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| Fact sheet 19: Mining, extractives and exploration |

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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 a project to be referred to the Northern Territory Environment Protection Authority (NT EPA) is the project’s potential for significant impact on the environment. This is consistent with the existing approach for determining if environmental impact assessment is required.

The Bill provides for new mechanisms to provide guidance on what might constitute significant impact and require a referral. The Minister for Environment and Natural Resources (the Minister) may declare environmental objectives representing environmentally valuable matters for the Territory, following a public consultation process. Once environmental objectives are declared they will assist a proponent to understand if their project requires a referral knowing that these are the matters the NT EPA will refer to when it makes a decision. The existing 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 activity-based and location-based 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 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 the mineral industry?

The concept of significant impact is unchanged for the purpose of environmental impact assessment. This means that if you have not needed to refer a proposed project in the past, it is highly unlikely that a similar project would need to be referred under the new system.

The legislation is not retrospective so projects that have an existing authorisation under the Mining Management Act 2001 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. Referred projects will receive a 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 proportionate to 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.

Within 30 business days of the NT EPA completing the assessment report, the Minister will make a decision on the environmental sustainability of the proposed project by granting or refusing an environmental approval. This will deliver a clear conclusion to the impact assessment process.

The environmental approval will contain conditions to manage the environmentally significant impacts associated with the proposal. As part of the process of developing a draft approval, the NT EPA will consult with proponents and other decision makers on proposed conditions to ensure that they are practical and can be implemented. The Minister is also required to consult with proponents and other decision makers on any proposed amendments to conditions contained in an environmental approval. This process ensures that environmental approvals are fit for purpose.

A focussed environmental approval will allow project approvals to be refocused to address operational matters. This will address potential duplication and conflict between different types of approvals. Projects will receive approvals that are fit for purpose and which inform, rather than replicate, each other.

Projects that are currently under impact assessment will be transitioned into the new system. This will minimise the timeframe in which multiple proposed projects are being assessed under two different systems, reducing confusion on what process is applicable to a proposed action and improving consistency of approach across all proposed projects.

For projects that have recently completed an assessment but not yet received an authorisation under the Mining Management Act 2001, proponents will have three years from the start of the legislation to apply to the Department of Primary Industry and Resources for a mining authorisation.

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.

The environmental approval provides certainty that from an environmental perspective, a project can proceed. Clearly articulated conditions will ensure potential environmental impacts are managed appropriately, improving environmental outcomes.

This, coupled with the clear processes and timeframes proposed for the impact assessment processes in Regulations, provides a strong legislative framework to facilitate investor confidence, and community trust through a robust environmental regulatory system.