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| Fact sheet 22: Commercial fishing 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. 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 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’s 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 commercial fishing 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 that have previously needed to be referred are likely to require referral in the future. For example, the development of a new large aquaculture facility located on the Territory coastline is likely to require referral while a wild catch fishing activity is not.

The improved system provides certainty of process and timeframes and is focused on risk. It 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.

The legislation is not retrospective so projects that have an existing authorisation under the Fisheries Act 1988 are unaffected.

A proposed major variation to an existing project that has an authorisation may need to be referred. Referrals are most likely to be required for changes to projects that, if they were new projects, would be likely to require referral. Again, this is more likely to be changes that result in a large scale aquaculture project than changes to a wild catch fishing activity.

Guidance material will be developed and publicly available to assist proponents to consider if their proposed project, or changes to an existing project, has potential for significant impact and therefore needs to be referred.

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.

## 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.

These changes may result in changed requirements for licensing of environmental impacts associated with fish processing facilities, aquaculture facilities, and activities that discharge other animal wastes or effluent.

# 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, will provide a strong legislative framework to facilitate investor confidence and community trust through a robust environmental regulatory system.

There is not expected to be any change to the commercial fishing industry in terms of projects required to be referred for environmental impact assessment.

Government fishing management plans are not intended to be captured by the improved impact assessment system.