

Regulatory Statement: Regulation of Onshore Petroleum Activities in the NT

The onshore petroleum industry is regulated under a range of Territory laws to ensure it occurs safely and in line with community expectations as well as the recommendations from the Independent Scientific Inquiry into Hydraulic Fracturing in the Northern Territory (Hydraulic Fracturing Inquiry). The regulatory framework is complex. This document explains how the regulatory framework operates with a focus on environmental regulation, including the role of the Northern Territory Environment Protection Authority (NT EPA).

The primary legislation that regulates the onshore petroleum industry is the *Petroleum Act 1984*, which is supported by the *Petroleum Regulations 2020* and *Petroleum (Environment) Regulations 2016*.

Under the [Administrative Arrangements Orders](#), two Ministers and two agencies are responsible for administering the *Petroleum Act*. The Minister for Lands, Planning and Environment and the Department of Lands Planning and Environment (**DLPE**) are responsible for regulating matters relating to the environment, including the *Petroleum (Environment) Regulations 2016*. The Minister for Mining and Energy and the Department of Mining and Energy (DME) are responsible for all other matters, including petroleum titles, well integrity and surface infrastructure, including pipeline maintenance and leaks.

There are, however, a number of regulators involved in the safe regulation of the industry.

Regulator	Decision-Maker	Legislation	Key Functions
<i>Energy Development Branch in DME</i>	Minister for Mining and Energy	<i>Petroleum Act</i> <i>Petroleum Regulations</i>	Oversees titles, land access and well integrity
<i>Environmental Regulation Division in DLPE</i>	Minister for Lands, Planning and Environment	<i>Petroleum Act</i> <i>Petroleum (Environment) Regulations</i>	Regulates environmental matters spelt out in the Code of Practice, including spills, greenhouse gases, groundwater management, aquifer protection
<i>Aboriginal Areas Protection Authority</i>	CEO AAPA	<i>Northern Territory Aboriginal Sacred Sites Act</i>	Issues Authority Certificates if satisfied that sacred sites will not be damaged or interfered with
<i>Water Resources Division in DLPE</i>	Minister of Water Resources	<i>Water Act</i>	Regulates water extraction
<i>Northern Territory Environment Protection Authority</i>	NT EPA Board	<i>NT Environment Protection Authority Act</i> <i>Environment Protection Act</i>	Provides advice on EMPs under the <i>Petroleum Environment Regulations</i>

Regulator	Decision-Maker	Legislation	Key Functions
			Determines whether environmental impact assessment is required
<i>NT Bushfires in NTFES</i>	Minister for Fire and Emergency Services	<i>Bushfires Management Act</i>	Manages, mitigates and suppresses bushfires in the NT
<i>Weeds Unit in DLPE</i>	Minister for Lands, Planning and Environment	<i>Weeds Management Act</i>	Protects the environment from the adverse impact of weeds
<i>Heritage Branch in Department of Lands, Planning and Environment (DLPE)</i>	Minister for Lands, Planning and Environment	<i>Heritage Act</i>	Ensuring cultural heritage in the NT is protected

Petroleum titles, well integrity and surface infrastructure

The Minister for Mining and Energy and the Energy Development Branch in DME are responsible for issuing petroleum titles and facilitating land access under the *Petroleum Act 1984*. Any person seeking to undertake a petroleum activity in the Territory *must* have a petroleum title, which includes an exploration permit, retention licence or production licence.

The Minister for Mining and Energy and DME also regulate well integrity and petroleum surface infrastructure. Officers assess and, where appropriate, recommend approval of well operations management plans (WOMPs) and petroleum surface infrastructure plans (PSIPs). DME also ensures the strategic management of petroleum production, ensuring optimal long-term recovery of the hydrocarbon resource. This includes the administration and regulation of Technical Works Programs, Field Management Plans (FMPs) and approved Rates of Recovery.

DME also makes recommendations on Pipeline Management Plans and other consents required under the *Energy Pipelines Act*. These pipelines extend beyond the boundaries of granted petroleum interests. DLPE has no regulatory functions under the *Energy Pipelines Act*.

Managing environmental impacts

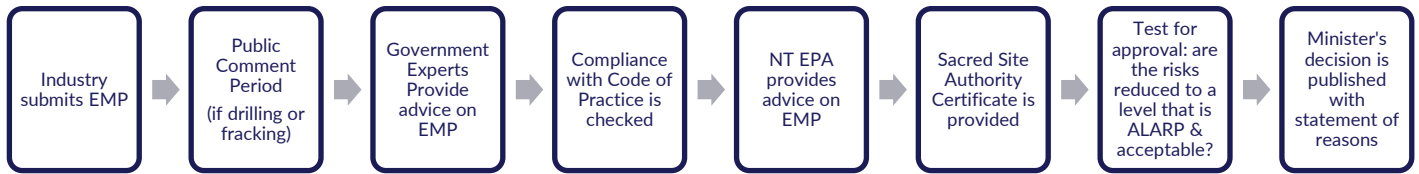
The Minister for Environment and the Environmental Regulation Division in DLPE (Regulation Division) administer the Petroleum (Environment) Regulations 2016 to manage environmental impacts associated with the onshore petroleum industry. These impacts primarily occur on the surface. The regulations are designed to ensure that all petroleum activities are carried out in a way that ensures risks are reduced to levels that are both acceptable and as low as reasonably practicable. The Recommendations form the Hydraulic Fracturing Inquiry provided guidance to Government on what this means.

Environment Management Plans

The primary document that ensures environmental impacts and risks are properly managed is the environmental management plan (EMP).

Industry is responsible for preparing an EMP in line with the regulatory requirements. The EMP is then submitted and the Regulation Division in DLPE commences a comprehensive assessment process outlined below.

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The EMP is assessed by officers to ensure that all risks associated with a proposed activity have been identified in the EMP. The test for approving an EMP is that the risks identified have been reduced to a level that is as low as reasonably practicable (ALARP), acceptable, and consistent with the principles of ecologically sustainable development.

In undertaking this assessment the Regulation Division takes into account a wide range of material and engages with a broad range of stakeholders.

EMPs are published for public comment

First, if an EMP relates to drilling or hydraulic fracturing the Regulation Division publishes the EMP on the Government's "Have Your Say" website. Interested stakeholders are notified that the EMP is available for comment. The Regulation Division considers all public comments that are received and the Minister's statement of reasons - which is also made publicly available - details how the Minister took public comments into account.

Experts across Government provide advice on EMPs

Second, the Regulation Division considers advice from subject matter experts across Government. Advice is sought from organisations with expertise in biodiversity (Flora and Fauna Division in DLPE), sacred sites (the Aboriginal Areas Protection Authority), heritage conservation (Department of Lands, Planning and Environment), work health and safety (Work Health Authority, Attorney-General's Department), environmental health (Department of Health), transport and infrastructure (Department of Logistics and Infrastructure) and social policy (Department of the Chief Minister and Cabinet). Issues raised by these organisations are provided to the interest holder to ensure the EMP complies with the regulatory requirements and inform the Minister's decision on the EMP.

EMPs must demonstrate compliance with the Code of Practice

Third, the Regulation Division checks the EMP to ensure it demonstrates compliance with the Code of Practice. The Code of Practice was one of the recommendations from the Hydraulic Fracturing Inquiry and operationalises many of the other recommendations from the Inquiry's Final Report, including in relation to surface impacts, wastewater management, spills and aquifer protection. The Code prescribes the controls that must be in place to ensure risks are reduced to acceptable levels. EMPs that do not demonstrate compliance with the Code will not be approved.

Advice from the independent Northern Territory Environment Protection Authority (NT EPA) is provided on each EMP

The Minister for Environment has requested the NT EPA review *all* EMPs and provide independent advice under the Petroleum (Environment) Regulations as to whether the approval criteria in the regulations have been met.

The NT EPA does not have a statutory or decision-making role under the Petroleum (Environment) Regulations. The NT EPA is involved in the assessment process for an EMP because the Minister has

requested the NT EPA's advice under s29B of the *Northern Territory Environment Protection Authority Act 2012* (NT EPA Act).

The NT EPA's review is undertaken once the Regulation Division has resolved matters raised by other Government agencies and the public submissions. The NT EPA is supported by the Environment Regulation Division in DLPE so in that regard the NT EPA's advice to the Minister is informed by - but separate to - the Regulation Division's own assessment of the EMP.

The NT EPA provides advice to the Minister on every EMP to inform her decision on whether to approve the EMP or not, and the NT EPA's advice is published with the Minister's decision.

Sacred Sites are protected

A mandatory pre-condition to any approval of an EMP is that the Aboriginal Areas Protection Authority (AAPA) has issued an Authority Certificate in relation to the proposed works. This is a requirement under the Petroleum (Environment) Regulations. If there is no Authority Certificate in place then the Minister for Environment cannot make a decision on an EMP.

Authority Certificates are issued under the *Northern Territory Aboriginal Sacred Sites Act*. An Authority Certificate can only be issued by the AAPA if it is satisfied that there will be no damage or interference to sacred sites. If satisfied, the AAPA can place conditions in an Authority Certificate to ensure that sacred sites are protected. Conditions can prohibit access to certain areas that are culturally significant to custodians and create restricted works area.

The requirement for a mandatory Authority Certificate for onshore petroleum activities is a recommendation from the HFI and ensures that custodians for sacred sites and AAPA are consulted about proposed work.

Compliance and enforcement with EMPs

The Regulation Division in DEPWS is responsible for assessing EMPs (see above) and also ensuring compliance with commitments made by petroleum companies in approved EMPs.

The Regulation Division regulates in accordance with best practice regulatory principles, which are often referred to as the PACTT principles. The Division is proportionate, accountable, consistent, transparent and targeted in its approach to compliance and enforcement.

The PACTT* Principles



Proportionate

Our actions consider the risk of harm and attitude to compliance.



Accountable

We explain, justify, and document our regulatory actions and decisions.



Consistent

Our processes are consistent and lead us to the right outcomes.



Targeted

We allocate effort and resources to areas with the potential for the most harm.



Transparent

We share information about our actions and decisions.

One way the Regulation Division achieves transparency and accountability is through the publication of an annual compliance plan and compliance report. The plan sets out the Division's compliance priorities for the year ahead, which generally relate to matters that have a higher environmental risk and matters that

are of concern to the community. The compliance plan for 2023-24 and 2024-24 will be available in November 2024.

To ensure transparency about the Division's activities, it also publishes an annual compliance report, which shows what the Division did against the commitments made in the annual plan. It also shows what the Division found and how the Division responded to incidents of non-compliance. All non-compliances are processed in line with the Division's compliance and enforcement framework and best practice regulatory principles i.e. PACTT. The compliance report for 2023-24 we be available in November 2024.

Environmental impact assessment under the *Environment Protection Act 2019*

The NT EPA has related - but separate - functions under the *Petroleum Act 1984* and the *Environment Protection Act 2019* (EP Act). As noted above, the NT EPA's role under the *Petroleum Act* is as a result of the Minister for Environment exercising a power under s29B of the NT EPA Act.

Separate to the assessment and approval process for an EMP under the *Petroleum Act*, an onshore petroleum activity may require environmental impact assessment under the *Environment Protection Act 2019* when it has the potential to have a significant impact on the environment.

Assessment under the EP Act is carried out by the NT EPA. This is undertaken separately to the advice the NT EPA provides to the Minister on each EMP discussed above.

The EP Act requires that any action that has the potential to have a significant impact on the environment must be referred by the proponent to the NT EPA for assessment. The Minister for Environment considering an EMP under the *Petroleum Act* may refer a proposal to the NT EPA after taking reasonable steps to encourage the proponent to make a referral. A proposal that should have been referred may be 'called-in' by the NT EPA regardless of whether it has already been approved under another regulatory regime.

After a referral is accepted, it is made available for consultation for 20 business days and submissions are invited from the public and from government authorities. The NT EPA considers the referral information, any submissions received, and any additional information given to determine whether the proposal has the potential to have a significant impact on the environment. If the NT EPA determines that there is potential for significant environmental impact, it must either decide that an environmental impact assessment is required and assess the proposal by one of four available assessment methods, or recommend an early refusal to the Minister if it considers that the proposal is environmentally unacceptable.

In determining whether a proposal has the potential for significant environmental impact, the NT EPA must consider any applicable environmental objectives, and may also consider other statutory decision-making processes that may mitigate the potential environmental impacts of the proposal.

The EPA may form the view that a proposal has the potential for significant impact, but that assessment is not required on the basis that other statutory decision-making processes, such as the EMP approval process under reg 11(3)(a)(i) of the *Petroleum (Environment) Regulations 2016*, are capable of mitigating environmental impacts.

If the NT EPA determines that a proposal requires an environmental impact assessment under the EP Act, the NT EPA carries out the assessment. At the completion of its assessment the NT EPA must make a recommendation to the Minister for Environment about whether the proposal should be approved and provide either a draft environmental approval or a statement of unacceptable impact. The Minister then decides whether to grant or refuse an approval.

The NT EPA has published guidance to assist proponents to understand their obligations under the EP Act, including a pre-referral screening tool, to support decision-making about whether a referral is required. Pre-referral meetings with the Environment Assessments Unit in DLPE are offered to proponents and encouraged to ensure obligations under the EP Act are understood and addressed in a timely manner.

The NT EPA will form a view on whether or not the activities set out in a draft EMP should be referred to it for assessment (i.e. "called-in") under the EP Act at the same time the NT EPA makes its advice to the Minister on the EMP under the Petroleum (Environment) Regulations (see above).

Water Act 1992

If a petroleum project requires groundwater, a groundwater extraction licence under the *Water Act 1992* (Water Act) must be obtained before water extraction can occur.

Under the *Georgina-Wiso Water Allocation Plan 2023-2031*, which covers much of the Beetaloo region, 10,000 ML/year of groundwater is allocated to petroleum activity.

The use of surface water for petroleum activity is prohibited.

To obtain a groundwater extraction licence, an application must be made to the Water Resources Division in DLPE, which administers and monitors compliance with the Water Act. The Division provides advice to the Controller of Water Resources (Controller), who makes decisions on water licence applications.

In deciding whether to grant a groundwater extraction licence, the Controller considers a range of factors under the Water Act. An application for a water licence must include all of the information required by the Controller to make a proper decision.

Generally, the information that an applicant is required to provide with their application includes:

- A description of the project, including the location, bores and proposed water use
- A 10km hydrocensus (bore stocktake)
- Identification of the specific yield and transmissivity of the water resource, supported by a site-specific modelling report
- Identification of cultural sites that may be affected by the proposed activity
- Identification of groundwater dependent ecosystems and other key receptors that may be affected by the activity
- Proposed monitoring plans and adaptive management plans.

Additional information may be requested from licence applicants where required. Applicants are encouraged to engage early with the Water Resources Division to discuss their application and to determine what supporting information they may be required to provide.

Once accepted, all groundwater licence applications are advertised for public comment. There is a 20-business-day period during which the public can make written comments on the application. In making a decision on the application, the Controller must take into account the comments made.

Decisions on water licence applications and the reasons for the decisions are published. A person affected by the decision may apply to the Northern Territory Civil and Administrative Tribunal for review of the decision.

Decisions to grant water licences and the conditions placed on all water licences take into account and provide protection to existing water users, cultural sites, environmental receptors and other water

resources. All water licences have conditions that limit how much water can be extracted and how bores are constructed. They can also include site-specific monitoring and reporting conditions and adaptive management plans that must be complied with.

In response to the recommendations from the Hydraulic Fracturing Inquiry, the Water Act prohibits water extraction from a bore for petroleum use if there are other bores within 1 km of the proposed bore, unless the owners of those bores provide consent to the grant of the licence, or groundwater modelling confirms that no adverse effects will occur to the supply of water at a nearby bore.

The Hydraulic Fracturing Inquiry also recommended the introduction of a charge on water for all onshore petroleum activities. As a result, groundwater extraction licences for petroleum activity that includes hydraulic fracturing are subject to a \$3,000 annual fee.

All water licences for petroleum activity include the condition that the licence holder must have an Environment Management Plan (EMP) before water can be taken. Typically, EMPs are in place or are in the process or being approved and may contain supporting information required to make a decision on the water licence application.

Compliance with the Water Act and water licences is monitored through reporting conditions as well as by inspections conducted by Authorised Officers.

More information

For more information on the matters outlined below please contact the relevant organisation.

Petroleum Act (well integrity, petroleum surface infrastructure and petroleum titles, land access)	Energy Development Unit Department of Mining and Energy dittpetroleumoperations@nt.gov.au
Petroleum Act (environmental matters)	Petroleum Regulation Branch Department of Lands, Planning and Environment Onshoregas.depws@nt.gov.au
Water extraction	Water Resources Division Department of Lands, Planning and Environment waterresources@nt.gov.au
Environmental Impact Assessment	Environment Division Department of Lands, Planning and Environment, Eia.ntepa@nt.gov.au
Sacred Sites	Aboriginal Areas Protection Authority enquiries.aapa@nt.gov.au
Bushfires	Bushfires NT Northern Territory Fire and Emergency Services bushfires.nt@nt.gov.au