

**Our ref:** NTEPA2021/0047-005

The Hon Eva Lawler  
Minister for Environment  
Parliament House  
DARWIN NT 0800

Dear Minister

Thank you for your letter of 5 May 2021, providing the Northern Territory Environment Protection Authority (NT EPA) an opportunity to comment on your draft declaration to prohibit subsea mining.

The NT EPA is supportive of your proposal to prohibit subsea mining. The NT EPA is concerned, however, that as drafted the draft declaration may unnecessarily prohibit activities that may be acceptable, for example sand mining associated with beach replenishment. The draft declaration would benefit from improved clarity around the prohibited action and the types of activities excluded from the prohibition.

The NT EPA supports your reasoning for making the draft declaration as identified in the statement of reasons and clause 7 of the draft declaration. The NT EPA believes your reasoning would be strengthened by placing a greater emphasis on risk and uncertainty rather than the Government's capability to regulate. Should you continue with the declaration, the NT EPA is of the view that the declaration, and your final statement of reasons, should be amended to reflect this focus.

The NT EPA offers the following specific comments with respect to the draft declaration:

- Part 2, clause 3 - clarify that horizontal drilling 'for the purposes of a mining activity' is a prohibited action. While implied, the lack of the words 'for the purposes of a mining activity' within this clause may create uncertainty as to the extent of the prohibition and lead to the impression that other forms of horizontal drilling, such as those necessary for subsea cabling, are also prohibited.
- Part 4, clause 7(b) the wording should focus on risk and uncertainty (rather than incapacity or capability), which recognises that subsea mining, at this time, is not appropriate or easy to regulate. The statement of reasons should also reflect this focus.

The NT EPA permits this correspondence for publication. Thank you for consulting with the NT EPA.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'P. Vogel', with a horizontal line drawn underneath it.

**DR PAUL VOGEL AM**  
Chairperson

22 June 2021