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| Fact sheet 11: Referral pathways for impact assessment |

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An improved environmental impact assessment system

# Introduction

The Northern Territory’s (the Territory) improved environmental impact assessment system established in the Environment Protection Bill 2019 (the Bill) is risk based.

Under the system, a proponent (i.e. the person wanting to undertake a project or ‘action’) is responsible for referring the proposed project to the Northern Territory Environment Protection Authority (NT EPA) for its consideration.

An action must be referred if:

1. it has the potential to have a significant impact on the environment or
2. meets a referral trigger established by the Minister for Environment and Natural Resources (the Minister).

[Figure 1](#Figure_1) identifies how these processes work together.

## Referral based on potential for significant impact

A referral based on potential for significant impact on the environment requires the identification and analysis of the potential environmental risks and impacts associated with a proposed action.

The Bill provides guidance to the NT EPA about how it judges whether or not the potential impact is a ‘significant impact’. This requires the NT EPA to consider the:

* context and intensity of the impact
* sensitivity, value and quality of the environment impacted on and the duration, magnitude and geographic extent of the impact.

This approach for determining significance mirrors the existing approach under the Environmental Assessment Act 1982. The NT EPA has prepared the ‘NT EPA Environmental Factors and Objectives’ to assist this process. This guidance material identifies 13 environmental factors categorised by five themes identifying those parts of the environment that may be impacted by an aspect of a proposal. The NT EPA uses these factors and their accompanying objectives to make a judgement about the potential impacts on the environment and whether they are significant.

Additional guidance material will be prepared to assist proponents to identify whether their proposal may have a significant impact and if referral is required. Guidance material is anticipated to allow the identification of three broad levels of significance corresponding to impacts:

* significant and not mitigable
* significant but mitigable
* not significant.

A referral requirement that is based upon the potential for a project to have significant impact encourages proponents to design their projects to:

* avoid impacts on the Territory environment and
* mitigate the impacts to reduce their significance.

Good project design may therefore negate the requirement for impact assessment and an environmental approval.

In addition, proponents are required to refer proposed significant variations to projects to the NT EPA. Significant variations are also considered in terms of whether they will have a potentially significant impact on the environment.

The Minister may declare environmental objectives following a public consultation process which will be outlined in the Regulations. If the Minister has declared environmental objectives, the NT EPA will be required to consider these objectives in determining whether or not a particular proposal has the potential for a significant impact on the environment.

## Referral triggers

The Bill establishes a power for the Minister to declare a referral trigger.

The purpose of a referral trigger is to direct a project into the impact assessment system because it has potential for significant impact by virtue of its proposed location or type of activity. For this reason, the Bill establishes the power to declare location-based referral triggers and activity-based referral triggers.

A **location-based** referral trigger is where an area has been formally identified as being of exceptional environmental significance. This may be due to a feature of the natural or cultural environment such as the last known habitat of a critically endangered species.

An **activity-based** referral trigger identifies specific actions that may pose an extraordinary potential for significant impact. Such an activity would likely be described in terms of the threshold of activity that would require the proposed action to be referred. Threshold values may reflect scale and/or expected output and/or expected waste products. For example, an activity trigger might be the construction of a new water storage dam that is located on a continuously flowing river, or which exceeds a specified height, or which captures a certain percentage of the catchment. Only proposed actions that meet the thresholds for the identified activity would need to be referred.

While the Minister has the power to declare location or activity triggers, there is no requirement to do so. It’s expected that referral triggers will only be declared in exceptional circumstances. This would be when there is a genuine and defensible need for potential developments of a certain activity type or in a certain location, to be referred to the NT EPA because of their potential for significant environmental risk. The NT EPA would then consider the proposed project’s potential for significant impact to determine if an assessment is actually required.

As with the Minister’s power to declare environmental objectives, the Regulations will outline a public consultation process that must be followed before a declaration is made.



Figure 1: Referral decision tree