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| Fact sheet 5: Roles and responsibilities |

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Distribution of responsibilities under the Environment Protection Bill 2019

# Introduction

The Environment Protection Bill 2019 (the Bill) locates responsibilities for different activities to different parties. This includes proponents, approval holders, the Northern Territory Environment Protection Authority (NT EPA), the Minister for Environment and Natural Resources (the Minister), the Chief Executive Officer of the Department of Environment and Natural Resources (the CEO) and appointed environmental officers.

This paper provides an outline of the major roles and responsibilities in the Bill. In summary responsibilities are identified as follows:

* **the Minister:** responsibility for deciding whether to grant (or refuse) an environmental approval
* **NT EPA:** responsibility for administering and conducting the environmental impact assessment process
* **the CEO or appointed environmental officers:** responsibility for ensuring that proponents comply with the legislation and taking enforcement action where appropriate
* **proponent or approval holder:** responsibility for referring a proposed action for consideration under the environmental impact assessment process, for complying with all the requirements of that process and for generally complying with the legislation and any conditions in an environmental approval.

# The Minister for Environment and Natural Resources

The Minister has overall responsibility for ensuring that the Northern Territory (the Territory) environment is managed in an ecologically sustainable way.

Under the Bill, the Minister has three primary functions. To make:

* declarations designed to protect the Territory environment and facilitate consistency in the environmental impact assessment process
* decisions about the grant, refusal, transfer, suspension and revocation of environmental approvals
* agreements and policies to facilitate environmental impact assessments and environmental outcomes.

## Environmental declarations

The Minister may make declarations to support the impact assessment process, including:

* **environmental objectives:** these objectives form part of a policy framework identifying matters of value or importance to the Territory and will be used in the impact assessment and approval system to support, and improve consistency in, decision making
* **referral triggers:** a trigger identifies a type of activity, or activities in a specific area, that need to be referred to the NT EPA as part of the impact assessment process.

The Minister will be required to consult with the public and the NT EPA before making these declarations. The Minister is also required to review declarations about objectives and triggers at least every 10 years.

The Minister may also make temporary declarations of protected environmental areas. A temporary declaration can be made without public consultation where it is warranted and time is of the essence. A declaration cannot be for a period exceeding 12 months.

The Administrator of the Northern Territory is given powers to make permanent declarations of protected environmental areas and prohibited actions.

## Environmental approvals

The Minister is given a range of powers associated with the introduction of an environmental approval. These include powers to grant or refuse approvals, amend conditions on approvals, transfer, suspend and revoke approvals.

The Minister is also given powers designed to make sure the environment is protected, including:

* closure notices requiring a person to undertake continued investigation, monitoring or management of a site that is intended to be ‘closed’
* closure certificates which can be issued to a person once all of the closure, remediation and rehabilitation obligations under the environmental approval have been fulfilled.

## Environmental agreements and policies

The Minister may enter into an agreement with a minister in another jurisdiction for a co-operative environmental impact assessment of a project. This will facilitate and streamline environmental impact assessment processes for proponents whose project may impact across a number of jurisdictions. The co-operative assessment agreement must meet certain criteria, including that it provides the information necessary for the Minister to determine whether to grant or refuse an environmental approval.

The Minister can develop and implement an environmental offset framework to provide further guidance on the expectations for environmental management in the Territory.

# The NT EPA

The NT EPA’s main responsibility under the Bill is to oversee, administer and conduct the environmental impact assessment process within the Territory.

It is the NT EPA which will receive a referral from a proponent to undertake a project (proposed action). The NT EPA will decide whether or not the project requires impact assessment, and if so, the type or method of assessment required. The NT EPA will conduct the impact assessment process to ensure that a proper evaluation of the potential significant impacts of the project is undertaken.

When the NT EPA completes its assessment, it will provide the Minister with an assessment report. The report will identify the potential impacts of the project, and how the environmental risks and impacts have been avoided or mitigated in the design of the project. The assessment report will be accompanied by a draft environmental approval if the NT EPA considers the environmental impacts and risks are manageable, or a statement of unacceptable impact if it does not.

The NT EPA also has the power to issue a call-in notice and a stop work notice if a project has not been referred and the NT EPA considers that it should have been.

The majority of the NT EPA’s powers, functions, responsibilities and obligations in the impact assessment process will be identified in the Environment Protection Regulations.

# Proponents and approval holders

Proponent is the term used to refer to the person who wants to conduct a project (an action). Once the proponent has been granted an environmental approval, they are generally referred to as an approval holder. Proponents and approval holders may be individuals or bodies corporate.

Proponents are responsible for deciding whether or not they might need an environmental approval. If they consider they may need an approval for a project, then they are responsible for providing information to the NT EPA to allow it to determine whether or not the approval, and therefore environmental impact assessment, is required. This is known as ‘making a referral’.

Both proponents and approval holders are also responsible for deciding whether changes to their projects (or actions) are significant and may warrant further impact assessment or approval, and for referring significant changes to the NT EPA.

Approval holders have a responsibility to conduct their projects and activities in accordance with the environmental approval and to notify the CEO in the event an unauthorised incident that threatens to cause material environmental harm occurs.

# The CEO

The primary function of the CEO is to ensure compliance with the legislation. To achieve this, the CEO may:

* issue environment protection notices, specifying that certain actions must be taken (or stopped) to ensure compliance with an environmental approval
* enter into enforceable undertakings with proponents that may have breached an approval
* start criminal or civil proceedings against proponents that may have breached an approval
* appoint environmental officers to assist in undertaking compliance and enforcement activities.

The CEO is also responsible for a range of administrative matters to ensure transparency in the environmental management system, such as maintaining public registers.

# Environmental officers

Environmental officers may be appointed by the CEO. Members of the Northern Territory Police Force are environmental officers.

Environmental officers are given a range of powers to investigate potential breaches of the legislation and to ensure that proponents comply with the legislation.