

ENVIRONMENTAL ASSESSMENT IN WESTERN AUSTRALIA



**Department of Conservation and Environment
Perth Western Australia.**

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ENVIRONMENTAL ASSESSMENT

IN WESTERN AUSTRALIA.

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<u>Cont'd</u>	Page No.
7. Joint Commonwealth/State Environmental Assessment Procedures	33
APPENDIX 1 - SCHEDULE TO SECTION 54 OF THE ENVIRONMENTAL PROTECTION ACT.	35
APPENDIX 2 - STANDARDISED FORM FOR REFERRALS UNDER SECTION 54.	39
APPENDIX 3 - EXAMPLES OF ADVERTISEMENTS FOR ERMPs.	45
APPENDIX 4 - COMMONWEALTH REQUIREMENTS FOR ENVIRONMENTAL IMPACT ASSESSMENT.	49
APPENDIX 5 - COMMONWEALTH ADMINISTRATIVE PROCEDURES UNDER THE ENVIRONMENT PROTECTION ACT.	61
APPENDIX 6 - AGREEMENT BETWEEN THE COMMONWEALTH AND STATE FOR CO-OPERATION IN ENVIRONMENTAL ANALYSIS OF PROPOSALS.	75
APPENDIX 7 - ARRANGEMENTS CONCERNING CO-OPERATION IN THE ENVIRONMENTAL ASSESSMENT OF PROPOSALS.	81
APPENDIX 8 - EXAMPLE OF FIRST REFERRAL OR NOTICE OF INTENT.	93
APPENDIX 9 - MODEL ADVERTISEMENT FOR ERMP PUBLIC REVIEW.	97

C O N T E N T S

	Page No.
1. Introduction	1
1.1 Environmental Assessment in Western Australia	1
1.2 Aim of this Paper	1
2. Duties and Functions of the EPA	3
3. Referral of Proposed Actions to the EPA	3
3.1 Section 29(ca). Referral from Minister for Conservation and the Environment	4
3.2 Section 54, Referral requested by the EPA	4
3.3 Section 55, Referral from Action Minister	8
3.4 Section 56, Referral from any Person or Body	10
3.5 What matters can be referred?	11
3.5.1 Under Sections 54 and 56	11
3.5.2 Under Section 55	12
4. Form of Referrals	13
4.1 Introduction	13
4.2 Notice of Intent for Proposed Developments	13
5. Assessment of Referrals for Proposed Developments	16
5.1 Detailed Environmental Assessments	17
5.2 ERMPs	19
5.2.1 Objectives	19
5.2.2 Format	20
5.2.3 Content	20
5.2.4 Preparation of draft ERMP text	21
5.2.5 Assessment of an ERMP	23
5.2.6 Public Review	27
5.2.7 EPA Report and Recommendations	29
5.3 Staged Assessments	30
6. Commonwealth Environmental Assessment Procedures	31
6.1 Administrative Procedures Under the Environmental Protection (Impact of Proposals) Act, 1974-75	31

1. Introduction

1.1 Environmental Assessment in Western Australia

Environmental assessment should ideally flow in parallel or be intertwined with the project development process. Project planning should not only include economic and engineering studies but environmental considerations during all stages.

It is the aim of the environmental assessment process in Western Australia to achieve this situation.

Figure 1 shows diagrammatically how the environmental assessment process should be linked with the development of a large project.

As illustrated in Figure 1, the environmental assessment process should, for at least large developments, consist of several steps. However, this paper concentrates principally on procedures that apply to steps 2 and 3 (refer figure 1) of the environmental assessment process.

The EPA believes that the objective of the environmental assessment process should be for a proponent to demonstrate, publicly where appropriate, that :

- . environmental considerations have been included at all stages of project planning;
- . predictions are made of environmental impacts based on known and collected information;
- . commitments are made to minimise and ameliorate such impacts through environmental management including monitoring; and
- . management is modified in accordance with monitoring results if and when the project proceeds.

1.2 Aim of this Paper

This paper aims to document concisely environmental assessment procedures that apply to matters referred to the Environmental Protection Authority (EPA) under the Environmental Protection Act, even though it is recognised that the EPA and the Department of Conservation and Environment have other functions and duties. It also describes Commonwealth and Joint Commonwealth/State environmental assessment procedures as well as environmental assessment procedures adopted following the consideration of the EPA's reports by appropriate Ministers.

The above matters are described in sufficient detail for this paper to be used as an in-house document for guidance on assessment procedures and as a basis for the revision of DCE Bulletin 38.

Some suggestions are also made as to the modification of present procedures to simplify and expedite these processes.

It must be emphasised that these procedures are informal and are not necessarily to be followed rigidly. The EPA believes that environment assessment procedures should be simple and dynamic; evolving with time.

Furthermore, the Authority wishes to retain flexibility and amend or adopt new procedures if warranted.

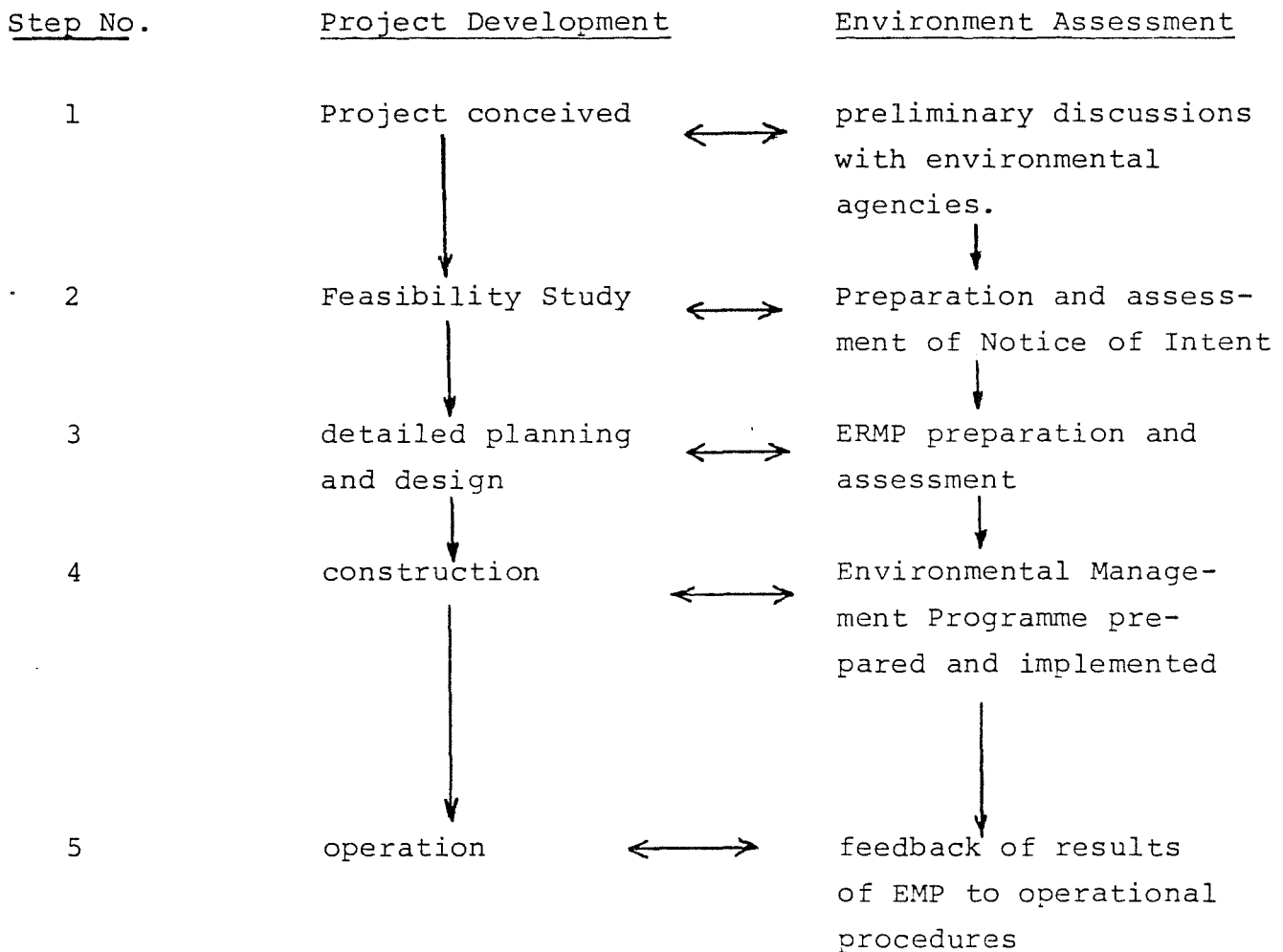


Figure 1 : Environmental Assessment linked with Project Development

2. Duties and Functions of the Environmental Protection Authority

Under Section 28 of the Environmental Protection Act, 1971-80, the EPA has a duty to use its best endeavours to enhance the quality of the environment and to control and prevent pollution*.

Section 29 of the Act spells out the functions of the Authority :

- "(a) to consider and initiate the means of enhancing the quality of the environment and the means of preventing, controlling, abating or mitigating pollution;
- (b) to carry out investigations into the problems of environmental protection;
- (c) to obtain the advice of persons having special knowledge, experience or responsibility in regard to environmental protection;
- (ca) to advise the Minister on any matter which he may refer to it for advice, including the environmental protection aspects of any project, development or undertaking and on the evaluation of information relating thereto;
- (d) to keep under review the progress made in the attainment of the objects and purpose of this Act; and
- (e) generally, to administer and give effect to the provisions of this Act and to carry out such other functions as may be prescribed."

Subsections (ca) and (e) are the most relevant to the environmental assessment function of the Authority and in part relate to later Sections 54, 55 and 56 which establish referral mechanisms for developments.

3. Referral of Proposed Actions to the EPA

Under the Act there are several formal mechanisms or ways by which matters may be put before the Authority for assessment. Sections 29(ca), 54, 55 and 56 stipulate the requirements for referral of proposed actions and subsequent reporting by the Authority on its assessment. Apart from these formal mechanisms any matter that is received by the Department of Conservation and Environment may be referred to the EPA if warranted. This formal mechanism is not discussed further but is closely related to the Section 56 mechanism described below.

* The statutory definition of pollution is any direct or indirect alteration of the environment to its detriment or degradation.

Matters have also been referred to the EPA as a result of conditions being placed on mining claims and oil exploration areas. Often these conditions require the developer before he commences mining or oil production to produce an ERMP. The ERMP produced for the Woodada Gas Project was an example of the use of this mechanism.

3.1 Section 29(ca) - Referral from Minister for Conservation and the Environment.

This Section requires the EPA to advise the Minister on any matter he may refer to it. The range of environmental matters on which the Minister may request advice is not restricted.

3.2 Section 54 - Referral requested by EPA.

Under Section 54, the EPA may request a responsible officer to submit to it particulars of applications or classes of applications specified in the Schedule (Appendix 1) to the Section or such types or classes of applications or proposals as the Authority may request. After the Authority has considered the particulars of the application or proposal the Authority is required to furnish its recommendations to the Minister for Conservation and the Environment who in turn is required to convey them to the responsible Minister.

In addition to the above, the Minister who is responsible for the administration of the Town Planning and Development Act, 1928, is required under the EPA Act to communicate the Authority's recommendations to the appropriate town planning authority. This authority is required to receive and consider the Authority's recommendations before it approves or exercises any power with respect to the application or proposal.

The procedures that are used in the case of most T.P. referrals developed historically from the EPA's declared interest and stated policy on wetlands. These proposals are assessed Departmentally in accordance with the Authority's policy through this informal mechanism and may be individually insignificant (in a regional sense) but collectively or cumulatively of considerable importance. In instances where proposals, referred via above mechanism are significant or controversial, the EPA can be formally involved and the formal procedures stipulated in Section 54 are followed.

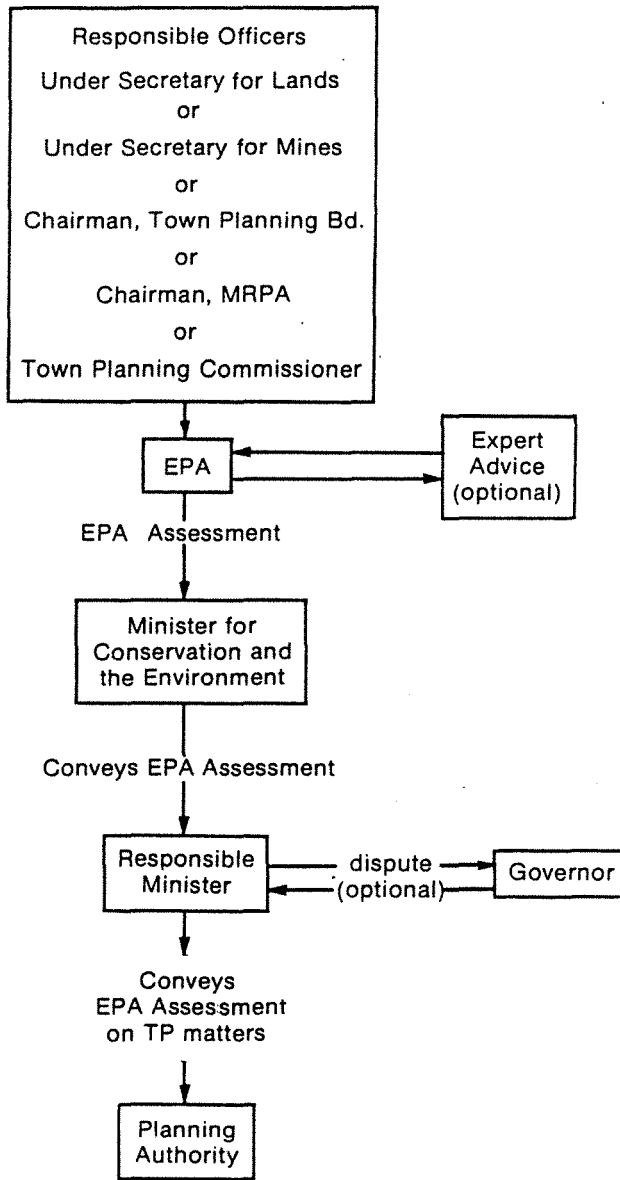


Figure 2: Referral Procedures Under Section 54

The wording of town planning referrals would seem to indicate that these matters are being formally referred for comment under the Town Planning and Development Act. Under this scheme the Department or EPA has the same status of any other individual or body wishing to make comment. If referrals came in under the EP Act, the EPA's position would be considerably strengthened as it could request further information and the determining authority is required to consider the EPA's report and recommendations prior to determining an application or proposal.

Review of correspondence on file does not clearly resolve the uncertainty, but it does appear that the Department felt it was receiving referrals under Section 54 (Section 56 previously.) There is also some uncertainty as to the matters that should be referred to the EPA. There is no comprehensive list or guidelines in existence which could be used by the Town Planning Department. File records indicate that requests for classes or proposals have been done on a piecemeal basis and are in need of review and consolidation.

Under this present scheme there are applications or proposals which are not received by the Department. Considerable time is spent by the Department scanning the government gazette to pick up these matters.

RECOMMENDATION

Given that :

- . the recent amendments to the EP Act substantially altered sections pertaining to town planning referrals;
- . the large workload involved in the assessment of town planning referrals, and
- . the uncertainty as how matters are referred and what matters should be referred.

it is important that the following be instituted as soon as possible :

Review present procedures (in consultation with the Town Planning Department, etc) to establish :

- a. what matters or classes of matters should be referred via Section 54,
- b. whether the Department or EPA still wishes to comment on proposals as provided under the Town Planning and Development Act and in what case it wishes to do so,
- c. what referral procedures should operate,
- d. guidelines for Town Planning Department, etc. outlining a, b and c.

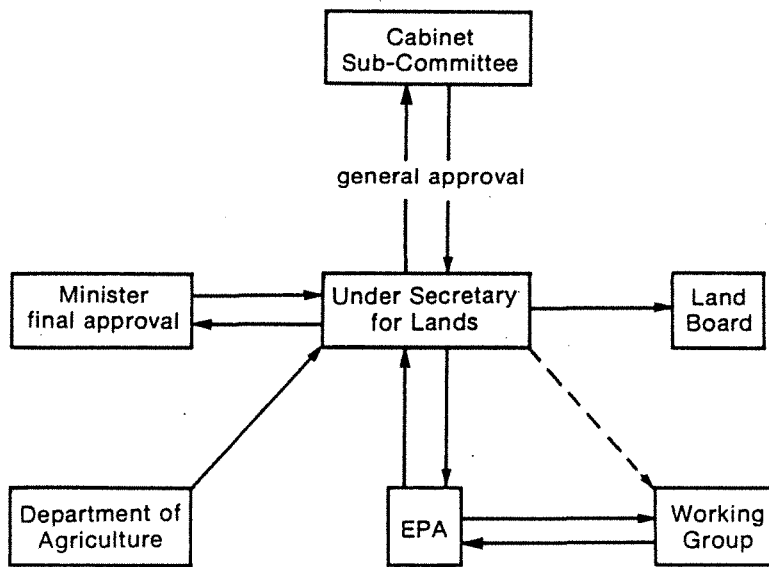


Figure 3: Referral Procedures Applied to Agricultural Land Releases

In the case of agricultural land releases under the jurisdiction of Under Secretary for Lands, administrative procedures for referral and assessment do not follow precisely procedures specified by Section 54 of the EP Act.

The system of referral and assessment procedures are particularly complex (refer figure 2) owing to the historical, political and social influences operating in the agricultural area. Under this scheme a formal working group has been set up to advise the EPA on land releases. This working group may actually receive referrals direct from the Department of Lands and Surveys from different levels, for example, from a Divisional Surveyor. The group ultimately reports to the EPA on all referrals that it receives no matter from whom. In practice there is no concern over how a land release proposal is referred to the group provided they are all assessed and reported on by the EPA.

3.3 Section 55 - Referral from Action Minister

This Section of the Act requires any Minister to refer to the Minister for Conservation and the Environment, any development, project, industry or thing which comes to his notice and which may have a detrimental effect on the environment. The Minister for Conservation and the Environment is required in turn to refer the matter to the EPA. In addition, this Section requires the responsible Minister to provide all such aid, information and facilities, as are practicable to enable the Authority to assess the matter referred. Once EPA has considered that matter, its advice is sent via the Minister for Conservation and the Environment to the responsible Minister.

This mechanism (refer figure 3) is usually employed for significant or controversial projects.

There is some uncertainty in determining whether the mechanism of referral under this section should be used for smaller projects which are not likely to require either formal approval by a Minister, an Agreement Act or a rigorous environmental assessment. In these cases the preferred mechanism for referral (with the greatest flexibility) would seem to be Section 56 (described in detail below). In some instances this mechanism has been employed.

Under this scheme a government department or agency could readily refer matters to EPA which do not warrant ministerial involvement.

RECOMMENDATION

Those developments (which may fall under Section 55) which will not be subject to an Agreement Act, do not warrant initial ministerial involvement and are not obviously controversial, should be referred to the EPA via Section 56 of the Act.

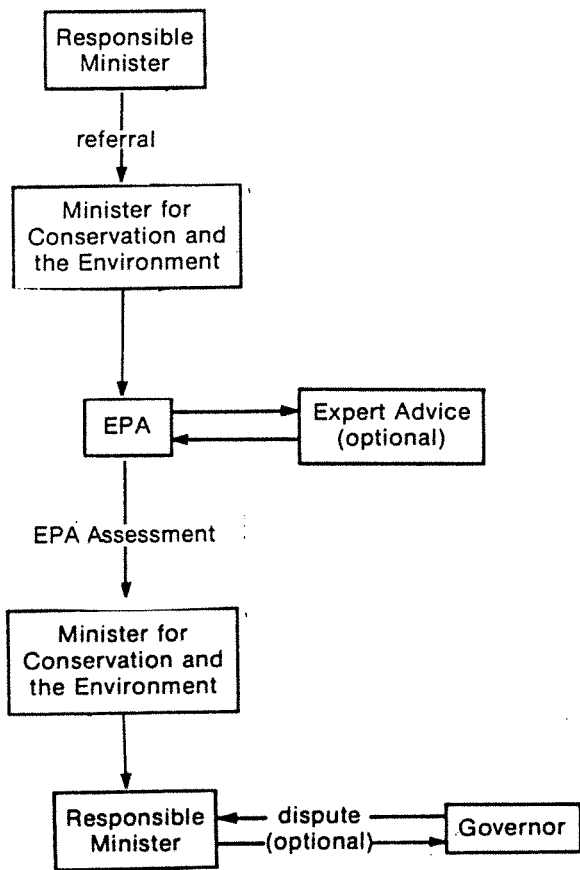


Figure 4: Referral Procedures Under Section 55

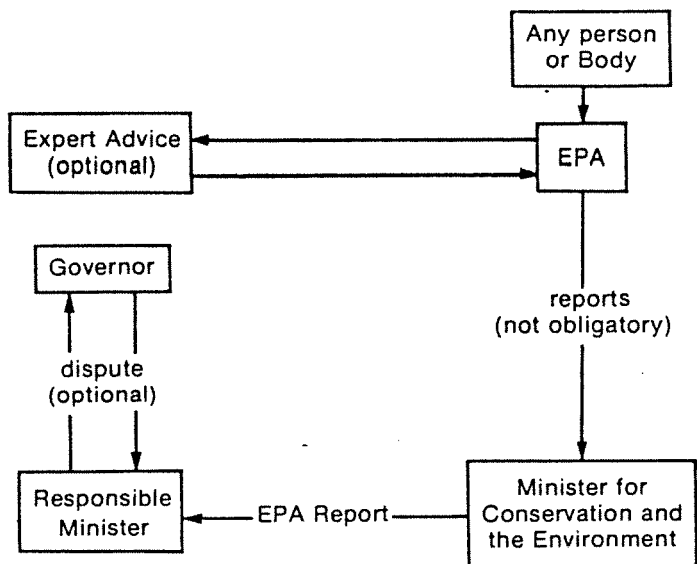


Figure 5: Referral Procedure Under Section 56

3.4 Section 56 - Referral from any Person or Body

This section enables any person or body to refer matters which give rise to concern as to a possible cause of pollution as defined in the Environmental Protection Act. The EPA in turn is required under this Section to consider the matter. The Department of Conservation and Environment is entitled to refer actions under Section 56 to the EPA for its consideration. Once referred, the EPA has on occasions advised that an ERMP be prepared.

The range of matters that are referred to the EPA is extensive and may range from complaints of pollution to proposed industrial, mining, town planning or agricultural developments.

After the EPA has considered the matter, a report is normally forwarded to the Minister for Conservation and the Environment who is obliged to convey it to the responsible Minister. Section 56 does not automatically or directly provide a mechanism (refer Figure 4) for the transmittal of EPA assessments to persons or bodies who refer matters to the EPA, nor does it give the EPA powers to request additional information.

In practice the EPA has, where a proponent has referred his proposal directly to the Authority, advised the proponent directly of the need for an ERMP (for example the Secret Harbour Development) and subsequently on the suitability of a draft ERMP and the period for public review. The EPA has also, in some instances, advised proponents directly of its assessment of a proposal. Where a proposal is referred by a Department or a Minister, all EPA advice (including advice on whether an ERMP is required) on the proposal is conveyed via the Minister for Conservation and the Environment to the appropriate responsible Minister. The responsible Minister usually ensures that the EPA recommendations or advice on the proposal is conveyed to the proponent.

If an action is referred to the EPA by a person who is not a proponent or responsible for the action, EPA advice on the action is conveyed via the Minister for Conservation and the Environment to the responsible Minister. The EPA has in the past generally advised its findings directly to the person who referred the matter.

Clearly, there is a considerable amount of flexibility in the way the EPA currently responds under this Section. This has led to some confusion as to the preferred means by which the EPA may wish to convey its advice on matters referred to it. Also it seems to be a deficiency of Section 56 that it does not provide the EPA with a means to convey its assessment back to the referring person or body.

RECOMMENDATION

Given the various means by which the EPA has responded under Section 56, it is recommended that the following standard means of response be adopted :

EPA advice on all matters relating to the referred action may be conveyed to the responsible Minister via the Minister for Conservation and the Environment. The concurrence of the latter Minister on the supply of the EPA's assessment to the person or body who referred the action should also be sought.

The EPA may advise (but may not convey its assessment to) the person or body who referred the matter of action it has taken. Where there is no responsible Minister (for example a local authority matter), the EPA should respond to the appropriate responsible authority.

3.5 What Matters can be Referred?

3.5.1 Under Sections 54 and 56.

The matters that the EPA can request to be referred under Section 54 are outlined in the Schedule (Appendix 1) to this Section.

From the discussions in the previous sections, it can be clearly seen that the types of matters which can be referred, are almost unlimited. Under Section 56 any person is entitled to refer any matter that gives concern as to a possible cause of pollution.

The following are some examples of matters that have been referred to EPA under these sections :

- . Whitford Nodes residential development,
- . Hall's Head Waterways,
- . Mindarie Super lot 17, sanitary landfill proposal,
- . Geographe Bay fishing Boat Harbour,
- . Controlled Access Highway Bold Park,
- . Cape Peron Effluent Outfall,
- . Perth Airport,
- . Herdsman Lake,
- . Griffins Find Gold Project,
- . Readymix Gosnells Quarry,
- . Great Eastern Highway MRS amendment.

Referrals to EPA under Section 56 are increasing markedly and probably will continue to do so as proponents and other persons become aware of this referral channel to EPA.

3.5.2 Under Section 55

As stated earlier, an action which comes to a Minister's attention and which may have a detrimental effect on the environment should be referred to the EPA. The following list from Bulletin 38 describes the types of proposals which are of particular concern and consequently may be referred to the EPA.

Proposals which :

- . interfere with, or are adjacent to wetlands, lakes, rivers, creeks, swamps or estuaries.
- . are within one kilometre of the coast, particularly in areas of coastal dunes.
- . involve the discharge of waste products be they solid, liquid or gaseous.
- . change the existing human amenity of an area.
- . interfere with or are adjacent to National Parks, State forests, wildlife or other reserves.
- . may affect environmentally sensitive marine localities as detailed in the Department's Bulletin No. 71.

Bulletin 38 does indicate that this list is not exhaustive and in the time since this Bulletin was published, it has become clear that the list can be substantially amended and enlarged.

If expanded, this list could be more useful for other bodies or persons wishing to refer developments to the EPA under Section 56.

RECOMMENDATION

The above list be amended and enlarged to now read as follows :

Proposals having any of the following characteristics are of concern to the EPA :

- . *likely to be environmentally controversial;*
- . *of concern to any local or state authority;*
- . *adjacent to or could interfere with, wetlands, lakes, rivers, swamps, estuaries or groundwater systems;*
- . *within one kilometre of the coast;*

- . involves the discharge of liquid, solid or gaseous matter which may be potential threat to the environment;
- . change the existing land use or human amenity of an area;
- . adjacent to or could interfere with National Parks, State Forest, or reserves with conservation value;
- . major effluent treatment works;
- . could interfere with historic, archeological, anthropological, scenic, scientific or educational sites;
- . a major tourist project;
- . a solid or liquid waste disposal site;
- . may affect environmentally sensitive marine localities, including those described in the Department's Bulletin 104 (soon to be published);
- . major works involving rivers, impoundments, groundwater, irrigation, drainage and canals;
- . could affect habitats of species known to be endangered, threatened or the subject of treaties.

This list is not intended to be exhaustive but a guide to proponents, Ministers, or other persons or bodies who may wish to refer proposals under Sections 55 or 56 of the Act.

If there is any doubt as to whether a proposal should be referred to the EPA, the proponent should liaise with the Department of Conservation and Environment. In any case, it would be good practice to liaise with this Department prior to referring any matter to the EPA.

4. Form of Referrals

4.1 Introduction

Under Section 54, referrals are normally standardised (refer to Appendix 2). In most cases the information presented is sufficient to allow a proper assessment and rarely is more detail required. Referrals under Section 56 can follow almost any format, apart from significant developments in which case the form of referral has been similar to that described for Section 55 below.

4.2 Notice of Intent for Proposed Developments

Under Section 55 (and sometimes Section 56) matters are referred generally in the form of a Notice of Intent (Refer Fig. 6). Bulletin 38 indicates that these documents can be detailed and are generally expected to contain the following :

- . a statement as to any statutory procedures under which the proposal is to be undertaken, e.g. Town Planning Scheme, Clean Air Act, etc.;
- . a summary of the proposal and any preliminary investigation undertaken with respect to it, and in particular describing any alternatives considered;
- . a summary description of the environment likely to be affected by the proposal and any feasible alternatives;
- . an indication of the likely effects on the environment of the proposal and any feasible alternative;
- . an indication of the safeguards proposed for the protection of the environment in connection with the proposal;
- . a summary of the environmental investigations including ongoing research and monitoring proposed to be undertaken with respect to the proposal.

Bulletin 38 also indicates that the aim of the Notice of Intent is to provide enough detail for the Authority to decide whether :

- . there are no environmental objections to the proposal or
- . the proposal should only proceed with variations or conditions, or
- . the proposal be subject to a more detailed assessment, i.e. an ERMP.

As a result of the above, some Notices of Intent have been rather elaborate documents. The diversity of proposals makes it difficult to standardise advice on the content and detail required in a Notice of Intent. With smaller projects in particular it is difficult to judge the extent to which this initial referral document should go in environmental assessment. With large projects, where it is obvious that an ERMP may be required, there seems little point in producing an elaborate Notice of Intent.

The production of detailed Notices of Intent also delays the involvement of the EPA in the proposal. Guidelines for Notices of Intent are drawn up with assistance of the Department even before the proposal is received by the EPA. It would be beneficial for the EPA to be involved at an earliest stage possible and there is a need to review the present requirements, procedures and function of the Notice of Intent.

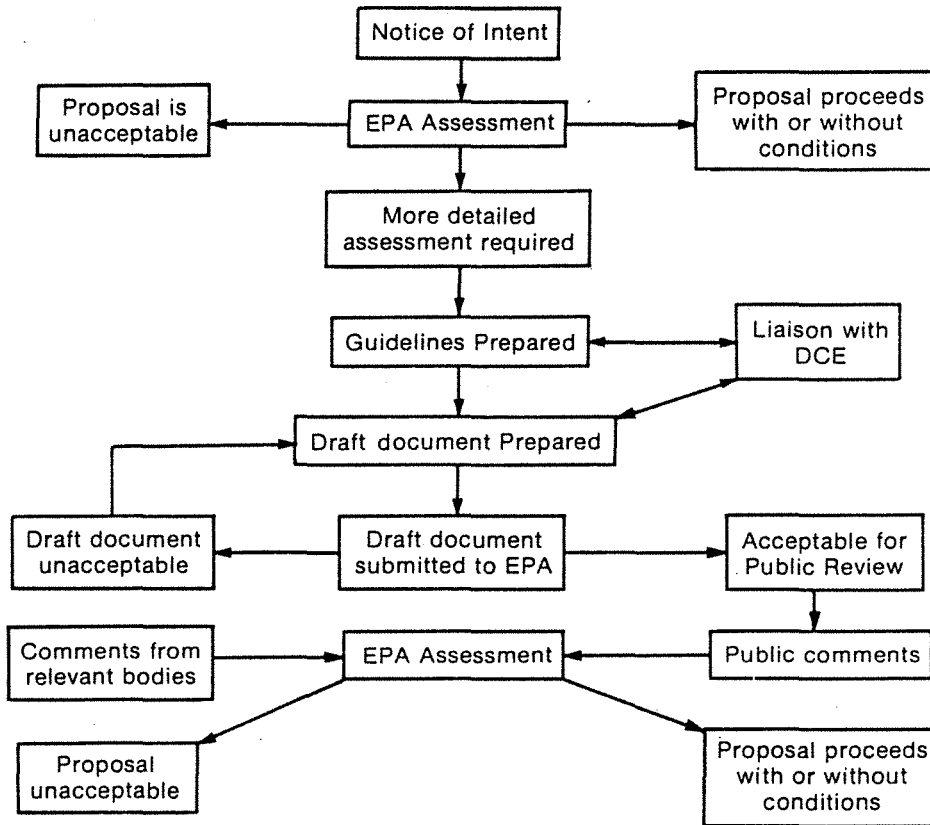


Figure 6: Present Environmental Assessment Procedure Following Receipt of Notice of Intent

RECOMMENDATION

The following change is intended to involve the EPA early in the development process, and at the same time, to provide sufficient information for the EPA to judge whether :

- a. the proposal can proceed in accordance with the Notice of Intent and additional conditions, or
- b. a detailed assessment (details provided below) should be prepared, or
- c. an ERMP should be prepared.

Notices of Intent for all proposed developments (whether referred under Sections 54, 55 or 56) should be a brief description of the proposal, location, major environmental issues and preliminary investigations. The document is to be no longer than 10 pages and need not be rigidly structured. Even before production of this document, it is highly preferable that discussions between the Department and the proponent take place.

An outline for this type of Notice of Intent is provided in Appendix 8.

5. Assessment of Referrals for Proposed Developments

At present the Authority examined the "Notice of Intent" and as indicated earlier (refer Bulletin 38) may :

- . raise no environmental objection to the proposal proceeding, or
- . require variations to or conditions on the proposal which would be necessary to meet environmental requirements, or
- . require that the proposal be subject to detailed environmental assessment, in which case the EPA will normally require the proponent to prepare an Environmental Review and Management Programme (ERMP).

If the procedure recommended above for a simplified form of Notice of Intent is followed, it gives the EPA more choice and flexibility as to the level of assessment it may request.

RECOMMENDATION

It is recommended that the environmental assessments following the evaluation of the Notice of Intent be broadly split into the following groups (to be discussed in detail later) :

- a. detailed assessments other than ERMPs,
- b. ERMPs,
- c. staged assessments.

With this subdivision of environmental assessment, the EPA upon the evaluation of a Notice of Intent may recommend one of the following :

- . the proposal proceed in accordance with the Notice of Intent, or
- . the proposal proceed in accordance with the Notice of Intent and additional conditions, or
- . the proposal not proceed, or
- . a detailed environmental assessment be prepared, or
- . an ERMP be prepared.

5.1 Detailed Environmental Assessments (DEAs)

RECOMMENDATION

It is proposed that this group include environmental assessments of small projects (previously treated as expanded Notices of Intent) where detailed documentation of alternatives and the decision making process leading to the proposal is not necessary. Public review of this type of environmental assessment may not be required.

Detailed Environmental Assessments would vary widely in content, length and format. However, they would contain :

- . a detailed description of the proposal,
- . description and evaluation of feasible alternatives where relevant,
- . an adequate description of the existing environment with which the proposal will interact,
- . a detailed assessment of the impacts of the proposal,
- . details of environmental management.

Guidelines should be produced in consultation with the proponent and other relevant persons and if requested, approved by the Authority.

As with ERMPs (described in detail later) the EPA would examine the draft DEA and establish whether public review is necessary. If public review was not necessary the EPA would immediately commence to evaluate the information in the document and report in the appropriate manner.

Figure 7 provides an outline of the assessment procedure that is proposed for Detailed Environmental Assessments.

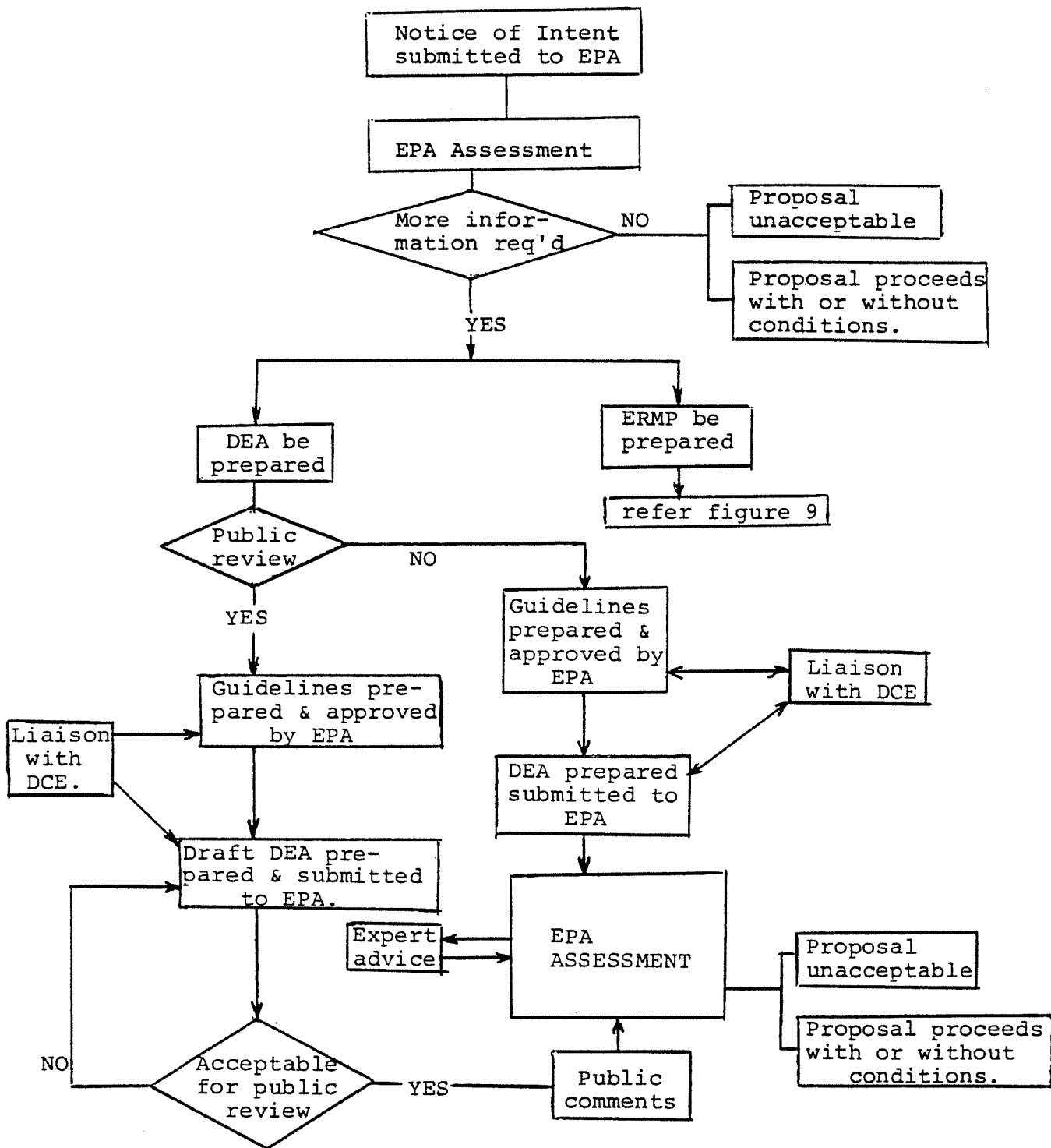


Figure 7 : Recommended Procedure for Environmental Assessment following Receipt of Notice of Intent.

5.2 ERMPs

ERMPs constitute the most sophisticated and detailed of environmental assessments produced in Western Australia, and have always been subject to public review.

There is no simple recipe to follow in undertaking the preparation of an ERMP. In fact such a prescriptive device is the antithesis of the Western Australian approach which is deliberately flexible.

It is essential for environmental considerations to be included at both the commencement of, and throughout, project planning. Fundamental properties of developments are set very early in the planning and design stage and can prove difficult and expensive to change. If environmental considerations are separated from economic, social and technical parameters, assessment will be incomplete and unfocussed. Early consideration is particularly important for projects requiring the preparation of ERMPs because, by definition, such projects have the potential to make significant environmental impacts.

It is not always possible or necessary to know and understand all components of the environment before the impact of a project or the behaviour of a system under management can be predicted. Normally, understanding environmental systems arises from experience, but further knowledge can be gained by careful sampling of selected elements and processes followed, in some cases, by the construction of a model. The methodology of the system approach and the construction of flow diagrams for determining potential impacts has to be adaptive so as to incorporate data as they are collected. However, it is the proper synthesis of data collected into predictions of impact, by whatever method, which is important.

Following identification of potential impacts, clear commitments should be made to minimise and ameliorate such impacts through a management programme. The programme should be self-modifying in accordance with monitoring results.

5.2.1 Objectives

ERMPs are detailed documents which should satisfy the following broad objectives :

- . provide a description of the proposed development alternatives, and an ecological appraisal of the physical biological and human environment to enable short and long term impacts of the development to be assessed. Emphasis should be on the system as it might be after the development rather than on the system as it is now. Sufficient should be done to provide an understanding of the system from which a projection can be made of how the system might be affected.

- . provide a full disclosure of the decision making process which leads to formulation of the proposed development including all alternatives considered and their environmental implications;
- . provide details of safeguards and environmental management to minimise or ameliorate environmental impacts;
- . provide an outline of monitoring programmes which should aim to resolve uncertainties, verify predictions, assess effects on the environment and be the basis for later revision of operational or management practices;
- . provide details of the requirements of Local, State and other legislation and any relevant environmental standards;
- . to be written in a manner which is readily understood by members of the public who have an interest in the proposal.

5.2.2 Format

The form of the document will vary upon the proposal, its location and whether the proposal comes within Commonwealth Environment Protection (Impact of Proposals) Act, 1974 (see Section 5.)

However, the document is not intended to be of a highly technical nature, but to be easily understood by members of the public who have an interest in the proposal. Also an ERMP is not intended to be an unduly lengthy document; any detailed data can be contained in technical appendices to the document.

The document should be worded in objective language and should not be directed towards promoting the development.

An ERMP differs in format from the general form of an environmental impact statement because an ERMP is generally prepared in two sections. The first is the Environmental Review which describes the proposal, the existing environment, alternatives and anticipated environmental impacts and the second is the Environmental Management Programme in which commitments are made on environmental management (including monitoring) to be undertaken to minimise or ameliorate any adverse impacts.

5.2.3 Content

The topics that are normally covered in a typical ERMP are :

Environmental Review

- . Objectives of the proposal,
- . Status of the proposal at the time of compilation,

- . Need for the proposal,
- . Description of the proposal and why it was chosen,
- . Evaluation of alternatives including not undertaking the proposal,
- . Description of the existing environment with which the proposal or alternatives will interact,
- . Description of specific safeguards and actions which will be taken as part of the proposal to reduce impacts,
- . Assessment of the environmental impacts resulting from the safeguarded proposal including an overview or synthesis of the interaction between the whole environment and the proposal.

Management Programme

- . Details of the unavoidable impacts of the proposal and a description of environmental management procedures that will be carried out to minimise or ameliorate these impacts,
- . Details of research, investigations and monitoring which will be carried out to verify predictions and ascertain success of management practices,
- . Commitment to periodically review operational and environmental management procedures and amend them where necessary in the light of the results of research and monitoring.

During the preparation of an ERMP, close liaison is maintained between the proponent and Department of Conservation and Environment to ensure that the document produced is in a form which is judged by EPA as acceptable for public review. That is, to provide sufficient information to enable the interested layman to understand the implications of the proposed action.

5.2.4 Preparation of draft ERMP text

The first step in the preparation of the ERMP document is the compilation of a set of guidelines in close consultation with the Department of Conservation and Environment. Guidelines are usually in the form of a list of topics, or an outline or plan, for the ERMP. The guidelines in a broad sense set the scope and define roughly the structure of the ERMP.

In some circumstances, liaison with other departments or organisations is necessary during the preparation of guidelines. The EPA wishes to approve guidelines (after consensus is reached with the proponent) before the draft text of an ERMP is prepared. The EPA also requires each set of guidelines to provide an explanation of the objectives of the ERMP and assessment procedures that apply.

Normally allowance is made for flexibility during the preparation of the ERMP. It is not unusual for some departures from the guidelines because to some extent they are dynamic. However, the overall scope of the guidelines should be preserved, unless consultations with the Department of Conservation and Environment have resolved that the changes are appropriate.

It may be necessary to draw to the attention of the proponent that the approval of guidelines by the EPA does not bind the EPA in its decision on a proposal.

RECOMMENDATION

The final set of guidelines approved by the EPA should be reproduced as an Appendix to the ERMP document.

The EPA requires an ERMP to be in a form acceptable for public review. To fulfil this, the Authority requires all significant issues to be addressed and will require major issues to be adequately examined before agreeing to the public release of the ERMP. In addition, the Authority expects the editorial nature of the document to be satisfactory, that is, the document is written in an easily understood form and all necessary glossaries or explanations of technical terms are provided.

It is the role of the Department to supply advice to the proponents on these requirements prior to the submission of a draft text to the EPA. It is difficult to define or quantify this level of advice exactly as each ERMP is unique and requires individual attention.

Because the limited experience of some proponents in preparing an ERMP can create excessive workloads on Departmental officers and lead to long delays in drafting a suitable document, the employment of competent persons to write an ERMP should be strongly advised.

Considerable difficulties have been experienced by officers in some circumstances in ascertaining the level of assistance to provide to a proponent and also advising whether the ERMP would be judged by the EPA to be acceptable for public review.

RECOMMENDATION

Discussion take place both intra-departmentally and with the EPA to obtain greater resolution of the following points :

- a. *level of assistance to be given to a proponent,*
- b. *the Authority's requirements for an ERMP to be suitable for public review.*

5.2.5 Assessment of an ERMP

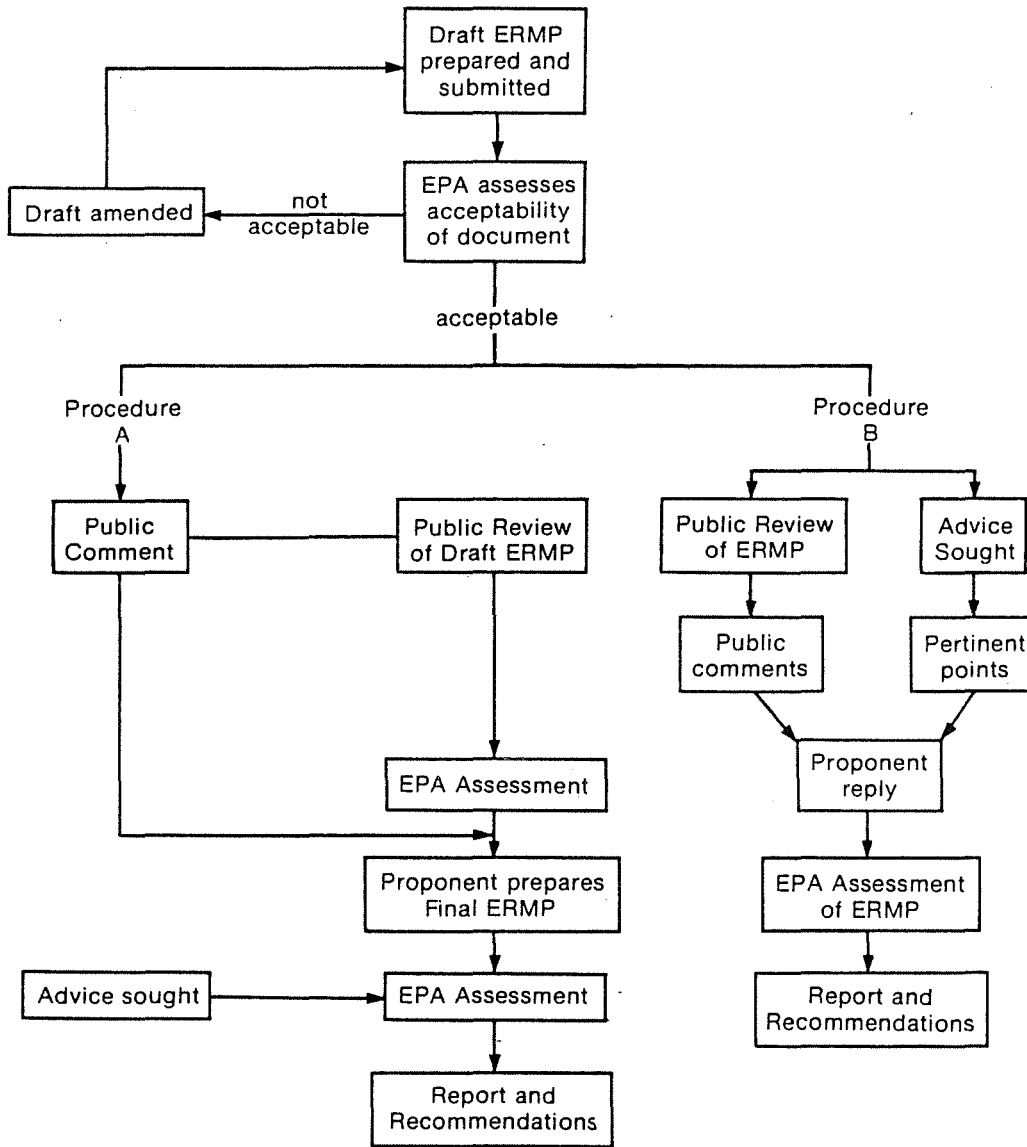
Procedures following the submission of the draft text of an ERMP to the EPA have not always been uniform. For example, the procedure (refer R. M. Nunn (1978) and figure 8) applied to the large bauxite/alumina developments (because of the legal status given to the ERMP by the Private Agreement Acts) required the preparation of a "draft ERMP." This document was then made available for public comment and these comments plus the EPA's assessment of the "draft ERMP" were conveyed to the proponent. The proponent then responded by producing a "final ERMP" which was assessed by the EPA with the benefit of advice from government agencies, public comments and expert persons it chose. The EPA then conveyed its report and recommendations to the appropriate Minister. This process was similar to that employed by the Commonwealth (refer Section 5).

The above procedure was applied in instances where Agreement Acts (for example Wagerup Agreement Act) required proponents to prepare an ERMP and implement the approved ERMP. Presumably it was important that the ERMP reflected as closely as possible all environmental requirements and this could most easily be accomplished by the draft ERMP/final ERMP procedure.

However, the incorporation of the above obligation into an Agreement Act (to be discussed in a subsequent paper) created some difficulties. In more recent Agreement Acts these obligations are not stated or included but proponents are required to produce an Environmental Management Programme (to be discussed in a subsequent paper).

The more commonly employed procedure (refer Figure 8) does not involve the preparation of draft and final ERMPs. In summary the following assessment procedure is presently applied in the order indicated :

- a. the proponent submits a draft text of the ERMP to the Authority to judge its suitability for public review;
- b. If the document is acceptable, the EPA recommends the ERMP to be made available for public review;
- c. The EPA seeks comment from appropriate government departments, authorities and instrumentalities and any expert person(s) it chooses;
- d. At the end of the public review period, issues arising from public comments and pertinent matters raised in other advice the EPA has received may be discussed with the proponent.



Procedure A: Where the preparation of a Draft and Final ERMP is prepared (refer R.M. Nunn 1978)
Procedure B: Where a Draft and Final ERMP is not prepared.

Figure 8 Alternative Environmental Assessment Procedures for ERMP Assessment

- e. The proponent responds and the EPA considers the ERMP in conjunction with the proponent's reply, public comments, and other advice.
- f. EPA makes its report and recommendations and conveys them via the Minister for Conservation and the Environment to the appropriate responsible Minister.

As a result of variations in the above procedures, there has been some confusion as to the procedures that apply to the assessment of ERMPs. The more commonly employed procedure also creates some difficulties of interaction with the Commonwealth during joint environmental assessments between the State and Commonwealth owing to the different procedures employed.

RECOMMENDATION

The more commonly employed procedure outlined above can be readily modified to incorporate the following. In summary the recommended procedure involves the production of an ERMP and a response by the proponent following the public review stage (Refer Figure 9). The advantage of this scheme is that it enables the EPA to assess the proposal on the basis of the ERMP and the proponent's response to public and departmental inputs.

Steps in this process after EPA approval of guidelines would be :

- a. *the proponent submits a draft text (or preliminary draft) of the ERMP to the Authority to assess its suitability for public review.*
- b. *if the preliminary draft is acceptable, the ERMP is made available for public review. It is anticipated that an ERMP will normally be subject to public review.*
- c. *the EPA also seeks comment from appropriate government departments, authorities and instrumentalities and any expert person(s) it chooses.*
- d. *at the end of the public review period, the Department of Conservation and Environment discusses with the proponent any comments of its own and any significant issues arising from public comments and departmental submissions.*
- e. *the proponent then prepares a response after having considered all comments and submits it to the EPA.*
- f. *the EPA assesses the ERMP together with the proponent's response, and takes into consideration all comments and advice received.*

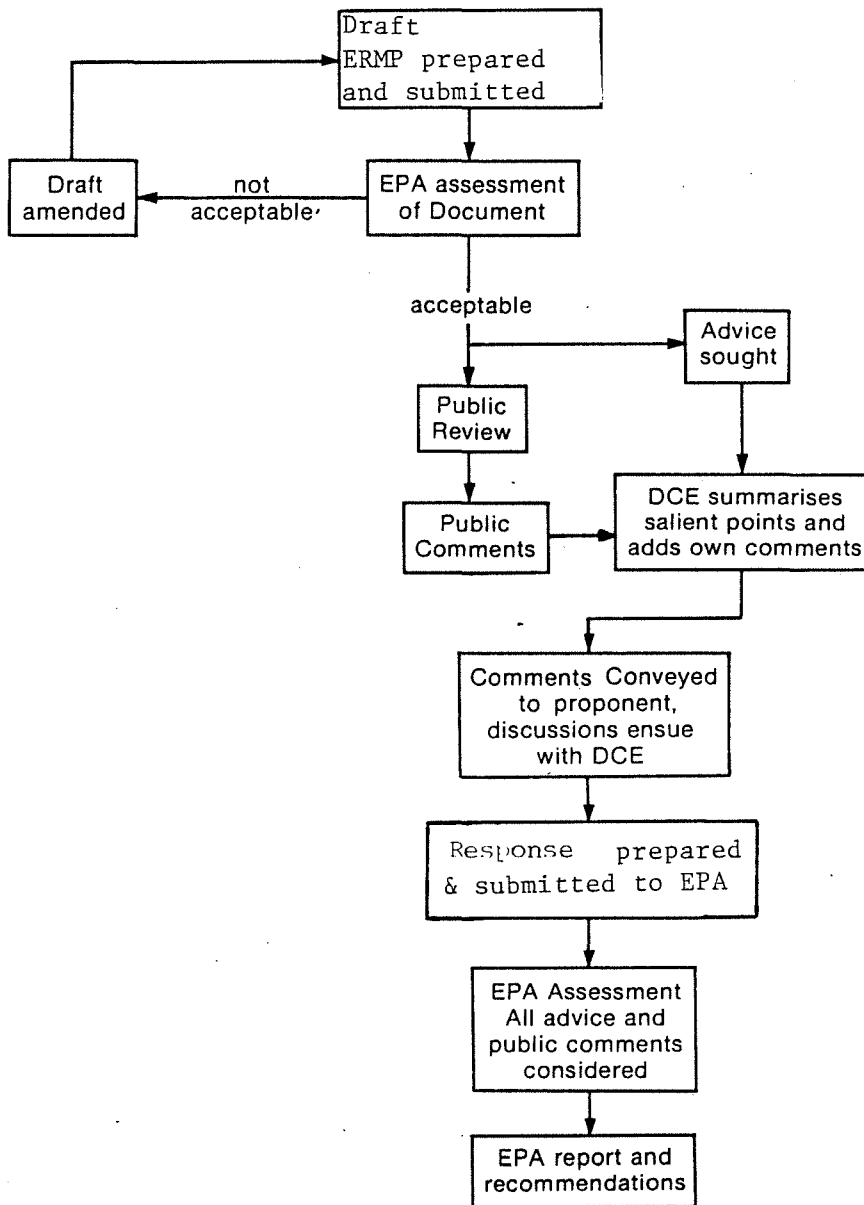


Figure 9 Recommended Procedures for ERMP Assessment

g. the EPA makes its report and recommendations and conveys them via the Minister for Conservation and the Environment to the appropriate responsible Minister.

The proponent's response would contain replies to matters raised in public and departmental comments and any resultant modifications to the project or environmental management.

5.2.6 Public Review

The Authority has recommended varying periods for public review depending not only on the magnitude of the proposal, but also on the urgency expressed by the proponent.

Public review periods as short as four (4) weeks (or one calendar month) and as long as twelve (12) weeks have been recommended. More commonly, public review periods are in the vicinity of eight (8) weeks.

Experience has shown that public review periods of less than six weeks provide insufficient time for meaningful public involvement.

RECOMMENDATION

A minimum period of six weeks for public review be adopted and the review period start when the first advertisement appears in a prominent daily newspaper.

The availability of the ERMP is usually advertised in daily and local newspapers. In spite of advice from DCE, the advertisement is often in 'Public Notices' and appears in only one issue of the newspaper. It is hard to determine whether past advertising efforts have been sufficient, and whether the public has been adequately informed of the availability of the ERMP for comment. However, little criticism has been received of the present process.

RECOMMENDATION

The adequacy of past practices in advertising the availability of an ERMP for public review should be reviewed. In the interim it is recommended that advertising be along the following lines :

- . all advertisements be placed prominently in the news section of the newspaper,
- . all advertisements be prominent and have dimensions not less than 8 cm in width and 14 cm in length,

- . advertisements be placed in two consecutive Saturday issues of a prominent daily newspaper and in two consecutive issues of relevant local papers,
- . at least seven (7) days before the closure of the public review period an advertisement be placed which indicates the period left for public submissions and reminding persons to submit comments by the closing date.
- . the cost of advertising and arrangements be incurred by the proponent.
- . the Department sight and approve the form of an advertisement.
- . the advertisement be compatible with the model given in Appendix 9.
- . the availability of the Initial ERMP be advertised in the Government Gazette.

The cost of an ERMP has varied considerably and has not reflected the effort and cost of production. Recent purchase prices for an ERMP have varied from free (as in the case of Cape Peron Outfall) to \$33.00 (Secret Harbour) others have been between \$10 - \$15.00. Technical appendices have varied in price from \$5 - \$33.00.

The cost of an ERMP should not be excessive or beyond the reach of interested members of the community.

The price should be set so as not to defeat the concept of public participation, but at the same time avoid frivolous demand and wasteful dissemination of ERMP documents. The price charged for an ERMP is not intended to offset printing costs.

RECOMMENDATION

The cost to the public of an ERMP should not normally exceed \$20.00. The proponent should be encouraged to produce neat, but not necessarily "high grade glossy" documents. A similar maximum price should be placed on each technical appendix.

During the public review period, the ERMP is usually put on display at all of the following locations within the State and where possible additional copies should be available for loan :

- . State Library, James Street, Perth,
- . Ground floor reading room, Department of Conservation and Environment, 1 Mount Street, Perth,

- . Local authority libraries in the region,
- . the Environment Centre, Wellington Street, Perth,
- . If a joint assessment of the ERMP with the Commonwealth is required, the display of the document is organised by the Commonwealth, at locations in all other states.

The proponent is normally responsible for ensuring the distribution of documents to these locations.

During the period of public review the ERMP is also circulated to all relevant government departments and authorities, instrumentalities and to other persons the Authority considers appropriate.

DCE assumes the responsibility of drawing up a list of these agencies and persons for the proponent. The proponent then ensures the distribution of appropriate documents (free of charge) to those on the list.

At the end of the public review period the public comments are conveyed (unless the person nominates otherwise on his submission) to the proponent for consideration. As indicated earlier, the EPA takes the public comments into account during its assessment of the ERMP.

5.2.7 EPA Report and Recommendations

According to Bulletin 38, when the EPA has assessed the ERMP it may make recommendations to :

- . support the project as described in the ERMP,
- . support the project conditional upon the proponent agreeing to specified changes to the proposal and/or the Management Programme,
- . oppose the project.

Since the publishing of this Bulletin, the EPA has indicated that it does not want to state that it supports a project, but prefers to indicate whether or not there are environmental objections to the project proceeding. Also the EPA may recommend other courses of action, such as recommendations to government on policy matters.

RECOMMENDATION

Following the assessment of an ERMP the EPA may recommend

- . *approval be deferred until further work is done, or*
- . *there are no significant environmental objections to the project proceeding in accordance with the ERMP, or*

- . *there are no significant environmental objections to the project proceeding in accordance with the ERMP provided further specified conditions and amendments to the proposal and/or Management Programme are made, or*
- . *on environmental grounds the project should not proceed, and/or*
- . *that action be taken or policies instituted as a result of environmental issues raised in the assessment of the proposal.*

The EPA report, including recommendations, is produced as a Departmental Bulletin and is transmitted by the Minister for Conservation and the Environment on to the appropriate Minister. When presenting its report to the Minister for Conservation and the Environment, the Authority usually seeks the concurrence of the Minister for the report's publication.

When the EPA report has been released, copies are sent to :

- . all government departments, instrumentalities and authorities who provided comments on the ERMP,
- . all members of the public who submitted comments on the ERMP,
- . additional copies to the action Minister and Minister for Conservation and the Environment,
- . tertiary institutions and government libraries,
- . the Commonwealth, if a joint assessment is carried out,
- . all those offices where the ERMP was available for perusal.

5.3 Staged Assessments

There are some projects where the EPA has suggested that staged assessment of phases of projects would be preferred to the conventional approach. The EPA believes, in some instances, that the staged approach would ensure that environmental issues can be evaluated earlier in the project (before major commitments are made) and therefore be given greater recognition.

This approach was considered to be particularly relevant to large projects which have large commitments by the time the EPA would have considered the project under conventional procedures.

Staged assessments may involve splitting the project planning procedures into two or more stages. For instance the first stage may involve the evaluation of a set of

alternative schemes or concepts for waste disposal or sewage treatment and disposal. The subsequent or second stage may involve evaluation of the detailed proposal and environmental management.

For other developments the first stage in the process may be the evaluation of alternative sites.

These approaches are all aimed at ensuring earlier consideration of environmental factors and EPA assessment, thereby hopefully having greater influence on the shaping and location of a development.

As yet the staged approach has not been used and it would seem that considerable refinement of many aspects (such as public participation) of this procedure would be necessary before being applied. This process will be the subject of a subsequent paper.

6. Commonwealth Assessment Procedures

The Environment Protection (Impact of Proposals) Act, 1974 specified that administrative procedures for the purpose of achieving the object (refer Appendix 3) can be approved or a variation approved by the Governor-General. The central object of the Act was to ensure to the greatest extent that is practicable that matters affecting the environment * to a significant extent are fully examined.

The approved procedure could, amongst other things, provide for the Minister to direct the preparation and submission of an environmental impact statement.

In June, 1975, Administrative Procedures under this Act were approved and came into effect. These procedures spelt out the requirements for the Commonwealth environmental assessment process.

6.1 Administrative Procedures under the Environment Protection (Impact of Proposals Act), 1974-75 (refer Appendix 4).

Under these procedures the action Minister (Commonwealth Minister responsible for making the decision with respect to the proposal) is required to designate a proponent and inform the Commonwealth Department administering the Act, of the proposed action and the proponent. A proponent, under Commonwealth procedures, would normally be a person who requires Commonwealth approval (for example an export licence, overseas equity or borrowings) for some aspect of the development.

* Note the definition of the environment under Commonwealth legislation is - "includes all aspects of the surroundings of man, whether affecting him as an individual or in his social groupings."

The Commonwealth Minister responsible for the administration of the Act has no power to designate a proponent and can only require information or an EIS if such a designation is made by the Action Minister. Also the Minister's determination and recommendation following environmental assessment are only advisory to and not binding on the action Minister. Following designation, the proponent is obliged to supply to the Minister (the Minister responsible for the administration of this Act) sufficient information for him to determine whether an environmental impact statement is required. The Procedures (refer Appendix 3) specify generally the information required to satisfy this obligation.

The procedures also specify :

- . matters to be dealt by an EIS.
- . matters to be taken into consideration by the Minister when determining whether an EIS is required.
- . the form of the EIS.
- . making the EIS available for comment.
- . preparation of a final EIS.
- . review environmental aspects of proposed actions during or after their execution.
- . the provision for an inquiry into the environmental aspects of a proposed action.
- . provision of further information.

Once it has been determined that an EIS is necessary the proponent is required to consult with the Department to reach a mutually acceptable understanding on the matters to be dealt with and the extent to which such matters shall be dealt with in the environmental impact statement. A copy of the draft environmental impact statement may be required and made available for public comment.

Comments received from members of the public and any other appropriate body, person or inquiry are transmitted to the proponent for consideration. The proponent is required to respond to these comments and normally submits his response as part of a final environmental impact statement.

The Minister (or the Department on his behalf) assesses the final EIS and conveys his reports and recommendations to the action Minister.

Figure 10 shows diagrammatically the Commonwealth environmental assessment process.

7. Joint Commonwealth/State Environmental Assessment Procedures

In May, 1977 the Commonwealth Minister for Environment, Housing and Community Development and the Western Australian Minister for Conservation and the Environment agreed to a Memorandum of Understanding for co-operation in environmental analysis of proposals (Appendix 6). The objectives of this agreement were in part to avoid duplication and co-ordinate environmental assessment of proposals which require both Commonwealth and State approvals.

These guidelines also provided an indication of the collaborative and consultative procedures agreed to by the two Ministers.

As a follow-up to this agreement the Commonwealth Department of Environment, Housing and Community Development, and the Western Australian Department of Conservation and Environment in July, 1977 produced arrangements for co-operation in environmental assessment of proposals (Appendix 7). This document specified the responsibilities of the respective Governments for environmental assessment in the case of the following :

- a. proposed Commonwealth work in the State.
- b. proposals of third parties relating to matters within the exclusive powers of the Commonwealth and to be carried out in the State.
- c. proposals relating to matters which are within the exclusive powers of the State of Western Australia.
- d. environmentally significant proposals involving approval of both governments.
- e. proposals to be carried out by the State with funds provided solely or in part by the Commonwealth.

The agreement also specified consultative arrangements to be adopted in the case of joint assessment.

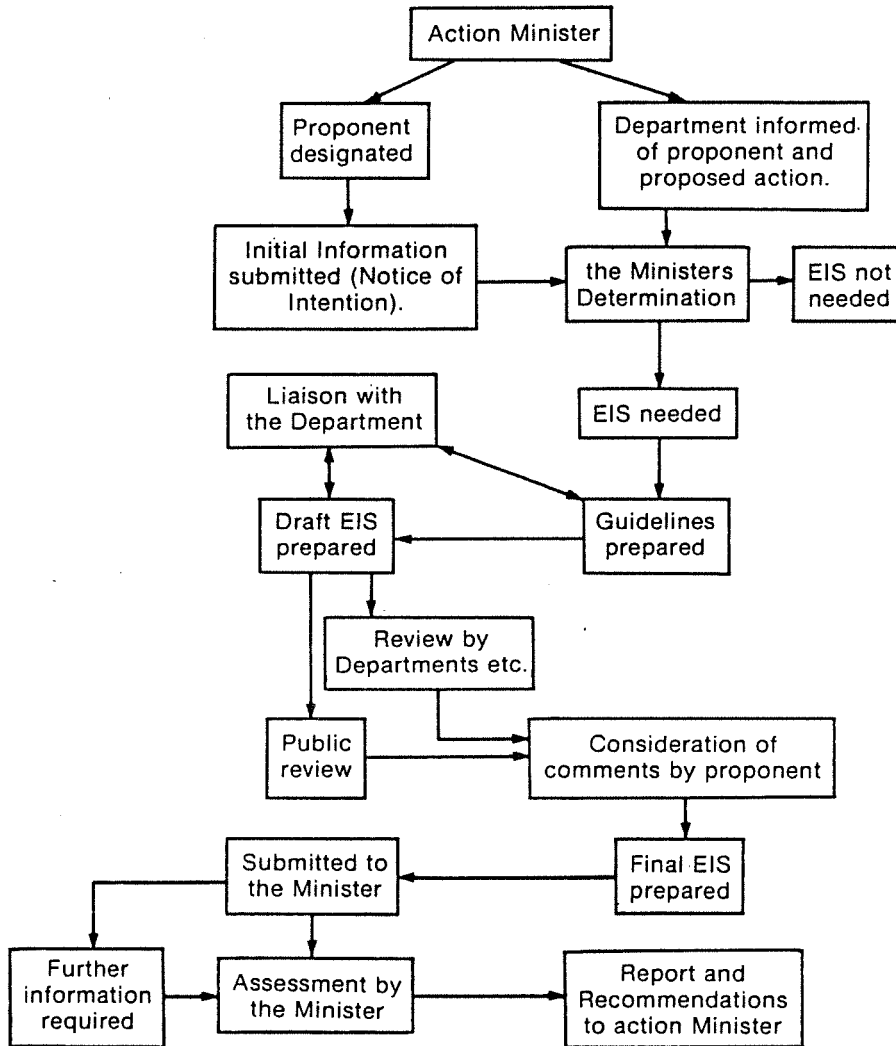


Figure 10 Commonwealth Assessment Procedures

APPENDIX 1

SCHEDULE to SECTION 54 OF THE

ENVIRONMENTAL PROTECTION ACT, 1980

Environmental Protection.

SCHEDULE.

(Section 54)

APPLICATIONS AND PROPOSALS TO WHICH SECTION 54 (1) APPLIES.

Applications and Proposals	Responsible Officer	Responsible Minister
<p>1. An application or proposal for the exercise of powers under Part III of the Land Act 1933, which would constitute or include the reservation of any land, the classification of any reserved land, the leasing or vesting of any reserved land, the alteration of the boundaries of any reserved land or the alteration of the purpose for which any reserved land is reserved or for the exercise of powers under Part IV, V, VI or VII of that Act, which would constitute or include the alienation or grant, by or on behalf of the Crown, of any interest in land.</p>	<p>The Under Secretary for Lands.</p>	<p>The Minister to whom the administration of the Land Act 1933 has been committed.</p>
<p>2. An application or proposal for the exercise of a power which could result in the grant of any right, title, tenement, estate, or interest in any land to be used for the purpose of mining or a purpose ancillary thereto.</p>	<p>The Under Secretary for Mines.</p>	<p>The Minister to whom the administration of the Mining Act 1904 has been committed.</p>
<p>3. An application or proposal for the exercise of a power to approve—</p> <p>(a) a town planning scheme;</p> <p>(b) an interim development order;</p> <p>(c) the subdivision or amalgamation of any lot or lots;</p> <p>(d) the development of any land;</p> <p>(e) the change of use of any land taken for parks or open spaces.</p>	<p>The Chairman of the Town Planning Board.</p> <p>The Chairman of the Metropolitan Region Planning Authority.</p> <p>The Town Planning Commissioner.</p>	<p>The Minister to whom the administration of the Town Planning and Development Act 1928 has been committed.</p>

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APPENDIX 2

STANDARDISED FORM FOR REFERRALS

UNDER SECTION 54

TOWN PLANNING BOARD OF WESTERN AUSTRALIA
22 ST. GEORGE'S TERRACE, PERTH 6000 W.A. TELEPHONE 325 2966



GOVERNMENT
OF
WESTERN
AUSTRALIA

IN REPLY PLEASE QUOTE 853/2/27/1 Pt. 147 TPB

AUTHORITY REF: Mr L Guise

YOUR REF:

DIRECTOR OF CONSERVATION
& ENVIRONMENT

SHIRE OF MUNDARING
DISTRICT TOWN PLANNING SCHEME
AMENDMENT NO. 147 REZONING LOC. 2042 STONEVILLE
ROAD, STONEVILLE FROM "RURAL" TO "SPECIAL RURAL -
LANDSCAPE INTEREST"

Please find enclosed a copy of documents for the above
proposed rezoning. Should you wish to make any comments
or recommendations, your early reply would be appreciated.

D Watson
M D WATSON
SECRETARY

October 21, 1981.

LG:SS

Encl.

TOWN PLANNING BOARD OF WESTERN AUSTRALIA
22 ST. GEORGE'S TERRACE, PERTH, 6000 W.A. TELEPHONE 325 2966



GOVERNMENT
OF
WESTERN
AUSTRALIA

T.P. Ref.No. 50046
Previous ref. 59137
Enquiries to Glead P

17 November 1981

DIRECTOR,
DEPARTMENT OF
CONSERVATION AND ENVIRONMENT

I enclose details of a proposed subdivision/~~amalgamation~~ and would be obliged if you would furnish any information you consider relevant to this application as it concerns your department and any conditions you would recommend the Board to impose should it approve the proposal.

Section 24(2) of the Town Planning and Development Act requires that your comments and recommendations are received by the Board within the next 30 days.

Please ensure that the T.P. Reference number is quoted in your reply and on additional correspondence concerning the proposal.

D. Watson

D. WATSON,
SECRETARY

Enc.

LOT : LOC : NELS 7213,1200 PLAN: 55917,10225
VOL : 1239,1252 FOL : 26,133
Locality: Vasse Hwy
Local Authority: Nannup Shire Council,
Tax Sheet/Litho No. 442A/40
Owner: Keeble Mr PAJ & Mrs RD PO Box 494 MANJIMUP WA 6253
Applicant: JH Towie PO Box 435 MANJIMUP WA 6253
Purpose: Residence
MRS Zoning: n/a



18, GEORGE'S TERRACE, PERTH, 6000 W.A. TELEPHONE 325 2966



T.P. Ref.No. 21-1729-1
 Previous ref.
 Enquiries to AYTON H

29 August 1982

Director,
DEPARTMENT OF
CONSERVATION AND ENVIRONMENT

METROPOLITAN REGION SCHEME: Development

The Metropolitan Region Planning Authority has received an application to commence development in accordance with the provisions of the Metropolitan Region Scheme for the development of the under-mentioned land.

Before making a decision I would appreciate your comments and any recommendations or conditions you may have applicable to the development proposed.

The application must be determined within 60 days, and your advice must therefore be received within 30 days of this letter. If it is not so received, the Authority may proceed to determine the application without such advice.

R.E. Peters

R.E. PETERS
 M/SECRETARY

Enc.

Owner: Enne R Lot 21 Toodyay Road GIDGEGANNUP WA 6555
 Applicant: Raywell Engineering Lot 21 Toodyay Road GIDGEGANNUP WA 6555

Date of application: June 29, 1982

Local Authority: Swan Shire Council,

Location: Toodyay Road, Gidgegannup.

LOT : Pt 21 LOC : 1317 PLAN: 3356 VOL : 1441 FOL : 705

Tax Sheet No: Swan 6.3 & 7.3

Development: Excavation licence and renewal of development application, \$100, 1 - 5 years.

Reason why land is understood to be required for Public Purposes: Other Major Highway/Clause 32



S. 130

DEPARTMENT OF LANDS AND SURVEYS

Our Ref. 2764/79 LF:LP

Cathedral Avenue, Perth
Western Australia 6000
Telephone 323 0151
Telex AA 93784

Your Ref.

DIRECTOR
DEPARTMENT OF CONSERVATION AND
ENVIRONMENT

The Shire of Manjimup has contacted this Department with a request for Council to be permitted to control the Walpole Inlet Foreshore along at least the built up area of the Townsite, where it is intended that it would retain that foreshore as far as possible in its existing state and would never permit commercial development on this particular area.

In requesting the control of the foreshore lands the Shire are hoping to obtain the right to police these areas particularly with regard to illegal camping and vehicle use. The Department supports this proposal particularly in the developed portion of the Town where there is access to the water at one or two points. The Shire has power to lease over Reserve 34162 and it is now proposed to set aside as a separate reserve for recreation and parkland the area bordered yellow on the enclosed print.

The new reserve will be vested in the Shire of Manjimup but in this case without power to lease. The Shire is also to be advised that with regard to foreshore areas in the new western cell separate consideration will be given to their future as the area develops.

The abovementioned matter is submitted for your information.

B. G. Halloran
ACTING UNDER SECRETARY FOR LANDS

October 12, 1979.

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227/74

APPENDIX 3

EXAMPLES OF ADVERTISEMENTS FOR ERMPs

- a. Example of Advertisement for ERMP/ Draft EIS prepared under Joint assessment Procedures

ENVIRONMENTAL ASSESSMENT LAKE WAY URANIUM PROJECT WESTERN AUSTRALIA

PUBLIC COMMENTS INVITED

The Lake Way Joint Venture has conducted a feasibility study on this proposed project.

The project comprises a proposal to mine, mill and process uranium ore near Wiluna in Western Australia.

In accordance with the provisions of the Commonwealth Environment Protection (Impact of Proposals) Act 1974 and Western Australian Government requirements, a draft Environmental Impact Statement (EIS)/ Environmental Review and Management Programme (ERMP) has been prepared by the joint venturers Delhi International Oil Corp. and Vam Ltd. as proponents for the project. This document will be available for review between 25th April and 20th June, 1981.

COPIES ARE AVAILABLE FOR EXAMINATION AT:

DEPARTMENT OF CONSERVATION
& ENVIRONMENT
Reading Room, Ground Floor;
1 Mount Street,
Perth, Western Australia

SHIRE OF WILUNA OFFICES
Wiluna, Western Australia

DEPARTMENT OF HOME AFFAIRS
& ENVIRONMENT
2nd Floor, CML Building,
University Avenue,
Canberra, A.C.T.

A.C.P.
6728 Glen Ferric Road,
Hawthorn, Victoria

STATE REFERENCE LIBRARY
James Street,
Perth, Western Australia

WILLIAM GRUNDT MEMORIAL
LIBRARY
Roberts Street,
Kalgoorlie, Western Australia

STATE LIBRARIES
in Adelaide, Brisbane, Darwin,
Hobart, Perth, Melbourne and Sydney.

ENVIRONMENT CENTRES IN ALL
CAPITAL CITIES

GERALDTON PUBLIC LIBRARY
Cathedral Avenue,
Geraldton, Western Australia

Copies of the ERMP/Draft EIS may also be purchased for \$15.00 including postage by application to:

RELLIM BOOKS
834 Hay Street,
Perth, Western Australia

OR P.O. Box 75,
Gordon, New South Wales,
2072

Copies of Appendices (7) may be purchased for \$10.00 each including postage from the above address.

Interested persons are invited to submit written comments on the environmental aspects of this proposal. Comment should be sent by 20th June, 1981 to:

The Director
Department of Conservation
and Environment,
1 Mount Street,
Perth, W.A. 6000
Attention:
Mr. P. Browne-Cooper

The Secretary,
Department of Home Affairs
and Environment,
P.O. Box 1252,
Canberra City, A.C.T. 2601
Attention:
Ms. V. Urbaczewski

- b. Example of advertisement for ERMP not subject to joint Commonwealth-State assessment procedures.

**ENVIRONMENTAL ASSESSMENT
HERDSMAN PARK ESTATE PROJECT
PUBLIC COMMENTS INVITED**

The Cooper/Jennings Joint Venturers propose to develop an area of industrial land adjoining Herdsman Lake under City of Stirling Town Planning Scheme No. 30. The proposal includes construction of a section of an important regional road and the creation of parklands consistent with the M.R.P.A. Concept Plan (1976).

In accordance with Western Australian Government Requirements, a draft Environmental Review and Management Programme has been prepared by the joint venturers, Cooper Corporation Pty. Ltd. and Jennings Industries (W.A.) Ltd. This document will be available for review between 28th November, 1981 and 4.30pm 31st December, 1981.

COPIES OF THE ENVIRONMENTAL REVIEW AND MANAGEMENT PROGRAMME ARE AVAILABLE FOR EXAMINATION AT:

THE DEPARTMENT OF CONSERVATION & ENVIRONMENT
Reading Room, Ground Floor,
B.P. House, 1 Mount Street,
Perth, Western Australia

THE TOWN PLANNING DEPARTMENT
2nd Floor, Oakleigh Building,
22 St. George's Terrace,
Perth, Western Australia

THE STATE REFERENCE LIBRARY
40 James Street
Perth, Western Australia

CITY OF PERTH
Council House,
27 St. George's Terrace,
Perth, Western Australia

CITY OF STIRLING
Hertha Road
Stirling, Western Australia

ENVIRONMENT CENTRE OF WA (INC)
53 Wellington Street,
Perth, Western Australia

Copies of the Report may be purchased for the sum of \$20 each, plus postage of 90c in W.A.
FROM:

COOPER CORPORATION PTY LTD
75 Kurnall Road, Welshpool,
Western Australia 6102

Interested persons and bodies are invited to submit written comment on the proposal by 4.30pm on 31st December, 1981, to:

Attention: Dr I. Arnold,
**THE DIRECTOR,
DEPARTMENT OF CONSERVATION
& ENVIRONMENT**
1 Mount Street,
Perth, Western Australia

APPENDIX 4

COMMONWEALTH REQUIREMENTS FOR

ENVIRONMENTAL IMPACT ASSESSMENT



ENVIRONMENT PROTECTION (IMPACT OF PROPOSALS) ACT 1974

Incorporating all amendments by legislation made to 31 December 1979

TABLE OF PROVISIONS

Section	
1.	Short title
2.	Commencement
3.	Interpretation
4.	Extension to Territories
5.	Object of Act
6.	Approved procedures
7.	Orders to be notified and may be disallowed
8.	Duties of Ministers
9.	Modification of operation of laws
10.	Minister to furnish certain information
11.	Inquiries by Commissioners
12.	Remuneration of Commissioners
13.	Notice of inquiries
14.	Procedure at inquiries
15.	Power to summon witnesses
16.	Failure of witness to attend
17.	Power to administer oath or affirmation
18.	Refusal to be sworn or to answer questions
19.	Protection of Commissioners and witnesses
20.	Contempt of court
21.	Powers of Commission in relation to documents produced
22.	Allowances to witnesses
23.	Witness not to be prejudiced
24.	Power to enter on land, &c.
25.	Regulations



ENVIRONMENT PROTECTION (IMPACT OF PROPOSALS) ACT 1974

An Act to make provision for Protection of the Environment in relation to Projects and Decisions of, or under the control of, the Australian Government, and for related purposes

1. This Act may be cited as the *Environment Protection (Impact of Proposals) Act 1974*.¹ Short title.

2. This Act shall come into operation on the day on which it receives the Royal Assent.¹ Commencement.

3. In this Act, unless the contrary intention appears—

“Australia” includes the Territories to which this Act extends;

“authority of Australia” does not include a court but includes an authority of a Territory and all authorities and bodies (not being companies or societies) established by or appointed under the laws of Australia and of the Territories and also includes a company in which the whole of the shares or stock, or shares or stock carrying more than one-half of the voting power, is or are owned by or on behalf of Australia;

“environment” includes all aspects of the surroundings of man, whether affecting him as an individual or in his social groupings; and “environmental” has a corresponding meaning;

“Territory” means an internal Territory or an external Territory to which this Act extends.

Interpretation.

4. This Act extends to all the external Territories other than Papua New Guinea. Extension to Territories.

5. (1) The object of this Act is to ensure, to the greatest extent that is practicable, that matters affecting the environment to a significant extent are fully examined and taken into account in and in relation to— Object of Act.

(a) the formulation of proposals;

2

Environment Protection (Impact of Proposals) Act 1974

s. 5

- (b) the carrying out of works and other projects;
- (c) the negotiation, operation and enforcement of agreements and arrangements (including agreements and arrangements with, and with authorities of, the States);
- (d) the making of, or the participation in the making of, decisions and recommendations; and
- (e) the incurring of expenditure,

by, or on behalf of, the Australian Government and authorities of Australia, either alone or in association with any other government, authority, body or person.

Amended by
No. 36, 1975,
s. 3.

(2) The matters referred to in sub-section (1) extend to matters of those kinds arising in relation to direct financial assistance granted, or proposed to be granted, to the States.

Approved
procedures.

6. (1) The Governor-General may, from time to time, by order, approve, and approve variations of, administrative procedures for the purpose of achieving the object of this Act, being procedures that are consistent with relevant laws, as affected by regulations under this Act.

(2) Without limiting the generality of sub-section (1), the approved procedures may provide for—

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

Environment Protection (Impact of Proposals) Act 1974

3

s. 7

7. (1) Where an order is made by the Governor-General under section 6—

Orders to be notified and may be disallowed.

- (a) notice shall be published in the *Gazette* of the order having been made, and of the place where copies of the order can be purchased;
- (b) the order shall, subject to this section, take effect from the date of publication of the notice or, where another date is specified in the order, from the date specified; and
- (c) the order shall be laid before each House of the Parliament within 15 sitting days of that House after the making of the order.

(2) If an order is not laid before each House of the Parliament in accordance with sub-section (1), it shall be void and of no effect.

(3) If either House of the Parliament, in pursuance of a motion of which notice has been given within 15 sitting days after an order has been laid before that House, passes a resolution disallowing the order or part of the order, the order or that part of the order, shall thereupon cease to have effect.

(4) If, at the expiration of 15 sitting days after notice of a motion to disallow an order or part of an order has been given in a House of the Parliament, being notice given within 15 sitting days after the order has been laid before that House—

- (a) the notice has not been withdrawn and the motion has not been called on; or
- (b) the motion has been called on, moved and seconded and has not been withdrawn or otherwise disposed of,

the order, or part of the order, specified in the motion shall thereupon be deemed to have been disallowed.

(5) If, before the expiration of 15 sitting days after notice of a motion to disallow an order or part of an order has been given in a House of the Parliament—

- (a) that House is dissolved or, being the House of Representatives, expires, or the Parliament is prorogued; and
- (b) at the time of the dissolution, expiry or prorogation, as the case may be—

- (i) the notice has not been withdrawn and the motion has not been called on; or
- (ii) the motion has been called on, moved and seconded and has not been withdrawn or otherwise disposed of,

the order or part of an order shall, for the purposes of sub-sections (3) and (4), be deemed to have been laid before that House on the first sitting day of that House after the dissolution, expiry or prorogation, as the case may be.

4

Environment Protection (Impact of Proposals) Act 1974

s. 8

Duties of Ministers.

8. Each Minister shall give all such directions and do all such things as, consistently with any relevant laws as affected by regulations under this Act, can be given or done by him—

- (a) for ensuring that procedures for the time being approved under this Act are given effect to in and in connexion with matters dealt with by the Department administered by him and that any authority of Australia in relation to which he has ministerial responsibilities observes, and assists in giving effect to, those procedures; and
- (b) for ensuring that any final environmental impact statement formulated in accordance with those procedures, and any suggestions or recommendations made in accordance with those procedures, are taken into account, in matters to which they relate, in the Department administered by him and by any authority of Australia in respect of which he has ministerial responsibilities.

Modification of operation of laws.

9. Without prejudice to any right, power or duty of any authority of Australia, apart from this Act, to take into account matters relating to the environment in the exercise of any power or function, the regulations may—

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

and regulations so made have effect notwithstanding any other law.

Minister to furnish certain information.

10. In respect of a particular matter of a kind referred to in any of the paragraphs of section 5, any person may, by notice in writing, require the Minister to inform him in writing as to what action, if any, has been taken, or is proposed, for ensuring consideration of the environmental aspects of the matter, and the Minister shall promptly inform the person in writing accordingly.

Inquiries by Commissioners.

11. (1) For the purposes of procedures approved under this Act or for achieving the object of this Act, the Minister may direct that an inquiry be conducted in respect of all or any of the environmental aspects of a matter referred to in any of the paragraphs of section 5, whether or not an environmental impact statement has, in accordance with procedures under this Act, been furnished to the Minister.

(2) The Minister shall appoint a Commissioner or Commissioners to be a Commission to conduct an inquiry under this section and may appoint a person or persons to advise the Commission.

Environment Protection (Impact of Proposals) Act 1974

5

s. 11

(3) Where there is more than one Commissioner, the Minister shall appoint one of the Commissioners to preside at the inquiry.

(4) The Commission shall report its findings and recommendations to the Minister and shall, after so reporting but subject to sub-section (5), make public those findings and recommendations.

(5) The Commission shall not make public any evidence or matters in respect of which directions have been given under paragraph 14 (2) (b) or matters the publication of which is excepted from sub-section 14 (5).

(6) Subject to sub-section (1), a Commission is not subject to directions by the Minister, or otherwise by or on behalf of the Australian Government, in or in relation to the conduct of an inquiry.

12. (1) A Commissioner shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, he shall be paid such remuneration as is prescribed. Remuneration of Commissioners.

(2) A Commissioner shall be paid such allowances as are prescribed.

(3) This section has effect subject to the *Remuneration Tribunals Act 1973-1974*.

13. Before a Commission commences to hold an inquiry, the Commission shall give reasonable notice, by advertisement published in the *Gazette* and in such newspapers as it thinks necessary, of its intention to hold the inquiry, the subject of the inquiry and the time and place at which the inquiry is to be commenced. Notice of inquiries.

14. (1) Subject to this section, an inquiry by a Commission shall be held in public and evidence in the inquiry shall be taken in public on oath or affirmation. Procedure at inquiries.

(2) Where a Commission is satisfied that it is desirable to do so in the public interest by reason of the confidential nature of any evidence or matter or for any other reason, the Commission may—

- (a) direct that an inquiry or a part of an inquiry shall take place in private and give directions as to the persons who may be present; or
- (b) give directions prohibiting or restricting the publication of evidence given before the Commission or of matters contained in documents lodged with the Commission.

(3) A Commission may, if it thinks fit, permit a person appearing as a witness before the Commission to give evidence by tendering, and verifying by oath or affirmation, a written statement.

6

Environment Protection (Impact of Proposals) Act 1974

s. 14

(4) Where a Commission considers that the attendance of a person as a witness before the Commission would cause serious hardship to the person, the Commission may permit the person to give evidence by sending to the Commission a written statement, verified in such manner as the Commission allows.

(5) Where evidence is given to a Commission by a written statement in accordance with sub-section (3) or (4), the Commission shall make available to the public in such manner as the Commission thinks fit the contents of the statement other than any matter as to which the Commission is satisfied that its publication would be contrary to the public interest by reason of its confidential nature or for any other reason.

(6) Subject to this section, the regulations and orders under section 6—

- (a) the procedure to be followed at an inquiry by a Commission is within the discretion of the Commission; and
- (b) a Commission is not bound by the rules of evidence.

(7) Nothing in this section derogates from any law relating to Crown privilege.

Power to
summon
witnesses.

15. A Commissioner may, by writing signed by him, summon a person to appear before the Commission at a time and place specified in the summons to give evidence and produce such books and documents (if any) as are referred to in the summons.

Failure of
witness to
attend.

16. A person served with a summons to appear as a witness at an inquiry by a Commission shall not, without reasonable excuse—

- (a) fail to attend as required by the summons; or
- (b) fail to appear and report himself from day to day unless excused or released from further attendance by or on behalf of the Commission.

Penalty: \$1,000 or imprisonment for 6 months.

Power to
administer
oath or
affirmation.

17. A Commissioner may administer an oath or affirmation to a person appearing as a witness before the Commission.

Refusal to be
sworn or to
answer
questions.

18. A person appearing as a witness at an inquiry by a Commission shall not, without reasonable excuse—

- (a) refuse or fail to be sworn or to make an affirmation;
- (b) refuse or fail to answer a question that he is required to answer by the Commissioner presiding at the inquiry; or
- (c) refuse or fail to produce a document that he was required to produce by a summons under this Act served on him.

Penalty: \$1,000 or imprisonment for 6 months.

Environment Protection (Impact of Proposals) Act 1974

7

s. 19

19. (1) A Commissioner has, in the performance of his duties as a Commissioner, the same protection and immunity as a Justice of the High Court. Protection of Commissioners and witnesses.

(2) Subject to this Act, a person appearing before a Commission as a witness at an inquiry has the same protection, and is, in addition to the penalties provided by this Act, subject to the same liabilities, in any civil or criminal proceedings as a witness in proceedings in the High Court.

20. A person shall not—

- (a) insult or disturb a Commissioner in the exercise of his powers or the performance of his functions or duties as a Commissioner;
- (b) interrupt an inquiry by a Commission;
- (c) use insulting language towards a Commissioner;
- (d) create a disturbance, or take part in creating or continuing a disturbance, in or near a place where a Commission is holding an inquiry; or
- (e) do any other act or thing that would, if a Commission were a court of record, constitute a contempt of that court.

Contempt of court.

Penalty: \$1,000 or imprisonment for 6 months.

21. (1) A Commissioner, or a person assisting a Commission and authorized by a Commissioner to do so, may inspect any books or documents furnished to the Commission for the purposes of the performance of its functions under this Act or produced at an inquiry and may make copies of, or take extracts from, those books or documents. Powers of Commission in relation to documents produced.

(2) Books or documents so furnished may be retained by the Commission for such reasonable period as the Commission thinks fit.

22. A witness summoned under this Act to appear at an inquiry by a Commission is entitled to be paid by Australia such allowances for his travelling and other expenses as are prescribed. Allowances to witnesses.

23. (1) A person shall not—

- (a) use violence to or inflict injury on;
- (b) cause or procure violence, damage, loss or disadvantage to; or
- (c) cause or procure the punishment of,

Witness not to be prejudiced.

a person for or on account of his having appeared, or being about to appear, as a witness at an inquiry by a Commission or for or on account of any evidence given by him before a Commission.

Penalty: \$1,000 or imprisonment for 6 months.

(2) Without limiting the generality of sub-section (1), an employer shall not—

- (a) dismiss an employee from his employment, or prejudice an employee in his employment, by reason that the employee has

8

Environment Protection (Impact of Proposals) Act 1974

s. 23

appeared as a witness, or has given any evidence, at an inquiry by a Commission; or

- (b) dismiss or threaten to dismiss an employee from his employment or prejudice, or threaten to prejudice an employee in his employment, by reason that the employee proposes to appear as a witness or to give evidence at an inquiry by a Commission.

Penalty: \$1,000 or imprisonment for 6 months.

(3) In any proceedings arising out of sub-section (2)—

- (a) if it is established that the employee was dismissed from, or prejudiced in, his employment and that, before he was so dismissed or prejudiced, he appeared as a witness, or gave any evidence, at an inquiry by a Commission—the burden lies on the employer of proving that the employee was not dismissed or prejudiced by reason that he so appeared as a witness or gave evidence; or
- (b) if it is established that the employee was dismissed, or threatened with dismissal, from his employment, or was prejudiced, or threatened with prejudice, in his employment and that, before he was so dismissed, threatened with dismissal, prejudiced or threatened with prejudice, he proposed to appear as a witness, or to give evidence, at an inquiry by a Commission—the burden lies on the employer of proving that the employee was not so dismissed, threatened with dismissal, prejudiced or threatened with prejudice by reason that he proposed so to appear as a witness or to give evidence.

(4) This section binds Australia as an employer, but does not render Australia liable to prosecution.

Power to enter on land, &c. Substituted by No. 36, 1975, s. 4.

24. (1) A Commissioner, or a person acting with the authority of a Commissioner, may, with the consent of the occupier of any land, building or place, enter the land, building or place for the purposes of an inquiry under this Act.

(2) Where a Commissioner has reason to believe that it is necessary or desirable for the purposes of an inquiry under this Act for him, or a person authorized by him, to enter any land, building or place, the Commissioner may make application to a Justice of the Peace for a warrant authorizing the Commissioner or that person to enter the land, building or place for the purposes of the inquiry.

(3) If, on an application under sub-section (2), the Justice of the Peace is satisfied by information on oath or affirmation that the issue of the warrant is reasonably required for the purposes of this Act, the Justice of the Peace may grant a warrant authorizing the Commissioner, or that person, with such assistance as he thinks necessary, to enter the land, building or place for the purposes of the inquiry.

Environment Protection (Impact of Proposals) Act 1974

9

s. 24

(4) A warrant under sub-section (3) shall specify a date after which the warrant ceases to have effect.

(5) Where a Commissioner, or a person acting with the authority of a Commissioner, enters any land, building or place in pursuance of sub-section (1) or of a warrant granted under sub-section (3) for the purposes of an inquiry under this Act, he may—

- (a) inspect the land, building or place; and
- (b) inspect any material on the land, or on or in the building or place.

(6) A person shall not, without reasonable excuse, obstruct or hinder a Commissioner, or a person authorized by a Commissioner, acting in pursuance of a warrant granted under sub-section (3) or in pursuance of sub-section (5).

Penalty: \$200.

(7) In this section, "occupier", in relation to land, a building or a place, includes the person in charge of the land, building or place, as the case may be.

25. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act. Regulations.

NOTE

1. The *Environment Protection (Impact of Proposals) Act 1974* (a) as shown in this reprint comprises Act No. 164, 1974 as amended by the other Act specified in the following table:

Act	Number and year	Date of Assent	Date of commencement
<i>Environment Protection (Impact of Proposals) Act 1974</i>	No. 164, 1974	17 Dec 1974	17 Dec 1974
<i>Environment Protection (Impact of Proposals) Act 1975</i>	No. 36, 1975	19 May 1975	19 May 1975

(a) This citation is provided for by the *Amendments Incorporation Act 1905* and the *Acts Citation Act 1976*.

APPENDIX 5

COMMONWEALTH ADMINISTRATIVE PROCEDURES

UNDER THE ENVIRONMENT PROTECTION ACT



**ORDER UNDER SUB-SECTION 6 (1) OF THE ENVIRONMENT
PROTECTION (IMPACT OF PROPOSALS) ACT 1974-1975***

I, THE GOVERNOR-GENERAL of Australia, acting with the advice of the Executive Council, hereby approve the following Administrative Procedures under the *Environment Protection (Impact of Proposals) Act 1974-1975*.

Dated this twentieth day of June, 1975.

JOHN R. KERR
Governor-General.

By His Excellency's Command,

J. F. CAIRNS
Minister of State for Environment.

**ADMINISTRATIVE PROCEDURES UNDER THE
ENVIRONMENT PROTECTION (IMPACT OF PROPOSALS)
ACT 1974-1975**

TABLE OF PROVISIONS

Paragraph

1. *General*
 - 1.1. Interpretation
 - 1.2. Proponents of proposed actions
 - 1.3. Proponent to ensure compliance with procedures
2. *Supplying of Information to the Minister*
 - 2.1. Proponent to supply information
 - 2.2. Information required by procedures
 - 2.3. Requirement to provide information
3. *Requirement for Environmental Impact Statements*
 - 3.1. Requirement for environmental impact statement
 - 3.2. Further requirement for environmental impact statement
 - 3.3. Consultation with Departments, etc., concerning requirement for environmental impact statement
 - 3.4. Notification of directions
4. *Matters to be dealt with by Environmental Impact Statements*
 - 4.1. Contents of environmental impact statement
 - 4.2. Agreement on contents of environmental impact statement
 - 4.3. Determination of contents of environmental impact statement
 - 4.4. Consultation with Departments, etc., concerning contents of environmental statement
5. *Form of Environmental Impact Statements*

* Notified in the *Australian Government Gazette* on 24 June 1975.

Environment Protection Administrative Procedures

Table of Provisions—*continued*

Paragraph

- 5.1. Format, etc., of environmental impact statement
- 5.2. Summary of environmental impact statement
- 6. *Making Environmental Impact Statements available for Comment*
- 6.1. Draft environmental impact statement to be provided to Minister or Department
- 6.2. Draft environmental impact statement to be made available for public comment
- 6.3. Public notice of draft environmental impact statement
- 6.4. Official comments on draft environmental impact statement
- 6.5. Written comments on draft environmental impact statement
- 7. *Inquiries and Reports*
- 7.1. Consultation concerning inquiries
- 7.2. Inquiries
- 7.3. Draft environmental impact statement, etc., to be provided to Commission
- 7.4. Reports
- 8. *Revision of Environmental Impact Statements*
- 8.1. Revision of draft environmental impact statement
- 8.2. Distribution of final environmental impact statement
- 9. *Examination of Environmental Impact Statements*
- 9.1. Examination of final environmental impact statement
- 9.2. Additional information
- 9.3. Comments, etc., on proposed action
- 9.4. Relevant period
- 9.5. Ministers to give directions, etc.
- 10. *Review of Environmental Aspects of proposed Actions*
- 10.1. Review and assessment of environmental aspects of proposed action
- 10.2. Results of review and assessment
- 11. *Exemptions*
- 11.1. Requests for exemptions
- 11.2. Consultation with Departments, etc., concerning exemptions
- 11.3. Matters to be taken into account
- 11.4. Exemptions
- 11.5. Publication of exemptions, etc.
- 12. *Miscellaneous*
- 12.1. Communications with States on matters of policy

Environment Protection Administrative Procedures

3

General

1.1. In these procedures, unless the contrary intention appears—

“action Minister”, in relation to a proposed action, means the Minister of State for Australia responsible for the proposed action;

“Commission” means a Commission appointed under sub-section 11 (2) of the Act;

“draft environmental impact statement” means an environmental impact statement not yet revised under paragraph 8.1.;

“environmental impact statement” means an environmental impact statement under these procedures and, where the context requires or permits, includes a draft environmental impact statement and a final environmental impact statement;

“final environmental impact statement” means an environmental impact statement that has been revised under paragraph 8.1.;

“inquiry” means an inquiry under the Act;

“proposed action” means a matter referred to in any of the paragraphs of section 5 of the Act;

“responsible authority”, in relation to a proposed action, means the authority of Australia by whom, or on whose behalf, the proposed action is to be executed;

“report” means a report under sub-section 11 (4) of the Act;

“the Act” means the *Environment Protection (Impact of Proposals) Act 1974-1975*;

“the Department” means the Department of State of Australia administered by the Minister;

“the Minister” means the Minister of State for Australia for the time being administering the Act;

“the proponent”, in relation to a proposed action, means the proponent of the proposed action under paragraph 1.2.1. or 1.2.3., and includes any person acting on behalf of the proponent.

1.2.1. Subject to these procedures, the action Minister, or a person on behalf of the action Minister, shall, as soon as possible after a proposed action has been first formulated, designate a person or Department as the proponent of the proposed action and shall ensure that the Department is thereupon informed of the proposed action and of the name and address of the person or Department so designated.

1.2.2. In designating the proponent of a proposed action under paragraph 1.2.1., the action Minister, or a person on behalf of the action Minister, shall have regard to the general principle that, as far as convenient, the person or Department responsible for the execution of the proposed action should be designated as the proponent.

1.2.3. In relation to a proposed action to be executed by, or on behalf of, an authority of Australia, the responsible authority shall be the proponent of the proposed action and shall ensure that the Department is, as soon as possible after the proposed action has been first formulated, informed of the proposed action.

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

Environment Protection Administrative Procedures

Supplying of Information to the Minister

2.1. The proponent shall, as soon as possible after a proposed action has been first formulated, supply to the Minister, through the Department, such information as is required by these procedures, or is otherwise necessary, for the purpose of consideration, by him or on his behalf, of the necessity for an environmental impact statement in relation to the proposed action.

2.2. For the purpose of paragraph 2.1., the information required by these procedures shall, to the extent appropriate in the circumstances of the case, be information—

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

2.3. For the purpose of consideration, by him or on his behalf, of the necessity for an environmental impact statement in relation to a proposed action, the Minister, or the Department on behalf of the Minister, may require the proponent to provide, within a reasonable period, such other information as is specified and is necessary for that purpose.

Requirement for Environmental Impact Statements

3.1.1. Subject to the Act and these procedures, the Department shall, as soon as possible after the information referred to in paragraph 2.1., and any further information required under paragraph 2.3., has been received in relation to a proposed action—

- (a) determine, on behalf of the Minister, that the preparation or obtaining, and submission to the Minister, of an environmental impact statement in relation to the proposed action is not required for the purpose of achieving the object of the Act; or
- (b) refer the question whether the preparation or obtaining, and submission to the Minister, of an environmental impact statement in relation to the proposed action is required for the purpose of achieving the object of the Act to the Minister who shall forthwith determine the question and shall make a determination accordingly.

3.1.2. Subject to the Act, the Minister, or the Department on behalf of the Minister, shall, in making a determination under paragraph 3.1.1., take into account whether the proposed action may result in—

- (a) a substantial environmental effect on a community;
- (b) the transformation of a substantial area;

Environment Protection Administrative Procedures

5

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

3.1.3. The Minister shall not make a determination under paragraph 3.1.1. that the preparation or obtaining, and submission to him, of an environmental impact statement is required if he is satisfied that to do so would be contrary to the public interest.

3.2.1. For the purposes of paragraph 3.2.2., the proponent shall keep under review the environmental aspects of a proposed action in relation to which the preparation or obtaining, and submission to the Minister, of an environmental impact statement is not required under paragraph 3.1.1.

3.2.2. If, before a proposed action to which paragraph 3.2.1. applies is executed, the environmental significance of the proposed action appears likely to be materially different from that expected at the time of the determination under paragraph 3.1.1., the proponent shall inform the Minister, through the Department, specifying the respects in which the environmental aspects of the proposed action appear likely to be materially different from that so expected.

3.2.3. Subject to the Act and these procedures, the Minister shall, as soon as possible after receiving information under paragraph 3.2.2., and having regard to that information, determine whether the preparation or obtaining, and submission to him, of an environmental impact statement in relation to the proposed action is, in the circumstances, required for the purpose of achieving the object of the Act, and shall make a direction accordingly.

3.2.4. Paragraphs 3.1.2. and 3.1.3. apply to the making of a determination under paragraph 3.2.3. in like manner as those paragraphs apply to the making of a determination under paragraph 3.1.1.

3.3. Subject to the requirement of paragraph 12.1. concerning communications with the States and with authorities of the States, for the purpose of assisting in the making of a determination under paragraph 3.1.1. or 3.2.3., the Minister, or the Department on behalf of the Minister, may consult with any Department or authority of Australia, any State or authority of a State, any local authority or any other person or body.

3.4. The Minister, or the Department on behalf of the Minister, shall, as soon as possible after the making of a direction requiring the preparation or obtaining, and submission to the Minister, of an environmental impact statement under paragraph 3.1.1. or paragraph 3.2.3., inform the proponent of the direction.

Environment Protection Administrative Procedures

Matters to be dealt with by Environmental Impact Statements

4.1. To the extent appropriate in the circumstances of the case, an environmental impact statement shall—

- (a) state the objectives of the proposed action;
- (b) contain a description of the proposed action;
- (c) analyse the need for the proposed action;
- (d) indicate the consequences of not taking the proposed action;
- (e) examine any feasible and prudent alternative to the proposed action;
- (f) include information and technical data adequate to permit a careful assessment of the impact on the environment of the proposed action;
- (g) describe the environment that is likely to be affected by the proposed action and by any feasible and prudent alternative to the proposed action;
- (h) assess the potential impact on the environment of the proposed action and of any feasible and prudent alternative to the proposed action, including, in particular, the primary, secondary, short-term, long-term, adverse and beneficial effects on the environment of the proposed action and of any feasible and prudent alternative to the proposed action;
- (i) outline the reasons for the choice of the proposed action;
- (j) describe, and assess the effectiveness of, any safeguards or standards for the protection of the environment intended to be adopted or applied in respect of the proposed action; and
- (k) cite any sources of information relied upon in, and outline any consultations during, the preparation of the environmental impact statement.

4.2. The proponent shall consult with the Department with a view to agreeing upon the matters to be dealt with, and the extent to which those matters shall be dealt with, by an environmental impact statement.

4.3. After consultation between the proponent and the Department under paragraph 4.2., the Minister shall, if necessary, determine the matters to be dealt with, and the extent to which those matters are to be dealt with, by an environmental impact statement.

4.4. Subject to the requirement of paragraph 12.1. concerning communications with the States and with authorities of the States, the Minister, the Department or the proponent may consult with any Department or authority of Australia, any State or authority of a State, any local authority or any other person or body on the matters to be dealt with, and the extent to which those matters are to be dealt with, by an environmental impact statement.

Form of Environmental Impact Statements

5.1. The format, layout and printing process adopted in relation to an environmental impact statement shall be such as to minimize, as far as convenient, the cost of the preparation or obtaining, and submission to the Minister, of the environmental impact statement and of making it available to the public in accordance with these procedures.

5.2. An environmental impact statement shall contain a clear and concise summary of the matters dealt with by it.

Environment Protection Administrative Procedures

7

Making Environmental Impact Statements available for Comment

6.1. For the purposes of assisting in the making of a decision under the Act or under these procedures, the Minister, or the Department, may require the proponent to provide, within a reasonable period, a copy of a draft environmental impact statement to the Minister or the Department.

6.2.1. Subject to these procedures, a draft environmental impact statement shall be made available for public comment in accordance with these procedures.

6.2.2. Within a reasonable period after a direction requiring the preparation or obtaining, and submission to the Minister, of an environmental impact statement under paragraph 3.1.1. or 3.2.3., the proponent may consult with the Department with a view to agreeing that the draft environmental impact statement, or any part of it, should not be made available for public comment in accordance with these procedures.

6.2.3. Subject to paragraph 6.2.4., after consultations between the proponent and the Department under paragraph 6.2.2., the Minister shall, if necessary, determine whether the draft environmental impact statement, or any part of it, shall be made available for public comment in accordance with these procedures, and shall make a direction accordingly.

6.2.4. The Minister shall, before making a determination under paragraph 6.2.3., consult with the action Minister or the responsible authority (as the case may require) and shall take into account any views expressed by the action Minister, or the responsible authority, on whether the draft environmental impact statement, or any part of it, should be made available for public comment.

6.3.1. Subject to these procedures, where a draft environmental impact statement, or any part of it, is made available for public comment, the proponent shall give notice of—

- (a) the draft environmental impact statement, or any such part of it, having been made available for public comment;
- (b) the places where copies of the draft environmental impact statement, or any such part of it, can be purchased or otherwise obtained;
- (c) the places where the draft environmental impact statement, or any such part of it, can be examined by the public; and
- (d) an address to which interested persons and bodies are invited to send written comments on the proposed action within a period, being a period of not less than 28 days after the date of publication of the notice under sub-paragraph 6.3.2.(b), specified in the notice.

6.3.2. The notice required to be given by the proponent under paragraph 6.3.1. shall be—

- (a) approved by the Department;
- (b) published in the *Gazette*; and
- (c) published in such newspapers, and on such occasions, as the Department approves.

6.3.3. Where the Minister has directed that an inquiry be conducted in respect of all or any of the environmental aspects of a proposed action in relation to which a draft environmental impact statement, or any part of it, has been made available for public comment, the Commission appointed to conduct the inquiry may give the notice required under paragraph 6.3.1.

Environment Protection Administrative Procedures

6.4. Subject to the requirement of paragraph 12.1. concerning communications with the States and with authorities of the States, within the period specified under sub-paragraph 6.3.1. (d), the Department or the proponent may, or, where the proponent is directed to do so by the Minister, the proponent shall, seek written comments from any Department or authority of Australia, any State or authority of a State, or any local authority or any other person or body in respect of all or any of the environmental aspects of a proposed action in relation to which a draft environmental impact statement has been prepared or obtained.

6.5. Within 7 days after the period specified under sub-paragraph 6.3.1. (d), a copy of any written comments received under sub-paragraph 6.3.1. (d) or paragraph 6.4. shall be provided to the Department and the proponent.

Inquiries and Reports

7.1. If, at any time before a proposed action has been executed, the Minister considers that there may be grounds for him to direct that an inquiry be conducted in respect of all or any of the environmental aspects of the proposed action, the Minister shall consult with the action Minister or the responsible authority (as the case may require).

7.2. Subject to the Act and to the extent relevant, the Minister shall, in deciding whether to direct that an inquiry be conducted in respect of all or any of the environmental aspects of a proposed action, take into account—

- (a) the significance of all or any of the environmental aspects of the proposed action;
- (b) any views expressed by the action Minister or the responsible authority (as the case may require); and
- (c) whether all or any of the environmental aspects of the proposed action have been, are, or will be the subject of a public inquiry conducted otherwise than under the Act.

7.3. Where the Minister has directed that an inquiry be conducted in respect of all or any of the environmental aspects of a proposed action in relation to which a draft environmental impact statement has been prepared or obtained, the proponent shall provide a copy of the draft environmental impact statement, and of any written comments received under sub-paragraph 6.3.1. (d) or paragraph 6.4., to the Commission as soon as possible after it has been appointed to conduct the inquiry.

7.4. The Minister shall, as soon as possible after a Commission has reported to him, provide to the proponent, through the Department, a copy of the report, together with any comments made, by him or on his behalf, on the report.

Revision of Environmental Impact Statements

8.1. If, having regard to the draft environmental impact statement, any written comments received under sub-paragraph 6.3.1. (d) or paragraph 6.4., any report and any comments on the report provided to the proponent under paragraph 7.4. in relation to a proposed action, it is still intended that the proposed action should be executed, the proponent shall revise the draft environmental impact statement—

- (a) to take into account—
 - (i) any written comments received under sub-paragraph 6.3.1. (d) or paragraph 6.4.; and
 - (ii) any report and any comments on the report provided to the proponent under paragraph 7.4.; and

Environment Protection Administrative Procedures

9

- (b) to summarize or to include in full (as appropriate) any written comments received under sub-paragraph 6.3.1. (d) or paragraph 6.4.

8.2. The proponent shall, as soon as possible after a draft environmental impact statement has been revised under paragraph 8.1.—

- (a) provide 5 copies of the final environmental impact statement to the Department on behalf of the Minister;
- (b) provide a copy of the final environmental impact statement to any person constituting a Commission appointed to conduct an inquiry in respect of all or any of the environmental aspects of the proposed action;
- (c) provide a copy of the final environmental impact statement to any Department or authority of Australia, any State or authority of a State, any local authority or any other person or body that has made written comments on the proposed action under sub-paragraph 6.3.1. (d) or paragraph 6.4.; and
- (d) make the final environmental impact statement available to the public by sale or otherwise.

Examination of Environmental Impact Statements

9.1. The Department, on behalf of the Minister, shall, within the relevant period under paragraph 9.4., examine the final environmental impact statement.

9.2. For the purposes of paragraph 9.1., the Minister, may, within 21 days after the receipt of the final environmental impact statement under sub-paragraph 8.2. (a), require the proponent to provide, within a reasonable period, such other information as is specified and is necessary for the purpose of examining the environmental impact statement.

9.3. The Minister, or the Department on behalf of the Minister, shall, within the relevant period under paragraph 9.4., make any comments, suggestions or recommendations concerning the proposed action, including suggestions or recommendations concerning conditions to which the proposed action should be subject, that the Minister, or the Department on behalf of the Minister, thinks necessary or desirable for the protection of the environment, and the Department shall inform the proponent accordingly.

9.4. The relevant period for the purposes of paragraph 9.1. and 9.3. shall be—

- (a) 28 days after the receipt of the final environmental impact statement under sub-paragraph 8.2.(a);
- (b) 28 days after the receipt of any information required under paragraph 9.2.; or
- (c) such longer period as is agreed to by the Department and the proponent,

whichever is the longer.

9.5. Subject to, and in accordance with, section 8 of the Act, each Minister shall give all such directions and do all such things as can be given or done by him for ensuring that any final environmental impact statement, and any suggestions or recommendations made under paragraph 9.3., are taken into account in matters to which they relate.

Environment Protection Administrative Procedures

Review of Environmental Aspects of Proposed Actions

10.1. For the purpose of achieving the object of the Act, the Minister, or the Department on behalf of the Minister, may, while a proposed action is being executed, or after a proposed action has been executed, review and assess all or any of the environmental aspects of the proposed action, including, in particular, the effectiveness of any safeguards or standards for the protection of the environment adopted or applied in respect of the proposed action and the accuracy of any forecasts of the environmental effects of the proposed action.

10.2. The Minister, or the Department on behalf of the Minister, shall inform the action Minister and the proponent of the results of any review and assessment of all or any of the environmental aspects of the proposed action under paragraph 10.1. and may make any comments, suggestions or recommendations concerning any safeguards or standards for the protection of the environment that may be able to be adopted or applied in respect of the proposed action or should be adopted or applied in respect of any future similar proposed actions.

Exemptions

11.1. A Minister, Department or an authority of Australia may request the Minister to exempt a proposed action, or a class of proposed actions, from all or any of the requirements of these procedures.

11.2. Subject to the requirement of paragraph 12.1. concerning communications with the States and with authorities of the States, the Minister, or the Department on behalf of the Minister, may consult with any Department or authority of Australia, any State or authority of a State, any local authority or any other person or body concerning whether a proposed action, or a class of proposed actions, should be exempted from all or any of the requirements of these procedures.

11.3.1. Subject to paragraph 11.3.2., the Minister shall, in determining whether to exempt a proposed action, or a class of proposed actions, from all or any of the requirements of these procedures, take into account—

- (a) whether the application to the proposed action, or the class of proposed actions, of the requirements of these procedures from which exemption is sought would—
 - (i) be prejudicial to national security;
 - (ii) be prejudicial to the interests of Australia;
 - (iii) adversely affect commercial or other confidences; or
 - (iv) be other wise contrary to the public interest; and
- (b) any views on a matter referred to in sub-paragraph 11.3.1.(a) expressed by the Minister, Department or authority of Australia making the request.

11.3.2. The Minister shall, in determining whether to exempt a proposed action, or a class of proposed actions, from all or any of the requirements of these procedures, have regard to the general principle that it is desirable in the national interest that the requirements of these procedures should, as far as reasonably possible, apply to all proposed actions.

11.4. Subject to these procedures, the Minister may, by writing under his hand, exempt a proposed action, or a class of proposed actions, from the requirements of these procedures or such of those requirements as are specified.

Environment Protection Administrative Procedures

11

11.5. Unless the Minister is satisfied that to do so would be contrary to the public interest, an exemption under paragraph 11.3.1., and a summary of the reasons for granting the exemption, shall be made public.

Miscellaneous

12.1. A communication under these procedures with a State or with an authority of a State on a matter of policy shall only be between the Prime Minister and the Premier of the State or a person for the time being acting for or on behalf of the Premier of the State.

APPENDIX 6

AGREEMENT BETWEEN THE COMMONWEALTH
AND STATE FOR CO-OPERATION IN
ENVIRONMENTAL ANALYSIS OF PROPOSALS

AGREEMENT ON GUIDELINES

FOR

COOPERATION IN ENVIRONMENTAL ANALYSIS OF PROPOSALS

BY THE

COMMONWEALTH MINISTER FOR ENVIRONMENT, HOUSING
AND COMMUNITY DEVELOPMENT

AND THE

WESTERN AUSTRALIAN MINISTER FOR CONSERVATION
AND THE ENVIRONMENT

17 MAY 1977

1. Following correspondence between the Prime Minister and the Premier of Western Australia, the Commonwealth Minister for Environment, Housing and Community Development and the Western Australian Minister for Conservation and the Environment have agreed on the following objectives and collaborative procedures for environmental analysis of proposals which involve both Commonwealth and State approvals, as a basis for the development of an agreement between Governments on this matter.

(A) OBJECTIVES

- (i) to co-ordinate environmental analysis of proposals which have been formulated and which require both Commonwealth and State approvals;
- (ii) to avoid duplication of effort by both Governments separately going over the same ground;
- (iii) to avoid duplication of effort by the proponent in satisfying the respective requirements of both Governments;
- (iv) to ensure that, when both Governments are involved, a single environmental analysis procedure is adopted;
- (v) to make environmental analysis at the earliest feasible stage to assist forward planning by reducing, and eliminating where practicable, uncertainty about environmental aspects;
- (vi) to maximise the efficiency with which available human resources are used and in particular to gain the benefit of expertise and local knowledge;
- (vii) to retain Commonwealth involvement in assessment of only those proposals that raise significant environmental concern and in this respect to clarify those instances when an EIS would be initiated by the Commonwealth but basically carried through by the State;
- (viii) to have purely local issues, including those initiated by the Commonwealth, dealt with by the State;
- (ix) to clarify the circumstances in which the respective powers and resources of the Commonwealth and the State should be sought or offered by Governments to facilitate any particular environmental analysis; and
- (x) to examine, on completion of negotiations between the Commonwealth and the State, whether it would be possible to introduce complementary environmental legislation in both Commonwealth and State spheres.

(B) COLLABORATIVE PROCEDURES

- (i) when a proposal has been formulated which could have a significant impact on the environment and which will require approvals from both Governments then the Government in possession of the information will notify the other;
- (ii) consultations to be held to determine:
 - (a) whether Commonwealth involvement is required in environmental analysis; and if so
 - (b) whether an EIS is needed, (bearing in mind that this is a relatively rare need, and, for the Commonwealth legislation, requires Ministerial decision);
- (iii) where there are proponents of industrial projects and it has been determined that Commonwealth involvement is required, the proponent will be advised to liaise with the State and the State is to retain the initiative in liaison arrangements;
- (iv) where the Commonwealth requires an EIS, to avoid duplication of effort by both Governments separately going over the same ground:
 - (a) it will consult with the State on the matters to be dealt with, so that the proponent is required to produce to the State, documentation to meet the needs of both Governments;
 - (b) arrangements will be negotiated between the two Governments for full exchange of information on matters relevant to the environmental analysis, including any public written comments received on both the Draft and Final EIS;
 - (c) arrangements will be negotiated between the two Governments for co-operation in the assessment of the EIS;
 - (d) any major differences that may arise at officer level will be referred to the respective Ministers without publicity, for resolution by them wherever practicable;
 - (e) in the case of industrial projects referred to in (B)(iii) it is the intention that an EIS will, in fact, be an ERMP as specified by the State; and

(f) in respect of the need for a public enquiry on environmental issues, the two Governments will confer, and in the event of a decision being taken to proceed with a public enquiry, consultations will take place on:


- (1) terms of reference;
- (2) appointment of hearing commissioner(s);
and
- (3) limits on time and budget of enquiries
and apportionment of cost.

2. A proposal referred to in this Agreement, shall not be taken to have been formulated until such time as it has been adequately and comprehensively put forward to the Commonwealth or State Government in such manner or form as would in the normal course be worthy of serious consideration by either Government.

3. The Ministers further agreed that the above Objectives and Collaborative Procedures will be used by officials as a basis for developing more detailed working arrangements for co-operation in environmental analysis of proposals pending the development of a Government-to-Government level agreement.



G.C. MacKinnon
MINISTER FOR CONSERVATION
AND THE ENVIRONMENT



K. Newman
MINISTER FOR ENVIRONMENT, HOUSING
AND COMMUNITY DEVELOPMENT

17 May, 1977

APPENDIX 7

ARRANGEMENTS CONCERNING CO-OPERATION IN
THE ENVIRONMENTAL ASSESSMENT OF PROPOSALS

ARRANGEMENTS CONCERNING COOPERATION IN
THE ENVIRONMENTAL ASSESSMENT OF PROPOSALS

BETWEEN THE

COMMONWEALTH DEPARTMENT OF ENVIRONMENT, HOUSING
AND COMMUNITY DEVELOPMENT

AND THE

WESTERN AUSTRALIAN DEPARTMENT OF CONSERVATION
AND ENVIRONMENT

15 JULY 1977

ARRANGEMENTS BETWEEN THE WESTERN AUSTRALIAN DEPARTMENT OF CONSERVATION AND ENVIRONMENT AND THE COMMONWEALTH DEPARTMENT OF ENVIRONMENT, HOUSING AND COMMUNITY DEVELOPMENT CONCERNING CO-OPERATION IN THE ENVIRONMENTAL ASSESSMENT OF PROPOSALS

1. These arrangements have been agreed following correspondence between the Prime Minister and the Premier of Western Australia and subsequent agreement of 15 May, 1977, between the Commonwealth Minister for Environment, Housing and Community Development and the Western Australian Minister for Conservation and the Environment and discussions at officer level between the Commonwealth Department of Environment, Housing and Community Development and the Western Australian Department of Conservation and Environment.
2. It is acknowledged that the arrangements are without prejudice to the legal or constitutional rights or obligations of either Government, or of the respective Ministers.
3. OBJECTIVES
 - 3.1 to co-ordinate environmental analysis of proposals which have been formulated and which require both Commonwealth and State approvals;
 - 3.2 to avoid duplication of effort by both Governments separately going over the same ground;
 - 3.3 to avoid duplication of effort by the proponent in satisfying the respective requirements of both governments
 - 3.4 to ensure that, when both Governments are involved, a single environmental analysis procedure is adopted;
 - 3.5 to make environmental analysis at the earliest feasible stage to assist forward planning by reducing, and eliminating where practicable, uncertainty about environmental aspects;
 - 3.6 to maximise the efficiency with which available human resources are used and in particular to gain the benefit of expertise and local knowledge;
 - 3.7 to retain Commonwealth involvement in assessment of only those proposals that raise significant environmental concern and in this respect to clarify those instances when an E.I.S. would be initiated by the Commonwealth but basically carried through by the State;
 - 3.8 to have purely local issues, including those initiated by the Commonwealth, dealt with by the State;
 - 3.9 to clarify the circumstances in which the respective powers and resources of the Commonwealth and the State should be sought or offered by Governments to facilitate any particular environmental analysis

4. CLARIFICATION OF RESPONSIBILITIES

It is agreed that in the matter of :-

4.1 Proposed Commonwealth works in the State

Environmentally significant proposals for Commonwealth works in the State (e.g. a defence facility) will continue to be examined under the Commonwealth's Environment Protection (Impact of Proposals) Act, it being:-

4.1.1 noted that the Administrative Procedures of the Act allow for consultation with the State and that such consultations will normally take place;

4.1.2 agreed that in relation to these proposals where the issue involved would normally require environmental assessment by the Western Australian Government, the assessment procedures of both Governments will be closely co-ordinated and, to the extent practicable, all relevant environmental issues will be taken into account in the assessment prepared under the Commonwealth procedures.

4.2 Proposals of third parties relating to matters within the exclusive powers of the Commonwealth and to be carried out in the State

Environmentally significant proposals to be implemented by third parties relating to matters within the exclusive powers of the Commonwealth and which are not subject to the approval of the State (e.g. approvals for international airline operations into or over the State) will be examined under the Commonwealth's Environment Protection (Impact of Proposals) Act, subject to 4.1.1 and 4.1.2.

4.3 Proposals relating to matters which are within the exclusive powers of the State of Western Australia

Where proposals requiring the approval of the Western Australian Government may significantly affect the environmental character of Commonwealth facilities in Western Australia (e.g. new proposals for developments affecting Commonwealth installations) Western Australian assessment procedures will be used, and the Western Australian Department of Conservation and Environment will consult with the Commonwealth Department of Environment, Housing and Community Development on the effects of such proposals.

4.4 Environmentally significant proposals involving the approval of both Governments

The procedures to be adopted in relation to particular categories of environmentally significant proposals involving approvals of both Governments will be those from time to time determined during consultation between the two Governments. Following consultation it has been initially agreed between respective departments that:

- 4.4.1 in relation to proposals involving export approval, the procedures and principles to be adopted will be as detailed in paragraphs 5.2 and 6 of these Arrangements;
 - 4.4.2 proposals involving foreign investment approval by the Commonwealth and consequent State approvals will be dealt with under State procedures in most cases. However, in some instances, where joint assessment may be appropriate, the procedures and principles detailed in paragraphs 5.2 and 6 will be used; and
 - 4.4.3 proposals of the State requiring the type of Commonwealth approvals such as construction on or across Commonwealth land will be subject to the Commonwealth Environment Protection (Impact of Proposals) Act.
- 4.5 Proposals relating to matters to be carried out by the State with funds provided solely or in part by the Commonwealth

4.5.1 GENERAL FUNDS

The Commonwealth Environment Protection (Impact of Proposals) Act does not apply to projects financed from General Revenue Grants to the States or to projects financed solely out of funds, the borrowing of which has been approved by Loan Council, or to projects partly financed from a Commonwealth programme where those funds have not been directed to a particular project;

4.5.2 PROGRAMME FUNDS

The initiation or renewal of environmentally significant Commonwealth funding programmes for specific types of projects in the States (e.g. Softwoods Forestry Agreement or Hospitals Development Programme Grant) will be subject to the Commonwealth's Environment Protection (Impact of Proposals) Act, and to consultation with the Western Australian Government as provided for in the Administrative Procedures under the Commonwealth's Environment Protection (Impact of Proposals) Act.

4.5.3 PROJECT FUNDS

- 4.5.3.1 Environmentally significant "one-off" proposals (i.e. proposals not part of a wider legislative or non-legislative programme such as in 4.5.2) to be developed by the State, but to which Commonwealth funds are specifically allocated and which could comprise part or whole of the funds involved, will be assessed either under Western Australian procedures or joint assessment procedures (see paragraph 5.2) as agreed appropriate to the case;

4.5.3.2 Environmentally significant projects under approved Commonwealth programmes which are wholly or in part directly financed by the Commonwealth and are being implemented by non-governmental authorities or governmental authorities other than Commonwealth, will normally be assessed under Western Australian procedures. The arrangements to be followed will be determined on a programme-by-programme basis by consultation between Commonwealth and State officials.

5. ASSESSMENT PROCEDURES

5.1 Commonwealth Assessment Procedures

5.1.1 Where a proposal is to be subject only to the Commonwealth Environment Protection Administrative Procedures, the Commonwealth will normally consult with the State, as provided for in those Procedures.

5.1.2 To facilitate the consideration of such proposals, the Minister for Environment, Housing and Community Development will make arrangements :-

5.1.2.1 to encourage Commonwealth departments and authorities to consult with the Western Australian Department of Conservation and Environment on environmental aspects of the formulation of their proposed actions;

5.1.2.2 for information required under paragraph 2 of the Commonwealth Environment Protection Administrative Procedures to be normally provided to the Western Australian Department of Conservation and Environment at the same time as it is provided to the Commonwealth Department of Environment, Housing and Community Development.

5.1.3 Advice received from the Western Australian Department of Conservation and Environment will be taken into account in determining whether or not an impact statement is required under the Commonwealth Environment Protection Administrative Procedures.

5.2 Joint Assessment Procedures

5.2.1 When a proposal has been formulated which could have a significant impact on the environment and which will require approvals from both Governments then the Government in possession of the information will notify the other, at the stage of formulation or earlier if practicable.

5.2.2 As appropriate this notification will be on a confidential basis.

5.2.3 A proposal referred to in these arrangements shall not be taken to have been formulated until such time as it has been adequately and comprehensively put forward

to the Commonwealth or State Government in such manner or form as would in the normal course be worthy of serious consideration by either Government.

5.2.4 It is agreed that where a proposal which may have environmentally significant effects has been formulated and there is doubt as to the procedures which are to apply under these arrangements, the two Departments will consult to determine the procedures to be followed.

5.2.5 In a situation where a development is to be undertaken subject to a Western Australian Development Agreement Act and where this development is likely to involve both a significant environmental effect and the Commonwealth Government, the Western Australian Department of Conservation and Environment will seek to ensure that:-

5.2.5.1 subject to paragraphs 5.2.1 to 5.2.3, the Commonwealth will be advised and assistance sought, where the Department considers it appropriate, in any feasibility studies relating to the possible environmental consequences of the development; and

5.2.5.2 the proponents' information is supplied to the Commonwealth in accordance with paragraphs 2.1 and 2.2 of the Commonwealth's Environment Protection Administrative Procedures.

5.2.6 In the case of industrial proposals in which the Commonwealth is to be involved in the environmental assessment, it is agreed that the proponent will be advised to liaise with the State and that the State will retain the initiative in liaison arrangements. In this respect, however :-

5.2.6.1 it is recognised that the Commonwealth will deal directly with the proponent where it is required to do so by the Environment Protection Administrative Procedures and where, out of courtesy, it is required to respond to the proponent; and

5.2.6.2 it is agreed that both Departments shall promptly normally supply to the other, all relevant information exchanged with the proponent.

5.2.7 Where both Departments need to participate in the environmental assessment of a proposal:-

(a) environment will be regarded as including all aspects of the surroundings of man whether affecting him as an individual or in his social groupings;

(b) the extent of the environmental assessment that will be required will first be determined

(i.e. whether it should be subject only to preliminary examination, or to the preparation of a Draft * EIS and/or ERMP).

- (c) where a draft EIS/ERMP is required the matters to be dealt with in that document will be determined and agreed upon;
- (d) any preliminary version of the Draft EIS/ERMP will be made available on a confidential basis to both the Western Australian Department of Conservation and Environment and the Department of Environment, Housing and Community Development simultaneously;
- (e) the Draft E.I.S./ERMP will normally be subject to full public review unless specifically excluded therefrom by direction of the appropriate Minister;
- (f) subject to (e), advertising of the Draft EIS/ERMP for public comment will be co-ordinated and where-ever possible undertaken simultaneously in an agreed format, an agreed model advertisement is attached at Appendix A;
- (g) there will be full exchange of written comments received on both the Draft and the Final ** EIS/ERMP and of any other information on matters relevant to the environmental analysis;
- (h) the arrangements, including timing, for the assessment of a particular Draft EIS/ERMP be agreed in each case;
- (i) though it is acknowledged that recommendations for public inquiries on matters subject to joint assessment will be relatively uncommon, should such an inquiry be contemplated, neither Department will initiate a recommendation to its Minister on such a matter without prior consultation with the other Department;
- (j) If it is decided that an inquiry under the Environment Protection (Impact of Proposals) Act is required by the Commonwealth or an inquiry on environmental issues (in which an involvement by the Commonwealth is agreed under paragraph 4 of these Arrangements) is required by the State, the Departments will consult, if required, on advice to Ministers including:-

* Draft EIS as defined in Section 1.1 of the Commonwealth Environment Protection Administrative Procedures

** Final E.I.S. as defined in Section 1.1 of the Commonwealth Environment Protection Administrative Procedures

- (1) terms of reference;
 - (2) number and selection of Commissioner(s);
 - (3) timetable;
 - (4) budget including apportionment of costs;
 - (5) reporting arrangements; and
 - (6) any submissions they may respectively make to such an inquiry.
- (k) the draft EIS/ERMP will be revised by the proponent in the light of public comments and any report of an inquiry on the proposal. The Final EIS/ERMP will normally be made available to the public;
- (l) assessment of environmental analyses and reports of inquiries will be undertaken by the respective Departments as appropriate. These assessments will be exchanged;
- (m) where differences arise at officer level on the application of the above procedures, the matter will be referred to Ministers for resolution;
- (n) it is recognised that the advice proffered to Ministers concerning the environmental consequences or scope of, or desirable controls on, a particular proposal may not always coincide. It is expected if such circumstances arise that Ministers would consult directly.

6. WESTERN AUSTRALIAN ENVIRONMENTAL STANDARDS

It is agreed that Commonwealth Departments and Authorities should have regard to, and wherever possible and appropriate, observe W.A. standards relating to the environment in developing and assessing proposals.

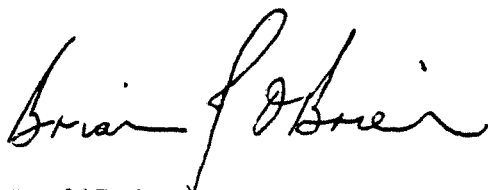
7. FURTHER DEVELOPMENT

- 7.1 It is agreed that these arrangements do not apply to proposals concerning the Territorial Sea. Environmental assessment procedures in respect of such proposals will be determined as soon as practicable having regard to the objectives set out in paragraph 3 above.
- 7.2 It is agreed that, in the course of developing arrangements with other Commonwealth Departments and Authorities to facilitate the observance of environmental assessment procedures, the Department of Environment, Housing and Community Development will consult the Western Australian Department of Conservation and Environment with a view to :-
- 7.2.1 delineating what classes of matters are not environmentally significant and therefore fall outside the ambit of both Governments' environmental assessment requirements; and
 - 7.2.2 determining responsibilities for the environmental assessment of projects of the various Commonwealth funding programmes (see paragraph 4.5) which involve

responsibilities of the Western Australian Government.

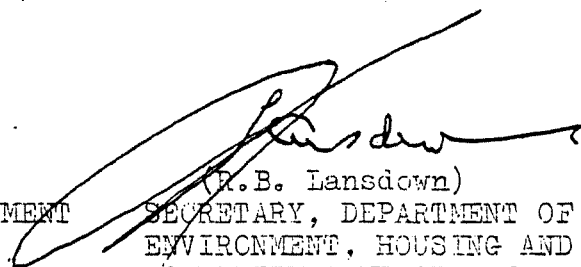
8. It is agreed that these arrangements may be jointly amended or supplemented from time to time.

The arrangements detailed herein are agreed to by the undersigned and effective as of 15 July 1977



(B.J. O'Brien)

DIRECTOR OF CONSERVATION AND ENVIRONMENT



(R.B. Lansdown)

SECRETARY, DEPARTMENT OF ENVIRONMENT, HOUSING AND COMMUNITY DEVELOPMENT

MODEL OF NEWSPAPER PUBLIC NOTICE FOR REVIEW OF A DRAFT ENVIRONMENTAL IMPACT STATEMENT/ENVIRONMENTAL REVIEW AND MANAGEMENT PROGRAMME

PUBLIC REVIEW OF DRAFT
ENVIRONMENTAL IMPACT STATEMENT/
ENVIRONMENTAL REVIEW AND MANAGEMENT PROGRAMME

PROPOSED RAINBOW XITE MINING PROJECT
WESTERN AUSTRALIA

The Rainbow Xite Mining Company proposes to mine and process sulphide ore from a deposit located at Golden Ridge, approximately 20 km east of Kalgoorlie, Western Australia.

An environmental analysis in the form of a Draft Environment Impact Statement (EIS)/Environmental Review and Management Programme (ERMP) has been prepared in accordance with the provisions of the Commonwealth Environment Protection (Impact of Proposals) Act 1974 and Western Australian requirements.

Copies of the documents are available for examination at :-

DEPARTMENT OF CONSERVATION AND ENVIRONMENT
Reading Room, Ground Floor,
1 Mount Street,
Perth, Western Australia.

STATE REFERENCE LIBRARY
James Street,
Perth, Western Australia.

BOULDER-KALGOORLIE PUBLIC LIBRARY
Roberts Street,
Kalgoorlie, Western Australia.

DEPARTMENT OF ENVIRONMENT, HOUSING & COMMUNITY DEVELOPMENT,
OFFICE OF ENVIRONMENT PROTECTION
John Curtin House, 2nd Floor,
Brisbane Avenue,
Barton, Australian Capital Territory.

Copies of the draft statement can be purchased for \$20 each from :-

RAINBOW XITE MINING COMPANY,
2000 ST GEORGE'S TCE,
PERTH, WESTERN AUSTRALIA 6000

Interested persons and bodies are invited to submit written comments on the proposal by 1 August, 1977, to :-

DEPARTMENT OF CONSERVATION AND ENVIRONMENT,
1 MOUNT STREET,
PERTH, WESTERN AUSTRALIA 6000.

or to :-

DEPT OF ENVIRONMENT, HOUSING & COMMUNITY DEVELOPMENT,
P.O. Box 1890,
CANNBERRA CITY, A.C.T. 2601

APPENDIX 8

EXAMPLE OF FIRST REFERRAL

OR NOTICE OF INTENT

Appendix 8

Notice of Intent

Sample subject headings

(Not meant to be absolute nor exhaustive)

1. General Information
 - 1.1 Name and address of Proponent.

 2. Proposal
 - 2.1 Title of Project.
 - 2.2 Location of Project (briefly describe site options).
 - 2.3 Status of Project (stage of planning).
 - 2.4 Description of Project :
 - a. type and form
 - b. purpose and need.

 3. Environment
 - 3.1 Existing environmental conditions
 - a. Brief description of project site,
 - b. Brief description of surrounding region.
 - 3.2 Potential Impact of Project on Environment (highlight potential major issues).
 - 3.2.1 On Physical and biological environment, e.g.
 - a. development impact
 - b. waste disposal
 - c. potential pollution.
 - 3.2.2 On Human environment, e.g.
 - a. social factors
 - b. aesthetics
 - c. human health.
 - 3.2.3 Potentially beneficial Impacts.

 4. Summary and conclusions.
-

This document should not be longer than 10 pages.

APPENDIX 9

MODEL ADVERTISEMENT FOR ERMP PUBLIC REVIEW



**ENVIRONMENTAL
PROTECTION
AUTHORITY**

**ENVIRONMENTAL REVIEW AND
MANAGEMENT PROGRAMME**
Proposed Moundite Mining Project
Public Comments Invited

The Moundite Joint Venture propose mining and processing high grade Kryptonite from a deposit located to the west of the Barracks Arch.

An environmental analysis in the form of an Environmental Review and Management Programme (ERMP) has been prepared in accordance with Western Australian Government procedures.

Copies are available for Examination or Loan at:

**Department of Conservation
and Environment**
Reading Room, Ground Floor,
1 Mount Street,
PERTH, Western Australia.

State Reference Library
James Street,
PERTH, Western Australia.

City of Highrise Library
133 Northbound Avenue,
Highrise, Western Australia.

Environment Centre
537 Wellington Street,
PERTH, Western Australia.

Copies of Initial ERMP can be purchased from the following at a cost of \$10.00: Moundite Publications, 20 Horsfall Road, Highrise.

Copies of appendices can also be obtained from the above at a cost of \$5.00 each.

Interested persons should submit comments by 20th August, 1982.

to:
Director,
Department of Conservation and Environment,
1 Mount Street,
PERTH, Western Australia.