

Environment Protection Authority

*Working in partnerships  
to create a sustainable  
Northern Territory*

Annual  
2007-2008  
Report

© Environment Protection Authority

Environment Protection Authority

Ph: 08 8924 4056

PO Box 496

Palmerston NT 0831

**[www.epa.nt.gov.au](http://www.epa.nt.gov.au)**

Published October 2008 by the Environment Protection Authority

ISSN 1836-4454



*[epa.nt.gov.au](http://epa.nt.gov.au)*

# Contents

<b>Chairman's report</b> .....	<b>2</b>
<b>Vision</b> .....	<b>3</b>
Strategic objectives.....	3
Principles.....	3
<b>Who we are</b> .....	<b>4</b>
Establishment .....	4
The <i>Environment Protection Authority Act</i> .....	5
Minister.....	5
The Authority .....	5
The Secretariat.....	7
Activities of the Authority and the Secretariat .....	7
<b>What we do</b> .....	<b>8</b>
Our functions and our powers.....	8
Review of the environmental impact assessment process .....	8
Establishing principles of ecologically sustainable development .....	8
<b>How we do it</b> .....	<b>9</b>
Referral Criteria.....	9
Knowing our partners.....	10
Getting our systems right.....	10
<b>The challenges</b> .....	<b>11</b>
A new organisation .....	11
Recruitment .....	11
Understanding the EPA .....	11
<b>Our key priorities</b> .....	<b>12</b>
Effective consultation, partnerships and relationships .....	12
Review of the environmental impact assessment process .....	12
Establishing principles of ecologically sustainable development .....	12
Public guidance .....	13
<b>Reporting</b> .....	<b>14</b>
Performance Reporting.....	14
Financial Reporting .....	15

# Chairman's Report

This year saw the Northern Territory establish its first Environment Protection Authority (EPA), following a healthy community debate about the EPA model to adopt. I believe that the high level strategic model chosen is the right one for the Northern Territory as we position ourselves for the opportunities and the challenges of the 21<sup>st</sup> Century.

The strength of the new EPA will come from its ability to be proactive within the environment protection landscape. By setting the overarching road rules for ecologically sustainable development, we will achieve greater environmental outcomes and bring lasting value to our economy.

Within the Northern Territory we have a wealth of cultural and environmental assets that contribute to a strong tourism sector; we are experiencing continued economic opportunities as part of the ongoing natural resources boom; and we face a tremendous challenge of creating strong and sustainable communities.

We all treasure the "unique Territory lifestyle" and don't want to lose the distinctiveness that comes with living in the Northern Territory. However, in a highly globalised world, we can no longer view ourselves as being distinct from the rest of Australia on every issue or immune to global pressures and influences. Nor should we see outside influences as being negative; if we get things right, we can use the world's intellectual capital to continue to develop a Northern Territory that we can be proud of.

Within the national context, the Northern Territory contributes towards Australia's economic strength due to the overseas demand for its resources. For other important areas such as the tourism sector, ecologically sustainable development is vital to ensure that our natural and cultural heritage is preserved and can be showcased to the world.

In addition to societal change and the need to plan for it, we face human-induced changes to our climate. While the rest of Australia copes with drought, the Northern Territory's apparent wealth of water is being viewed with increasing interest and importance at the national level. Climate change requires global, national and local responses. With Australia now committed to reduce its emissions as a signatory of the Kyoto Protocol, we are seeing the development and implementation of national policies and economic tools. The Northern Territory also needs to respond – both from the perspective of a producer of greenhouse gas emissions and as a region preparing for the impacts of climate change.

The EPA as a policy body cannot work alone, and one of our key priorities for this year has been to form partnerships and relationships with the community, business and government agencies. We are working to establish a sustainability framework for the Northern Territory - to guide decision making and legislative/ policy development on matters of natural resource management, environment protection and resource development. Concurrent and complementary to this work is the EPA's investigation into the Northern Territory environmental assessment processes for major developments.

As the first Chairperson of the Northern Territory Environment Protection Authority, I am excited by the opportunities and challenges that come with the responsibility of this position. I am also confident of the good outcomes that will be achieved and realised for the Northern Territory.



Andrew Tupper

# Vision

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

## Strategic objectives

- Protect environmental and community values to ensure the distinctiveness of the Northern Territory environment is maintained.
- Promote best practice and continuous improvement with respect to the principles of ecologically sustainable development.
- 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 e.g.:
  - 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'.
- Promote policy and regulatory clarity to avoid duplication and uncertainty.

## 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

## Establishment

On 19 October 2005 the Northern Territory Government appointed an independent three-member Board to consult with the Northern Territory community on a preferred EPA model and to provide the Minister for Natural Resources, Environment and Heritage with advice on the scope, structure and function of the EPA.

The Interim Board recommended that:

“ The EPA should have a high level role advising on policy and standard setting and in developing legislative and administrative frameworks. It should promote competence and capacity in managing the Territory environment and in identifying and protecting environmental and other community values. The EPA should be clearly identified, and clearly distinguished from the operational and enforcement aspects of environmental protection and regulation provided by government agencies. These should continue to be the responsibilities of government agencies directly accountable to Ministers and hence the electorate. Duplication of functions and roles should be avoided. The EPA should have a role in identifying any systemic failure and a role in receiving reports on agency activities in respect of compliance and enforcement.

In order to be ‘independent’ the EPA should be established by legislation which ensures:

- Appointment of members by Executive Council having considered the recommendations of the Minister. A search and recruitment process to be conducted by a suitably experienced search firm
- The EPA to make recommendations to the responsible (relevant) Minister(s) and Parliament
- The EPA cannot be directed by government in terms of its investigative methods, scope and findings
- The principle of transparency should be fundamental, i.e. make matters public unless there are reasonable grounds not to (for example, through administrative law)
- The precedence of EPA legislation in the event of any conflict with other laws
- Powers to:
  - ‘call in’ government processes in order to provide advice on their adequacy
  - initiate its own investigations and/or inquiries and to accept third party references
  - require government agencies to provide information
- Capacity and resources to fund its own investigations and reports ”

The recommendations were accepted by the Minister. In January 2008 the *Environment Protection Authority Act* commenced, establishing an EPA in keeping with the model recommended by the Interim Board.

## The *Environment Protection Authority Act*

The Northern Territory EPA is established under the *Environment Protection Authority Act*. The Act:

- defines the EPA's functions, powers, and how the Authority is to act;
- provides the direction to ensure the EPA's independence;
- lays out the road rules for appointing members to the EPA and how the Authority conducts its business; and
- gives clear instruction on information availability.

The Act commenced in January 2008 and the EPA was established and announced in March 2008.

## Minister

The EPA is an independent statutory authority. During the reporting period the responsible Minister for the EPA was the Hon Len Kiely, Minister for Natural Resources, Environment and Heritage.

## The Authority

The Authority is established under section 4 of the *Environment Protection Authority Act*.

The *Environment Protection Authority Act* provides for the appointment of between four and seven members based on their expertise. The members are appointed by the Administrator of the Northern Territory and the Chairperson is then appointed by the Minister. Members are appointed for a period of up to three years.

The Authority members for the reporting period were:

<b>Member</b>	<b>Period of Appointment</b>
Dr Andrew Tupper (Chairperson)	Three years
Professor Donna Craig	Three years
Mrs Judith King	18 months
Professor Gordon Duff	18 months

While three of the members do not reside in the Northern Territory, all members have strong links to the Northern Territory.



**Dr Andrew Tupper** (Chairperson) has resided in Darwin for 17 years and is the Northern Territory Regional Director of the Bureau of Meteorology.

Andrew is particularly interested in how humans live with natural hazards. He is currently a member of the Northern Territory Bushfires Council and co-chair of the World Organisation of Volcano Observatories. He also represents Australia on an operations group of the International Civil Aviation Organisation.

Andrew has a Bachelor of Science with Honours in meteorology from the University of Melbourne and a PhD in meteorology from Monash University.



**Judith King** has been a director of the Northern Territory Power and Water Corporation since 2000 and is currently Deputy Chair. She has over twenty years board experience in the private and public sectors.

Judith is Deputy Chair of the Victorian Commission for Gambling Regulation. She is also a Director of the National Ageing Medical Research Institute; Swinburne Ventures Ltd. and Chair of the Victorian State Services Authority Audit Committee. She was awarded an Australian Centenary Medal in 2003.

Judith 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 Donna Craig** was foundation Professor of Desert Knowledge at Charles Darwin University in Alice Springs (2004-2007). Donna is a Professor of Law, Head of the Department of Environmental Law and Director of the Indigenous Law and Natural Resources Program at Macquarie University. Donna has a Bachelor of Arts and Law Degree from the University of New South Wales and a Master of Laws from York University in Canada. She has practised as a solicitor and barrister.

Donna's academic experience is drawn from North America, Europe and Australia. She has been a Visiting Professor at the University of Arizona and has also undertaken many national and international environmental and Indigenous advisory roles.

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** was formerly Chief Executive Officer of the Tropical Savannas Management CRC at Charles Darwin University (CDU). At CDU Professor Duff conducted research in plant ecology and physiology. He has a wealth of experience in environmental management in northern Australia.

Gordon has been Chief Executive Officer of the Cooperative Research Centre (CRC) for Forestry based in Hobart since October 2006. 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 2006 on the form and function of an EPA.

The Act prescribes that the EPA meets at least four times a year. During the reporting period (from establishment in March 2008) the Authority met three times: two meetings were conducted via a teleconference and one meeting was held face to face. Dr Tupper and Professor Duff attended all three meetings, and both Professor Craig and Mrs King attended two meetings.

Authority members are remunerated in accordance with the *Statutory Bodies Classification Structure 2007*.

## The Secretariat

The Authority is supported by a small group of public servants headed by an Executive Director referred to as the EPA Secretariat. The budget allows for a Secretariat of five staff.

In accordance with section 20 of the *Environment Protection Authority Act*, the Secretariat answers directly to the Authority and receives its direction from the Authority. It is supported in its administrative and financial systems by the Department of Natural Resources, Environment and The Arts (NRETA), however it does not report to NRETA.

During the reporting period recruitment action commenced for four positions within the Secretariat – two permanent positions (the Executive Director and the Office Manager) and two temporary positions (a Communications position and a Policy Officer position).

## Activities of the Authority and the Secretariat

Courses, training, conferences and seminars attended by members of the Authority and/ or the Secretariat include:

**Chairperson, EPA**

Company Directors Course  
Australian Institute of Company Directors, Darwin

**Executive Director, the EPA Secretariat**

Annual Conference  
International Association of Impact Assessment, Perth

# What we do

## Our functions and our powers

The role of the EPA is described in the *Environment Protection Authority Act*:

1. The EPA is to give advice and make recommendations to the Territory, businesses and the community about matters to do with ecologically sustainable development (Section 5 of the *Environment Protection Authority Act*).
2. The EPA “may do all things necessary or convenient to enable it to perform its functions” but must consult with Agencies, businesses and the community (Sections 6 and 7 of the *Environment Protection Authority Act*).
3. The EPA is not subject to the Minister’s direction, particularly in relation to the contents of its advice (Section 8 of the *Environment Protection Authority Act*).

## Review of the environmental impact assessment process

The Minister for Natural Resources, Environment and the Heritage announced the establishment of the EPA on 5 March 2008 and at the same time referred to the Authority an investigation into the assessment and approval processes of major projects under the *Environmental Assessment Act*.

The EPA accepted this task and drafted Terms of Reference to guide this investigation. As required by section 7 of the *Environment Protection Authority Act* the Terms of Reference were drafted in consultation with Agencies. At the end of the reporting period the Terms of Reference were in draft form and not yet published for community and stakeholder consultation.

## Establishing principles of ecologically sustainable development

In accordance with section 5(1)(c) of the *Environment Protection Authority Act* the EPA commenced, at its own initiative, an investigation to develop principles of ecologically sustainable development applicable for the Northern Territory.

The aim of the project is to define a set of overarching principles of sustainability to guide decision making and legislative/policy development on matters of natural resource management, environment protection and resource development.

Within the reporting period a media release announcing the project was issued.

# How we do it

## Referral Criteria

Section 5(1) of the *Environment Protection Authority Act* states:

The Authority's functions are to give advice and make recommendations to the Territory, businesses and the community about ecologically sustainable development:

- a) on a reference made by the Minister; or
- b) on a reference:
  - i. made by someone else in accordance with criteria and arrangements agreed with the Minister; and
  - ii. accepted by the Authority; or
- c) on its own initiative in accordance with criteria and arrangements agreed with the Minister.

Accordingly the EPA can receive a referral for an investigation from the Minister or someone else, and the EPA has the ability to initiate its own investigations.

Arrangements for receiving referrals from a third party and for the Authority to initiate its own investigations were developed and agreed to by the Minister during the reporting period. These arrangements are referred to as the "Referral Criteria".

The criteria to be used to determine whether issues warrant consideration/ investigation by the EPA are:

- a) Matters of high significance
  - i. Long term or wide/regional scale environmental issue
  - ii. Medium term or local scale issue with major environmental impact
  - iii. Significant cumulative impacts
  - iv. Significant matters of sustainability policy/principles or cross government policy integration
  - v. Significant matters affecting vulnerable communities
- b) Actual or potential issues involving a high level of public interest or controversy, e.g. medium to long term issues with major community, social, policy or media impact;
- c) Matters establishing a significant precedent, e.g. a new or revised guideline or position that will substantially affect compliance standards and/or costs or timeliness; and
- d) Adequacy of existing government policies and/or legislation and/or management of the issue.

The EPA will not become directly involved in the approval process relating to any individual project once that project has commenced, unless directed by the Minister. The EPA may consider issues arising from an approval process if it considers these meet the criteria set out above.

The Referral Criteria will be used by the EPA to continually evaluate and determine priorities for its future work. The criteria is available on the EPA's website.

## Knowing our partners

The *Environment Protection Authority Act* establishes an EPA that is consultative in nature. One of the first tasks undertaken by the Chairperson of the EPA was to introduce himself and the EPA to key stakeholders within the Northern Territory and to other environmental agencies across Australia. Numerous meetings and introductions occurred with Agencies, non-government organisations and associations, Darwin City Council as well as some business representatives.

The EPA has its own website which is kept up-to-date. It provides information about the Authority; its current investigations; referring an investigation to the EPA; copies of all its press releases; and other reference material.

## Getting our systems right

Putting in place the mechanisms to support the establishment and functioning of the EPA has been a key priority for the reporting period. This has included:

- establishing a Secretariat to support the EPA;
- defining the protocols, policies and strategies to guide the EPA's function and operations;
- drafting a Strategic Statement to support the EPA; and
- determining its work priorities for the next 12-18 months.

# The challenges

## A new organisation

The EPA was established and announced in March 2008. Accordingly, a key challenge for the EPA has been the short time frame that it has been in operation and the associated balance between progressing its two investigations while putting in place the systems to support its establishment.

## Recruitment

To ensure Secretariat support to the EPA from its establishment the positions of Executive Director and Office Manager were both filled temporarily during the reporting period. Both these positions were created as permanent positions during the reporting period, and recruitment action on both commenced.

While the budget allows for another three positions, the process to create these permanently had not occurred during the reporting period. The Authority agreed for two of the positions to be filled through temporary appointments. Recruitment into these two temporary positions also commenced during the reporting period.

## Understanding the EPA

Another key challenge for the EPA has been ensuring that its function and powers are recognised and understood. As a new organisation in the Northern Territory it has the challenge of demonstrating its authority as well as its ability to bring about good outcomes for our biophysical, social, cultural and economic environment. During the short time the EPA existed in the reporting period it commenced two investigations under the section 5 of the *Environment Protection Authority Act*, however time did not permit for their completion.

The Chairperson of the EPA was able to meet with many stakeholders and clarify the EPA's role and function. The EPA understands that the best way for it to demonstrate its role within the Northern Territory is through the work that it does.

# Our key priorities

The key priorities for the EPA over the next reporting period are:

## Effective consultation, partnerships and relationships

A key focus for the EPA will be to ensure that it undertakes and achieves effective consultation in its work and investigations by establishing, nurturing and maintaining partnerships and relationships that will assist the Northern Territory to achieve ecologically sustainable development.

We will do this by ensuring that we are accessible and available to the community; that we continue the dialogue with Agencies and key stakeholders; and that we initiate conversations with those stakeholders we are yet to meet. We will facilitate opportunities for learning, promoting debate and engaging on key environmental issues for the Northern Territory by hosting public consultation sessions and symposiums and increasing opportunities for the exchange of information. We will demonstrate that we are a credible body by providing robust advice and information that is based upon sound research and understanding. The EPA will assess and respond to all public referrals in a timely manner.

We will have in place communication and engagement strategies to guide all our communications with our stakeholders.

## Review of the environmental impact assessment process

By the end of the next reporting period, the EPA will:

- Make the draft Terms of Reference to guide this investigation available for public comment and input;
- Facilitate opportunities for debate, information exchange and discussion on the environmental impact assessment process for the Northern Territory;
- Produce a public discussion paper; and
- Commence consultation on the draft recommendation paper.

## Establishing principles of ecologically sustainable development

By the end of the next reporting period, the EPA will:

- Facilitate a series of public conversations on the investigation;
- Provide the technology and ability for community and stakeholders to contribute to the investigation;
- Produce a public discussion paper; and
- Finalise its report to the Minister.

## Public guidance

Section 21 of the *Environment Protection Authority Act* allows for the Chairperson to prepare and make available Guidelines about the Authority's administrative practices and procedures. The EPA will produce Guidelines for the public to utilise when making referrals to the EPA for an investigation. The Guidelines will compliment the Referral Criteria by explaining how to make the referral and advising what forms of information need to be provided to support the referral.

# Reporting

The EPA operates within the Northern Territory Government's fiscal management legislation and framework. The financial management framework is based on outputs and the accrual methodology for budgeting, accounting and reporting, with performance management as a central principle.

## Performance Reporting

The EPA is an output of the Department of Natural Resources, Environment and The Arts. The Northern Territory Government's Budget Paper No. 3 2008-09 outlines the performance measures for all Agencies. The EPA's output is as follows:

The Environment Protection Authority is an independent statutory body supported in its services by the Department of Natural Resources, Environment and The Arts to provide advice on best practice environmental management through its reports and by encouraging greater transparency of decision making. The Environment Protection Authority engages with community and industry.

The EPA output performance measures are below.

Output Environment Protection Authority		07-08 estimate	07-08 actual	08-09 estimate
<b>Quantity</b>	Annual report to Minister and Parliament on the activities of the Environment Protection Authority	n.a	n.a <sup>(1)</sup>	1
	Strategic reviews commenced	1	2 <sup>(2)</sup>	2
	Reports to government on outcome of strategic reviews	0	0	1
	Referrals received and assessed	1	1 <sup>(3)</sup>	5
	Capacity to engage and provide advice to government, community, and industry to promote environmental sustainability	\$0.25M	\$0.25M <sup>(4)</sup>	\$0.78M
<b>Quality</b>	Stakeholder satisfaction with advice and processes	n.a	n.a <sup>(1)</sup>	80%
<b>Timeliness</b>	Reports delivered within identified delivery dates	n.a	n.a <sup>(1)</sup>	100%

### Explanatory Notes:

1. The Environment Protection Authority (EPA) was established in March 2008 and has not yet functioned for a full year. Accordingly there has not been a previous annual report to the Minister and Parliament on the activities of the EPA, nor has the EPA had an opportunity to produce public reports.
2. One review was a consequence of a referral received from the Minister Natural Resources, Environment and Heritage (the review of the assessment and approval processes under the *Environmental Assessment Act* for major projects) and the second was a review initiated by the EPA to develop principles of ecologically sustainable development specific to the Northern Territory.
3. This includes referrals from the Minister for Natural Resources, Environment and Heritage. The Minister made one referral to the EPA during this period.
4. Spending reflects the short time the EPA was in establishment before the end of the financial year.



## Financial Reporting

Funding for the EPA output of \$0.25M was appropriated through the Department of Natural Resources, Environment and The Arts by the Northern Territory Government with the passing of the *2007-2008 Appropriation Act*. As a Department output group the Authority is required to satisfy the accountability requirements of the *Fiscal Integrity and Transparency Act* and the *Financial Management Act*. In accordance with legislative requirements, financial reporting for the EPA in 2007-08 is consolidated into the Department financial statements and published in the NRETA 2007-08 Annual Report.