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| Fact sheet 3: Environment Protection Regulations |

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Developing Environment Protection Regulations

The Northern Territory Government (Territory Government) 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 Territory Government has developed the Environment Protection Bill 2019 (the Bill). The Bill introduces improvements to the environmental impact assessment and approval system for the Northern Territory and replaces the outdated and inefficient Environmental Assessment Act 1982*.*

The Bill will be supported by Environment Protection Regulations. The Regulations will specify environmental impact assessment processes and replace the existing Environmental Assessment Administrative Procedures 1984.

# Overview of the Regulations

The Regulations will have four core elements:

1. processes for the Minister for Environment and Natural Resources (the Minister) to follow when making declarations of environmental objectives or a referral trigger
2. processes for the Administrator of the Northern Territory (the Administrator) to follow when making declarations of protected environmental areas or prohibited actions
3. processes for the Northern Territory Environment Protection Authority (NT EPA) to follow in conducting the environmental impact assessment process
4. prescribing a number of matters required by the Bill; e.g. specifying matters to be contained in public registers or information to be provided as part of notifying of an environmental incident.

## Environmental declarations

### Environmental objectives and referral triggers

The Bill contains provisions that allow the Minister to declare environmental objectives and referral triggers. These are mechanisms to improve certainty in the impact assessment process by informing when an action is to be referred to the NT EPA.

The environmental objectives will be used to inform when an action is to be referred based upon its potential for significant impact. A referral trigger (activity-based or location-based) sets out specific activities or areas where an activity is proposed that will require a referral to be made to the NT EPA.

To ensure transparency in the declaration of objectives and triggers, the regulations will identify the processes that the Minister must follow to make a declaration. The process will require the Minister to consult publicly on proposed objectives or triggers before making a final declaration. The Bill requires that a declaration by the Minister must be accompanied by a statement of reasons for making the decision.

### Environmental protected areas and prohibited areas

The Bill contains provisions that allow the Administrator to declare environmental protected areas and prohibited actions.

These are mechanisms to improve certainty about the protection of specific areas of the Territory and the types of actions that can be undertaken in those areas, or the Territory generally.

To ensure transparency in the declaration of environmental protected areas and prohibited actions, the regulations will identify the processes that the Administrator must follow to make a declaration. The process will require that public consultation is undertaken on proposed declarations before final declarations are made. The Bill requires reasons for decision be published with any such declaration.

## The impact assessment process

The Regulations will specify the environmental impact assessment process. This will include:

* processes associated with accepting a referral
* different tiers of impact assessment responsive to the potential impacts and risks of projects
* timeframes for decisions by the NT EPA and
* public consultation requirements and timeframes.

## Other prescribed matters

A number of provisions of the Bill refer to “matters prescribed by the Regulations” (or similar). This means that the regulations may contain additional information to identify what is required.

The regulations will identify a number of prescribed matters required to support the Bill. This will include:

* a monetary amount required to identify what constitutes significant environmental harm. It is proposed that this threshold is $50,000 consistent with the serious environmental harm threshold contained in the Waste Management and Pollution Control Act 1998, Mining Management Act 2001 and Water Act 1992
* the information that must be made available as part of a public register or an offset register
* further detail on matters that the Minister should consider when deciding if a person is a ‘fit and proper’ person to hold an environmental approval
* information to be contained in a notification to the Chief Executive Officer of the Department of Environment and Natural Resources (CEO) about an environmental incident causing material or significant environmental harm.

# Developing the Regulations

Consultation Draft Environment Protection Regulations were released for public comment in October 2018. A number of changes are being made to the Regulations consistent with changes to the Bill and following stakeholder feedback. It is anticipated that the Environment Protection Regulations 2019 will be finalised later in 2019.