

MEMBERSHIP PROCEDURES AND PROCESSES

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Version 2

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1 Northern Territory Environment Protection Authority

1.1 Background

The *Northern Territory Environment Protection Authority Act 2012* (the Act) establishes an independent Northern Territory Environment Protection Authority (NT EPA) comprising five (5) members plus the Chairperson of the Planning Commission.

The NT EPA is a separate legal entity from the Northern Territory Government, and has power and functions associated with environmental assessments, the management of waste and pollution, and compliance and enforcement activities in the Northern Territory.

The NT EPA may determine its own procedures or make guidelines relevant to its functioning as provided for in section 16 and section 34 of the Act.

The Act defines the objectives, functions and powers of the NT EPA.

1.2 Objectives

The Objectives of the NT EPA are as follows:

- (a) to promote ecological sustainable development;
- (b) to protect the environment, having regard to the need to enable ecological sustainable development;
- (c) to promote effective waste management and waste minimisation strategies; and
- (d) to enhance community and business confidence in the environmental protection regime of the Territory.

These objectives provide context and guidance as to the role of the NT EPA and will inform the NT EPA in the exercise of its powers and functions.

1.3 Functions

The functions of the NT EPA are:

- (a) to advise and report to the Minister under Part 3¹ of the Act; and
- (b) to undertake functions associated with environmental assessments and the management of waste and pollution conferred on the NT EPA under the Act or any other Act; and

¹ Part 3 of the Act details the types of reports that can be provided to the Minister, and the responsibilities of the NT EPA in developing a report, and the responsibilities of the Minister once a report has been received. Under the definitions of the Act, “advise” includes making recommendations to the Minister.

(c) to perform any other functions conferred on it by the Act or any other Act.

The NT EPA has the powers necessary or convenient to perform its functions, under the Act or any other Act.

In performing its powers and functions, the NT EPA must:

- encourage community involvement and engagement; and
- ensure transparent processes and provide certainty to business.

In addition the NT EPA must integrate both long-term and short-term economic, environmental and social equity considerations in its decision making.

The functions and powers referred to above give guidance to the NT EPA as to how it is expected to undertake its role and the considerations and actions expected of it.

2 Membership governance

2.1 Constitution of the Northern Territory Environment Protection Authority

The NT EPA comprises:

- five (5) members appointed by the Administrator (having regard to a range of considerations outlined in section 10 of the Act) and one of the five members is also appointed as the Chairperson; and
- the Chairperson of the Planning Commission.

In total, six (6) members constitute the NT EPA including the Chairperson.

The NT EPA is not subject to the direction or control of the Minister in the exercise of its powers or the performance of its functions.

A member is not subject to the direction or control of the Minister in the exercise of the member's powers or the performance of the member's functions.

2.2 Chairperson

2.2.1 The Administrator appoints a member of the NT EPA to be the Chairperson and may also terminate the person's appointment as the Chairperson without terminating the person's appointment as a member.

2.2.2 Where:

- (a) a vacancy arises in the office of the Chairperson; or
- (b) during a period when the Chairperson is unable to perform the duties of the office

the Minister may appoint another of the members to act in the office of Chairperson (for a single period not exceeding 6 months or consecutive periods totalling not more than 6 months).

2.3 Duration

- 2.3.1 Appointed members hold office for a period of 3 years or the shorter period specified in the instrument of the appointment, and on the conditions determined by the Administrator.
- 2.3.2 The member is eligible for reappointment.

2.4 Leave of absence

- 2.4.1 The NT EPA may grant a member leave of absence and may determine the conditions that apply to any leave of absence granted.
- 2.4.2 The circumstances for which a leave of absence may be granted include (but is not limited to):
- illness
 - personal leave
 - bereavement leave
 - any other reason or circumstance the NT EPA deems appropriate / determines
- 2.4.3 A member seeking leave of absence for personal leave must give notice to all the members of the NT EPA as soon as practicable.

2.5 Resignation

- 2.5.1 A member wishing to resign from the NT EPA must notify as soon as practicable, the Chairperson and the members.
- 2.5.2 The member resigning must provide written notice to the Administrator of his or her resignation.

2.6 Vacation of office

- 2.6.1 Under section 14 of the Act, a person who is an appointed member ceases to be a member if:
- (a) The person resigns by giving written notice to the Administrator;
 - (b) The person's term of appointment comes to an end and the person is not reappointed;
 - (c) The person is convicted of an indictable offence or sentenced to imprisonment for an offence; or
 - (d) The person becomes a public sector employee; or
 - (e) The person's appointment is terminated under section 15 of the Act.
- 2.6.2 If there is a vacancy on the NT EPA, business will continue as per normal. The exercise of a power or the performance of a function by the NT EPA is not affected despite the vacancy in its membership.

2.7 Termination of appointment

2.7.1 The Administrator may terminate the appointment of a person who is an appointed member.

2.7.2 Circumstances in which the Administrator may terminate include the following:

- grounds of misbehaviour or misconduct; or
- grounds of physical or mental inability to satisfactorily perform the duties of the office; or
- non-disclosure of relevant interests as required under the Act; or
- absenteeism of three (3) consecutive meetings of the NT EPA (other than in accordance with leave granted under 2.4 of these Procedures); or
- if the member is found guilty of an offence of such a nature that it would be inappropriate for the person to continue to be a member; or
- if a member becomes bankrupt, applied to become bankrupt or otherwise made arrangements with creditors.

2.7.3 The definition of “misconduct” under the Act inclusively encompass where the members of the NT EPA are not acting in accordance with the objectives of the NT EPA or not performing the functions of the NT EPA.

3 Protection from liability

Members of the NT EPA are not be civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as a member (section 35 of the Act).

4 Application and amendment

These Procedures are made with reference to the Act and should be read in conjunction with other Procedures and Policies of the NT EPA.

The Act shall prevail in the event there are inconsistencies within these Procedures.

These Procedures apply to the members of the NT EPA and may be amended at any meeting of the NT EPA where notice of such amendment is given on the agenda.

5 NT EPA coordinator

For any general or administrative enquiries regarding membership, please contact the NT EPA Senior Coordinator on (08) 8924 4010.

Approved by the NT EPA

February 2016