



ENVIRONMENTAL IMPACT ASSESSMENT PROCEDURES - THEIR
DEVELOPMENT AND APPLICATION WITHIN AUSTRALIA

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SUMMARY

The subject-matter of this thesis is the development and application of environmental impact assessment (EIA) procedures in Australia. The first legislation concerning EIA was introduced by the Commonwealth government in December, 1974, and since then, legislative requirements have been adopted in Victoria and New South Wales, and are proposed to be introduced in South Australia very shortly. In the three remaining States, EIA procedures operate as a matter of administrative policy rather than legislative dictate, although they may derive some force and effect from provisions contained within the planning and environmental legislation in each of the States concerned.

This thesis has three aims. First, it seeks to present (in Part One) a detailed and critical analysis of the requirements with respect to EIA which have been prescribed at both the Commonwealth and State levels. Although EIA procedures have received widespread endorsement as a technique for environmental protection, and have attracted considerable interest and comment (including among lawyers), no detailed exposition of the current requirements exists. In particular, very little has been written about the administrative policies which operate in Tasmania, Western Australia and Queensland.

Chapter One introduces the EIA process, provides a brief historical perspective, and summarises the current requirements. There then follows an analysis of the Commonwealth requirements (Chapter Two), the State systems based on legislative requirements (Chapter Three), and finally, the State systems based on administrative policy (Chapter Four). Chapter Five discusses the problems of coordination which arise through the joint application of State and Commonwealth procedures to specific proposals, and recommends several changes to the existing cooperative arrangements. In the final chapter of the first part, an attempt is made to review the principal elements of the schemes previously examined (e.g., their scope, method of application, supervision, provision for public involvement and substantive effect). A number of proposals are put

forward for the improvement of the current systems.

The remainder of the thesis is directed to the consideration of two issues:

- (i) is there a need for EIA procedures in addition to the existing, conventional controls over development contained in land-use planning and pollution legislation?
- and (ii) assuming there is a role for EIA to perform in Australia alongside normal development controls, what measures are desirable to ensure the integration of EIA procedures and development controls within a coordinated, overall system?

The approach which is adopted is to review in some detail in Chapters Seven, Eight and Nine the land-use planning and pollution controls which operate in the three States where EIA legislation exists or is proposed, viz., Victoria, New South Wales and South Australia. In each instance, historical and administrative aspects of the controls are examined, their nature and effect is described, and then further specific aspects of particular significance to an evaluation of the role of EIA procedures and their relationship with development controls are considered. This review serves the additional function of outlining a number of significant recent developments with respect to planning and pollution control in each of the three States concerned.

The review of development controls in Part Two concludes that the role of EIA may be best suited in Australia with respect to public development due to the failure of planning controls in particular to regulate this type of activity. It also draws attention to the limited provision for public involvement under most planning and pollution controls and suggests that this factor could provide a secondary justification for the existence of EIA procedures. Finally, it notes a tendency to adapt land-use planning systems so as to cater for environmental factors. It is suggested that this tendency raises a serious doubt concerning the necessity for EIA procedures to operate in addition to planning controls.

The final part of the thesis attempts to develop these tentative observations into firm conclusions. Chapter Eleven comprises a brief review of overseas attitudes and experience with respect to similar issues, and then Chapter Twelve considers a range of arguments for and against the operation of EIA procedures with respect to public and private development. It concludes quite firmly in favour of the process for public works, and advocates a more restricted application of the process to private works which are subject also to planning and pollution controls.

Other important matters of form and technique which may affect the relationship between EIA and development controls are considered in the final Chapter (Chapter Thirteen). Questions which it is submitted have not been fully or adequately considered to date in Australia are dealt with in this Chapter, including:

- if EIA is to operate alongside existing development controls, should planning or environmental authorities assume responsibility for oversight of the process?;
- what techniques can be employed to define more precisely the range of activities to which EIA will apply?
- what sorts of integrative mechanisms are desirable to help harmonise EIA procedures with development control measures?

The law is stated in this thesis as it stood, to the best of the writer's knowledge, at May 31, 1981.