

the proposed development, together with reasons to support that identification;

an assessment of the existing population in each of the catchment areas together with the growth forecasts, demography and socioeconomic profile for each population group identified;

an identification of existing and approved market competition for the proposed development in the catchment areas and the gross floor area and the nature of that competition;

estimates of the value and distribution of retail sales within the total catchment area of the proposed development for the second year of trading of the proposed development;

identification of the beneficial and adverse effects that are likely to result from implementation of the proposed development.

The purpose of this amendment is to ensure that the terms of reference are comprehensive enough to assess the impact of a proposal ...

The effect of these amendments will be that the terms of reference and information required for a major shopping development will now include other environmental and social considerations as well as an economic assessment. Another benefit will be that each development will be given individual scrutiny in the preparation of terms of reference for a major shopping development. The DHLGP will coordinate and issue the terms of reference."

John Haydon
Barrister
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DEVELOPMENTS IN THE NORTHERN TERRITORY

Mining Wardens Court Calls for EIS

Over the past eighteen months the Northern Territory Mining Warden's Court has been the scene of a slow but quite remarkable turn of events for environmental protection at one of the Territory's major mine sites.

Woodcutters lead and zinc mine, some 100 kms south of Darwin, has since construction in 1983 suffered from considerable water management problems, most notably a leaking tailings dam and aquifer contaminated with sulphates.

Despite the provisions of the *Environment Assessment Act* 1982 (NT) Woodcutters was approved without an Environmental Impact Statement (EIS). At the time the long term environmental hazards identified by local landowners and environmentalists were dismissed despite technical shortcomings in dam design.

In 1990 an application for three mineral leases required by the mine for a large expansion were opposed by a local farmer, Richard Luxton who lodged objections under the *Mining Act* 1980 (NT) on the basis of environmental problems he had observed as a result of the existing mine operation. In November 1991 one mineral lease was rejected by the Mining Warden and in respect of the remaining two leases the Warden called for a study to be carried out of the environmental effects of the construction of a new tailings dam and ancillary works under s.58 of the *Mining Act*. The Warden was impressed by the list of environmental problems, the inability of the regulatory authorities to minimise hazards, and above all, the inadequate attention given to forecasting and preventing environmental problems occurring from the beginning of the mine's life.

The significance of the Warden's action lies in his determination that the environmental studies that

the mining company (Nicron) had prepared were inadequate and that a full Environmental Impact Statement should be prepared. This raised a number of issues concerning the process of environmental assessment in the Northern Territory.

Although the Warden may request a detailed environmental study under the *Mining Act* it would be prepared without the benefit of guidelines applied to other environmental assessment by the Conservation Commission of the Northern Territory. The Mining Warden would also not have the benefit of the Conservation Commission's expertise in assessing the adequacy of the EIS and the procedures for public comment set out in the Administrative Procedures under the *Environment Assessment Act* would not apply. The Mining Warden proposed to address some of these problems by providing the Environmental Centre of the Northern Territory an opportunity for comment on the study.

The action of the Warden in calling for the preparation of an EIS under the *Mining Act* also focussed attention on the fact that no EIS had been required under the *Environmental Assessment Act*. In fact it appears that the Department of Mines and Energy had failed to trigger assessment under the *Environmental Assessment Act* by notifying the Minister for Conservation of the application for mineral leases.

The action of the Warden in calling for an EIS and the involvement of the Environmental Centre prompted the Minister for Conservation to call for a report under section 7 of the *Environmental Assessment Act*. Following receipt of this report the Minister called for an EIS to be prepared under the *Environmental Assessment Act*.

The EIS was completed in June 1992 to the satisfaction of the Northern Territory Conservation Commission. The Minister for Conservation then recommended that the mining leases be granted subject to the implementation of safeguard outlined in the EIS. This procedure also satisfied the concerns of the objector and leases have been granted, however questions remain about the special treatment given to mining operations in the Northern Territory and the way this is reflected in legislative and administrative arrangements.

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DEVELOPMENTS IN THE ACT

Land (Planning and Environment) (Consequential Provisions) Act 1991

Following the introduction of the *Land (Planning and Environment) Act* 1991 in April 1992 (the ACT's first integrated piece of legislation dealing with planning, environment and land administration), associated changes to the *Buildings (Design and Siting) Act* 1964 took effect on 16 July 1992. The *Land (Planning and Environment) (Consequential Provisions) Act* 1991 amends the *Buildings (Design and Siting) Act* 1964 in that it:

- makes external design and siting a "controlled activity" (that is, one that requires ACT Planning Authority approval) for the purposes of the *Land (Planning and Environment) Act* 1991;
- provides a maximum penalty of \$20,000 for work done other than in accordance with approval;
- provides a wider definition of external design so that the external design of a building means any matter affecting its appearance and includes:
 - any alteration to the exterior of a building;
 - demolition of the building;
 - any car park next to it;
 - any sign affixed to, or created on, the exterior of the building, or erected next to it; and
 - any excavation (other than for the purposes of constructing the building) or other modification to the landscape of the land on which the building is to be constructed.

The ACT Planning Authority ("the Authority") will keep a Register of applications which will be open to inspection, although applicants have the right to ask the Authority to exclude part of an application from being made public.