

Fact sheet 10: New compliance and enforcement provisions

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Included in the draft environment protection legislation

Introduction

The draft environment protection Bill introduces a range of tools to support compliance and enforcement activities.

This paper provides an overview of some of those regulatory tools.

Under the reformed environmental management and protection system, the Department of Environment and Natural Resources will be responsible for regulatory activities and the Northern Territory Environment Protection Authority (NT EPA) is responsible for conducting the environmental impact assessment process and providing strategic environmental advice.

Most compliance and enforcement powers in the Bill are granted to the Chief Executive Officer (CEO) Department of Environment and Natural Resources and appointed environmental officers. A limited number of powers have been provided specifically for the NT EPA to enable it to ensure compliance with the environmental impact assessment process.

NT EPA powers

Under the draft Bill, the NT EPA is provided with the powers to issue:

- a call-in notice requiring a project which has the potential for significant impact to be referred, and
- a stop work notice requiring work on-site to cease while a project is being considered under the environmental impact assessment process.

These powers provide a safety net to ensure that a project that has the potential for significant impact on the environment does not proceed before it is evaluated. This assessment ensures appropriate measures to prevent and minimise impacts to acceptable levels are incorporated into project design and implementation.

Non-compliance with these notices is an offence under the draft Bill.

Departmental powers

The draft legislation is introducing an environmental approval for proposed actions that have the potential for a significant impact on the environment.

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An environmental approval may be granted by the Minister for Environment and Natural Resources following an impact assessment process, and may contain conditions relevant to the proposed action in order to ensure impact is minimised. The draft legislation supports the development of standard conditions which can be applied to all environmental approvals.

The proponent (person who is undertaking the project) must comply with the conditions of the environmental approval and the draft Bill includes a range of offences in case the proponent does not comply with these requirements.

The draft Bill also introduces environment protection notices which can be issued by the CEO. These provide a means of ensuring that certain actions are taken by a person (including a proponent and an approval holder) to prevent, minimise and address environmental impact and harm.

The draft Bill contains provisions that allow the appointment of environmental officers. These officers are given broad powers to investigate potential breaches of the legislation and to take action to enforce compliance. These include powers to issue directions requiring a person to take action to prevent, minimise or manage environmental harm within a certain time, enter property for the purposes of conducting investigations and to collect evidence, such as by taking photographs and samples.

The draft Bill contains provisions allowing for both civil and criminal proceedings, and an infringement notice scheme will be incorporated into the legislation.

General environmental duty

The draft Bill establishes a general environmental duty. The general environmental duty places responsibility on a person to ensure that their actions are undertaken in a manner that prevents and minimises impacts on the environment. Where unauthorised impacts occur (i.e. not authorised through an environmental approval under the legislation), the person is responsible for undertaking any necessary remediation and rehabilitation.

It is an offence not to comply with the general duty. In addition, the CEO and environmental officers will be able to use environment protection notices and their other powers to ensure compliance with the duty.