

Dam Works Assessment Decision Framework

1. Division 3 Dam Works Permits

Under the *Water Management Act 1999*, a person must not undertake, or cause or permit to be undertaken, any dam works subject to Part 8 of the Act¹ unless –

- (a) the person is the holder of a permit, or is undertaking dam works for another person who is the holder of a permit, which relates to those dam works; and
- (b) those dam works are undertaken in accordance with that permit and its conditions.

It is the Minister's function and duty to consider applications for dam works permits, approve or refuse permits, and determine any conditions to which permits should be subject. When making a decision in relation to the consideration of applications for dam works permits and any conditions to which the permits should be subject, the Minister must have regard to –

- (a) the objectives of the *Water Management Act 1999*; and
- (b) any prescribed requirements for the design, construction, erection, enlargement, modification, maintenance, repair, surveillance, decommissioning and removal of dams. For the conversion of land to a dam or for carrying out dam works and related matters; and
- (c) prescribed standards for carrying out dam works and for any related matters; and
- (d) any relevant codes issued under section 301 or adopted under section 304B of the *Water Management Act 1999*; and
- (e) any relevant approval guidelines.

The *Dam Works Assessment Decision Framework* (the Framework) sets out the parameters for dam works assessment in Tasmania. Subject to the application of appropriate conditions, dam works that are consistent with the Framework can generally be considered to be dam works that:

- (a) would be consistent with –
 - (i) the objectives of the *Water Management Act 1999*; and
 - (ii) any relevant State Policy; and
 - (iii) any relevant approval guidelines developed under section 8A of the *Water Management Act 1999*; and
- (b) would not result in material environmental harm, serious environmental harm or environmental nuisance; and
- (c) would not have a significant adverse impact on other persons taking water from the relevant water resource affected by the proposed dam works; and
- (d) would not adversely impact on public safety.

Hence, approval of an application for a dam works permit under the Framework is therefore consistent with the requirements for the Minister's approval.

¹ Part 8 of the *Water Management Act 1999* does not apply to dam works that –

- (a) are undertaken for the primary purpose of storing waste; or
- (b) consist of the construction, erection or modification of a levee or bank, in preparation for or during a flood, that is a levee or bank that is entirely removed within 4 weeks after the day on which the levee or bank was constructed or the flood ceases; or
- (c) are exempted from the operation of Part 8 under section 140.

2. Division 4 Dam Works Permits

Dams that meet specified criteria may be constructed without applying to the Minister for a permit, and can be undertaken under the authority of a Division 4 permit. A person who proposes to undertake dam works is entitled to a Division 4 permit if the proposed dam works –

- (a) are not on a watercourse²; and
- (b) relate to a single dam and not to a group of dams that collectively store, hold back or impede the flow of a single body of water; and
- (c) are on land that –
 - (i) is unvegetated land; or
 - (ii) is vegetated land on which the harvest of timber, or the clearing of trees, that would be required as part of the dam works is a circumstance that is prescribed for the purposes of section 17(6) of the *Forest Practices Act 1985*; and
- (d) do not constitute in whole or in part the clearance and conversion of a threatened native vegetation community or a circumstance unless it is prescribed for the purposes of section 17(6) of the *Forest Practices Act 1985*; and
- (e) will not take threatened species or destroy or damage nests³ of threatened species; and
- (f) are not wholly or partly within a pipeline planning corridor; and
- (g) are not wholly or partly within a heritage area entered in the Heritage Register; and
- (h) are not subject to a conservation covenant; and
- (i) are not subject to an agreement under Part 5 of the *Land Use Planning and Approvals Act 1993*; and
- (j) are on land in relation to which the person is the owner or, if the person is not the owner in respect of the land, if the owner of land has given his or her consent, in writing, to the proposed dam works; and
- (k) will not inundate land owned by another person, unless the owner of land has given his or her consent, in writing, to the proposed dam works or any inundation; and
- (l) are not declared works that require a Division 3 permit⁴.

A person must not undertake works under the authority of a Division 4 permit unless the person has first given written notice to the Minister. Notice must be in the approved form. Where notice of the intention to undertake dam works has been submitted to the Minister, a Division 4 permit takes effect 14 days after the day on which a person submits the notice. An approved form is available at: https://dpi.wa.gov.au/Documents/Approved%20form_Notice%20of%20intent%20to%20undertake%20dam%20works%20under%20a%20Division%204%20permit.pdf

² **watercourse** means a river, creek or other natural stream of water (whether modified or not) flowing in a defined channel, or between banks, notwithstanding that the flow may be intermittent or seasonal or the banks not clearly or sharply defined, and includes –

- (a) a dam that collects water flowing in any such stream; and
 - (b) a lake through which water flows; and
 - (c) a channel into which the water of any such stream has been diverted; and
 - (d) part of any such stream; and
 - (da) the floodplain of any such stream –
- but does not include –
- (e) a channel declared by the regulations to be excluded from this definition; or
 - (f) a drain or drainage depression in the contours on the land which only serves to relieve upper land of excess water in times of major precipitation.

³ **nest** means –

- (a) a structure or place where a bird lays eggs and shelters its young; and
- (b) an animal's breeding place, den or burrow.

⁴ As defined in the *Water Management (Division 3 Declared Works) Order 2015*.

3. Obligations Under Other Acts

A person undertaking dam works in accordance with a permit granted under the *Water Management Act 1999* is entitled to some permit/approval exemptions under other Acts, including:

- under section 51(4) of the *Threatened Species Protection Act 1995*, the holder of a Division 3 permit may take, without a permit, a specimen of a listed taxon of flora or fauna⁵;
- under regulation 4 of the *Forest Practices Regulations 2017*, the holder of a Division 3 permit does not require a Forest Practices Plan for the harvesting of timber or the clearing of trees on any land, or the clearance and conversion of a threatened native vegetation community on any land⁶;
- under regulation 35 of the *Wildlife (General) Regulations 2010*, the holder of a Division 3 permit may take, without a permit, any specially protected wildlife or any product of specially protected wildlife;
- under section 60A of the *Land Use Planning and Approvals Act 1993*, a permit or special permit is not required.

However, a dam works permit under the *Water Management Act 1999* does not absolve a permit holder from their other legal obligations under the *Water Management Act 1999* or any other Act. For example, a person holding a dam works permit may need to:

- apply for an authority to take water into a dam, under the *Water Management Act 1999*;
- determine whether, under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, an action will require approval from the Commonwealth Minister for the Environment if it has, will have, or is likely to have a significant impact on a matter of national environmental significance;
- apply for a permit under the *Aboriginal Heritage Act 1975*, if a project is going to interfere with an Aboriginal relic;
- obtain a certified Forest Practices Plan under the *Forest Practices Act 1985* to harvest more than 6 tree ferns (*Dicksonia antarctica*);
- undertake action, under the *Weed Management Act 1999*, against declared weed species.

The above limited examples of potential legal obligations should not be misconstrued as an exhaustive list. The onus is on the applicant or permit holder to make themselves aware of their obligations under the *Water Management Act 1999* or any other Act.

If a person is unsure of their legal obligations, it will be necessary to engage the services of an appropriately qualified consultant.

4. Determination of Applications for a Division 3 Dam Works Permit

The *Dam Works Assessment Decision Framework* is comprised of 13 elements. For each element, applications will need to:

- meet the circumstances where no additional information is required in the application, set out in each **Box A**; or
- address additional matters or information to be provided in the application, set out in each **Box B**.

In general, an application that meets all of the circumstances set out in each **Box A** of the Framework will generally not require additional information over and above the minimum requirements of a permit application.

Hence, such an application could generally be expected to be developed and approved at a lesser cost to the applicant, and within a quicker timeframe, than an application that does not meet the circumstances set out in each **Box A**.

⁵ This exemption is applicable to Division 3 permits only.

⁶ This exemption is applicable to Division 3 permits only.

Where an application does not meet the circumstances set out in each **Box A**, an application will need to satisfactorily address the matters or information required set out in the associated **Box B** of the Framework.

5. Section 12A of the Water Management Act 1999

Section 12A of the *Water Management Act 1999* provides that, amongst other things, an application for a Division 3 dam works permit must be supported by such evidence or information as the Minister may require.

The information requirements set out within the Framework are done so in accordance with section 12A of the Act. Under section 144 of the Act, an application must comply with section 12A. An application that does not comply with section 12A, by not meeting the relevant information requirements and the requirements of section 144 does not constitute an application.

6. Additional Information

Under section 149 of the Act, the Minister, by notice to an applicant, may require the applicant to provide to the Minister the further information, or take the action, specified in the notice. It is expected that in most cases, additional information will be sought.

7. Dam Works Assessment Decision Framework

7.1 Public Safety

Objective: To ensure that risks arising from dam works, to human life, property and the environment, are appropriately managed.

Application Requirements: In making an application for a dam works permit, an applicant whose proposed works match the circumstances in **Box A** (below) need not provide any information relating to Public Safety, other than a Consequence Category Assessment satisfying the requirements of the *Water Management (Safety of Dams) Regulations 2015*. In all other circumstances, an applicant must address the matters and provide the information set out in **Box B** (below) as part of their application.

Box A - Circumstances where no additional information on Public Safety is required in the application.

The dam wall will be under 10 m in maximum height⁷ and classified as a Very Low or Low Consequence Category.

Box B - All other circumstances.

Matters to be addressed and information to be provided in the application:

- (a) a Preconstruction Investigation and Design Report, undertaken in accordance with the Department's *Guidelines for Preconstruction Reports* and satisfying the requirements of the *Water Management (Safety of Dams) Regulations 2015*.
- (b) Where there is an identified potential loss of life of greater than or equal to 1, a Dam Safety Emergency Management Plan, undertaken in accordance with the Department's *Guidelines for Dam Safety Emergency Management Plans* and satisfying the requirements of the *Water Management (Safety of Dams) Regulations 2015*.

Guidance Material

Guidelines for Dam Safety Emergency Management Plans- DPIPWE

Guidelines for Preconstruction Reports- DPIPWE

Guidelines on the Consequence Categories for Dams - ANCOLD

⁷ **maximum height** means the height from the crest of the dam to the lowest point of natural ground level

5.2 Landslide

Objective: To ensure that risk from landslide arising from dam works, to human life, property and the environment, is appropriately managed.

Application Requirements: In making an application for a dam works permit, an applicant whose proposed works match the circumstances in **Box A** (below) need not provide any information relating to landslide. In all other circumstances, an applicant must address the matters and provide the information set out in **Box B** (below) as part of their application

Box A - Circumstances where no information on landslide is required in the application.

Dam works are not located:

- (a) in an area shown on the LISTmap as a Medium Active Landslide Hazard Band, or High Landslide Hazard Band.
- (b) on land declared under Part 9A of the *Mineral Resources Development Act 1995* to be an A Landslip Area or B Landslip Area.
- (c) where there is a history of landsliding.

Box B - All other circumstances

Matters to be addressed and information to be provided in the application:

A landslide risk management report prepared in accordance with the Australian Geomechanics Society's *Practice Note Guidelines for Landslide Risk Management 2007*.

Guidance Material

Practice Note Guidelines for Landslide Risk Management 2007 - Australian Geomechanics Society

Landslides in Tasmania (Brochure 1) – Mineral Resources Tasmania

Tasmanian Landslide Map Series (Brochure 2) – Mineral Resources Tasmania

5.3 Sediment and Erosion Control

Objective: To ensure that dam works are appropriately located or managed to minimise the potential adverse impacts to property and environment from erosion and sediment movement.

Application Requirements: In making an application for a dam works permit, an applicant whose proposed works match the circumstances in **Box A** (below) need not provide any information relating to sediment and erosion control. In all other circumstances, an applicant must address the matters and provide the information set out in **Box B** (below) as part of their application.

Box A - Circumstances where no information on sediment and erosion control is required in the application.

Dam works that are:

- (a) not on a watercourse⁸; and
- (b) not within an area known to contain dispersive soils; and
- (c) greater than 100 m from any downslope:
 - watercourse; or
 - public or private asset (e.g. road, house or drain); or
 - significant natural value (e.g. threatened species, or threatened vegetation communities).

Box B - All other circumstances

Matters to be addressed and information to be provided in the application:

A sediment and erosion control plan, covering all aspects of dam works (including clearance of vegetation where a Dam Works Practices Plan is not required under element 5.10 of this Decision Framework), prepared in accordance with the Department's *Guidelines for Developing a Sediment and Erosion Control Plan for Dam Works Sites*.

Where a dam removal is proposed, the sediment and erosion control plan must include site rehabilitation activities.

Guidance Material

Guidelines for Developing a Sediment and Erosion Control Plan for Dam Works Sites – DPIPW

Dispersive Soils and their Management – DPIPW

Soil Management a Guide for Tasmanian Farmers - DPIPW

⁸ **watercourse** means a river, creek or other natural stream of water (whether modified or not) flowing in a defined channel, or between banks, notwithstanding that the flow may be intermittent or seasonal or the banks not clearly or sharply defined, and includes –

- (a) a dam that collects water flowing in any such stream; and
- (b) a lake through which water flows; and
- (c) a channel into which the water of any such stream has been diverted; and
- (d) part of any such stream; and
- (da) the floodplain of any such stream –

but does not include –

- (e) a channel declared by the regulations to be excluded from this definition; or
- (f) a drain or drainage depression in the contours on the land which only serves to relieve upper land of excess water in times of major precipitation.

5.4 Acid Sulfate Soils

Objective: To ensure that dam works are appropriately located or managed to minimise the potential adverse impacts to property and environment from acid sulfate soils.

Application Requirements: In making an application for a dam works permit, an applicant whose proposed works match the circumstances in **Box A** (below) need not provide any information relating to acid sulfate soils. In all other circumstances, an applicant must address the matters and provide the information set out in **Box B** (below) as part of their application.

Box A - Circumstances where no information on acid sulfate soils is required in the application.

The dam works footprint⁹ is not located:

- (a) on a site shown on LISTmap as Actual Acid Sulfate Soil or Potential Acid Sulfate Soil.
- (b) in an area shown on LISTmap as subject to a low or high probability of Acid Sulfate Soils.
- (c) at a site otherwise known to contain acid sulfate soil.

Box B - All other circumstances

Matters to be addressed and information to be provided in the application:

An acid sulfate soil assessment and management plan prepared in accordance with the *Tasmanian Acid Sulfate Soils Management Guidelines*.

Guidance Material

Tasmanian Acid Sulfate Soils Management Guidelines - DPIPWE

Information Bulletin No. 105: Classification and Management of Contaminated Soil for Disposal, November 2012 (IB105) - DPIPWE

⁹ **dam works footprint** means the total area of land on which dam works are to be undertaken under a Division 3 permit including the dam wall, spillway, the land to be inundated and any land on which clearance of vegetation is to be undertaken under the permit.

5.5 Saline Soils

Objective: To ensure that dam works are appropriately located or managed to minimise the potential adverse impacts to property and environment from the distribution of saline soils and potential mobilisation of salt.

Application Requirements: : In making an application for a dam works permit, an applicant whose proposed works match the circumstances in **Box A** (below) need not provide any information relating to saline soils. In all other circumstances, an applicant must address the matters and provide the information set out in **Box B** (below) as part of their application.

Box A - Circumstances where no information on saline soils is required in the application.

Dam works are not located in:

- (a) a mapped¹⁰ area of salinity; or
- (b) at a site otherwise known to contain saline soil.

Box B - All other circumstances

Matters to be addressed and information to be provided in the application:

A report of soil testing for saline soils using an approved Australian Standard technique; and

If soil testing indicates the presence of saline soils, a saline soil management plan that addresses:

- (a) the presence and extent of saline soils in the dam works footprint¹¹.
- (b) the potential for dam works to affect salinity.
- (c) information on areas potentially affected as it relates to water quality and downstream water users; natural values; and public or private assets.
- (d) proposed management measures, including the construction and operation phases and disposal of salt affected material, to reduce risk in accordance with the best practice guidelines.

Guidance Material

Soil Management a Guide for Tasmanian Farmers - DPIPWE

Salinity Glove Box Guide Tasmania - NRM North

¹⁰ Please refer to <http://dpiipwe.tas.gov.au/Documents/salinity-mapA0-web.pdf>

¹¹ **dam works footprint** means the total area of land on which dam works are to be undertaken under a Division 3 permit including the dam wall, spillway, the land to be inundated and any land on which clearance of vegetation is to be undertaken under the permit.

5.6 Coastal Zone

Objective: To ensure that dam works are appropriately located and managed to avoid significant adverse impacts to the natural and cultural values of the coast.

Application Requirements: In making an application for a dam works permit, an applicant whose proposed works match the circumstances in **Box A** (below) need not provide any information relating to the Coastal Zone. In all other circumstances, an applicant must address the matters and provide the information set out in **Box B** (below) as part of their application.

Box A - Circumstances where no information on the Coastal Zone is required in the application.

Dam works are not located within:

- (a) the Coastal Zone¹²; or
- (b) within areas of Coastal Vulnerability mapped on LISTmap.

Box B - All other circumstances

Matters to be addressed and information to be provided in the application:

A coastal zone impact assessment, so that the Department may determine that:

- (a) siting, design, construction and maintenance of dam works will be sensitive to the natural and aesthetic qualities of the coastal environment.
- (b) dam works design responds to the particular size, shape, contours or slope of the land.
- (c) the proposal includes strategies to avoid or mitigate potential adverse environmental effects.
- (d) impacts to coastal processes, including sand movement and wave action, will be minimised and any potential impacts are mitigated so that there are no significant long-term impacts.
- (e) the need for a coastal location is demonstrated.
- (f) works will be undertaken generally in accordance with the *Tasmanian Coastal Works Manual*.

Guidance Material

Tasmanian Coastal Works Manual – DPIPWE

¹² The **Coastal Zone** is defined in the *Water Management (Division 3 Declared Works) Order 2015* as all State waters, within the meaning of the *Living Marine Resources Management Act 1995*; and all land to a distance of one kilometre inland from the high-water mark.

5.7 Capacity to Pass Flows

Objective: To avoid changes to stream flow that would result in significant adverse impacts on:

- (a) persons who take water from a water resource affected by the proposed dam works; and/or
- (b) natural values that depend on stream flows.

Application Requirements: In making an application for a dam works permit, an applicant whose proposed works match the circumstances in **Box A** (below) need not provide any information relating to the capacity to pass flows. In all other circumstances, an applicant must address the matters and provide the information set out in **Box B** (below) as part of their application.

Box A - Circumstances where no information on Passing Flows is required in the application.

Dam works are not on a watercourse¹³.

Box B - All other circumstances

Matters to be addressed and information to be provided in the application:

An assessment of the dam's capacity to pass flows that provides evidence that either:

- (a) the dam's infrastructure has the capacity (e.g. outlet valve, bypass facility) to meet the passing flow requirements of the existing authority to take water into the dam; or
- (b) where a new Surety Level 5 or Surety Level 6 water allocation is required to fill the dam, the dam's infrastructure has the capacity (e.g. bypass facility) to instantaneously pass the Passing Flow Requirement (PFR)¹⁴, with 50 cm of head; or
- (c) where a new Surety Level 7 allocation is required to fill the dam, the dam has the capacity to instantaneously pass all flows up to a bankfull flow as determined by a consultant's report and verified by the Department; or
- (d) where a water allocation is not required to fill the dam, the dam's infrastructure has a bypass facility with the capacity to pass all natural inflows.

Guidance Material

Surface Water Allocation Decision Framework – DPIPWE

Guide to the Assessment of the Effect of Allocating Surface Water – DPIPWE

5.8 Dam Works in a Floodplain

¹³ **watercourse** means a river, creek or other natural stream of water (whether modified or not) flowing in a defined channel, or between banks, notwithstanding that the flow may be intermittent or seasonal or the banks not clearly or sharply defined, and includes –

- (a) a dam that collects water flowing in any such stream; and
- (b) a lake through which water flows; and
- (c) a channel into which the water of any such stream has been diverted; and
- (d) part of any such stream; and
- (da) the floodplain of any such stream –

but does not include –

- (e) a channel declared by the regulations to be excluded from this definition; or
- (f) a drain or drainage depression in the contours on the land which only serves to relieve upper land of excess water in times of major precipitation.

¹⁴ **PFR** is 50% of the median yield, at the offtake, from 1 May to 30 November inclusive (as specified by the Water Assessment Tool), divided by 214 (i.e. the number of days in the take period).

Objective: To ensure that risks to dam infrastructure and adjoining property, from watercourse flooding, are appropriately managed.

Application Requirements: In making an application for a dam works permit, an applicant whose proposed works match the circumstances in **Box A** (below) need not provide any information relating to dam works in a floodplain. In all other circumstances, an applicant must address the matters and provide the information set out in **Box B** (below) as part of their application.

Box A - Circumstances where no information on dam works in a floodplain is required in the application.

Dam works will not be located in a floodplain.

Box B - All other circumstances

Matters to be addressed and information to be provided in application:

An assessment, accompanied by any necessary engineering detail, addressing

- (a) how the dam is likely to impact upon flow velocity and flow height of overland riverine floodplain flow paths.
- (b) risks to the structural integrity (e.g. undercutting) of the dam.
- (c) inundation risks to adjoining or nearby property or public infrastructure.
- (d) risks to users of the site, adjoining or nearby land.
- (e) a mitigation plan to address any identified risks.

5.9 Storage of Treated Effluent for Reuse

Objective: To ensure that dam works for treated effluent storage are fit for purpose so that storage can be carried out in an environmentally acceptable and sustainable manner in accordance with the *State Policy on Water Quality Management 1997*, and with no adverse impacts to groundwater, watercourses, natural values or other users of any water resource.

Application Requirements: In making an application for a dam works permit, an applicant whose proposed works match the circumstances in **Box A** (below) need not provide any information relating to storage of treated effluent for reuse. In all other circumstances, an applicant must address the matters and provide the information set out in **Box B** (below) as part of their application.

Box A - Circumstances where no information on storage of treated effluent for reuse is required in the application.

Dam works will not be used for storage of treated effluent for reuse.

Box B - All other circumstances

Matters to be addressed and information to be provided in the application:

A report addressing whether the storage of treated effluent for reuse

- (a) can be carried out in an environmentally sustainable manner.
- (b) will not cause an environmental nuisance as defined by the *Environmental Management and Pollution Control Act 1994*.
- (c) will incorporate the use of best practice environmental management.
- (d) will not compromise the water quality objectives¹⁵ for surface or groundwaters.
- (e) will not give rise to an unacceptable risk to human or animal health.
- (f) will involve less net environmental risk than other strategies for dealing with the wastes.

Guidance Material

Environmental Guidelines for the Use of Recycled Water in Tasmania December 2002 – DPIPWE

¹⁵ **water quality objectives** are as set out by the *State Policy on Water Quality Management 1997*.

5.10 Harvesting Timber, Clearing Trees, or Clearing and Converting a Threatened Native Vegetation Community

Objective: To ensure the protection of environmental values¹⁶ during works to clear vegetation authorised under a Division 3 Dam Works Permit.

Application Requirements: In making an application for a dam works permit, an applicant whose proposed works match the circumstances in **Box A** (below) need not provide any information relating to harvesting timber, clearing trees, or clearing and converting a Threatened Native Vegetation Community. In all other circumstances, an applicant must address the matters and provide the information set out in **Box B** (below) as part of their application.

Box A - Circumstances where no information on harvesting timber or clearing trees is required in the application.

Dam works do not involve:

- (a) harvesting timber, clearing trees, or clearing and converting a Threatened Native Vegetation Community, on land exceeding a total area of 10 ha.
- (b) harvesting more than six tree ferns.

Box B - All other circumstances

Matters to be addressed and information to be provided in the application:

- (a) If dam works involve harvesting timber, clearing trees, or clearing and converting a threatened native vegetation community, on land exceeding a total area of 10 ha, a Dam Works Practices Plan prepared in accordance with the *Dam Works Code to Clear Vegetation 2015*.
- (b) If dam works involve harvesting more than six tree ferns¹⁷, evidence of a certified Forest Practices Plan in accordance with the *Forest Practices Code 2015*.

Guidance Material

Dam Works Code to Clear Vegetation 2015 – DPIPW

Forest Practices Code 2015 – Forest Practices Authority

¹⁶ Several elements of the Framework complement each other in the shared objective of protecting environmental values.

¹⁷ Although permitted dam works are generally exempt from the requirements of a Forest Practices Plan (FPP), one will be required if it is intended to harvest, distribute and sell tree ferns cleared from a dam site. A FPP is not required for the harvesting of tree ferns if the owner of the applicable land has consented, and no more than six tree ferns are harvested on each property during one year. The tree ferns must be for personal use only and must not be used for commercial purposes. All Tasmanian tree ferns that are distributed and sold must be tagged with tags issued by the Forest Practices Authority in accordance with the requirements of section 18A of the Forest Practices Act 1985.

5.11 Native Vegetation Communities and Threatened Flora and Fauna Species

Objective: To ensure that dam works do not result in significant adverse impacts on:

- (a) threatened native vegetation communities listed under the *Nature Conservation Act 2002*.
- (b) threatened flora species or threatened fauna species listed under the *Threatened Species Protection Act 1995*.
- (c) the nest¹⁸ or important habitat of a threatened species listed under the *Threatened Species Protection Act 1995*.
- (d) protected fish listed under the *Inland Fisheries Act 1995*.

Application Requirements: In making an application for a dam works permit, an applicant whose proposed works match the circumstances in **Box A** (below) need not provide any information relating to native vegetation or threatened flora and fauna species. In all other circumstances, an applicant must address the matters and provide the information set out in **Box B** (below) as part of their application.

Box A - Circumstances where no information on Native Vegetation Communities or Threatened Flora and Fauna Species is required in the application.

Dam works do not involve any of the following:

- (a) clearing and converting a threatened native vegetation community listed under the *Nature Conservation Act 2002*¹⁹.
- (b) taking any threatened flora or fauna species listed under the *Threatened Species Protection Act 1995*¹⁸;
- (c) destroying or damaging the nest of a threatened species listed under the *Threatened Species Protection Act 1995*.
- (d) a dam works footprint²⁰ containing any mapped records, shown on LISTmap, of:
 - threatened flora species or threatened fauna species listed under the *Threatened Species Protection Act 1995*.
 - threatened native vegetation communities listed under the *Nature Conservation Act 2002*.
 - protected fish listed under the *Inland Fisheries Act 1995*.
 - the nest of a threatened species listed under the *Threatened Species Protection Act 1995*.
- (e) a dam works footprint containing:
 - suitable habitat for a threatened flora species listed under the *Threatened Species Protection Act 1995*, which has been recorded within 5km of the dam works construction footprint¹⁵.
 - 'Significant Habitat' for a threatened fauna species as defined by the Forest Practice Authority's Biodiversity Values Database.
 - 'Potential Habitat' for a threatened fauna species as defined by the Forest Practice Authority's Biodiversity Values Database, where the dam works could result in the threatened fauna species (if present at the site) being 'taken' as defined by the *Threatened Species Protection Act 1995*.
- (f) impacts that substantially reduce the ability of a threatened or protected species to survive at a site after physical changes to the site characteristics or changes to management regimes (eg the creation of barriers to dispersal or alteration of drainage regimes).
- (g) in relation to any fish species listed under the *Threatened Species Protection Act 1995* or *Inland Fisheries Act 1995*, removing/inundating/diminishing barriers to predation/competition from introduced fish.

¹⁸ nest means

- (a) a structure or place where a bird lays eggs and shelters its young; and
- (b) an animal's breeding place, den or burrow.

¹⁹ The Department may ask for additional information if the dam works could potentially result in:

- (a) clearance and/or conversion of a native vegetation community that would cause it to qualify for a threatened status;
- (b) adverse impacts to a species in such a manner to qualify it for listing as a threatened species.

²⁰ **dam works footprint** means the total area of land on which dam works are to be undertaken under a Division 3 permit including the dam wall, spillway, the land to be inundated and any land on which clearance of vegetation is to be undertaken under the permit.

Box B - All other circumstances

Matters to be addressed and information to be provided in application:

A natural values assessment that

- (a) identifies risks from dam works to Threatened Native Vegetation Communities, Threatened Flora and Fauna Species, Protected Fish or the nest or important habitat of Threatened Species.
- (b) provides a plan (including a natural values survey report where appropriate) showing how risks to Native Vegetation Communities, Threatened Flora and Fauna Species, Protected Fish or the nest or Significant Habitat of Threatened Species are to be minimised during the undertaking of dam works.
- (c) where impacts to natural values are unavoidable, contains measures that mitigate those impacts in accordance with the Department's *Guidelines for Establishing Offsets*, including an offset management plan when required.

Guidance Material

Guidelines for Natural Values Surveys – Terrestrial development proposals – DPIPWE

Guidelines for Establishing Offsets – DPIPWE

Threatened Species Link – DPIPWE

Biodiversity Values Database – Forest Practices Authority

5.12 Protected Areas

Objective: To ensure that dam works are appropriately located and managed to avoid significant adverse impacts to natural values managed in protected areas.

Application Requirements: In making an application for a dam works permit, an applicant whose proposed works match the circumstances in **Box A** (below) need not provide any information relating to Protected Areas. In all other circumstances, an applicant must address the matters and provide the information set out in **Box B** (below) as part of their application.

Box A - Circumstances where no information regarding protected areas is required in the application.

Dam works do not involve a dam works footprint²¹ containing:

- (a) a formal reserve managed for natural values (eg National Park, State Reserve, Nature Reserve, Game Reserve, Conservation Area, Nature Recreation Area, Regional Reserve, Private Nature Reserve, Private Sanctuary, reserves under the Regional Forest Agreement).
- (b) a conservation covenant.
- (c) land managed for natural values under any Permit or Order (eg Planning Authority Permit, Tree Preservation Order).
- (d) land managed for natural values under a Part 5 Agreement (*Land Use Planning and Approvals Act 1993*).
- (e) an area of trees reserved from the harvesting of timber or the clearing of trees under an existing or expired Forest Practices Plan.
- (f) a site that is listed in a commitment that is binding on the Government, such as a bilateral, national or international agreement or planning tool arising from such an agreement (eg a Ramsar Wetland site);
- (g) a wetland listed on the Directory of Important Wetlands in Australia.

Box B - All other circumstances

Matters to be addressed and information to be provided in application:

A report that

- (a) identifies the risks from dam works to the protected area and its natural values.
- (b) provides evidence (including a natural values survey report where appropriate) that the dam works would be designed and located to minimise the impacts to the protected area and its natural values.
- (c) where impacts to natural values in protected areas are unavoidable, contains measures that mitigate those impacts in accordance with the Department's *Guidelines for Establishing Offsets*, including an offset management plan when required.

Guidelines for Establishing Offsets – DPIPW

²¹ **dam works footprint** means the total area of land on which dam works are to be undertaken under a Division 3 permit including the dam wall, spillway, the land to be inundated and any land on which clearance of vegetation is to be undertaken under the permit.

5.13 High Conservation Value Freshwater-Dependant Ecosystems

Objective: To ensure that dam works does not result in unnecessary or unacceptable adverse impacts to high conservation value freshwater-dependant ecosystems²².

Application Requirements: In making an application for a dam works permit, an applicant whose proposed works match the circumstances in **Box A** (below) need not provide any information relating to high conservation value freshwater-dependant ecosystem. In all other circumstances, an applicant must address the matters and provide the information set out in **Box B** (below) as part of their application.

Box A - Circumstances where no information on High Conservation Value Freshwater-Dependant Ecosystems is required in the application.

The dam's potential zone of influence²³ does not contain any high conservation value freshwater-dependant ecosystems listed on the Conservation of Freshwater Ecosystem Values (CFEV) database.

Box B - All other circumstances

Matters to be addressed and information to be provided in the application:

- (a) an assessment of the freshwater – dependant ecosystem values driving the high or very high conservation management priority listing, including identification of those values and advice on the likely impacts of the proposed dam works on the identified values.
- (b) if the assessment of the values driving the high or very high conservation management priority listing, or any other information, indicates that the dam works could, if unmitigated, result in adverse impacts to a high conservation value freshwater-dependant ecosystem, then the applicant must also provide:
 - evidence (including a natural values and/or geomorphic survey report where appropriate) that the dam works would be designed and located to minimise the risks to high conservation value freshwater-dependant ecosystems.
 - where impacts to freshwater-dependant ecosystems are unavoidable, information regarding proposed measures to mitigate those impacts.

Guidance Material

Conservation of Freshwater Ecosystem Values (CFEV) database – DPIPW

Guidelines for Natural Values Surveys – Terrestrial development proposals – DPIPW

Guidelines for Establishing Offsets – DPIPW

²² **high conservation value freshwater-dependant ecosystems** are listed in the Conservation of Freshwater Ecosystem Values (CFEV) database as being of high or very high conservation management priority (CMPP2)

²³ The **potential zone of influence** includes:

- dam works footprint (i.e. the total area of land on which dam works are to be undertaken under a Division 3 permit including the dam wall, spillway, the land to be inundated and any land on which clearance of vegetation is to be undertaken under the permit).
- the area extending 100 m from the maximum flood level (MFL).
- the downstream reaches of watercourses to where the accumulated mean annual runoff (according to the CFEV database) of the watercourse is $\leq 10\%$ of the total volume of the dam.