



## **Australian Government**

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### **Department of the Environment and Energy**

#### **Australian Antarctic Division**

## **GUIDE TO ADMINISTERING ENVIRONMENTAL APPROVALS**

File [Records] ref: Container: 06/501 Rec No: CD14/21	Responsible Officer: Senior Environmental Policy Adviser	Authorising Officer: Manager, Territories, Environment and Treaties	Authorisation Date: September 2018
			Review Date: September 2020
Location of Hard Copies/Points of Use: Environmental Officers in TET Section			

This manual is intended for use by staff of the Australian Antarctic Division. It should not be relied upon by any other person. This guide does not represent legal or professional advice. The policies and procedures included in this guide are intended to serve as general guidance only and should be applied in conjunction with the requirements of the relevant legislation, which always prevails.

## Table of Contents

ENVIRONMENTAL APPROVALS – OVERVIEW .....	4
RECEIVING APPLICATIONS .....	5
ASSESS .....	12
RECOMMENDATION .....	14
FURTHER ASSESSMENT (IF REQUIRED) .....	15
ASSESSMENT OF PERMITS (ATEP AND AMLRC PERMITS).....	15
OTHER APPROVALS .....	17
DECISION COMMUNICATION.....	18
MONITORING AND AUDITING .....	18
INFORMATION EXCHANGE .....	19
Appendix 1. EIA Process under the ATEP Act .....	20
Appendix 2. Offences.....	21
Appendix 3. Environmental Principles.....	23
Appendix 4. Guide for the preparation of IEEs and CEEs.....	25
Appendix 5. Guidelines for Australian Scientific Contributions to CCAMLR.....	37
Appendix 6. Fact Sheet for Applicants Undertaking Scientific Projects Taking and Using a Weapon in the Australian Antarctic Territory .....	38

## ENVIRONMENTAL APPROVALS – OVERVIEW

### Implementing legislation for the Antarctic Treaty System

Australia has obligations under the Antarctic Treaty system, other international agreements and national legislation to protect the Antarctic environment. International obligations are implemented through Australian laws. The Antarctic Treaty system includes the *Antarctic Treaty Act 1959*, the *Protocol on Environmental Protection to the Antarctic Treaty 1991* (the Environmental Protocol) the *Convention for the Conservation of Antarctic Marine Living Resources 1980* (the CAMLR Convention) and the *Convention for the Conservation of Antarctic Seals* (the Seals Convention).

The Environmental Protocol (also known as the Madrid Protocol) establishes Antarctica as a ‘natural reserve, devoted to peace and science,’ prohibits mining, establishes environmental principles for the conduct of activities, and requires all proposed activities to undergo prior assessment of their environmental impacts. Australia’s obligations under the Environmental Protocol are implemented through the *Antarctic Treaty (Environment Protection) Act 1980* (the ATEP Act).

The ATEP Act sets out the process to determine the environmental impact of an activity and circumstances under which an activity may be authorised. The ATEP Act also stipulates those activities that are offences, and in what circumstances, if any, an activity can be permitted. For an activity to be approved that would otherwise be an offence under the ATEP Act, the activity must be authorised *and permitted*. A number of legislative instruments (including regulations) may also apply to the consideration of an activity.

The *Antarctic Treaty (Environment Protection) Historic Sites and Monuments Proclamation 2007* implements into domestic law the historic sites and monuments approved by the Antarctic Treaty Consultative Parties.

The objective of the CAMLR Convention is the conservation of Antarctic marine living resources. Conservation in this context includes rational use. Established under the CAMLR Convention, the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) pursues the Convention’s objective, including through the sustainable management of fishing activities in the Convention Area, based on the ecosystem approach. Australia’s obligations under CCAMLR are implemented by the *Antarctic Marine Living Resources Conservation Act 1981* (the AMLRC Act).

A permit is required to harvest or carry out research with respect to Antarctic living marine organisms in the CCAMLR Convention Area (which approximates with the marine areas south of the Antarctic Convergence). However, if an activity is authorised under another Commonwealth Act (such as fishing activities under the *Fisheries Management Act 1991*(FMA)), a permit will not be required under this Act.

The *Antarctic Marine Living Resources Conservation Regulations 1994* exist to (i) give effect to the conservation measures developed by the CAMLR Convention and (ii) implement obligations to which Australia is subject under the CAMLR Convention. These regulations were amended in 2015 to ensure that they accurately reference and apply the current conservation measures in force for Australia.

Other legislation also applies in the Australian Antarctic Territory (AAT). The *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act), the key piece of Australian environmental legislation, also applies in the land and Commonwealth marine areas of the AAT. This means that a proponent of an activity in the AAT may need approval under the EPBC Act in addition to approval under the abovementioned legislation. Generally, approvals, permits and licences under the EPBC Act are administered by Canberra based staff in the Australian Department of the Environment and Energy. The *Weapons Ordinance 2001* prohibits the possession and use of a firearm in the AAT.

## Heard Island and McDonald Islands (HIMI)

The Department of the Environment and Energy (through the AAD) is responsible for the administration of the Territory of Heard Island and McDonald Islands (HIMI). The Director of National Parks has delegated responsibility for the management of the HIMI Marine Reserve to the Director of the AAD.

Activities proposed to be undertaken in the HIMI Territory and/or Marine Reserve must be assessed and approved under strict environmental conditions. There is specific legislation concerning the protection of HIMI's environment. The *HIMI Marine Reserve Management Plan 2014-2024* sets out the processes for assessing and issuing approvals for activities at HIMI. The Management Plan, together with the EPBC Act, and the *Environment Protection & Management Ordinance 1987* (the EPMO) collectively aim to manage this nationally and internationally significant area. The EPMO provides that a person may only enter the Territory in accordance with a Permit, and regulates or prohibits specific activities. When deciding whether to issue a permit under the EPMO, consideration will be given to the need to protect the environmental values of the Territory, and the safety of persons, aircraft, vehicles and vessels within the Territory. An EPMO permit will be required to access or conduct research within the inner marine reserve and to land. An EPBC permit is required to conduct scientific research in the outer marine reserve. The AMLRC Act applies over the whole Reserve, and therefore research on marine organisms in the Reserve may require an AMLRC Act permit, unless an EPMO, FMA or EPBC permit has been issued in which case a separate AMLRC permit is not required. The AAD does not recognise approvals issued by other nations for the HIMI EEZ.

## Macquarie Island

Macquarie Island is part of the State of Tasmania. It is reserved land under the *Tasmanian National Parks and Reserves Management Act 2002*. The AAD has no role in administering this legislation. It is administered by the Parks and Wildlife Service of the Tasmanian Department of Primary Industries, Parks, Water and Environment. The contact for initial enquiries is: [scientific.permits@dpipwe.tas.gov.au](mailto:scientific.permits@dpipwe.tas.gov.au)

## Environmental impact assessment (EIA) – the environmental approval process

Under the ATEP Act, an environmental impact assessment (EIA) is required and an authorisation granted before any proposed activity is carried out by Australian citizens, organisations, expeditions and tour operators in the Antarctic (the area south of 60° south latitude, including all ice shelves in the area).

In addition to an authorisation, a permit may also be required for certain activities. Authorisations and permits may be varied on application and may be suspended or revoked in certain circumstances.

Foreign nationals and organisations based overseas should contact their respective country's Antarctic administrative organisations for approval, unless their activity is part of the Australian Antarctic Program (AAP).

The flowchart in Appendix 1 illustrates the EIA process for ATEP and AMLRC Act applications.

## RECEIVING APPLICATIONS

To initiate the EIA process, the proponent of the activity must fill out an Environmental Approvals Application Form and provide the completed form to the Territories, Environment and Treaties (TET) Section. Contact details are set out in the application form. The application form can be accessed on the AAD website at <http://www.antarctica.gov.au/environment/environmental-impact-assessment-approvals-and-permits/environmental-impact-assessment>.

Often, the application form is sent to proponents following an initial enquiry to the environmental policy officer.

- ☞ In responding to enquiries it may be beneficial to draw on relevant information as articulated in the suite of example responses to enquiries about Antarctic environmental approvals available on the server.
- ☞ The provision of practical guidance (be it directions to the AAD website, email or phone correspondence with the Territories team) to proponents regarding the assessment process is a key requirement of the Commonwealth Government Deregulation Agenda measures.

EIAs should be submitted a minimum of two months prior to departure.

The application form is used to apply for three different approvals. These are:

- 1. Authorisation under the ATEP Act**
- 2. Permit under the ATEP Act**
- 3. Permit under the AMLRC Act**

These approvals are explained in greater detail at [Step 2](#).

## **Step 1 – Assess adequacy of application**

On receipt of an application it will be checked for the following:

➤ **Does the application form include enough information to enable an assessment of the likely environmental impacts of the activity?**

*It is important to note that the application form constitutes the ‘Preliminary Assessment’ (PA) of the impacts of the activity (explained in greater detail below) and is relied upon to determine the scope of the activity to be approved and the likely impacts of that activity. As such, it is important that the proponent has described their activity (including consideration of possible alternatives and any proposed mitigation measures) accurately and in full, and that they have provided enough information to allow a determination to be made as to the level of impact that the activity may have on the environment. Their application form is often referred to as their “EIA” or their “PA”.*

☞ The proponent will be contacted if an application is not required (ie: the activity may already be authorised), inadequate or further information is required. Failure to provide the required additional information will mean that their application will not be considered.

➤ **Has the correct legal entity applied?**

*It is important that the correct legal entity, with authority to sign the application, is listed as the applicant. If in doubt, additional clarification will be sought from the proponent.*

➤ **Has the form been signed and dated by the proponent?**

## **Step 2 – Identify the necessary environmental approvals**

Once it is determined that the application is adequate and contains enough information to assess the environmental impacts, the approvals the proponent is seeking and/or what is required in order to conduct the activity will be identified. This is important to establish early, as each kind of approval is subject to different legal considerations.

➤ **Does the activity require a new authorisation?**

*A check will be conducted to ensure that the activity is not covered by an existing authorisation. As noted above, all activities proposed to be undertaken by an Australian in any area south of 60° south must be authorised. However, some scientists participating in the AAP and some tourism operators have been issued multi-year authorisations and may in fact already have a current authorisation. If their activity has changed since that authorisation was granted it may be necessary to vary that authorisation to take into account the changes (see [Step 9](#)).*

➤ **Does the activity require an ATEP Act permit?**

*Certain actions in Antarctica are offences under the ATEP Act. If the proponent is planning an activity that is an offence then they will require a permit. Not all activities that are offences can be permitted. The tables at [Appendix 2](#) list the offences that can and cannot be permitted under the Act.*

*Note, there are a number of restrictions that apply to the granting of a permit. These are discussed in greater detail below. However it is important to keep in mind at this stage that a permit can only be granted for particular reasons and as such, the proponent will need to demonstrate why they should be allowed to undertake the action.*

- ☞ The proponent must explain why they need to undertake the activity and if they have not, they will be contacted for further explanation.
  
- ☞ If the activity involves interacting with animals, the proponent must include a copy of their application and approval from an animal ethics committee.

### **What is the difference between an *Environmental Authorisation* and a *Permit* under the ATEP Act?**

An **Environmental Authorisation** is granted when the EIA process has resulted in an activity being determined to have a *no more than negligible* impact on the environment (in the case of a Preliminary Assessment). The Environmental Authorisation is issued as a ‘*Notice of Determination and Authorisation*’ and specifies that the activity that has been authorised is that which is described in the *Preliminary Assessment of Environmental Impacts* (i.e. what the proponent describes in the application form).

A **Permit** is required, in addition to an Environmental Authorisation, only if a certain activity will be conducted that is considered an offence under the ATEP Act. For example, a permit is required to collect samples of moss or lichen, as it is an offence under Section 19(1)(b) to gather or collect a native plant in the Antarctic. As discussed further below, there are a number of restrictions placed on the granting of permits, and not all offences can be permitted.

### ➤ **Does the activity require an AMLRC Act permit?**

*If the proponent will be harvesting or carrying out research with respect to living marine organisms in the CAMLR Convention Area (which approximates the marine areas south of the Antarctic Convergence) then they will require a permit under the AMLRC Act. The definition of organism includes microorganisms such as phytoplankton. An EIA approval (in the form of an ATEP Authorisation) will also be required for activities conducted south of 60 degrees latitude. Commercial fisheries activities are considered by the Australian Fisheries Management Authority (AFMA) under their legislation rather than under the AMLRC Act.*

*Note, the AAD does not issue approvals relating to interactions with whales or other cetaceans. If the proponent wishes to conduct such activities they should contact the Department of the Environment and Energy at [EPBC.permits@environment.gov.au](mailto:EPBC.permits@environment.gov.au)*

➤ **Will the activities be conducted at HIMI**

*There is specific legislation relating to access to and the protection of the environment at HIMI. Entry to and activities within HIMI must be assessed and approved in accordance with the requirements set out in the HIMI Marine Reserve Management Plan 2014-2024, the EPBC Act and the EPMO. An EPMO permit is required for entry to the Territory. EPMO permits will only be issued to authorise activities within the Territory if the activities are consistent with the Management Plan. In deciding whether to grant an EPMO permit, consideration must be given to (i) the need to protect the environment of the Territory, (ii) the safety of persons, aircraft, vehicles and vessels in the Territory, and (iii) the scientific merit of any science proposals. Scientific research in the Outer Marine Zone will also require a Permit under the EPBC Regulations or a scientific research permit under the Fisheries Management Act 1991 (administered by AFMA).*

➤ **Do the activities involve carriage or use of a weapon in the Australian Antarctic Territory (AAT)?**

*The Weapons Ordinance 2001 (AAT) regulates the manufacture, possession and use of weapons in the AAT. If a proponent's activity includes a weapon (defined at section 4 of the Ordinance) then they will need to comply with the Ordinance and apply for a declaration that the project is advantageous for scientific research, and for the kinds of weapons that may be used. The Ordinance also regulates the display of historic weapons which is beyond the scope of this handbook.*

*An identical Weapons Ordinance 2001 (HIMI) applies in the HIMI Territory.*

➤ **Is the application a request to vary an existing approval?**

*Environmental approvals include variations. For information on variations, see [Step 9](#) below. Note that the considerations under [Step 3](#) also apply to variations.*

➤ **Will the activity be undertaken in accordance with the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983*?**

*The *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* gives effect to *Annex IV: Prevention of marine pollution* of the Madrid Protocol.*

All Australian vessels certified to carry 11 or more persons may only discharge untreated sewage:

- that is stored in a holding tank;
- is not discharged instantaneously (but is rather discharged when the vessel is proceeding en-route at a speed of more than 4 knots; and
- at a distance more than 12 nautical miles from the nearest land or ice shelf.

### **Step 3 – Other considerations**

Before assessing an application, there are a few more considerations that must be addressed:

➤ **What expert advice is necessary in order to adequately assess the likely environmental impacts of the activity?**

*There are many resources available at the AAD to help identify and assess the likely environmental impacts of an activity, including in-house subject matter experts. It is useful to identify these resources as early as possible, to allow sufficient time for discussion and analysis.*

☞ As necessary, relevant in-house experts will be identified and consulted.

➤ **If the activities relate to an AAS project, does the project proposal or a variation to the proposal have approval from the relevant Science Program leader?**

*These approvals are usually issued every year between May and August and give support for the inclusion of projects in the upcoming season. As a matter of policy, environmental approvals will not be issued for AAS activities that have not yet received this approval.*

*The contents of the full science application will be checked for the relevant project (the proposal that is assessed by the Science Branch) to make sure that all of the activities the proponent is seeking environmental approval for, including a variation, are included in their science application.*

➤ **Do the activities involve accessing biological resources?**

*The AAT (to the northern limit of its Exclusive Economic Zone) is a Commonwealth Area and as such, access to biological resources for the purpose of research and development on any genetic resources, or biochemical compounds, comprising or contained in the biological resources is regulated under the Environment Protection and Biodiversity Conservation Regulations 2000 (EPBC Regulations).*

*While under the EPBC Regulations access to biological resources for both commercial and non-commercial purposes requires a permit under Part 8A, a declaration was made by the Minister in accordance with Regulation 8A.05(1) on 9 January 2007 that Part 8A does not apply, as legislation administered by the AAD (such as the ATEP Act or the AMLRC Act) adequately controls access to biological resources for non-commercial purposes.*

*If the proponent will be accessing biological resources in the AAT (for example, collecting material for taxonomic research) for non-commercial purposes, they will need to complete a statutory declaration to that effect. The statutory declaration also includes conditions on the reporting and control of samples obtained in accordance with that declaration.*

- ☞ The Statutory Declaration form will be provided to any external proponents who wish to access biological resources for non-commercial purposes.

*Proponents accessing biological resources as part of an AAS project will have already signed a declaration as part of their science application and so do not require a Statutory Declaration. If a proponent wishes to access biological resources for commercial purposes, they must negotiate a benefit sharing agreement with Parks Australia, Department of the Environment and Energy in accordance with the EPBC Regulations, Part 8A.*

*Note, the requirement for either a declaration or a benefit sharing agreement will be added as a condition to any permit related to accessing biological resources (explained below). The relevant section of this department in Canberra is notified when such permits are issued.*

### ➤ **Do the activities involve an external proponent visiting the AAT?**

*For all Australian non-government expeditions and/or tourist operations which visit the AAT, as well as all foreign non-government expeditions which visit AAD facilities, a Deed of Licence Indemnity and Release must be in place to indemnify the Commonwealth and provide a licence for the organiser to conduct a specified activity at a specified time and place.*

- ☞ External proponents visiting the AAT will be provided the *Deed of Licence Indemnity and Release in relation to tourist operations in the Australian Antarctic Territory* for their completion and signature.

*Once this is returned it must be signed by the Director, AAD. This process must be completed before any environmental approvals are granted.*

## ASSESS

The assessment stage of the environmental approval process involves (1) the assessment of the likely environmental impacts of the proposed activity (2) a determination of the likely impact of the activity and (3) the development of a recommendation to the decision maker on whether or not to authorise, permit and/or vary the authorisation or permit..

*Note, if the activity has a current authorisation and only requires an ATEP Act permit, skip to Step 6. If it only requires an AMLRC Act permit, skip to Step 7.*

### **Step 4 – Conduct the Preliminary Assessment (PA)**

Under the ATEP Act, the EIA process is three-tiered. The first tier (or stage) is the PA of activities. As noted above, the application form constitutes the basis of the PA. The outcome of this stage is a decision on the level of impact of the activity, which will either be:

- 1. No more than negligible**
- 2. Minor or transitory**
- 3. More than minor or transitory.**

A number of factors need to be considered in order to determine the likely level of impact of the activity on the environment. It is important to base the assessment on the best available evidence, consider any comments or advice from relevant experts, and develop recommendations in consultation with supervisors. The following considerations apply:

#### **➤ What is the scope and purpose of the activity?**

*The scope and purpose of the proposed activity, the area of the environment it will involve, and the level of physical disturbance to the environment must be considered. This will depend on the duration, frequency and intensity of different aspects of the activity. Note, for the purposes of EIAs conducted under the ATEP Act, the “environment” means the Antarctic environment and dependant and associated ecosystems. This definition extends not only to living organisms and their habitats, but to heritage values, air, ice and water quality, aesthetic and wilderness values.*

#### **➤ What are the possible alternatives to the activity?**

*The alternatives to the proposed activity must be considered, including the alternative of not proceeding, the consequences of each alternative and the factors and criteria considered when assessing alternatives.*

#### **➤ What is the existing state of the environment in the area of the activity?**

*This includes the potential environmental sensitivities of the area of the activity.*

#### **➤ What direct, indirect and/or cumulative impacts are likely to result from the proposed activity?**

*How the activity is likely to interact with the environment is a key consideration.*

### **What are Direct, Indirect, Cumulative and Unavoidable Impacts?**

**A Direct Impact** is a change in environmental values or resources that results from directed cause-effect consequences of interaction between the exposed environment and an activity or action (eg: decrease of a limpet population due to an oil spill, or a decrease in freshwater invertebrate population due to lake water removal)

**An Indirect Impact** is a change in environmental values or resources that results from interactions between the environment and other impacts – direct or indirect – (eg: alteration in seagull population due to a decrease in limpet population which, in turn, was caused by an oil spill)

**A Cumulative Impacts** is the combined impact of past, present, and reasonably foreseeable activities. These activities may occur over time and space and can be additive or interactive/synergistic (eg: decrease of limpet population due to the combined effect of oil discharges by base and ship operations)

**An Unavoidable Impact** is an impact for which no further mitigation is possible. For example, it may be possible to reduce the area from which proposed new infrastructure will be visible, but it is unavoidable that the infrastructure will be visible over some area.

- **Is the activity proposed in accordance with the Environmental Principles (see Appendix 3)?**
- **Has the proponent considered the effects of the activity on scientific research and other uses and values of the areas that will be affected by the activity?**
- **Is the proponent's assessment of potential impacts based on the best available evidence?**
- **Has the proponent identified adequate measures, including monitoring programs, to minimise or mitigate potential impacts?**

*In considering whether or not the identified measures are sufficient, an analysis will be undertaken of the likelihood that the measures will be implemented successfully.*

- **Will the activity be conducted in accordance with the *Antarctic Treaty (Environment Protection) (Waste Management) Regulations 1994 (Waste Management Regulations)*?**

*The Waste Management Regulations outline the requirements for the management and disposal of waste generated in connection with activities in the Antarctic and specify the materials that must not be taken into the Antarctic. The Waste Management Regulations assist in implementing Australia's obligations under Annex III of the Environmental Protocol. Proponents must carry out their activities in accordance with the Waste Management Regulations.*

- **Are there additional conditions that could be imposed that would reduce the level of impact?**

*There are a number of standard conditions that are applied to authorisations and permits for activities conducted in Antarctica to effectively reduce the risk of environmental impacts. For*

*example, authorisations for activities involving the use of fuel stoves or generators are often issued subject to the conditions that refuelling not be conducted near sensitive areas, and only with the use of spill mats.*

*If timing is an important factor with respect to minimising the impacts of a particular activity, a condition to restrict the timing of a particular activity may be applied.*

➤ **Factoring in the proposed mitigation measures, and the consequences of imposing additional conditions, what will be the level of impact of the activity on the Antarctic environment?**

*The impacts of the activity will either be ‘no more than negligible’, ‘minor or transitory’ or ‘more than minor or transitory.’*

## **RECOMMENDATION**

### **Step 5 – Preparing a recommendation for decision**

If the activity has been determined to likely have ‘no more than a negligible impact on the environment’, the activity will be authorised. Authorised activities are issued a ‘Notice of Determination and Authorisation’, often subject to specified conditions. Proposed conditions may be discussed with the proponent before making the recommendation to the delegate, to ensure that they are workable.

*Note, if the activity also requires a permit, a recommendation on the Preliminary Assessment and the assessment of the permit application will be provided in the same decision brief (see Steps 7 and 8 below).*

If the activity has been determined to likely have a minor or transitory impact on the environment, or more than a minor or transitory impact on the environment then the activity must undergo a further stage of assessment.

*Note, if the activity requires a variation and/or the proponent has requested a variation, there are separate templates depending on the type of approval being varied. A decision brief needs to be prepared for a variation to be approved. See Step 9 for more information on variations, noting that Step 3 also applies to variations.*

*Delegations vary depending on the nature of the decision. The decision-maker must have the appropriate delegation to make a determination and grant an authorisation or permit.*

## FURTHER ASSESSMENT (IF REQUIRED)

### Step 6 –Further assessment

An **Initial Environmental Evaluation (IEE)** is required if a PA has determined that the likely impacts of an activity on the environment are **minor or transitory**. An IEE requires a more comprehensive consideration of the elements of an activity and the likely environmental impacts. IEEs are made available to other Antarctic Treaty Parties through information exchange, and to the Australian public through a public notification in the *Gazette*.

A **Comprehensive Environmental Evaluation (CEE)** is required if a PA or an IEE determines that an activity will have impacts on the environment that are **more than minor or transitory**. The CEE involves a very thorough examination of the activity, its environmental outputs, the receiving environment, and any alternatives. It is the highest level of EIA. Draft CEEs are subject to a wide public consultation process beginning with a notice in the *Gazette*. They are circulated to other Antarctic Treaty Parties and tabled at an annual meeting of the Committee for Environmental Protection (CEP). This process may take up to two years to complete.

Appendix 4 contains some further information on these processes. It is beyond the scope of this guide to provide detailed instruction on the processes around and assessment of IEEs and CEEs. Refer to the ATEP Act and the *Antarctic Treaty (Environment Protection) (Environmental Impact Assessment) Regulations 1993* for the statutory requirements of administering these processes.

## ASSESSMENT OF PERMITS (ATEP AND AMLRC PERMITS)

### Step 7 – Assess ATEP Act permit application

The ATEP Act outlines what matters the Minister or delegate must have regard to when granting permits and the restrictions to be applied. These restrictions specify that certain actions can be only be undertaken under certain circumstances and for particular purposes, and/or that specific conditions must be applied. An ATEP permit may only be issued if an ATEP authorisation is in place.

- **Does the activity and the rationale that the proponent has described in their application form meet the requirements of the ATEP Act?**
- **What conditions must be applied to the permit (as specified in the ATEP Act or required to give effect to the Madrid Protocol or Seals Convention)?**
- **Will the proponent be accessing biological resources from Commonwealth land and marine areas of the AAT?**

*If the proponent will be accessing biological resources, they must have either signed a statutory declaration or entered into a benefit sharing agreement. The standard conditions for benefit sharing will be included in the permit.*

- ☞ If all requirements have been met, a permit will be prepared (for signature) and a recommendation made to the delegate.

*Proposed conditions may be discussed with the proponent before making the recommendation to the delegate, to ensure that they are workable.*

- ☞ If the relevant requirements have not been met by the proponent, the proponent will be contacted to discuss. It is preferable to try and negotiate the modification of the proposal to meet the requirements, rather than recommend to the delegate that the permit application is refused.

## **Step 8 – Assess the AMLRC permit application**

Decisions to grant permits under the AMLRC Act require due regard be given to the objective and conservation principles of the CAMLR Convention. A permit cannot be granted for an act that would contravene a CCAMLR Conservation Measure.

### **➤ The activity and the rationale that the proponent has described in their application form must meet the objective and principles of the CAMLR Convention**

*Note, CCAMLR applies an ecosystem approach and a precautionary approach to marine living resources conservation; this requires consideration of the effects of harvesting on all parts of the ecosystem, not just the target species.*

In assessing an application for an AMLRC Permit, the following are relevant:

### **➤ What conditions should be applied to the permit?**

*Conditions include specifying location, times and methods for harvesting. Additional conditions can be included as necessary, such as restrictions or limitations as to whom the permit holder may authorise to carry out harvesting or scientific research under the permit. The permit may also include a condition that authorisations are in writing and that authorised persons are provided adequate briefing on the permitted activities and conditions of the permit.*

### **➤ Will the proponent be accessing biological resources from Commonwealth land and marine areas of the AAT??**

*If a proponent will be accessing biological resources, they must have either signed a statutory declaration or entered into a benefit sharing agreement. The standard conditions for benefit sharing will be included in the permit (see Step 3 above).*

- ☞ If all requirements have been met, a permit will be drafted (for signature) and a recommendation made to the delegate.

*Note, proposed conditions may be discussed with the proponent before making the recommendation to the delegate, to ensure that they are workable.*

*Draft permits will also be provided to the TET Section's CCAMLR Team. This is to ensure that all Australian reportable research is notified to CCAMLR.*

- ☞ If the relevant requirements have not been met by the proponent, the proponent will be contacted to discuss.

➤ **Is the proponent conducting CCAMLR-related Australian research that is not part of an AAS project??**

*If the proponent is conducting CCAMLR-related Australian research that is not part of an AAS project, the project and proposed outputs intended for CCAMLR should be developed in consultation with the Australian Scientific Committee Representative (Dr Dirk Welsford). There are timeframes and deadlines associated with the submission of papers and research proposals. See Appendix 5 for further information.*

## OTHER APPROVALS

### Importing specimens into Australia

The *Quarantine Act 1908*, administered by the Department of Agriculture and Water Resources, requires all biological specimens, soil samples, ice samples and water samples returned to Australia from the Antarctic and the Territory of Heard Island and McDonald Islands to be covered by a Permit to Import Quarantine Material.

These permits are not issued by the AAD and must be applied for through the Department of Agriculture before samples are returned to Australia.

External proponents transporting samples through other countries should be advised to check with those countries about import and export approvals.

### Step 9 – Assessing a request for variation

If an activity has an existing approval (an authorisation, or authorisation and permit), and an element of the activity, or it is determined that an element of the activity needs to be changed (such as location, methods and/or personnel) since the approval was granted, it may be necessary to vary the approval to take into account the changes. Requests for variations must be made in writing, and may be accepted via email or detailed in the Environmental Approvals Application Form.

*Note, an enquiry about whether a variation is required to conduct an activity, or a change on an Advance notification form, does not constitute a request for variation. A request for variation must be in writing. In such a request, the proponent needs to describe all of the relevant changes to their activity in full and identify if and how these proposed changes are likely to change the environmental impacts of the activity.*

➤ **The request for variation must include enough information to enable an assessment of the likely environmental impacts of the varied activity**

☞ The proponent will be contacted if their request for variation is inadequate or further information is required. Failure to provide the required additional information means that the request will not be considered.

*The considerations at Step 3 apply to processing variations. For example, for AAS projects, it is important to check with Science Planning and Coordination that the proposed changes to the activity fall within the scope of the science approval. As with other approvals, a variation to the*

*environmental approval cannot be progressed unless and until there is science approval for the activity.*

- ☞ Once all the necessary information has been obtained, the request for variation will be assessed as per the process outlined for Preliminary Assessments and/or Permits.

### **Step 10. Assess in accordance with the Weapons Ordinance (if applicable)**

Under the *Weapons Ordinance 2001 (AAT)* a weapon can only be used in the AAT if the project which proposes to use the weapon is advantageous to scientific research. The Ordinance also regulates the use and storage of historic weapons in the AAT and the manufacture of weapons.

Appendix 6 ‘Fact Sheet for Applicants Undertaking Scientific Projects Taking and Using a Weapon in the Australian Antarctic Territory’ explains the statutory requirements for manufacture, possession and use of weapons in the AAT.

## **DECISION COMMUNICATION**

### **Step 11 – Communicate the outcome of the EIA process to the proponent and other appropriate parties**

Once the delegate has made a decision to authorise/vary the activity and/or grant a permit, the proponent will be informed of the decision and sent copies of the signed documents.

- ☞ The outcome of the decision will be emailed to the proponent with the Notice of Determination and Authorisation and any required permit(s). The report of activities form will also be provided (see the Monitoring and Auditing section below). For AAP applicants, Operations Planning and relevant station or voyage leaders will also be copied into the email. Information regarding Resolution 4 will also be provided to tourism/non-government operators.

*Note, the email will include specific statements about the decisions and the relevant appeals processes. The proponent will also at this stage be reminded that it is their responsibility to ensure that all participants have a copy of the approvals/permits and understand the conditions.*

- ☞ If an ATEP or AMLRC permit with benefit sharing conditions has been granted, a copy of the permit is sent to [GRM@environment.gov.au](mailto:GRM@environment.gov.au) for their records.
- ☞ Relevant registers will be updated, including the permit register, authorisation database, electronic and paper files.
- ☞ Access to all documents and correspondence relating to the activity and EIA process is restricted to TET officers.

## **MONITORING AND AUDITING**

All authorisations and permits will include conditions specifying requirements for monitoring and post-season reporting. The proponent will be required to provide a report on activities related to their approval, including measures taken to ensure compliance, within a reasonable time following the

completion of their activities (usually specified to be within one month), usually before the expiry of the authorisation or permit.

There is an approved form for proponents to use to provide their report on activities. This form can be found on the share-drive and should be sent to proponents at the time they are issued their authorisation and/or permit.

*Note, failure to return a report by the due date prescribed in the authorisation and/or permit may be recorded as a breach of that approval on the TET non-compliance register.*

## **Step 12 – Review post-season report of activities**

- ☞ Once the report of activities has been received, an Environmental Policy Officer will check that the activities undertaken were only those that had been authorised, and that all conditions of the authorisation and permit were complied with.

If there are any potential non-compliances detected the *AAD Compliance and Enforcement Framework* will be applied to determine the appropriate course of action. This framework outlines how TET undertakes compliance and enforcement activities under the ATEP and ALMRC Acts, and other legislation the section administers.

### **Furnishing Information**

In general all authorisations and permits must include conditions relating to reporting and monitoring which are used by the AAD to assess compliance against conditions.

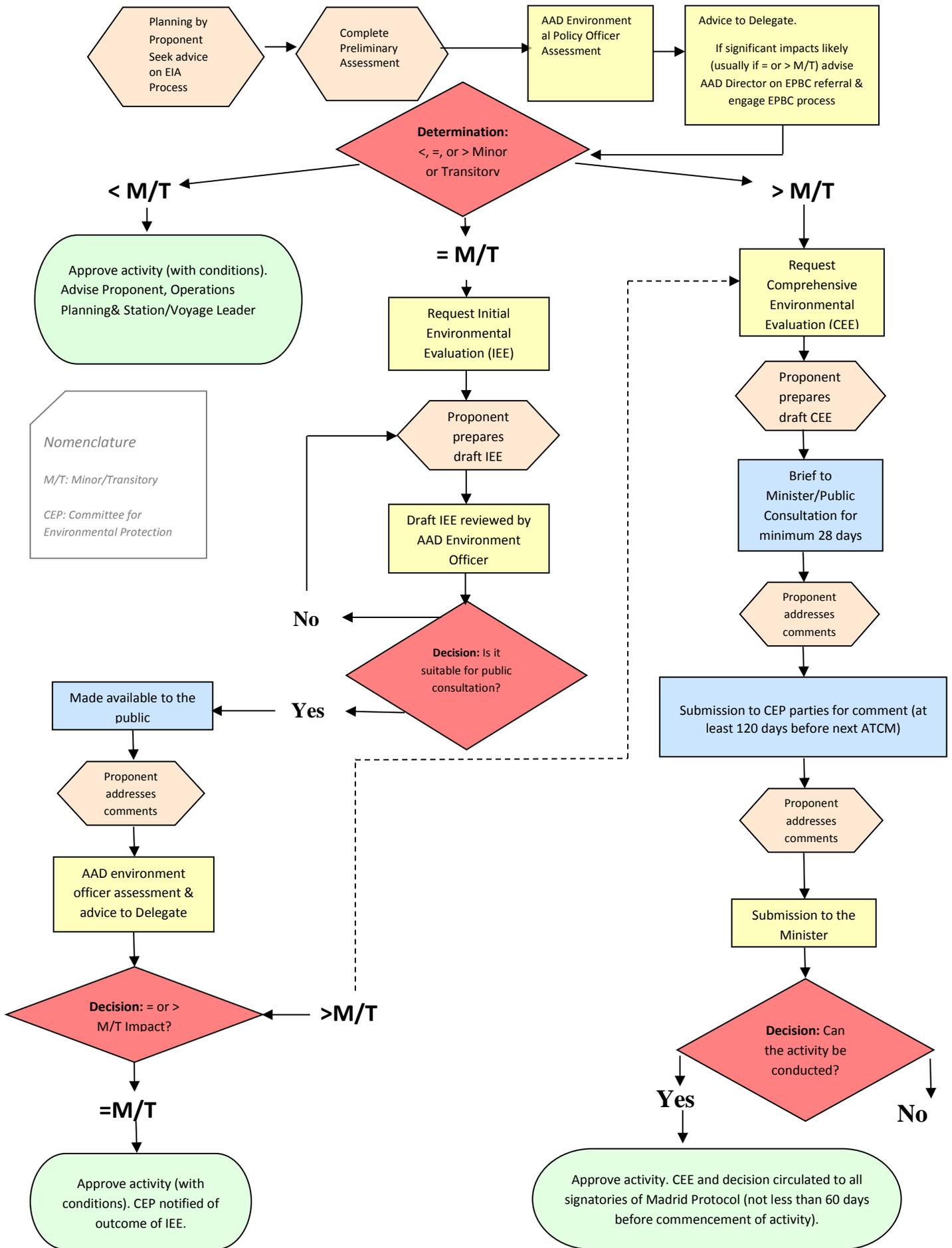
In addition, some legislation requires the furnishing of specific pieces of information. Where they relate to permits (for example section 21 of the ATEP Act) this is sufficiently covered by post-activity reporting. Where actions are done outside of an authorisation or permit this information must be provided to an authorised officer within the statutory timeframes – see sections 21AA and 21AB of the ATEP Act.

## **INFORMATION EXCHANGE**

Information regarding Australian activities in Antarctica is provided in accordance with Australia's obligations under Article III(1)a and Article VII(5) of the Antarctic Treaty and the Protocol on Environmental Protection.

Information is reported directly into the Antarctic Treaty Secretariat webpage ([www.ats.aq](http://www.ats.aq)). The pre-season information should be submitted to the Secretariat by 31 October each year. Post-season information should be submitted by 31 March the following year (or prior to the Treaty Meeting) via a login at [www.ats.aq](http://www.ats.aq). There is a separate authorising officer within TET for information exchange and electronic records have been kept in the file share and records management system of correspondence used to complete these reports. Most of the required information is gathered as part of administration of the approvals system, or from the AAD website. Advice from the Support & Operations Branch is required to complete the military section.

# Appendix 1. EIA Process under the ATEP Act



## Appendix 2. Offences

Table 1 ATEP Act offences for which a permit may be issued.

ATEP Act reference	Offence
19(1A)(b)(i)	Does an act that causes death or injury to a native bird or a native seal in the Antarctic
19(1A)(b)(ii)	Does an act that causes the taking of a native bird or a native seal in the Antarctic
19(1A)(b)(iia)	Does an act that causes the taking of native invertebrates or native plants in the Antarctic
19(1A)(b)(iii)	Does an act that causes other interference with a native bird or a native seal in the Antarctic
19(1A)(b)(iia)	Does an act that disturbs a native bird or native seal
19(1)(b)	Gather or collect a native plant in the Antarctic
19(1)(c)	Bring into, or keep in, the Antarctic an organism that is not indigenous to the Antarctic (unless the organism was brought into the Antarctic to be used as food)
19(1)(d)	Enter, or carry on any other activity in, an Antarctic Specially Protected Area (ASPA)
19(2)(a)	Use an aircraft in such a manner as to disturb a concentration* of birds or of seals**
19(2)(b)	Use a vehicle or vessel in a manner that disturbs a concentration* of birds or of seals**
19(2)(c)	Use an explosive in a manner that disturbs a concentration* of birds or of seals**
19(2)(d)	Use a firearm in a manner that disturbs a concentration* of birds or of seals
19(2)(e)	While on foot, disturb a concentration* of birds or of seals**
19(2)(ea)(i)	Carry on an activity that results in the habitat of any species of native seal, native bird, native invertebrate or native plant being adversely modified to a significant extent
19(2)(ea)(ii)	Carry on an activity that results in any population of native seals, native birds, native invertebrates or native plants being adversely modified to a significant extent
19AA(1)	Gathers or collects a meteorite in Antarctica not in accordance with a permit
19AA(2)	Removes a rock or meteorite from the Antarctic not in accordance with a permit
19AB(a)	Bring into the Antarctic a native seal, a native bird or a native plant

\* a concentration of birds is more than 20 birds and a concentration of seals is more than 20 seals.

\*\* unless the action was reasonably necessary for the construction or operation of a scientific support facility.

**Table 2 ATEP Act offences that cannot be issued a permit.**

<b>ATEP Act reference</b>	<b>Offence</b>
19(1)(caa)	Bring a dog into the Antarctic, or being the owner of a dog, allow it to remain in the Antarctic
19(1)(ca)(i)	Bring into, or keep in, the Antarctic non-sterile soil
19(1)(ca)(ii)	Bring into, or keep in, the Antarctic polychlorinated biphenyls
19(1)(ca)(iii)	Bring into, or keep in, the Antarctic polystyrene beads or chips or any similar kind of packaging material [ie: particulate non-biodegradable]
19(1)(cb)	Bring into, or keep in the Antarctic any pesticide (unless the pesticide is to be used for scientific, medical or hygienic purposes)
19(1)(e)	Carry on any activity in an Antarctic Specially Managed Area (ASMA) otherwise than as authorised by the plan of management relating to the area
19(1B)(b)(i)	Does an act that causes any damage to or in an historic site
19(1B)(b)(ii)	Does an act that destroys, or causes damage to or the removal of, an historic monument
19(2)(g)	Cause or permit to escape from control any organism that is not indigenous to the Antarctic and has been brought into the Antarctic by virtue of a permit
19A	Engage in mining activity in the Territory or continental shelf, or the continental shelf of any of the islands known as Heard Island and McDonald Islands that is within the Antarctic
19B	Australian national engaging in a mining activity in the Antarctic, other than the Territory or the continental shelf

## **Appendix 3. Environmental Principles**

The Protocol on Environmental Protection to the Antarctic Treaty (the Madrid Protocol) establishes the environmental principles which govern Australian activities in Antarctica:

### **Article 3**

#### *Environmental Principles*

1. The protection of the Antarctic environment and dependent and associated ecosystems and the intrinsic value of Antarctica, including its wilderness and aesthetic values and its value as an area for the conduct of scientific research, in particular research essential to understanding the global environment, shall be fundamental considerations in the planning and conduct of all activities in the Antarctic Treaty area.
2. To this end:
  - (a) activities in the Antarctic Treaty area shall be planned and conducted so as to limit adverse impacts on the Antarctic environment and dependent and associated ecosystems;
  - (b) activities in the Antarctic Treaty area shall be planned and conducted so as to avoid:
    - (i) adverse effects on climate or weather patterns;
    - (ii) significant adverse effects on air or water quality;
    - (iii) significant changes in the atmospheric, terrestrial (including aquatic), glacial or marine environments;
    - (iv) detrimental changes in the distribution, abundance or productivity of species or populations of species of fauna and flora;
    - (v) further jeopardy to endangered or threatened species or populations of such species; or
    - (vi) degradation of, or substantial risk to, areas of biological, scientific, historic, aesthetic or wilderness significance;
  - (c) activities in the Antarctic Treaty area shall be planned and conducted on the basis of information sufficient to allow prior assessments of, and informed judgements about, their possible impacts on the Antarctic environment and dependent and associated ecosystems and on the value of Antarctica for the conduct of scientific research; such judgements shall take account of:
    - (i) the scope of the activity, including its area, duration and intensity;
    - (ii) the cumulative impacts of the activity, both by itself and in combination with other activities in the Antarctic Treaty area;
    - (iii) whether the activity will detrimentally affect any other activity in the Antarctic Treaty area;
    - (iv) whether technology and procedures are available to provide for environmentally safe operations;
    - (v) whether there exists the capacity to monitor key environmental parameters and ecosystem components so as to identify and provide early warning of any adverse effects of the activity and to provide for such modification of operating procedures as may be necessary in the light of the results of monitoring or increased knowledge of the Antarctic environment and dependent and associated ecosystems; and
    - (vi) whether there exists the capacity to respond promptly and effectively to accidents, particularly those with potential environmental effects;

- (d) regular and effective monitoring shall take place to allow assessment of the impacts of ongoing activities, including the verification of predicted impacts;
  - (e) regular and effective monitoring shall take place to facilitate early detection of the possible unforeseen effects of activities carried on both within and outside the Antarctic Treaty area on the Antarctic environment and dependent and associated ecosystems.
3. Activities shall be planned and conducted in the Antarctic Treaty area so as to accord priority to scientific research and to preserve the value of Antarctica as an area for the conduct of such research, including research essential to understanding the global environment.
4. Activities undertaken in the Antarctic Treaty area pursuant to scientific research programs, tourism and all other governmental and non-governmental activities in the Antarctic Treaty area for which advance notice is required in accordance with Article VII (5) of the Antarctic Treaty, including associated logistic activities, shall:
- (a) take place in a manner consistent with the principles in this Article; and
  - (b) be modified, suspended or cancelled if they result in or threaten to result in impacts upon the Antarctic environment or dependent or associated ecosystems inconsistent with those principles.

## Appendix 4. Guide for the preparation of IEEs and CEEs

### Introduction:

The Protocol on Environmental Protection to the Antarctic Treaty (the Madrid Protocol), which Australia signed in 1991, requires that all activities proposed to be conducted in the Antarctic are subject to prior assessment of their impacts on the Antarctic environment and on dependent or associated ecosystems. *The Antarctic Treaty (Environment Protection) Act 1980*, (the ATEP Act) and associated Environmental Impact Assessment Regulations (the EIA Regulations), implement this obligation and must be complied with for all activities proposed to be conducted in Australian Antarctic Territory and for all Australian activities proposed to be conducted elsewhere in the Antarctic.

In accordance with the requirements of the Madrid Protocol, the ATEP Act requires the proponent of each activity to undertake a preliminary assessment of the impact that the activity is likely to have on the environment. These preliminary assessments are used by the Minister's delegate as the basis for making a determination regarding the significance of the likely environmental impacts and hence the need or otherwise for a higher level of assessment. If the Minister's delegate determines that an activity is likely to have a minor or transitory impact on the environment, an Initial Environmental Evaluation (IEE) will be required. Similarly, if it is determined that more than a minor or transitory impact is likely, a Comprehensive Environmental Evaluation (CEE) will be required. The *Antarctic Treaty (Environment Protection) (Environmental Impact Assessment) Regulations 1993* (the EIA Regulations) specify those matters which must be included in IEEs and CEEs (relevant extracts from the Regulations are included as Appendix C).

While the EIA Regulations establish the minimum requirements for environmental evaluations, they do not prescribe a format for the evaluations or provide much practical guidance to those who must prepare them. The Committee of Managers of National Antarctic Programs (COMNAP) have developed "Practical Guidelines" for the Antarctic environmental assessment process with the aim of providing explicit and concise guidance to those involved in preparing IEEs and CEEs. The COMNAP "Practical Guidelines" were also developed to introduce a measure of comparability in the environmental assessment process used by all national Antarctic programs and non-government organisations proposing activities in Antarctica.

These Australian environmental assessment guidelines are based on COMNAP's "Practical Guidelines" and are intended to provide practical assistance to proponents in complying with the requirements of the ATEP Act and the EIA Regulations. While the wording used in the revised COMNAP "Practical Guidelines" has been retained as far as possible, the Australian guidelines include some additional requirements arising from the ATEP Act, the EIA Regulations and other relevant Australian legislation, including the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

### General considerations:

The environmental assessment process should be initiated at the earliest planning stage of an activity to enable adequate information gathering and baseline evaluations (including necessary field studies). It is critical to the public perception of the EIA process that environmental evaluations are not used (or seen to be used) merely as a means of justifying decisions already taken but rather represent a genuine assessment of the impacts of all activities. The process, including time required, for handling IEEs and CEEs is detailed at Appendix A. Proponents should note that the ATEP Act requires preparation by the

proponent of a preliminary assessment before any decision can be made on the need or otherwise for either an IEE or CEE. Advice and appropriate forms for preparing a preliminary assessment are available from the Australian Antarctic Division's (AAD) Territories, Environment and Treaties Section (TET).

The main text of an environmental assessment should be straightforward, clear and readily intelligible to the general reader. Any supporting technical detail should be included as appendices so that the study forms a complete and self-contained entity. The document should include sufficient information and technical data to enable interested parties to examine the basis for, and the environmental implications of, decisions. The use of clear and accurate diagrams, maps, and other illustrative materials is encouraged.

The discussion in the assessment should focus attention on the salient features of the proposal, and the environmental considerations associated with them. Possible alternatives to the proposed activity should also be discussed in sufficient detail to clarify the reasons for, and the implications of, choosing a particular option. The less clear cut the decision, the more supporting detail should be provided.

It is recognised that factors such as timing, information needs and available resources to conduct evaluations (e.g., personnel, funds) may influence the type and amount of effort needed to bring an assessment document to a point where it is adequate for decision-making. As such, the resources required for preparation of an environmental assessment should be considered during the planning of any project and the costs involved accepted as a valid part of the project.

It is also recognised that it will not be possible to quantify all aspects of the environmental assessment process (e.g. aesthetic, historical and human values). Therefore, subjective evaluation is a valid component of the overall process. Constraints on completeness of an evaluation will vary with projects and should be identified in the assessment.

The collection and documentation of information from the earliest stages of the planning process (including means for information storage and retrieval), the qualification of personnel performing environment-related studies and measurements, and analytical methods, should be of the highest practicable quality.

### **Contents of an IEE or CEE**

To assist you in complying with the requirements of the ATEP Act and EIA Regulations in a logical, structured manner, the following format based on COMNAP's "Practical Guidelines", is proposed for IEEs and CEEs:

- non-technical summary
- description of the proposed activity
- description of the existing environment
- description of methods and data used to predict impacts
- analysis of expected impacts
- alternatives
- mitigation measures
- monitoring of impacts
- response action in case of accident
- audit arrangements

- conclusion
- contact name and address
- external consultation and proponent response.

Except where indicated in these guidelines, the same type of information is required for both an IEE and a CEE, although **a CEE is required by legislation to include more detail than an IEE**. The following paragraphs provide guidance regarding the considerations to be addressed in each section.

## **Summary**

A brief non-technical summary of relevant information should be included to enable all readers of the environmental assessment to obtain a quick but thorough understanding of the proposal and its environmental impact. This summary should cover the objectives of the proposed activity and its relationship to existing or proposed facilities or services, the alternatives to the proposed activity, the issues identified and the conclusions reached in the environmental assessment.

## **Description of the proposed activity**

Each proposed activity should be described in such a way that an evaluation of its impact upon the environment can be performed. The description should include a statement of:

- i. the purpose, location, duration and intensity of, and the need for, the proposed activity
- ii. the principal characteristics of the proposed activity and features of the activity that might cause impact on the environment
- iii. the relationship between the proposed activity and relevant previous, or known future, activities.

It is important to give detail such as:

- description of the activity's location and geographic area (to include indication of access routes and any maps)
- construction requirements (e.g. technologies, types and sources of materials - including water, communications, fuel storage)
- transportation requirements (e.g. types and numbers of vehicles)
- size of any installation and associated earthworks, including layout, area, weight, volume, or other appropriate measures
- construction phase inputs (e.g. energy, transportation, personnel and accommodation) and outputs (e.g. emissions, wastes, noise)
- operational phase inputs (e.g. energy, transportation and personnel) and outputs (e.g. emissions, wastes, noise)
- the timing of the activity (including range of calendar dates for installation time, and overall duration and periods [austral seasons] of operation of the activity)
- disposal of wastes that are generated
- any plans for future site development or further expansion of facilities

The description should also include the background history and present status of the proposal - including any preliminary planning or work undertaken.

The specific benefits accruing from the proposed activity should also be clearly described, with particular emphasis on the relevance of these benefits to Antarctic research.

### *Decommissioning of activity*

In the case of an activity or facility of limited planned life-span, consideration should be given at the time of planning to disposition of the subject activity or facility when it has fulfilled its purpose.

### **Description of the existing environment (e.g. the environmental reference state, or the baseline environment or conditions)**

A description of the environment in which the activity is to be performed should describe the state before the beginning of the activity. Maps, charts, photographs and other visual media should be used.

This description should include:

- the physical characteristics (e.g. topography, bathymetry, geology, geomorphology, soils, hydrology, meteorology, and ice conditions)
- the biota (e.g. inventories of plant and animal species, populations and communities and other important features such as presence of breeding grounds). Furthermore describe any dependent and related populations (e.g. bird nesting area related to feeding area)
- existing environmental processes (e.g. sea ice cycles, ecosystem dynamics, phytoplankton production and decomposition). Important temporal and spatial characteristics should be described
- current and proposed land use, facilities, engineering services, and constraints on use
- special scientific, aesthetic, cultural, heritage, historical, recreational or other values of the area
- a prediction of the future environmental state in the absence of the proposed activity.

It is important to ensure that descriptions reflect the geographical extent of the activity under consideration (i.e. for an island, ice-free area or a lake give a general description as well as a more detailed site-specific description).

### **Methods and data**

The approaches, strategies, methods, techniques or procedures, and the types of data or information (e.g. qualitative, quantitative, empirical or anecdotal) used in the assessment process need to be fully disclosed. Such disclosure will be useful in supporting the rigour and defensibility of the assessment process and will provide the basis for any subsequent re-assessment that may be necessary.

The description should identify explicitly where any incompleteness or uncertainty exists and should disclose how the existence of the incompleteness or uncertainty has been factored into the assessment process. This disclosure can be expected to be useful in assessment, and may serve the purpose of encouraging the acquisition of more complete knowledge.

The use of quantitative models, based on well-defined hypotheses as well as that information that does exist, will be extremely useful in deducing information where data does not exist or cannot be generated.

Where gaps in knowledge and uncertainty exist, expert judgement and experience can and should be used in the assessment process. Use of this judgement and experience must be disclosed explicitly in the assessment documentation.

Any sources of information relied upon during preparation of the environmental evaluation should be cited.

### **Analysis of expected impacts**

The expected nature of the impacts at both the local and regional level as well as their extent, duration, intensity and probability - resulting from the proposed activity should be examined and discussed.

Environmental impacts should be considered for both the construction and operational phases and should include the effects on:

- atmosphere
- areas of biological, geological or other importance
- wilderness and aesthetic values
- vegetation and wildlife
- ecological systems and processes
- water quality, volume and movement
- scientific research
- other existing uses and values, including cultural and heritage values.

The analysis of the environmental impact should cover the direct effects, indirect effects and cumulative effects of the activity and any associated facilities. (See Appendix B for definitions of these effects). The analysis should be performed using state-of-the-art methodologies and making recourse to appropriate expertise, experience, empirical evidence, results from previous studies and monitoring.

It is reasonable to expect that certain activities will entail unavoidable environmental impacts, regardless of the alternative chosen. When, during the assessment process, such impacts are discovered, they must be disclosed in the environmental document.

### **Alternatives**

Reasonable alternatives to a proposed activity should be examined in concert with the analysis of impacts of the proposed activity to enable a decision-maker to compare the environmental consequences of all alternatives being considered, including the proposed activity.

The respective consequences of the alternatives, both for the environment and for scientific activities, should be considered during the evaluation. Examples of alternatives include the use of different locations or sites for the activity, use of different technologies, use of pre-existing facilities, and different timing of the activity.

The alternative of not proceeding with the proposed activity (i.e. the no-action alternative) should be included in any analysis of environmental impacts to provide an appropriate context for understanding the impacts of the proposed activity. For example, natural changes in biota or climate that have been verified through empirical investigation or generally-accepted principles should be described.

The reasons for choosing to conduct the proposed activity at the selected location and in the manner specified should be clearly spelt out.

### **Mitigation measures**

Appropriate measures should be considered whenever possible to minimise or mitigate the effects of environmental impacts (e.g. adjusting the timing of a proposed activity to take into account sensitive periods of affected biological populations or ecological processes, implementing erosion and/or pollution control measures, developing site rehabilitation plans; and developing contingency plans for accidental spillages of polluting substances such as fuel or effluent). These measures may apply either to the activity itself to reduce the impact, or to the consequences of the impacts to minimise the environmental harm. The effectiveness of these measures should be verified through an appropriate monitoring program, specified in the document.

Reference should be made to any relevant legislation and standards to which the facility or activity will comply.

### **Monitoring of impacts**

Procedures must be put in place, including appropriate monitoring of key environmental impacts, to assess and verify the impact of activities that are the subject of an evaluation. The procedures should be designed to provide a regular and verifiable record of the impacts of the activity in order to enable assessments to be made of the extent to which such impacts are consistent with the provisions of the Madrid Protocol. In addition, monitoring activities should be designed so as to be capable of fulfilling the following decision-making needs:

- provide baseline data against which actual impact may be assessed over time and in space to establish the accuracy of the assessment and to detect impacts of the activity that were not predicted in the evaluation
- assist in evaluating the effectiveness of any mitigating measures
- promote early warning of adverse effects of the activity
- where appropriate, provide information on the need for suspension, cancellation or modification of an activity.

Monitoring should be planned in relation to the duration and intensity of the expected impacts of the activity. For example, a short-term phase of monitoring may be required during the mobilisation or actual construction work for a new facility; long-term monitoring may be required during the operational lifetime of the facility and during the natural restoration time.

Monitoring should be scientifically justifiable, and include quality control and quality assurance of measurements.

All evaluations should include a statement of the arrangements that will be made to report to the Minister the results of monitoring. The AAD will maintain a register of all environmental monitoring and reporting requirements arising from Australian Antarctic activities.

The assessment document should cite any action to be taken if monitoring detects unforeseen environmental degradation (e.g. if bird strikes on a new wind generator significantly exceed the predicted level, the wind generator may need to be relocated or totally removed).

### **Audit arrangements**

The assessment document should include details of arrangements for post-implementation evaluation of the accuracy of the assessment, and for ensuring appropriate response to the results of monitoring activities. In this regard, an audit will normally be conducted by TET on the basis of reports arising from monitoring activities and other relevant information TET may request.

### **Conclusion**

The conclusion should include an evaluation of all relevant information contained or referenced within the assessment document. Value judgments should be explicitly disclosed. The evaluation should include consideration and comparison of the impacts on the different environmental components affected and on other activities including scientific research potentially impacted by the proposal. In particular, the acceptability of significant negative impacts on the natural environment should be evaluated against the benefits of a different nature, such as the direct scientific goals or science support activities.

It may be useful to construct a matrix or table setting out advantages and impacts of various elements of the proposed activity drawing upon the descriptions in earlier sections of the assessment.

### **Contact name and address**

The document should include the name and address of the person or organisation which prepared the IEE or CEE and, in the case of a CEE, the address to which comments thereon should be directed.

### **External consultation and proponent response**

Final IEEs and CEEs should include a description of the consultation with organisations and individuals during preparation of the evaluation; the text or a summary of the comments received from persons consulted; and material responding to the matters raised during consultation.

## Appendix A: Process for handling Initial and Comprehensive Environmental Evaluations

The ATEP Act and EIA Regulations include a number of requirements for the contents and handling of CEEs and, to a lesser extent, IEEs. In addition to international and legislative requirements, the AAD has a number of internal requirements for processing environmental evaluations. The process summarised below enables all these requirements to be met. Indicative timeframes for each stage of the process are listed below. However, the actual timeframes depend on a range of factors including (but not limited to) completeness of the documentation, complexity of the proposed activity and the time needed to address issues raised in public submissions. In general, the process for an IEE takes approximately 5 months in total whereas the process for a CEE can take up to two years.

### IEEs

Step	Stage	Timeframe (estimate/statutory)
1	TET receives Preliminary Assessment	
2	(Assessment by Territories Team) Consider and make a determination on a Preliminary Assessment	2 weeks
3	TET receives draft IEE	1 week
4	Distribution to AAD EIA sub-committee for review	1 week
5	Review by AAD EIA sub-committee and the Territories Team. Liaison with proponent if required	4 weeks
6	IEE provided to delegate for information and comment	3 weeks
7	Public/EPBC consultation	4 weeks (non-statutory)
8	Public/internal comments forwarded to proponent	2 weeks
9	Proponent considers and incorporates comments and prepares final IEE	2 weeks
12	Final IEE received and provided to EIA subcommittee	1 week
13	AAD EIA sub-committee and Territories Team considers/assesses final IEE	2 weeks
14	<b>Determination on proposal and proponent issued Authorisation</b>	1 week
15	<b>Notice of final IEE published</b>	2 weeks
16	Final IEE and notice of decision circulated to AAD Executive/relevant Station Leaders/Support and	2 weeks

	Operations Branch/organisations which provided comments on the draft IEE	
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## CEEs

Step	Stage	Timeframe (estimate/statutory)
1	Establish ethics walls <sup>1</sup> ( <i>prior to commencement of preparation of preliminary assessment</i> )	4 weeks
2	<b>Receive Preliminary Assessment</b>	
3	(Assessment by Territories Team)  Consider and make a determination on a Preliminary Assessment	4 weeks
	<i>Regular meetings between proponent and regulator on preparation of CEE</i>	
4	<b>Receive draft CEE</b>	1 week
5	Distribution to AAD EIA sub-committee for review	1 week
6	Review by AAD EIA sub-committee and the Territories Team	8 weeks
7	CEE provided to delegate for information and comment	4 weeks
8	<b>Circulation to ATCM/CEP parties and Environment Standards Division (DoEE)</b>	<b>17 weeks (at least 120 days prior to ATCM)</b>
9	Public consultation period/receive comments	<b>28 days</b>
	<i>CEP ICG convened to prepare advice for CEP on the CEE (in time for WP deadline)</i>	
10	<b>Public comments forwarded to proponent</b>	2 weeks
	<i>ATCM/CEP consideration of draft CEE</i>	
11	Proponent considers and incorporates comments and prepares final CEE	8 weeks
12	<b>Final CEE received and notice published of availability/comments</b>	

<sup>1</sup> Required under AAD Measures for Best Practice Environmental Regulation

13	AAD EIA sub-committee and Territories Team considers/assesses final CEE	4 weeks
14	<b>Determination on proposal and proponent issued Authorisation</b>	6 weeks
15	<b>Notice of final CEE published</b>	1 week
16	<b>Final CEE and notice of decision circulated to CEP/ATCM</b>	<b>(At least 60 days before commencement of activity)</b>

**Note:** If at any stage during the preparation or consideration of an evaluation a decision is taken to not proceed with an activity, the proponent should immediately notify all stakeholders associated with the particular activity, including Support and Operations Branch if a Service Level Agreement is being prepared.

## **Practical Definitions and Examples**

### **(for the purpose of the Guidelines although not defined in the legislation)**

*Impact:* Any change, effect, deviation or consequence, whether short or long-term, adverse or beneficial, temporary or irreversible, that accrues from the development, initiation, conduct, operation, maintenance or decommissioning of an activity.

*Direct Effect:* Any first order effect, impact or consequence that may be directly associated with an activity. An example follows:

- acute toxicity effects (mortality) in marine birds, intertidal limpets or pelagic krill, caused by exposure to toxic constituents of petroleum products spilt at sea.

*Indirect Effect:* Any second order effect, impact or consequence that may be causally associated with an activity. An example follows:

- particulate emissions from combustion leading to melting of ice or snow that subsequently causes loss of ice or snow alga habitat.

*Cumulative Impact:* Effects, impacts, or consequences that may come from similar or varied sources but, that are additive, antagonistic or synergistic in their effect, impact or consequence, e.g.:

- a significant increase in the number of vehicles in an ecologically sensitive area.

*Environment:* The combination of physical media (i.e. air, land and water), the biota (i.e. living organisms), and the physical, chemical, biological and ecological processes that are evidenced as ecological systems (i.e. ecosystems). This definition includes those environments that are relatively undisturbed as well as those that have experienced prior natural or anthropogenic disturbances. Environments may be characterised on local, regional or continental scales; and they may contain individual landscape elements and ecosystems or combinations of landscape elements and ecosystems.

*Environmental Assessment:* A process for gathering, analysing and interpreting information on proposed activities and on environmental resources and qualities that allows determination of the impacts of those activities on those resources and qualities. It is part of the overall activity planning process that helps decision-makers to understand, prevent or mitigate the environmental consequences of their decisions. It is a process that relies on application of formal procedures to available information and is a process that often must depend upon judgment and experience when certain information is unavailable. The entire process is strengthened when use of such judgment and experience is acknowledged explicitly in the assessment.

*Initial Environmental Reference State:* The overall character of the site of a proposed activity as evidenced by such information as is available from scientific or monitoring studies, physical geographic descriptions, or knowledge about the biota and the environmental processes existing at the site. The site so characterised may be in a relatively undisturbed state or it may have been subjected to prior impacts (both natural and anthropogenic).

*Mitigation:* The use of practice, procedure or technology to minimise or to prevent impacts associated with proposed activities.

*Monitoring:* The purposeful measurement of the qualities or quantities of physical media, biota, or biological and ecological processes to characterise an environment or any of its physical, chemical or

biological components over time and space in their natural or impacted states. To be effective, the goals of monitoring studies must be stated and understood explicitly; and there must be careful planning to assure that experimental designs, sampling and statistical techniques adequately support data interpretations. Also, there is the need to provide adequate mechanisms for quality control and quality assurance of analytical techniques and equipment used in monitoring studies.

## Appendix 5. Guidelines for Australian Scientific Contributions to CCAMLR

- Australia is an original signatory to the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR).
- Australia's priorities for CCAMLR are determined by Australia's CCAMLR Commissioner (the TET Manager), in consultation with the CCAMLR Consultative Forum and Interdepartmental Committee.
- In some instances Southern Ocean scientific research may need to meet specific CCAMLR requirements, as set out in CCAMLR conservation measures (specifically Conservation Measure 24-01 'The application of conservation measures to scientific research').
- Most CCAMLR-related Australian research is subject to an AAS project proposal. The relevance of the project to CCAMLR priorities is reviewed through the assessment process for AAS projects
  - There are however instances where CCAMLR-related Australian research is conducted that is not part of an AAS project, including research that may be undertaken on the *RV Investigator*.
- All projects and proposed outputs intended for CCAMLR should be developed in consultation with the Australian Scientific Committee Representative (Antarctic Conservation & Management Program Leader – Wildlife Conservation & Fisheries), and take into account Australia's strategic priorities for CCAMLR. Similarly, all Australian scientific papers to CCAMLR must be submitted through the Australian Scientific Committee Representative.
- The Working Groups of the Scientific Committee for Ecosystem Monitoring and Management (WG-EMM), Fish Stock Assessment (WG-FSA) and Statistics, Assessments and Modelling (WG-SAM) review all papers and research proposals submitted to CCAMLR and develop management advice by consensus which is subsequently reviewed by the Scientific Committee (SC-CAMLR) and the Commission
  - There are time frames and deadlines associated with the submission of papers and research proposals.
  - Further, due to the need for consensus between all CCAMLR Members, timeframes for delivering science into CCAMLR may need to be sufficiently flexible to respond to commentary by other Members. As such contributors will need to be prepared to continue editing and update contributions over periods of a year or more before a conclusion is reached.

## Appendix 6. Fact Sheet for Applicants Undertaking Scientific Projects Taking and Using a Weapon in the Australian Antarctic Territory

### Weapons Ordinance 2001 (AAT)

The *Weapons Ordinance 2001 (AAT)* (**the Ordinance**) was developed to regulate the manufacture, possession and use of weapons in the Australian Antarctic Territory (**the Territory**). The Australian Antarctic Division (AAD) of the Department of the Environment and Energy is responsible for the administration of the Territory. The Territory is defined in the *Australian Antarctic Territory Acceptance Act 1933* and includes all land and sea 12 nautical miles from the permanent ice edge.

The Ordinance provides that weapons (defined by the Ordinance at section 4) should not be possessed or used in the Territory, except in certain circumstances. These circumstances include scientific projects where the project is advantageous to scientific research.

#### Declaration of scientific project

As a first step, as a scientific researcher intending to use or possess a weapon in the Territory, you must apply to the Director of the AAD for a declaration that, on reasonable grounds, the scientific project is advantageous to scientific research and a kind of weapon specified may be used for the project by a person working on the project.

*This is known as a section 16 declaration, which once made will be provided to you and you must keep and make available on request.*

#### Possession of a weapon

You are permitted to possess a weapon for scientific research in the Territory if all of the following apply (as far as they are applicable):

- The weapon is a kind specified in a section 16 declaration and for use for the project specified in this section 16 declaration, and the person who possesses the weapon is working on the project;
- If the weapon was acquired in a State or internal Territory, and it is a requirement of the laws of that State or internal Territory that the weapon be registered in that State or internal Territory, the weapon must be registered;
- If the weapon is of the kind for which a licence or permit is required to possess the weapon in the State or internal Territory that the weapon is registered, then the person possessing the weapon must hold that licence or permit; and
- The weapon must be registered on the Register of weapons under the Ordinance which is held by the AAD (see below).

*No documentary “permit” is provided. It is your obligation to ensure you meet all of the requirements above. Failure to do so is an offence under the Ordinance.*

#### Use of a weapon

You are permitted to use a weapon for scientific research in the Territory if all of the following apply:

- You have a section 16 declaration;

- You have met the requirements to possess the weapon in the Territory (see above); and
- The weapon is used for the project specified in the section 16 declaration.

*No documentary “permit” is provided. It is your obligation to ensure you meet all of the requirements above. Failure to do so is an offence under the Ordinance.*

### Possession and use of weapons owned by the AAD

If you wish to possess and use a weapon owned by the AAD you must obtain an authorisation under section 8 of the Ordinance. The TET section provides the AAD Business and Property Services Group with copies of all signed section 8 authorisations.

### The Register

The AAD Director is required to compile and keep a register of weapons in the Territory. The Weapons Register is kept by the AAD Business and Property Services Group.

For each weapon, the register must include the following information (as far as applicable):

- The details of the weapon, including its serial number;
- If the weapon is a firearm – identifying numbers of any spare barrel;
- If the weapon is registered in a State or internal Territory:
  - the name, address, date of birth and sex of the person registered as the owner of the weapon; and,
  - details of the grant of that licence or permit to the owner of the weapon, and any renewal, suspension, cancellation or suspension of that licence or permit;
- If the weapon is not of a kind that must be registered in a State or internal Territory:
  - the name, address, date of birth and sex of the owner of the weapon, and details of any licence or permit held by the owner of the weapon;
- If the weapon is owned by the AAD:
  - the name, address, date of birth and sex of the person authorised (under section 8 of the Ordinance) to use the weapon;
  - the details of the licence or permit held by the person authorised; and
- the date and location of any disposal of a weapon recorded on the Register.

*You must provide all the above information to the AAD for inclusion on the Register. Failure to do so will result in your weapon not being included on the Register.*

### Other obligations under the Ordinance

- Contravention of licence conditions (section 10):
  - If you hold a licence or permit for a weapon you must not contravene the conditions of that licence or permit.
- Movement into and out of the Territory (section 17):
  - When you enter and exit the Territory you must inform the Director in writing (as soon as practicable after the event) that you have taken a weapon into and out of the Territory.
- Safekeeping of weapons (section 18):
  - You must take reasonable precaution, including not committing an act that is reckless, to ensure that your weapon is not lost or stolen, and that it does not come into the possession of someone who is not permitted to possess it.

- Storage of weapons and ammunition (section 19):
  - You must ensure that when your weapon is not being used or carried it is stored in a locked container that:
    - is made of hard wood or steel of a thickness that is not easily penetrable;
    - if weighing less than 150kgs when empty is fixed to the floor or wall so that it can not be easily moved; and,
    - is closed by locks of solid metal.
  - You must store any ammunition in a locked container separate from any weapon.
- Transport of weapons and ammunition (section 20):
  - You must tell the master or captain of a ship or aircraft bound for the Territory, before you board the ship or aircraft, of your intention to take a weapon onto the ship or aircraft; and,
  - You must store the weapon and ammunition as directed by the master or captain.

*Failures to comply with the above requirements are offences under the Ordinance.*

#### Review of decisions

Under section 23 of the Ordinance, if you apply to the Director of the AAD for a section 16 declaration, and the Director makes the decision not to make a declaration, you may apply to the Administrative Appeals Tribunal for a review of the decision.

*\* The above is provided for information purposes only, and in no way constitutes legal advice. If you have any doubts about your rights and obligations under the Ordinance you should contact the AAD or seek independent legal advice.*