

LRP EMPCA REVIEW PREFERRED OPTIONS PAPER SUMMARY OF SUBMISSIONS - SCHEDULE 2 ACTIVITIES

1. Racing and Testing Venues

| Submission | For or Against | Reasons |
|-------------------------|----------------|---|
| Launceston City Council | Against | Noise and dust nuisance potential. |
| Hobart City Council | Against | Want more detail about the type and process for the provision of technical support by the Division and whether there will be any charge to Councils for this service. |
| NOISE Tas. Inc. | Against | <ul style="list-style-type: none"> • Noise nuisance. • Objects to DPIWE's rationale that complaint levels are low – claim that complaints are low because of difficulties in making complaints and the lack of action when complaints are made. |
| TCCI | Against | Noise is a significant environmental nuisance but complaints are not dealt with adequately – gave example of motor cross close to residential subdivision. |
| Mr John Sinclair | Against | Does not want activities that are noise generators taken off the Schedule 2 as noise does cause serious and material environmental harm. Does not support paper's conclusion that noise poses a low risk of environmental harm. |
| Department of Health | For | Satisfied that the call-in provisions are sufficient to address the noise issues associated with these venues. |

2. Laundries

| Submission | For or Against | Reasons |
|-------------------------|----------------|--|
| Launceston City Council | For | Has no issue with laundries being removed. |
| Flinders Island Council | For | None given |

3. Fish Processing

| Submission | For or Against | Reasons |
|-------------------------|----------------|-----------------------------------|
| Flinders Island Council | For | Agrees with change of definition. |

4. Wood Processing Works

| Submission | For or Against | Reasons |
|------------------------------------|---------------------------|---|
| Launceston City Council | Against | <ul style="list-style-type: none"> • Would like firewood depots listed on Schedule 2 and would like to see the production capacity threshold for wood processing activities reduced so smaller yards are regulated. • They raise concerns about noise, leachate and having the opportunity to set moisture content levels in firewood as the reasons for including firewood depots on the Schedule. |
| Circular Head Council | Wants further information | Stated :“Where does a log yard (timber sorting yard) fit? How does a log yard differ from a firewood depot???” It is considered that a firewood depot has the same potential to cause environmental harm as a timber/wood merchandising yard”. |
| Department of Economic Development | Conditional support | Support for small wood processing activities being moved into ‘low risk’ category but would like to see codes of practices used more to manage these activities. |
| Flinders Island Council | For | “Council agrees with the rewording of proposal”. |

5. Sewage Treatment Works

| Submission | For or Against | Reasons |
|-------------------------|----------------|---|
| Flinders Island Council | For | Agree with change to ‘waste water treatment plants’ – process must be transparent and ‘realistically regulated’ to the community. |

6. Waste Depots

| Submission | For or Against | Reasons |
|-------------------------|--------------------------------|---|
| Huon Valley Council | Overall support | <ul style="list-style-type: none"> • Overall support for proposed changes to Schedule 2 with some comment on Waste Depots. • Understands that the ‘deposition of clean fill’ exemptions will cover inert waste sites and should not be L2. • Paper fails to expand definition of ‘Resource recovery’” Council does not support the inclusion of waste transfer stations (and their resource recovery facilities) being classed as Level 2. • Would like to see composting removed from waste definition and placed in its own category. |
| Flinders Island Council | Wants amendment re: composting | <ul style="list-style-type: none"> • Wants reference to ‘under the same ownership’ removed from composting activities – re: silage production should not be restricted as it part of normal farming activities. |

7. Quarries and Extractive Pits

| Submission | For or Against | Reasons |
|-----------------------------------|---|--|
| DIER – Mineral Resources Tasmania | Conditional support but has major concerns with regulation of | <ul style="list-style-type: none"> • Paper fails to recognise the environmental impact of small-scale quarries. • States the RMPS leaves regulation of small-scale activities to Councils, which has resulted in unfortunate consequences. • Supports change only if additional resources to police, audit and train Councils to regulate small |

| Submission | For or Against | Reasons |
|---|---------------------|---|
| | quarries. | <p>activities.</p> <ul style="list-style-type: none"> • Identifies a discrepancy between the regulation of large-scale and small-scale activities with the former providing a higher standard of environmental management than the latter. • States that there current regulation is confusing and complex w.r.t. small scale activities. • Variable requirements of planning schemes, lack of skills/resources to regulate operations by Councils and Councils role as an operator and consumer have led to confusion and increased the complexity of the management/regulation of small quarries. • Stated that there is inconsistent regulatory regime applied to small-scale operations. • Agrees that the variable production rates from small quarries and pits makes setting thresholds difficult to set and justify. • Stated that short, infrequent bursts of high productions can result in potential environmental harm from land degradation and environmental nuisance. • That the regulatory system struggles to respond in a timely manner with this type of sporadic production activity. • States that the level of ‘environmental liabilities’ from rural quarries is increasing. |
| Department of Economic Development | Conditional support | <ul style="list-style-type: none"> • Support for quarries being moved into ‘low risk’ category but would like to see codes of practices for quarries relied upon more to manage these activities. |
| Extractive Industries Tasmania | Against | <ul style="list-style-type: none"> • Do not support preferred option of reviewing all extractive operations of 5000 cubic metres or less for low risk categorisation. • Would like to see all extractive operations subject to the same level of regulation ie as Level 2 activities. Want all current L1 operations changed to L2 operations – ie change thresholds so that all operations become L2 activities and are subject to increased regulation. • Small operations cause significant environmental harm. • Current system results in inequities in regulatory costs faced by L1 and L2 activities which produces an unfair competitive advantage for L1 operators. <ul style="list-style-type: none"> ▪ Adding L1 operators will allow DPIWE to “ more equitably spread its revenue base and ... relieve L2 operators of some of the inequities in the present and proposed fee structures. |
| Page Seager Lawyers (attachment to Extractive Industries Tas. Submission) | Issues | <ul style="list-style-type: none"> • Stated that the distinction between L1 and L2 activities is a ‘crude quantitative measure, ...which does not reflect the environmental risk associated with any given operation.’ • Extractive industries are regulated through <i>Mineral Resources Development Act</i> 1995 and EMPCA. • Councils don’t have the skilled resources necessary to assess or regulate extractive industries – whether they be L1 or L2. • Council’s should not regulate all quarries because if they fail to do so, they become liable under s.63A of LUPAA. |

| Submission | For or Against | Reasons |
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| Circular Head Council | Conditional support | <ul style="list-style-type: none"> • Would like a better definition of ‘production quantity’ – is it the undisturbed quantity or the excavated quantity? Low risk threshold of 10,000 cubic metres is supported. • Management of small quarries is difficult – MRT records are not up to date; there is no system to identify when quarries exceed the 5000 cubic metres p.a. threshold (only complaints) and local government lacks the resources to quantify production levels and complete assessments. |
| Flinders Island Council | For | Agrees with proposed changes to quarries and extractive pits. |

8. Materials Handling

| Submission | For or Against | Reasons |
|-------------------------|----------------|---|
| Circular Head Council | For | <ul style="list-style-type: none"> • Threshold should be 0 or 5000 cubic metres p.a. as the 1000 cubic metres threshold is unworkable. |
| Flinders Island Council | For | <ul style="list-style-type: none"> • Agrees with proposed changes to materials handling. |

9. Wind Farms

| Submission | For or Against | Reasons |
|------------------------------------|----------------|---|
| Flinders Island Council | For | <ul style="list-style-type: none"> • Agrees with proposed changes to wind farms though wants each site and area needs clearly defined. |
| Department of Economic Development | For | <ul style="list-style-type: none"> • Assume wind farms of less than 30 MW will be assessed and regulated by local government. Guidelines should be developed to assist developers in the concept and design stages and to assist local government with the assessment of smaller wind farm developments. • Notes that given the impacts and the involvement of the EPBC Act, that it may be that small wind farms will end up being ‘called-in’ and that there may not be any changes to the number of wind farms being regulated as L2 activities. |
| Launceston City Council | For | <ul style="list-style-type: none"> • Agrees that wind farms should be on Schedule 2. |
| Hydro Tasmania | Against | <p>Reasons for not making wind farms L2 activities:</p> <ul style="list-style-type: none"> • Existing call-in power is effective and flexible. • Potential environmental impacts of wind farms are well documented – allowing smaller scale wind farms to be adequately assessed by the local planning authority. • It will add to costs and delays to future wind farm developments. • L2 classification generates negative connotations in the community. ▪ Want the Director to set out clearly the criteria to be used for exercising the ‘call-in’ powers under s.24(1) |

10. Low Risk Activities

| Submission | For or Against | Reasons |
|------------------------------------|---------------------|--|
| Waratah-Wynyard Council | For | <ul style="list-style-type: none"> Stated that “Activities with low environmental risk involved should be deleted from the onerous implications of a Level 2 classification. In downgrading such activities to Level 1, consideration should be given to ensure that the activity does accord with the definition of a Level 1 activity under the Act to ensure appropriate control by local authorities.” |
| Hydro Tasmania | Conditional support | <ul style="list-style-type: none"> Support for the ‘low risk’ classification of certain L2 activities but would like more detail on how ‘low risk’ status will be conferred in practice. Will low risk status apply until advised otherwise by the Director or will there be an annual review? |
| Tasmanian Minerals Council | Conditional support | <ul style="list-style-type: none"> Would like to see some of the criteria for low risk status improved so there is less scope for subjective interpretation. Also stated that some of criteria reflected DPIWE’s resource allocation rather than the actual level of environmental risk. Rather than making criteria more prescriptive the TMC recommends that the person responsible for the activity apply for low risk status (meeting the criteria) and that this is accepted by default. The onus would lie with the Director to refuse the claim with disputes to be resolved by the EMPC Board. |
| GHD Environmental consultants | For | <ul style="list-style-type: none"> Supportive of the introduction of ‘low risk’ category for L2 activities however would like more detail on proposal. Raised a number of questions with respect to the definition of ‘low risk activities’ - their relationship with level 2A development proposals and the criterion regarding compliance history |
| Glenorchy City Council | For | <ul style="list-style-type: none"> Support introduction of ‘low risk’ L2 category. |
| Department of Economic Development | For | <ul style="list-style-type: none"> Support introduction of ‘low risk’ L2 category Would prefer to see ‘low risk’ category determined on the production class rather than being determined on a case-by-case basis. Codes of practice for quarries and wood processing works should be relied upon more to manage these activities that meet the ‘low risk’ category. This would reduce the level of assessment work by the Division than if a case-by-case approach is used to determine which activities meet the ‘low risk’ criteria. |
| Circular Head Council | For | <ul style="list-style-type: none"> Support introduction of ‘low risk’ L2 category. |
| Forestry Tasmania | For | <ul style="list-style-type: none"> Support the introduction of ‘low risk’ L2’s especially if low risk rotary peeler veneer mills are considered for inclusion. |
| Burnie City Council | Conditional support | <ul style="list-style-type: none"> Concerned about incremental devolution of responsibility to local government without the necessary resources to manage these activities. It is unclear if ‘low risk’ status was understood by author of submission as it seems to indicate that |

| Submission | For or Against | Reasons |
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| | | 'low risk' would become responsibility of local government which is not the case. |
| Flinders Island Council | For | <ul style="list-style-type: none"> Support introduction of 'low risk' L2 category. |

11. General Comments that are non-specific about the preferred options for Schedule 2

| Submission | For or Against | Reasons |
|---|---|---|
| Waratah-Wynyard Council | For | <ul style="list-style-type: none"> Are satisfied with the recommended options. |
| Hobart City Council | Conditional support | <ul style="list-style-type: none"> Qualified support for proposed options. Will not support removal of racing and testing venues until further detail is provided about the type and process for, technical support the Division will provide Councils and whether there will be any charge to Council for this support. Appreciative of DPIWE's recognition of not increasing burden on local government by making some activities Level 1. Consider the provision of technical support for noise issues on a needs basis is critical. |
| Department of Health and Human Services | Conditional support | <ul style="list-style-type: none"> Agree with the retention of the 'call-in' provisions for Level 1 activities the pose a significant environmental risk(s) and subsequent regulation of those activities as Level 2 activities. Would like to see Level 1 activities that pose significant public health risk 'called-in' under EMPCA. <ul style="list-style-type: none"> State that all activities that have the potential to impact on water catchments be subject to an environmental impact assessment and health impact assessment. |
| Tasmanian Fire Service | For | <ul style="list-style-type: none"> TFS supports the proposed changes to Schedule 2. |
| Central Coast Council | For | <ul style="list-style-type: none"> Supports the concept of breaking L2 activities into sub-categories based on risk. Oppose any future role for local government in the assessment process for these activities. |
| Department of Premier and Cabinet | Conditional support | <ul style="list-style-type: none"> All care should be taken to ensure the impact on Local Government of removing activities from the Schedule is minimised and carried out in a way that does not undermine the Local Govt. Partnership Agreement or the Communication and Consultation Partnership Agreement. |
| TCCI | Conditional support | <ul style="list-style-type: none"> States there is a "reasonable level of comfort with proposals in the Paper". State that there is unnecessary regulatory regimes across the State because State Government has the inability and local government is not prepared to take over regulatory roles currently carried out by State Government. |
| Department of Economic Development | For | <ul style="list-style-type: none"> Support the proposed amendments to Schedule 2. |
| Glenorchy City Council | Issues raised – doesn't directly state whether they support changes or not. | <ul style="list-style-type: none"> Note the proposed changes to the Schedule 2 of EMPCA are not major changes but are part of the incremental change to the regulatory framework that increases responsibility and workload to local government without the means to recover the costs associated with that workload. |

| Submission | For or Against | Reasons |
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| | | <ul style="list-style-type: none"> Local government doesn't have the regulatory tools available under EMPCA to develop EIP, environmental agreements and environmental audits or to recoup its operational costs associated with environmental regulatory functions and to fund additional resources to improve the level of regulatory service. |
| Circular Head Council | Issue raised. | <ul style="list-style-type: none"> Places of Assembly: ecotourism ventures, recreational focal points etc all have the capacity to harm sensitive environments but are not picked up as L2 activities. Events/facilities that have 4000 people year should be treated as Level 2A or 2B. Could be addressed by having Waste Water Treatment Plant set a 50 kilolitres/day. |
| LGAT | Conditional support. | <ul style="list-style-type: none"> General support for change but note incremental change to the regulatory framework that may increase workload on local government without the corresponding ability to recover the costs incurred with implementing its environmental regulatory functions. |
| Burnie City Council | Conditional support. | <ul style="list-style-type: none"> Concerned about incremental devolution of responsibility to local government without the necessary resources to manage these activities. |
| Department of Treasury and Finance | For | <ul style="list-style-type: none"> Supports all preferred options from a policy perspective. |
| Page Seager Lawyers (attachment to Extractive Industries Tas. Submission) | Issues | <ul style="list-style-type: none"> The current regime produces inequalities and does not promote competition. Believe the consequences of being a L2 activity pose significant costs to business – higher fees, requirement for DPMP and an 'open ended assessment period'. A consequence of being L2 is that it is made 'discretionary' which gives Councils the right to reject the development proposal plus the requirement for the proposal to be advertised and open to public representations and third party appeals. Consider that the proponent often gets 'caught between the both the DPIWE bureaucracy and the local government bureaucracy'. L2 activities require the engagement of a number of consultants to prepare the DPMP – adding to costs together with increased uncertainty with respect of timing and third party appeals. |

LRP EMPCA REVIEW SUMMARY OF SUBMISSIONS – EMPCA FEES PREFERRED OPTIONS PAPER

ASSESSMENT FEES

| Submission | For or Against | Reasons |
|----------------------------|--|---|
| Launceston City Council | For | <ul style="list-style-type: none"> • Assessment fees should aim for full cost recovery of departmental costs. • Would like to see comprehensive reports in shortest possible timeframes. • Believe DPIWE must recover costs but there needs to be flexibility to vary fees for larger projects – where significant community benefit arises from the development. |
| HYDRO Tasmania | <p style="text-align: center;">Conditional support for charging from NOI.</p> <p style="text-align: center;">Against charging hourly rate for construction and commissioning plans</p> | <p>Qualifications for support of assessment fee hourly rate:</p> <ul style="list-style-type: none"> • The Regulations should clearly specify the categories of tasks to be recouped by the hourly charge. Hydro opposes recovering costs incurred with dealing with appeals against permit conditions. • The Hydro wants accurate time recording and a transparent and equitable system with respect to the granting of any discounts across industries. • The Hydro wants the Director to adopt standard commercial practice and itemise invoices relating to each stage of the assessment process. • The Director should provide the proponent with an estimate of assessment costs following the submission of a NOI and provide periodic indications of fee liability, particularly with lengthy assessments. • Oppose charging for construction and commissioning phase assessment as the permit has already stated the environmental conditions of operation and the subsequent plans should not require further significant assessment work. • Also argue that any assessment costs incurred in the first year will eventually be fully recouped by the annual permit fee over time. Consider that purpose of annual permit fees is to ‘recover the costs of the ongoing regulation of the activity’ which the Hydro argues these plans fall into this category – not new assessments. • Hydro wants more information on this proposal especially the safeguards in place to address the above issues. |
| Tasmanian Minerals Council | For | <ul style="list-style-type: none"> • TMC supports the recovery of reasonable assessment fees subject to the adoption of proper commercial practices. <p>Assessment Fees recommendations:</p> <ul style="list-style-type: none"> • A commercial contract should be in place between the proponent and DPIWE – the submission outlines in detail the systems, content and operation of this type of contract. • Recommends that there not only be a NOI but also a Notice of Acceptance, Notice of Variation, |

| Submission | For or Against | Reasons |
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| | | <p>Notice of Withdrawal and Notice of Completion – all forming part of the commercial contract arrangement.</p> <ul style="list-style-type: none"> • Wants DPIWE staff to complete detail timesheets for both assessment and annual permit fees. • Hourly rates should be based on the level of expertise and experience of assessment officers – junior, intermediate and senior rather than a flat rate. • Progressive invoicing of assessment fees. • DPIWE should pay for the costs of additional training of its assessment officers not the proponent. • EPN fees – if cost recovery principles apply then the same comments w.r.t. commercial contracts apply to EPN fees. ▪ Same arguments hold for post approval assessments and change of operation assessment when a new permit is required. |
| TCCI | For | <ul style="list-style-type: none"> • Agree with the principles of the government meeting its costs of assessment and regulation and with proponents meeting the costs of assessment and issue of approvals. • States that when the cost of assessing a proposal exceeds other jurisdictions, then the government should be flexible and factor in a public good component so developers are not penalised by doing business in this state. |
| GHD – Environmental Consultants | Want more information | <ul style="list-style-type: none"> • Increases will have significant impact unless phased in over time. • Would like upfront cost estimate provided by DPIWE – appear to want similar principles of commercial contracts followed. |
| Department of Economic Development | For except for charging for construction and commissioning plans | <ul style="list-style-type: none"> • Supports the proposed model for recovering costs from the NOI for reviewing draft environmental documentation, advertising costs and use of technical expertise – with some exceptions. • Wants the impact of fee rises considered not in isolation – ie consider all the other fees business currently pays government. Economic Development offers assistance with assessing these impacts. <p>Assessment Fees should not be charged for:</p> <ul style="list-style-type: none"> • <u>Guidelines and environmental advice:</u> should not be charged for – see s.74 of EMPCA. State that guidelines preparation (including public scoping) and other advice necessary for development proposals to process is a vital part of the government’s Community Service Obligation (CSO) and should not be subject to cost recovery. • <u>Construction and commissioning plans:</u> do not support assessment fees for Construction Environmental Management Plans as they are an internal management tool used by developers and they should not be subject to approval by regulatory authorities. Reviewing CEMP and other documentation that is not subject to approval should not incur an assessment fee. |

| Submission | For or Against | Reasons |
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| Glenorchy City Council | For | <ul style="list-style-type: none"> Support the recovery of some, if not all costs associated with environmental assessments. |
| Circular Head Council | Conditional support | <p>Qualifications include:</p> <ul style="list-style-type: none"> Having experienced assessment officers carry out the assessment. Costs are already high as paying for preparation of DA documentation and then paying for it to be assessed and perhaps rejected. Want early and meaningful consultation so that goals/objectives are clear and can be incorporated early into the design process. Want scientific justification for final Board/Agency decision not 'personal desire'. |
| Department of Treasury and Finance | Conditional support | <ul style="list-style-type: none"> Supports, in general, the preferred option – charging the hourly rate from the NOI, keeping fixed fees and charging for construction and commissioning plans. Would like more information w.r.t which businesses will be affected – officers from RRU will be in contact to gather information on businesses affected. |
| Page Seager Lawyers | Against | <ul style="list-style-type: none"> Current and proposed fees are too high. |

Annual Permit Fees

| Submission | For or Against | Reasons |
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| Huon Valley Council | Conditional Support | <ul style="list-style-type: none"> Has an 'in-principle' issue with paying fees for the provision of public services and should not be regarded in the same light as paying fees for commercial activities. Supports principle of fees including a 20% public good component. Wants a higher public good component for public infrastructure such as Waste Water Treatment Plants (WWTP). Believes concept for lowering fees by improved environmental management is sound. State government should encourage Councils to establish new (improved) or larger WWTP – increasing Council costs through higher fees will not assist. Accepts the arguments for rejecting an emissions based fee component. Considers 3-step fee reduction process a reasonable approach. |
| Launceston City Council | For | <ul style="list-style-type: none"> Support fee increases and concept proposed for annual permit fees. Support the use of fees to encourage business to become more proactive in the management of environmental risks. Expressed concern about level of resourcing in Environment Division stating Division is currently under funded and resourced. Support proposed change to annual permit fees. |

| Submission | For or Against | Reasons |
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| Waratah-Wynyard Council | For | <ul style="list-style-type: none"> • Support the proposed annual permit fee model. • Believes the proposed model for annual permit fees encourages responsible environmental management through significant cost savings for environmental performance. |
| Hobart City Council | Conditional support | <ul style="list-style-type: none"> • Believes proposed annual permit fee structure has merit but will require monitoring to compare with pre-inception environmental management performance. • Commends intent to provide recognition and incentives for improving practices and outcomes. • Notes effort to address inequitable impacts (cross-subsidisation). • Appendix 1: doesn't believe fee discount should be removed if an EIN or successful prosecution has taken place as it is penalising the permit holder a second time. Supports removal of discount only if Environmental Management System (EMS) has proved to be inadequate. • States that it is not possible to identify all environmental risks that result in infringements. It is unfair to penalise permit holders twice for the same incident. A case for removal of the fee discount could be argued if there had been repeated infringements indicating failure within the EMS. Recommends deleting first 2 dot points and retention of the 3rd as that is the reason the discount has been granted (ie having an EMS). |
| Cuthbertson Bros. Pty Ltd | Against | <ul style="list-style-type: none"> • Would prefer "licenses" (permits) for 10 years instead of 5 years (permits have no specific life span - CF). • Stated that current costs for regulation and payroll tax are too high. • Want industry-trained officers for inspections – tanneries. • Currently pay \$40,000 p.a in council rates and annual permit fees and \$1.3m in payroll tax. • Recommends DPIWE recover costs from payroll tax contribution not through permit fees. • An annual permit fee that represents 2% of annual turnover will make the business uneconomic and force its closure. • Stated that the Paper has been drafted by academics with no industry knowledge. • Stated that their business faces the highest costs in Australia than any other tanneries in Australia. • Stated that all their competitors have relocated production to Asia. • Want paper to focus on total costs to industry not just one aspect. |
| Hydro Tasmania | For | <ul style="list-style-type: none"> • Full support for this proposal. • Concerned over outsourcing – confidentiality, intellectual property issues, conflicts of interest, independence, accountability, delay and 'importantly' costs. |
| Tasmanian Minerals Council | Conditional Support | <p>Recommendations:</p> <ul style="list-style-type: none"> • Note that the fixed fee will rise by 10% - stated that this won't address cross subsidisation issues as good performers are still cross-subsidising poor performers but are paying 10% more. Good |

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| | | <p>performers will not benefit from the additional 4 staff.</p> <ul style="list-style-type: none"> • Stated that “If every L2 industry in the State was operated to best practice, the overall regulatory effort required by DPIWE would decrease from current needs, not increase, but under DPIWE’s model industry would be paying 10% more to fund 4 additional (in this hypothetical situation, unnecessary) positions. • TMC’s preferred option is to maintain the fixed fee proposal (with the 10%) but make the variable fee reductions greater than 100% so that good performers receive a reduction in fees from current levels and receive a ‘true’ reward. • TMC would prefer to see the fixed fee based on <u>actual</u> production levels rather than approved production capacity as the actual production level determines the level of environmental risk and regulatory effort. Fees would need charged retrospectively. If not, then fees should be charged for the expected annual production and any adjustments carried over to the next year’s fee. • TMC want accurate timesheets kept by staff so that a ‘true user pays’ system can be applied to permit fees. • TMC do not agree that large permit holders should be required to have an accredited ISO 14001 EMS as the critical issue is to the suitability of the EMS to the operation. • If the cost of meeting the variable fee steps is close or greater than the reward – there is no incentive. Cost of implementing a ISO 14001 EMS is greater than the proposed maximum fee reduction of \$14,000. TMC object to any proposal to increase the variable fee by a greater amount to create an incentive. They prefer the suggestion outlined above but note that even maximum fee scope of \$34,000 is still a weak incentive to adopt an EMS. • TMC does not support the current equal discounts applied to each of three steps in the variable fee and recommends changing their weighting’s to the following: <ul style="list-style-type: none"> • Environmental Policy – 20% • PER – 50% • EMS – 80% • This would allow industry to achieve a 150% fee reduction in the variable fee – it means that permit holders paying the highest fee would receive a 27% reduction on their current fee or a 34% reduction on the proposed fixed fee. • TMC suggests an additional fee reduction criterion – whether there is a dedicated environmental management division or officer exists in the permit holder’s organisation as this facilitates a system of procedures. This step should fit between the EP and PER steps and the fee reductions adjusted to provide an overall reduction of 150%. • TMC opposes the requirement of EMS audit reports being submitted to the Director to claim the |

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| | | <p>fee reduction. Audit reports contain confidential information about required improvements to the EMS and only relate to the EMS itself and not to environmental impacts. The Director requires only to know whether the EMS retains its accreditation or not.</p> |
| <p>Department of Premier and Cabinet</p> | <p>For</p> | <ul style="list-style-type: none"> • Supports fees being set on a full cost recovery basis. • Recommends ongoing communication with Treasury with respect to increasing fees and adherence with all relevant guidelines. • Stated that Cabinet should be informed of the proposed increase in fees along with a clear demonstration of the cost-based justification so that the increase is not seen to undermine the Government elect commitment not to introduce any new taxes. • Cabinet may request its Budget Sub-committee to consider the funding of four additional positions despite the neutral impact on Consolidated Funds. |
| <p>TCCI</p> | <p>For</p> | <ul style="list-style-type: none"> • Agreed with the principles of the government meeting its costs of assessment and regulation and with proponents meeting the costs of assessment and issue of approvals. • Want part of the extra revenue from permit fees used to fund extra positions in policy development and preparation of policy guidelines. Industry has the impression that ‘draft’ documents exist for too long with ambiguous legal status and are used for regulation. Not enough emphasis in policy guidelines on ‘net impact’ rather than ‘net gain’. |
| <p>GHD Environmental Consultants</p> | <p>For</p> | <ul style="list-style-type: none"> • Support move to polluter pays principle but note the financial cost implication for proponents, as the phase in period is short. • Support the requirement to provide evidence of environmental management strategies to receive a fee discount. • Would like to see more detail required on reporting frequency for variable permit fee discount. • Support the use of examples given to satisfy variable fee discount requirement as they provide flexibility commensurate with the scale of the activity. • More detail is required on how annual permit fee model will work especially with respect to the level of evidence required by permit holders to supply the regulator. |
| <p>Department of Economic Development</p> | <p>For</p> | <ul style="list-style-type: none"> • Supports the philosophy behind the proposed fee model but has issues with the extent of the fee rise and proposed variable fee reduction model. • The proposal to use the additional funds to increase the level of assessment and regulation is supported as Economic Development would like to see delays to investment minimised and a high standard of environmental advice to business and industry. • Want the impact of fee rises considered not in isolation – ie consider all the other fees business currently pays government. Economic Development can offer assistance with assessing these impacts. |

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| | | <ul style="list-style-type: none"> • Stated the 10% fixed fee increase is significant and needs further justification. • Wants the criteria for fee reduction expanded and provides a list of six other actions business could take to warrant a fee reduction. Believes that the Small to Medium sized Enterprises (SME's) will find it problematic to carry out Public Environmental Reporting (PER) or apply an EMS. • Recognise the provision of a high level of environmental advice comes at a cost and supports increasing fees to obtain further resources to improve service levels. • Want more detail in the Regulatory Impact Statement (RIS) to support of the fee increases. |
| Glenorchy City Council | For | <ul style="list-style-type: none"> • Support preferred option noting the proposal is a 'positive innovation that recognises improved performance and promotes better environmental outcomes.' • Notes that Local Government does not have access to these regulatory instruments nor the ability to recoup any of its costs associated with performing its statutory environmental regulatory functions. |
| Circular Head Council | No position stated | <ul style="list-style-type: none"> • Best Practice Environmental Management (BPEM) must be clearly defined with a review period to account for changes in technology and environmental harm issues so that permit holders have certainty over time with regard to the operation of their activity. |
| Local Government Association of Tasmania (LGAT) | For | <ul style="list-style-type: none"> • Overall support for the preferred options for fees especially the permit fees – recognising the positive incentive of fee reductions to improve environmental management performance. • LGAT would like to see further investigation of a proposal to increase the public good component for those activities considered public facilities (waste depots and WWTP). Recommends the public good component be higher than the stated 20%. |
| Forestry Tasmania (FT) | For | <ul style="list-style-type: none"> • Support for annual permit fee model as it is consistent with FT programs (e.g. certified EMS, policy etc). • Suggest re-examining the definition of wood processing activities as different types of mills require differ levels of regulatory effort but are paying the same level of fee (pulp and paper mills are more complex than a rotary peel mill but pay the same fee because the process the same volume). That is, re-examine the production capacity basis for fee thresholds for wood processing activities. |
| Burnie City Council | For | <ul style="list-style-type: none"> • Supports proposed changes to fees while acknowledging there are financial implications for Councils as permit holders. • Support for annual permit fee model given its incentive scheme and flexibility. |
| Extractive Industries Tasmania (EIT) | For | <ul style="list-style-type: none"> • Supports the general principles underlying the proposed fee reforms but does not feel that: <ul style="list-style-type: none"> • The inequities of the current fee scale have been addressed. • Fixed fee should be based on 'user pays' principles only. • <i>'Capacity to pay' sentiments should not result in differential treatment of otherwise unviable operation unless a</i> |

| Submission | For or Against | Reasons |
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| | | <p><i>clear case can be made that such treatment is in the interest of public good..</i></p> <p>Fixed fee component:</p> <ul style="list-style-type: none"> • Questions how the fixed fee cost of regulatory effort was calculated. • Does not agree with the assumption that the larger the operation, the greater the cost of regulation and hence, the higher the fee. • Believe current fees exceed the cost of regulation of L2 extractive activities. • Want the fixed fee to reflect the pure administrative cost of raising the invoice, postage, receipting etc – want it independent of production capacity. The second part of the fixed fee should reflect the cost of periodic auditing – time based charging should form the basis for the fixed fee component so that if there was inadequate documentation, it would be reflected in additional time based costs. <p>Variable Fee component:</p> <ul style="list-style-type: none"> • EIT members have assumed an EMS is part of the Development Proposal Environmental Management Plan (DPEMP) so therefore most EI activities would qualify for the fee discount. • Object to permit holder paying for independent auditor to evaluate EMS as this means less work for DPIWE and should be taken out of the fixed fee component. • Believe that most corporate operators would have documentation in place to qualify for step 1 – Environmental Policy. • PER is a new requirement for EI however, some operators have conducted independent reviews of their DPEMPs and are placed in the public domain. • EI is satisfied that the variable fee component reflects most of what EI proposed in their submission in Dec/Jan 2000/01. <p>Pollution Emissions:</p> <ul style="list-style-type: none"> • DPEMPs are structured to prevent pollution emissions. • Location can impact amenity but adherence to planning principles should minimise the impact. Poor planning decisions by local government results in operators being subject to additional costs due to self-initiated or regulator imposed operating constraints. • Environmental Protection Policies (EPP's) are required to recognise 'existing rights' situations. • EI Tas opposes using the fee structure to penalise operators for not being able to meet or to unreasonably accelerate the introduction of costly operating procedures or capital investment due to changed conditions under EPPs. |
| Page Seager Lawyers | Against | Current and proposed fees are too high. |
| Department Of Treasury and Finance | Conditional support | <ul style="list-style-type: none"> • Wants to see the revenue retention arrangements tested and substantiated before any of the generated revenue can be used to fund additional positions within the Environment Division plus |

| Submission | For or Against | Reasons |
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| | | the costings for the 4 extra positions. |
| | | <ul style="list-style-type: none"> Confirmed that a RIS will be required under the Subordinate Legislation Act 1992. |
| Flinders Island Council | For | <ul style="list-style-type: none"> Council wants a transparent system that is practical, feasible and desirable to the community that will benefit from these regulations. |

Environmental Improvement Program Fees

| Submission | For or Against | Reasons |
|------------------------------------|----------------|--|
| Hobart City Council | For | Supports removal of penalty component. |
| Tasmanian Mineral Council Ltd | For | Supports removal of penalty component |
| Glenorchy City Council | For | Supports removal of penalty component |
| Extractive Industries Tasmania | For | Supports removal of penalty component |
| Department of Treasury and Finance | For | Supports removal of penalty component |

Ozone Authorisation Fees

| Submission | For or Against | Reasons |
|------------------------|----------------|------------------|
| Glenorchy City Council | For | No reason stated |

LRP EMPCA REVIEW PRERRED OPTIONS PAPER SUMMARY OF SUBMISSIONS – ASSESSMENT TIMEFRAMES

Introduction of 3 levels: 2A, 2B and 2C

| Submission | For or Against | Reasons |
|-----------------------------------|---------------------|---|
| HYDRO Tasmania | For | <ul style="list-style-type: none"> Hydro provides qualified support the introduction of 3 levels of assessment and statutory timeframes for key stages of the process. |
| Tasmanian Minerals Council | Conditional support | <ul style="list-style-type: none"> Achievability of timeframes: questions whether the proposed timeframes are really achievable. Weekly meetings of the Board would be required to determine if proposal was a 2A/2B if the Board only has 5 days for determination. Feels 10 days for 2C is not much of an improvement. <ul style="list-style-type: none"> Preparation of assessment report timeframes are also questionable based on past experience. Timeframes for preparation of 2A/B DPEMP guidelines are excessive – given they should be generic in nature with minor alteration required. Categorisation Criteria: would like detailed criteria on what determines whether a development is 2A/B/C. Industry would appreciate input into developing these definitions and they should have formed part of the Paper. Level 2C: public scoping of guidelines is entrenched – should not be a matter of routine but used only for exceptional circumstances. Adds to the cost impost on developers as DPIWE feel compelled to address public concerns in guidelines. Determination of whether a development is a 2B or C should be part of the contract negotiation between the Director and the Proponent. The Board should have the final determination if agreement cannot be reached with proponent allowed to make direct representation to the Board. Proponent should be able to make direct representation to the Director with final recourse to the Board on the draft guidelines after the public scoping exercise so unwarranted matters raised by the public can be removed. |
| Department of Premier and Cabinet | For | <ul style="list-style-type: none"> Supports the three levels of assessments. Tasmania has made specific commitments under the EPBC Act 1999 that if a development proposal involves a listed matter of national environmental significance, then the State Government must under terms of the Bilateral Agreement, treat the proposal as a Level 2 activity. States that the majority of applications the government must call-in under the Bilateral Agreement would be assessed as Level 2A – reducing the burden upon developers. Expressed concern that the proposed statutory timeframes for each of the three levels may not be consistent with the requirements under Part B of Schedule 1 of the Bilateral Agreement. Recommend consultation at the earliest possible opportunity with the Commonwealth w.r.t. proposed changes. |

Introduction of a Notice and Intent

| Submission | For or Against | Reasons |
|---------------------------------|----------------|--|
| HYDRO Tasmania | Question | <ul style="list-style-type: none"> Is a Notice of Intent (NOI) required to be lodged contemporaneously with the submission of a Project Description or are they the one and the same? A NOI should not be made public unless agreed to by the proponent. |
| Central Coast Council | Against | <ul style="list-style-type: none"> Do not support the proposal for a Development Application to serve as a Notice of Intent (NOI) – believes it will cause confusion between a proponent’s and a council’s responsibilities. The onus of lodging the NOI must lie with the proponent. |
| GHD – Environmental Consultants | For | <ul style="list-style-type: none"> Support introduction of NOI. |

Sunset clause for the submission of a DPEMP

| Submission | For or Against | Reasons |
|---------------------|-------------------|---|
| Huon Valley Council | Against 12 months | <ul style="list-style-type: none"> Considers the 12-month limit on requests for further information is still too generous. Suggests a 6-month limit with a fee to keep the application ‘live’ for 12 months. |

Change to Business Days

| Submission | For or Against | Reasons |
|---------------------------------|------------------------|---|
| Huon Valley Council | Against | <ul style="list-style-type: none"> Does not support change to business days as calendar days works well for LUPAA. Paper does not present a valid justification for changing to business days. Needs to be consistent across legislation. |
| Hobart City Council | Doesn’t state position | <ul style="list-style-type: none"> Should not assume knowledge of s29 of the Acts Interpretation Act 1931 – re: business vs. calendar days issue. Believes it is not explicit in EMPCA or other legislation as to whether it is business or calendar days. |
| HYDRO Tasmania | Against | <p>Support for the preferred option depends upon:</p> <ul style="list-style-type: none"> Calendar days being retained – to maintain consistency with LUPAA. Support the exclusion of state wide public holidays from calculation of statutory timeframes. |
| GHD – Environmental Consultants | For | <ul style="list-style-type: none"> Support change to business days. |
| Glenorchy City Council | Against | <ul style="list-style-type: none"> Do not support the use of business days – would require all Councils changing their DA tracking systems. Questions why the use of calendar days is considered confusing now that DPIWE is setting |

| Submission | For or Against | Reasons |
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| | | timeframes for itself when local government has been using calendar days since the inception of LUPAA. Believes the Acts Interpretation Act sets out the consideration of public holidays clearly. |
| LGAT | Against | <ul style="list-style-type: none"> Do not support conversion to business days as calendar as more easily understood by client base, is consistent with LUPAA and Councils DA tracking systems would have to be reconfigured. Inserting a provision into EMPCA stating that public holidays are not included could address the issues raised in the paper about the use of calendar days. |

A requirement for Councils to make a determination on a development within a statutory timeframe following the Board's decision

| Submission | For or Against | Reasons |
|------------------------|----------------|---|
| Hobart City Council | Against | <ul style="list-style-type: none"> States that 20 working days is not enough time for post decision dialogue between the planning authority and the Board nor for catching Council's meeting cycle – for public scrutiny of the decision. Default period should be 30 days and LUPAA should be amended accordingly. |
| HYDRO Tasmania | Against | <ul style="list-style-type: none"> Hydro opposes the proposal to amend s.25(2) of EMPCA to give the Board power to require Council to advertise an application (presumably of 2C activities) for a period determined by the Board. Hydro would like EMPCA amended to require Councils to make a decision within 14 days of receiving the Board's determination – consider one month is too excessive given the time Council would have had to prepare a report. |
| Circular Head Council | Against | <ul style="list-style-type: none"> Does not support the 20-business day period for Council to make a decision after the Board determination due to constraints in meeting Council meetings. A minimum of 25 business days is preferred. |
| Glenorchy City Council | Against | <ul style="list-style-type: none"> Do not support the 20 days for Council to make a decision after receiving the Board's determination. Council may have other outstanding issues to deal with regarding planning matters and may need longer than 20 days. Suggests letting LUPAA and EMPCA do 'their own work' – once a L2 is referred to the Board, the 42 days does not run until the Board has made a determination and it has been received by Council. |

Outsourcing of assessments

| Submission | For or Against | Reasons |
|---------------------------------|-----------------------|--|
| GHD – Environmental Consultants | For | <ul style="list-style-type: none"> Support the proposal to outsource technical advice periodically if this will meet timeframes. Want a transparent selection process of experts and believe a register of experts/professionals would be appropriate. If DPIWE has difficulties meeting timeframes – would like to see issue of outsourcing assessments reviewed. Note with concerns the statement that DPIWE may have difficulty meeting these timeframes with current resources. Recommend consideration of outsourcing. |
| HYDRO Tasmania | Want more information | <ul style="list-style-type: none"> Concerned over outsourcing – confidentiality, intellectual property issues, conflicts of interest, independence, accountability, delay and ‘importantly’ costs. |
| Extractive Industries Tasmania | Against | <ul style="list-style-type: none"> Outsourcing will “result in as many different interpretations as there will be consultants” – will affect consistency and standards. Accepted use of consultants for large, complex projects where DPIWE lacked necessary expertise. |

General comments about all proposed changes for assessment timeframes.

| Submission | For or Against | Reasons |
|-------------------------|--|--|
| Huon Valley Council | For | Supports the tightening of assessment timeframes. |
| Launceston City Council | For | The setting of maximum timeframes (subject to the receipt of all relevant information) is supported. |
| Hobart City Council | Notes that proposed option has merit however have questions. | <ul style="list-style-type: none"> What happens if an issue is identified during the 2nd or 3rd stage that was not thought of during the first stage? Flowchart is unclear as to whether 2A or 2B assessments have the provision to ‘stop the clock’ to see further information. Early provision should be made for screening, scoping, guideline preparation for 2A and 2B activities. Table 6 and the surrounding section are confusing. Table should show the times that apply to both proponents and the Director. The flexibility for the Director and proponents to require/seek/agree for additional is appropriate. Felt that Paper assumed too much knowledge about EMPCA processes and fees. References to relevant parts of the Act would have helped plus attaching Schedule 1 of the ADA. |
| HYDRO Tasmania | Conditional support | <ul style="list-style-type: none"> Hydro supports the statutory timeframes for the preparation of the Assessment report (except for 2C which should be completed in 56 days calendar {40 BD} rather than 55 BD as proposed) and the Board’s determination. Consequence for failing deadlines: it is not clear how deadlines would work. Stopping the clock should be a formal process with the proponent having recourse to the RMPAT to counter argue against stopping the |

| Submission | For or Against | Reasons |
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| | | <p>clock.</p> <ul style="list-style-type: none"> • The Paper does not outline the consequences of failing to meet timeframes only a Ministerial instruction as per the ADA. • A ‘deemed approval’ consequence should apply – requiring realistic timeframes to be set in the first place. If timeframes aren’t met, the proposal should be considered approved by the Board and RMPAT should set the permit conditions. The Board and proponent could make representations to RMPAT. Conditions should then go to Council who have 20 days to make a decision under LUPAA. • Amendment of EMPCA to reflect: <ul style="list-style-type: none"> • The provision of a NOI • The requirement, function and implication of providing a NOI • The definition and guidelines for determining the assessment level (2A, 2B or 2C) • The provision for draft and final guidelines. • Hydro does not support ‘stop the clock’ for 2C. • Hydro considers the 56 calendar days or 40 BD reasonable given the inclusion of the 28-day public comment period. • That there is an end point on the signing off of the final DPEMP. • Hydro states that some ED requests for further information are not to facilitate the assessment but are to negotiate conditions upon which the development is permitted to proceed or are typographical, stylistic or formatting requests. • Hydro would like to see s.25(2)(b) amended to say that the Director must be “simply satisfied that the DPEMP does in fact adequately address the requirements of the Guidelines.” • A similar issue arises with supplements to DPEMPs – its should be explicitly provided for in EMPCA and its relationship with information requests in s.25(2)(d) explained. • EMPCA should be amended to clearly reflect all the steps in the assessment process that apply in practice (following submission of a DA to Council, requests for further information, supplements to DPEMPs and preparation of the Assessment Report). • Hydro want the trigger for the commencement of the statutory time limit for the Assessment report preparation clearly identified. • Hydro does not consider that the ADA offers enough protection to proponents with respect to exceeding statutory timeframes. • Hydro does not support the Director stopping the clock at any point in the assessment or approval process, as it would undermine this exercise of improving assessment timeframes. • Hydro supports the proposal to allow a proponent and the Board to agree to longer statutory periods. However, in the absence of agreement the Hydro would like the decision to be made by the Resource Management and Planning Tribunal. |
| Department of Health and Human Services | Want accommodation for health impact | <ul style="list-style-type: none"> • Longer statutory time limits may be required when health impact assessments are carried out. • Suggests that ‘stopping the clock’ facility is required to cover situations where longer time periods are |

| Submission | For or Against | Reasons |
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| | assessments | <p>required because of HIA's.</p> <ul style="list-style-type: none"> Expect that the minimum time period for the Public and Environmental Health Service to be able to provide comment on a matter would be 21 days after the receipt of the proposal from DPIWE. |
| Tasmanian Fire Service | For | <ul style="list-style-type: none"> Can meet the proposed new timeframes. |
| Central Coast Council | Does not state | <ul style="list-style-type: none"> Do not want to see 'open ended' assessment and determination period for DPIWE or the Board. Felt there was implicit criticism that Council's were a problem with assessment timeframes and reject that assumption. Council's should have the 'stop the clock' power for the same circumstances as the Director. Recommend the development of self-assessment tools like tools used in other jurisdictions for contaminated lands, land stability reports and structural engineering designs – re: outsourcing of technical expertise. After nominated statutory timeframes have expired, the application should be deemed approved with referral to the Tribunal only to determine conditions the Board feel are necessary for inclusion in the permit. Stated "The problems of the Department and the Board have experienced in relation to available expertise to carry out assessments occur across various jurisdictions and disciplines. Other states seem to be able to develop suitable self-assessment models for some highly technical functions (e.g. contaminated sites, structural-engineering designs, land stability reports). We strongly recommend the development of a similar model for environmental assessments. Without such a system in place the Department's sentiments expressed in the final paragraph of s.4.3 in their Paper will become the norm, which in turn makes the establishment of such a system a waste of time." |
| Tasmanian Mineral Council Ltd | Conditional support | <ul style="list-style-type: none"> TMC supports the initiative to implement definitive assessment timeframes subject to a number of qualifications. Consequence for failing deadlines: it is not clear how deadlines would work. Stopping the clock should be a formal process with the proponent having recourse to the RMPAT to counter argue against stopping the clock. The Paper does not outline the consequences of failing to meet timeframes only a Ministerial instruction as per the ADA. A 'deemed approval' consequence should apply – requiring realistic timeframes to be set in the first place. If timeframes aren't met, the proposal should be considered approved by the Board and RMPAT should set the permit conditions. The Board and proponent could make representations to RMPAT. Conditions should then go to Council who have 20 days to make a decision under LUPAA. |
| GHD – environmental consultants | For | <ul style="list-style-type: none"> Supports the proposed timeframes where they remove confusion, are shorter, scaled closely to level of risk, complexity and public interest. Recommend draft amendments should be provided with respect to 'stop the clock' provisions – whether its for further information for scoping of 2C guidelines or draft DPEMP's ie the criteria for 'stopping the clock'. Want the clock stopped when DPIWE asks for more information and restart when DPIWE receives that information. Past issue has been that DPIWE has taken too long in notifying proponents that they are satisfied with information received. Would like a formalised response timeframe for DPIWE. |

| Submission | For or Against | Reasons |
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| Department of Economic Development | For | <ul style="list-style-type: none"> • Recommend following LUPAA model of deemed approval where non-compliance by Council occurs. • Support the proposed options as they provide more certainty. • Proposed administrative procedures to reject substandard draft documentation is also supported but want guidance as to what constitutes substandard documentation. • DED would like to see workshops held for local environmental consulting firms so that the nature and standard of documentation provided in support of DA's can be improved and thereby improve the timeliness of the assessment process as well as final outcomes. |
| Glenorchy City Council | Issues | <ul style="list-style-type: none"> • Ancillary developments to L2's: s.25(1C) – want all of these types of developments referred to the Board – for all planning permit applications involving L2's be referred to the Board to determine whether a L2 EA is required or whether it is ancillary and require a L1 EA. • Identifies 3 pathways for ancillary developments – want it simplified to 2 which involve all such developments being referred to the Board so that Council is not required to decide whether the use of development is ancillary. • Does not want the time period specified under LUPAA (s.57(6) or s.58(2)) to operate while the Board is making its determination about whether an EA is required or not. • EMPCA is silent about what happens w.r.t. time when a DA being considered by the Board and is determined NOT to require an EA – application is in 'suspended animation' until the Board has notified Council. |
| Burnie City Council | Conditional support | <p>Comments/questions about preferred option:</p> <ul style="list-style-type: none"> • Who will set the three levels and when? (levels 2A,B and C) • LUPAA already requires Council to make a determination on a permit application within a statutory timeframe. • The 20-business days requirement for Council to make a decision is not consistent with the 42 day period in LUPAA. • Questions whether EMPCA provisions can exercise direct control over LUPAA processes. |
| Page Seager Lawyers | Comment | <ul style="list-style-type: none"> • Current assessment timeframes do not provide certainty – are too open ended. |
| Flinders Island Council | For | Council agrees with proposed assessment process. |