

OOS

From: Bick, Tristan <Tristan.Bick@dpac.tas.gov.au>
Sent: Tuesday, 29 October 2024 4:51 PM
To: Pearce, Alister (DPaC)
Subject: Re: CCAA and TEMC meeting

Thanks mate

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From: Pearce, Alister <Alister.Pearce@dpac.tas.gov.au>
Sent: Tuesday, October 29, 2024 4:49:08 PM
To: Bick, Tristan <Tristan.Bick@dpac.tas.gov.au>
Subject: FW: CCAA and TEMC meeting

Just some background for TMEC if useful

From: Ong, Cindy <Cindy.Ong@epa.tas.gov.au>
Sent: Tuesday, October 29, 2024 4:05 PM
To: Pearce, Alister <Alister.Pearce@dpac.tas.gov.au>
Subject: CCAA and TEMC meeting

Alister

As mentioned, here is some information on meetings the EPA, MRT and NRE have with CCAA, should it be useful for the TMEC and CCAA meeting tomorrow.

These meetings commenced as a way of hearing CCAA's concerns about EPA assessment and approval timeframes for quarries, the change (strengthening) of the EPA's compliance and enforcement approach post separation from NRE in 2021, and intersection of EPA and MRT regulatory activities. We and MRT respond to those issues to the extent we can within our legislative frameworks, including by providing various stats and facts for the CCAA leadership to consider, and to facilitate constructive discussion with their members. As NRE is responsible for environmental legislation they also attend, for example to advise on potential for review of EMPCA.

One of CCAA's key interests is faster approvals for production expansions or upgrades at existing quarries captured by EMPCA and requiring EPA Board assessment. They acknowledge the EPA must assess under the framework established in EMPCA, including having regard to public representations which can be numerous, even for relatively simple quarry expansion proposals. They would like to see legislative provision for 'partial assessments' that strike a balance between assessment rigour and burden. We provided the following breakdown of quarry assessments in August 2024 to assist their thinking.

45 of 115 proposals formally in the EPA assessment process are quarries.

Of the 45 proposals (not counting withdrawals)

- 20 are classed as 2A
- 22 are classed as 2B
- 3 have been classed as 2C
- 10 are with the EPA for action
- 35 are with the proponent for action (usually to address inadequacies)

Cindy Ong (she, her) | Director Environmental Regulation

Environment Protection Authority

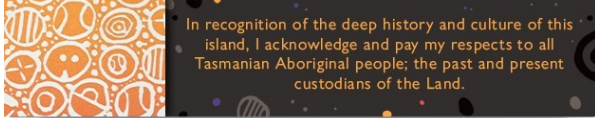
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RTI - DL - RELEASED - EPA

[REDACTED]

From: Bick, Tristan <Tristan.Bick@dpac.tas.gov.au>
Sent: Monday, 11 November 2024 8:38 AM
To: Ray Mostogl
Subject: RE: Environmental / Planning Approvals Improvement Opportunities

Morning Ray

Thank you for sending this detail through, very much appreciated.

I'm in touch with both Ministers Abetz and Ellis' offices to progress conversation and action.

I'll keep you abreast of our progress.

Kindly,
Tristan

Tristan Bick
Chief of Staff
Office of the Hon. Madeleine Ogilvie MP

4 Salamanca Place, HOBART TAS 7000
e-mail Tristan.Bick@dpac.tas.gov.au
Mob [REDACTED]

From: Ray Mostogl [REDACTED]
Sent: Thursday, November 7, 2024 6:28 PM
To: Ogilvie, Madeleine <Madeleine.Ogilvie@dpac.tas.gov.au>
Cc: Bick, Tristan <Tristan.Bick@dpac.tas.gov.au>; [REDACTED]
Subject: Environmental / Planning Approvals Improvement Opportunities

Dear Minister Ogilvie,

As discussed last week, please find attached the list of specific issues the extractive industries have identified which results in inefficiencies when submitting environmental approvals as well as where there are overlaps with LUPAA.

TMEC appreciates the end of November was discussed as an aspirational goal in the meeting held on 30th October 2024 to have a view formed on the best way forward but would appreciate advice on the likelihood of that milestone being met.

Out of courtesy for Ministers Abetz and Ellis, I plan to provide a copy of this to their offices later next week acknowledging this was sent to you this week.

Kind Regards,

Ray Mostogl
Chief Executive Officer
Tasmanian Minerals, Manufacturing and Energy Council
PO Box 393, Burnie, Tasmania, 7320

[REDACTED]

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From: Pearce, Alister <Alister.Pearce@dpac.tas.gov.au>
Sent: Tuesday, 10 December 2024 11:39 AM
To: Wilson, Louise; Jacobi, Jason
Cc: Bick, Tristan (DPaC)
Subject: FW: Planning approvals enquiry
Attachments: 241107 Planning Approvals Improvement Proposal - TMEC - CCAA WFcomments.pdf

Hi guys,

Realise this was discussed/ distributed a while ago, and with the busy schedule, may have fallen through the cracks. Meeting between Ministers is tomorrow 1pm, just need to know if we can get this advice from NRE to each suggestion to the Minister for this meeting? Is this possible for the department? I was thinking the below could be a simpler way to respond in a triaged way. I will Collate Wes' comments into a form according to the below as well.

- Can be completed under current legislation – Limited funding required – Priority 1
- Can be completed under current legislation – Significant (\$100k+ funding required) – Priority 2
- Can be completed with legislative reform of EMPCA and or LUPAA – Priority 3
- Difficult to implement under current or future legislative frameworks – Priority 4

- Each with notes/ideas/suggestions on avenues of next steps if possible.

Cheers,
 Alister

From: Ford, Wes <Wes.Ford@epa.tas.gov.au>
Sent: Wednesday, December 4, 2024 12:11 PM
To: Pearce, Alister <Alister.Pearce@dpac.tas.gov.au>
Cc: Wilson, Louise (DPIPWE) <Louise.Wilson@nre.tas.gov.au>
Subject: RE: Planning approvals enquiry

Alister

Here are my comments, at a high level I agree with much of what is provided in this approach, and to achieve change we need a contemporary set of development and approval principles supported by appropriate legislative change and appropriate resourcing to deliver.

Regards

Wes

Wes Ford (he/him) | **Director and Chief Executive Officer**
Environment Protection Authority
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 E: Wes.Ford@epa.tas.gov.au
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From: Pearce, Alister <Alister.Pearce@dpac.tas.gov.au>
Sent: Tuesday, 3 December 2024 4:53 PM
To: Ford, Wes <Wes.Ford@epa.tas.gov.au>
Cc: Wilson, Louise <Louise.Wilson@nre.tas.gov.au>
Subject: Planning approvals enquiry

Hi Wes,

Hoping you are well,

I was hoping to seek your expertise in commenting on this matter of triaging suggested process improvements for the Minister, ideally prior to the 11/12, meeting on the matter.

This would be much appreciated as your experience is really at the front line of many of these steps. This is by no means an exhaustive list, merely one part of the conversation that is occurring, one which we hope you will continue to be an integral part of for years to come!

If you prefer collaborating with Louise, or sending separately, I don't mind – but just to get your thoughts on each suggestion.

Considering: feasibility, alternatives, processes that are already underway in-part or about to be implemented, or those which have been identified under your own internal reviews, or even additional steps that may be considered.

Cheers,
Alister

Alister Pearce
Senior Adviser - Environment

Office of the Hon. Madeline Ogilvie MP
Minister for Innovation, Science and the Digital Economy
Minister for Corrections and Rehabilitation
Minister for the Environment
Minister for the Arts and Heritage

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Department of Premier & Cabinet
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7th November 2024

Extractive Industries Environmental Planning Assessment and Approvals Reforms 2024

Objectives:

1. To reduce the time, it takes to assess and approve a development application.
2. To address the recent impediment where development applications are being triggered by minor amendments.
3. To reduce the expenditure and time delays being incurred by proponents (and potentially the EPA) because of variable interpretations of guidelines due to out of date, non-existent or lack of clarity.
4. Changes should not see a reduction in environmental standards.

Approach:

1. With the input of the Departments / Offices, identify the optimum improvements using the suggested solutions as a prompt and then identify which can either be fully addressed or partially addressed within the existing legislation. Identify this as Tranche A.
2. Of the remaining improvements worth progressing, identify which legislation needs to be changed. Identify this as Tranche B.
3. Discard the remaining improvements by agreement and note these accordingly.
4. Form a Working Party with industry and departmental representatives to monitor overall progress and to be able to co-opt in subject matter experts as and when required. Ensure ToR has an escalation pathway identified for matters which are not progressing in line with expectation.
5. Establish a periodic progress review with Ministers.





Specific Issues:

The following table is likely to have additions made over time as more detail is revealed during the analysis but reflects the feedback collected to date.

Objective	Barriers	Potential Solutions	Leg / Reg / Guidelines
Proponents to submit comprehensive, informative environmental approvals application documentation, i.e. Notice of Intent (NOI), Environmental Impact Statement (EIS) and	<ul style="list-style-type: none"> • 1) A's with substandard information distract EPA away from processing / assessing / approving applications. • Project Specific Guidelines 3) do not have sufficient clarity – require additional interpretation / consultation, greater potential for information gaps in documentation, leading to more questions and ultimately delays the approvals process 	<ul style="list-style-type: none"> • Case Manager / Concierge Service. • 2) approved Environmental Consultants list (e.g. EIANZ member and/or accredited practitioner). • 4) mandate 2B, 2C and Major Projects need to be vetted by approved/accredited consultant to minimise work by EPA assessment officers and risk to EPA. 	

Summary of Comments on 241107 Planning Approvals Improvement Proposal - TMEC - CCAA WFcomments.pdf

Page: 1

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-  Number: 1 Author: wford Subject: Comment on Text Date: 4/12/2024 10:32:23 AM +11'00'
This is often a timing issue and can be resolved with some refinement of the notice of intent process, by requiring it to be done first for level 2 activities. Needs legislation change
-
-  Number: 2 Author: wford Subject: Comment on Text Date: 4/12/2024 10:35:25 AM +11'00'
This is a temporary approach, and could be done outside the legislation by EPA Board policy. Its a question of who pays. There is a market question - are there enough consultants?
-
-  Number: 3 Author: wford Subject: Comment on Text Date: 4/12/2024 10:32:04 AM +11'00'
This could be dealt with by the EPA have more template guidelines, then add project specific ones. Can be done in the existing legislation.
-
-  Number: 4 Author: wford Subject: Comment on Text Date: 4/12/2024 10:36:35 AM +11'00'
Worth exploring, but should be an opt in/opt out process to provide a choice.

RTI - DL - RELEASE - EPA

Objective	Barriers	Potential Solutions	Leg / Reg / Guidelines
<p>Development Environmental application (DA) to ensure provision of suitable supporting information to; meet clear jurisdictional and environmental performance requirements (thereby avoiding unnecessary additional time and expenditure).</p>	<ul style="list-style-type: none"> • 1 Confusion with when / if EPA should be referred to by Councils. • Lack of clarity in Schedule 2 of EMPC Act for Proponents and EPA to enable ready guidance of an Activity's expected classification. When designing development and preparing the NOI, additional guidance would be beneficial for Proponents to support their decision-making earlier / prior to commencing the approval process. 	<ul style="list-style-type: none"> • 2 Mandate early informal engagement with EPA. • Guidelines, 3 Codes of Practice which are contemporary and limit the amount of interpretation is required. • 4 Improve data sharing when "cumulative impacts" need to feature. • 5 Improve clarity between the role of council and EPA. • 6 Identify which EPA specialist areas and referral agencies are slower (believed to be technical section) or providing conflicting or potentially disproportionate commentary, why and resolve. • 7 Provide guidance documentation to Councils as to when a new Permit is required for Level 2 activities. • Update EMPCA Schedule 5 Definitions to be clearer for Council and Proponent to know when a project is likely to be a Schedule 2A and require referral. (Schedule 5 extract provided below this table for reference) • Review EMPCA Schedule 2 Level 2 Activities definitions to include the various emerging renewable energy projects and consider updating some to make clearer/more current, notably for waste – composting. 	
<p>Improve the application of LUPA Act (and EMPC Act) for mining Activities and environmental approval applications</p>	<ul style="list-style-type: none"> • The LUPA Act was written primarily for built, commercial and residential activities, not mines and quarries. It has a rigid application to a set development footprint and design, so isn't flexible for consideration of growth and changes to Activities on a site. • 8 EPA are increasingly risk averse due to a recent increase in litigation regarding their decisions, and increased focus on approval applications through social media, not in my backyard (NIMBY) and 	<ul style="list-style-type: none"> • 8 Review LUPA and EMPC Acts to incorporate mechanism to support • Review EMPC Act/regs to enable a mechanism which supports risk appropriate (proportional) assessment of altered aspects of an existing activity. The aim being to accept and carry forward current effective management practices for the changed Activity and place greater focus of the assessment on the changed aspects of the 	


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|--|---------------|--------------------------|-------------------------------------|
| Number: 1 | Author: wford | Subject: Comment on Text | Date: 4/12/2024 10:33:11 AM +11'00' |
| Needs legation change in section 25, and schedule 2. | | | |
| Number: 2 | Author: wford | Subject: Comment on Text | Date: 4/12/2024 10:47:14 AM +11'00' |
| This already happens, and mandating may be seen as adding red tape. | | | |
| Number: 3 | Author: wford | Subject: Comment on Text | Date: 4/12/2024 10:48:39 AM +11'00' |
| These could be used, there is very limited reference the Act but they are provided for. Would be supported better with legislation change. | | | |
| Number: 4 | Author: wford | Subject: Comment on Text | Date: 4/12/2024 10:50:34 AM +11'00' |
| Agree, needs better resourcing of NVA, and interaction with the new Commonwealth agency. | | | |
| Number: 5 | Author: wford | Subject: Comment on Text | Date: 4/12/2024 10:49:47 AM +11'00' |
| requires legislative change to both EMPCA and LUPAA | | | |
| Number: 6 | Author: wford | Subject: Comment on Text | Date: 4/12/2024 10:51:43 AM +11'00' |
| This is a complex mix of resources, risk and skills, and could be supplemented with outsourcing but who pays. | | | |
| Number: 7 | Author: wford | Subject: Comment on Text | Date: 4/12/2024 10:52:19 AM +11'00' |
| All this is supported and requires EMPCA amendments | | | |
| Number: 8 | Author: wford | Subject: Comment on Text | Date: 4/12/2024 10:53:20 AM +11'00' |
| Agree. Need to define principles clearly first. | | | |
| Number: 9 | Author: wford | Subject: Comment on Text | Date: 4/12/2024 10:57:06 AM +11'00' |
| While this is debatable, assessment requirements have increased and we have become more risk adverse driven by changes in case law, the EPBC application and there is no risk based framework that allows a different approach to be adopted. Need updated principles and new legislation to support.. | | | |

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Objective	Barriers	Potential Solutions	Leg / Reg / Guidelines
	<p>internationally funded protest groups during public consultation periods. This has led to approval applications being considered with highly variable degrees of rigour across applications such that existing Activities are effectively assessed a new greenfield Activity and often with significantly more scrutiny and need for independent peer review when larger Company or higher profile Activity.</p> <ul style="list-style-type: none"> Industry needs more consistent, predictable (risk appropriate) approval processes and compliance / performance requirements to improve preparation and assessment of applications (Not a reduction in quality or limits). The current greenfield style applications are exposing companies that are operating in a compliant manner to potential damage to their social licence and unnecessary cost and delays which increase the potential for loss of support and investment. 	<p>Activity with higher risk issues changes.</p> <ul style="list-style-type: none"> Develop “Industry specific guidelines” and/or Codes of Practice which consolidate specific themes into a standard. This would assist with consistency between project assessments (e.g. Mining) and ensure that they are updated more frequently (ideally every 5 years). Note the Quarry Code of Practice is dated 2017 and should be updated soon to ensure it is current for environmental best practice measures. 	
<p>2. Environmental approval applications to be assessed within the statutory or an agreed time frame.</p>	<ul style="list-style-type: none"> Lack of resources and / or technical knowledge in EPA Assessment Team or referral agencies. Some environmental impacts only become apparent after the assessment process has started. Project Specific Guidelines are out of date / do not exist. Unclear whether only a Council Permit is needed or also an Environmental assessment. Lack of clarity which approvals process to use DA (LUPAA and EMPCA) or Major Projects. Councils lack in-house capability and refer applications to EPA 	<ul style="list-style-type: none"> Overcome the variation in knowledge between Council Planners and EPA Assessment officers by developing and adopting better guidelines (less interpretation required) and/or training. Assignment of dedicated resources throughout the approval process for each application to enable adoption of consistent, agreed scope/methodology for impact assessment methodology and provision of information in reports (specialist impact assessment reports and EIS). The aim being to minimise additional questions/clarifications later in 	

Page: 3

 Number: 1 Author: wford Subject: Comment on Text Date: 4/12/2024 10:58:52 AM +11'00'
Agree, a matter of resources, but more fundamental in how it is used. Note QCOP is not a COP under the Act.

 Number: 2 Author: wford Subject: Comment on Text Date: 4/12/2024 11:00:28 AM +11'00'
This can be fixed with a clearer set of principles and legislative change to EMPCA and LUPA.

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Objective	Barriers	Potential Solutions	Leg / Reg / Guidelines
	<p>unnecessarily for consideration.</p> <ul style="list-style-type: none"> Variable rate (and extent) of DA's versus a fixed EPA workforce. 	<p>the process and avoid unnecessary delays.</p> <ul style="list-style-type: none"> Some aspects of the assessment are outsourced to AI or an accredited consultant for assessment if ability to comply with EPA/Council specified requirements. 1. RE be resourced / funded to provide contemporary Guidelines to an agreed and published timetable – starting with natural values (e.g. Masked Owl). EPA to be resourced to review 2. nvironmental Protection Policies (EPP's) to make it clearer how they assess which in turn assists proponents to improve their Environment Impact Statements. Understand which assessment areas within EPA are bottle necks and take action to address. After the “quick wins” are addressed – carry out a process mapping exercise to identify non-value adding steps and to provide a “standard” for all to reference. 	
<p>3. The EPA Director and / or Board can approve amendments without the need for a new approval application.</p>	<ul style="list-style-type: none"> 3. his was the practice until a few years ago. 	<ul style="list-style-type: none"> Authority where approvals with and without public consultation is required. 4. hange definition of a minor amendment. Update the legislation with links between EMPCA and LUPAA. 5. nable EPA Board / Director the consolidation of multiple permits for an Activity into one to avoid duplication and ensure consistent compliance performance requirements for all aspects of the Activity (e.g. air and water quality limits). 	
<p>4. DCCEEW and Tasmanian EPA have an effective and timely Bilaterals</p>	<ul style="list-style-type: none"> DCCEEW assessments often do not leverage / recognise / place sufficient value on State knowledge of threatened 	<ul style="list-style-type: none"> 6. tate Environment Ministers collectively seek to restore balance between State EPA and Commonwealth (this 	

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Number: 1	Author: wford	Subject: Comment on Text	Date: 4/12/2024 11:01:16 AM +11'00'
Agreed, this area is under resources and constrained.			
Number: 2	Author: wford	Subject: Comment on Text	Date: 4/12/2024 11:04:12 AM +11'00'
These are well out of date and the process to make/change is woeful. An alternate approach would be to use Environmental Standards under s96O of EMPCA. but this will require resources. A team of four staff for two years (NRE function) Say \$700K pa)			
Number: 3	Author: wford	Subject: Comment on Text	Date: 4/12/2024 11:05:35 AM +11'00'
And in all likelihood was not lawful. The problem is exacerbated by the inclusion of "enabling" in the Level 2 definition.			
Number: 4	Author: wford	Subject: Comment on Text	Date: 4/12/2024 11:06:07 AM +11'00'
There isn't one in EMPCA and the one in LUPAA is useless.			
Number: 5	Author: wford	Subject: Comment on Text	Date: 4/12/2024 11:06:51 AM +11'00'
Agree, require legislation changes to EMPCA and LUPAA, plus new principles.			
Number: 6	Author: wford	Subject: Comment on Text	Date: 4/12/2024 11:07:13 AM +11'00'
Wishful thinking			

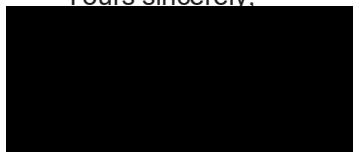
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Objective	Barriers	Potential Solutions	Leg / Reg / Guidelines
approvals process in place.	species, communities, populations etc. <ul style="list-style-type: none"> Approvals referred for Commonwealth assessment are stalling with 'Stop the clock' actions having no definitive timeframe or end date. This is leading to developments either not being commenced, failing to complete the approval process, or project investment being lost, and the application being withdrawn. 	issue is replicated in most / all other states). <ul style="list-style-type: none"> Review of the approval process and inclusion statutory timeframes. 	

TMEC welcomes the opportunity for the various State Governments to review this draft to identify pathways as well as options to vary the solutions if that results in a better off overall outcome.

Please do not hesitate to contact me should you require further clarification.

Yours sincerely,



Ray Mostogl
Chief Executive Officer

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