

Fact Sheet 7: New referral pathways

The environmental impact assessment system under the draft environment protection Bill and Regulations

Introduction

Under the draft environment protection Bill, a proponent (i.e. the person wanting to undertake a project or 'action') will be responsible for referring the proposed project to the Northern Territory Environment Protection Authority (NT EPA) for its consideration under the environmental impact assessment system.

The draft Bill requires a project to be referred if it meets a trigger (see below) **or** if it has the potential to have a significant impact on the environment. Figure 1 identifies how these processes work together.

Under the draft Bill, the Minister for Environment and Natural Resources has responsibility for declaring triggers and Territory Environmental Objectives which are used to inform a decision about whether the project has the potential to have a significant impact on the environment. The draft Bill outlines a consultation process that must be undertaken before these declarations are made.

Triggers

There are two kinds of triggers established in the Bill:

- **referral trigger** – if the proposed project meets a referral trigger it must be referred to the NT EPA to decide if there is potential for significant impact and therefore requires an environmental approval
- **approval trigger** – if the proposed project meets an approval trigger it must be referred to the NT EPA because the proposed action must have an environmental approval to proceed.

Both referral triggers and approval triggers can be locality-based or activity-based.

A locality-based trigger is where an area has been formally identified as being of significance. This may be due to a feature of the natural or cultural environment, such as the Sir Edward Pellew Islands or a national park or conservation reserve.

An activity-based trigger identifies specific actions. An activity would likely be described in terms of the threshold of activity that will require a 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 is intended to service a specified population, or which captures a certain percentage of the catchment. Only proposed actions that met the thresholds for the identified activity would need to be referred.

The triggers provide a definitive net that capture proposed projects that must be referred to the NT EPA.

Referral based on potential for significant impact

The draft Bill establishes a risk-based approach to environmental impact assessment where referral to the NT EPA is based upon a project’s potential for a significant impact on the environment. This decision is made in consideration of environmental values and objectives defined in the Territory Environmental Objectives.

In determining whether an impact is significant, the NT EPA will be required to consider:

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

Publicly available decision making frameworks to support the judgement of significance of impact will be prepared, allowing the identification of three broad levels of significance corresponding to impacts:

- significant and not mitigable
- significant but mitigable
- insignificant

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 environmental objectives and,
- to mitigate the impacts to reduce their significance.

Requirements for impact assessment and an environmental approval may therefore be negated through good project design.

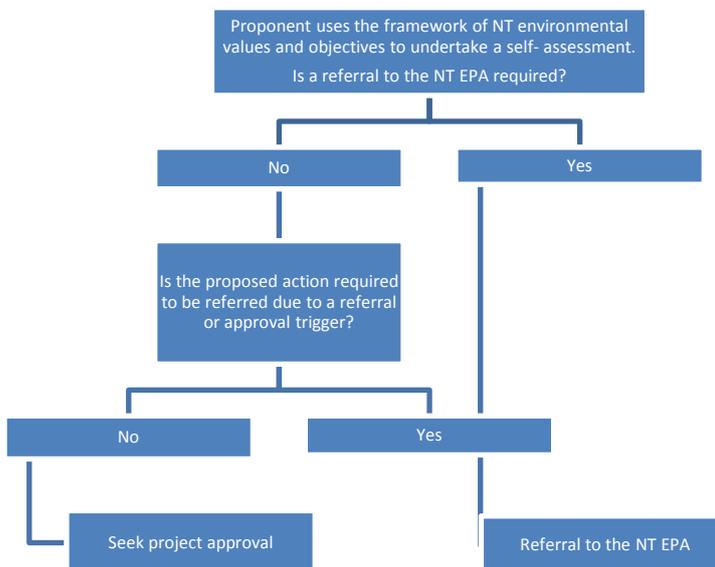


Figure 1: Referral decision tree