

NORTHERN TERRITORY OF AUSTRALIA

ENVIRONMENT PROTECTION REGULATIONS 2019

Subordinate Legislation No. [] of 2019

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Schedule Infringement notice offences and prescribed amounts



NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. [] of 2019*

Environment Protection Regulations 2019

I, Vicki Susan O'Halloran, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Environment Protection Act 2019*.

Dated 2019

Administrator

By Her Honour's Command

Minister for []

EXPOSURE DRAFT ONLY
PREPARED FOR THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

* Notified in the *Northern Territory Government Gazette* on [] 2019.

Part 1 Preliminary matters

1 Citation

These Regulations may be cited as the *Environment Protection Regulations 2019*.

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 212.

EIS means environmental impact statement.

infringement notice, see regulation 235.

infringement notice offence, see regulation 234(1).

method of environmental impact assessment, see regulation 5.

prescribed amount, for an infringement notice offence, see regulation 234(2).

proponent initiated EIS referral means a referral mentioned in regulation 42.

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.

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

- (a) the terms of reference approved under Part 5, Division 5 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*

The prescribed amount for section 9(b) of the Act 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 conducted separately or with any other method of environmental impact assessment.

6 Fit and proper person

- (1) The following matters are prescribed for section 62(b) of the Act:
 - (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;

- (d) 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;
 - (e) 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;
 - (f) 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;
 - (g) whether, in the Minister's opinion, the person has the financial capacity to comply with the person's obligations under the environmental approval;
 - (h) whether, in the Minister's opinion, actions or things authorised by the environmental approval will be carried out by a technically competent person.
- (2) If the Minister has regard to the matters in section 62(a) of the Act in relation to a person that is a body corporate, the following additional matters are prescribed for section 62(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
 - (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) In this regulation, a reference to a director of a body corporate includes a reference to a person concerned in the management of the body corporate.
- (4) Despite subregulation (2), the Minister may disregard conduct mentioned in that subregulation having regard to:
 - (a) the seriousness of the conduct; and
 - (b) the length of time since the conduct occurred; and
 - (c) any other matters that appear relevant to the Minister.

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 under section 28 of the Act; or
- (b) a referral trigger under section 30 of the Act.

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.

- (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 amendment that is solely of an administrative nature.

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.
- (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.
- (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 an 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 amendment that is solely of an administrative nature.

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.
- (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.

Subdivision 3 Process for revoking temporary declarations of areas

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 declarations of areas and declarations of actions

34 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.

35 Consultation with NT EPA

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

36 Public consultation

- (1) The Minister must publish a notice of the draft revocation.
- (2) The notice must:
 - (a) set out the draft revocation; and
 - (b) state where the draft revocation, and a statement of reasons for the draft revocation, may be inspected and obtained; and
 - (c) 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.

37 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 36.
- (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 protected environmental area or prohibited action or class of prohibited actions and to declare an amendment to the protected environmental area or prohibited action or class of prohibited actions instead; or
 - (c) not to revoke the protected environmental area or prohibited action or class of prohibited actions.

Part 4 Referrals of proposed actions and strategic proposals

Division 1 Purpose of Part

38 Purpose of Part

This Part sets out processes for the consideration of the following:

- (a) a referral of a proposed action for standard assessment under section 48 or 50(2)(c) of the Act;
- (b) a referral of a strategic proposal for strategic assessment under section 49 of the Act.

Division 2 Initial consideration of referrals

39 Additional information about referral

- (1) On receipt of a referral of a proposed action under section 48 or 50(2)(c) of the Act or a strategic proposal under section 49 of the Act, the NT EPA may direct the proponent to give it additional information, within a specified period, in relation to the referral.
- (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 time for the NT EPA to make a decision on the referral under regulation 43, 44 or 45 ceases to run until the information is given.

40 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 NT EPA has directed the proponent to give it additional information under regulation 39 and the proponent has failed to give that information within the period specified in the direction.
- (2) The NT EPA must give written notice to the proponent of a decision under subregulation (1).

41 Show cause process

- (1) The NT EPA must not make a decision under regulation 40 unless the NT EPA has first complied with this regulation.
- (2) The NT EPA must give written 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 notice must specify the date by which the proponent may show cause.

- (4) The date specified in the 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.

42 Proponent initiated EIS referral

A proponent may include in a referral of a proposed action under section 48 or 50(2)(c) of the Act or a strategic proposal 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 the 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.

43 Decision whether to accept referral for standard assessment

- (1) The NT EPA must accept or refuse to accept a referral of a proposed action under section 48 or 50(2)(c) of the Act for a standard assessment 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 time, the referral is taken to be accepted.
- (3) This regulation does not apply if the NT EPA decides under regulation 40 not to proceed with the referral.

44 Decision in relation to referral for strategic assessment

- (1) The NT EPA may accept a referral of a strategic proposal 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 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 40 not to proceed with the referral.

45 Decision on proponent initiated EIS referral

If a referral of a proposed action or strategic proposal includes the matters mentioned in regulation 42(a) and (b), the NT EPA may decide to accept the referral as a proponent initiated EIS referral.

46 Grounds for refusal to accept referral – general grounds

The NT EPA may refuse to accept a referral of a proposed action under section 48 or 50(2)(c) of the Act or a strategic proposal 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) 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
- (c) was not required to be made.

47 Ground for refusal to accept referral for strategic assessment

- (1) Without limiting regulation 46, 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.

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

- (1) Without limiting regulation 46 or 47, 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.

49 Notice of decision

- (1) The NT EPA must give notice of a decision under regulation 43, 44 or 45 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;
 - (d) the nature of the proposed action or strategic proposal.
- (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 and, if the decision is to refuse to accept the referral, the statement of reasons must be given as soon as practicable after the decision is made.

50 Publication of documents

- (1) The NT EPA must publish the following as soon as practicable after the decision is made:
 - (a) notice of the 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 publish the following in addition to the notice of decision as soon as practicable after the decision is made:
 - (a) a copy of the accepted referral;
 - (b) any direction given under regulation 39;
 - (c) any additional information given in response to the direction given under regulation 39;
 - (d) for an accepted proponent initiated EIS referral – the draft terms of reference and statement of reasons provided under regulation 42.

51 Public consultation

- (1) If the referral is accepted, the NT EPA must publish a notice:
 - (a) advising where the documents referred to in regulation 50 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 an accepted proponent initiated EIS referral – 30 business days after the date of the notice; or
 - (b) otherwise – 15 business days after the date of the notice.
- (3) A submission period referred to in subregulation (2) may be extended by agreement between the NT EPA and the proponent.

52 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 relevant submission period in regulation 51.

Division 3 Consideration of accepted referral

53 Application of Division

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

- (a) a referral of a proposed action under section 48 or 50(2)(c) of the Act;
- (b) a referral of a strategic proposal under section 49 of the Act.

54 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.

55 Matters NT EPA must consider

Before making a decision or recommendation under regulation 56 or 57, the NT EPA must consider the following:

- (a) the accepted referral;
- (b) any additional information given to the NT EPA under regulation 39;

- (c) any submissions made under regulation 51 or 52.

56 Decision on accepted referral other than 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) 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 20 business days after the end of the relevant submission period referred to in regulation 51.
- (4) The required time for the NT EPA to make a decision or recommendation under this regulation ceases during the period of any consultation required under regulation 59, 60 or 61.

57 Decision 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) 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 25 business days after the end of the relevant submission period referred to in regulation 51.
- (3) The required time 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 59, 60 or 61:
 - (a) make a decision or recommendation under subregulation (1);
 - (b) give a direction under regulation 95(2);
 - (c) approve terms of reference for an assessment by environmental impact statement under regulation 110(2).

58 Method of environmental impact assessment

In deciding or recommending a method of environmental impact assessment of a proposed action or strategic proposal under regulation 56 or 57, the NT EPA must have regard to 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.

59 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.

60 Consultation on proposed recommendation for strategic assessment

Before making a recommendation under regulation 56(2)(c) or 57(1)(d), the NT EPA must:

- (a) consult with the Minister and consider the Minister's views;
and
- (b) unless the proponent referred the proposal for strategic assessment:
 - (i) consult with the proponent; and
 - (ii) consider any written submission received from the proponent within the period specified in writing by the NT EPA.

61 Consultation on proposed recommendation to refuse environmental approval

- (1) Before making a recommendation under regulation 56(2)(d) or 57(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 56(2)(d) or 57(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.

62 Statement of reasons

- (1) The NT EPA must prepare a statement of reasons for its decision or recommendation under regulation 56 or 57.
- (2) The statement of reasons for a decision under regulation 56(2)(b) or 57(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 56(2)(c) or 57(1)(d) must specify the reasons for the recommendation and the recommended method of environmental impact assessment.

63 Notice of decision

- (1) The NT EPA must give the proponent:
 - (a) notice of a decision or recommendation under regulation 56 or 57; and
 - (b) the statement of reasons for that decision or recommendation.
- (2) The notice and statement of reasons must be given as soon as practicable after the decision or recommendation is made.
- (3) The NT EPA must publish the following as soon as practicable after the decision or recommendation is made:
 - (a) notice of the decision or recommendation;
 - (b) the statement of reasons for that decision or recommendation.

Division 4 Minister's decision on recommendation

64 Minister's decision on recommendation

- (1) If the NT EPA recommends to the Minister under regulation 56(2)(c) or 57(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 an 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 56(2)(d) or 57(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 a standard assessment of the proposed action.

65 Consultation on proposal to refuse to grant environmental approval

- (1) If the Minister proposes to refuse to grant an environmental approval under regulation 64(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 time under regulation 67 for the Minister to make a decision ceases to run during any period that the Minister carries out a consultation under subregulation (1).

66 Show cause process

- (1) The Minister must not refuse to grant an environmental approval under regulation 64(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 56(2)(d) or 57(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 64(2).

67 Time for making decision

- (1) The Minister must make a decision under regulation 64(1) within 20 business days after receiving the recommendation under regulation 56(2)(c) or 57(1)(d).
- (2) If the Minister does not make a decision under regulation 64(1) within the required time:
 - (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 64(2) within 30 business days after receiving the recommendation under regulation 56(2)(d) or 57(1)(e).
- (4) If the Minister does not make a decision under regulation 64(2) within the required time, the Minister is taken to have made a decision refusing to grant environmental approval for the proposed action or strategic proposal.

68 Statement of reasons

- (1) The Minister must prepare a statement of reasons for a decision under regulation 64.
- (2) The statement of reasons may refer to or adopt the recommendation of the NT EPA under regulation 56(2)(c) or (d) or 57(1)(d) or (e).

69 Notice of decision

- (1) The Minister must give notice of a decision under regulation 64 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 64:
 - (a) notice of the decision; and
 - (b) the statement of reasons for the decision.
- (4) If a decision is taken to be made under regulation 67(2) or (4), the NT EPA must:
 - (a) publish a statement that the decision was made under regulation 67(2) or (4) (as the case requires) as soon as practicable after the decision is made; and
 - (b) give the proponent a copy of that statement.

70 Decision to direct different method of assessment

- (1) This regulation applies if the Minister directs the NT EPA under regulation 64(1)(b) to decide a different method of assessment for a strategic assessment.
- (2) The NT EPA must, within 15 business days after the NT EPA is advised of the Minister's direction:
 - (a) decide a different method of environmental impact assessment for the strategic assessment; and
 - (b) advise the proponent of that assessment method.

- (3) Regulations 58 and 59 apply to the consideration of the method of environmental impact assessment under subregulation (2).
- (4) The required time for the NT EPA to make a decision under subregulation (2)(a) ceases to run during the period of any consultation required under regulation 59.

71 Decision to direct standard assessment

- (1) This regulation applies if the Minister directs the NT EPA under regulation 64(1)(c) or (2)(b) to conduct a standard assessment.
- (2) The NT EPA must conduct a standard assessment unless the proponent withdraws from the assessment process under regulation 89.
- (3) The NT EPA must, within 15 business days after the NT EPA is advised of the Minister's direction:
 - (a) decide the method of environmental impact assessment for the standard assessment; and
 - (b) advise the proponent of that assessment method.
- (4) Regulations 58 and 59 apply to the consideration of the method of environmental impact assessment under subregulation (3).
- (5) The required time for the NT EPA to make a decision under subregulation (3)(a) ceases to run during the period of any consultation required under regulation 59.

72 Effect of decision to refuse environmental approval

If the Minister makes a decision under regulation 64(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 12 months after the decision is made.

73 Publication of decision on method of environmental impact assessment

The NT EPA must publish a decision under regulation 70 or 71 on the method of environmental impact assessment as soon as practicable after the decision is made.

Part 5 Environmental impact assessment

Division 1 Purpose of Part

74 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

75 NT EPA to have regard to environmental objectives

The NT EPA must have regard to the environmental objectives in carrying out an environmental impact assessment.

76 Matters that may be included in environmental impact assessment

- (1) 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 a community or on individuals (a ***social impact assessment***);
 - (d) an assessment that considers the potential impact of a proposed action or strategic proposal on Aboriginal culture or sacred sites or the Territory's natural or 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 for which environmental approval has been granted or which are the subject of environmental impact assessment (a ***cumulative impact assessment***).
- (2) The NT EPA must consult with the Chief Health Officer before requiring a health impact assessment.
 - (3) A health impact assessment must be conducted in accordance with any guidelines specified for this subregulation by the Chief Health Officer.
 - (4) A social impact assessment or cultural impact assessment must be conducted in accordance with any guidelines specified for this subregulation by the Minister responsible for the matter that is subject to that impact.

77 Additional information during assessment process

- (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 undertake 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 environmental impact assessment process.
- (4) If the NT EPA gives a direction under this regulation, the required time 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 referred to in regulation 79.
- (5) This regulation does not apply to an assessment by referral information.

- (6) This regulation does not limit the operation of regulation 101 or 143.

78 Publication of direction and information

The NT EPA must publish a direction under regulation 77 and the information given in response to the direction as soon as practicable after being given the information.

79 Public consultation

- (1) The NT EPA may publish a notice of a direction under regulation 77, if the NT EPA considers it appropriate to invite submissions.
- (2) The notice must:
- (a) state where the direction and information 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 within the period specified in the notice.
- (3) The notice must be published as soon as practicable after the end of the specified period for the proponent to give the information under regulation 77(1).
- (4) The submission period is to be not less than 15 business days after the date of the notice.

80 Publication or provision of submissions received during assessment process

- (1) Subject to subregulations (2), (3) and (5), the NT EPA must publish all submissions it receives during an environmental impact assessment process as soon as practicable after they are received.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) On receipt of a request under subregulation (4), 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.
- (6) The NT EPA must give a copy of the submission to the proponent after removing any identifying information under subregulation (5)(b).

81 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 to require the proponent to pay the costs of that engagement under regulation 241(1)(a).

82 Direction to proponent to obtain independent review

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 qualified person 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.

Subdivision 2 Suspension and termination of assessment process

83 Suspension of assessment process – referral to Commonwealth

- (1) The NT EPA may suspend the environmental impact assessment of 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 Minister under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth); and
 - (c) the proposal:
 - (i) has not been so referred; or
 - (ii) has been referred and the Commonwealth Minister has not made a decision on the referral, the process of assessment 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) the assessment process under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth), if applicable;
 - (c) the matters to be included in the assessment process.

84 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.

85 Suspension of assessment process if advice sought or requested

- (1) This regulation applies if the NT EPA engages or requests a person or body under regulation 81 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.

86 Effect of suspension on required time to make decision

If the NT EPA suspends an environmental impact assessment process under regulation 83, 84 or 85, the required time to complete the suspended part of the assessment process ceases to run during the period of suspension.

87 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 4; or
 - (c) the proponent has failed to submit a draft environmental impact statement within the period specified in the terms of reference or that period as extended under Division 6; 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 the extent that the proposed action or strategic proposal as varied is no longer the same as that on which the decision or recommendation under regulation 56, 57, 64, 70 or 71 was based; 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.
- (2) The NT EPA must not issue a notice under subregulation (1)(a) or (b) in relation to an assessment by supplementary environmental report unless a period of at least 2 years has passed since the later of the following occurred:
 - (a) the end of the period specified in the direction to give information;
 - (b) the end of the period for submitting the supplementary environmental report.
- (3) The NT EPA must not issue a notice under subregulation (1)(a), (c) or (d) in relation to an assessment by environmental impact statement unless a period of at least 2 years has passed since the last of the following occurred:
 - (a) the end of the period specified in the direction to give information;
 - (b) the end of the period for submitting the draft environmental impact statement or that period as extended;
 - (c) the NT EPA directs the proponent to include information in the supplement.
- (4) 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 83 or 84.
- (5) This regulation does not apply to the termination of an assessment process under regulation 177 or 179.

88 Show cause process

- (1) The NT EPA must not terminate an environmental impact assessment process under regulation 87 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 87.

89 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

90 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) 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 if that information had been available at the time of making the original decision or recommendation in relation to the method of environmental impact assessment; or
 - (b) there has been a substantial change in circumstances not foreseen when the original decision on the method of environmental impact assessment was made; or
 - (c) the proposed action or strategic proposal was to have had a cooperative assessment, but the cooperative arrangement was cancelled before the cooperative assessment was carried out or completed; or
 - (d) 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 on which the decision under regulation 56, 57, 70 or 71 was based.

- (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; or
 - (c) if the NT EPA has determined that an environmental impact assessment is not required for the proposed action or strategic proposal – another statutory authorisation of the action or proposal has been granted.
- (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.

91 Show cause process

- (1) The NT EPA must not decide a new method of environmental impact assessment 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 decide a new method of environmental impact assessment; and
 - (b) 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 92.

92 Decision on method of assessment

- (1) If the NT EPA reconsiders the method of environmental impact assessment under regulation 90, 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 58 and 59 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 10 business days after the earlier of the following occurs:
 - (a) the receipt of the response of the proponent under regulation 91;
 - (b) the date specified under regulation 91 for the proponent to show cause.
- (4) The required time 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 91 until a decision is made under subregulation (1).

Division 3 Assessment by referral information

93 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 77).

Division 4 Assessment by supplementary environmental report

94 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.

95 Preparation of supplementary environmental report

- (1) The proponent must prepare a supplementary environmental report to respond to 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:
 - (a) if the assessment decision is made under regulation 57 – the end of the relevant submission period in regulation 51; or
 - (b) the assessment decision is made under regulation 56, 70 or 71.

96 Submission period for supplementary environmental report

- (1) A direction under regulation 95(2) may specify the period within which the supplementary environmental report is to be submitted to the NT EPA.

- (2) In determining the submission 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 projects in the area of the proposed action or strategic proposal;
 - (e) any other matter the NT EPA considers relevant.

97 Extension of period to submit supplementary environmental report

- (1) A proponent may apply to the NT EPA for an extension of the submission period for a supplementary environmental report.
- (2) On an application under subregulation (1), the NT EPA may:
- (a) extend the submission period; or
 - (b) refuse to extend the submission period.
- (3) The extension of a submission period does not prevent the NT EPA from terminating an environmental impact assessment process under regulation 87 but the NT EPA must take the extension into account in considering whether to terminate the assessment process.

98 Proponent to publish supplementary environmental report

- (1) The proponent must publish the supplementary environmental report 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.

99 Public consultation

- (1) The NT EPA must publish notice of the supplementary environmental report.
- (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 is to be 25 business days after the notice is published.
- (4) The submission period may be extended by agreement between the NT EPA and the proponent.

100 Consultation with government authorities

- (1) The proponent must give a copy of the supplementary environmental report 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 was given under subregulation (1); and
 - (b) invite the government authority to make a submission to the NT EPA on the supplementary environmental within the submission period referred to in regulation 99.

101 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 referred to in regulation 99.

- (3) If the NT EPA gives a direction under this regulation, the required time for the NT EPA to give an assessment report to the Minister under regulation 160(2)(b) ceases to run until the later of the following occurs:
- (a) the information is given;
 - (b) if applicable – the end of the submission period referred to in regulation 103.

102 Publication of direction and information

The NT EPA must publish a direction under regulation 101 and the information given in response to the direction as soon as practicable after being given the information.

103 NT EPA may invite submissions

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

- (a) a direction under regulation 101 and the information given in response to the direction; or
- (b) a specified aspect of a direction under regulation 101 or the information given in response to the direction.

Division 5 Terms of reference

Subdivision 1 Approval of terms of reference

104 Terms of reference

- (1) The NT EPA must prepare terms of reference for an environmental impact assessment that is or includes:
 - (a) an assessment by environmental impact statement; or
 - (b) an assessment by inquiry.
- (2) Terms of reference may include any terms the NT EPA considers appropriate.
- (3) Subregulation (1) and regulations 105 to 109 do not apply if draft terms of reference for the assessment were published with an accepted proponent initiated EIS referral under regulation 50.

105 Terms of reference for assessment by environmental impact statement

- (1) In preparing terms of reference for an assessment by environmental impact statement, the NT EPA may consider and use any draft terms of reference given by the proponent in response to the direction of the NT EPA under regulation 77(2).
- (2) 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.
- (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 Part 5 or Division 2 of this Part:
 - (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 projects in the area of the proposed action or strategic proposal;
 - (e) any other matter the NT EPA considers relevant.

106 Consultation with proponent

- (1) Before publishing the draft terms of reference under regulation 107, 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 time specified by the NT EPA.
- (2) The required time 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).

107 NT EPA to publish draft terms of reference for assessment

The NT EPA must publish draft terms of reference prepared under regulation 104 within 40 business days after the decision about the method of environmental impact assessment was made under regulation 56, 70 or 71.

108 Public consultation

- (1) The NT EPA must publish notice of the draft terms of reference prepared under regulation 104.
- (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 is to be 15 business days after the notice is published.
- (4) The submission period referred to in subregulation (2) may be extended by agreement between the NT EPA and the proponent.

109 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 104; and
- (b) invite the government authority to make a submission on the draft terms of reference within the submission period referred to in regulation 108.

110 Approval of terms of reference

- (1) After considering any submissions received under regulations 108 and 109 and making any changes to the draft terms of reference the NT EPA considers appropriate, the NT EPA must decide whether to approve the terms of reference for:
 - (a) an assessment by environmental impact statement; or
 - (b) an environmental impact assessment that is or includes an assessment by inquiry.
- (2) After considering any submissions received under Part 4 in relation to draft terms of reference published under regulation 50 and making any changes to the draft terms of reference the NT EPA considers appropriate, the NT EPA may approve the terms of reference for the assessment by environmental impact statement.
- (3) The NT EPA must decide whether to approve the terms of reference within:
 - (a) for a decision under subregulation (1) – 15 business days after the end of the submission period referred to in regulation 105; or
 - (b) for a decision under subregulation (2):
 - (i) if a decision is made under regulation 57(1)(b) – 25 business days after the end of the relevant submission period referred to in regulation 51; or
 - (ii) 15 business days after the decision is made under regulation 70 or 71.

111 Approved terms of reference to be given to proponent

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

112 Publication of approved terms of reference

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

Subdivision 2 Amendment of terms of reference

113 Amendment of approved terms of reference

- (1) The NT EPA may amend the terms of reference for an environmental impact assessment process during the assessment process if:
 - (a) 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; or
 - (b) new information becomes available that indicates a new threat or change in circumstance relating to the environment that the NT EPA reasonably considers requires an amendment to the terms of reference in order for the environmental impact assessment to meet the objects 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 amendments.
- (3) This Subdivision does not apply to an amendment that is solely of an administrative nature.

114 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.

115 Consultation with proponent

- (1) Before publishing draft amending terms of reference under regulation 116, 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 time 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).

116 NT EPA to publish draft amending terms of reference

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

117 Public consultation

- (1) The NT EPA must publish notice of the draft amending terms of reference prepared under regulation 114.
- (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 is to be 15 business days after the notice is published under subregulation (1).
- (4) The submission period referred to in subregulation (3) may be extended by agreement between the NT EPA and the proponent.

118 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 amending terms of reference prepared under regulation 114; and
- (b) invite the government authority to make a submission on the draft amending terms of reference within the submission period referred to in regulation 117.

119 Decision on draft terms of reference

- (1) After considering any submissions received under regulations 117 and 118 and making any changes to the draft amending terms of reference the NT EPA considers appropriate, the NT EPA must decide whether to approve the draft amending terms of reference.

- (2) The NT EPA must make a decision under subregulation (1) within 15 business days after the end of the submission period referred to in regulation 117.
- (3) If the draft amending terms of reference are approved, the terms of reference have effect as amended:
 - (a) on the date that the approved amending terms of reference are published under regulation 121; or
 - (b) on a later date specified in the approved amending terms of reference.

120 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.

121 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.

122 Existing assessment process can continue while amendment process occurs

If the NT EPA proposes to amend 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; or
- (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 6 Assessment by environmental impact statement process

123 Application of Division

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

124 Terms of reference

- (1) The terms of reference for an assessment by environmental impact statement are the terms of reference approved under Division 5 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 carrying out the assessment by environmental impact statement.

125 Preparation of environmental impact statement

- (1) The proponent must prepare a draft environmental impact statement in accordance with these Regulations.
- (2) The proponent must submit the draft environmental impact statement to the NT EPA within the assessment period for the statement specified by the NT EPA under regulation 105(2).

126 Extension of assessment period

- (1) A proponent may apply to the NT EPA for an extension of the assessment period for submitting a draft environmental impact statement to the NT EPA.
- (2) On an application under subregulation (1), the NT EPA may decide:
 - (a) to extend the assessment period, with the same terms of reference; or
 - (b) if a ground in regulation 113 applies – to extend the assessment period with amended terms of reference; or
 - (c) to refuse to extend the assessment period.
- (3) Division 5, 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 113 were a reference to a decision under subregulation (2)(b).

127 Statement of reasons

The NT EPA must prepare a statement of reasons for a decision to:

- (a) extend the assessment period for submitting a draft environmental impact statement to the NT EPA; or

- (b) extend the assessment period with amended terms of reference; or
- (c) refuse to extend the assessment period.

128 Notice to decision

- (1) The NT EPA must give the proponent:
 - (a) notice of a decision under regulation 126; and
 - (b) the statement of the reasons for that decision.
- (2) The notice and statement of reasons must be given as soon as practicable after the decision is made.
- (3) If the assessment period is extended under regulation 126, the notice must include the period of the extension.

129 Publication of decision on application for extension

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

- (a) a decision under regulation 126;
- (b) a statement of reasons for that decision under regulation 127.

130 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.

131 Publication of draft environmental impact statement

- (1) The proponent must publish the draft environmental impact statement 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 draft environmental impact statement is to be published.

132 Public consultation

- (1) The NT EPA must publish a notice of the draft environmental impact statement.

- (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 is to be not less than 30 business days and not more than 60 business days after the date of the notice.
- (4) The submission period referred to in subregulation (3) may be extended by agreement between the NT EPA and the proponent.

133 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 all 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 referred to in regulation 132.

134 NT EPA to give copies of submissions to proponent

The NT EPA must give a copy of any submission made under regulation 132 or 133 to the proponent in accordance with regulation 80.

135 Preparation of supplement to draft environmental impact statement

- (1) 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 respond to the submissions.
- (2) The NT EPA may direct the proponent to include additional information in the supplement to the statement:
 - (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 end of the submission period referred to in regulation 132.

136 Submission period for supplement to draft environmental impact statement

- (1) A direction under regulation 135(2) may specify the period within which the supplement to the draft environmental impact statement is to be submitted to the NT EPA.
- (2) In determining the submission 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 projects in the area of the proposed action or strategic proposal;
 - (e) any other matter the NT EPA considers relevant.

137 Extension of period to submit supplement

- (1) The proponent may apply to the NT EPA for an extension of the submission period for a supplement to a draft environmental impact statement.
- (2) On an application under subregulation (1), the NT EPA may:
 - (a) extend the submission period; or
 - (b) refuse to extend the submission period.

- (3) The extension of a submission period does not prevent the NT EPA from terminating an environmental impact assessment process under regulation 87, but the NT EPA must take the extension into account in considering whether to terminate the assessment process.

138 Proponent to publish supplement to draft environmental impact statement

- (1) The proponent must publish a supplement to a draft environmental impact statement prepared under regulation 135 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 supplement to the statement is to be published.

139 Public consultation

- (1) The NT EPA must publish a notice of the supplement to a draft environmental impact statement as soon as practicable after it is submitted to the NT EPA.
- (2) The notice must:
 - (a) state where the supplement to the statement may be inspected and obtained; and
 - (b) invite interested persons to make a submission to the NT EPA on the supplement within the period specified in the notice.
- (3) The submission period is to be 15 business days after the date of the notice.

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 directs.
- (2) The NT EPA must:
 - (a) make reasonable efforts to obtain the views of any government authority to which the supplement to the 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 statement within the submission period referred to in regulation 139.

141 Waiver of requirement for supplement to draft environmental impact statement

- (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) If the NT EPA decides that a supplement to the statement is not required, it must publish a statement of reasons for that decision.
- (4) The NT EPA must not decide to waive the requirement for a supplement to the statement if the action is being assessed under a Bilateral Agreement with the Commonwealth in accordance with section 45 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

142 Status of supplement to draft environmental impact statement

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

143 Additional information in relation to environmental impact statement

- (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 an environmental impact statement.
- (2) The direction must be given not later than 20 business days after the end of the submission period referred to in regulation 139.
- (3) If the NT EPA gives a direction under this regulation, the required time for the NT EPA to prepare an assessment report under regulation 160(2)(c) ceases to run until the later of the following occurs:
 - (a) the information is given;
 - (b) if applicable – the end of the submission period referred to in regulation 145.

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

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

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

Division 7 Assessment by inquiry

146 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.

147 NT EPA to conduct inquiry

- (1) The NT EPA is to conduct the inquiry.
- (2) Subject to regulation 150, the NT EPA must determine and publish the procedure for the inquiry.

148 Terms of reference

- (1) The terms of reference for an assessment by inquiry are the terms of reference approved under Division 5 for that assessment or those terms of reference as amended under these Regulations.
- (2) The NT EPA and any inquiry panel appointed under regulation 149 must apply the terms of reference in conducting an inquiry.

149 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.

150 Procedure of inquiry panel

- (1) Subject to this Division, in assisting an inquiry, an inquiry panel:
 - (a) may 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).

151 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.

152 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.
- (3) The NT EPA, after consulting the proponent, may extend the period for completing a report of an inquiry if the NT EPA reasonably considers that the extension is necessary to complete the assessment in accordance with the objects of the Act.

153 Publication of report of inquiry or inquiry panel

- (1) The NT EPA must publish the report of an inquiry or an inquiry panel 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 151(3)(b) that publication of the submission or evidence be prohibited or restricted.

154 Proponent to have regard to report

The proponent must have regard to 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, draft environmental impact statement or supplement relating 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

155 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 residual significant impacts remaining after all reasonable measures to avoid and then mitigate the risks have been taken.
- (5) The assessment report may identify that an offset may be appropriate in respect of the residual significant impacts identified in the report.

156 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 information provided under regulation 39;
 - (c) any information provided under regulation 77;
 - (d) any supplementary environmental report completed under Part 5, Division 4 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 or that submission period as extended under these Regulations.
- (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;
 - (b) any advice received under regulation 81;
 - (c) any independent review received under regulation 82;
 - (d) 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.
- (4) The NT EPA may disregard any new information in a submission if the NT EPA is satisfied that that information could reasonably have been brought to the attention of the NT EPA at an earlier stage in the environmental impact assessment process.

157 Draft environmental approval

- (1) The NT EPA must prepare a draft environmental approval to be given to the Minister with the assessment report.
- (2) Subregulation (1) does not apply if the NT EPA proposes to give the Minister a statement of unacceptable impact.

158 Draft statement of unacceptable impact

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

159 Consultation

- (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 the draft approval or statement.
- (2) The NT EPA must make reasonable efforts to obtain the views of the following in relation to a draft environmental approval or draft statement of unacceptable impact:
 - (a) any statutory decision-maker that the NT EPA considers may have a view on the draft approval or draft statement;
 - (b) if the draft approval includes conditions that relate to a potential health impact of an action – the Chief Health Officer;
 - (c) 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.
- (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 160 ceases to run during the submission period.

160 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, subject to paragraph (f) – 30 business days after the decision on the method of assessment is made under regulation 56 or 57; or
- (b) for an assessment by supplementary environmental report, subject to paragraph (f) – 40 business days after the end of the submission period in regulation 96 or that period as extended under regulation 97; or
- (c) for an assessment by environmental impact statement, subject to paragraph (f) – 45 business days after the end of the submission period in regulation 136 or that period as extended under regulation 137; or
- (d) for an assessment that is an assessment by inquiry, subject to paragraph (f) – 45 business days after completion or receipt by the NT EPA of the report of the inquiry in relation to the assessment under regulation 152 ; or
- (e) for an assessment that includes an assessment by inquiry, subject to paragraph (f) – 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; or
- (f) any longer period agreed between the NT EPA and the proponent.

Part 7 Significant variations

Division 1 Process for significant variation notified during assessment process

Subdivision 1 Preliminary matters

161 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.

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

Subdivision 2 Initial consideration of notice of significant variation

163 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; and
 - (b) required to enable the NT EPA to properly consider the notice 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.

- (4) If the NT EPA gives a direction under this regulation, the required period in regulation 165 for the NT EPA to make a decision on the notice of significant variation ceases to run until the information is given.
- (5) Regulations 40 and 41 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.

164 Proponent may provide draft terms of reference or 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 are appropriate.

165 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.

166 Grounds for refusal to accept notice of significant variation – general grounds

The NT EPA may refuse to accept a notice of significant variation for assessment under regulation 165 if the NT EPA considers that the notice:

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

(c) was not required to be made.

167 Notice to proponent of decision

- (1) The NT EPA must give notice of a decision under regulation 165 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 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.

168 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; and
 - (b) if the decision is to refuse to accept the notice of significant variation – a statement of reasons for the decision.
- (2) If a notice of significant variation is accepted, the NT EPA must publish the following in addition to the notice of decision, as soon as practicable after the notice of significant variation is accepted:
 - (a) a copy of the accepted notice of significant variation;
 - (b) any direction given under regulation 163;
 - (c) any additional information given in response to the direction given under regulation 163;

- (d) if the proponent has proposed draft terms of reference or draft amendments to the terms of reference under regulation 164 – the draft terms of reference and statement of reasons provided under that regulation.

169 Public consultation

- (1) If the notice of significant variation is accepted, the NT EPA must publish a notice:
 - (a) advising where the documents referred to in regulation 168 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 is to be:
 - (a) if the proponent has proposed amendments to the approved terms of reference – 30 business days after the date of the notice; or
 - (b) otherwise – 15 business days after the date of the notice.
- (3) The submission period referred to in subregulation (2) may be extended by agreement between the NT EPA and the proponent.

170 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 168 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 referred to in regulation 169.

Subdivision 3 Consideration of accepted notice of significant variation

171 Matters NT EPA must consider in relation to significant variation

- (1) The NT EPA must consider the following before making a decision under regulation 172 on the significant variation:
 - (a) the notice of significant variation;

- (b) any additional information given to the NT EPA under regulation 163;
 - (c) any submissions received under regulation 169 or 170;
 - (d) the matters mentioned in subregulation (2).
- (2) In assessing a significant variation to determine whether or not a proposed action or strategic proposal requires additional environmental impact assessment or a different method of environmental impact assessment from the existing environmental impact assessment process, the NT EPA must consider the following:
- (a) whether the potential for a significant impact on the environment 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 assessment process for the proposed action or strategic proposal would be undermined if the matters raised in the significant variation were not assessed.

172 Decision 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
 - (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 existing 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
 - (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 existing 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) must be made within 15 business days after the end of the submission period referred to in regulation 169.
- (3) 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.
- (4) 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.
- (5) The NT EPA must consult with the proponent before deciding a method of environmental impact assessment that is or includes an assessment by inquiry.
- (6) If the NT EPA decides that a new assessment is required for a significant variation, the NT EPA must:
- (a) decide that the assessment of the significant variation is to be a standard assessment; or
 - (b) if the existing assessment is a strategic assessment, recommend to the Minister that the assessment of the significant variation be a strategic assessment.

173 Statement of reasons

The NT EPA must prepare a statement of reasons for a decision or recommendation under regulation 172.

174 Publication of decision and statement of reasons

The NT EPA must publish the following as soon as practicable after a decision or recommendation under regulation 172 is made:

- (a) the decision or recommendation; and

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

175 Notice of decision

- (1) The NT EPA must give the proponent:
 - (a) notice of a decision or recommendation under regulation 172; and
 - (b) the statement of the 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.

Subdivision 4 Implementation of decision on assessment

176 Assessment to continue without change

- (1) If the NT EPA makes a decision under regulation 172(1)(a)(i) that an assessment can continue, the NT EPA must continue the environmental impact assessment process in accordance with Part 5, Divisions 2 and 3 and Part 6 as soon as practicable after the decision is made.
- (2) If the NT EPA makes a decision under regulation 172(1)(b)(i) that an assessment can continue, the NT EPA:
 - (a) may direct that additional information be given under regulation 77 or 101 or amend a direction given under regulation 101; and
 - (b) may amend a direction given under regulation 95(2)(b); and
 - (c) must continue the environmental impact assessment process in accordance with Part 5, Divisions 2 and 4 and Part 6 as soon as practicable after the decision is made.
- (3) If the NT EPA makes a decision under regulation 172(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 77 or 143 or amend a direction given under regulation 143; and
 - (b) may amend a direction given under regulation 135(2)(b); and

- (c) must continue the environmental impact assessment process in accordance with Part 5, Divisions 2, 5 and 6 and Part 6 as soon as practicable after the decision is made.
- (4) If the NT EPA makes a decision under regulation 172(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 77; and
 - (b) must continue the environmental impact assessment process in accordance with Part 5, Divisions 2, 5 and 7 and Part 6 as soon as practicable after the decision is made.

177 Alternative method of environmental impact assessment required

- (1) If the NT EPA makes a decision under regulation 172 that an alternative method of environmental impact assessment is required, the NT EPA must:
 - (a) terminate, by written notice to the proponent, the existing environmental impact assessment process; and
 - (b) decide the method of environmental impact assessment in accordance with regulations 58, 59 and 60 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 have regard to any information provided to it under the existing environmental impact assessment process in carrying out the new assessment process.

178 New assessment for significant variation

- (1) If the NT EPA makes a decision under regulation 172(1)(a)(iii) that an existing assessment can continue, but that a new assessment is required for the matters in the significant variation, the NT EPA must:
 - (a) continue the existing environmental impact assessment process in accordance with Part 5, Divisions 2 and 3 and Part 6; and
 - (b) decide the method of environmental impact assessment required for the assessment of the significant variation.

- (2) If the NT EPA makes a decision under regulation 172(1)(b)(iii) that an existing assessment can continue, but that a new assessment is required for the matters in the significant variation, the NT EPA must:
 - (a) continue the existing environmental impact assessment process in accordance with Part 5, Divisions 2 and 4 and Part 6; and
 - (b) decide the method of environmental impact assessment required for the assessment of the significant variation.
- (3) If the NT EPA makes a decision under regulation 172(1)(c)(iv) that an existing assessment can continue, but that a new assessment is required for the matters in the significant variation, the NT EPA must:
 - (a) continue the existing environmental impact assessment process in accordance with Part 5, Divisions 2, 5 and 6 and Part 6; and
 - (b) decide the method of environmental impact assessment required for the assessment of the significant variation.
- (4) If the NT EPA makes a decision under regulation 172(1)(d)(iv) that an existing assessment can continue, but that a new assessment is required for the matters in the significant variation, the NT EPA must:
 - (a) continue the existing environmental impact assessment process in accordance with Part 5, Divisions 2, 5 and 7 and Part 6; and
 - (b) decide the method of environmental impact assessment required for the assessment of the significant variation.
- (5) Regulations 58, 59 and 60 apply to the decision on the method of environmental impact assessment.
- (6) If the NT EPA recommends to the Minister that the assessment of the significant variation be a strategic assessment, Part 4, Division 4 applies as if the variation were a strategic proposal.
- (7) Parts 5 and 6 apply, with the necessary changes, to the assessment of the variation as if:
 - (a) the variation were a proposed action or strategic proposal; and

- (b) a reference:
- (i) in regulation 104(3) or 110(2) to regulation 50 were a reference to regulation 168; and
 - (ii) in regulation 110(2) to Part 4 were a reference to regulations 169 and 170; and
 - (iii) in regulation 110(3)(b) to regulation 51 were a reference to regulation 169; and
 - (iv) in regulation 110(3)(b) to regulation 57(1)(b) were a reference to regulation 172(1)(a)(iii), (b)(iii), (c)(iv) or (d)(iv), as the case requires.

179 Assessment is no longer required

- (1) This regulation applies if the NT EPA decides under regulation 172 that an assessment is no longer required.
- (2) The NT EPA must terminate, by written notice to the proponent, the environmental impact assessment process for the proposed action or strategic proposal.

Subdivision 5 Amendment of terms of reference

180 Application of Subdivision

This Subdivision applies if the NT EPA decides under:

- (a) regulation 172(1)(c)(ii) that the terms of reference for an assessment by environmental impact statement need to be amended; or
- (b) regulation 172(1)(d)(ii) that the terms of reference for an assessment by inquiry need to be amended.

181 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 182 to 185 do not apply if draft amending terms of reference for the assessment were published under regulation 168.

182 Consultation with proponent

- (1) Before publishing the draft amending terms of reference under regulation 183, 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 time 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).

183 Publication of draft amending terms of reference

- (1) The NT EPA must publish the draft amending terms of reference prepared under regulation 181.
- (2) The draft amending terms of reference must be published within 40 business days after the decision is made under regulation 172(1)(c)(ii) or (d)(ii).

184 Public consultation

- (1) The NT EPA must publish a notice of the draft amending terms of reference prepared under regulation 181.
- (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 is to be 15 business days after the publication of the notice.
- (4) The submission period referred to in subregulation (3) may be extended by agreement between the NT EPA and the proponent.

185 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 referred to in regulation 184.

186 Decision on draft amending terms of reference for significant variation

- (1) After considering any submissions received under regulations 184 and 185 and making any changes to the draft amending terms of reference the NT EPA considers appropriate, the NT EPA must decide whether to approve the amending terms of reference.
- (2) After considering any submissions received under regulations 169 and 170 in relation to draft amending terms of reference published under regulation 168 and making any changes to the draft amending terms of reference the NT EPA considers appropriate, the NT EPA must decide whether to approve the amending terms of reference.
- (3) The NT EPA must make a decision under subregulation (1) within 15 business days after the end of the submission period in regulation 184.
- (4) The NT EPA must make a decision under subregulation (2) within 15 business days after the end of the relevant submission period in regulation 169.
- (5) If the amending terms of reference are approved, the terms of reference have effect as amended:
 - (a) on the date that the amending terms of reference are published under regulation 188; or
 - (b) on a later date specified in the amending terms of reference.

187 Approved amending terms of reference to be given to proponent

The NT EPA must give the proponent a copy of the amending terms of reference approved under regulation 186 as soon as practicable after the amending terms of reference are approved.

188 Publication of approved amending terms of reference

The NT EPA must publish the amending terms of reference approved under regulation 186 as soon as practicable after the amending terms of reference are approved.

189 Assessment process after amending terms of reference approved

- (1) This regulation applies if the NT EPA approves amending terms of reference under regulation 186.
- (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, Divisions 2 and 6 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, Divisions 2 and 7 in accordance with the amended terms of reference.

Division 2 Process for significant variation after assessment report

Subdivision 1 Preliminary matters

190 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 190

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.

191 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

192 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; and
 - (b) required to enable the NT EPA to properly consider the notice 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.
- (4) If the NT EPA gives a direction under this regulation, the required time for the NT EPA to make a decision on the notice ceases to run until the information is given.
- (5) Regulations 40 and 41 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.

193 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.

194 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 time, the notice of significant variation is taken to be accepted.

195 Grounds for refusal to accept notice of significant variation – general grounds

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

- (a) contains insufficient information to make an assessment decision; or
- (b) 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
- (c) was not required to be made.

196 Matters to be provided to Minister if notice of variation refused

If the NT EPA refuses to accept a notice of variation, the NT EPA must provide to the Minister, under section 56(2)(b) of the Act, a report or addendum that contains:

- (a) a statement that the notice of significant variation has been refused; and
- (b) a statement of the reasons for the decision.

197 Notice of decision

- (1) The NT EPA must give notice of a decision under regulation 194 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 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.

198 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; and
 - (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 publish the following as soon as practicable after the notice of significant variation is accepted:
- (a) a copy of the accepted notice of significant variation;
 - (b) any direction given under regulation 192;
 - (c) any additional information given in response to the direction under regulation 192;
 - (d) if the proponent has provided draft terms of reference under regulation 193 – the draft terms of reference and statement of reasons provided under that regulation.

199 Public consultation

- (1) If a notice of significant variation is accepted, the NT EPA must publish a notice:
- (a) advising where the documents referred to in regulation 198 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 is to be:
- (a) if the proponent has provided draft amendments to the terms of reference – 30 business days after the date of the notice; or
 - (b) otherwise – 15 business days after the date of the notice.
- (3) The submission period referred to in subregulation (2) may be extended by agreement between the NT EPA and the proponent.

- (4) The required time for the NT EPA to make a decision under regulation 202 or 203 ceases to run during the submission period.

200 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 198 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 referred to in regulation 199.

Subdivision 3 Consideration of accepted notice of significant variation

201 Matters NT EPA must consider in relation to significant variation

- (1) The NT EPA must consider the following before making a decision under regulation 202 or 203 on a significant variation:
- (a) the notice of significant variation;
- (b) any additional information given to the NT EPA under regulation 192;
- (c) any submissions received under regulation 199 or 200;
- (d) the matters mentioned in subregulation (2).
- (2) In assessing a significant variation to determine whether or not the variation requires additional assessment, the NT EPA must consider the following:
- (a) whether the potential for a significant impact on the environment 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 assessment process for the proposed action or strategic proposal would be undermined if the matters raised in the significant variation were not assessed.

202 Decision on significant variation

- (1) This regulation does not apply to a variation of a proposed action or strategic proposal for which a statement of unacceptable impact has been prepared.
- (2) The NT EPA must consider the significant variation and decide whether:
 - (a) the variation can be managed through the proposed conditions specified in the draft environmental approval given to the Minister with the assessment report; or
 - (b) the variation can be managed if an amendment is made to the proposed conditions on the draft environmental approval given to the Minister with the assessment report; or
 - (c) the environmental impacts of the variation are such that a new assessment is required for the matters in the significant variation.
- (3) A decision under this regulation must be made within 30 business days after the completion of the consultation under regulation 199 and 200.
- (4) If the NT EPA decides that a new assessment is required for a significant variation, the NT EPA must:
 - (a) decide that the assessment of the significant variation is to be a standard assessment; or
 - (b) if the existing assessment is a strategic assessment, recommend to the Minister that the assessment of the significant variation be a strategic assessment.

203 Decision if statement of unacceptable impact prepared

- (1) This regulation applies to a significant variation 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 on 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 on 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).
- (4) A decision under this regulation must be made within 30 business days after the completion of the consultation under regulations 199 and 200.
- (5) If the NT EPA decides that a new assessment is required for a significant variation, the NT EPA must:
 - (a) decide that the assessment of the significant variation is to be a standard assessment; or
 - (b) if the existing assessment is a strategic assessment, recommend to the Minister that the assessment of the significant variation be a strategic assessment.

204 Notice of decision

- (1) The NT EPA must give the proponent:
 - (a) notice of a decision or recommendation under regulation 202 or 203; and
 - (b) a statement of the reasons for that decision or recommendation.
- (2) The notice and statement of reasons must be given as soon as practicable after the decision or recommendation is made.

205 Decision to be published

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

- (a) a decision or recommendation under regulation 202 or 203;
- (b) a statement of the reasons for that decision or recommendation.

Subdivision 4 Implementation of decision under regulation 202 or 203

206 Matters to be provided to Minister if additional assessment not required under regulation 202

- (1) If the NT EPA makes a decision under regulation 202(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 that decision; and
 - (b) a statement of the reasons for that decision.
- (2) If the NT EPA makes a decision under regulation 202(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 that decision; and
 - (ii) a statement of the reasons for that decision; and
 - (b) a revised draft environmental approval prepared in accordance with regulation 209.
- (3) A report or addendum or a revised draft environmental approval mentioned in subregulation (1) or (2) must be provided within 30 business days after the relevant decision is made under regulation 202.

207 Documents to be provided to Minister if new assessment not required under regulation 203

- (1) If the NT EPA makes a decision under regulation 203(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 that decision; and
 - (ii) a statement of the reasons for that 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 209; and
 - (c) cancel the statement of unacceptable impact.
- (2) If the NT EPA makes a decision under regulation 203(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 that decision; and
 - (ii) a statement of the reasons for that 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 203.

208 New assessment for significant variation

- (1) If the NT EPA makes a decision under regulation 202(2)(c) or 203(2)(c) in relation to a significant variation, the NT EPA must decide the method of environmental impact assessment required for the assessment of the significant variation.
- (2) Regulations 58, 59 and 60 apply to the decision on the method of environmental impact assessment.
- (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 as if the variation were a strategic proposal.

- (4) Parts 5 and 6 apply, with the necessary changes, to the assessment of the variation as if:
- (a) the variation were a proposed action or strategic proposal; and
 - (b) a reference:
 - (i) in regulation 104(3) or 110(2) to regulation 50 were a reference to regulation 198; and
 - (ii) in regulation 110(2) to Part 4 were a reference to regulations 199 and 200; and
 - (iii) in regulation 110(3)(b) to regulation 51 were a reference to regulation 199; and
 - (iv) in regulation 110(3)(b) to regulation 57(1)(b) were a reference to regulation 202(2)(c) or 203(2)(c); and
 - (c) a reference in Part 6 to:
 - (i) an assessment report were a reference to a new or revised assessment report referred to in section 56(2)(b) of the Act; and
 - (ii) a draft environmental approval were a reference to a revised environmental approval referred to in section 56(2)(c) of the Act.

209 Consultation on draft environmental approval

- (1) This regulation applies to the preparation of:
- (a) a revised draft environmental approval mentioned in regulation 206; or
 - (b) a draft environmental approval mentioned in regulation 207.
- (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) make reasonable efforts to obtain the views of:
 - (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; and
 - (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; and
 - (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
- (c) consider any written submission received within the period specified, in writing, by the NT EPA from a person or entity referred to in paragraph (a) or (b) on the relevant matters.

Division 3 Variation after environmental approval granted

Subdivision 1 Preliminary matters

210 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

211 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.
- (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 time for the NT EPA to make a decision on the referral under regulation 213, 214 or 215 ceases to run until the information is given.
- (5) Regulations 40 and 41 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.

212 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 by the approval holder of reasons of why an assessment by environmental impact statement is required for the significant variation and why the draft terms of reference are appropriate.

213 Decision whether to accept referral of significant variation 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 whether to accept or refuse to accept a referral of a significant variation under section 52 of the Act for a standard assessment 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 time, the referral is taken to be accepted.

214 Decision whether to accept referral of significant variation 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 whether to accept or refuse to accept a referral of a significant variation under section 52 of the Act for a strategic assessment within 15 business days after the referral is made.

215 Decision on approval holder initiated EIS referral

If a referral of an action or strategic proposal includes the matters mentioned in regulation 212(a) and (b), the NT EPA may decide to accept the referral as an approval holder initiated EIS referral.

216 Grounds for refusal to accept referral – general grounds

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) 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
- (c) was not required to be made.

217 Ground for refusal to accept referral for strategic assessment

- (1) Without limiting regulation 216, 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 for the strategic variation.
- (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.

218 Ground for refusal to accept referral as approval holder initiated EIS referral

- (1) Without limiting regulation 216 or 217, 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 under subregulation (1), it may accept the referral as a referral for a standard assessment or strategic assessment.

219 Notice to approval holder of decision

- (1) The NT EPA must give notice of a decision under regulation 213, 214 or 215 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 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.

220 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; and
 - (b) if the decision is to refuse to accept a referral – a statement of reasons for the decision.
- (2) The NT EPA must publish the following as soon as practicable after the referral or information is received or the direction is given:
 - (a) a copy of the referral of the significant variation;
 - (b) any direction given under regulation 211;
 - (c) any additional information given in response to the direction given under regulation 211;
 - (d) for an accepted approval holder initiated EIS referral – any draft terms of reference and statement of reasons provided under regulation 212.

221 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 220 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 is to be:
 - (a) for a significant variation relating to an accepted approval holder initiated EIS referral, 30 business days after the date of the notice; or
 - (b) otherwise – 15 business days after the date of the notice.
 - (3) The submission period referred to in subregulation (2) may be extended by agreement between the NT EPA and the approval holder.
 - (4) The required time for the NT EPA to make a decision under regulation 224 ceases to run during the submission period.

222 Consultation with government authorities

- (1) If a referral of a significant variation is accepted, the NT EPA must:
 - (a) give a copy of the documents mentioned in regulation 220 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 referred to in regulation 221.
- (2) The required time for the NT EPA to make a decision under regulation 224 ceases to run during any period that the NT EPA carries out a consultation under subregulation (1).

Subdivision 3 Consideration of accepted referral of significant variation

223 Matters NT EPA must consider in relation to significant variation

- (1) The NT EPA must consider the following before making a decision under regulation 224:
 - (a) the referral of the significant variation;
 - (b) any additional information given to the NT EPA under regulation 211;
 - (c) any submissions received under regulation 221 or 222;

- (d) the matters mentioned in subregulation (2).
- (2) In making a decision under regulation 224, the NT EPA must consider the following:
- (a) whether the potential for significant impact on the environment 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 for the proposed action or strategic proposal would be undermined if the matters raised in the significant variation were not assessed.

224 Decision on significant variation

- (1) The NT EPA must consider the significant variation and decide whether:
- (a) the variation can be managed through the existing conditions in the environmental approval; or
 - (b) 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 that the assessment of the significant variation is to be a standard assessment; or
 - (b) recommend to the Minister that the assessment of the significant variation be a strategic assessment.

225 Notice of decision

- (1) The NT EPA must give the approval holder:
 - (a) notice of a decision or recommendation under regulation 224; and
 - (b) a statement of the reasons for that decision or recommendation.
- (2) The notice and statement of reasons must be given as soon as practicable after the decision or recommendation is made.

226 Decision to be published

The NT EPA must publish the following as soon as practicable after a decision or recommendation is made under regulation 224:

- (a) the decision or recommendation; and
- (b) the statement of the reasons for the decision or recommendation.

Subdivision 4 Implementation of decision on referral of significant variation

227 Documents to be provided to Minister if environmental impact assessment not required under regulation 224

- (1) If the NT EPA makes a decision under regulation 224(1)(a), the NT EPA must prepare and provide to the Minister:
 - (a) a statement setting out that decision; and
 - (b) a statement of the reasons for that decision.
- (2) If the NT EPA makes a decision under regulation 224(1)(b), the NT EPA must prepare and provide to the Minister:
 - (a) the following:
 - (i) a statement setting out that decision;
 - (ii) a statement of the reasons for that 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 under regulation 224 is made.

228 New assessment for significant variation

- (1) If the NT EPA makes a decision under regulation 224(1)(c) in relation to a significant variation, the NT EPA must decide the method of environmental impact assessment required for the assessment of the significant variation.
- (2) Regulations 58, 59 and 60 apply to the decision on the method of environmental impact assessment.
- (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 as if the variation were a strategic proposal.
- (4) 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; and
 - (c) a reference:
 - (i) in regulation 104(3) or 110(2) to regulation 50 were a reference to regulation 220; and
 - (ii) in regulation 110(2) to Part 4 were a reference to regulations 221 and 222; and
 - (iii) in regulation 110(3)(b) to regulation 51 were a reference to regulation 221; and
 - (iv) in regulation 110(3)(b) to regulation 57(1)(b) were a reference to regulation 224(1)(c).

229 Consultation on draft amended environmental approval

- (1) This regulation applies to the preparation of a draft amended environmental approval mentioned in regulation 227(2)(b).
- (2) The NT EPA must:
 - (a) consult with the approval holder on the amendments in the draft amended environmental approval; and

- (b) 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; and
 - (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; and
 - (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 (c) consider any written submissions received within the time, specified, in writing, by the NT EPA from a person or entity referred to in paragraph (a) or (b) on the relevant matters.

Part 8 Environment protection bonds

230 Claim on environment protection bond

- (1) If the Minister or the CEO intends to make a claim on an environment protection bond under section 131 of the Act, 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 is to 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 Registers of environmental auditors and environmental practitioners

231 Register of environmental auditors

- (1) The CEO must maintain a public register of environmental auditors.
- (2) The CEO may adopt the register of environmental auditors (however described) of another jurisdiction to form part of the public register of environmental auditors.
- (3) A person registered on a register adopted under subregulation (2) is taken to be an environmental auditor registered under this Part.
- (4) A person in a class of persons registered in the register under section 68(3)(b) of the *Waste Management and Pollution Control Act 1998* as qualified to perform environmental audits for an environmental audit program under that Act is taken to be an environmental auditor registered under this Part.

232 Register of environmental practitioners

- (1) The CEO must maintain a public register of environmental practitioners.
- (2) The CEO may adopt the register of environmental practitioners (however described) of another jurisdiction to form part of the public register of environmental practitioners.
- (3) A person registered on a register adopted under subregulation (2) is taken to be an environmental practitioner registered under this Part.

Part 10 Notice of environmental incidents

233 Relevant information to be given

- (1) The relevant information about an incident required to be notified to the CEO under Part 9, Division 8 of the Act 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 by this regulation to be given 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 appointed by the CEO 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

234 Infringement notice offence and prescribed amount payable

- (1) An ***infringement notice offence*** is an offence against a provision specified in the Schedule.
- (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 the Schedule.

Note for regulation 234

The Environmental Penalties and Offences Act 1996 sets out the infringement penalties for environmental offences.

235 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.

236 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).

237 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.

238 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.

239 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

240 Form of submissions to NT EPA

- (1) 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.
- (2) The NT EPA must give the proponent a statement of the substance of an oral submission made to the NT EPA under these Regulations.

241 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 of a person or body under regulation 81 to give advice in relation to an environmental impact assessment process; and
 - (b) the costs of an inquiry panel appointed under Part 5, Division 7 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 time 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.

242 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.

243 Confidential information

An application under section 281 of the Act must be in the approved form.

244 Public register

- (1) 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 81;
 - (c) any assessment report prepared by the NT EPA under Part 6 of these Regulations;
 - (d) any call-in notice issued 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;
 - (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 closure notice issued by the Minister under section 199 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.

Schedule Infringement notice offences and prescribed amounts

regulation 234(1) and (2)

Environment Protection Act 2019

Environmental offences

sections 34(4) and (5), 40(4), 41(4), 89(4), 117(4), 145(1), 151(2), 154(2), 191(4), 198(4), 208(1), 209(1) and 228(2), (3) and (4)

Other offences

Provision

Prescribed amount in penalty units

for individual

for body corporate
