

A Guide to Environmental Impact Assessment



Introduction

This guide has been prepared to provide general information to proponents of proposals and to the community on the environmental impact assessment process undertaken by the Board of the Environment Protection Authority ('the EPA Board').

The EPA Board's environmental impact assessment process applies to the following types of proposal.

- Level 2 activities (as listed in schedule 2 of the *Environmental Management and Pollution Control Act 1994* ('the EMPC Act').
- Other activities where 'called in' by the Director, Environment Protection Authority (the Director).

Assessment of a proposed activity

A flowchart outlining the EPA Board's assessment process is attached to this guide.

The EPA Division of the Department of Primary Industries, Parks, Water and the Environment provides advice and recommendations to the EPA Board in relation to each environmental assessment and administers the assessment process on behalf of the Board. The EPA Board's assessment must be undertaken in accordance with the Environmental Impact Assessment Principles and timeframes specified in the EMPC Act.

The types of activities requiring assessment by the EPA Board are described below. A level 2 activity means an activity listed in Schedule 2 of the EMPC Act.

Level 2 activities that require a permit

Most proposed level 2 activities will require a land use permit under the *Land Use Planning and Approvals Act 1993* (LUPA Act). Whether or not a permit application is required is determined by the planning authority (usually the local Council) by reference to its planning scheme. All proponents should contact the local planning authority to ascertain whether a permit application is required.

Once a permit application is submitted for a level 2 activity, the planning authority must refer the application to the EPA Board for environmental assessment. The planning authority concurrently assesses the land use planning aspects of the permit application.

Level 2 activities that do not require a permit

Where a proposed level 2 activity does not require a permit under the relevant planning scheme, the proponent must refer the proposed activity directly to the EPA Board for environmental assessment.

'Called-in' activities

The Director may require a planning authority (Council) to refer a level 1 application to the EPA Board for environmental assessment as if it were a level 2 activity. The Board may also require a proponent to refer any proposed activity that does not require a land use permit directly to the Board for environmental assessment. These 'call-in' powers are only used in exceptional circumstances.

Notice of Intent

A Notice of Intent (NOI) should be prepared and lodged with the EPA Board by the proponent. An NOI provides a brief outline of the proponent, the proposal and the proposal location.

Submission of a NOI effectively commences the statutory assessment process. It should be lodged prior to submitting a permit application to the Council (where a permit application is required).

The information contained in a NOI enables a determination to be made on whether or not the proposal will require assessment by the EPA Board, and the class of assessment. It also provides a basis for the Board to provide guidance to the proponent for preparing the case for assessment.

A NOI must contain certain information as specified in the *Guide for Preparing a Notice of Intent*, available on the internet at <http://epa.tas.gov.au/regulation/guidance-documents> (a printed copy may be obtained on request – see contact details at the end of this Guide).

Class of assessment

The EPA Board will determine the class of assessment – that is, whether the proposal will be assessed as a class 2A, 2B or 2C assessment under the EMPC Act. The Board will advise the proponent (and the Council where relevant) of its determination.

Criteria for each assessment class are specified in Schedule 5 of the EMPCA Act. The majority of proposals will be assessed as Class 2B.

Class 2A assessments are generally for small scale projects with environmental impacts that are minor in scale or consequence, local in extent and which can be readily avoided or mitigated through management measures. Level 2A activities would be unlikely to generate any significant public interest.

Class 2B assessments are for any proposed activity that is not included in Class 2A or Class 2C.

Class 2C assessments are for projects which:

- (a) are projects of regional significance under the *Land Use Planning and Approvals Act 1993*; or
- (b) have a reasonable likelihood of –
 - (i) requiring approval from the Commonwealth Government under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth; or
 - (ii) generating a very high level of public interest; or
- (c) possess more than one of the following characteristics:
 - (i) a high level of public interest;
 - (ii) very large scale of development or potential for environmental impacts across a wide area;
 - (iii) potential to significantly increase pressure on a threatened species;
 - (iv) are subject to unusual or complex factors that are likely to demand additional time during the environmental impact assessment process.

Statutory timeframes apply to those parts of the assessment process which are under the control of the EPA. The statutory timeframes differ according to the class of assessment. Please contact the EPA Division (contact details at the end of this Guide) if you require further information about assessment timeframes.

Preparing the case for assessment – EER or DPEMP

Environmental assessment of a proposal will not proceed further until a case for assessment has been prepared by the proponent to the satisfaction of the EPA Board.

The EMPC Act states that the EPA Board must provide guidance to the proponent about what should be included in the case for assessment. This guidance is normally provided in the form of documentation guidelines.

For smaller projects (class 2A assessments), the EPA Board will require preparation of an Environmental Effects Report (EER). The EER must provide information about the proponent, proposal, potential environmental impacts and the management of impacts. The Board has prepared generic guidelines for the preparation of an EER that are available on the internet at <http://epa.tas.gov.au/regulation/guidance-documents> (a printed copy may be obtained on request – see contact details at the end of this Guide). The Board will often insert additional specific requirements into the guidelines and issue project-specific guidelines in relation to a proposal.

For the majority of proposals (class 2B and 2C assessments) a Development Proposal and Environmental Management Plan (DPEMP) will be required. The DPEMP provides details of the proponent and proposal, describes the existing environment in the vicinity of the project site, identifies all significant environmental, social and economic effects associated with the project and details the proposed measures to avoid or reduce potential adverse environmental effects. A DPEMP will generally be prepared by an environmental consultant.

The EPA Board has prepared General Guidelines for the preparation of a DPEMP that are available on the internet at <http://epa.tas.gov.au/regulation/guidance-documents> (a printed copy may be obtained on request – see contact details at the end of this Guide). Additional DPEMP Project Specific Guidelines identifying the key issues of a proposal (based on the NOI or other information provided, and the advice of relevant government agencies) will be prepared for use in conjunction with the DPEMP General Guidelines. For larger proposals (2C assessments), draft Project Specific Guidelines may be released for public comment prior to being finalised, in these cases the Project Specific Guidelines and General Guidelines will be combined into one document.

The DPEMP or EER should be prepared in consultation with the EPA Division, and the planning authority. One or more drafts of the DPEMP/EER should be submitted to the EPA Division for comment prior to finalising the document and submitting the permit application to Council (if required).

If the case for assessment (EER or DPEMP), prepared in accordance with the EPA Board's documentation guidelines, is not submitted within 12 months of the issuing of the guidance, the assessment may be terminated by the Board, and the Board may charge an assessment fee for work undertaken on the assessment up to that point.

Public consultation

Once satisfactory proposal documentation has been received, the documentation (including the EER or DPEMP) will be made available for public inspection, and public submissions invited. Notice of the availability of the documents and how to make submissions is published in relevant newspapers and on the EPA website.

The specified public consultation periods are 14 days for class 2A assessments, 28 days for class 2B assessments and 42 days for class 2C assessments.

The proponent is required to provide copies of the DPEMP/EER to the public upon request during the consultation period (a small charge can be made for printed copies).

Supplementary information

Once public submissions have been received and considered, the proponent may be required to provide further information in response to issues raised in public submissions and issues raised by government agencies. This generally takes the form of a Supplement to the EER/DPEMP prepared by the proponent.

Determination

A draft Environmental Assessment Report is prepared by the EPA Division for the Board. The report is based on the assessment of the proponent's documentation, public submissions and specialist advice.

The EPA Board will consider the draft report and make a determination on whether or not the proposal should be approved, and if approved any environmental conditions that should be imposed upon the activity.

Activities that require a permit

The EPA Board will either direct the planning authority (Council) to refuse to grant the permit, or notify the planning authority of the conditions that must be contained in a permit if a permit is granted by the Council.

The planning authority cannot make a decision on an application until after it has received notification of the EPA Board's decision. Where the Board approves an activity subject to conditions, the planning authority still has the final say on whether or not a permit is granted.

Activities that do not require a permit

Where an activity does not require a land use permit, and where the EPA Board approves a proposal, an Environment Protection Notice (EPN) containing the conditions set by the Board will be prepared and served upon the proponent.

The final Environmental Assessment Report, which details the reasons for the EPA Board's decision, is made available on the EPA website).

Appeals

Activities that require a permit

The permit applicant and any person who made a submission during the public consultation period may appeal to the Resource Management and Planning Appeal Tribunal (the Tribunal) against the granting (or refusal) of a permit. Any person who made a submission during the public consultation period may appeal to the Tribunal against the granting of a permit. Other interested parties may seek to join such an appeal.

Activities that do not require a permit

Any person aggrieved by the Board's decision may appeal to the Tribunal.

For further information on appeals, contact the Tribunal (www.rmpat.tas.gov.au or telephone 6233 6464).

Fees

A once-off assessment fee is payable for assessments undertaken by the EPA Board, and an ongoing annual fee is payable with respect to any permit granted or EPN issued. The size of each fee will vary depending on the type and size of activity.

Fees are specified in the *Environmental Management and Pollution Control (General Fees) Regulations 2007* which can be accessed on the internet at www.thelaw.tas.gov.au (these fees are subject to indexation in accordance with the *Fee Units Act 1997*).

Assessment fees are either a fixed sum (for smaller activities) or calculated on an hourly rate basis (up to a capped maximum fee). Where the assessment fee is to be calculated on an hourly rate basis, the EPA Division will commence recording hours from acceptance of the Nol (or if a Nol was not submitted, whenever work on the assessment commenced). On completion of the assessment, the assessment fee is payable whether or not the project proceeds.

A partial remission of the annual fee is available if certain requirements are met. Further information is available on the internet at <http://epa.tas.gov.au/regulation/annual-fee-remissions> (or telephone 6233 3870). Operators of new activities may apply for a fee remission in the second year following commencement of commercial operations.

EPBC Act

In addition to Tasmanian requirements, the Commonwealth Government may also have a role in the environmental assessment and approval of a proposal.

Under the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), Commonwealth approval is required for an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance or on Commonwealth waters or land. The matters of national environmental significance are World Heritage properties, National Heritage Places, wetlands of international importance (Ramsar wetlands), nationally listed threatened species and communities, nationally listed migratory species, Commonwealth marine areas and nuclear actions.

Information on the EPBC Act can be obtained from the Commonwealth Environment Department's website at www.environment.gov.au/epbc/ or by telephoning 1800 803 772.

A proponent must provide information on whether a proposal is likely to require Commonwealth approval when preparing a NOI.

Where Commonwealth approval is required, a bilateral agreement between the Tasmanian and Commonwealth Governments allows the two assessments to be undertaken concurrently using the same project documentation. Where the bilateral assessment process is not invoked, the proponent will need to separately address the requirements of the Commonwealth.

Contacts

For more information contact:

Assessments Section

EPA Division

Department of Primary Industries, Parks, Water and Environment

Telephone: (03) 6233 3870

Email: EnvironmentEnquiries@environment.tas.gov.au

Web: <http://epa.tas.gov.au/regulation/approvals-process>

EPA Environmental Assessments Process

