



Planning and Urban Management (Environmental Impact Assessment) Regulations 2007

SAMOA

Arrangement of provisions

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

11. Public
Consultation

SCHEDULE -
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 day of 2007.

(Tui Atua Tupua Tamasese Efi)
HEAD OF STATE

REGULATIONS

1. 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 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.