

TASMANIA

**ENVIRONMENTAL MANAGEMENT AND
POLLUTION CONTROL AMENDMENT BILL
2002**

CONTENTS

1. Short title
2. Commencement
3. Principal Act
4. Section 24 amended (Assessment of permissible level 1 activities)
5. Section 25 amended (Assessment of permissible level 2 activities)
6. Section 25A amended (Assessment of applications for permits under Division 2A of Part 3 of the *Land Use Planning and Approvals Act 1993*)

**ENVIRONMENTAL MANAGEMENT AND
POLLUTION CONTROL AMENDMENT BILL
2002**

*(Brought in by the Minister for Primary Industries, Water
and Environment, the Honourable Bryan Alexander Green)*

A BILL FOR

**An Act to amend the *Environmental Management
and Pollution Control Act 1994***

Be it enacted by His Excellency the Governor of Tasmania,
by and with the advice and consent of the Legislative
Council and House of Assembly, in Parliament assembled,
as follows:

Short title

1. This Act may be cited as the *Environmental
Management and Pollution Control Amendment Act 2002*.

Commencement

2. This Act commences on the day on which this Act
receives the Royal Assent.

Principal Act

3. In this Act, the *Environmental Management and Pollution Control Act 1994** is referred to as the Principal Act.

Section 24 amended (Assessment of permissible level 1 activities)

4. Section 24 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “for assessment under this Act”;
- (b) by omitting from subsection (2) “for assessment”;
- (c) by omitting subsection (3) and substituting the following subsection:

(3) Subsections (2), (5), (6), (8), (8A), (8B) and (8C) of section 25 apply to the application as if it were an application in respect of a permissible level 2 activity that the Board has determined it needs to assess under this Act.
- (d) by omitting from subsection (3A) “assessment” and substituting “application”;
- (e) by omitting from subsection (4) “assessed by the Board under subsection (3)” and substituting “referred to the Board under subsection (1)”.

*No. 44 of 1994

**Section 25 amended (Assessment of permissible level
2 activities)****5. Section 25 of the Principal Act is amended as follows:**

- (a) by omitting from subsection (1)(b) “for assessment under this Act”;
- (b) by inserting the following subsections after subsection (1C):

(1D) Within 14 days after an application is referred to it under subsection (1), other than an application under Division 2A of Part 3 of the *Land Use Planning and Approvals Act 1993*, the Board is to determine whether it needs to assess the activity to which the application relates under this Act.

(1E) The Board is taken to have determined that it needs to assess the activity to which the application relates under this Act if, before the period referred to in subsection (1D) expires, it has not notified the planning authority to the contrary.

- (c) by omitting subsections (2), (3) and (4) and substituting the following subsections:

(2) If the Board determines that it needs to assess the activity to which an application relates under this Act then, unless the application is refused under section 57(2) of the *Land Use Planning and Approvals Act 1993* –

- (a) the Board is to do the assessment in accordance with the Environmental Impact Assessment Principles and in

consultation with the planning authority; and

- (b) the planning authority is not to advertise the application until it has received written notice from the Director that the Board has received sufficient information to satisfy the requirements of section 74(3); and
- (c) the planning authority is to give the Board copies of any representations received under section 57(5) of the *Land Use Planning and Approvals Act 1993*; and
- (d) the period referred to in section 54(1) of the *Land Use Planning and Approvals Act 1993* is extended to 42 days; and
- (e) section 57(6) of the *Land Use Planning and Approvals Act 1993* does not apply; and
- (f) the planning authority, notwithstanding any enactment to the contrary, is not required to assess any matter addressed in the Board's assessment under paragraph (a); and
- (g) if, despite paragraph (f), the planning authority does its own assessment of a matter addressed in the assessment under paragraph (a), it is not entitled to recover the cost of its assessment

from the applicant, the Crown or any other person.

(3) If the Board determines that it does not need to assess the activity to which an application relates under this Act –

- (a) the planning authority may process the application without further reference to the Board; and
 - (b) the Board's determination does not affect a requirement to assess the application under the *Land Use Planning and Approvals Act 1993* or any other Act; and
 - (c) for an application referred under subsection (1), subsections (1)(a) and (2) do not apply.
- (d) by omitting from subsection (8)(d)(ii) “direction.” and substituting “direction; and”;
- (e) by inserting the following paragraph after paragraph (d) in subsection (8):
- (e) must not, if it grants the permit, exercise its power under section 56(2) of the *Land Use Planning and Approvals Act 1993* in respect of that permit without the prior written consent of the Board.
- (f) by inserting the following subsections after subsection (8):

(8A) If a permit is issued with conditions or restrictions required by the Board, the planning authority is not required or entitled to exercise any power that it could otherwise

exercise under this or any other Act to enforce those conditions or restrictions unless the Director and the planning authority have, in writing, agreed otherwise.

(8B) Subsection (8A) has effect notwithstanding Part 4 of this Act, Part 4 of the *Land Use Planning and Approvals Act 1993* or any other enactment.

(8C) The Director may, by notice in writing to a planning authority, revoke any agreement that the Director has entered into with that planning authority for the purposes of subsection (8A).

Section 25A amended (Assessment of applications for permits under Division 2A of Part 3 of the *Land Use Planning and Approvals Act 1993*)

6. Section 25A of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

(1) If an application for a permit made under Division 2A of Part 3 of the *Land Use Planning and Approvals Act 1993* is referred to it under section 24 or 25, the Board –

- (a) is to assess the activity to which the application relates; and
- (b) may, by notice in writing served on the applicant for the permit within 28 days after the day of referral, require the applicant to provide it with additional information for the purpose of the assessment.