

Environment laws in the NT

Overview of presentation

- Why is NT different?
- Legislation and assessment processes
- Access to Justice project – EDO NT
- Conclusions

Northern Territory – quick facts

- Population of approx. 210,000
- Land area approx. 17 % of total Australian land mass
- Estimated 26.8 % indigenous population
- Mining is major economic driver
- Expanding population pressures

Does this mean that laws shouldn't apply here in the same way as other jurisdictions?

Summary of legislation

- Planning Act and regulations
- Heritage Act
- Mining Act
- Waste Management and Pollution Control Act
- Territory Parks and Wildlife Conservation Act
- Environmental Assessment Act

Environment Assessment Act

s4. the object of this Act is to ensure, to the greatest extent practicable, that each matter affecting the environment which is, in the opinion of the NT EPA, a matter which could reasonably be considered to be capable of having a significant effect on the environment, is fully examined and taken into account in, and in relation to:

- (a) the formulation of proposals;
- (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 Commonwealth, the States and other Territories);
- (d) the making of, or the participation in the making of, decisions and recommendations; and

Planning Act

(2) The objects are to be achieved by:

- (a) strategic planning of land use and development and for the sustainable use of resources;
- (b) strategic planning of transport corridors and other public infrastructure;
- (c) effective controls and guidelines for the appropriate use of land, having regard to its capabilities and limitations;
- (d) control of development to provide protection of the natural environment, including by sustainable use of land and water resources;
- (e) minimising adverse impacts of development on existing amenity and, wherever possible, ensuring that amenity is enhanced as a result of development;
- (f) ensuring, as far as possible, that planning reflects the wishes and needs of the community through appropriate public consultation and

Waste Management and Pollution Control Act

The objectives of this Act are:

- (a) to protect, and where practicable to restore and enhance the quality of, the Territory environment by:
 - (i) preventing pollution;
 - (ii) reducing the likelihood of pollution occurring;
 - (iii) effectively responding to pollution;
 - (iv) avoiding and reducing the generation of waste;
 - (v) increasing the re-use and re-cycling of waste; and
 - (vi) effectively managing waste disposal;
- (b) to encourage ecologically sustainable development;
and

Waste Management Act (cont.)

ecologically sustainable development means development that improves the total quality of life both in the present and in the future in a way that maintains the ecological processes on which life depends.

Summary of EPA Report

Recommendations

- Adopt national definition of ESD for the NT
- Principles of ESD be adopted and integrated into decision making processes and inform subsequent legislation and policy
- Mechanisms be developed by the NT government for the application of ESD in the NT
- A public statement of ESD be adopted and promoted by the NT government.
- Need for legislative implementation to achieve ESD

Assessment processes

- Access to justice concerns
 - Very limited merits review
 - Very limited public participation – limited standing provisions for judicial review
- Transparency is hindered by Ministerial powers and role within the assessment process
- No specific Native Vegetation protection legislation

Vegetation clearing and process for assessment

- Consultation process
- What decision makers do with submissions?
- Forms part of planning regime and other various regimes
- No uniform approach
- Native Vegetation Management Bill prepared in 2011 – no changes yet

Access to justice

- EDO NT funded project from the NT Law Society Public Purpose Trust
- Limited judicial review and merits appeal rights
- Go to www.edont.org.au to access factsheets
- Tool kits and case studies to be produced

Conclusions

Is it time to reform the laws surrounding environmental management?

- What we can learn and take from other jurisdictions
- Greater involvement of the legal community in this area of law reform.