



Annual Report 2010



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About Us

Chair's report

I am very pleased to provide the 2009/2010 Annual report for the Environment Protection Authority. As we enter our third year, the work of the EPA goes from strength to strength. We have moved from an establishment phase to that of an operational, highly productive contributing Authority, with important pieces of work now in the public domain.

2010 has seen substantial changes to the function and operation of the EPA, brought about by the passing of an amendment act in April 2010 giving additional functions and powers to the Authority. It is most pleasing the amendments received unanimous support by the Northern Territory parliament.

The EPA's role is to initiate and contribute to the strategic reform necessary for best practice ecologically sustainable development. To do that, we provide strategic advice to Government, business and the community on a range of issues, reflecting emerging and critical concerns.

This year, the EPA has provided advice to government on *Ecologically Sustainable Development (ESD) in the Northern Territory and on Improving Environmental Assessment in the Northern Territory* – important, high level work which underpins many of the reforms necessary for a strong, contemporary and sustainable Territory.

The EPA provides advice, but of course there is no requirement for that advice to be accepted. Therein, we look to Government at all levels, to the agencies responsible for the application of legislation, policies and plans, and to business, industry and the community to embrace the principles of ecologically sustainable development for the prosperity of all Territorians. Where there

are issues with how this is done, the EPA can and will delve deeper, with the EPA's new function to assess the way in which agencies respond to these incidents, and review the procedures and practices which enable such incidents to occur.

There have been a number of big issues in the past year, and the coming year will be busy. 2010 has seen an unprecedented level of public concern about pollution incidents occurring in the Territory, ranging from closed beaches in Darwin Harbour to waste dumping into Melville Bay at Nhulunbuy. Elsewhere, weeds such as Mexican Poppy are spreading through the Alice Springs district, uranium mining and radioactive waste is focusing our minds, and virtually everybody across the Territory worries about environmentally appropriate planning decisions. We do not live in a 'pristine' environment, and unless we actively plan to develop the Territory in a way that meets the needs of future generations as well as our own, we run the risk of long-term failure through passivity.

After a productive 12 months, the EPA now looks forward to its new monitoring and reporting functions, increased resourcing for these new functions, and the adoption of the principles of ESD into policy and practice.

Dr Andrew Tupper



Our Vision

A prosperous Northern Territory, where the natural, cultural and social environments are cared for, valued and respected.

Our Mission

To work in partnership to create a sustainable Northern Territory.

Our Strategic objectives

Ensure the distinctiveness of the Northern Territory environment is maintained by promoting best practice ecologically sustainable development;

Undertake headline EPA projects which uncover and address critical environmental challenges and monitor and review those challenges;

Work with government, industry and the community to develop approaches, practices and mechanisms to achieve ecologically sustainable development in the Northern Territory;

Promote innovative and adaptive sustainable development and triple bottom line accountability at all levels including capacity building within government and industry.

Foster the principles of ecologically sustainable development:

- Integration
- application of the precautionary principle
- inter and intra-generational equity
- conservation of biological diversity and ecological integrity
- improved valuation, pricing and incentive mechanisms and 'polluter pays'
- public participation

Promote policy and regulatory clarity, avoiding unnecessary duplication and providing greater certainty.

Our guiding principles

Provide independent and transparent advice.

Demonstrate accountability.

Enable meaningful participation and engagement across cultures and regions.

Promote integration across government agencies.

Operate efficiently.



Who we are

Our purpose and role

The Environment Protection Authority was established by the *Environment Protection Authority Act* in October 2007 as an independent body to lead the adoption of innovative and contemporary frameworks for sustainable development in the Northern Territory.

In April 2010, amendments to the *Act* were passed to strengthen the function and powers of the EPA.

Unlike environmental protection bodies in other jurisdictions, the Northern Territory EPA is not a regulatory or compliance body – we don't issue licences or undertake environmental impact assessments. Instead, by undertaking projects which address the systemic reform required to update Northern

Territory law and procedures, the EPA is able to provide high level, strategic advice to government, agencies, industry and the community to develop a more sustainable future for all Territorians.

In the NT, the regulatory role is performed by the relevant government agency. Part of the EPA's function is to maintain a vigilant and on-going monitoring role as ombudsman and 'environmental watchdog' to review how effectively government is delivering these services.

As well as identifying its own strategic projects and matters for inquiry, the EPA can also respond to specific and immediate environmental concerns by accepting incident referrals from the community, business and government and non-government organisations.

Issues that are referred to the EPA are assessed further where they:

- serve to address wider systemic and emerging issues relating to sustainable development
- enhance decision-making to support environmental protection;
- relate to the broad public interest.

Our overarching purpose is to facilitate debate and provide policy-enhancement by addressing systemic reform, investigating existing policy and procedures and responding to community concerns and emerging issues.

We believe that best practice sustainability is a complex process which requires extensive scientific, technical, political and industry collaboration. To achieve this, the EPA contributes high level strategic advice, working with relevant stakeholders, to integrate and implement new sustainability frameworks and recommendations into NT policy, practice and legislation.

Our functions and powers

The Authority's function is to advise the Minister, business and the community about ecologically sustainable development in the Territory.

This includes proactively reviewing environmental legislation and policies; accepting requests for advice from the Minister or the public; conducting strategic inquiries in relation to the adequacy of systems in place to respond to environmental incidents; reviewing and assessing the uptake of recommendations made under the Administrative Procedures of the *Environmental Assessment Act*; and reviewing government agency responses in dealing with an environmental incident.

EPA Functions under the Act

Ecologically sustainable development

Section 5 of the *EPA Act* describes the overall function of the EPA. That is, to advise the Minister, businesses and the community about ecologically sustainable development in the Territory.

Review and Assess Environmental Impact Assessment (EIA) Process

Section 5A (1) (a) of the *EPA Act* provides that the EPA can review and assess whether development decisions made by government agencies or their respective minister, reflect recommendations arising from an environmental impact assessment process. The EPA can also review and assess the effectiveness of the environmental conditions of an environmental authority for a proposed action.

Review and Assess Environmental Incidents

Under section 5A (1) (b) of the *EPA Act* the EPA can review and assess the effectiveness of government agencies responses in dealing with environmental incidents that arise under

their respective legislation. In exercising this function the EPA will have regard to the administrative and on-ground technical response to the environmental incident by the agency, processes, policies and procedures that are in place by the agency for responding to environmental incidents and outcomes of investigations and/or prosecutions by the agency.

Other Matters on which the EPA can provide advice

In addition to the EPA's functions to review and assess actions by government agencies the EPA can also provide advice on a broad range of matters, which include any of the following:

- a. achieving best practice environmental policy and management;
- b. setting objectives, targets and standards for the public and private sectors;
- c. reviewing procedures of the public and private sectors;
- d. legislation and its administration;
- e. issues affecting the Territory's capacity to achieve ecologically sustainable development;
- f. emerging environmental issues.

This advice may be provided based on the EPA's own initiative or at the request of the Minister or a member of the Public. See section 5B (1) of the *EPA Act*.



Powers under the *EPA Act*

Under section 6 of the *EPA Act* the EPA has the power to do all things necessary or convenient to enable it to perform its function including, but not limited to:

- a. conducting inquiries it considers appropriate;
- b. give a written notice to any person requiring them to provide relevant information within a reasonable period.

Offences under the *EPA Act*

It is important to note that there are offences under the *EPA Act* if a person does not comply with an EPA inquiry or notice to provide information, provided that the EPA has exercised its powers in accordance with its function.

Our Minister

The EPA is an independent statutory authority. Our advice to government is provided to the Minister for Natural Resources, Environment and Heritage. During the 2009/10 reporting period, the responsible Minister was Mr Karl Hampton, MLA.



Our board

The *Environment Protection Authority Act* provides for the appointment of between four and seven board members based on their expertise. The members are appointed by the Administrator of the Northern Territory and the Chair is then appointed by the Minister.

Members are appointed for a period of up to three years.

The current members of the Environment Protection Authority are:



Dr Andrew Tupper
(PhD, BSc (Hons), GAICD)

Dr Andrew Tupper is the Northern Territory Regional Director of the Bureau of Meteorology. Andrew is particularly interested in how humans live with natural hazards and with our changing climate. His professional experience includes aviation and severe weather forecasting, climate information work, and meteorological research. Internationally, he co-chairs the World Organization of Volcano Observatories, and sits on a number of World Meteorological Organization and International Civil Aviation Organization groups associated with aviation safety and volcanic clouds. His roles within the Northern Territory also include representing the Bureau at the Bushfires Council and Counter Disaster Council. Andrew has a Bachelor of Science with

Honours in meteorology from the University of Melbourne and a PhD in meteorology from Monash University. Although Melbourne-born, he has lived in Darwin since 1991, aside from 2002-04 when he and his family lived in the beautiful, densely populated, and fiercely traditional city of Kagoshima in southern Japan.



Professor Donna Craig
B.A (UNSW), LLB (UNSW), LLM
(Osgoode Hall, York University)

Professor Donna Craig is a specialist in international, comparative and national environmental law and policy (LLM, York University, 1983). She was one of the founders of Macquarie University Centre for Environmental Law (1983) and a key member of the Centre until her current appointment as a Professor of Environmental Law, School of Law, at the University of Western Sydney. Donna also held a Research Chair as Professor of Desert Knowledge, Charles Darwin University from 2004-2007.

She has over 30 years experience in research, legal practice, teaching and working with communities, NGO's, indigenous peoples' organisations, governments and corporations.

Her research and publications emphasize the social, cultural and human rights dimensions of legislation, programs, impact assessment and sustainable development. Her water law research includes resource management,

capacity building and Indigenous cultural value issues. She also works with Aboriginal organisations developing natural resource based livelihoods and advising on national and international legal regimes.

Donna served as Regional Vice-Chair for Oceania of the World Conservation Union, Commission of Environmental Law, for eight years, is a member of Advisory Board of Greenland-based International Training Centre of Indigenous Peoples, and Regional Governor of the International Council on Environmental Law. Donna was a member of the Interim EPA Board that conducted widespread community consultation in the Northern Territory in 2006 on the form and function of an EPA.



Professor Gordon Duff
BSc (Hons), PhD, FAICD)

Professor Duff is an ecologist and environmental scientist with over 20 years' experience in the Australian tropics. He was Chief Executive Officer of the Tropical Savannas Management Cooperative Research Centre (CRC) between 2001 and 2006, and held a variety of research and management roles at James Cook, Deakin and Charles Darwin Universities prior to that. Since October 2006 Gordon has been Chief Executive Officer of the CRC for Forestry, the national forestry research

and development organisation. He has a Bachelor of Science (Honours) from the University of Tasmania, a PhD in plant ecology from James Cook University, and he is a Fellow of the Australian Institute of Company Directors. Gordon was Chair of the Interim EPA Board that conducted widespread community consultation in the Northern Territory in 2005 and 2006 on the form and function of an EPA and has been a member of the EPA board since its inception. He is also Chairman of the Forest Practices Authority and the Forest Education Foundation.



Mrs Judith King
BA, FAICD; Adjunct Professor
Swinburne University (1999-2006)

Judith King has over twenty years' board experience in the private and public sectors. Currently she is Chair of the Northern Territory Power and Water Corporation, Board Member of the Northern Territory Environment Protection Authority and Deputy Chair of the Victorian Commission for Gambling Regulation. She has been an adviser to business and government on service industry strategy, trade and regulation, and was Foundation Executive Director of the Australian Coalition of Service Industries. She was awarded an Australian Centenary Medal in 2003.

Our Approach

The EPA recognises that establishing guidelines and plans will provide clarity and consistency to our operations, both internally and in our interactions with stakeholders and the community.

Our Strategic Plan

This year, the EPA developed its Strategic Plan 2010 – 2013 to reflect and incorporate our new functions and powers, and to clearly state our purpose and guide our work over the next three years.

Broadly, the EPA will continue to fulfill its mandate of driving regulatory review and reform of all Northern Territory legislation related to sustainable development and respond to emerging and critical environmental issues in the Territory by providing leadership and accountability.

The EPA will deliver this by working to the following strategic priorities:

Agenda setting projects to strengthen the legal and institutional frameworks for sustainability in the NT.

The EPA will prioritise referred projects that address long-term systemic issues for the NT and continue to initiate projects of importance for a sustainable Territory.

Contributing to broader NT debates by highlighting the applicability of environmental protection and sustainability matters to current government and non-government processes.

We will work to integrate best practice ESD and environmental protection in new policy and program development through active engagement with Government and the community.

Review and assess to actively improve the effectiveness of Government performance in protecting the NT environment.

We will continuously review the environmental approval process and the response to environmental incidents and provide advice aimed at establishing better processes to protect the ecological systems that support the economy of the NT.

Monitoring and reporting on key aspects of the NT environment to inform future development.

We will draw attention to and enable examination of environmental issues of significant concern to the NT by collating and publicising research on the cumulative impacts of development.

Communications and engagement to increase awareness of the importance of the health of ecosystems to the long-term prosperity of the Northern Territory for current and future Territorians.

We will strategically and effectively inform and consult with stakeholders and the broader community in regards to EPA policy and program development.

Organisation operating framework to support EPA administration and the development of internal protocols and strategies.

We will document internal operational practices and decision-making in a clearly stated and transparent manner to ensure consistency and accountability in our relationships with external stakeholders.



Agenda setting projects

As a unique model of environmental protection, the Northern Territory's EPA is able to set the agenda for environmental debate in the Territory by initiating, participating in and encouraging discussion and recommending actions to improve environmental management policies and procedures. Whilst this advice is directed at the Minister it is made publicly available as a source of evidenced-based research and discussion for use by any party and may be independently adopted by local government or corporations as a best practice guide.

This year, the EPA has delivered advice to the Northern Territory Government on two Agenda setting projects – *Ecologically Sustainable Development in the Northern Territory and Improving Environmental Assessment in the Northern Territory* and has commenced the final phase of work towards a review of governance frameworks and ecologically sustainable development in the Darwin Harbour region.

Ecologically Sustainable Development

In 2008 the Environment Protection Authority agreed that its first task would be to develop principles of ecologically sustainable development (ESD) for the Northern Territory. The EPA board determined this important project would help to shape a common understanding of the concept, and would underpin the ongoing work of the EPA.

Recommendations to the Government on integrating ecologically sustainable development in the Northern Territory were developed through a participatory process including public consultation, a discussion paper, online feedback and focused stakeholder meetings throughout 2008 and 2009.

The EPA's advice to the Government *Ecologically Sustainable Development in the Northern Territory* was released publicly on 4 February 2010.

The Principles of ESD recommended by the EPA for adoption in the Northern Territory are:

Integration

Decision-making processes should effectively integrate both long-term and short-term economic, social, environmental and equitable considerations.

Precautionary Principle

Where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

Inter-generational and Intra-generational Equity

The present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations. Intra-generational equity involves consideration of equity within the present generation.

Conservation of Biological Diversity and Ecological Integrity

The conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making.

Improved Valuation, Pricing and Incentive Mechanisms

This includes recognition of the principles that the costs of environmental externalities should be internalised and that the polluter should bear the costs associated with environmental pollution.

Public Participation

Decisions and actions relating to ecologically sustainable development should provide for broad community involvement on issues which affect them.

The EPA's advice is intended to address expectations communicated by the public and to provide a path forward for the Northern Territory, to ensure its future growth and development is sustained through healthy ecosystems and a high level of community wellbeing.

The EPA will continue to promulgate the adoption of these principles as a guiding framework for development in the Territory, and looks forward to Government's response to implement the advice and recommendations into governance and legal mechanisms.

Environmental Assessment

In 2008 the Minister for Natural Resources, Environment and Heritage requested that the Environment Protection Authority:

investigate the environmental assessment and approval processes outlined in the NT *Environmental Assessment Act* for major development proposals; and recommend improvements for the government's consideration.

The EPA extended the terms of reference of its investigation to also include information on:

principles, objectives and procedures of environmental assessment; best practice environmental assessment examples from other jurisdictions; and possibilities for a future NT environmental assessment model.

In May 2009 the EPA released a discussion paper to encourage public debate about environmental impact assessment, and elicit responses to a range of questions regarding current assessment.

A public consultation period to September 2009 followed the release of the discussion paper. During this period the EPA received 21 submissions from organisations and individuals across the Northern Territory. Twenty-eight (28) consultative meetings were held throughout the reporting period, with community and industry groups and government authorities including public meetings in Darwin and Alice Springs and Indigenous consultation undertaken by Batchelor Institute of Indigenous Tertiary Education.

On April 28th 2010 the EPA publicly released its final advice on Improving Environmental Assessment in the Northern Territory at a discussion forum at Brown's Mart in Darwin.



The report made 29 recommendations to improve the current environmental assessment process, which are summarized below:

Underpinning the recommendations of the review, recommendations One, Two and Three provide the basis for environmental assessment reform and on-going sustainable development in the Territory. Firstly, it was recommended the current *Environmental Assessment Act* and supporting Environmental Assessment Administrative Procedures be replaced with a new Act which is formulated to operate within an integrated governance framework. Secondly, the EPA recommended that the principles of ESD be firmly established as guiding principles for decision-making in the drafting of a new *Environmental Assessment Act* for the Territory. Within a revised *Environmental Assessment Act*, the EPA recommends the inclusion of a strategic assessment approach, establishing a process within the Act that can be used as a strategic planning tool to evaluate the social, economic and environmental impact of policies, plans and programs. Strategic assessment assists in assessing the cumulative impact of projects, in defining opportunities and threats, and requires both public participation and a whole of government approach to development (Recommendation 14).

Within the report, the EPA recognised environmental assessment (EA) as a critical tool for achieving sustainable development in the Territory. In aiming for an EA process that provides clarity and certainty, is relevant and contemporary, the EPA recommended a redefining of the goal and purpose of EA to clearly communicate expected roles and outcomes that are based on the principles of ESD (Recommendations Eight and Nine).

To streamline the assessment process, increase public accountability, provide clarity and structure for proponents, government and stakeholders, the EPA recommended activity, project and location schedules be developed, to act as 'triggers' for the EA process (Recommendations 10 and 11). The EPA determined the onus or responsibility for referral should lie with the Proponent, with the Minister for Natural Resources, Environment and Heritage retaining the power to 'call in' a proposal (Recommendations 12 and 13).

In accordance with the principles of ESD, the EPA also recommended that the value of public participation should be clearly recognised as an object of the *Environmental Assessment Act* and not just a mandatory step in the process (Recommendation 20).

The Northern Territory Government, in legislating that the EPA assess how recommendations arising from the environmental assessment of a development project inform a project's subsequent approval, has recognised the potential limitations in this area of the *Environmental Assessment Act*.

Transparency in decision making and accountability should require decision makers at both the assessment and approval ends of the process to issue public statements to support reasoning for approvals and conditions applied to projects (Recommendations 19, 25 and 26), to ensure the outcomes of an EA directly inform decision-making.

Additionally, the EPA recommended that the Minister for Natural Resources, Environment and Heritage be empowered, in the first instance, to deem a proposal unacceptable on environmental grounds (Recommendation 27).

The NT Government has recently announced a public consultation process to commence reform to the *Environmental Assessment Act*, with the EPA's *Improving Environmental Assessment in the Northern Territory* advice as the basis for its reform agenda.

Darwin Harbour review – Stage 1

In April 2009 the EPA initiated an investigation into whether the growth and development of Darwin Harbour can be guided by the principles of ecologically sustainable development, with specific reference to the Regional Plan of Management developed by the Darwin Harbour Advisory Committee.

Darwin Harbour is a highly significant region in the Territory that is subject to considerable development pressures and the EPA believes that Darwin Harbour provides an opportunity to design new, integrated governance approaches that support more sustainable outcomes for regional planning and management.

Stage One of the EPA's *Review of Governance Frameworks – Ecologically Sustainable Development in the Darwin Harbour region* will be delivered to the Minister for Natural Resources, the Environment and Heritage in the last quarter of 2010.

Contribute to Broader NT debates

The EPA maintains a watching brief over contemporary issues of concern for the community in respect to sustainability and environmental protection. This includes facilitating, engaging in and providing informed comment on current government and non-government processes.

We participate in and support existing multi-agency plans and programs and community

events as advocates of ESD and key environmental issues for the Territory. Our involvement in the broader debate could lead to the identification of new lead projects, reviews or assessments.

We are seeking to strengthen the integration of ESD principles within the current Government reform agenda through structured engagement and collaboration with Government agencies and other key stakeholders. Our preliminary focus is on major legislation and strategic planning processes such as *Territory 2030*, *Greening the Territory* and *Growing the Territory*.

Throughout 2009/2010, the EPA has initiated continual discussion and provided verbal and written advice to government and non-government stakeholders, including

- the provision of supplementary advice and opinion to Government
- an EPA position statement on Climate Change
- a submission on the Framing a Living Rivers discussion paper
- the promulgation of ESD principles to government and the community
- hosting public discussion forums to discuss environmental legislation in the Territory

In 2010, the EPA hosted the first in a series of Environmental Law and Policy seminars in conjunction with Darwin City Council and the Environment Centre NT. The topic for the inaugural seminar was Exploring the Continuum of Engagement for Sustainable Community Outcomes: From Principles to Practice, presented by Elton Consulting.

We will continue to produce submissions and public discussion papers on issues of significant concern to the community and that have significant, sustainability legacy issues for the NT.

Climate Change Statement

10 December 2009

Human induced climate change is a critically significant and defining issue for our generation. Responding to climate change requires the integration of social, economic and environmental concerns.

The Environment Protection Authority will engage in debate on climate change and will consider the reform, review and monitoring of government policy and programs where it is appropriate and consistent with the EPA's core activities.

Observed changes in climate

Warming of the climate system is unequivocal. This is evident from observations of increases in global average air and ocean temperatures, widespread melting of snow and ice and rising global sea level.

The decade of the 2000s was warmer than the decade spanning the 1990s, which in turn was warmer than the 1980s.

Many natural systems are being affected by regional climate changes, particularly temperature increases.

Causes of change

Global greenhouse gas emissions due to human activities have grown since pre-industrial times, with an increase of 70% between 1970 and 2004.

Most of the observed increase in temperatures since the mid-20th century is very likely due to the observed increase in human induced greenhouse gas concentrations.

The continued growth in concentrations of greenhouse gases, caused by human induced emissions, would generate a high risk of dangerous climate change.

Impacts and Adaptation

Climate change has the potential for causing significant impacts on natural systems and human settlements, including remote and Indigenous settlements. Adapting to climate change will be a critical component of responding to climate change.

Climate change will have significant impacts on water security, coastal

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communities, major infrastructure, key industries such as agriculture and tourism, public health and natural ecosystems.

Vulnerability to the impacts of climate change is likely to rise due to an increase in extreme events. Extreme weather events such as droughts, heatwaves, severe thunderstorms, severe tropical cyclones, storm surges and flooding are examples of extreme events that have the potential to increase in frequency or intensity as a result of climate change.

Where extreme weather events become more intense and/or more frequent with climate change, the economic and social costs of those events will increase.

The capacities for adapting to climate change vary greatly within and across regions, industry sectors and communities. High priority should be given to increasing the ability of regions, communities and social groups to adapt to climate change in ways that are complementary with the wider development goals.

Co-benefits and the cost of inaction

Reducing greenhouse gas emissions has additional benefits such as: lower levels of air pollution and associated health benefits, higher energy security, larger employment, regional development opportunities and stable agricultural production.

The evidence shows that ignoring climate change will eventually damage economic growth. As presently modelled, the costs of action on climate change are less the costs of inaction. The earlier effective action is taken, the less costly it will be.

The EPA acknowledges the critical importance of responding to this challenge in a timely and proportionate way, commensurate with our capabilities and interests.

Principles of Ecologically Sustainable Development and Climate Change Policy

Principles of Ecologically Sustainable Development (ESD) should underpin the Northern Territory's response to climate change, for example:

Climate change policies should be integrated with all relevant areas of policy and decision-making to ensure the effective integration of environment and development concerns.

Climate change policies should ensure a precautionary approach that seeks to prevent, mitigate and contain climate change impacts, and to avoid dangerous climate change.

Considerations of equity within and between generations are essential concerns in the development of climate change policy.

Climate change policies should seek to protect the ecological integrity and biological diversity of our ecosystems.

Climate change policies should apply the polluter pays principle and seek to internalise the costs of greenhouse gas pollution.

The development of climate change policies should be transparent, accountable and inclusive of all members of society.

Reviews & Assessments

The EPA's amended functions, which passed through the Legislative Assembly in April 2010, include a specific role to review and assess the effectiveness of Agency responses in dealing with environmental incidents, and the coordination of the responses.

Since the amendment bill passed, a number of pollution incidents have occurred or been brought to light in Darwin Harbour. The EPA has responded to these incidents by means of a watching brief or an Inquiry.

East Arm Wharf Copper Concentrate Incident Inquiry

In April 2010, the EPA took on its first public referral to inquire into the copper concentrate pollution incidents at East Arm Wharf, Darwin Harbour. Media reports alleged that significant amounts of copper concentrate had spilled from a loading chute into the Harbour and that the incident had not been reported, either by the Darwin Port Corporation or the operator, as required under the relevant pollution legislation. Terms of Reference for the inquiry were established following initial investigations by the EPA and these were approved by the Board in May.

In undertaking a formal inquiry into the incidents under the *Environmental Protection Authority Act*, the EPA seeks to:

Review and analyse the legislative processes that facilitated the East Arm Wharf Development and the approval of the batch loading facility and its current operations;

Review the methods and reports of concurrent investigations that have been undertaken by relevant arms of the Northern Territory Government into the incident, to assess their thoroughness, effectiveness and the uptake of recommendations for prevention of future similar incidents;

Using the investigation reports and other information as necessary, critically analyse the effectiveness of the communication channels and links between stakeholders and the effectiveness of Northern Territory Governments existing internal operations in relation to the management of incidents as demonstrated by the response to the copper concentrate spill;

Review existing triggers, criteria and practices in place for environmental incidents (critical incident response), including:

- Triggers for reporting of the copper concentrate incidents at East Arm Wharf;
- Capacity to assess, quantify and minimise or control damage;
- Guidance from regulators currently available; and
- Future needs for relevant stakeholders to achieve prevention, control and effective reporting, assessment, feedback and enforcement;

Identify and assess effectiveness of steps put in place since the copper concentrate incidents to reduce the likelihood of such incidents occurring in the future;

Identify and assess effectiveness of steps put in place since the copper concentrate incidents to reduce the likelihood of such incidents occurring in the future;

Specifically assess the extent to which the public can be reassured failures in regard to the legislative and other processes involved in the regulating and reporting of environmental incidents at East Arm Port will not be repeated;

Consider any other matters useful in investigating general provisions for governance and environmental management at East Arm Wharf; and

Provide advice and recommendations to the government and people of the Northern Territory on the outcomes of the EPA's investigation.

Rio Tinto Alcan Alumina Dumping Watching Brief

Also in April 2010, it was alleged that a significant amount of alumina oxide material from the Rio Tinto Alcan mine site at Nhulunbuy had been disposed of in Melville Bay, when the material became wet and unsuitable for export. The EPA determined to maintain a watching brief of the matter, with a view to assess the thoroughness, appropriateness and adequacy of the relevant government agency's response to the incident; to examine the legislative and systemic barriers to public-interest-governed mining practices revealed by the incident; and to consider the extent to which the public could be reassured such an event will not happen again.

The EPA is working with Rio Tinto Alcan and the relevant government agencies in its review of the incident.

Rio Tinto Alcan Petrol Spill Watching Brief

In June 2010, it was discovered that a storage tank on site at the Rio Tinto Alcan mine site at Nhulunbuy, containing approximately 70,000 Litres of unleaded fuel, had leaked its entire contents. The incident was reported by Rio Tinto Alcan to the Department of Resources as required under the *Mining Management Act*.

The EPA again determined to maintain a watching brief of the matter, specifically focussing on the adequacy of infrastructure standards for the current operational plant and mine; the legal status, enforcement and compliance requirements in relation to these standards; the adequacy of the current authorised mine management plan and

the adequacy of the inspection regime and implementation of this regime; and whether the public could be reassured such an event will not happen again.

As at the end of the 2009/2010 reporting period, this watching brief continues.

Darwin Beaches *E.Coli* Outbreaks Watching Brief

Following the closure of a number of Darwin beaches throughout June 2010 due to outbreaks of the *E.Coli* bacteria, the EPA undertook to establish a watching brief of the collaborative response to the outbreaks being taken by NT and local government agencies. The brief seeks to determine whether there is effective communication between relevant agencies regarding the investigation; whether the responses and investigations are being conducted in an optimal manner; and whether the public can be reassured that the outbreaks will not happen again.

The work of the EPA in this watching brief is intended to feed into the NT Government's plans to establish an integrated monitoring program for Darwin Harbour and the beaches.

Communications and engagement

The unique model of the EPA in the NT requires an innovative and comprehensive communication and engagement program. We must educate, inform and engage to promote the independence of the organisation and the role it plays in the Territory's future.

The EPA has utilised a number of strategies throughout the reporting period to raise awareness and understanding, to engage with the community and to respond publicly

to emerging environmental issues.

Work has commenced to identify and formalise stakeholder relationships, including media, Government and non-government agencies, local stakeholders and the indigenous community and to establish protocols for meaningful and constructive engagement.

Throughout 2009/2010, community discussions were held in the Northern Territory's two major centres as well as a number of regional and remote locations as part of the indigenous engagement facilitated by Batchelor Institute of Indigenous Tertiary Education. The EPA also took part in the Territory's rural show circuit for the first time in 2010, travelling to Alice Springs, Tennant Creek and Katherine throughout July.

A public event was held to launch *Improving Environmental Assessment in the Northern Territory* at Browns' Mart in Darwin, which was well attended by the community and media.

The second part of 2009 saw the application of refreshed branding across all EPA publications and communications, including a new website (www.epa.nt.gov.au) and an electronic Newsletter. Two newsletters (December 2009 and June 2010) have been distributed to EPA contacts Australia-wide during the reporting period.

The EPA took on its first event sponsorship in 2010, the Top End Sustainable Living Festival held at the George Brown Botanic Gardens in June. The event was a spectacular success and the EPA looks forward to future participation.

The EPA Board and Secretariat have delivered presentations to the University of the 3rd Age and to the visiting Papua New Guinea Department of Environment and Conservation, a visit co-ordinated and facilitated by the EPA.

Future Priorities

Driving regulatory reform will remain a priority for the EPA, along with the promotion of the principles of ecologically sustainable development throughout the Northern Territory with the aim of integrating sustainability and environmental considerations into government policy and program processes.

With a mandate to provide advice on emerging issues as well as best practice environmental policy, the EPA's future priorities will be driven by community needs and expectations, as well as considered and strategic responses to environmental issues as determined by the Board.

The EPA will continue to set the agenda for environmental reform with the release of the first stage of the Darwin Harbour Review - an analysis of the governance frameworks overseeing Darwin Harbour, and application of the principles of ESD.

A conference and workshop on the application of Strategic Assessments as a tool for sustainability in the Territory will additionally assist to develop stakeholder relationships and networks and provide a platform for further discussion and analysis.

The adoption of the principles of ecologically sustainable development by government, business and the community will remain a priority for the EPA, in particular the commitment by Government to an overarching Sustainability statement.

Participation in the Northern Territory Government's reform of the *Environmental Assessment Act* will also remain a priority, and the EPA will look to contribute to other legislative reviews, including the *Water Act* and *Pastoral Land Act* and seek to actively participate in the process to bring about a *Native Vegetation Act*.

Through community consultation, the EPA has determined that planning issues, including water resources, capacity, consultation, land releases and agency integration are of concern in some regional areas, and the EPA will examine these areas in greater detail as a priority.

The EPA will continue to review and assess the adequacy of agency responses to environmental incidents, such as those in Darwin Harbour and in Gove throughout 09/10, and develop its own internal procedures and guidelines to facilitate this process.

In April 2011, the Monitoring and Reporting functions of the EPA will commence. These new functions were part of the amendments made to the Act in 2010. This delay provides an opportunity for the EPA to focus on policy development and to design an appropriate methodology to undertake future monitoring requirements.

The new functions are composed of two main areas:

To monitor and assess the cumulative impacts of development and;

To publicly report on environmental quality in the Northern Territory. It is intended that through this function the EPA will make publicly accessible the information that is gathered through monitoring of cumulative impacts.

As a relatively new organisation, the EPA will continue to focus on building relationships with organisations that have an impact on sustainability of the Northern Territory. This includes some groups who would not normally feel aligned to environmental organisations. To provide informed opinion and advice we need to engage with the whole gamut of the Northern Territory demographic from multinational resource and pastoral companies to school children and mums and dads in Tennant Creek and traditional owners at Yuendumu.

Reporting

Performance Reporting

The Northern Territory Government's Budget Paper No. 3 2009-10 outlines the performance measures for all Northern Territory Government Agencies. For the purposes of financial administration the Environment Protection Authority is an output group within the Department of Natural Resources Environment, the Arts and Sports. For all other purposes the EPA is an independent advisory body and is not subject to the direction of the Minister.

Environment Protection Authority Profile

The Environment Protection Authority's function is to provide advice to the Minister, businesses and the community on the Ecologically Sustainable Development of the Northern Territory.

Functional responsibilities

In providing advice on Ecologically Sustainable Development the Authority:

- Reviews and assesses how recommendation made through the Environmental Assessment process are adopted in practice and their effectiveness.
- Reviews and assesses the effectiveness of Agency responses to environmental incidents
- Researches and makes recommendations on best practice environmental policy and management including setting objectives, targets and standards for the public and private sectors
- Reviews procedures of the public and private sector and legislation and its administration
- Researches on makes recommendations on issues emerging environmental issues and issues affecting the Territory's capacity to achieve ecologically sustainable development.

Output Environment Protection Authority		09/10 Estimate	09/10 Actual	10/11 Estimate
Quantity	Projects and Reviews Commenced ¹	2	3	3
	Discussion papers and reports released	0	6	5
	Final Advice provided to government ²	2	2	2
	Formal Public/stakeholder events held	16	16	12
	Received referrals from public and government	1	1	2
	Unique visitors to the EPA website ³	2500		5000
Quality	Stakeholder satisfaction with activities and advice ⁴	60%	70%	80%
Timeliness	Reports delivered within identified delivery dates	100%	100%	100%

¹As defined in Section 5 of the *Environment Protection Authority Act*

²As defined in Section 24 of the *Environment Protection Authority Act*

³Data for this reporting period is only available for the launch of the new EPA Website in November 2009

⁴Stakeholders include government, environmental organisations, business groups and the wider community. The legislative powers review has distracted attention from the need to review satisfaction with the EPA. A stakeholder survey will be held in the next 12 months when the new functions are all bedded down.

The outcome is to establish frameworks through legislation, policy and practice for the environmentally sustainable development of the Northern Territory.

Performance Measures

The powers of the environment protection authority were amended by changes to the *Environment Protection Authority Act* which came into affect on 28th April 2010. These changes resulted in a revision of performance measures for the Authority from those shown in BP3 2009. Measurement has been attempted for the whole reporting period against the new criteria.

Financial Reporting

2009/10 approved budget for the Environment Protection Authority was \$890,000 with a carry over from 08/09 of \$65,000 and \$30,000 in depreciation, leaving available funds of \$795,000.

The 2010/2011 budget has been increased to support the new functions to \$1,323,000.



