

Table 1: Comparing Tasmanian Legislation against Commonwealth Standards

	Projects of State Significance	Project of Regional Significance	Level 2 activities (EMPCA)	Level 1 activities (LUPAA)	Development affecting Aboriginal heritage	Development affecting European heritage	Mining activities	Development affecting threatened species	Forestry activities	Development affecting water resources	Development in national parks
Precautionary principle	Fair	Fair	Strong	Weak	Weak	Weak	Weak	Weak	Weak	Fair	Weak
Ecological sustainable development	Good	Fair	Good	Fair	Fair	Good	Fair	Good	Fair	Good	Fair
Adherence to international obligations	Weak	Weak	Fair	Weak	Weak	Fair	Fair	Fair	Fair	Fair	Fair
Refusing “clearly unacceptable” applications	Strong	Fair	Fair	Fair	Weak	Weak	Fair	Fair	Fair	Good	Fair
Ability to assess broader impact	Good	Fair	Good	Weak	Fair	Fair	Good	Fair	Fair	Good	Fair
Access to information	Good	Strong	Good	Fair	Good	Good	Fair	Fair	Fair	Good	Fair
Public participation	Strong	Good	Strong	Strong	Weak	Good	Weak	Fair	Weak	Fair	Good
Third party appeals	Weak	Weak	Strong	Strong	Fair	Strong	Weak	Weak	Weak	Fair	Weak
Enforcement options	Fair	Strong	Strong	Strong	Weak	Strong	Fair	Weak	Good	Good	Good
Directors’ liability	Fair	Weak	Strong	Weak	Weak	Weak	Weak	Weak	Good	Strong	Weak

- Strong** Meets or exceeds Commonwealth standards
- Good** Meets Commonwealth standards in most aspects
- Fair** Does not meet Commonwealth standards in most aspects
- Weak** Does not meet Commonwealth standards

**Ratings are based on an assessment of statutory obligations, rather than government practice. In some instances, the policy and practice of the responsible regulator goes beyond these legislative requirements, however without supporting statutory obligations there is no way to ensure that the standards are met. Part 3 provides more detail about how each criteria is addressed in respect of the different developments types assessed in the report.

Lifting the Standards: Key recommendations

- The Commonwealth government should retain powers for assessing projects that will impact on matters of national environmental significance
- Apply the precautionary principle in all development decisions
- Set clear requirements for information to be included in development applications and environmental impact assessments
- Introduce consistent planning provisions for threatened species assessments
- Refer developments to relevant agencies for advice regarding impacts on threatened species, Aboriginal heritage values and water resources
- Require a permit for any development likely to harm the habitat of listed threatened species
- Ensure all threatened species and ecologically communities listed under the EPBC Act are listed under the *Threatened Species Protection Act 1995*
- Introduce contemporary, culturally appropriate legislation to protect Aboriginal heritage
- Require all hydraulic fracturing and unconventional gas projects to be assessed by the EPA
- Allow decision makers to reject “clearly unacceptable” projects at the outset, to avoid the time and expense of detailed assessments
- Introduce new legislation to regulate vegetation clearance other than commercial forestry
- Remove the duty of care thresholds under the *Forest Practices Code*
- Require development applications, forest practices plans and works programs to be published on relevant websites
- Make it an offence to provide false and misleading information in development applications
- Preserve third party rights of appeal under LUPAA and EMPCA
- Extend rights to object to exploration and mining proposals
- Remove the requirement for offences against threatened species to be committed “knowingly”
- Make directors liable for environmental offences committed by their companies