

Guidance for Land Use Planners on Environmental Impact Assessments conducted by the EPA Board

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ENVIRONMENT PROTECTION AUTHORITY

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1 Purpose

This document provides a guide to land use planners on the environmental impact assessment process conducted by the Board of the Environment Protection Authority (the Board). It describes the assessment process and responsibilities of the Board and planning authorities under the *Environmental Management and Pollution Control Act 1994* (EMPCA) and the relationship with the planning process prescribed in the *Land Use Planning and Approvals Act 1993* (LUPAA).

2 Definitions

The following terms are defined in Part 1 of EMPCA, and are summarised here. Refer to EMPCA for full details.

Level 1 activity means an activity which may cause environmental harm in respect of which a permit under the *Land Use Planning and Approvals Act 1993* is required but does not include a level 2 activity or a level 3 activity;

Level 2 activity means an activity specified in Schedule 2 of EMPCA;

Level 3 activity means an activity which is a project of State significance under the *State Policies and Projects Act 1993*;

Board means the Board of the Environment Protection Authority established under section 13 of EMPCA;¹

Director means the Director, Environment Protection Authority appointed under section 18 of EMPCA;

Environmental harm means environmental harm as described in section 5 of EMPCA, and includes serious environmental harm, material environmental harm and environmental nuisance;

Environmental nuisance means –

- (a) the emission, discharge, depositing or disturbance of a pollutant that unreasonably interferes with, or is likely to unreasonably interfere with, a person's enjoyment of the environment; and
- (b) any emission, discharge, depositing or disturbance specified in an environment protection policy to be an environmental nuisance;

Environmental licence means an environmental licence granted under Division 8 of Part 3 of EMPCA.

Finfish farming means the activity that consists of, or includes, any one or more of the following activities:

- (a) the farming, culturing, hatching, rearing, enhancement, or breeding, of finfish; and
- (b) any activities associated with, and for the purposes of, these activities.

Permissible level 1 activity or **level 2 activity** means a level 1 or level 2 activity in respect of which a planning authority –

- (a) has a discretion to refuse a permit; or
- (b) is bound to grant a permit either unconditionally or subject to conditions.

¹ The Board has delegated its powers to conduct assessments to the Director and other EPA Tasmania officers. Any reference to the Board in this document includes the Board's delegates.

3 When should a permit application be referred to the Board?

3.1 Level 2 activity referrals

When a Planning Authority receives an application, it must determine if a planning permit is required under the relevant planning scheme. Once it has been established that a planning permit is required, the Planning Authority must consider whether the application needs to be referred to the Board.

A Planning Authority is required to refer a permit application to the Board for assessment under section 25(1) of EMPCA when the application is for:

- use or development of land that is a permissible level 2 activity; or
- use or development of land that is on the same land as, and is not ancillary to, an existing level 2 activity.

Under section 25(1A), a use or development that is on the same land as an existing level 2 activity is not ancillary if:

- it constitutes conduct of works within the definition of that level 2 activity; or
- it constitutes an intensification of the use or development of the land for the purposes of conducting the works which define that level 2 activity; or
- it will, or is likely to, cause serious or material environmental harm; or
- it constitutes conduct of works within the meaning of any other level 2 activity.

Level 2 activities are listed in Schedule 2 of EMPCA. EMPCA can be viewed on the Tasmanian legislation website at <https://www.legislation.tas.gov.au/>.

It should be noted that it is the Planning Authority's responsibility to determine whether or not to refer an application to the Board under section 25(1). If there is any uncertainty regarding referral, the Planning Authority should contact the Assessments Section of EPA Tasmania for advice.

The Planning Authority may also contact Mineral Resources Tasmania for advice on the following matters for extractive activities that may require referral to the Board:

- whether a mining lease is required under the *Mineral Resources Development Act 1995*,
- whether the quarry is located within a State forest as defined under the *Mineral Resources Development Act 1995*.

If further information is required from the applicant to determine whether referral is required, the Planning Authority should consider issuing a request for further information under s54 of LUPAA.

Failure to refer a level 2 activity could mean that any permit issued is invalid. Where an application is incorrectly referred to the Board, the Planning Authority will be contacted and requested to formally withdraw the referral.

Amendments to EMPCA in December 2017 created additional level 2 activities including finfish farming and waste tyre storage depots. Finfish farming includes both land based and marine activities.

The amendments also created a new regulatory instrument in the form of an environmental licence, which currently only applies to finfish farming. The assessment process for these activities is explained along with all other activities, in the sections below.

3.2 Level 1 activity referrals

The Director can require a Planning Authority to refer a permit application for a permissible level 1 activity to the Board for assessment under section 24(1) of EMPCA, where the Director has

become aware that it may have a relatively high level of environmental significance. The Director must require that an application be referred before a decision has been made by the Planning Authority in relation to that application, and:

- within 28 days after the date of lodgement of the application, for an application lodged under section 43A of LUPAA as in force before the commencement of section 10 of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015*, or 40Y after its commencement;
- before the expiry of the period allowed for representations, for an application lodged under section 57(1) of LUPAA; or
- within 14 days after the date of lodgement of the application, for an application lodged under section 58 of LUPAA.

Once a permissible level 1 activity is referred to the Director, the application is then assessed as if it were a level 2 activity.² The activity will be treated as a level 1 activity after the assessment has been completed, including return to the Council for regulation against the conditions imposed, unless the Board determines otherwise.³

If the Planning Authority determines the use or development of land, that is on the same land as an existing level 2 activity, is ancillary to that activity, EPA Tasmania can require the planning authority to give written reasons in support of its determination.⁴ EPA Tasmania may do so where there is a concern that the application should have been referred under s25(1) as use or development of land that is on the same land as, and is not ancillary to, an existing level 2 activity (see Section 3.1 above).

3.3 Other referrals

The Board also assesses applications for permits that are combined with applications for a planning scheme amendment, where they relate to permissible level 2 activities and referred permissible level 1 activities. These assessments are discussed in Section 8 of this document.

4 What should be included in the referral to the Board?

The Planning Authority should be satisfied the application is valid. The referral to the Board should include:

- correspondence from a delegate of the Planning Authority formally referring the application under the relevant section of EMPCA (i.e. section 24(1), 25(1)) and providing reasons for the referral;
- a copy of the signed, dated and numbered permit application form; and
- a copy of all supporting documentation that has been provided by the applicant and forms part of the application.

Where a discretion under section 7 of LUPAA applies to the application (for example, accretions from the sea), the Planning Authority should detail how it intends to exercise its powers so the scope of works to be assessed can be defined.

² Under section 25(1) of EMPCA

³ Sections 24(3), (3A) and (4) of EMPCA.

⁴ Section 25(1B) of EMPCA.

Where the application is referred because it is use or development of land that is on the same land as, and is not ancillary to, an existing level 2 activity, the Planning Authority should confirm which definition of ‘not ancillary’ applies to the referral.

When referring an application, the Planning Authority should ensure that the information includes:

- clear definition of the site or sites to which the application applies; and
- definition of the type of activity and production quantities (where relevant).

See Section 9 of this document for further details on preparing correspondence to the Board.

If the Planning Authority refuses to grant the permit under section 57(2) of LUPAA, after the application has been referred, the Board should be notified of this decision.

Where an application has been referred to the Board under section 24(1) or 25(1) of EMPCA, the Planning Authority must deal with any application lodged under section 58 of LUPAA, in accordance with section 57 of that Act.

5 The environmental impact assessment process for section 24 and 25 referrals

Attachment I contains a flow chart illustrating the environmental impact assessment (EIA) process conducted by the Board for referred permissible level 1 and permissible level 2 activities. Further detail and background is provided in the subsections below.

The Board considers the proposal in accordance with objectives of the Resource Management and Planning System (RMPS) and the Environmental Management and Pollution Control System (EMPCS).⁵ The assessment focuses on potential environmental impacts and prevention of environmental harm. Further information on the EIA process is available on EPA Tasmania’s website at <http://epa.tas.gov.au/assessment/guidance-documents>.

5.1 Determining whether assessment is required

The first stage of the assessment process for a section 25(1) referral is for the Board to determine whether or not it needs to assess the activity. The Board may already have made this determination before an application has been lodged, if the proponent has submitted a Notice of Intent (NoI). Further information on the NoI process is available on the EPA Tasmania website at <http://epa.tas.gov.au/assessment/guidance-documents>.

On receiving an application for activities that require an environmental licence, the Board must also determine if it will refuse to grant or vary a licence.

The Board will advise the Planning Authority when it decides to conduct an assessment. If the Board does not notify the Planning Authority of its determination within the statutory timeframe, it is taken that the Board has determined that it will assess the activity.

5.1.1 What does a determination to assess mean for an application under LUPAA?

If the Board determines that it needs to assess the activity, the period for requiring additional information from the applicant under section 54(1) of LUPAA is extended to 42 days, from the day on which the Planning Authority received the application.⁶

This period should be used by the Planning Authority to request any information from the applicant that is needed to assess the application against the planning scheme. A further

⁵ Schedule 1 of EMPCA

⁶ Section 25(2)(d) of EMPCA

information request should not be delayed while waiting to be notified of the Board's decision on whether assessment is required.

A Planning Authority must not advertise a permit application that has been referred to the Board until it has received written notice that the Board has sufficient information to satisfy the requirements of section 74(3) of EMPCA.⁷

The planning determination timeframes under section 57(6) of LUPAA do not commence until the completion of the Board's assessment of the activity.⁸ EMPCA provides the Planning Authority with 42 days to determine an application from the date the Board has completed its assessment. The start of the planning assessment is discussed further in Section 6 of this document.

5.1.2 What does a determination not to assess mean for an application under LUPAA?

For all types of applications, where the Board has notified the Planning Authority of a decision not to assess an application, and where it has not (in the case of an environmental licence activity) directed the Planning Authority to refuse to grant a permit, the application may be processed by the Planning Authority without further reference to the Board.⁹

When a permit application for a new environmental licence activity is referred to the Board, the Board may decide to refuse to grant a licence on several grounds.¹⁰ The Board will inform the Planning Authority and applicant of this decision and subsequently direct the Planning Authority to refuse to grant a permit.¹¹ In these circumstances, the Planning Authority is not to advertise the application and must proceed directly to a determination under the provisions of LUPAA.

This decision also applies to a permit application for the expansion, intensification or modification of an existing finfish farming activity. In these cases, the Board may also decide not to assess the application because the proposal is not environmentally significant.

The period between referral of an application and the Board's determination on whether it needs to assess the application does not affect the calculation of the periods referred to in section 57(6) and 58(2) of LUPAA.¹² On receiving notification from the Board, that it will not assess the application, the Planning Authority may issue additional further information requests under section 54(1) of LUPAA, where the appropriate statutory timeframe allows.

5.2 Determination of class of assessment and issuing of guidance

If assessment is required, the Board will determine the class of assessment (2A, 2B or 2C). This determines the statutory timeframes that apply to the assessment process. The Board will advise the applicant or proponent and the Planning Authority of its determination.¹³

The class of assessment may be determined before an application has been lodged in cases where the Board has previously received a Nol (see the flowchart at **Attachment I**).

If further significant information becomes available during the assessment process, the Board may re-classify the assessment and the applicant or the proponent and Planning Authority will be informed accordingly.

⁷ Section 25(2)(b) of EMPCA

⁸ Section 25(2)(e) of EMPCA

⁹ Section 25(3)(a) of EMPCA

¹⁰ Section 25(1DAA) of EMPCA

¹¹ Section 27AC(2) of EMPCA

¹² Section 25(1DA) of EMPCA

¹³ Section 27C of EMPCA

The Board must provide guidance to the applicant or proponent about what is to be included in the case for assessment.¹⁴ A case for assessment may be an Environmental Effects Report (EER) or an Environmental Impact Statement (EIS).

Environmental matters that may be considered by the Board in its assessment include, but are not limited to:

- Noise emissions
- Air emissions and air quality
- Natural values (including flora and fauna, weeds and diseases and geoconservation)
- Water emissions and quality (including stormwater management and the marine environment)
- Groundwater
- Waste management – including liquid and solid waste and controlled wastes
- Management of environmentally hazardous materials
- Land contamination
- Monitoring
- Decommissioning and rehabilitation

In determining the class of assessment and developing the guidelines, EPA Tasmania usually arranges a site inspection. A representative from the Planning Authority, the applicant or proponent and other stakeholders (e.g. Mineral Resources Tasmania) may be invited.

During development of the guidelines, the Planning Authority may be given the opportunity to provide comment (along with various government agencies). This opportunity enables the Planning Authority to:

- consider which provisions of the planning scheme are relevant to the proposal;
- determine whether any ‘environmental aspects’ have to be assessed by the Planning Authority under the requirements of its planning scheme; and
- advise EPA Tasmania of any investigations, studies or other information that may be desirable to assist the Planning Authority’s assessment of the environmental aspects of the permit application against the planning scheme (in addition to information required by the Board).

The Board is only obliged to include its own information requirements in the guidelines. Where other matters are raised, EPA Tasmania may engage with the relevant agency and direct them to contact the applicant to progress any assessment or approvals required. The provision under section 54(1) of LUPAA enables the Planning Authority to obtain any further information required for the purposes of its planning assessment.

If an EER or EIS is submitted with a permit application, guidance may take the form of comments on the document, particularly where guidelines have previously been issued under the Nol process. Comments may also be issued, along with the class of assessment and guidelines, where the Board has not previously considered the proposal.

5.3 Development of the case for assessment

Public consultation will not proceed until a case for assessment has been prepared to the satisfaction of the Board.¹⁵

¹⁴ Section 27D of EMPCA

¹⁵ Section 27G(1) of EMPCA

A draft EER or EIS is usually submitted to EPA Tasmania for review and comment. Drafts may be referred to the Planning Authority for comment on issues that have relevance to both the Planning Authority and Board.

If a satisfactory case for assessment is not submitted to the Board within 12 months of guidance being issued, and no extension has been granted, the Board may reject the application or proposal.¹⁶ The Board will then notify the proponent of its decision. If a permit application has already been lodged, the Board may direct the Planning Authority to refuse to grant the application.

Where a case for assessment has been received to the satisfaction of the Board, but a permit application has not yet been lodged with the Planning Authority, the proponent will be advised to lodge the application. When this application has been lodged and referred to the Board, the Planning Authority will be advised that it can advertise the application under section 57 of LUPAA.¹⁷ Alternatively, where the permit application was previously referred to the Board, the Planning Authority will be advised immediately after referral to the Board, to advertise the application at their convenience.

5.4 Public consultation

The Planning Authority arranges local advertising of a permit application. EPA Tasmania will organise any national advertising when required.

EPA Tasmania will send the Planning Authority the minimum information requirements for the Planning Authority's notice. The Planning Authority should add all additional information relevant to the planning process and the requirements of LUPAA.

If the advertisement for public consultation does not contain the minimum requirements specified by the Board or includes incorrect timeframes, the Planning Authority will be required to readvertise the application.

The Board usually requests that the application commence advertisement on a Saturday to give the public the greatest opportunity to be made aware of the proposal and prepare representations. The relevant periods for submission of representations are:¹⁸

- 14 days for a class 2A assessment;
- 28 days for a class 2B assessment;
- 42 days for a class 2C assessment.

The above periods are subject to adjustment for public holidays and days of office closure, under LUPAA, EMPCA and the *Acts Interpretation Act 1931* (Tas). EPA Tasmania will specify the closing date (see above). If the Planning Authority wishes to vary the proposed closing date, it should discuss the matter with EPA Tasmania before advertising. A public consultation period that is less than the statutory period could be grounds for an appeal against any permit that is subsequently granted.

EPA Tasmania will liaise with the Planning Authority about displaying documentation and copies of the case for assessment report that may be required. As well as being available through the Planning Authority's office and website, the case for assessment report is also published on the EPA Tasmania website and at the Service Tasmania Hobart shop.

¹⁶ Section 27F of EMPCA

¹⁷ Section 27G(1) of EMPCA.

¹⁸ Section 27G(2) of EMPCA

While the public consultation period is occurring, the case for assessment may be referred by EPA Tasmania to various agencies and the Planning Authority for comment.

Within seven (7) days of the end of the public consultation period, the Planning Authority must provide the Board with copies of any representations.¹⁹ If the Planning Authority receives no representations, the Board should also be informed.

5.5 Assessment by the EPA Board

After the Board has received any representations from the Planning Authority, it must complete its assessment within:²⁰

- 35 days for a class 2A assessment;
- 56 days for a class 2B assessment;
- 91 days for a class 2C assessment.

The Board will consider the issues raised in the representations and may require the applicant to provide additional information where they are relevant to the Board's assessment (i.e. potential environmental impacts).²¹ The Board will also inform the proponent of other issues raised in the representations or by other agencies, including the Planning Authority, which the applicant may choose to address in their response.

The timeframes for assessment are extended where additional information is required until satisfactory information is received.²² The timeframes may also be extended either by agreement with the applicant or by the Minister on application from the Board.²³

On completion of an assessment for all activities, except environmental licence activities, the Board must either:²⁴

- notify the Planning Authority of any conditions which the Board requires to be contained in a permit granted by the Planning Authority and the reasons for requiring the condition; or
- direct the Planning Authority to refuse to grant the permit and provide the reasons for giving the direction.

For environmental licence activities, the Board must:

- notify the Planning Authority of its decision to grant or not grant,²⁵ or vary or not vary,²⁶ an environmental licence, and
- where it has refused to grant or vary a licence, direct the Planning Authority to refuse to grant a permit and provide the reasons for giving the direction.²⁷

The Board publishes an Environmental Assessment Report (EAR) which describes its assessment, its conclusions and the reasons for any permit conditions or the refusal of a permit. A copy of the EAR is provided to the Planning Authority and other interested parties.

¹⁹ Section 27G(4) of EMPCA

²⁰ Section 27H of EMPCA

²¹ Section 27I(1) of EMPCA.

²² Section 27I(2) of EMPCA

²³ Section 27J of EMPCA

²⁴ Section 25(5) of EMPCA

²⁵ Section 42M(2)(a) of EMPCA

²⁶ Section 42R(1)(b) of EMPCA

²⁷ Section 27AC(2) of EMPCA

6 LUPAA assessment of a referred activity

The Planning Authority must make its decision to grant or refuse a permit within 42 days of notification of the Board completing its assessment, unless a further period has been agreed under section 57(6A) or 58(2A), or unless a requirement for additional information under section 54 of LUPAA has not been satisfactorily met.²⁸

The Planning Authority must consider the application against the provisions of the planning scheme, unless an exemption from a provision applies to a referred activity. This assessment should be completed, regardless of the Board's decision and subsequent direction.

The Board does not assess the application against use or development standards. However, where standards relate to environmental issues, information contained within the case for assessment report (i.e. EER or EIS) and the Board's EAR, may be used by the Planning Authority in assessing against these standards.

It should be noted that for applications referred to the Board-²⁹

- a Planning Authority is not required to assess any matter addressed in the Board's assessment; and
- if, despite the above, the Planning Authority does its own assessment of a matter addressed in the Board's assessment, it is not entitled to recover the cost of its assessment from the applicant, the Crown or any other person.

The Planning Authority must notify the Board of its decision to grant or refuse to grant a permit.

Where the Board has required conditions to be contained in a permit (i.e. for any activity except environmental licence activities), the Planning Authority:³⁰

- must include the conditions in a permit granted by it; and
- must not include any other condition which is inconsistent with, or which extends the operation of, any of the Board's conditions; and
- must, at the same time as it serves notice of its decision, notify in writing the applicant and any person who made representations –
 - of the conditions that the Board requires to be contained in the permit or of the direction to the Planning Authority to refuse to grant the permit; and
 - of the reasons of the Board for requiring the conditions or restrictions to be contained in the permit or for giving the direction; and
- must not, if it grants the permit, allow any minor amendments to the permit without the prior written consent of the Board.

It is suggested that:

- the Planning Authority's portion of the permit be entitled 'Part A';
- the Board's conditions, including the Schedule and any associated attachments, be included as Part B of the permit; and
- Part A includes a condition along the lines of *'The person responsible for the activity must comply with the conditions contained in Schedule 2 of Part B of this permit, which the Board of the Environment Protection Authority (EPA) has required the planning authority to*

²⁸ Section 25(8D) of EMPCA

²⁹ Section 25(2) of EMPCA

³⁰ Section 25(8) of EMPCA

include in the permit pursuant to section 25(5) of the Environmental Management and Pollution Control Act 1994’.

The Board’s Environmental Assessment Report is not to be included in the permit. It does not form part of the application, and is provided to the Planning Authority as information on its decision and for provision to the applicant and any representors on notification of its decision.³¹ While the Planning Authority can forward the EAR to the applicant, it may also provide a link to the EAR on the EPA’s website in any letter issued.

For Environmental Licence activities, the licence will be issued by the Board, following the granting of a permit by the Planning Authority. The planning authority must not include in the permit any condition which is inconsistent with, or which extends the operation of, any of the conditions of the environmental licence.³² The Environmental Assessment Report, provided to the Planning Authority as part of the notification of its decision³³ will contain a copy of the proposed conditions to assist the Planning Authority in this respect, but the conditions and the report must not be included in the permit.

When the Planning Authority notifies the Board of its decision and a permit has been granted, a complete and valid copy of the permit that includes all conditions and attachments should be provided to EPA Tasmania. This allows EPA Tasmania to effectively regulate the environmental conditions of the permit. For applications relating to environmental licence activities, the Planning Authority is required to provide the Board with a copy of the permit.³⁴

7 What about proposals that do not require a permit?

A Planning Authority may receive information on a proposal and decide that a permit is not required. However, if the activity is a level 2, as defined under Schedule 2 of EMPCA, it may still require assessment by the Board. For activities other than environmental licence activities, assessment is conducted under section 27 of EMPCA and, if approved, an environment protection notice (EPN) is issued to regulate the environmental aspects of the activity. For environmental licence activities, assessment is conducted under section 27AA of EMPCA and, if approved, an environmental licence is granted and issued.

Where a Planning Authority is aware of such a proposal it should advise the proponent to contact EPA Tasmania for further information.

During a section 27 or 27AA assessment, a Planning Authority may be asked for comment at various stages of the assessment process, particularly in relation to issues that are relevant to the Council’s land or infrastructure. However, the Planning Authority is not part of the formal statutory process.

8 Combined permit and planning scheme amendment process

The assessment process described in section 5 above, and prescribed under Division 1A of Part 3 of EMPCA, does not apply to the combined process for assessment of an application for a permit and planning scheme amendment under Division 2A of Part 3 of LUPAA, as in force before the commencement of section 10 of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015* or Division 4 after its commencement.

³¹ Section 25(8)(d) of EMPCA

³² Section 27AC(4) of EMPCA

³³ Section 42M(2)(a) or 42R(1)(b) of EMPCA

³⁴ Section 27AC(5) of EMPCA.

Where an application for a permit, made under the above LUPAA provisions, is referred to the Board under section 24 or 25 of EMPCA the Board must assess the application and does so in accordance with section 25A of the Act. When referring the permit application, the Planning Authority should also provide a copy of documentation, in relation to section 43B (or 40W where the amendments have come into force) of LUPAA, that confirms it has agreed to the request to consider a planning scheme amendment and permit application.

Where the application relates to an environmental licence activity, the Board may, within 42 days, decide to refuse to grant or vary an environmental licence, in which case it will not conduct an assessment.³⁵ If it determines that it will not assess the activity, it will notify the applicant and the Planning Authority³⁶ and will subsequently direct the Planning Authority to refuse to grant a permit.³⁷

The Board has 28 days from the date of referral to require the applicant to provide further information, if necessary³⁸ (this is equivalent to the provision of guidance under the normal assessment process (see section 5.2)).

The Board must complete its assessment and notify the Planning Authority of the result of the assessment within 10 weeks of the date of referral (or such longer period as the Minister may allow).³⁹ The 10 week assessment period is extended where the Board has requested additional information, until such time as satisfactory information is received.⁴⁰ The Board notifies the Planning Authority of the completion of the assessment. Environmental conditions will be recommended for inclusion in any permit granted (subject to consideration of any public representations later on), except in the case of environmental licence activities, or where the Planning Authority refuses to grant a permit.

After the Planning Authority has determined the permit application, the determination along with any permit granted is forwarded to the Tasmanian Planning Commission and placed on public exhibition for a period of 28 days, along with the draft planning scheme amendment.

Under the provisions of LUPAA, within 7 days of the expiration period of the exhibition period the Planning Authority must forward a copy of any representations to the Board.

Except in the case of an environmental licence activity, the Board must then, within 28 days of receiving the representations, provide the Commission with a report on its opinion as to the merit of each representation and any recommendations for modification of the Planning Authority's decision in light of these representations. The Board may recommend changes to the environmental conditions of the permit or that the Commission refuse to grant a permit. The Planning Authority provides a similar report to the Commission.

For an environmental licence activity, the Board is not required to provide a report and recommendations to the Commission.⁴¹ Instead, it must complete its assessment as soon as possible after receiving any representations.⁴² It will then grant or refuse to grant, or vary or refuse to vary, an environmental licence. The planning authority, Commission, proponent and

³⁵ Section 25A(1C)(a) & (b) of EMPCA

³⁶ Section 42M(2)(a) or 42R(1)(b) of EMPCA

³⁷ Section 27AC(2) of EMPCA

³⁸ Section 25A(1) & (1A) of EMPCA.

³⁹ Section 25A(3) of EMPCA.

⁴⁰ Section 25A(2) of EMPCA.

⁴¹ Section 25A(3D) of EMPCA

⁴² Section 25A(3B) & (3C) of EMPCA

representors will be notified of the decision.⁴³ If the Board has refused to grant or vary a licence it will direct the Commission to refuse to grant a permit.⁴⁴

The Commission considers all representations, statements and recommendations and makes a determination on the planning scheme amendment and the permit application. The Commission then notifies the Planning Authority, applicant, representors and the Board of its determination.

Attachment 2 contains a flow chart that illustrates the combined permit and planning scheme amendment process.

9 Minor Amendments

Where a request is made to the Planning Authority to amend a permit and the Board has required conditions or restrictions to be contained in that permit, the amendment must not be approved without the prior written consent of the Board.⁴⁵ This includes permits for level I activities, for which the Board has completed an assessment but regulation has returned to the Council (see Section 3.2). Section 56(4) of LUPAA requires the Planning Authority to notify the Board of the amendments made to the permit once it is served.

10 Correspondence

All official correspondence from a Planning Authority relating to an assessment (e.g. a referral under section 25(1) of EMPCA, forwarding of representations under section 27G(4)) must be addressed to:

Chairperson
Board of the Environment Protection Authority
GPO Box 1550
Hobart, TAS 7001

Official correspondence may be marked to the attention of an individual officer of EPA Tasmania but it must not be addressed to the officer or to EPA Tasmania itself. Correspondence addressed to EPA Tasmania instead of the Board may not be legally valid.

Correspondence may be posted to the above address or emailed to assessments@epa.tas.gov.au

11 Further information

Further information relating to the assessment of activities under EMPCA is available on EPA Tasmania's website (www.epa.tas.gov.au/assessment) under the 'Assessment Process' link.

Relevant legislation may be viewed on the Internet at <https://www.legislation.tas.gov.au/>

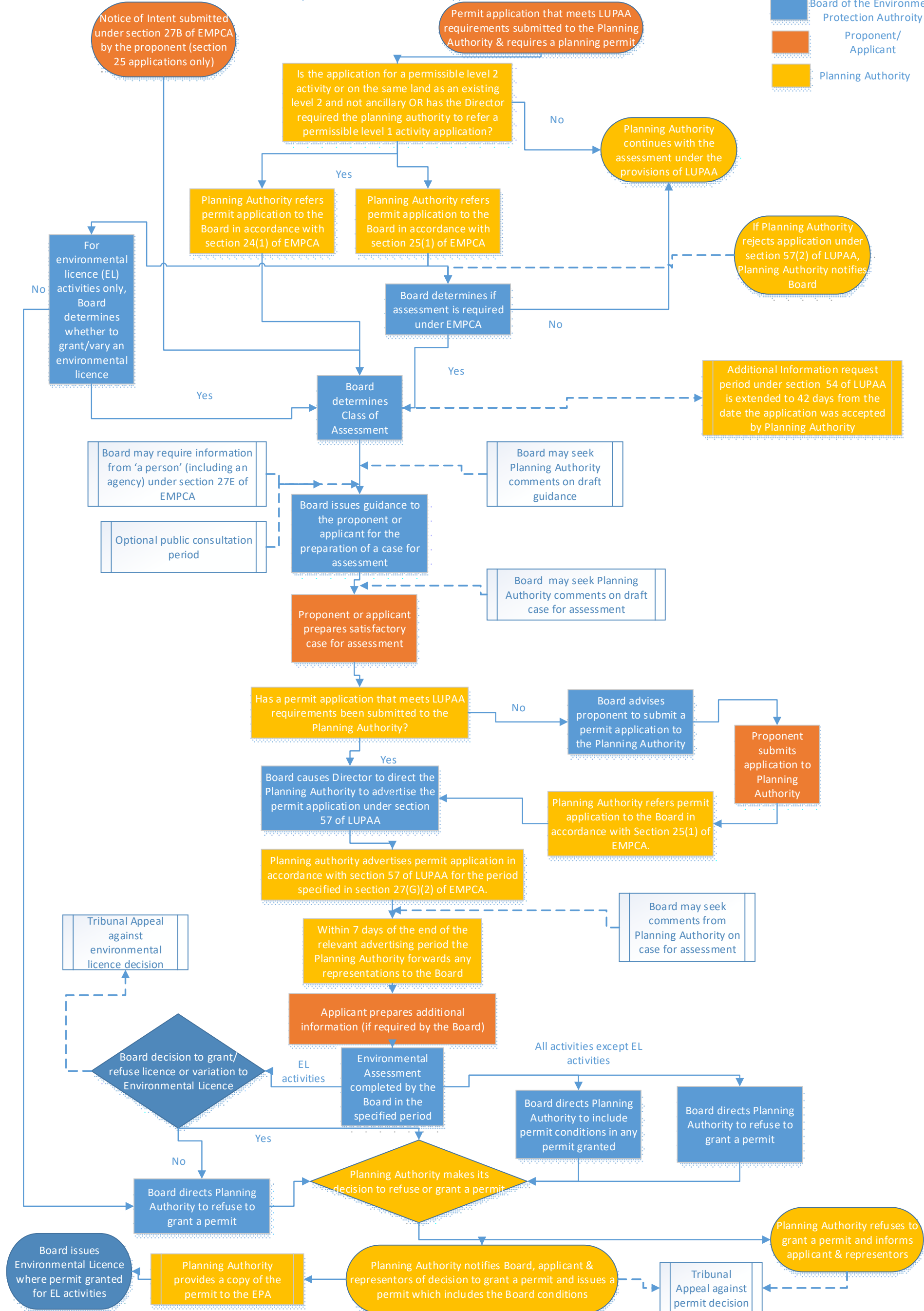
⁴³ Section 42M or 42R of EMPCA.

⁴⁴ Section 27AC(2) of EMPCA

⁴⁵ Section 25(8)(e) of EMPCA

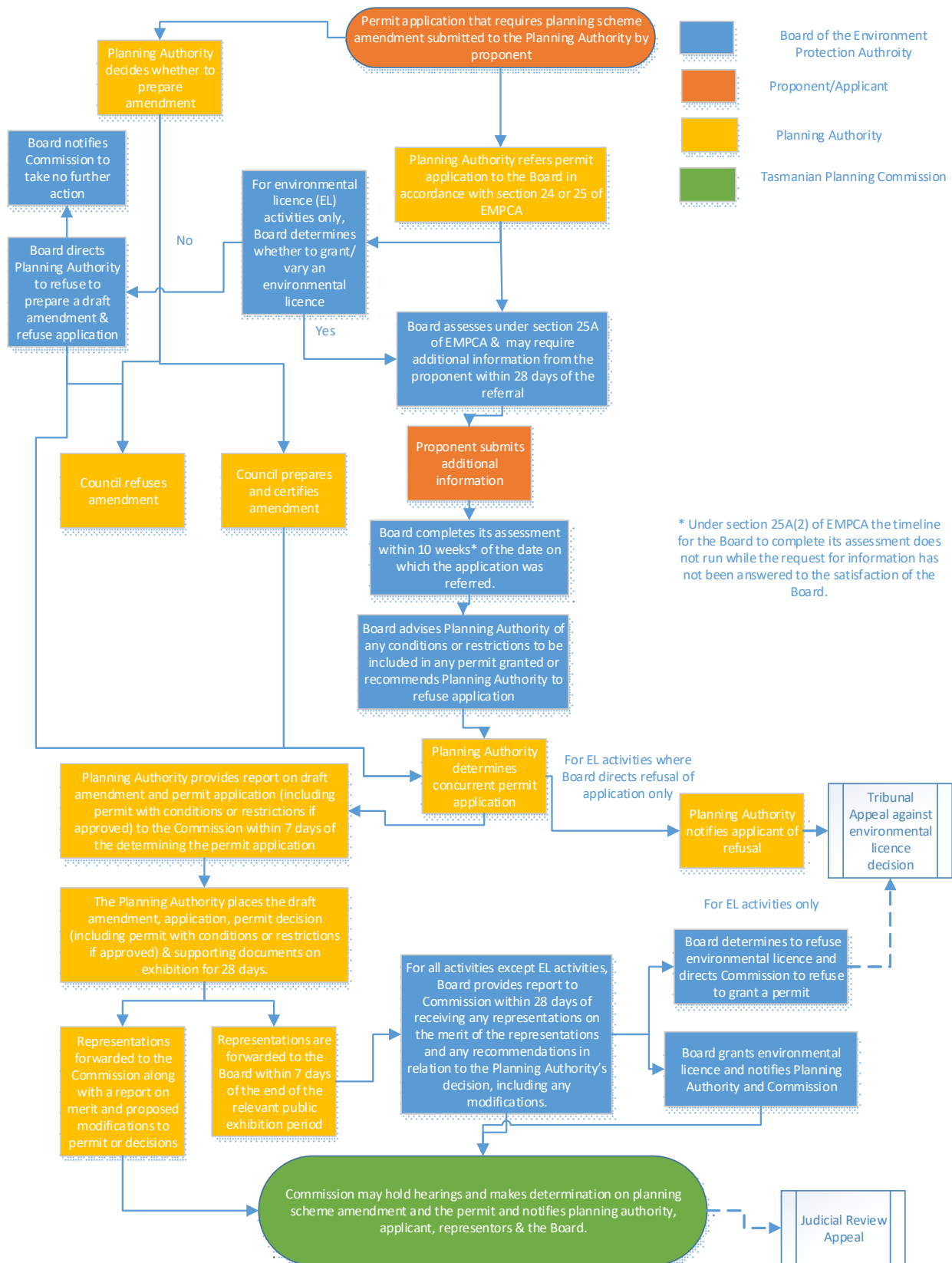
Attachment 1 – Flowchart of assessment process for section 24 and 25 application referrals under EMPCA

■ Board of the Environment Protection Authority
■ Proponent/ Applicant
■ Planning Authority



DISCLAIMER: This flowchart is for information and illustrative purposes only and should not be used as a basis for determining compliance with the *Land Use Planning and Approvals Act 1993* or the *Environmental Management and Pollution Control Act 1994*. No person or organisation should rely on or act on the flowchart as a substitute for reference to the actual legislation

Attachment 2 – Flowchart of assessment process for a combined planning scheme amendment and permit application referred to the Board under section 24 or 25 of EMPCA



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