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| Fact sheet 23: Farming 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. It 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 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 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 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 location or activity 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 farming industry?

## As a proponent

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

Large scale land clearing, biodiversity impacts, and impacts on water quantity and quality associated with broad acre cropping may have potential to cause significant environmental impact. Guidance material will be developed and publicly available to assist proponents to consider if their proposed project has potential for significant impact and therefore needs to be referred.

Where a project is referred, the improved environmental impact assessment system provides certainty of process and timeframes and is focused on risk. 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.

The system delivers a clear conclusion to the environmental impact assessment process within 30 business days 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.

The legislation is not retrospective so projects and activities that have an existing authorisation under current sectoral legislation are unaffected.

## As a stakeholder

The improved environmental impact assessment process provides increased opportunities for public participation and access to information throughout the process. Referrals submitted to the NT EPA will be published for public comment before the NT EPA decides if impact assessment is required or not for that particular project. This means you have increased access to information about projects that may potentially impact your industry and an earlier opportunity to identify any significant concerns.

As a stakeholder, if you make a submission during the environmental impact assessment process, 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 proposed frameworks that underpin these reforms is underway and consultation with key stakeholders will commence 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.

There is expected to be little change from the improved environmental impact assessment system for regular farming activity. However, some farming activities that require large scale land clearing, increased water quantities or impacts on water quality, or biodiversity impacts, may have potential for significant environmental impact. Guidance material will assist proponents to determine if their project needs to be referred for impact assessment.