

SAMOA

**TULAFONO FAATONUTONU O FUAFUAGA MA
PULEGA O NOFOAGA I TAULAGA (ILOILOGA O
AAFIAGA TAU LE SIOSIOMAGA) 2007**

Faatulagaina o Aiaiga

1. Igoa puupuu ma le amataga
2. Faamatalaina o uiga o upu
3. O le taimi e manaomia ai se Iloiloga o Aafiaga tau le Siosiomaga
4. Ituaiga o Iloiloga o Aafiaga tau le Siosiomaga
5. Taiala faataatitia e agavaa ai mo se Iloiloga o Aafiaga tau le Siosiomaga
6. Mataupu o lo o aofia i le Uluai Lipoti o le Iloiloga o Aafiaga tau le Siosiomaga
7. Mataupu o lo o aofia i le Lipoti auiliili o le Iloiloga o Aafiaga tau le Siosiomaga
8. Laina faavae ma Faamatalaga o le Tausisia o le Mataituina
9. Toe Iloiloina o le Uluai Lipoti o le Iloiloga o Aafiaga tau le Siosiomaga ma le Lipoti auiliili o le Iloiloga o Aafiaga tau le Siosiomaga
10. E mafai ona faatino se Toe Iloiloga i fafo
11. Feutagaiga ma Tagata Lautele

FAAMATALAGA

Mataupu o lo o aofia i se Iloiloga o Aafiaga tau le Siosiomaga

E tusa ai ma le fuaiupu 105 o le Tulafono o Fuafuaga ma Pulega o Nofoga i Taulaga 2004, **O AU, TUI ATUA TUPUA TAMASESE EFI**, O Le Ao o le Malo o le Malo Tutoatasi o Samoa, i le faia ai ma faatasi ai ma le fautuaga a le Kapeneta, **UA OU FAIA** ai Tulafono Faatonutonu nei.

2 *Tulafono Faatonutonu o Fuafuaga ma Pulega o* 2007/35
Nofoaga i Taulaga (Iloiloga o Aafiaga Tau
le Siosiomaga) 2007

FAIA i Apia i lenei aso 29 o Aokuso 2007.

sainia: (Tui Atua Tupua Tamasese Efi)
OLE AO O LE MALO

TULAFONO FAATONUTONU

1. Igoa puupuu ma le amataga-(1) E mafai ona taua nei Tulafono Faatonutonu o Tulafono Faatonutonu o Fuafuaga ma Pulega o Nofoaga i Taulaga (Iloiloga o Aafiaga tau le Siosiomaga) 2007.

(2) O nei Tulafono Faatonutonu e amata faamamaluina i le aso e faia ai.

2. Faamatalaina o uiga o upu – I totonu o nei Tulafono Faatonutonu, ae vagana ai ua aliali mai se isi faamoemoega e ese ai:

“EIA” o lona uiga o se Iloiloga o Aafiaga tau le Siosiomaga, e manaomia mo fuafuaga tau atinae faalemalo ma atinae tumaoti e pei ona faatulagaina i totonu o nei Tulafono Faatonutonu, ma e aofia ai se Uluai Lipoti o le Iloiloga o Aafiaga tau le Siosiomaga;

“PEAR” o lona uiga o le ituaiga o Iloiloga o Aafiaga tau le Siosiomaga o taua i totonu o le tulafono faatonutonu laitiiti 4 (2) e avea o se Uluai Lipoti o le Iloiloga o Aafiaga tau le Siosiomaga, ma faaaogāina e tusa ai ma nei Tulafono Faatonutonu;

“lē o lo o talosaga” o lona uiga o le tagata o lo o fuafuaina ma tauaveina matafai oi mo so o se fuafuaga tau atinae;

“o le Tulafono” o lona uiga o le Tulafono o Fuafuaga ma Pulega o Nofoaga i Taulaga 2004.

3. O le taimi e manaomia ai se Iloiloga o Aafiaga tau le Siosiomaga-(1) Afai, o se vaega o so o se talosaga mo maliega tau atinae ua faia e tusa ai o le fuaiupu 37 o le Tulafono, e manaomia se Iloiloga o Aafiaga tau le Siosiomaga e le Ofisa e tusa ai o le fuaiupu 42 o le Tulafono, e ao ona saunia le Iloiloga o Aafiaga tau le Siosiomaga ma ia tuuina atu i le faiga tali tutusa ua faatonuina i lalo o nei tulafono faatonutonu, ae vagana ai ua faatonuina e le Ofisa i se isi faiga e ese ai e ala i se faiga tusitusia.

(2) I le faia o se faaiuga pe manaomia se Iloiloga o Aafiaga tau le Siosiomaga, e tataui i le Ofisa ona amanaia i le iloiloga, faamatalaga ma pepa aloaia uma ua tuuina atu faatasi ma le talosaga.

4. Ituaiga o Iloiloga o Aafiaga tau le Siosiomaga-(1) O se Uluai Lipoti o le Iloiloga o Aafiaga tau le Siosiomaga (PEAR) ma se Lipoti auiliili o le Iloiloga tau le Siosiomaga (CEAR) o ituaiga ia e lua (2) o le Iloiloga o Aafiaga tau le Siosiomaga.

(2) E mafai ona manaomia e le Ofisa se Uluai Lipoti o le Iloiloga tau le Siosiomaga mo so o se talosaga tau atinae lea e faaaogā i ai so o se taiala faataatitia e agavaa ai ua faamaotiina i totonu o nei Tulafono Faatonutonu, peitai e manatu le Ofisa e le ono ogaoga se aafiaga i le siosiomaga.

(3) E mafai ona manaomia e le Ofisa se Lipoti auiliili o le Iloiloga o Aafiaga tau le Siosiomaga mo so o se talosaga tau atinae lea e faaaogā i ai so o se taiala faataatia e agavaa ai ua faamaotiina i totonu o nei Tulafono Faatonutonu, ma ua manatu le Ofisa e ono i ai se aafiaga ogaoga i le siosiomaga.

(4) I luga o se taunuuga mo le aoaoina atili ia malamalama i so o se atinae maoti, e mafai e le ofisa i totonu o le masina e tasi (1) talu ona tuuina atu so o sea manaoga, ona suia ana manaoga, e aofia ai le suia o lona manaoga mai se Uluai Lipoti o le Iloiloga o Aafiaga tau le Siosiomaga i se Lipoti auiliili o le Iloiloga o Aafiaga tau le Siosiomaga po o i se faiga toe fesui ai faapena.

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(5) O se manaoga po o se suiga i lalo o lenei Vaega e tatau ona faailoa atu i se faiga tusitusia i lē o lo o talosaga.

5. Taiala faataatitia e agavaa ai mo se Iloiloga o Aafiaga tau le Siosiomaga – E mafai ona manaomia se Iloiloga o Aafiaga tau le Siosiomaga, pe afai e manatu le Ofisa e faapea o le talosaga tau atinae ma ana gaoioiga e faasino i ai e ono faatulai mai ai so o se mea ua taua e faapea:

- (a) aafiaga matuia i tagata, o se galuega o i ai nei, fale po o fanua;
- (b) aafiaga matuia i luga o se nofoaga, ituaiga eseese o meaola po o nofoaga masani e taua i le siosiomaga (e aofia ai le olaga lautele ma le faaleaganuu);
- (c) aafiaga matuia e fesootai ma lamatiaga o faalavelave matuia faalenatura;
- (d) aafiaga matuia i luga o po o i le sone tau gataifale;
- (e) aafiaga matuia i luga o po o i totonu o so o se alavai po o se laueleele e mafai ona taofia pe faau i atu ai le tele o le suavai;
- (f) aafiaga matuia e tulai mai i le lafoaia o so o se mea e faaleagaina ai po o mea e filogia ma aafia ai le Siosiomaga;
- (g) aafiaga matuia e fesootai faatasi ma tulaga le mautu o le elelee, galulolo i le gataifale po o lologa;
- (h) aafiaga matuia i luga o le suaina o le fanua po o le soifua lelei ma le malupuipua o tagata lautele o se ogaeleele;
- (i) aafiaga matuia i atinae tetele a le malo;
- (j) aafiaga matuia i luga o taavale afi po o felauaiga; ma
- (k) so o se isi mataupu mo le iloiloga ua taua i totonu o le fuaiupu 46 o le Tulafono.

6. Mataupu o lo o aofia i le Uluai Lipoti o le Iloiloga o Aafiaga tau le Siosiomaga – E tatau ona tuuina atu le Uluai Lipoti o le Iloiloga o Aafiaga tau le Siosiomaga e tusa ai ma:

- (a) le Tulafono; ma

- (b) so o se taiala o le Iloiloga o Aafiaga tau le Siosiomaga, tulaga faataatitia tau atinae po o aiaiga fuafuaina ua faamaonia e le Komiti Faatino mo lenei faamoemoe; ma
- (c) so o se pepa faatumu ua faamaotiina po o ua tuuina atu e le Ofisa; ma
- (d) so o se faatonuga ua faia i se faiga tusitusia e le Ofisa; ma
- (e) le Vaega 1 o le Faamatalaga, ae vagana ai ua faatonuina i se isi faiga e ese ai e le Ofisa i se faiga tusitusia.

7. Mataupu o lo o aofia i le Lipoti auiliili o le Iloiloga o Aafiaga tau le Siosiomaga - E tatau ona tuuina atu le Iloiloga o Aafiaga tau le Siosiomaga e tusa ai ma:

- (a) le Tulafono; ma
- (b) so o se taiala o le Iloiloga o Aafiaga tau le Siosiomaga, tulaga faataatitia tau atinae po o aiaiga o fuafuaga ua faamaonia e le Komiti Faatino mo lenei faamoemoe; ma
- (c) so o se pepa faatumu ua faamaotiina po o ua tuuina atu e le Ofisa; ma
- (d) so o se faatonuga ua faia i se faiga tusitusia e le Ofisa; ma
- (e) le Vaega 2 o le Faamatalaga ae vagana ai ua faatonuina i se isi faiga e ese ai e le Ofisa i se faiga tusitusia.

8. Laina faavae ma Faamatalaga o le Tausisia o le Mataituina-(1) E faaopoopo atu i manaoga ua taua i totonu o tulafono faatonutonu 6 ma le 7 ua taua i luga, e tatau i se Iloiloga mo Aafiaga tau le Siosiomaga ona i ai faatasi ma se Faamatalaga ua faataatia ai se polokalame o laina faavae ma le tausisia o le mataituina, e talafeagai i le uiga faanatura ma le fua faataau o le talosaga.

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Nofoaga i Taulaga (Iloiloga o Aafiaga Tau
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(2) O le Faamatalaga ua faasinomia i totonu o le tulafono faatonutonu laitiiti (1) e tatau ona faataatia ai le lainafaavae mataituina ua fuafuaina e faatino ma so o se mataituina e mulimuli mai ai (faatasi ai ma ona taimi faifai pea ua fuafuaina ma metotia) ua faamoemoe e faamautinoaina ai le tulaga tausisia.

9. Toe iloiloina o le Uluai Lipoti o le Iloiloga o Aafiaga tau le Siosiomaga ma le Lipoti auiliili o le Iloiloga o Aafiaga tau le Siosiomaga-(1) E tatau i le Ofisa ona toe iloilo, pe taulamua ina ia toe iloiloina, so o se Uluai Lipoti o le Iloiloga o Aafiaga tau le Siosiomaga po o se Lipoti auiliili o le Iloiloga o Aafiaga tau le Siosiomaga o manaomia ma tuuina atu e avea o se vaega o le gaioiga o le maliega tau atinae.

(2) I le faia o le toe iloiloga ua faasinomia i totonu o le tulafono faatonutonu laitiiti (1), e tatau i le Ofisa, i le avea ai ma vaega o lena toe iloiloga:

- (a) ona tuuina atu le Iloiloga o Aafiaga tau le Siosiomaga i isi Ofisa uma ua silafia e i ai, po o e ono i ai, se aia faaletulafono po o se aia tau galuega tauave i totonu o le talosaga, mo sa latou faamatalaga tusitusia; ma
- (b) faamaoti sea vaitaimi mo le mauaina o so o se faamatalaga e pei ona talafeagai i le tulaga aliae mai, i le amanaia ai o le uiga faanatura ma le fua faatatau o le talosaga ma ana faamaumauga aloaia e fesootai faatasi i ai.

(3) E tatau i le Ofisa ona saunia se lipoti tusitusia o le toe iloiloga ina ia iloiloina, e tusa ai o le fuaiupu 46 o le Tulafono faatasi ai ma isi faamaumauga talafeagai a o lumanai ai le faia o se faaiuga i luga o so o se talosaga mo maliega tau atinae.

10. E mafai ona faatino se Toe Iloiloga i Fafu-(1) E mafai e le Ofisa ona faia se faaiuga e faapea e le o i ai ia te ia, po o e le o avanoa i ai ia i le taimi nei, poto faapitoa talafeagai ina ia talafeagai lelei ona toe iloilo se Iloiloga o Aafiaga tau le

Siosiomaga ma i le tulai mai o sea tulaga, e mafai ona ia faailoa manino se tagata talafeagai i fafo e toe iloilo ina ma totogi se lipoti mai lena tagata.

(2) A o lumanai ai le totogiina o so o se lipoti i lalo o le tulafono faatonutonu laitiiti (1) ma pe afai ua fuafua e le Ofisa ina ia toe faaola tau mai lē o lo o talosaga, o le maliega i lena gaoioiga e ao ona maua i se faiga tusitusia mai lē o lo o talosaga.

(3) Afai e le ioeina e lē o lo o talosaga le gaoioiga ua fuafuaina e le Ofisa, ma ua le mafai ai ona tuuina atu se isi faiga e suia ai e faamalieina ai le Ofisa, e tatau ona ave e faapea ua faataatia ese le talosaga tau atinae, seia i ai se taimi e foia ai lena mataupu.

11. Feutagaiga ma Tagata Lautele-(1) E mafai e le Ofisa ona fuafua e faapea e ono manaomia nisi feutagaiga ma tagata lautele e uiga i se Iloiloga o Aafiaga tau le Siosiomaga e le gata:

(a) o le tagata talosaga; po o

(b) le Ofisa.

(2) E ao i le Ofisa ona fautuaina i se faiga tusitusia lē o lo o talosaga mo so o sea fuafuaga i totonu o le lua (2) vaiaso talu ona mauaina le Iloiloga o Aafiaga tau le Siosiomaga, e aofia ai auiliiliga atoatoa o le gaoioiga a tagata lautele ua ia fautuaina ai le tagata talosaga po o le Ofisa ina ia faia faapea ma mafuaaga mo lena faaiuga.

(3) E ao i so o se feutagaiga ma tagata lautele ua fuafuaina i lalo o lena Vaega ona ogatasi ma so o se taiala ua faamaonia e le Komiti Faatino ma e tatau ona faamaeaina a o le i faia se faaiuga i le talosaga tau atinae e tusa ai ma le fuaiupu 47 o le Tulafono.

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FAAMATALAGA – MATAUPU O LO O AOFIA I SE
ILOILOGA O AAFIAGA TAU LE SIOSIOMAGA
(tulafono faatonutonu 6 ma le 7)

Vaega 1:

(1) E tatau ona aofia i le Uluai Lipoti o le Iloiloga o Aafiaga tau le Siosiomaga meataitasi nei:

- (a) se faamatalaga ootoo o le fuafuaga tau atinae;
- (b) se faamatalaga ootoo o le ogaeleele o le a aafia ma le uiga o le suiga ua fuafuaina i le ogaeleele (e aofia ai se faafanua e iloa ai nofoaga ma le fuafuaga o le nofoaga e fai ai);
- (c) se oototoga o tulaga e faavaeina ai le fuafuaga tau atinae;
- (d) se aotelega o feutagaiga na faia e tagata e aofia ai, o mataupu lautele na lagā, ma tali ua tuuina atu i ia mataupu;
- (e) se iloiloga o aafiaga uma e ono tutupu ma tulaga matuia e mafai ona tutupu tau le Siosiomaga, e aofia ai vaitaimi umi ma vaitaimi pupuu, ma taunuuga tulaga muamua ma tulaga maualuga;
- (f) se faailoilo o suiga e ono mafai ona foia ai tulaga faigata o so o se aafiaga matuia tau le siosiomaga ua faailoa manino; ma
- (g) se faailoilo o gaioiga ua faamoemoe lē o lo o talosaga e faaaogā e foia ai tulaga faigata pe ‘alofia ai aafiaga matuia tau le siosiomaga ua faailoa manino.

Vaega 2:

(1) E tatau i se Lipoti auiliili o le Iloiloga o Aafiaga tau le Siosiomaga ona aofia ai, pe afai e talafeagai i ai meataitasi nei:

- (a) **aotelega** – e tatau ona aofia i Iloiloga taitasi o Aafiaga tau le Siosiomaga se aotelega o le

fuafuaga tau atinae ma ona aafiaga e mulimuli mai ai.

E tatau ona aofia ai i le aotelega:

(i) se faamatalaga o faaiuga autu uma ma fautuaga; ma

(ii) se faatulagaga o so o se mataupu e faatulai mai ai se feeseeseaiga o manatu; ma

(iii) se faataatiaga o mataupu e lei faia i ai ni faaiuga; ma

(iv) se aotelega o feutagaiga na faia e tagata e aofia ai, o mataupu lautele na laga, ma tali na tuuina atu i ia mataupu; ma

(v) se faataatiaga o so o se filifiliga e sili atu e aofia i nisi faiga e suia ai; ma

(vi) auiliiliga o so o se fuafuaga e foia ai tulaga faigata o aafiaga ogaoga.

(b) faamatalaga ma le faamoemoe o gaoioiga – e tatau i Iloiloga taitasi o Aafiaga tau le Siosiomaga ona aofia ai se faamatalaga o le fuafuaga tau atinae (e aofia ai so o se laasaga po o le faasologa o gaoioiga), se faamatalaga o ona faamoemoe faatauaina, ma sini o le lumanai ma le taimi nei o lo o tulimatai e lē o lo o talosaga. E tatau i le faamatalaga ona toe:

(i) faamatala faalauaitetele le tulaga faatekinisia o le fuafuaga, faaletamaoiga ma uiga vaaia tau le Siosiomaga, i le amanaia ai o galuega faa-inisia o le taimi nei ma nofoaga lautele o lagolagosua/faamatalaga tau atinae tetele;

(ii) faailoa le nofoaga tonu ma tuaoi o le fuafuaga i luga o se faafanua auiliili; ma

(iii) tuuina atu se faamatalaga e faavae ai le agaga lelei mo le fuafuaga e aofia ai faamatalaga lagolago e pei ona talafeagai ai.

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(c) **faiga e suia ai** – e tatau i Iloiloga taitasi o Aafiaga tau le Siosiomaga ona toe iloilo aafiaga tau le Siosiomaga o le fuafuaga tau atinae ma so o se faiga e suia ai e mafai ona faatino i le fuafuaga. I totonu o lenei fuaiupu e tatau i lē o lo o talosaga ona fuafua ina ia:

(i) toe iloilo ma fuafua faiga uma e suia ai e talafeagai, e aofia ai nofoaga ma metotia ma le faiga e suia ai o le leai o se gaoioiga; ma

(ii) ia faamautinoa se faiga e suia ai po o faiga e suia ai e manatu i ai lē o lo o talosaga;

(d) **siosiomaga aafia** - e tatau i Iloiloga taitasi o Aafiaga tau le Siosiomaga ona:

(i) faamatala le siosiomaga tau lotoifale i totonu lava o le fuafuaga e pei ona i ai a o le i amataina le fuafuaga;

(ii) toe iloilo ma fuafua feteenaiga e ono tulai mai po o tulaga le ogatasi i le va o le fuafuaga tau atinae ma sini talafeagai ona faaaogā i le faaleatunuu, faaitulagi po o le faaaogāina o fanua i totonu o le atunuu ma fuafuaga tau le gataifale (e aofia ai Fuafuaga Tau Atinae) ma faiga faavae.

(e) **tulaga e aliae mai tau le siosiomaga** - e tatau i Iloiloga taitasi o Aafiaga Tau le Siosiomaga ona aofia ai se auililiga o tulaga aliae mai tau le siosiomaga o le fuafuaga tau atinae ma, i le tulaga lautele talafeagai, e mafai ona aofia ai mea ua taua e faapea:

(i) se toe iloiloga o aafiaga tuusao pe leai foi o le siosiomaga, lo latou taua, ma lamatiaga;

(ii) se iloiloga o so o se aafiaga tele faatupulaia tau le siosiomaga e ono tulai mai e fesootai ma isi gaoioiga i totonu o le nofoaga;

(iii) se iloiloga o aafiaga tau le siosiomaga o faiga e suia ai;

(iv) se iloiloga o le manaoga e ono faapoopoina ai atinae tetele, e aofia ai malosiaga ma nofoaga mo tagata lautele;

(v) se iloiloga o aafiaga o le tulaga i le tino mai o le ogaeleele ma le malu puipuia (e aofia ai le tulaga vaaia aupito manaomia), lona talaaga faasolopito ma punaoa faaleaganuu, ma le faataatiaga o le siosiomaga ua fausia;

(vi) se iloiloga o aafiaga o le olaga lautele i le faitau aofai o tagata lautele ma lona faaaogāina o le eleele;

(vii) se iloiloga o mea ua aafia ai i le faaaogāina o mea filogia malolosi tau le siosiomaga;

(viii) se toe iloiloga o faiga e suia ai ua fuafuaina e foia ai tulaga faigata o aafiaga matuia tau le Siosiomaga;

(ix) se faamatalaga o so o se aafiaga matuia tau le siosiomaga ua le mafai ona alofia, e aofia ai so o se suiga tumau i uiga faaletino, faapaiolosi, le olaga lautele po o uiga faaleaganuu o le siosiomaga ua aafia po o i totonu o le faaaogāina o lena siosiomaga e ono mafai ona faia i le lumanai;

(x) se auililiga o le tau ma faamanuiaga e ono taunuu i ai mai le fuafuaga tau atinae;

(xi) le faamautinoaina o so o se tuuina atu atoatoa o punaoa e le mafai ona toe faaliliuina atu pe le mafai foi ona toe maua mai e pei ona manaomia mo le fuafuaga tau atinae.

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- (f) **o le foia o tulaga faigata ma aiaiga** - e tatau i Iloiloga taitasi o Aafiaga tau le Siosiomaga ona:
- (i) faamautinoa so o se aafiaga taua tau le siosiomaga lea e le mafai ona alofia;
 - (ii) faamautinoa fuafuaga talafeagai e foia ai tulaga faigata ina ia faaitiitia ai so o se aafiaga ogaoga tau le siosiomaga e tulai mai mai le faiga e suia ai e sili atu ona lelei; ma
 - (iii) fautuaina so o se aiaiga ua fuafuaina.

Tuuina atu i lalo o le pule faataga a le Tulafono o Tulafono Faatonutonu 1953.

O nei Tulafono Faatonutonu o lo o faafoe e le Matagaluega o Punaoa Faalenatura ma Siosiomaga.

O ata o nei Tulafono Faatonutonu o lo o mafai ona faatauina atu, mai le Ofisa o le Failautusi o le Fono Aoaofaitulafono.

**Lolomiina e le Failautusi o le Fono Aoaofaitulafono,
i le pule a le Fono Aoaofaitulafono.**

SAMOA

**PLANNING AND URBAN MANAGEMENT
(ENVIRONMENTAL IMPACT ASSESSMENT)
REGULATIONS 2007**

Arrangement of Provisions

- | | |
|---|--|
| 1. Short title and commencement | 8. Baseline and Compliance Monitoring Schedule |
| 2. Interpretation | 9. Review of PEAR and comprehensive EIA |
| 3. When an EIA is required | 10. External Review may be undertaken |
| 4. Forms of EIA | 11. Public Consultation |
| 5. Qualifying Criteria for an EIA | |
| 6. Content of Preliminary Environmental Assessment Report | SCHEDULE |
| 7. Content of Comprehensive EIA | Content of an EIA |

Pursuant to section 105 of the Planning and Urban Management Act 2004, **I, TUI ATUA TUPUA TAMASESE EFI**, Head of State of the Independent State of Samoa, acting by and with the advice of Cabinet, **MAKE** the following Regulations.

DATED at Apia this 29th day of August 2007.

signed: (Tui Atua Tupua Tamasese Efi)
HEAD OF STATE

REGULATIONS

1. Short title and commencement-(1) These Regulations may be cited as the Planning and Urban Management (Environmental Impact Assessment) Regulations 2007.

(2) These Regulations commence on the day they are made.

2. Interpretation - In these Regulations, unless the contrary intention appears:

“EIA” means an Environmental Impact Assessment, required for public and private development proposals as set out in these Regulations, and includes a PEAR;

“PEAR” means the form of EIA referred to in subregulation 4 (2) as a Preliminary Environmental Assessment Report, and applied in accordance with these Regulations;

“proponent” means the person proposing and assuming responsibility for any development proposal;

“the Act” means the Planning and Urban Management Act 2004.

3. When an EIA is required-(1) If, as part of any development consent application made pursuant to section 37 of the Act, an EIA is required by the Agency pursuant to section 42 of the Act, the EIA must be prepared and provided in the manner prescribed under these regulations, unless the Agency directs otherwise in writing.

(2) In deciding whether to require an EIA, the Agency will take into consideration all the information and documentation provided with the application.

4. Forms of EIA-(1) A Preliminary Environmental Assessment Report (PEAR) and a Comprehensive Environmental Assessment Report (CEAR) are the two forms of EIA.

(2) A Preliminary Environmental Assessment Report may be required by the Agency for any development application to which any of the qualifying criteria specified in these Regulations apply, but which the Agency considers is not likely to have a significant adverse impact on the environment.

(3) A Comprehensive EIA may be required by the Agency for any development application to which any of the qualifying criteria specified in these Regulations apply, and which the Agency considers is likely to have a significant adverse impact on the environment.

(4) As a consequence of learning more about any particular development the Agency may, within 1 month of issuing any such requirement, alter its requirement, including changing its requirement from a PEAR to a CEAR or vice-versa.

(5) A requirement or alteration under this Part shall be notified in writing to the proponent.

5. Qualifying Criteria for an EIA - An EIA may be required where the Agency considers that the development application and its associated activities could give rise to any of the following:

- (a) adverse impacts on people, an existing activity, building or land;
- (b) adverse impacts on a place, species or habitat of environmental (including social and cultural) importance;
- (c) adverse impacts in conjunction with natural hazard risks;
- (d) adverse impacts on or in the coastal zone;
- (e) adverse impacts on or in any waterway or aquifer;
- (f) adverse impacts arising from the discharge of any contaminant or environmental pollutant;
- (g) adverse impacts associated with land instability, coastal inundation, or flooding;
- (h) adverse impacts on the landscape or amenity of an area;
- (i) adverse impacts on public infrastructure;
- (j) adverse impacts on traffic or transportation; and
- (k) any other matter for consideration stated in section 46 of the Act.

6. Content of Preliminary Environmental Assessment

Report - The PEAR shall be submitted in accordance with:

- (a) the Act; and
- (b) any EIA guidelines, development standards or planning provisions approved for this purpose by the Board; and
- (c) any form specified or provided by the Agency; and
- (d) any direction made in writing by the Agency; and
- (e) Part 1 of the Schedule, unless otherwise directed by the Agency in writing.

7. Content of Comprehensive EIA - The EIA shall be submitted in accordance with:

- (a) the Act; and
- (b) any EIA guidelines, development standards or planning provisions approved for this purpose by the Board; and
- (c) any form specified or provided by the Agency; and
- (d) any direction made in writing by the Agency; and
- (e) Part 2 of the Schedule, unless otherwise directed by the Agency in writing.

8. Baseline and Compliance Monitoring Schedule-(1) In addition to the requirements stated in regulations 6 and 7 above, an EIA shall be accompanied by a Schedule outlining a programme of baseline and compliance monitoring, appropriate to the nature and scale of the application.

(2) The Schedule referred to in subregulation (1) shall outline the baseline monitoring proposed to be undertaken and also any subsequent monitoring (together with its proposed frequency and methodology) intended to ensure compliance.

9. Review of PEAR and comprehensive EIA-(1) The Agency shall review, or cause to be reviewed, any PEAR or comprehensive EIA required and submitted as part of a development consent process.

(2) In undertaking the review referred to in subregulation (1), the Agency shall, as part of that review:

- (a) circulate the EIA to all other agencies known to have, or to be likely to have, a statutory or functional interest in the application, for their written comment; and
 - (b) specify such period for the receipt of any comments as is reasonable in the circumstance, taking into account the nature and scale of the application and its associated documentation.
- (3) The Agency shall prepare a written review report to be considered, pursuant to section 46 of the Act with other relevant material before a decision on any development consent application is made.

10. External Review may be undertaken-(1) The Agency may determine that it does not possess, or has not currently available to it, the necessary specialist skills to appropriately review an EIA and in such a circumstance it may identify a suitable external reviewer and commission a report from that person.

(2) Prior to commissioning any report under subregulation (1) and where the Agency intends to recover the associated costs from the proponent, agreement to that course of action must be obtained in writing from the proponent.

(3) If the proponent does not agree to the course of action proposed by the Agency, and fails to provide an alternate option to the satisfaction of the Agency, the development application shall be deemed to be suspended until such time as this matter is resolved.

11. Public Consultation-(1) The Agency may determine that further public consultation on an EIA is required either:

- (a) by the applicant; or
- (b) by the Agency.

(2) The Agency must advise the proponent in writing of any such determination within two (2) weeks of receiving the EIA, including full details of the public process it proposes the applicant or the Agency undertake and the reasons for that determination.

(3) Any public consultation proposed under this Part must be consistent with any Board-approved guideline and shall be completed before a decision is taken on the development application pursuant to section 47 of the Act.

SCHEDULE – CONTENT OF AN EIA (regulations 6 and 7)

Part 1:

- (1) A PEAR shall contain the following particulars:
- (a) a brief description of the development proposal;
 - (b) a brief description of the area to be affected and the nature of the proposed change to the area (including a location map and site plan);
 - (c) a brief justification for the development proposal;
 - (d) a summary of the stakeholder consultation undertaken, the general issues raised, and responses to those issues;
 - (e) an assessment of all reasonably foreseeable adverse and positive environmental impacts, including long-term and short-term, primary and secondary consequences;
 - (f) an indication of possible alternatives to mitigate any identified adverse environmental impacts; and
 - (g) an indication of measures that the proponent intends to take to mitigate or avoid identified adverse environmental impacts.

Part 2:

- (1) A comprehensive EIA shall, where relevant, contain the following particulars:
- (a) **summary** - each EIA shall contain a summary of the development proposal and its consequences. The summary shall include:
 - (i) a statement of all major conclusions and recommendations; and

- (ii) an outline of any issues that are controversial; and
 - (iii) an outline of issues that remain to be resolved; and
 - (iv) a summary of the stakeholder consultation undertaken, the general issues raised, and responses to those issues; and
 - (v) an outline of the preferred choice among any alternatives; and
 - (vi) details of any proposals to mitigate significant adverse impacts.
- (b) **description and purpose of activity** - each EIA shall include a description of the development proposal (including any phasing or sequencing of activities), a statement of its underlying purpose, and the long-term and short-term objectives sought by the proponent. The statement shall further:
 - (i) generally describe the proposal's technical, economic, and environmental characteristics, taking into consideration current engineering and supporting utility/infrastructural data;
 - (ii) show the precise location and boundaries of the proposal on a detailed map; and
 - (iii) provide a justification of the rationale for the proposal including such supporting information as is appropriate.
- (c) **alternatives** - each EIA shall review the environmental impacts of the development proposal and any practical alternatives to the proposal. In this section the proponent shall:
 - (i) review and evaluate all reasonable alternatives, including locations and methods and the alternative of no action; and
 - (ii) identify the proponent's preferred alternative or alternatives;

- (d) **affected environment** - each EIA shall:
- (i) describe the local environment in the vicinity of the proposal as it exists before commencement of the proposal;
 - (ii) review and evaluate possible conflicts or inconsistencies between the development proposal and relevant applicable objectives of national, regional or local land use and marine/coastal plans (including Development Plans) and policies.
- (e) **environmental consequences** - each EIA shall include an analysis of the environmental consequences of the development proposal and, to the extent relevant, may include the following:
- (i) a review of direct and indirect environmental effects, their significance, and risks;
 - (ii) a consideration of any potential cumulative environmental impacts that might arise in conjunction with other activities in the location;
 - (iii) a consideration of the environmental effects of alternatives;
 - (iv) an assessment of the likely need for additional infrastructure, including energy and public utilities;
 - (v) an assessment of impacts on the area's physical locality and amenity (including visual quality), its historic and cultural resources, and the design of the built environment;
 - (vi) an assessment of social impacts on the, local population and its uses of the land;
 - (vii) an assessment of the implications of the use of potential environmental pollutants;
 - (viii) a review of options proposed to mitigate adverse environmental impacts;

(ix) a description of any unavoidable adverse environmental impacts, including any permanent change in the physical, biological, social or cultural characteristics of the affected environment or in the possible future use of that environment;

(x) an analysis of the costs and benefits that may result from the development proposal;

(xi) the identification of any irreversible or irretrievable commitments of resources required for the development proposal.

(f) mitigation and conditions - each EIA shall:

(i) identify any significant environmental impacts that cannot be avoided;

(ii) identify appropriate mitigation measures to minimise any significant environmental impacts arising from the preferred alternative; and

(iii) recommend any proposed conditions.

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**Copies of these Regulations can be purchased from the Office
of the Clerk of the Legislative Assembly**

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