Environment Protection (Impact of Proposals) Administrative Procedures¹
(Amendment)


Dated 02 May 1995.

P. H. BENNETT
Administrator

By His Excellency’s Command,

Minister for Social Security for the
Minister for the Environment, Sport and Territories

1. Variation of administrative procedures
1.1 The Administrative Procedures approved under subsection 6 (1) of the Environment Protection (Impact of Proposals) Act 1974 by order made on 29 May 1987² are varied as set out in this Order.

[NOTE: This Order commences on gazettal: see Environment Protection (Impact of Proposals) Act 1974, s. 7.]
2. Paragraph 1.1 (Interpretation)

2.1 Definition of “action Minister”:
Omit the definition, substitute:

“‘action Minister’, in relation to a Commonwealth action, means the Minister who is, or will be, responsible for the action (or a person acting on the Minister’s behalf) and, if appropriate, includes the Minister for the time being administering the Act;”.

2.2 Definition of “proposed action”:
Omit the definition, substitute:

“‘proposed action’ means a Commonwealth action in respect of which a proponent has been designated under paragraph 1.2.1;”.

2.3 Insert the following definitions:

“‘Commonwealth action’ means an action of a kind referred to in any of paragraphs 5 (1) (a) to (e) of the Act that is proposed to be taken by, or on behalf of, the Commonwealth or an authority of Australia, either alone or in association with any other government, authority, body or person;

‘environmentally significant action’ means a Commonwealth action that will, or is likely to:
(a) affect the environment to a significant extent, or to result in such an effect; or
(b) have the effect of permitting or causing an action by another person that:
   (i) would otherwise be unlikely to occur; and
   (ii) will, or is likely to, affect the environment to a significant extent, or to result in such an effect; or
(c) have the effect of promoting or facilitating an action by another person that will, or is likely to, affect the environment to a significant extent, or to result in such an effect;

‘relevant authority’, in relation to a Commonwealth action, means the authority of Australia by whom, or on whose behalf, the action is, or is to be, undertaken;”.

2.4 Definition of “responsible authority”:
Omit the definition.

3. New paragraph 1.1A

3.1 After paragraph 1.1, insert:
Decision as to whether action is a proposed action

“1.1A The action Minister in relation to a Commonwealth action or, if there is a relevant authority in relation to that action, that authority, must consider whether an action that is proposed to be taken is an action for which a proponent should be designated under paragraph 1.2.1.”

4. Paragraphs 1.2.1, 1.2.2, 1.2.3 and 1.2.4 (Proponents of proposed actions)
4.1 Omit the paragraphs, substitute:

Proponent of proposed action

“1.2.1 If the action Minister in respect of a Commonwealth action (or, if there is a relevant authority in relation to that action, that authority) is satisfied that:
(a) the action is an environmentally significant action; or
(b) for other reasons, it is desirable to designate a proponent in order to achieve the object of the Act;
then, except as otherwise provided by these procedures, as early as practicable before the action occurs, the action Minister (or relevant authority) must:
(c) designate an appropriate person or Department as the proponent of the proposed action; and
(d) notify the Department, in writing, of the proposed action and the name and address of the proponent.

“1.2.2 Unless, under subparagraph 1.2.1 (b), it is considered desirable to designate a proponent, paragraph 1.2.1 does not apply to a Commonwealth action (‘the later action’) if:
(a) a proponent has been designated in relation to another Commonwealth action (‘the earlier proposed action’), whether completed or not, and the action Minister (or relevant authority) considers that any relevant environmental effect of the later action:
(i) has been fully taken into account in giving effect to these procedures in relation to the earlier proposed action; or
(ii) if, under paragraph 1A.1.2, the earlier proposed action has been permitted to be taken, or commenced, before these procedures have been complied with – will be fully taken into account in giving effect to these procedures in relation to the earlier proposed action; or
(b) a proponent has been designated in relation to another Commonwealth action (‘the earlier proposed action’), in relation to which these procedures have been complied with, and the action Minister (or relevant authority) considers that any relevant environmental effect of the later action:

(i) is an extension of the environmental effect of the earlier proposed action; and

(ii) is not of a nature significantly different from that of the effect of the earlier proposed action; and

(iii) does not significantly add to the effect of the earlier proposed action.

“1.2.3 In paragraph 1.2.2, ‘relevant environmental effect’ means a consequence, or likely consequence, of the kind described in paragraph (a), (b) or (c) of the definition of ‘environmentally significant action’ in paragraph 1.1.

“1.2.4 When an authority of Australia that will be responsible for a Commonwealth action must designate a proponent under paragraph 1.2.1, it may designate an appropriate person (other than itself) or Department as the proponent of the action, but, if it does not, the authority:

(a) is taken to designate itself to be the proponent; and

(b) must notify the Department, in writing, of the proposed action and the name and address of the authority.”.

5. Paragraph 1.3 (Proponent to ensure compliance with procedures)

5.1 Omit “Before a proposed action is completed, the proponent shall do all things necessary to ensure that these procedures are”, substitute “The proponent of a proposed action must do all things necessary to enable these procedures to be”.

6. New Part

6.1 After paragraph 1.3, insert:

“PERMISSION TO PERFORM ONGOING OPERATIONS OF A PROJECT BEFORE COMPLYING WITH PROCEDURES

Permission to perform ongoing operations of a project

“1A.1.1 An action Minister, or a relevant authority, as the case may be, may request the Minister to permit, in relation to the ongoing operations of a project (whether the project is a Commonwealth action,
or not), a proposed action to be taken before these procedures have been complied with in relation to the proposed action.

“1A.1.2  The Minister’s permission may be granted:
(a) subject to paragraphs 1A.1.3 and 1A.1.4; and
(b) subject to a condition that the permitted proposed action, if not completed, must not be continued after a specified time if these procedures are not complied with in relation to the proposed action by a specified time.

“1A.1.3  The Minister may grant the permission if he or she considers that it is in the public interest to do so.

“1A.1.4  Before granting the permission, the Minister must take into account any advice given by the action Minister, or relevant Authority, as the case may be.

“1A.1.5  If permission is granted under paragraph 1A.1.2, these procedures continue to apply to the permitted proposed action, as far as applicable, despite the proposed action having been commenced or taken in accordance with the permission.”.

7.  Paragraph 3.1.2 (Requirement for environmental impact statement or public environment report)
7.1  Omit:

“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 —”;

substitute:

“3.1.2  The Department, or the Minister, as the case may be, in making a determination under paragraph 3.1.1, must take into account at least:”

7.2  Subparagraph 3.1.2 (b):
Omit the subparagraph, substitute:

“(b) any environmental assessment action taken, or being taken, in relation to the proposed action, that the Minister or the Department, as the case may be, considers relevant action, including action of that kind by a State or Territory or an authority of a State or Territory.”.
8. Paragraph 6.2.4 (Public environmental report or draft environmental impact statement to be made available for public comment)

8.1 Omit “responsible authority”, substitute “relevant authority”.

8.2 Omit “responsible authority,”, substitute “relevant authority,”.

9. Paragraph 7.1 (Consultation concerning inquiries)

9.1 Omit “responsible authority”, substitute “relevant authority”.

10. Paragraph 7.2 (Inquiries)

10.1 Subparagraph 7.2 (b):
Omit “responsible authority”, substitute “relevant authority”.

11. Paragraph 11.1 (Requests for exemption)

11.1 Omit the paragraph, substitute:

“A Minister, Department or an authority of Australia may request the Minister to exempt a Commonwealth action, or a class of Commonwealth actions:

(a) from all or any of the requirements of these procedures; or

(b) from all or any of the requirements of these procedures for a specified period; or

(c) from all or any of the requirements of these procedures until the occurrence of a specified event.”.

12. Paragraph 11.2 (Consultation with Department, etc., concerning exemptions)

12.1 Omit “proposed” (twice occurring), substitute “Commonwealth”.

13. Paragraph 11.3.1 (Matters to be taken into account)

13.1 Omit “proposed” (wherever occurring), substitute “Commonwealth”.

14. Paragraph 11.3.2 (Matters to be taken into account)

14.1 Omit “proposed” (wherever occurring), substitute “Commonwealth”.
15. **Paragraph 11.4 (Exemptions)**

15.1 Omit the paragraph, substitute:

**Exemptions**

“11.4 If, following a request under paragraph 11.1 and having regard to the matters set out in paragraphs 11.3.1 and 11.3.2, the Minister thinks it appropriate to do so, he or she may exempt, in writing, a Commonwealth action, or a class of Commonwealth actions:

(a) from all or any of the requirements of these procedures; or
(b) from all or any of the requirements of these procedures for a specified period; or
(c) from all or any of the requirements of these procedures until the occurrence of a specified event.”.

---

**NOTES**


2. Notified in the *Commonwealth of Australia Gazette* on commenced on 1 June 1987. 1987, and