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| Fact sheet 20: Energy industry |

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What environmental impact assessment and approval reforms mean for you

# Background

The Northern Territory (the Territory) is reviewing and reforming the current environmental regulatory system. Reforms are critical to achieving a robust regulatory system that the community will trust while encouraging industry investment and economic growth.

The Environment Protection Bill 2019 (the Bill) and its supporting Environment Protection Regulations will introduce considerable improvements to the Territory’s environmental impact assessment system. This will result in a process that is contemporary, fit for purpose, responsive to the Territory’s circumstances, and in keeping with the principles of ecologically sustainable development.

# What’s happening?

The Bill is focused on the environmental impact assessment of proposed projects. The basis for requiring to be referred for assessment is the project’s potential for ‘significant impact’ on the environment. This is also the existing approach for determining if environmental impact assessment is required.

The Minister for Environment and Natural Resources (the Minister) may declare environmental objectives following a public consultation process. These objectives will represent environmentally valuable matters for the Territory. Their purpose is to ensure that everyone understands when projects may have the potential for a significant impact on the environment. Once environmental objectives are declared they will be useful for a proponent to understand if their project requires a referral knowing that these are the matters the Northern Territory Environment Protection Authority (NT EPA) will refer to when it makes a decision. The NT EPA Environmental Factors and Objectives will continue to be used until the Minister declares objectives under the new environment protection laws.

The Minister will also be able to declare referral triggers following a public consultation process. A proposed project that meets a trigger would need to be referred to determine if it actually has potential for significant impact.

While the Minister has the power to declare referral triggers, there is no requirement to do so. It is expected that a referral trigger will only be declared in exceptional circumstances where there is a genuine and defensible need for potential developments of a certain activity or in a certain location.

# How does this affect energy industries?

The concept of significant impact is unchanged for the purpose of environmental impact assessment. This means that only those types of projects that have previously needed to be referred are likely to require referral in the future.

The legislation is not retrospective so projects that hold existing authorisations under energy related legislation, including the Petroleum Act 1984 and Petroleum (Environment) Regulations 2016, Energy Pipelines Act 1981 and Waste Management and Pollution Control Act 1998, are unaffected.

A proposed major variation to an existing project that has an authorisation however, may need to be referred. Guidance material will be developed and publicly available to assist proponents to consider if their project has potential for significant impact and therefore needs to be referred.

If as a proponent, you have completed the environmental impact assessment process under the existing Environmental Assessment Act 1982, but have not submitted your request for authorisation under the Petroleum Act 1984, you must do so before the Bill commences.

The improved system provides certainty of process and timeframes, and is focused on risk. It will provide a clear decision on whether or not impact assessment is required within 50 business days of submitting referral documentation.

The introduction of a multi-tiered assessment system will ensure that projects are assessed at a level appropriate for the risk posed by the proposed activity. New powers to conduct assessments of strategic proposals will reduce requirements for individual project assessments within the strategic proposal assessment area.

It will deliver a clear conclusion to the environmental impact assessment process within 30 business days of the completion of the assessment report by the NT EPA in the form of a decision by the Minister on the environmental sustainability of the proposed project. An environmental approval granted by the Minister will contain conditions to manage key environmental impacts which proponents must comply with.

As a proponent, you will be able to seek a judicial review of decisions about the grant or refusal of an environmental approval by the Minister.

# What about further reforms?

The next stage of the reform program will see improvements to the way in which the Territory manages wastes, pollution, land clearing and the environmental impacts of mining activities.

These reforms will result in amendments to the future Environment Protection Act, and the repeal and replacement of the Waste Management and Pollution Control Act 1998 and Litter Act 1972 and changes to the Mining Management Act 2001 and Water Act 1992.

Work on the draft framework for managing the environmental impacts of mining is underway. Targeted consultation with industry on the draft framework will be undertaken shortly.

# Summary

The Bill brings together mechanisms for accountability and transparency in an environmental impact assessment system that is focused on risk. It introduces a time-bound conclusion to the assessment process in the decision of the Minister on whether to issue an environmental approval for a proposed project. This, coupled with the clear processes and timeframes in the Regulations, provides a strong legislative framework to facilitate investor confidence, and community trust through a robust environmental regulatory system.