided to Minister if environmental impact assessment not required

(1) If the NT EPA makes a decision under regulation 227(1)(a), the NT EPA must prepare and provide to the Minister:

(a) a statement setting out the decision; and

(b) the statement of reasons for the decision.

(2) If the NT EPA makes a decision under regulation 227(1)(b), the NT EPA must prepare and provide to the Minister:

(a) the following:

(i) a statement setting out the decision;

(ii) the statement of reasons for the decision; and

(b) a draft amended environmental approval containing the amendments recommended by the NT EPA.

(3) The statements and the draft amended environmental approval must be provided to the Minister within 30 business days after the relevant decision is made under regulation 227.

(4) The required period for the NT EPA to provide a document mentioned in subregulation (1) or (2) ceases to run during any period that the NT EPA carries out a consultation under regulation 233 in relation to the draft amended environmental approval.

231 New assessment for significant variation

(1) This regulation applies if the NT EPA makes a decision under regulation 227(1)(c) in relation to a significant variation.

(2) Subject to subregulations (3) and (4), the NT EPA must carry out an assessment of the significant variation.

(3) If the NT EPA recommends to the Minister that the assessment of the significant variation be a strategic assessment, Part 4, Division 4 applies, with the necessary changes, as if the variation were a strategic proposal.

(4) Subject to regulation 232, Parts 5 and 6 apply, with the necessary changes, to the assessment of the significant variation as if:

(a) the variation were a proposed action or strategic proposal; and

(b) any reference to the proponent were a reference to the approval holder.

232 Application of Part 5 if draft terms of reference for variation already published

(1) This regulation applies if:

(a) the NT EPA has determined under regulation 227(2) or Part 4, Division 4 that the new assessment of a significant variation is to be an assessment by environmental impact statement; and

(b) draft terms of reference for the significant variation were published under regulation 223.

(2) Except as set out in subregulation (5), regulations 98(1), (3) and (4) and 100 to 104 do not apply to the draft terms of reference for the significant variation.

(3) After considering any submissions received under regulations 224 and 225 in relation to the draft terms of reference published under regulation 223, the NT EPA may:

(a) approve the draft terms of reference for the new assessment of the significant variation; or

(b) approve the draft terms of reference for the new assessment of the significant variation with any changes the NT EPA considers appropriate; or

(c) refuse to approve the draft terms of reference.

(4) The NT EPA must make the decision on the draft terms of reference within 35 business days after the end of the submission period specified in the notice under regulation 224.

(5) If the NT EPA refuses to approve the draft terms of reference for an assessment under subregulation (3), the NT EPA must prepare terms of reference for the assessment under regulation 98(1).

(6) Regulations 105 and 106 apply to a decision under subregulation (3) on the draft terms of reference as if it were a decision under regulation 104(1), (3) or (4).

233 Consultation on draft amended environmental approval

(1) This regulation applies to the preparation of a draft amended environmental approval mentioned in regulation 230(2)(b).

(2) The NT EPA must:

(a) consult with the approval holder on the amendments in the draft amended environmental approval; and

(b) invite the approval holder to make a submission to the NT EPA on the matters on which the approval holder is consulted.

(3) The NT EPA must:

(a) make reasonable efforts to obtain the views of the following:

(i) any statutory decision-maker that the NT EPA considers may have a view on the amendments in the draft amended environmental approval;

(ii) in relation to any amendments in the draft amended environmental approval that affect or include conditions relating to a potential health impact of an action – the Chief Health Officer;

(iii) in relation to any amendments in the draft amended environmental approval that affect or include conditions relating to a potential impact of an action on a social or cultural matter – the relevant government authority; and

(b) invite each entity consulted under paragraph (a) to make a submission on the matters on which the entity is consulted.

(4) The NT EPA must specify a period for submissions under subregulations (2) and (3).

(5) The NT EPA must consider any submissions made under subregulation (2) or (3) within the submission period on the relevant matters.

Part 8 Environment protection bonds

234 Claim on environment protection bond

(1) For section 131(2) of the Act, if the Minister or the CEO intends to make a claim on an environment protection bond, the Minister or CEO must give the approval holder a written notice including:

(a) the reason for making the claim; and

(b) the amount of the bond that is to be claimed.

(2) The approval holder may make submissions to the Minister or the CEO, as the case requires, in relation to the matters in the notice within the period specified in the notice.

(3) The submission period must be not less than 10 business days after the date of the notice.

(4) The Minister or the CEO may make a claim on the environment protection bond if the Minister or CEO has:

(a) given the approval holder a notice under subregulation (1); and

(b) considered any submission made by the approval holder within the submission period; and

(c) notified the approval holder of the decision to make a claim on the bond.

(5) If the amount of bond is less than the reasonable costs and expenses incurred by the Minister or the CEO to which the claim applies, the recovery of an amount of bond does not prevent the Minister or CEO from recovering the remaining costs and expenses from the approval holder.

Part 9 Registration of environmental auditors and environmental practitioners

Division 1 Preliminary matters

235 Meaning of *fit and proper person*

In determining under this Part whether a person is or is not a ***fit and proper person*** to be registered as an environmental auditor or an environmental practitioner, the CEO may have regard to:

(a) whether there are reasonable grounds to believe that the person:

(i) has contravened a law of the Territory or another jurisdiction that relates to the physical or biological environment, including matters relating to pollution, biodiversity, natural resources, planning, development or waste; or

(ii) has contravened a law of the Territory or another jurisdiction that relates to heritage, health or cultural matters, including matters relating to sacred sites; or

(iii) has committed an offence against any law of the Territory or another jurisdiction that involves an element of fraud or dishonesty; or

(iv) has behaved or is likely to behave in a way that is inconsistent with the individual's duties as a registered environmental auditor or registered environmental practitioner; and

(b) whether, in the CEO's opinion, the person is of good repute, having regard to character, honesty and integrity; and

(c) any other matters the CEO considers relevant.

236 Determinations of CEO

(1) For the purposes of this Part, the CEO may determine classes of environmental auditors and environmental practitioners.

(2) The CEO may determine requirements and qualifications for registration as:

(a) an environmental auditor in a particular class; or

(b) an environmental practitioner in a particular class.

(3) The CEO may determine the kinds of environmental audit that a class of registered environmental auditors is authorised to carry out.

(4) The CEO may determine the kinds of environmental work that a class of registered environmental practitioners is authorised to carry out.

(5) The CEO must publish any determination under this regulation.

Division 2 Registration and renewal of registration

237 Application for registration

(1) An individual may apply for registration as an environmental auditor or an environmental practitioner.

(2) An application for registration as an environmental auditor or an environmental practitioner must:

(a) be made in the manner and form determined by the CEO; and

(b) specify the class of registration applied for; and

(c) contain the information required by the CEO; and

(d) be accompanied by the prescribed fee.

(3) The CEO may, by written notice, require an applicant to give the CEO any further information the CEO requires to determine the application.

(4) The applicant must give the information within the period specified in the notice.

238 Grant of registration as environmental auditor

The CEO may grant a registration as an environmental auditor in a particular class if the CEO is satisfied that the applicant:

(a) meets the requirements and qualifications for registration as an environmental auditor in that class; and

(b) is a fit and proper person to be registered; and

(c) has complied with the requirements of regulation 237.

239 Grant of registration as environmental practitioner

The CEO may grant a registration as an environmental practitioner in a particular class if the CEO is satisfied that the applicant:

(a) meets the requirements and qualifications for registration as an environmental practitioner in that class; and

(b) is a fit and proper person to be registered; and

(c) has complied with the requirements of regulation 237.

240 Show cause process

(1) The CEO must not make a decision to refuse to grant registration as an environmental auditor or an environmental practitioner under regulation 238 or 239 unless the CEO has first complied with this regulation.

(2) The CEO must give written notice (a ***show cause notice***) to the applicant:

(a) stating the CEO's intention to refuse to grant registration; and

(b) asking the applicant to show cause why the registration should be granted.

(3) The show cause notice must specify the date by which the applicant may show cause.

(4) The date specified in the show cause notice must be not less than 10 business days after the date of the notice.

(5) The CEO must consider any response given by the applicant to the show cause notice in making a decision under regulation 238 or 239.

241 Notice of registration

If the CEO grants registration as an environmental auditor or an environmental practitioner, the CEO must give the applicant written notice of the following:

(a) the grant of registration;

(b) any conditions to which the registration is subject;

(c) for registration as an environmental auditor – the kinds of environmental audit the registered environmental auditor is authorised to carry out;

(d) for registration as an environmental practitioner – the kinds of environmental work the registered environmental practitioner is authorised to carry out;

(e) the period of registration.

242 Conditions of registration

(1) The CEO may impose conditions on the registration of an environmental auditor or an environmental practitioner:

(a) on the grant or renewal of registration; or

(b) at any time during the period of registration.

(2) The CEO may at any time during the period of registration, by written notice to the environmental auditor or environmental practitioner, vary or revoke a condition of the registration.

(3) An imposition, variation or revocation of a condition of registration during the period of registration takes effect on the later of:

(a) the date specified in the notice under subregulation (2); or

(b) the date the written notice is given to the environmental auditor or environmental practitioner under subregulation (2).

243 Application for renewal of registration

(1) A registered environmental auditor or registered environmental practitioner may apply to the CEO for renewal of registration.

(2) An application for renewal of registration must:

(a) be made in the manner and form determined by the CEO; and

(b) contain the information required by the CEO; and

(c) be made within any period determined by the CEO under subregulation (3); and

(d) be accompanied by the prescribed fee.

(3) The CEO may determine the period within which applications for renewal of registration must be made.

(4) The CEO must publish a determination under subregulation (3).

(5) The CEO may, by written notice, require the applicant to give the CEO any further information the CEO requires to determine the application.

(6) The applicant must give the information within the period specified in the notice.

244 Grant of renewal of registration

The CEO may grant a renewal of registration as an environmental auditor or an environmental practitioner to an applicant if the CEO is satisfied that the applicant:

(a) meets the requirements and qualifications for registration in that class of environmental auditor or environmental practitioner, as the case requires; and

(b) is a fit and proper person to be registered; and

(c) has complied with the requirements of regulation 243.

245 Show cause process

(1) The CEO must not make a decision to refuse to grant a renewal of registration as an environmental auditor or environmental practitioner under regulation 244 unless the CEO has first complied with this regulation.

(2) The CEO must give written notice (a ***show cause notice***) to the applicant:

(a) stating the CEO's intention to refuse to grant renewal of registration; and

(b) asking the applicant to show cause why the registration should be renewed.

(3) The show cause notice must specify the date by which the applicant may show cause.

(4) The date specified in the show cause notice must be not less than 10 business days after the date of the notice.

(5) The CEO must consider any response given by the applicant to the show cause notice in making a decision under regulation 244.

246 Notice of renewal of registration

If the CEO grants a renewal of registration, the CEO must give the applicant for renewal written notice of the following:

(a) the grant of renewal of registration;

(b) any conditions to which the renewed registration is subject;

(c) for renewal of registration as an environmental auditor – the kinds of environmental audit the registered environmental auditor is authorised to carry out;

(d) for renewal of registration as an environmental practitioner – the kinds of environmental work the registered environmental practitioner is authorised to carry out;

(e) the period of the renewed registration.

Division 3 Suspension or revocation of registration

247 Suspension or revocation of registration

(1) The CEO may suspend or revoke the registration of a person as an environmental auditor or an environmental practitioner if:

(a) the CEO is satisfied that the person does not meet the requirements and qualifications for that registration; or

(b) the CEO is satisfied that the individual is not a fit and proper person to be registered as an environmental auditor or an environmental practitioner; or

(c) the person has contravened:

(i) the Act; or

(ii) the conditions or requirements of registration; or

(d) the registration of the person as an environmental auditor or an environmental practitioner (however described) in another jurisdiction has been suspended or revoked on a ground similar to a ground in this subregulation; or

(e) the person gave false or misleading information in an application for registration or renewal of registration as an environmental auditor or an environmental practitioner; or

(f) the suspension or revocation of the registration is justified having regard to:

(i) the quality of the person's work as an environmental auditor or an environmental practitioner; or

(ii) any other matter the CEO considers relevant to the person's suitability for registration.

(2) The CEO may revoke the registration of an environmental auditor or environmental practitioner that is suspended.

248 Show cause process

(1) The CEO must not make a decision to suspend or revoke the registration of a person as an environmental auditor or environmental practitioner under regulation 247 unless the CEO has first complied with this regulation.

(2) The CEO must give written notice (a ***show cause notice***) to the registered environmental auditor or registered environmental practitioner:

(a) stating the CEO's intention to suspend or revoke the registration; and

(b) asking the registered environmental auditor or registered environmental practitioner to show cause why the registration should not be suspended or revoked.

(3) The show cause notice must specify the date by which the registered environmental auditor or registered environmental practitioner may show cause.

(4) The date specified in the show cause notice must be not less than 10 business days after the date of the notice.

(5) The CEO must consider any response given by the registered environmental auditor or registered environmental practitioner to the show cause notice in making a decision under regulation 247.

249 Notice of suspension

(1) If the CEO suspends the registration of a person as an environmental auditor or an environmental practitioner under regulation 247, the CEO must give written notice to the person that the registration is suspended:

(a) for a specified period; or

(b) until conditions specified by the CEO are complied with; or

(c) until further notice by the CEO.

(2) A notice of a suspension under subregulation (1)(b) must state that the person's registration will be reinstated as soon as practicable after the person has complied with the specified conditions.

250 Notice of revocation

If the CEO revokes the registration of a person as an environmental auditor or an environmental practitioner under regulation 247, the CEO must give written notice to the person of that revocation and the reasons for the revocation.

251 When suspension or revocation has effect

(1) A suspension of registration has effect:

(a) for the period specified by the CEO; or

(b) for a suspension notified under regulation 249(1)(b) or (c) – for the period beginning on the date of the notice and ending when the CEO notifies the environmental auditor or environmental practitioner that the registration has been reinstated.

(2) A revocation of registration takes effect on the date specified in the notice under regulation 250.

Division 4 Review of decisions

252 Review by NTCAT

For section 277 of the Act and the Schedule to the Act, the reviewable decisions and affected persons set out in Schedule 1 are prescribed.

Division 5 Registers

253 Register of environmental auditors

(1) The CEO must maintain a public register of environmental auditors.

(2) The register must:

(a) identify each registered environmental auditor; and

(b) specify for each registered environmental auditor:

(i) the class of registration; and

(ii) the kinds of environmental audit that the auditor is authorised to carry out.

(3) The CEO may adopt the register of environmental auditors (however described) of another jurisdiction to form part of the public register of environmental auditors.

(4) A person registered on a register adopted under subregulation (3) is taken to be an environmental auditor registered under this Part.

(5) A person registered as an environmental auditor under the *Waste Management and Pollution Control Act 1998* is taken to be an environmental auditor registered under this Part.

(6) If a person is taken to be registered as an environmental auditor under subregulation (4) or (5), the registration of the person under this Part:

(a) is subject to any conditions imposed from time to time on the registration of the person under the law of the other jurisdiction or under the *Waste Management and Pollution Control Act 1998* (as the case requires); and

(b) is taken to be suspended or revoked if the registration of the person under the law of the other jurisdiction or under the *Waste Management and Pollution Control Act 1998* is suspended or revoked.

254 Register of environmental practitioners

(1) The CEO must maintain a public register of environmental practitioners.

(2) The register must:

(a) identify each registered environmental practitioner; and

(b) specify for each registered environmental practitioner:

(i) the class of registration; and

(ii) the kinds of environmental work that the practitioner is authorised to carry out.

(3) The CEO may adopt the register of environmental practitioners (however described) of another jurisdiction to form part of the public register of environmental practitioners.

(4) A person registered on a register adopted under subregulation (3) is taken to be an environmental practitioner registered under this Part.

(5) If a person is taken to be registered as an environmental practitioner under subregulation (4), the registration of the person under this Part:

(a) is subject to any conditions imposed from time to time on the registration of the person under the law of the other jurisdiction; and

(b) is taken to be suspended or revoked if the registration of the person under the law of the other jurisdiction is suspended or revoked.

Part 9A Environment protection notices

254A Information to be provided in notice of entry to land

For sections 192B(5) and 192C(4) of the Act, a notice under section 192B(3)(b) or (4) or 192C(1) or (3) of the Act must inform the owner or occupier of the land or the CEO (as the case requires) of the following:

(a) the intention to enter the land or premises;

(b) the name of each person who is to enter the land or premises;

(c) the petroleum activity for which the environment protection notice was issued;

(d) in the case of a environment protection notice issued under section 176(2) – the name of the high risk entity;

(e) the purpose of the entry and proposed works on the land or premises;

(f) the days and times when the entry is to be made and the expected duration of the proposed works;

(g) the equipment, machinery or materials to be brought onto the land or premises;

(h) the changes to infrastructure and the surrounding environment that are expected as a result of the proposed works.

Part 9B Chain of responsibility

254B Prescribed Act, approval and direction

(1) For section 192L of the Act, definition ***prescribed Act***, the *Petroleum Act 1984* is prescribed.

(2) For section 192L of the Act, definition ***prescribed approval***, paragraph (b), the following are prescribed:

(a) an approved environment management plan, see section 5(1) of the *Petroleum Act 1984*;

(b) a well operations management plan approved under section 61A of the *Petroleum Act 1984*;

(c) a petroleum surface infrastructure plan approved under section 61A of the *Petroleum Act 1984.*

(3) For section 192L of the Act, definition ***prescribed direction***, paragraph (c), the following are prescribed:

(a) a direction given under section 71(1) of the *Petroleum Act 1984*;

(b) a direction under section 77(1) of the *Petroleum Act 1984*;

(c) a compliance direction issued under section 89N of the *Petroleum Act 1984.*

(4) For section 192L of the Act, definition ***prescribed environmental duty***, a requirement provided for in a direction under section 77 of the *Petroleum Act 1984* is prescribed.

254C Prescribed enactments for section 192N of Act

For section 192N(4)(c) of the Act, the following Acts are prescribed:

(a) the *Petroleum Act 1984*;

(b) the *Native Title Act 1993* (Cth);

(c) the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth);

(d) the repealed Act as defined in section 5 of the *Petroleum Act 1984* and continued by section 119 of that Act.

254D Declaration under section 5F of the *Corporations Act 2001* (Cth)

Any act or omission required by a compliance notice issued in the circumstances set out in Part 9, Division 2A of the Act is declared to be an excluded matter for the purposes of section 5F of the *Corporations Act 2001* (Cth) in relation to the provisions of Chapter 5 of that Act, otherwise than to the extent to which those provisions would not prevent the carrying out of that act or omission.

Notes for regulation 254D

1 See section 192Y of the Act.

2 Section 5F of the Corporations Act 2001 (Cth) provides that if a Territory law declares a matter to be an excluded matter for the purposes of that section in relation to all or part of the Corporations legislation of the Commonwealth the provisions that are the subject of the declaration will not apply in relation to that matter in the Territory.

254E Declaration under section 5G of the *Corporations Act 2001* (Cth)

(1) The provisions of the Act specified in subregulation (2) are declared to be Corporations legislation displacement provisions for the purposes of section 5G of the *Corporations Act 2001* (Cth) in relation to the provisions of Chapter 5 of that Act.

(2) For the purposes of subregulation (1), the following provisions of the Act are specified:

(a) section 176;

(b) section 177;

(c) section 178;

(d) section 179;

(e) section 189;

(f) section 191;

(g) section 192;

(h) the provisions of Part 9 Division 2A.

(3) The provisions of the *Petroleum Act 1984* specified in subregulation (4) are declared to be Corporations legislation displacement provisions for the purposes of section 5G of the *Corporations Act 2001* (Cth) in relation to the provisions of Chapter 5 of that Act.

(4) For the purposes of subregulation (3), the following provisions of the *Petroleum Act 1984* are specified:

(a) section 71;

(b) section 72;

(c) section 77;

(d) section 89N;

(e) section 89Q;

Notes for regulation 254E

1 See section 192Z of the Act.

2 Section 5G of the Corporations Act 2001 (Cth) provides that if a Territory law declares a provision of a Territory law to be a Corporations legislation displacement provision for the purposes of that section, any provision of the Corporations legislation with which the Territory provision would otherwise be inconsistent does not operate to the extent necessary to avoid the inconsistency.

Part 10 Notice of environmental incidents

255 Relevant information to be given

(1) For Part 9, Division 8 of the Act, the relevant information about an incident required to be notified to the CEO consists of the following:

(a) the time, date, nature, duration and location of the incident;

(b) the location of the place where the environmental harm is occurring or is likely to occur;

(c) the nature, the estimated quantity or volume and the concentration of any pollution involved;

(d) the circumstances in which the incident occurred (including the cause of the incident, if known);

(e) the action taken or proposed to be taken to deal with the incident and any resulting environmental harm, if known.

(2) The information required to be given by this regulation is the information known to the person notifying the incident when the notice is required to be given.

(3) If the information required by subregulation (1)(c), (d) or (e) to be included in a notice of an incident is not known to that person when the initial notification is made but becomes known afterwards, that information must be notified immediately after it becomes known.

(4) Subject to subregulation (5), a notice must be given in writing.

(5) In an emergency, notice of an incident may be given by:

(a) notifying the CEO orally of the required information; and

(b) giving the CEO a written notice containing the required information within 24 hours after the oral notice is given.

(6) A notice is given to the CEO if it is given to a person nominated by the CEO under this regulation to receive notices on the CEO's behalf.

(7) In this regulation:

pollution, see section 4(1) of the *Waste Management and Pollution Control Act 1998*.

Part 11 Infringement notice offences

256 Infringement notice offence and prescribed amount payable

(1) An ***infringement notice offence*** is an offence against a provision specified in Schedule 2.

(2) The ***prescribed amount*** for an infringement notice offence (other than an environmental offence) is the amount equal to the monetary value of the number of penalty units specified for the offence in Schedule 2.

Note for regulation 256

The Environmental Penalties and Offences Act 1996 sets out the infringement penalties for environmental offences.

257 When infringement notice may be given

If an environmental officer believes on reasonable grounds a person has committed an infringement notice offence, the environmental officer may give a notice (an ***infringement notice***) to the person.

258 Contents of infringement notice

(1) The infringement notice must specify the following:

(a) the name and address of the person, if known;

(b) the date the infringement notice is given to the person;

(c) the date and time of the infringement notice offence and the place at which the infringement offence occurred;

(d) a description of the offence;

(e) for an environmental offence – the penalty payable in accordance with section 8 of the *Environmental Offences and Penalties Act 1996*;

(f) for any other offence – the prescribed amount payable for the offence;

(g) the enforcement agency, as defined in the *Fines and Penalties (Recovery) Act 2001*, to which the penalty or prescribed amount is payable.

(2) The infringement notice must include a statement to the effect of the following:

(a) the person may expiate the infringement notice offence and avoid any further action in relation to the offence by paying the prescribed amount to the specified enforcement agency within 28 days after the notice is given;

(b) the person may elect under section 21 of the *Fines and Penalties (Recovery) Act 2001* to have the matter dealt with by a court instead of under that Act by completing a statement of election and giving it to the specified enforcement agency;

(c) if the person does nothing in response to the notice, enforcement action may be taken under the *Fines and Penalties (Recovery) Act 2001*.

(3) Also, the infringement notice must include an appropriate form for making the statement of election mentioned in subregulation (2)(b).

259 Electronic payment and payment by cheque

(1) If the person uses electronic means to pay the prescribed amount, payment is not effected until the amount is credited to the enforcement agency's bank account.

(2) If the person tenders a cheque in payment of the prescribed amount, payment is not effected unless the cheque is cleared on first presentation.

260 Withdrawal of infringement notice

(1) The CEO may withdraw the infringement notice by written notice given to the person.

(2) The notice must be given:

(a) within 28 days after the infringement notice is given to the person; and

(b) before payment of the prescribed amount.

261 Application of Part

(1) This Part does not prejudice or affect the start or continuation of proceedings for an infringement notice offence for which an infringement notice has been given unless the offence is expiated.

(2) Also, this Part does not:

(a) require an infringement notice to be given; or

(b) affect the liability of a person to be prosecuted in a court for an offence for which an infringement notice has not been given; or

(c) prevent more than one infringement notice for the same offence being given to a person.

(3) If more than one infringement notice for the same offence has been given to a person, the person may expiate the offence by paying the prescribed amount in accordance with any of the notices.

Part 12 General matters

Division 1 Documents and information

Subdivision 1 Referral and assessment documents

262 Definition

In this Subdivision:

referral and assessment documents means:

(a) a referral of a proposed action or strategic proposal to which Part 4 applies; or

(b) a document required to be prepared by the proponent or approval holder under Part 5 or 7; or

(c) a notice of significant variation under Part 7, Division 1 or 2; or

(d) a referral of a significant variation under Part 7, Division 3; or

(e) any information required to be provided by the proponent or approval holder to the NT EPA under Part 4, 5 or 7.

263 Document and information requirements

(1) The NT EPA may, by *Gazette* notice, determine requirements for:

(a) the form and content of referral and assessment documents; and

(b) referral or assessment documents to be prepared or certified by a registered environmental practitioner who is registered in relation to environmental work of a kind specified in the determination.

(2) A proponent or approval holder must comply with any applicable requirements determined under subregulation (1).

264 Proponent or approval holder must consider objectives in preparing documents

A proponent or approval holder must consider the environmental objectives in preparing the following:

(a) a referral of a proposed action or strategic proposal to which Part 4 applies;

(b) a notice of significant variation to which Part 7, Division 1, 2 or 2A applies;

(c) a referral of a significant variation to which Part 7, Division 3 applies.

Subdivision 2 Submissions to NT EPA

265 Form of submissions to NT EPA

A submission to the NT EPA under these Regulations may be made:

(a) in writing; or

(b) orally in person or by audio or audio-visual communication or recording; or

(c) in any other manner approved by the NT EPA.

266 NT EPA to give copies of submissions to proponent or approval holder

Subject to regulations 152, 268 and 269, the NT EPA must give a proponent or approval holder under an environmental impact assessment process:

(a) a copy of all written submissions the NT EPA receives during the environmental impact assessment process; and

(b) a statement of the substance of each oral submission the NT EPA receives during the environmental impact assessment process.

267 Publication of submissions received during assessment process

Subject to regulations 152, 268 and 269, the NT EPA must publish all submissions it receives during an environmental impact assessment process as soon as practicable after they are received.

268 Publication relating to form response or petition

(1) If the NT EPA receives a number of submissions in the form of a form response prepared by a body or organisation, it is sufficient for the NT EPA to publish:

(a) at least one of the submissions or the substance of one of the submissions; and

(b) the total number of submissions received.

(2) If the NT EPA receives a submission in the form of a petition, it is sufficient for the NT EPA to publish:

(a) the substance or intent of the petition; and

(b) the total number of persons who signed the petition.

269 Request not to publish submission

(1) A person making a submission, other than the proponent or a person acting on behalf of the proponent, may request that the submission or part of the submission not be published.

Note for subregulation (1)

Section 281 of the Act empowers the proponent to request that identified information provided by the proponent not be made public on the basis that it is commercial-in-confidence or for other specified reasons.

(2) On receipt of a request under subregulation (1), the NT EPA may:

(a) withhold the submission or part of the submission from publication; or

(b) remove any identifying information from the submission before publication.

(3) The NT EPA may remove identifying information from any copy of a submission required to be given to the proponent under this Subdivision.

(4) The NT EPA must remove identifying information from any copy of a submission required to be given to the proponent under this Subdivision if a request is made under subregulation (1).

Subdivision 3 Prescribed documents

270 Prescribed documents

For section 153 of the Act, the following documents are prescribed:

(a) any direction to carry out an environmental audit under section 142 of the Act;

(b) any amendment to a direction under section 142 of the Act that changes the scope of the audit;

(c) the environmental audit report under section 144 of the Act;

(d) an authorisation under section 147 of the Act;

(e) the declarations required under section 150 of the Act;

(f) a document detailing:

(i) any sampling or monitoring program conducted for the purposes of undertaking the environmental audit; and

(ii) the results of any sampling, monitoring or analysis;

(g) any monitoring, remediation or management plans (however described) prepared in response to the recommendations contained in the environmental audit report.

Subdivision 4 Confidential information

271 Confidential information

For section 281 of the Act, an application must be in the approved form.

Division 1A Environmental offsets – prescribed enactment

271A Environmental offsets framework and guidelines – prescribed enactment

For section 125 of the Act, the *Petroleum Act 1984* is prescribed.

Division 2 Specified periods and extensions of specified periods

Subdivision 1 Extension of specified period for proponent or approval holder

272 Definition

In this Subdivision:

specified period means:

(a) an assessment period specified under regulation 99; or

(b) any other specified period within which a proponent or approval holder is required under these Regulations to prepare a document or information or provide a document or information to the NT EPA.

273 Application for extension of specified period

The proponent or approval holder may apply to the NT EPA for an extension of a specified period.

274 Decision on application for extension

(1) On an application under regulation 273, the NT EPA may:

(a) extend the specified period for the period applied for; or

(b) extend the specified period for a period determined by the NT EPA; or

(c) refuse to extend the specified period.

(2) The NT EPA may extend an assessment period under subregulation (1):

(a) with the same terms of reference; or

(b) if a ground in regulation 107 applies – with amended terms of reference.

(3) The NT EPA must make a decision under subregulation (1) within 10 business days after receiving the application under regulation 273.

(4) The NT EPA may only extend a specified period under this regulation if the NT EPA reasonably considers that the extension of the period is:

(a) necessary to meet the objects of the Act; and

(b) in the case of a period relating to an environmental impact assessment process – consistent with the purpose of the assessment process under section 42 of the Act.

(5) The NT EPA must not unreasonably refuse to extend the specified period.

(6) If, under this regulation, the NT EPA extends a specified period, that specified period as extended is taken to be that specified period under these Regulations.

(7) Part 5, Division 3, Subdivision 2 applies to an amendment of the terms of reference mentioned in subregulation (2)(b) as if a reference to a decision under regulation 107 were a reference to a decision under subregulation (1).

(8) The extension of a specified period does not prevent the NT EPA from terminating an environmental impact assessment process under regulation 92, but the NT EPA must take the extension into account in considering whether to terminate the assessment process.

275 Statement of reasons

The NT EPA must prepare a statement of reasons for a decision under regulation 274.

276 Notice to proponent or approval holder of decision

(1) The NT EPA must give the proponent or approval holder:

(a) notice of a decision under regulation 274; and

(b) the statement of reasons for the decision.

(2) The notice of decision and statement of reasons must be given as soon as practicable after the decision is made.

(3) If the specified period is extended under regulation 274, the notice of decision must include the period of the extension.

277 Notice of decision

The NT EPA must publish the following as soon as practicable after the decision is made under regulation 274:

(a) the notice of decision;

(b) the statement of reasons for the decision.

Subdivision 1A Extension of specified submission period

277A Definition

In this Subdivision:

submission period means any period specified under the Act or these Regulations for making submissions to the NT EPA.

277B Application for extension of submission period

The proponent or approval holder or a transferee may apply to the NT EPA for an extension of a submission period.

277C Decision on application for extension

(1) On an application under regulation 277B, the NT EPA, after consulting with the applicant, may:

(a) extend the submission period for the period applied for; or

(b) extend the submission period for a period determined by the NT EPA; or

(c) refuse to extend the submission period.

(2) The NT EPA must make a decision under subregulation (1) within 10 business days after receiving the application under regulation 277B.

(3) The NT EPA may only extend a submission period under this regulation if the NT EPA reasonably considers that the extension of the period is necessary to meet the objects of the Act.

(4) The NT EPA must not unreasonably refuse to extend the submission period.

(5) If, under this regulation, the NT EPA extends a submission period, the submission period as extended is taken to be the submission period under the Act and these Regulations.

277D Statement of reasons

The NT EPA must prepare a statement of reasons for a decision under regulation 277C.

277E Notice to proponent or approval holder of decision

(1) The NT EPA must give the applicant:

(a) notice of a decision under regulation 277C; and

(b) the statement of reasons for the decision.

(2) The notice of decision and statement of reasons must be given as soon as practicable after the decision is made.

(3) If the specified period is extended under regulation 277C, the notice of decision must include the period of the extension.

277F Notice of decision

The NT EPA must publish the following as soon as practicable after the decision is made under regulation 277C:

(a) the notice of decision;

(b) the statement of reasons for the decision.

Subdivision 2 Required period for NT EPA to do thing

278 Extension of period for NT EPA or inquiry panel to do thing

(1) This regulation applies if the NT EPA or an inquiry panel is required under these Regulations to make a decision or to do another thing within a specified period.

(2) The NT EPA, after consulting the proponent or approval holder, may extend the specified period.

(3) The NT EPA may only extend a specified period under this regulation if the NT EPA reasonably considers that the extension of the specified period is:

(a) necessary to meet the objects of the Act; and

(b) in the case of a period relating to an environmental impact assessment process – consistent with the purpose of the assessment process under section 42 of the Act.

(4) The NT EPA may only extend the period for giving a direction under regulation 40, 164, 194 or 214 to a period of 15 business days after the NT EPA receives the referral or the notice of significant variation or referral of a significant variation (as the case requires).

(5) If, under this regulation, the NT EPA extends a specified period to make a decision or do another thing, that specified period as extended is taken to be the specified period under these Regulations to make the decision or do the thing.

279 Failure of NT EPA to make decision or give direction within specified time

A failure of the NT EPA to make a decision or give a direction under these Regulations within a specified time does not invalidate the decision or direction.

Division 3 Costs and fees

280 Recovery of costs

(1) The CEO may recover from the proponent or the approval holder (as the case requires):

(a) the costs of the engagement by the NT EPA of a person or body under regulation 86 to give advice in relation to an environmental impact assessment process; and

(b) the costs of an inquiry panel in relation to an environmental impact assessment process; and

(c) any other costs (including notification and publication costs) incurred by the NT EPA for and during an environmental impact assessment process.

(2) The CEO may recover the costs as a debt payable to the Territory.

(3) The NT EPA may suspend an environmental impact assessment process under these Regulations during any period that an amount due under subregulation (1) in relation to that assessment remains unpaid.

(4) The required period for the NT EPA to take any step during an environmental impact assessment process ceases to run during a suspension under subregulation (3).

(5) The NT EPA must recommence the environmental impact assessment process, suspended under subregulation (3), within 2 business days after the amount due under subregulation (1) is paid.

281 Fees and charges not refunded

If an environmental impact assessment process is terminated under these Regulations or the proponent or approval holder withdraws from the assessment process:

(a) any fees or charges paid are not refundable; and

(b) any outstanding fees and charges may be recovered by the CEO as a debt payable to the Territory.

Division 4 Public register

282 Public register

(1) For section 284(3) of the Act, the CEO must include the following information in the public register:

(a) all information provided by the proponent or the approval holder to the NT EPA during an environmental impact assessment process;

(b) any reports or other information obtained by the NT EPA in accordance with regulation 86;

(c) any assessment report prepared by the NT EPA under Part 6 of these Regulations;

(d) any call-in notice given by the NT EPA under section 53 of the Act;

(e) any stop work notice issued by the NT EPA under section 194 of the Act;

(f) any environmental approval granted by the Minister under the Act;

(g) any statement of unacceptable impact accepted by the Minister under the Act;

(h) any statement of reasons for a decision made by the Minister, CEO or NT EPA under the Act;

(i) any report submitted by an approval holder under an environmental approval;

(ia) any environment protection bond provided by an approval holder under an environmental approval, including:

(i) details of the site to which the approval applies; and

(ii) the name of the approval holder; and

(iii) details of the environmental approval; and

(iv) the amount of environment protection bond held;

(j) any report of an environmental audit provided under the Act;

(k) any environment protection notice issued under Part 9, Division 2 of the Act except an emergency environment protection notice issued under section 182 or 183 of the Act;

(l) any monitoring and management notice issued under Part 9, Division 4 of the Act;

(m) any closure certificate issued by the Minister under section 213 of the Act;

(n) any emergency authorisation issued by the CEO under section 223 of the Act;

(o) any incident notified under section 225 of the Act.

(2) Subregulation (1) does not apply to any confidential information withheld from publication under section 282 of the Act or these Regulations.

Schedule 1 Reviewable decisions and affected persons

regulation 252

Reviewable decision	Affected person
A decision of the CEO to refuse an application for registration as an environmental auditor or an environmental practitioner under regulation 238 or 239	The applicant for registration
A decision of the CEO to impose or vary a condition of registration as an environmental auditor or an environmental practitioner under regulation 242	The person on whose registration the condition is imposed
A decision of the CEO to refuse to renew a registration as an environmental auditor or an environmental practitioner under regulation 244	The applicant for renewal of registration
A decision of the CEO to suspend a registration as an environmental auditor or an environmental practitioner under regulation 247	The person whose registration is suspended
A decision of the CEO to revoke a registration as an environmental auditor or an environmental practitioner under regulation 247	The person whose registration is revoked

Schedule 2 Infringement notice offences and prescribed amounts

regulation 256(1) and (2)

Environment Protection Act 2019

Environmental offences

sections 34(4) and (5), 40(4), 41(4), 89(4), 117(4), 145(1), 154(2), 191(4), 198(4), 208(1), 228(3) and (4), 244A(1) and 259A(4) and (5)

Other offences

Provision	**Prescribed amount in penalty units**	
	for individual	**for body corporate**
sections 54(1), 155(1), 157(1) and 173(1)	20	100
sections 146(1) and 192H(1)	10	50
sections 169(1), 189(1), 206(1) and 287(1)	2	10

ENDNOTES

1 KEY

Key to abbreviations

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

2 LIST OF LEGISLATION

***Environment Protection Regulations 2020* (SL No. 6, 2020)**

Notified	15 April 2020
Commenced	28 June 2020 (r 2, s 2 *Environment Protection Act 2019* (Act No. 31, 2019) and *Gaz* G17, 29 April 2020, p 2)

***Statute Law Revision Act 2020* (Act No. 26, 2020)**

Assent date	19 November 2020
Commenced	20 November 2020 (s 2)

***Environment Protection Legislation Amendment (Chain of Responsibility) Act 2022* (Act No. 32, 2022)**

Assent date	16 December 2022
Commenced	1 March 2024 (*Gaz* G4, 15 February 2024, p 1)

Amending Legislation

***Environment Protection Legislation Amendment Act 2023* (Act No. 34, 2023)**

Assent date	6 December 2023
Commenced	pt 1, pt 3, div 1, ss 207 and 219 and pt 5: 7 December 2023 (s 2(1)); pt 3, div 2: 1 March 2024 (s 2(2), s 2 *Environment Protection Legislation Amendment (Chain of Responsibility) Act 2022* (Act No. 32, 2022) and (*Gaz* G4, 15 February 2024, p 1); pt 4: 1 July 2024 (*Gaz* G4, 15 February 2024, p 2); rem: 1 March 2024 (*Gaz* G4, 15 February 2024, p 2)

Environment Protection Legislation Amendment Act 2023 **(Act No. 34, 2023)**

Assent date	6 December 2023
Commenced	pt 1, pt 3, div 1, ss 207 and 219 and pt 5: 7 December 2023 (s 2(1)); pt 3, div 2: 1 March 2024 (s 2(2), s 2 *Environment Protection Legislation Amendment (Chain of Responsibility) Act 2022* (Act No. 32, 2022) and (*Gaz* G4, 15 February 2024, p 1); pt 4: 1 July 2024 (*Gaz* G4, 15 February 2024, p 2); rem: 1 March 2024 (*Gaz* G4, 15 February 2024, p 2)

3 LIST OF AMENDMENTS

r 3	amd Act No. 34, 2023, s 95
r 6	amd Act No. 34, 2023, s 96
r 17	amd Act No. 34, 2023, s 97
r 27	amd Act No. 34, 2023, s 98
r 47A	ins Act No. 34, 2023, s 99
r 59	amd Act No. 34, 2023, s 100
r 77	amd Act No. 34, 2023, s 101
r 78	amd Act No. 34, 2023, s 102
r 83	amd Act No. 34, 2023, s 103
r 88	amd Act No. 34, 2023, s 104
r 88A	ins Act No. 34, 2023, s 105
r 91	amd Act No. 34, 2023, s 106
r 92	amd Act No. 34, 2023, s 107
r 95	amd Act No. 34, 2023, s 108
r 104	amd Act No. 34, 2023, s 109
r 107	amd Act No. 26, 2020, r 3; Act No. 34, 2023, s 110
r 119A	ins Act No. 34, 2023, s 111
r 120	amd Act No. 34, 2023, s 112
r 136A	ins Act No. 34, 2023, s 113
r 137	amd Act No. 34, 2023, s 114
r 155	amd Act No. 34, 2023, s 115
r 157	amd Act No. 34, 2023, s 116
r 173	amd Act No. 34, 2023, s 117
r 177	amd Act No. 34, 2023, s 118
r 178	amd Act No. 34, 2023, s 119
pt 7 div 2A hdg	ins Act No. 34, 2023, s 120
pt 7 div 2A sdiv 1 hdg	ins Act No. 34, 2023, s 120
rr 212A – 212B	ins Act No. 34, 2023, s 120
pt 7 div 2A sdiv 2 hdg	ins Act No. 34, 2023, s 120
rr 212C – 212K	ins Act No. 34, 2023, s 120
pt 7 div 2A sdiv 3 hdg	ins Act No. 34, 2023, s 120
rr 212L – 212Q	ins Act No. 34, 2023, s 120
pt 7 div 2A sdiv 4 hdg	ins Act No. 34, 2023, s 120

rr 212R – 212W	ins Act No. 34, 2023, s 120
r 233	amd Act No. 26, 2020, r 3
pt 9A hdg	ins Act No. 32, 2022, s 17
r 254A	ins Act No. 32, 2022, s 17
pt 9B hdg	ins Act No. 32, 2022, s 17 as amended by Act No. 34, 2023, s 129
rr 254B – 254E	ins Act No. 32, 2022, s 17 as amended by Act No. 34, 2023, s 129
r 264	amd Act No. 34, 2023, s 121
pt 12 div 1 sdiv 2 hdg	amd Act No. 34, 2023, s 122
r 269	amd Act No. 34, 2023, s 123
pt 12 div 1A hdg	ins Act No. 34, 2023, s 131
r 271A	ins Act No. 34, 2023, s 131
pt 12 div 2 sdiv 1A hdg	ins Act No. 34, 2023, s 124
rr 277A – 277F	ins Act No. 34, 2023, s 124
r 282	amd Act No. 34, 2023, s 125
sch 2	amd Act No. 32, 2023, s 18; Act No. 34, 2023, s 126