



Environment
Institute of
Australia and
New Zealand

13/12/2019

Att: Environment.Policy@nt.gov.au

Re: Submission to draft Environment Protection Regulations

Dear Sir/Madam,

The Environment Institute of Australia and New Zealand (EIANZ) represents environmental practitioners across Australia and New Zealand. EIANZ members work across the environmental sector including consultancy, government and industry. Consequently, we support industry and the economic and social benefits that it brings but caution that development and impact assessment must also meet community expectations for rigour, transparency, accountability and the capacity to have influence on decision-making. EIANZ wants to see legislation that incorporates the principles of ESD, leading practice and culturally appropriate impact assessment that takes notice of past legislative shortcomings and is implementable. We have a vested interest: it is EIANZ members that will have to implement and work within the legislation.

EIANZ Northern Territory (NT) has been involved in the environmental reform process for a number of years. We have argued that the previous environmental approvals processes – as per the NT's *Environmental Assessment Act* - was outdated and has been shown to be flawed. We believed those processes amplified the community's distrust of industry and regulatory processes, including monitoring and compliance with commitments and recommendations. Furthermore, the non-transparency of the previous processes allowed allegations of impact and environmental mismanagement to thrive. Consequently, we were supportive of the intent of the reform and proposed new *Environment Protection Act 2019*.

EIANZ NT welcomes the opportunity to make this submission to the draft Environment Protection Regulations.

Firstly, we'd like to acknowledge the incorporation of earlier feedback and that the latest regulations give greater recognition to Indigenous, engagement and social, cultural, economic, health and cumulative studies (s 76). We have concerns, however, that the Regulations only require that these matters may be incorporated in an EIS. We feel that these matters should be required to be considered, at least at the Notice of Intent stage. Good scoping and early engagement will help ensure that studies are proportionate to the level of likely impact. This may in fact determine that limited analysis is required – enhancing efficiency - but would also ensure that issues of concern to the community are properly considered – increasingly effectiveness. We also note that the matters mentioned in s 76 are factors from the NT EPA's *Environmental Factors and Objectives*, although we believe greater weight will be given to them in the revised objectives. We believe there needs to be a greater focus on quality social, cultural and economic studies as both good for business and good for impact assessment. Economic studies must go beyond a cost-benefit analysis to demonstrate how economic costs and benefits will be distributed, with a strong



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focus on local jobs, community development and business opportunities. Social impact assessment should follow the International Association for Impact Assessment (IAIA) 2003 Principles and 2015 Guidelines and focus on how both opportunities and negative impacts will be felt and perceived at a local level. A policy or protocol on cultural impact assessment should be developed in consultation with the Territory's four land councils and Aboriginal Areas Protection Authority.

We support the regulations providing certainty of timelines, which reflects the certainty sought by both communities and proponents, including clear terms of reference and certainty of timelines. However, provision should be made for exceptional circumstances, such as uncertainty or complexity of impacts. In particular, NTEPA processes need to accommodate the needs of the Territory's Aboriginal landowners and Native Title Holders. The regulations must find a balance between prescription and the need for culturally appropriate consultation with Aboriginal peoples which would rarely be possible within 15 days. For example, a consultation report might be required to be lodged before the formal impact assessment timelines begin. We would recommend the NTEPA establish a special task force with the land councils and AAPA to develop appropriate protocols for this and some sort of Aboriginal advisory council to provide advice to the NTEPA on cultural impacts.

While we welcome the revised regulations, in general we remain concerned at the level of detail not yet available, such as the responsibilities of other departments and related policies, how some of the regulations will be implemented and how they interact with other legislation and regulation. We believe industry, practitioners and government would also benefit from a certification process that improves the quality of impact assessment and EIANZ looks forward to working with the Northern Territory Government and NTEPA on how this might be implemented.

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In closing we would like to thank-you for the opportunity to allow this submission and we look forward to further engagement.

Yours Sincerely,



Jeff Richardson
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