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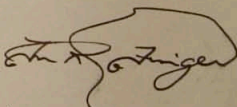
CABINET DECISION

NO. 3000-2300

Submission No.: 1968
Title: ENVIRONMENTAL ASSESSMENT BILL 1982

Cabinet approved:-

- a) the Environmental Assessment Bill for introduction into the Legislative Assembly at the May/June Sittings subject to -
 - i) deletion of the words "or the Director" where ever they appear after the word "Minister"; and
 - ii) deletion of the reason (b) why the environmental impact survey may be ordered;
- b) the Draft Second Reading Speech and Committee Notes amended as necessary; and
- c) the Administrative Procedures as attached to the Submission following the enactment of the Bill.



(M.R. FINGER),
Secretary to Cabinet.

19/20 May, 1982.

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THE NORTHERN TERRITORY OF AUSTRALIA

Copy No: 1

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FOR CABINET

SUBMISSION No: 1968

Title:	ENVIRONMENTAL ASSESSMENT BILL 1982
Minister:	Hon. P.A.E. Everingham, M.L.A. Chief Minister
Purpose:	To present a draft Environmental Assessment Bill prior to tabling in line with Cab. Dec. 1895 of 28 August, 1981.
Relation to existing policy:	New policy
Timing/legislative priority:	As soon as possible
Announcement of decision, tabling, etc:	To be tabled at the May/June Sitzings of the Legislative Assembly.
Action required before announcement:	Nil
Staffing implications, numbers and costs, etc:	
Total cost:	

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THE PROPOSAL

1. This submission seeks clearance from Cabinet for the following:

- (a) Environmental Assessment Bill;
- (b) Draft Second Reading Speech;
- (c) Committee Notes; and
- (d) Draft Administrative Procedures.

BACKGROUND

2. Until recently, environmental assessment in the Northern Territory was the responsibility of the Commonwealth Government. In October 1979 the Territory was exempted from the provisions of the Environment Protection (Impact of Proposals) Act. Specific note was taken of the Chief Minister's intention to legislate for the Northern Territory to conduct its own environmental investigations.

3. A submission recommending appropriate legislation and procedures was subsequently considered by Cabinet. Approval to proceed with the drafting of legislation was given and Decision No. 1895 of 28 August 1981 refers. Cabinet also directed that appropriate procedures be developed in consultation with all other interested Departments and Authorities and that such procedures be submitted for approval by Cabinet at the same time as the Bill.

4. The Legislative Draftsman has now prepared a Bill and a draft of the administrative procedures envisaged under the legislation.

CONSIDERATION OF THE ISSUES

5. The Bill covers all of the matters required by the Cabinet decision. The Draft Second Reading Speech and the Committee Notes reflect the content and purpose of the Bill and are also submitted for approval.

6. Whilst the Bill establishes the essential framework for environmental assessment, the detailed implementation of the legislation will be effected through administrative procedures. Draft procedures in accordance with Cabinet's direction accompany this submission. It is not intended that these be tabled in the Assembly although the Chief Minister may wish to give the House some assurance of the contents. The final form of the procedures may vary from the draft procedures to provide further clarification and assist in ease of administration. This will not, however, alter the intent of the procedures.

OPTIONS

7. The options available to Cabinet are:

- (a) to approve the Bill and other documents; or
- (b) not to approve the Bill and other documents.

Option (a) is recommended.

PUBLIC IMPACT

8. The legislation should be favourably received by the general community. Industry groups may need reassurance on the speed and flexibility incorporated into the procedures.

FINANCIAL AND EMPLOYMENT CONSIDERATIONS

9. These were discussed in the original submission. The requirement for four additional staff and a modest increase in administrative costs within the Conservation Commission represent the main considerations.

COMMONWEALTH RELATIONS

10. The proposed legislation will replace the former application of Commonwealth procedures with a more flexible and locally responsive system, and will place the Territory on the same footing as the States in these matters. The Commonwealth is expected to support the intent of the legislation proposed.

CO-ORDINATION AND CONSULTATION

11. In accordance with Cabinet's directive all other interested departments and authorities have been consulted in the preparation of the Bill and the draft administrative procedures.

PUBLICITY

12. It is suggested that extensive publicity would be desirable at the time of tabling the Bill.

TIMING

13. It is desired to have the Bill introduced at the May sittings of the Assembly.

ATTACHMENTS

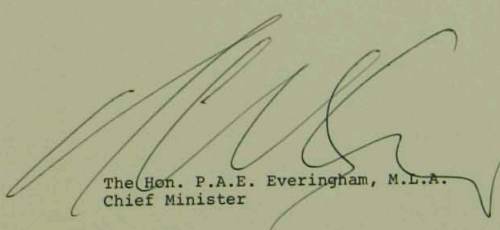
14. The following documents are attached to this submission:

- (a) Draft Bill
- (b) Explanatory Memorandum
- (c) Draft Second Reading Speech
- (d) Committee Notes
- (e) Draft Administrative Procedures.

RECOMMENDATIONS

15. It is recommended that Cabinet approve:

- (a) The attached Environmental Assessment Bill for introduction into the Legislative Assembly at the May Sittings, the Draft Second Reading Speech and the Committee Notes; and
- (b) Administrative Procedures along the lines envisaged in the attached draft following the enactment of the Bill.



The Hon. P.A.E. Everingham, M.L.A.
Chief Minister

EXPLANATORY MEMORANDUM

Cabinet, by Decision No. 1895 on 28 August 1981, approved that:

- (a) an Environment Assessment Bill be drafted;
- (b) the Bill provide for Preliminary Environmental Reports, Environmental Impact Statements, Public Review and Evaluation and Enforcement Procedures;
- (c) the Bill specify the role of the Environment Minister, the Action Minister, the Director of the Conservation Commission, advisory Departments and the proponents of developments;
- (d) the Conservation Commission be responsible for administering the Act and, in consultation with all other interested Departments/Authorities, developing appropriate procedures and that such procedures be developed for approval by Cabinet at the same time as the Bill; and
- (e) the Conservation Commission be required to consult closely with appropriate agencies at all stages of assessment.

The Legislative Draftsman has now prepared the draft Bill and draft administrative procedures.

It is requested that Cabinet clear the draft Bill to enable it to be presented to the May Sitzings of the Assembly, and endorse the approach adopted in the draft administrative procedures. It is not intended that the procedures be tabled in the Assembly.

NORTHERN TERRITORY OF AUSTRALIA
ENVIRONMENTAL ASSESSMENT BILL 1982

TABLE OF PROVISIONS

Clause

1. Short title
2. Commencement
3. Definitions
4. Object of Act
5. Application
6. Exemptions
7. Administrative procedures
8. Determinations to be notified
9. Duties of Ministers
10. Modification of operation of laws
11. Inquiries
12. Regulations



NORTHERN TERRITORY OF AUSTRALIA

A BILL for AN ACT

To provide for the assessment of the environmental effects of development proposals and for the protection of the environment

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Environmental Assessment Act 1982*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. DEFINITIONS

In this Act, unless the contrary intention appears -

"Director" has the same meaning as in the *Conservation Commission Act*;

"environment" means all aspects of the surroundings of man including the physical, biological, economic, cultural and social aspects;

"proposed action" means a matter referred to in section 4(c), (d), (e), (f) or (g).

4. OBJECT OF ACT

Subject to section 6, the object of this Act is to ensure, to the greatest extent practicable, that each matter affecting the environment which is, in the opinion of the Minister -

(a) a matter which could reasonably be considered to be capable of having a significant effect on the environment; or

X (b) a matter which could be of public concern in respect of the environment,

is fully examined and taken into account in, and in relation to -

(c) the formulation of proposals;

(d) the carrying out of works and other projects;

(e) the negotiation, operation and enforcement of agreements and arrangements (including agreements and arrangements with, and with authorities of, the Commonwealth, the States and other Territories);

(f) the making of, or the participation in the making of, decisions and recommendations; and

(g) the incurring of expenditure,

by, or on behalf of, a person, either alone or in association with another person.

5. APPLICATION

This Act binds the Crown in right of the Territory and, so far as the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

6. EXEMPTIONS

X The Administrator may, by notice in the Gazette, exempt from the application of this Act a specified proposed action or class of proposed action which would otherwise be subject to this Act and the specified proposed action or class of proposed action shall, accordingly, be exempt from the application of this Act.

7. ADMINISTRATIVE PROCEDURES

X (1) The Administrator may, from time to time, determine, and determine variations of, administrative procedures for the purpose of achieving the object of this Act, being procedures that are consistent with relevant laws, as affected by the Regulations.

(2) Without limiting the generality of sub-section (1), the administrative procedures referred to in that sub-section may provide for -

- (a) the supplying to the Minister (or the Director) of information for the purpose of consideration, by him or on his behalf, of the necessity for an environmental impact statement;
- (b) authorizing the Minister (or the Director) to direct the preparation or obtaining, and the submission to him, of an environmental impact statement;
- (c) defining, or authorizing the Minister (or Director) to determine the matters to be dealt with by, and the form of, an environmental impact statement;
- (d) the making of an environmental impact statement available, in cases or circumstances specified by or in accordance with those procedures, for public comment;
- (e) action to be taken in respect of reports resulting from inquiries made under section 11;
- (f) the revision of an environmental impact statement;
- (g) the examination of an environmental impact statement by or on behalf of the Minister (or the Director) and the making by or on behalf of the Minister (or the Director) of comments, suggestions or recommendations concerning the matters to which an environmental impact statement relate, including suggestions or recommendations concerning conditions to which approvals, agreements and other matters should be subject; and
- (h) exemptions from all or any of the requirements of those procedures.

8. DETERMINATIONS TO BE NOTIFIED

Where a determination is made under section 7 -

- (a) the Minister shall give notice in the *Gazette* of the determination having been made, and of the place where copies of the determination may be purchased or otherwise obtained; and
- (b) the determination shall take effect from the date of the *Gazette* in which the notice appears or, where another date is specified in the notice, from the date so specified.

9. DUTIES OF MINISTERS

Each minister shall give all such directions and do all such things as, consistent with a relevant law as affected by the Regulations, can be given or done by him -

- (a) for ensuring that administrative procedures for the time being determined under section 7 are given effect to in and in connection with matters dealt with by each department administered by him and that each statutory corporation in respect of which he has ministerial responsibilities observes, and assists in giving effect to, those procedures; and
- (b) for ensuring that a final environmental impact statement formulated in accordance with those procedures, and a suggestion or recommendation made in accordance with those procedures, is taken into account, in matters to which they relate, in each department administered by him and by each statutory corporation in respect of which he has ministerial responsibilities.

10. MODIFICATION OF OPERATION OF LAWS

Without limiting a power or duty of a minister or statutory corporation, apart from this Act, to take into account matters relating to the environment in the exercise of the power or the performance of the duty, the Regulations may -

- (a) make provision for or in relation to requiring or permitting a minister or statutory corporation to take into account, either generally or in accordance with the Regulations, matters affecting the environment in the taking of an action or the making of a decision or recommendation; and
- (b) prescribe matters necessary or convenient to be prescribed as incidental to a provision so made, including matters relating to procedures and times,

and Regulations so made have effect notwithstanding any other law in force in the Territory.

11. INQUIRIES

Where, in the opinion of the Minister, a matter to which this Act relates cannot be determined except by an inquiry, the *Inquiries Act* shall be used to inquire into that matter and, for that purpose, the Minister shall, if so required, be deemed to be the Minister responsible for the administration of that Act.

12. REGULATIONS

(1) The Administrator may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular -

- (a) prohibiting the doing of an act or thing absolutely;
 - (b) prohibiting the doing of an act or thing except in pursuance of a licence, permit or authority, or in accordance with an approval, granted, issued or given under the Regulations;
 - (c) making provision for and in relation to the terms and conditions to which a licence, permit, authority or approval granted, issued or given under the Regulations is to be subject;
 - (d) making provision for and in relation to ensuring the confidentiality of information obtained in or in connection with carrying out or giving effect to, or securing the observance of, a determination under section 7;
 - (e) making provision for and in relation to the granting of exemptions, either unconditionally or subject to conditions, from the provisions of the Regulations;
 - (f) providing for the recovery of costs and expenses, and fixing the fees to be paid, in respect of any matters under the Regulations;
 - (g) empowering the Minister or other persons to give direction to particular persons for the purposes of the Regulations;
 - (h) empowering the Minister to make provision by order with respect to any matter with respect to which provision can be made by the Regulations; and
 - (j) prescribing the manner in which notices, orders, directions or instructions under the Regulations may be given or in which documents may be served.
- (2) Offences against the Regulations may be prosecuted -
- (a) on indictment; or
 - (b) if the defendant and the prosecutor consent and the court is satisfied that it is proper to do so - summarily.
- (3) The Regulations may, in respect of an offence against the Regulations -
- (a) provide for a penalty -

- (i) upon summary conviction - of a fine not exceeding \$2,000, or imprisonment for a period not exceeding 1 year and, in the case of a continuing offence, for a further fine not exceeding \$2,000 for each day after the first day on which the offence is found to have been committed during which the offence is found to have continued; and
 - (ii) upon conviction otherwise than summarily - of a fine not exceeding \$50,000, or imprisonment for a period not exceeding 5 years and, in the case of a continuing offence, for a further fine not exceeding \$50,000 for each day after the first day on which the offence is found to have been committed during which the offence is found to have continued; and
- (b) provide that, in the case of an offence constituted by a failure to do an act within a specified period or not later than a specified time, a person convicted of the offence is guilty of a separate and further offence against the Regulations in respect of each day after the day of the conviction during which the failure to do that act continues (notwithstanding that that period has expired or that time has passed) and is punishable in respect of each such separate and further offence -
- (i) upon summary conviction - by a fine not exceeding \$2,000; and
 - (ii) upon conviction otherwise than summarily - by a fine not exceeding \$50,000.
- (4) For the purposes of sub-sections (2) and (3), a contravention of, or failure to comply with, an order made under the Regulations shall be deemed to be an offence against the Regulations.

DRAFT

Draft Second Reading Speech - Environmental Assessment Bill.

I move that the Bill be read a second time.

I am pleased to present this Bill which seeks to ensure that before any development which could significantly affect the quality of the environment is undertaken, its implications are fully examined and taken into account and that adequate environmental safeguards are applied to that action.

This Bill is one of the most significant pieces of legislation for the Northern Territory which has come before this Assembly in recent times. It reflects the concern shared by Government and the community at large for greater awareness of the environmental consequences of our actions. Above all it recognises the responsibility of Government to promote and maintain this awareness.

Before proceeding with further explanation, I would like to briefly touch on the background to environmental assessment in the Northern Territory and the philosophy that guided drafting of the Bill.

Until recently environmental assessment of projects in the Northern Territory was the responsibility of the Commonwealth Government which took action, when necessary, under the Environment Protection (Impact of Proposals) Act. In March 1979 the Prime Minister agreed that it was no longer appropriate for the Act to continue to apply for

projects which were the responsibility of the Northern Territory Government and its statutory authorities.

As a consequence, the Northern Territory was exempted from the provisions of the Commonwealth Act and this exemption became effective in October 1979. The Bill before Honourable Members will replace the Commonwealth procedures for environmental assessment of Northern Territory projects. Indeed it is both proper and fitting that, in this era of self-government for the Territory, the Territory manage its own affairs in environmental matters thereby ensuring that any action taken is done so in our own best interests.

The introduction of this legislation will also enable the Commonwealth to amend its Environment Protection (Impact of Proposals) Act and thus place the Northern Territory on the same basis as the States in these matters.

In addition, the Northern Territory will be in a much stronger position when negotiating agreements with the Commonwealth on joint assessment arrangements for projects where the Commonwealth has direct involvement. This will ensure that prime carriage of environmental assessment rests with the Northern Territory Government. A project of particular magnitude and significance to the Territory both in terms of economic and social advancement and the necessity for the Territory to be directly involved in all environmental deliberations on projects within its borders, is the Alice Springs/Darwin rail link. This typifies the essentiality for the Territory to be on an equal footing

with the Commonwealth in determining that project's environmental destiny.

Since late 1979 when the Commonwealth's procedures ceased to apply to Northern Territory projects, my Government has been actively developing and refining alternative procedures. As part of this process, we have taken into consideration the various approaches to environmental assessment adopted in Australia and elsewhere. Use of the environmental impact statement technique, to improve consideration of environmental factors in Government decision making, is common to most of these approaches.

I believe that this Bill is a superior piece of legislation than the Commonwealth Act which it replaces in respect of the Northern Territory. We have gone to considerable pains to ensure that this is the case. We have identified known deficiencies in the Commonwealth Act and eliminated these from this Bill.

During the same period, several proposals have been subject to environmental assessment and this has enabled us to test the operation and effectiveness of procedures that would be appropriate for the Northern Territory. These have included the Mereenie Development, the Palm Valley Gas Project and the A.D.M.A. Development. Preliminary environmental investigations have also commenced on the Channel Island Power Station, a major Cement Works, development of Finnis River Station and the Palm Valley/Alice Springs Gas Pipeline.

The Bill before Honourable Members today represents the consolidation of that process.

The Bill is not intended to impose unrealistic and unnecessary constraints on development nor is it intended to demand that environmental factors should transcend all the other factors determining the acceptability of projects. What the Bill does provide is the means by which environmental aspects can receive adequate and balanced consideration with these other factors so that unnecessary and unacceptable harm to the environment can be avoided. For this reason it is therefore an important requirement of the Bill that environmental aspects are to be considered from the very earliest stages in the development of a significant proposal.

The Bill is concise and compact. Its purpose is to establish the basic framework within which environmental assessment will apply in the Northern Territory. Detailed implementation of the Bill will be effected through administrative procedures.

The administrative procedures envisaged will require environmental impact statements for proposals that may cause significant environmental impact or that could generate significant public controversy. This requirement will apply to both public works and private developments but will only be sought for those proposals where the effect is likely to be significant. In other words, the requirement will be discretionary rather than mandatory. Responsibility

for determining whether or not a statement is prepared for a particular proposal will rest with the Minister responsible for the legislation who for the sake of clarity I will refer to as the Environment Minister.

The administrative procedures will require the Environment Minister to examine and in some instances to become involved with matters which are the basic responsibility of other Ministers in the Government. In such situations, it is essential that Ministers keep each other informed where their activities are likely to interact. Because of this, the procedures will provide for extensive consultation between relevant Ministers before a decision requiring an environmental impact statement is made. In the event that there is disagreement between Ministers over this decision, the matter can be referred to Cabinet for resolution. Provision for public participation will be a fundamental component of the administrative procedures. Public comment will be invited on environmental impact statements and these comments, together with those of relevant government agencies and other interested parties will be taken into account by Government when making decisions on proposals.

The Environmental impact statement will be the responsibility of the proponent and will be required before a decision on the fate of a project is made. The statement will be available for this purpose to the responsible Minister together with any recommendations from the Environment Minister. The Environment Minister may recommend against

the project or alternatively recommend its approval with or without variation. His recommendations will always be designed to safeguard the environment.

Whether or not the Environment Minister's recommendations are accepted is ultimately a matter for the Minister who has functional responsibility for the particular proposal. He will need to weigh the environmental considerations together with all other factors before arriving at a decision. The Bill will not give the Environment Minister a veto-power on proposed developments. The purpose of the environmental assessment is to provide adequate information to Government to enable an informed decision to be made.

The Bill contains 12 clauses and, for the benefit of Honourable Members, I will now explain the essential elements of these clauses, although I have referred to some of these matters in my earlier comments.

The first three clauses deal with the introduction and proclamation of the Act and the definitions to be used. A broad definition of "environment" has been adopted to ensure that all the interrelated factors which contribute to the quality of man's surroundings receive adequate attention in the decision-making process.

Clause 4. describes the objectives of the Act and specifies the circumstances under which it is to apply. Actions that may cause a significant impact on the environment or which

could be of public concern are subject to assessment in accordance with the administrative procedures to be established under the Act.

Clause 5. extends the operation of the Act to actions by or on behalf of the Northern Territory Government and its statutory authorities, and actions which require the approval of the Northern Territory Government.

Clause 6. provides for a specific proposal or a whole category of proposals to be exempted from the requirements of the Act. Many proposals by their very nature are not environmentally significant and should not be subject to the Act. Any exemptions granted under this section are to be notified in the Northern Territory Government Gazette. These exemptions may be revised if necessary.

Clause 7. provides for the introduction of administrative procedures to give effect to the Act. I have already indicated the type of procedures envisaged. In summary, these procedures will specify the role of Ministers, the Director of the Conservation Commission, advisory bodies and proponents of proposed actions to which the Act will apply. They will provide for the preparation, public review and final assessment by Government of environmental impact statements.

Clause 8. deals with the manner in which administrative procedures determined under the Act must be notified and this includes making the procedures publicly available.

Clause 9. deals with the duties of Ministers in relation to environment protection requirements of the Act and subsidiary procedures. In particular, this clause indicates that other laws may be effected by the Regulations.

Clause 10. allows Regulations to be made to strengthen the environment protection provisions of other Acts where this is necessary. Provision is also made for detailed administrative procedures to be set up in addition to general procedures outlined in Clause 7.

Clause 11. covers the special circumstance where an inquiry may be warranted to resolve an environmental matter to which the Act applies. The machinery to be used for conducting an inquiry in this case will be provided under the Inquiries Act which provides for the Minister to appoint Boards or Commissions where considered necessary and sets up procedures for such Boards and Commissions.

Clause 12. provides a general regulation - making power for the purpose of carrying out or giving effect to the Act, including specification of maximum penalties for offences against the Act dependent on the nature of the offence. This clause provides for injunctive relief and abatement orders to ensure compliance rather than relying solely on penalties designed solely to penalise or deter such actions. This approach has elsewhere become the prime approach where environment legislation has been most effective.

This clause and Clause 7 which provides for the determination of administrative procedures, also provide an ability to solve problems that may arise during the application of the legislation but which cannot be foreseen.

My Government is committed to achieving a balance between satisfaction of the material wants of the community as a whole, the desire for economic and social progress, and the need to conserve and protect the environment of the Northern Territory and its resources for future generations. We believe the Bill is consistent with these principles and that it will provide an effective means of ensuring environmental factors receive proper consideration and attention in the decision-making process.

I commend the Bill to Honourable Members.

The Environmental Management Bill, 1980, enacted, will establish the basic framework for the control of development and the implementation of proposals which may cause significant impact on the Northern Territory environment. Detailed implementation of the legislation will be effected through administrative procedures. The information required from the environmental assessment can be balanced against the other objectives of government policy in decision-making so that appropriate and manageable laws for the environment can be made.

It is intended to present the Bill to the May Session of the Territory.

Committee Notes: Mr P.A.E. Everingham

Proposed Environmental Assessment Legislation

In 1979 the Commonwealth agreed that it was no longer appropriate for the Environment Protection (Impact of Proposals) Act to continue to apply for projects which were the responsibility of the Northern Territory Government and its statutory authorities. The Northern Territory was subsequently exempted from the provisions of the Commonwealth procedures on the understanding that the Territory would make its own arrangements for the conduct of environmental investigations.

Over the following period, a proposal for an environmental assessment process that would be appropriate for the Northern Territory was developed by the Conservation Commission in consultation with other interested departments and authorities. This proposal was then submitted to Cabinet for consideration.

Cabinet, by Decision No. 1895 on 28 August 1981 approved that:

- (a) an Environment Assessment Bill be drafted;
- (b) the Bill provide for Preliminary Environmental Reports, Environmental Impact Statements, Public Review and evaluation and enforcement procedures;
- (c) the Bill specify the role of the Environment Minister, the Action Minister, the Director of the Conservation Commission, advisory Departments and the proponents of developments;
- (d) the Conservation Commission be responsible for administering the Act and, in consultation with all other interested Departments/Authorities, developing appropriate procedures and that such procedures be developed for approval by Cabinet at the same time as the Bill; and
- (e) the Conservation Commission be required to consult closely with appropriate agencies to all stages of assessment.

The Environmental Assessment Bill, once enacted, will establish the basic framework for the conduct of investigations into the implications of proposals which may cause significant impact on the Northern Territory environment. Detailed implementation of the legislation will be effected through administrative procedures. The information obtained from the environmental assessment can be balanced against the other objectives of government policy in decision-making so that unnecessary and unacceptable harm to the environment can be avoided.

It is intended to present the Bill to the May Sitzings of the Assembly.

DRAFT

NORTHERN TERRITORY OF AUSTRALIA

Environmental Assessment Act

DETERMINATION OF ADMINISTRATIVE PROCEDURES

I, ERIC EUGENE JOHNSTON, the Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, in pursuance of section 7 of the *Environmental Assessment Act*, determine that the administrative procedures appearing in the Schedule are the administrative procedures for the purpose of achieving the objects of the Act, being administrative procedures that are consistent with relevant laws, as affected by the Regulations.

Dated this

day of

, 1982.

DRAFT ONLY

Administrator

By His Honour's Command

Chief Minister

SCHEDULE

NORTHERN TERRITORY OF AUSTRALIA

Environmental Assessment Act

ADMINISTRATIVE PROCEDURES

TABLE OF PROVISIONS

Clause

1. Definitions
2. Proponents of proposed actions
3. Compliance with procedures
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5. Supplying of information to Director
6. Director may call for report
7. Information required by procedures
8. Director to consult and advise Minister
9. Minister may require draft statement
10. Minister may require further information
11. Proponent shall not alter proposed action
12. Matters to be dealt with in draft statement
13. Minister may determine content of draft statement
14. Public comment on draft statement
15. Notice to public
16. Revision of draft statement
17. Final statement
18. Examination of final statement
19. Conditions to be followed

1. DEFINITIONS

In these procedures, unless the contrary intention appears -

"advisory bodies", in respect of a proposed action, means the departments or statutory corporations having a functional responsibility for the proposed action;

"draft statement" means a draft environmental impact statement required under clause 9(1);

"final statement" means a draft statement which has been revised under clause 16;

"report" means a report referred to in clause 5;

"responsible Minister", in relation to a proposed action, means the Minister responsible for the proposed action.

2. PROPONENTS OF PROPOSED ACTIONS

(1) Subject to sub-clause (2), the responsible Minister, or a person on behalf of the responsible Minister, shall, as soon as practicable after a proposed action has been first formulated, designate a person or department as the proponent of the proposed action and shall ensure that the Director is thereupon informed of the proposed action and of the name and address of the person or department so designated.

(2) In designating under sub-clause (1) the proponent of a proposed action, the responsible Minister, or a person on behalf of the responsible Minister, shall have regard to the general principle that, as far as is practicable, the person or department responsible for the execution of the proposed action should be designated as the proponent.

3. COMPLIANCE WITH PROCEDURES

Before a proposed action is executed, the proponent shall do all things necessary to ensure that these procedures are complied with in relation to the proposed action.

4. DIRECTOR TO IDENTIFY PROPOSED ACTIONS

The Director, in consultation with advisory bodies, shall identify the class of actions that will be actions subject to these procedures.

5. SUPPLYING OF INFORMATION TO DIRECTOR

The proponent shall, as soon as practicable after a proposed action has been first formulated, supply to the Director a report containing such information as is required by these procedures, or as is otherwise necessary, for the purpose of consideration, by the Director or his representative, of the necessity for a draft statement in relation to the proposed action.

6. DIRECTOR MAY CALL FOR REPORT

Where, in respect of a proposed action, a report has not been submitted to the Director and the Director is of the opinion that the proposed action may be a proposed action to which the Act applies, the Director may call for a report in respect of the proposed action and, where he does so, the provisions of these procedures shall apply accordingly.

7. INFORMATION REQUIRED BY PROCEDURES

(1) In respect of a proposed action, for the purpose of clause 5, the information required by these procedures shall, to the extent appropriate in the circumstances of the case, be information -

- (a) summarizing any preliminary planning, consideration or work undertaken in relation to the proposed action and, in particular, describing any feasible and prudent alternative to that proposed action considered by the responsible Minister or the proponent;
- (b) describing the environment that is likely to be affected by the proposed action and by any feasible and prudent alternative to that proposed action;
- (c) indicating the potential impact on the environment of the proposed action and of any feasible and prudent alternative to that proposed action, including any enhancement of the environment;
- (d) describing any safeguards or standards for the protection of the environment intended to be adopted or applied in connection with the proposed action; and
- (e) stating any investigations or studies intended to be made of the possible impact on the environment of the proposed action.

(2) For the purpose of consideration, by the Director or on his behalf, of the necessity for a draft statement in relation to a proposed action, the Director may require the proponent to provide, within the period specified in that requirement, such other information as is specified and is necessary for that purpose and the proponent shall, accordingly, provide the information specified in that requirement within the period specified in that requirement.

8. DIRECTOR TO CONSULT AND ADVISE MINISTER

Where the Director receives a report, he shall -

- (a) inform advisory bodies of the receipt of the report and supply each of them with a copy of that report;
- (b) consult with advisory bodies as to whether a draft statement is required in respect of the proposed action to which the report relates;
- (c) supply to the Minister a copy of the report together with his opinion, in writing, as to whether a draft statement is required in respect of the proposed action to which that report relates; and
- (d) where, after the consultation referred to in paragraph (b), the opinion of the advisory bodies in respect of whether a draft statement is required in respect of the proposed action to which the report relates differs from the opinion referred to in paragraph (c) - supply to the Minister a copy of each opinion so differing.

9. MINISTER MAY REQUIRE DRAFT STATEMENT

(1) Subject to sub-clause (2), where the Minister receives in accordance with clause 8(c) a copy of a report, he may -

- (a) after considering, in respect of the report -
 - (i) the Director's opinion referred to in clause 8(c); and
 - (ii) the differing opinions, if any, referred to in clause 8(d); and
- (b) after consulting with the responsible Minister,

require the proponent to prepare a draft environmental impact statement in respect of the proposed action to which that report relates.

(7) The Minister, in making a direction under sub-clause (1), shall take into account whether the proposed action to which a report relates will result in -

- (a) a substantial environmental effect on a community;
- (b) the transformation of a substantial area;
- (c) a substantial impact on the eco-systems of an area;
- (d) a significant diminution of the aesthetic, recreational, scientific or other environmental quality, or value, of an area;
- (e) an adverse effect upon an area, or structure, that has an aesthetic, anthropologic, archaeological, architectural, cultural, historical, scientific or social significance or other special value for the present or future generations;
- (f) the endangering, or further endangering, of a species of fauna or flora;
- (g) important long-term effects on the environment;
- (h) the degradation of the quality of the environment;
- (j) the curtailing of the range of beneficial uses of the environment;
- (k) the pollution of the environment;
- (m) environmental problems associated with the disposal of waste; or
- (n) increased demands on natural resources which are, or are likely to be, in short supply.

10. MINISTER MAY REQUIRE FURTHER INFORMATION

For the purpose of determining whether or not to make a requirement under clause 9(1) in respect of a proposed action, the Minister may require a proponent to provide such other information as is specified in that requirement, within the period specified in the requirement, as is necessary for that purpose, and the proponent shall, accordingly, provide the information specified in that requirement within the period specified in that requirement.

11. PROPONENT SHALL NOT ALTER PROPOSED ACTION

(1) Subject to sub-clause (2), the proponent of a proposed action in respect of which a report or draft statement is not required shall not alter the proposed action so as to materially change its environmental significance.

(2) Where a proposed action referred to in sub-clause (1) is altered so as to materially change its environmental significance, the proponent of the proposed action shall, as soon as practicable, supply the Director with the details of the alterations to that proposed action and shall not commence any part of that proposed action so altered until these procedures have been complied with.

12. MATTERS TO BE DEALT WITH IN DRAFT STATEMENT

(1) Subject to sub-clause (2), where a proponent is required under clause 9(1) to prepare a draft statement he shall, in respect of the matters to be contained in the draft statement and the form of that draft statement, consult with the Director.

(2) For the purpose of sub-clause (1), the Director shall consult with advisory bodies and advise the Minister of the results of such consultation.

13. MINISTER MAY DETERMINE CONTENT OF DRAFT STATEMENT

The Minister may, in his discretion, determine the matters to be contained in, and the format of, a draft statement or class of draft statements.

14. PUBLIC COMMENT ON DRAFT STATEMENT

(1) Subject to this clause, a draft statement submitted in accordance with a requirement under clause 9(1) by a proponent shall be made available for public comment.

(2) Where the proponent of a draft statement referred to in sub-clause (1) objects to the draft statement or part of that draft statement being made available for public comment he may lodge with the Minister an application in the form approved by the Director of his objection.

(3) Where the Minister receives an application referred to in sub-clause (2) he may, after consultation with the relevant responsible Minister -

- (a) grant the application by determining, subject to such conditions as are specified in the determination, that the draft statement or part of

the draft statement to which the application relates shall not be made available for public comment; or

- (b) in any other case, refuse to grant the application.

(4) Where the Minister grants under sub-clause (3)(a) an application referred to in sub-clause (2) the draft statement or part of the draft statement to which the application relates shall not be made available for public comment in accordance with the terms of the determination made under that first-mentioned sub-clause.

15. NOTICE TO PUBLIC

(1) Subject to sub-clause (2), where a draft statement, or any part of it, is made available for public comment, the proponent shall give notice of -

- (a) the draft statement, or any such part of it, having been made available for public comment;

- (b) the places where copies of the draft statement, or any such part of it, can be purchased or otherwise obtained;

- (c) the places where the draft statement, or any such part of it, can be examined by the public; and

- (d) an address, to which interested persons are invited to send written comments on the proposed action to which the draft statement relates within a period, being a period of not less than 28 days after the date of publication under sub-clause (2) of the notice, specified in that notice.

(2) A notice referred to in sub-clause (1) shall be -

- (a) in the form approved by the Director; and

- (b) published in the Gazette and in such newspapers, and on such occasions, as the Director determines.

(3) A department or statutory corporation may, in respect of a draft statement referred to in sub-clause (1), within the period specified in sub-clause (1)(d), make written comment on the draft statement.

(4) The comment referred to in sub-clause (3) shall be provided to the Director and to the proponent of the proposed action to which the draft statement relates.

16. REVISION OF DRAFT STATEMENT

If, having regard to a draft statement, the written comments, if any, received under clause 15 in respect of the draft statement and the results of an inquiry, if any, made in accordance with section 11 of the Act relating to that draft statement, it is still intended that the proposed action to which that draft statement relates shall be executed, the proponent shall revise that draft statement to take into account -

- (a) the comments provided under clause 9(1)(c) and (d), if any, on the report made in respect of that proposed action;
- (b) any written comment received under clause 15 in respect of that draft statement; and
- (c) the results of an inquiry, if any, made under section 11 of the Act relating to that proposed action or draft statement.

17. FINAL STATEMENT

The proponent shall, as soon as practicable after a draft statement has been revised under clause 16, provide 3 copies of the final statement to each of the following:

- (a) the responsible Minister;
- (b) the Director;
- (c) each advisory body; and
- (d) such other departments and persons, if any, nominated by the Director.

18. EXAMINATION OF FINAL STATEMENT

(1) The Director, on behalf of the Minister, shall, in consultation with advisory bodies, within the relevant period under sub-clause (4), examine each final statement.

(2) For the purposes of sub-clause (1), the Director may, within 21 days after the receipt under clause 17 of a final statement, require the proponent to provide, within the period specified in that requirement, such other information as is specified and is necessary for the purpose of examining the final statement and the proponent shall, accordingly, provide the information specified in that requirement within the period specified in that requirement.

(3) The Director shall, within the relevant period under sub-clause (4), make any comments, suggestions or recommendations concerning the proposed action, including suggestions or recommendations concerning conditions to which the proposed action should be subject, that he thinks necessary or desirable for the protection of the environment, and shall inform the proponent accordingly.

(4) The relevant period for the purposes of this clause shall be -

- (a) 28 days after the receipt under clause 17 of the final statement;
- (b) 28 days after the receipt of any information required under sub-clause (2); or
- (c) such longer period as is agreed to by the Director and the proponent,

whichever is the longer.

19. CONDITIONS TO BE FOLLOWED

Subject to, and in accordance with, section 9 of the Act, each Minister shall give all such directions and do all such things as can be given or done by him for ensuring that a final statement, and any suggestions or recommendations made under clause 18(3), are taken into account in matters to which they relate.
