Fact sheet 2: What is new and different?

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Impact assessment in the Territory under the draft environment protection legislation

Introduction

The draft environment protection Bill has introduced considerable improvements to the Territory's environmental impact assessment system resulting 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.

Clear referral pathways

The draft Bill introduces three clear referral pathways to guide how a proposed action is to be referred into the environmental impact assessment system. A referral may be based upon activity type, the sensitivity of the location, or the potential for significant impact on clearly articulated Territory Environmental Objectives.

Public guidance will be available to support each referral pathway. This approach provides greater certainty as to when a proposal should be referred and the likelihood of it requiring environmental impact assessment.

Proponent responsibility

Under the draft Bill, responsibility for making a referral to the Northern Territory Environment Protection Authority (NT EPA) will now sit with the proponent undertaking a project. Currently this responsibility sits with government agencies.

This change in responsibility results in a proponent considering the potential likelihood of a proposal requiring an environmental approval (and accordingly environmental impact assessment) early in the development of their proposed project. It will encourage proponents to design their projects to firstly avoid impacts and, secondly, to mitigate them in order to reduce the significance of their impacts.

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

Tiered environmental impact assessment

The draft environment protection Bill introduces a tiered assessment system, intended to reflect the complexity of different projects and differing requirements for public engagement and input into decision-making.

The tiers are:

- Assessment on referral information
- Assessment by supplementary environmental report
- Assessment by environmental impact statement (EIS)
- Assessment by inquiry.

The NT EPA will determine the tier of assessment for a project. This decision will be based upon the referral document, any public comments received on the referral and advice from Government agencies.

The tiered assessment approach increases the efficiency of the environmental approval process by ensuring the degree of evaluation and scrutiny reflects the risk and complexity of a proposed action. Previously, there were limited levels of assessment – with an 'all (EIS) or nothing (no assessment)' approach.

Project and strategic assessments

The draft environment protection Bill supports environmental impact assessment for both project-based and strategic based development.

A strategic assessment allows for an environmental impact assessment to occur at a broad scale. This might be at a regional or landscape scale, for example, to support a broad development idea for a region or locality; or at an industry level, for example, assessing an emerging industry type or a group of similar projects.

Increased public involvement and transparency

The new environmental impact assessment process provides far greater public participation opportunities and increased scrutiny of decision-making. All referrals will be publicly advertised, as well as all environmental impact assessment documents (EIS, additional information, supplementary environmental reports) and a statement of reasons issued to support each decision made. The new Assessment by Inquiry tier provides the potential for a far more interactive assessment process that is not necessarily based upon traditional paper information dissemination and electronic communication. Review and appeal provisions have also been included in the draft Bill and Regulations.

Introduction of an environmental approval

A significant change brought in by the draft Bill is the introduction of an environmental approval for proposed projects which have the potential for a significant impact on the environment.

A proposed project that requires an environmental approval will undergo environmental impact assessment. All environmental impact assessments will now conclude with a proposed project receiving an environmental approval or being refused.

The environmental approval (or refusal) will be issued by the Minister for Environment and Natural Resources based upon the NT EPA's advice. The environmental approval can be issued with conditions. An environmental approval will not replace project approvals (which may be required under other legislation). Its introduction means that the current loophole in approval legislation,

which allows a major development to proceed without the scrutiny that comes with an approval process (such as the Port Melville development), is closed

Compliance and enforcement tools

Offences relating to the environmental impact assessment process are included in the draft Bill to improve the rigour of the process and ensure that projects with the potential for a significant impact on the environment do not proceed without the scrutiny of the NT EPA.

The NT EPA is being provided with powers to support the environmental impact assessment process, ensuring they receive adequate and correct information to support a proposed project and providing the ability to have this information scrutinised and peer reviewed.

The draft environment protection Bill has also included enforcement and compliance powers to ensure the active follow up of an environmental approval, including monitoring compliance with conditions of approval. A suite of regulatory tools are provided to ensure enforcement action matches the severity of a non-compliance.