

**AN AGREEMENT BETWEEN THE COMMONWEALTH OF  
AUSTRALIA AND THE STATE OF TASMANIA**

**UNDER SECTION 45 OF THE COMMONWEALTH  
ENVIRONMENT PROTECTION AND BIODIVERSITY  
CONSERVATION ACT 1999**

**RELATING TO ENVIRONMENTAL IMPACT ASSESSMENT**

## **Aim**

- 1 The agreement aims to minimise duplication of environmental impact assessment processes, strengthen intergovernmental cooperation and promote a partnership approach to environmental protection and biodiversity conservation. In particular, this agreement provides for the accreditation of the Tasmanian environmental impact assessment processes (set out in Schedule 1) to ensure an integrated and coordinated approach for actions requiring approval from both the Commonwealth (under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*) and the State of Tasmania. This agreement will therefore enable the Commonwealth to rely primarily on the Tasmanian assessment process set out in Schedule 1 in assessing actions under the *Environment Protection and Biodiversity Conservation Act 1999*.
- 2 The specific objects of this agreement are to contribute to:
  - (a) protecting the environment,
  - (b) promoting the conservation and ecologically sustainable use of natural resources,
  - (c) ensuring an efficient, timely, and effective process for environmental assessment and approval of actions, and
  - (d) minimising duplication in environmental assessment of relevant impacts within the meaning of section 82 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* through Commonwealth accreditation of Tasmanian processes.

*Note: The provisions of this bilateral agreement are to be read in conjunction with the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.*

## **Parties to the agreement**

- 3 The parties to this agreement are the State of Tasmania and the Commonwealth of Australia.

## **Term of agreement**

- 4 This agreement will commence on the date on which the agreement is executed.
- 5 The agreement will expire five years after commencement, noting that a review of the operation of the agreement must be carried out before it ceases to have effect.

## **Nature of the agreement**

- 6 This agreement is a bilateral agreement made under section 45 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

- 7 The parties note that, other than in clause 10, assessment means assessment of the relevant impacts, within the meaning of section 82 of the *Environment Protection and Biodiversity Conservation Act 1999*.
- 8 The parties do not intend this agreement to create contractual or other legal obligations between the parties, or that a breach of the agreement will give rise to any cause of action, or right to take legal proceedings, other than as provided for in the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

### **Effect of this agreement**

- 9 Certain actions do not require assessment under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*
- 9.1 Pursuant to subsection 47(1) of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, it is declared that an action need not be assessed under Part 8 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* if the action has been assessed in the manner described in Schedule 1 to this agreement. This clause has effect subject to Clause 9.3.
- 9.2 Clause 9.1 applies regardless of whether the assessment in the manner described in Schedule 1 to this agreement commenced prior to the commencement of this agreement.
- 9.3 Clause 9.1 only applies to an action if Clauses 10, 11 and 13, or Clauses 10, 11 and 13 of the Previous Agreement, if applicable, have been complied with in relation to the action.
- 9.4 To avoid doubt, if an action has been assessed in the manner described in Schedule 1 of the Previous Agreement, and the assessment was completed while the Previous Agreement was in operation, it is declared that the action need not be assessed under Part 8 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.
- 9.5 Clause 9.1 applies to actions which are taken wholly within the State of Tasmania, including its coastal waters. In relation to actions taken in more than one jurisdiction (including Tasmania), the parties agree to consult and use their best endeavours to reach agreement with other affected jurisdictions on an appropriate assessment process, such as that set out in Schedule 1.
- 9.6 Consistent with section 49 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, the parties note that the provisions of this bilateral agreement do not have any effect in relation to an action in a

Commonwealth area or an action by the Commonwealth or a Commonwealth agency. However, the parties further note that discussions will take place between the Commonwealth and Tasmania in relation to implementing Attachment 3 of the COAG Heads of Agreement on Commonwealth/State Roles and Responsibilities for the Environment (“Compliance with State Environment and Planning Laws”). Following those discussions, the parties intend to amend this agreement, as necessary, so that it will apply to an action in a Commonwealth area, and an action taken by the Commonwealth or a Commonwealth agency, where it is agreed that the action will be subject to State environment and planning laws.

10 Tasmania to ensure that impacts on matters that are not of national environmental significance are assessed

10.1 This clause applies to an action that:

- (a) is a controlled action (as determined by the Commonwealth Environment Minister) taken or proposed to be taken in Tasmania, and
- (b) does not require assessment under Part 8 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* because of this agreement and section 83 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, and
- (c) is an action:
  - (i) taken or proposed to be taken by a constitutional corporation;
  - (ii) taken by a person for the purposes of trade or commerce between Australia and another country, between two States, between a State and Territory, or between two Territories; or
  - (iii) whose regulation is appropriate and adapted to give effect to Australia’s obligations under an agreement with one or more other countries.

10.2 The Commonwealth undertakes that the written notice referred to in clause 12.2 will indicate:

- (a) whether the Commonwealth believes that the action covered by the notice is an action to which this clause applies; and
- (b) if so, which of paragraphs (i)-(iii) in clause 10.1(c) applies to the action.

10.3 The State of Tasmania undertakes to ensure that the environmental impacts that an action to which this clause applies has, will have, or is likely to have (other than the relevant impacts) are assessed to the greatest extent practicable.

10.4 The State of Tasmania notes that the Commonwealth Environment Minister must not decide whether to approve an action covered by section 130(1C) until a written notice described in section 130(1B) of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* has been received from the State.

The written notice must state that the impacts referred to in clause 10.3 have been assessed to the greatest extent practicable and explain how they have been assessed. The State of Tasmania undertakes to use its best endeavours to provide such a written notice in relation to actions covered by section 130(1C).

## **Procedures to be followed**

### **11 Tasmania to use best endeavours to ensure that actions are referred**

- 11.1 The parties will work cooperatively to ensure that proponents are aware of their obligations under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, and will use their best endeavours to encourage proponents to refer actions that are proposed to take place in the State of Tasmania that may require approval under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* to the Commonwealth Environment Minister.
- 11.2 The parties agree to develop administrative arrangements which will streamline the referral process for proponents. Where possible the parties will develop administrative arrangements which will allow proponents to simultaneously satisfy both Commonwealth and State requirements. In this respect, the parties note that section 69 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* – which provides that a State or agency of a State that is aware of a proposed action may refer the action to the Commonwealth Environment Minister – may, in appropriate cases, provide a mechanism for streamlining the referral process.
- 11.3 Subject to sections 69, 70 and 71 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, the parties recognise that final responsibility for referring actions which may require approval from the Commonwealth Environment Minister under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* lies with the person proposing to take the action. In making the undertakings set out in this clause, the parties do not accept any responsibility for the actions of proponents who may or may not choose to refer actions.

### **12 Commonwealth to inform Tasmania of decision about whether a proposed action is a controlled action**

- 12.1 This clause applies to an action or proposed action that is:
- (a) referred to the Commonwealth Environment Minister under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, and
  - (b) proposed to be taken in Tasmania.

- 12.2 The Commonwealth undertakes that the Commonwealth Environment Minister will give written notice of his or her decision whether the action is a controlled action to the Tasmanian Environment Minister within ten business days of making the decision.
- 13 Confirmation by Tasmania that an accredited process will apply
- 13.1 This clause applies where:
- (a) the State of Tasmania receives a written notice from the Commonwealth Environment Minister that an action proposed to take place in Tasmania is a controlled action, and
  - (b) the action does not require assessment under Part 8 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* if assessed in the manner specified in Schedule 1 to this agreement.
- 13.2 The State of Tasmania undertakes that within ten business days of receiving the written notice referred to in clause 12.2, the Tasmanian Environment Minister will indicate in a written notice given to the Commonwealth Environment Minister whether the action will be assessed by Tasmania in the manner specified in Schedule 1 to this agreement.
- 13.3 If the Tasmanian Environment Minister asks the Commonwealth Environment Minister, under section 79 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* to reconsider the decision that the action is a controlled action, then the ten day period referred to in clause 13.2 begins on the day that the State receives the notice described in subsection 79(3) of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*. This notice, amongst other things, informs the State of the outcome of the Commonwealth Environment Minister's reconsideration.
- 14 Assessment documentation
- 14.1 The State of Tasmania undertakes that when an action is assessed in the manner specified in Schedule 1 to this agreement it will:
- (a) if the assessment is carried out under the Tasmanian *State Policies and Projects Act 1993*, provide a copy of the Assessment Report to the Commonwealth Environment Minister as soon as reasonably practicable (but not more than ten business days) after the date on which the Commission submits its report to the Tasmanian Minister under subsection 26(1) of that Act; or
  - (b) if the assessment is carried out under the Tasmanian *Environmental Management and Pollution Control Act 1994*, provide a copy of the Assessment Report to the Commonwealth Environment Minister as soon as reasonably practicable (but not more than ten business days) after the Board accepts the Report.

The State of Tasmania also undertakes that it will provide copies of any other assessment documentation pertaining to the relevant impacts to the Commonwealth Environment Minister as soon as reasonably practicable (and in any event not more than ten business days) after the date on which the Assessment Report is provided to the Minister.

14.2 The State of Tasmania may, when it provides the Assessment Report or the other assessment documentation referred to in clause 14.1, also provide assessment documentation relating to social and economic matters if such information will be relevant to the Commonwealth Environment Minister's considerations under section 136 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

14.3 The State of Tasmania undertakes that when an action assessed in the manner specified in Schedule 1 to this agreement is subject to an appeal, the State of Tasmania will inform the Commonwealth Environment Minister of the appeal, within five business days of the commencement of the appeal.

15 Additional information

If, in deciding whether to approve the taking of an action assessed under this agreement, the Commonwealth Environment Minister uses any information described in paragraph 136(2)(e) of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, the Commonwealth Environment Minister undertakes to provide a copy of this information to the Tasmanian Environment Minister. The intention of this clause is to give the State of Tasmania an opportunity to comment on this information before the Commonwealth Environment Minister decides whether to approve the taking of the action, subject to the requirements of section 130 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* relating to the time period within which the Commonwealth Environment Minister must decide whether to approve the action.

16 Monitoring compliance with conditions

16.1 This clause applies where an action:

- (a) is taken in Tasmania, and
- (b) requires the approval of the Commonwealth Environment Minister under Part 9 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, and
- (c) requires approval (however described) under the Tasmanian *State Policies and Projects Act 1993*, or has been assessed as a level 2 activity under the *Environmental Management and Pollution Control Act 1994*.

16.2 The parties agree to cooperate in monitoring compliance with conditions attached to approvals, with the aim of reducing duplication. To this end the parties agree:

- (a) that each party will inform the other of any conditions attached to the approval(s) to take the action, and
- (b) that best endeavours will be used to put cooperative arrangements in place for monitoring compliance with conditions on any project which is approved by both parties. The aim of these arrangements is to ensure that reporting requirements for the proponent, and other monitoring efforts such as site inspections, are not duplicated.

17 Enforcing conditions on approvals

The parties agree to inform one another before commencing action to prosecute a person for breaching conditions of an approval for an action which has been approved by both parties, where the conditions relate to, or affect, a matter of national environmental significance.

18 Conditions attached to an approval

The parties recognise the need to avoid attaching inconsistent conditions to approvals and will avoid, to the extent practicable, attaching different conditions to approvals in relation to the protection of matters of national environmental significance for an action under the *Environment Protection and Biodiversity Conservation Act 1999* and Tasmanian legislation. To this end, the parties:

- (a) agree where practicable to consult on the conditions to be attached to approvals granted by either party;
- (b) note the provisions of section 134 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, which include a requirement for the Commonwealth Environment Minister to consider any relevant State conditions when deciding whether to attach a condition to an approval; and
- (c) agree to inform one another before varying the conditions attached to an approval for an action which has been approved by both parties, where the condition relates to, or affects, a matter of national environmental significance. The parties also agree to advise one another of any such variation after it has been made.

19 Administrative procedures

The parties agree to jointly develop administrative procedures to ensure that the requirements of this agreement are administered efficiently in accordance with their separate legal requirements. The parties note that the administrative procedures will provide for consultation on draft assessment documentation, including draft assessment reports. The administrative procedures will also include guidelines on the exchange of any information about assessments

between the Commonwealth Department of the Environment and Heritage and the Tasmanian Department of Primary Industries, Water and Environment.

## **Maintaining the agreement**

### 20 Monitoring compliance with the agreement

The parties recognise that, under the Commonwealth *Auditor-General Act 1997*, the Commonwealth Auditor-General may audit the operations of the Commonwealth public sector (as defined in section 18 of that Act) in relation to this agreement, including whether the Commonwealth is meeting its obligations under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* by relying on Tasmanian processes accredited under this agreement.

### 21 Reviewing the agreement

21.1 The parties note that section 65 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* requires the Commonwealth Environment Minister to cause a review of the operation of this agreement to be carried out, and give a copy of the report of the review to the Tasmanian Environment Minister.

21.2 The parties agree that:

- (a) the review of this agreement under section 65 will be carried out jointly by the Commonwealth Department of the Environment and Heritage and the Tasmanian Department of Primary Industries, Water and Environment,
- (b) the review will evaluate the operation of the agreement against the object of the agreement,
- (c) the views of key stakeholders will be sought as part of the review, and
- (d) the review will commence at least eight months before the agreement is due to expire, and will be completed at least three months before the agreement expires.

### 22 Cancelling or suspending the agreement

22.1 The parties note that sections 57 – 64 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* provide that the Commonwealth Environment Minister may cancel or suspend all or part of this agreement (either generally or in relation to actions in a specified class) under certain circumstances. Sections 57 – 64 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* also set out a process for consulting on the cancellation or suspension of all or part of this agreement.

22.2 In accordance with section 63 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* the Commonwealth Environment Minister

must cancel or suspend all or part of this agreement at the request of the Tasmanian Environment Minister, but only if the request is made in accordance with the agreement.

- 22.3 The parties agree that a request to cancel or suspend all or part of this agreement is made in accordance with this agreement if:
- (a) the request is made on the grounds that the Tasmanian Environment Minister is not satisfied that the Commonwealth has complied or will comply with the agreement; or
  - (b) the request is made on the grounds that the Tasmanian Environment Minister is not satisfied that the object of the agreement is being achieved; and
  - (c) before making the request, the Tasmanian Environment Minister has informed the Commonwealth Environment Minister in writing of the reason(s) for requesting the suspension and allowed a period of at least twenty business days for the Commonwealth Environment Minister to respond.

### **Exchange of information**

- 23 Each party agrees to promptly comply with any reasonable request from the other party to supply information relating to the management or administration of assessments covered by this agreement.
- 24 The parties agree that they may each use data within the control of the relevant departments of government of the other party for the purposes of meeting their respective responsibilities relating to the agreement or the assessment of environmental impacts under their respective Acts, and to make data available to the other. The parties agree that data will remain the property of the owner and its use will be subject to such licence conditions as may be agreed. The parties agree that, subject to clauses 28 and 30, data will not be used or communicated to any other person without the permission of the owner.

### **Conflict resolution**

- 25 In the event that any dispute arises under this agreement, the parties will settle it by direct negotiation using their best endeavours, acting in a spirit of cooperation. The parties agree that in the event of a dispute, discussions aimed at resolution will normally take place at officials level in the first instance. This clause does not purport to limit the rights and obligations of each party under relevant sections of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (including those sections dealing with cancellation and suspension of bilateral agreements).
- 26 The parties will notify and consult each other on matters that come to their attention that may improve the operation of this agreement.

## Relevant plans and agreements

- 27 The parties note that a number of agreements and plans may be relevant to assessments under this agreement. The parties undertake that, when actions are assessed under this agreement, relevant agreements and plans will be taken into account as necessary. The parties agree that where the assessment covers impacts on:
- (a) World Heritage values of a World Heritage property, any management plan for the property is relevant,
  - (b) National Heritage values of a National Heritage place, any management plan for the place is relevant,
  - (c) the ecological character of a Ramsar wetland, any management plan for the wetland is relevant,
  - (d) a listed threatened species or ecological community, any recovery plan for the species or community, and any threat abatement plan for a process that threatens the species or community is relevant,
  - (e) a listed migratory species, any wildlife conservation plan for the species is relevant.

## Freedom of information legislation

- 28 If a party receives any request, including under Freedom of Information legislation, for any documents originating from another party which are not otherwise publicly available, the parties will consult on the release of those documents.
- 29 The parties recognise the need for expeditious consultation on such requests so that statutory obligations can be met without delay.

## Public access to assessment documentation

- 30 The State of Tasmania agrees that documentation relating to the assessment of each action which is assessed in the manner specified in Schedule 1 will be available to the public, except where corresponding information would not have been available to the public if the action had been assessed by the Commonwealth under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

## Groups with particular communication needs

- 31 The State of Tasmania will, in giving effect to the requirements in Schedule 1, make special arrangements, if appropriate, to ensure that affected groups with particular communication needs have adequate opportunity to comment on

actions assessed in the manner described in Schedule 1. The parties note that indigenous people affected by a proposed action may have particular communication needs, and will ensure, where appropriate, that affected indigenous people have adequate opportunity to comment on actions assessed in the manner described in Schedule 1.

## Revocation of Previous Agreement

32 The Previous Agreement is hereby revoked.

## Interpretation

33 A reference in this agreement to the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, the Tasmanian *State Policies and Projects Act 1993* or the Tasmanian *Environmental Management and Pollution Control Act 1994* is a reference to the relevant Acts as in force at the date of this agreement. If any of the Acts are subsequently amended in a manner that affects the operation of this agreement, the parties will seek to agree as soon as practicable on whether it is necessary to make another bilateral agreement varying or replacing this agreement.

34 A reference in this agreement to an Act includes a reference to any regulations and instruments under that Act.

35 A reference in this agreement to the impacts of an action (or the relevant impacts of an action), includes a reference to any impacts (or relevant impacts, as the case may be) of that action outside of the State of Tasmania.

36 Unless the contrary intention appears, the terms used in this agreement have the same meaning as in the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

37 **Assessment documentation** means any formal report, study, agreement, submission or correspondence prepared by or received by the Commission or the Board as part of the formal assessment processes set out in Schedule 1. This includes draft reports or studies which would normally be publicly available under those assessment processes.

38 **Assessment Report** means:

- if the assessment is carried out under the Tasmanian *State Policies and Projects Act 1993*, the report prepared by the Commission in accordance with item 6 in Part A of Schedule 1; or
- if the assessment is carried out under the Tasmanian *Environmental Management and Pollution Control Act 1994*, the Report prepared by the Board in accordance with item 6 in Part B of Schedule 1.

- 39 **Board** means the Board of Environmental Management and Pollution Control established under section 12 of the Tasmanian *Environmental Management and Pollution Control Act 1994* and includes a delegate of the Board.
- 40 **Commission** means the Resource Planning and Development Commission established under the Tasmanian *Resource Planning and Development Commission Act 1997* and includes a delegate of the Commission.
- 41 **Commonwealth Environment Minister** means the Minister administering the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* and includes a delegate of the Minister.
- 42 **Development Proposal and Environmental Management Plan** includes, for the purposes of an assessment carried out under the *Environmental Management and Pollution Control Act 1994*, a document prepared in accordance with guidelines mentioned in clause 3 of Part B to Schedule 1 of this agreement.
- 43 **Environmental Impact Statement** includes, for the purposes of an assessment carried out under the *State Policies and Projects Act 1993*, a document prepared in accordance with guidelines mentioned in clause 3 of Part A to Schedule 1 of this agreement.
- 44 **Previous Agreement** means the previous bilateral agreement between the Commonwealth and the State of Tasmania under section 45 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* relating to environmental impact assessment, which commenced on 15 December 2000 and is revoked by Clause 32 of this agreement.
- 45 **Tasmanian Environment Minister** means the Minister administering the Tasmanian *Environmental Management and Pollution Control Act 1994*.

Signed for and on behalf of the  
COMMONWEALTH OF  
AUSTRALIA by:

Signed for and on behalf of  
TASMANIA by:

Senator the Hon Ian Campbell

The Hon Judy Jackson MHA

Minister for the Environment and  
Heritage

Minister for Environment and  
Planning

Date: 12/12 /2005

Date: 5/12/2005

## Schedule 1

### Preamble

Subsection 47(1) of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* provides that a bilateral agreement may declare that actions need not be assessed under Part 8 of that Act if the actions have been ‘*assessed in a specified manner*’.

Clause 9.1 of this bilateral agreement declares that an action does not require assessment under Part 8 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* if it is assessed in the manner specified in this Schedule.

### The specified manner of assessment

For the purposes of clause 9.1 of this bilateral agreement, an action is assessed in the manner specified in this Schedule if it is assessed in accordance with the requirements set out in Part A or Part B below.

For the purposes of regulations made under section 50 of the *Environment Protection and Biodiversity Conservation Act 1999*, the manner of assessment specified in this Schedule provides for the following assessment approaches:

- (a) Assessment under the *Tasmanian State Policies and Projects Act 1993* as set out in Part A of this Schedule – this assessment approach corresponds to assessment by environmental impact statement under the *Environment Protection and Biodiversity Conservation Act 1999*, and
- (b) Assessment under the *Tasmanian Environmental Management and Pollution Control Act 1994* as set out in Part B of this Schedule – this assessment approach corresponds to assessment by environmental impact statement under the *Environment Protection and Biodiversity Conservation Act 1999*

### Part A – Assessment under the *Tasmanian State Policies and Projects Act 1993*

#### 1 Law under which assessment has been carried out

The assessment is carried out under Part 3 of the *State Policies and Projects Act 1993*.

#### 2 The assessment approach

The Minister administering the *State Policies and Projects Act 1993* gives a written direction under subsection 20(1) to the Commission to undertake an integrated assessment of the action as a project of State significance, and the direction

provides that the process to be followed in undertaking the integrated assessment includes an environmental impact assessment component.

### 3 Guidelines for assessment

3.1 The Commission prepares guidelines for the preparation of an environmental impact statement and the guidelines ensure that the environmental impact statement:

- (a) assesses all relevant impacts of the action;
- (b) contains enough information about the action and its relevant impacts to allow the Commonwealth Environment Minister to make an informed decision whether or not to approve the action; and
- (c) addresses the matters (if any) prescribed for the purposes of paragraph 102(2)(b) of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* relating to the preparation of guidelines for a draft environmental impact statement under that Act.

3.2 The Commission publishes draft guidelines for the preparation of the environmental impact statement and seeks public comment on the draft guidelines.

### 4 Public submissions on the draft environmental impact statement

An environmental impact statement is prepared in accordance with the guidelines mentioned in clause 3, and is released for public comment for a period of at least 28 days. During this period:

- (a) a copy of the environmental impact statement is on public display; and
- (b) copies of the environmental impact statement are available for purchase at a reasonable cost.

Prior to or at the commencement of the public comment period, notice is given by public advertisement of the availability of copies of the environmental impact statement and the opportunity for the public to provide comments.

### 5 Responding to public submissions

The proponent prepares:

- (a) a revised environmental impact statement; or
- (b) a supplement to the environmental impact statement;

taking into account the public submissions (if any) relating to the relevant impacts of the action which are received during the public review period. The revised environmental impact statement, or the supplement to the environmental impact statement, is submitted to the Commission.

### 6 Integrated assessment report

- 6.1 The Commission prepares an Integrated Assessment Report and submits the Report (or the portion of it that addresses the matters listed in item 6.3) to the Commonwealth Environment Minister.
- 6.2 The Integrated Assessment Report takes into account:
- (a) any comment received in response to the invitation, mentioned in item 4 above, for the public to comment on the environmental impact statement; and
  - (b) the environmental impact statement; and
  - (c) information provided by the proponent under clause 5 of Part A of this Schedule; and
  - (d) any other relevant information available to the Commission.
- 6.3 The Integrated Assessment Report contains enough information about the relevant impacts of the action to let the Commonwealth Environment Minister make an informed decision whether or not to approve the taking of the action under the *Environment Protection and Biodiversity Conservation Act 1999*, including:
- (a) a description of:
    - (i) the action; and
    - (ii) the places affected by the action; and
    - (iii) any matters of national environmental significance that are likely to be affected by the action; and
  - (b) a summary of the relevant impacts of the action; and
  - (c) a description of feasible mitigation measures, changes to the action or procedures to prevent or minimise environmental impacts on relevant matters of national environmental significance proposed by the proponent or suggested in public submissions; and
  - (d) to the extent practicable, a description of any feasible alternatives to the action that have been identified through the assessment process, and their likely impact on matters of national environmental significance; and
  - (e) a statement of conditions for approval of the action that may be imposed to address identified impacts on matters of national environmental significance; and
  - (f) a statement of State approval requirements and conditions that apply, or are proposed to apply, to the action when the report is prepared, including a description of the monitoring, enforcement and review procedures that apply, or are proposed to apply, to the action.

## 7 Advertising and consultation

- 7.1 When the public is invited to comment on the environmental impact statement or guidelines, the invitation is published in newspapers circulating generally in each State and Territory.
- 7.2 The advertisements include: the name of the action, a brief description of the action, its location(s), what matters are protected by Part 3 of the *Environment*

*Protection and Biodiversity Conservation Act 1999*, the name of the person proposing to take the action, the name of the designated proponent (if not the person intending to take the action), and how the relevant documents may be obtained, and the deadline for public submissions.

## **Part B – Assessment under the Tasmanian *Environmental Management and Pollution Control Act 1994***

### 1 Law under which assessment has been carried out

The assessment is carried out under section 24, section 25, or section 27 of the Tasmanian *Environmental Management and Pollution Control Act 1994* (whether as a result of a permit application under the *Land Use Planning and Approvals Act 1993*, or as a result of a referral of the activity to the Board for assessment).

### 2 The assessment approach

For the purposes of the assessment undertaken by the Board, a Development Proposal and Environmental Management Plan is prepared.

### 3 Guidelines for assessment

3.1 The Board prepares guidelines for the preparation of the Development Proposal and Environmental Management Plan, and the guidelines ensure that the Development Proposal and Environmental Management Plan:

- (a) assesses all relevant impacts of the action;
- (b) contains enough information about the action and its relevant impacts to allow the Commonwealth Environment Minister to make an informed decision whether or not to approve the action; and
- (c) addresses the matters (if any) prescribed for the purposes of paragraph 102(2)(b) of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* relating to the preparation of guidelines for a draft environmental impact statement under that Act.

3.2 The Board prepares draft guidelines for the preparation of the Development Proposal and Environmental Management Plan and seeks public comment on the draft guidelines before they are finalised if, at the time the guidelines are being prepared:

- (a) the Board believes the issues to be addressed in the assessment will be complex or there will be a high level of public interest in the issues; or
- (b) the Commonwealth Environment Minister has requested the publication of draft guidelines; or

(c) the Board considers that for any other reason it is appropriate to do so.

4 Public submissions on the Development Proposal and Environmental Management Plan

A Development Proposal and Environmental Management Plan is prepared in accordance with the guidelines, and is released for public comment for a period of at least 28 days. During this period:

- (a) a copy of the Development Proposal and Environmental Management Plan is on public display; and
- (b) copies of the Development Proposal and Environmental Management Plan are available for purchase at a reasonable cost.

Prior to or at the commencement of the public comment period, notice is given by public advertisement of the availability of copies of the Development Proposal and Environmental Management Plan and the opportunity for the public to provide comments.

5 Responding to public submissions

The proponent prepares:

- (a) a revised Development Proposal and Environmental Management Plan; or
- (b) a supplement to the Development Proposal and Environmental Management Plan;

taking into account the public submissions (if any) relating to the relevant impacts of the action which are received during the public review period. The revised Development Proposal and Environmental Management Plan, or the supplement to the Development Proposal and Environmental Management Plan, is submitted to the Board.

6 Assessment reports

6.1 The Board prepares an Assessment Report (or a document that includes an Assessment Report) and submits the Report to the Commonwealth Environment Minister.

6.2 The Assessment Report takes into account:

- (a) any submissions received in response to the invitation, mentioned in item 4 above, for the public to comment on the Development Proposal and Environmental Management Plan; and
- (b) the Development Proposal and Environmental Management Plan; and
- (c) information provided by the proponent under clause 5 of part B of this Schedule; and
- (d) any other relevant information available to the Commission.

- 6.3 The Assessment Report contains enough information about the relevant impacts of the action to let the Commonwealth Environment Minister make an informed decision whether or not to approve the taking of the action under the *Environment Protection and Biodiversity Conservation Act 1999*, including:
- (a) a description of:
    - (i) the action; and
    - (ii) the places affected by the action; and
    - (iii) any matters of national environmental significance that are likely to be affected by the action; and
  - (b) a summary of the relevant impacts of the action; and
  - (c) a description of feasible mitigation measures, changes to the action or procedures to prevent or minimise environmental impacts on relevant matters of national environmental significance proposed by the proponent or suggested in public submissions; and
  - (d) to the extent practicable, a description of any feasible alternatives to the action that have been identified through the assessment process, and their likely impact on matters of national environmental significance; and
  - (e) a statement of conditions for approval of the action that may be imposed to address identified impacts on matters of national environmental significance; and
  - (f) a statement of State approval requirements and conditions that apply, or are proposed to apply, to the action when the report is prepared, including a description of the monitoring, enforcement and review procedures that apply, or are proposed to apply, to the action.

## 7 Advertising and consultation

- 7.1 When the public is invited to comment on the draft assessment documentation or guidelines, the invitation is published in newspapers circulating generally in each State and Territory.
- 7.2 The advertisements include: the name of the action, a brief description of the action, its location(s), what matters are protected by Part 3 of the *Environment Protection and Biodiversity Conservation Act 1999*, the name of the person proposing to take the action, the name of the designated proponent (if not the person intending to take the action), and how the relevant documents may be obtained, and the deadline for public submissions.