



Pulp Mill Assessment Act 2007

An Act to provide for the assessment of the proposal by Gunns Limited for the development and operation of a pulp mill in Northern Tasmania and to revoke the [State Policies and Projects \(Project of State Significance\) Order 2004](#)

[Royal Assent 30 April 2007]

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:

1. Short title

This Act may be cited as the [Pulp Mill Assessment Act 2007](#).

2. Commencement

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

3. Interpretation

(1) In this Act, unless the contrary intention appears –

consultant means the consultant appointed by the Minister under [section 4\(1\)](#);

guidelines means the Recommended Environmental Emission Limit Guidelines for any new Bleached Eucalypt Kraft Pulp Mill in Tasmania prepared by the Resource Planning and Development Commission on behalf of the Government dated August 2004, a copy of which is set out in [Schedule 1](#);

project means the project declared by the Administrator to be a project of State significance on 22 November 2004 in Statutory Rules 2004, No. 111, being the proposal by Gunns Limited (ACN 009 478 148), as amended, for the development and operation of a bleached kraft pulp mill in northern Tasmania including any use or development which is necessary or convenient for the implementation of the project, including but not limited to the development and operation of any facility or infrastructure for –

- (a) the supply or distribution of energy to or from the mill; and
- (b) the collection, treatment or supply of water; and
- (c) the treatment, disposal or storage of waste or effluent; and
- (d) access to or from the mill; and
- (e) transport to or from the mill; and

(f) the storage of pulp at, or transport of pulp from, a sea port in the northern region or the north-western region; and

(g) the production of materials for use in association with the operation of the mill;

Pulp Mill Permit means the permit prepared by the Minister under [section 6\(8\)](#);

relevant person means a person or body, including a State Service Agency, that, in the opinion of the Minister, would, if this Act had not been enacted, be responsible for issuing or regulating a permit, licence or approval for, or regulating an action relating to, the project.

(2) Unless the contrary intention appears, an expression used in this Act has the same meaning as it has in the [Land Use Planning and Approvals Act 1993](#).

4. Assessment against guidelines

(1) The Minister is to appoint a consultant to undertake an assessment of the project, subject to [subsection \(2\)](#), against the guidelines.

(2) In undertaking an assessment under [subsection \(1\)](#), the consultant must take into account –

(a) developments in pulping technology and techniques that have occurred since August 2004; and

(b) current best available technology and environmental emission limits for a bleached kraft pulp mill processing both pine and eucalypt; and

(c) the documents received by or prepared for the Resource Planning and Development Commission for the purposes of its assessment of the project under the [State Policies and Projects Act 1993](#) including, but not limited to, the information provided by Gunns Limited (ACN 009 478 148) to the Resource Planning and Development Commission in response to the *Final Scope Guidelines for the Integrated Impact Statement – Proposed Bleached Kraft Pulp Mill in Northern Tasmania as proposed by Gunns Limited*.

(3) After undertaking an assessment of the project under [subsection \(1\)](#), the consultant is to report to the Minister, based on that assessment, that –

(a) the project should proceed; or

(b) the project should not proceed.

(4) If the consultant reports to the Minister that the project should proceed, the consultant is, in his or her report, to –

(a) state whether or not the project complies with the guidelines; and

(b) provide reasons as to why the project should proceed; and

(c) recommend matters to be considered in the conditions that should apply to the project.

5. Information to be provided

The Resource Planning and Development Commission must, on the request of the consultant or the Minister, make available to the consultant or Minister any documents received by or prepared for the Resource Planning and Development Commission for the purposes of its assessment of the project under the [State Policies and Projects Act 1993](#).

6. Assessment by relevant persons

(1) The Minister must request relevant persons to make a recommendation as to the conditions, if any, that should apply to the project.

(2) On receipt of a request, a relevant person must undertake an assessment of the conditions, if any, that should apply to the project.

(3) In undertaking an assessment, a relevant person must take account of the report of the consultant referred to in [section 4\(3\)](#).

(4) A relevant person must make a recommendation, as to the conditions that should apply to the project, to the Minister by such date as the Minister determines.

(5) A relevant person may only make a recommendation that involves or requires the issuing or regulation of a permit, licence or approval, or the regulation of an action, for which the relevant person would have been responsible if this Act, except for [section 13](#), had not been enacted.

(6) Subject to [subsection \(5\)](#), a relevant person may recommend a condition that requires the person proposing the project to apply for such other permits, licences or other approvals as may be necessary for the project.

(7) If a relevant person recommends conditions that should apply to the project, the relevant person must specify –

(a) those conditions; and

(b) the Act, if any, pursuant to which, and the permit, licence or other approval in which, each condition would normally be imposed; and

(c) the person, body or State Service Agency responsible for the enforcement of each condition.

(8) The Minister is to prepare a permit, to be called the "Pulp Mill Permit", containing the substance of the conditions recommended by a relevant person under [subsection \(4\)](#) and other matters specified under [subsection \(7\)](#).

(9) The Minister must cause the report of the consultant and the Pulp Mill Permit to be laid before each House of Parliament by no later than 31 August 2007.

(10) The Minister may table in each House of Parliament any other report that in the Minister's opinion is relevant to the project at the same time as the Minister causes the report and Pulp Mill Permit to be tabled under [subsection \(9\)](#).

7. Approval of project

(1) The project is approved if –

(a) the consultant reports to the Minister under [section 4\(3\)](#) that the project should proceed; and

(b) each House of Parliament, by resolution, accepts the Pulp Mill Permit.

(2) Each House of Parliament, by resolution, is to accept or reject the Pulp Mill Permit within 5 sitting-days from the day on which it is laid before the House.

8. Effect of approval

(1) If the project is approved under [section 7](#) –

(a) the Pulp Mill Permit comes into effect; and

(b) notwithstanding any other Act, the project may proceed on the conditions specified in the Pulp Mill Permit; and

(c) a permit, licence or other approval is taken to have been issued under the Act specified in the Pulp Mill Permit in relation to each condition and that Act applies as if such a permit, licence or other approval had been issued on the conditions set out in the Pulp Mill Permit in relation to that Act; and

(d) the person, body or State Service Agency responsible for the enforcement of each condition must enforce the condition to the extent of its powers.

(2) If the conditions require the person proposing the project to apply for such other permits, licences or other approvals as may be necessary for the project, the person proposing the project must comply with that requirement.

~~—(3) If the person proposing the project does not comply with a condition contained in the Pulp Mill Permit, the Pulp Mill Permit is suspended until such time as the condition is complied with.~~

~~—(4) The Pulp Mill Permit lapses if the project is not substantially commenced before the end of the period of 4 years commencing on the date on which the Pulp Mill Permit comes into force.~~

~~—(5) A permit that is to be taken, in accordance with [section 8\(1\)\(c\)](#), to be issued—~~

~~(a) under the *Land Use Planning and Approvals Act 1993* only lapses under [section 53\(5\)](#) of that Act when the Pulp Mill Permit lapses, if at all, under [subsection \(4\)](#); or~~

~~(b) under the *Water Management Act 1999* lapses under [section 159\(8\)](#) of that Act at the end of the period of 4 years commencing on the date on which the Pulp Mill Permit comes into force if the dam works within the meaning of that Act are not substantially completed within that 4-year period.~~

~~—(6) A permit that—~~

~~(a) is to be taken, in accordance with [section 8\(1\)\(c\)](#), to be issued under the *Land Use Planning and Approvals Act 1993* or the *Water Management Act 1999*; and~~

~~(b) would have, but for this subsection, lapsed under that Act on and from a day (the "relevant day") before this subsection commences—~~

~~is to be taken, on and from the relevant day, to have not so lapsed on and from the relevant day.~~

(4) The Pulp Mill Permit lapses if the project is not substantially commenced before the end of the period of 10 years commencing on the date on which the Pulp Mill Permit came into force.

(5) If the Pulp Mill Permit would have, but for this subsection, lapsed on and from a day (the relevant day) before this subsection commences, it is to be taken, on and from the relevant day, to have not so lapsed.

(6) The Pulp Mill Permit cannot be taken to have lapsed during the period of 10 years commencing on the date on which the Pulp Mill Permit came into force.

(7) A permit, licence or other approval –

(a) that is taken, in accordance with subsection (1)(c), to have been issued under an Act specified in the Pulp Mill Permit; and

(b) that would have, but for this subsection, lapsed under that Act on and from a date (the relevant date) before this subsection commences – is to be taken, on and from the relevant date, to have not so lapsed.

(8) A permit, licence or other approval that is taken, in accordance with subsection (1)(c), to have been issued under an Act specified in the Pulp Mill Permit lapses when the Pulp Mill Permit lapses, if at all, under subsection (4).

(9) For the purposes of this section, lapse, in relation to the Pulp Mill Permit or a permit, licence or other approval that is taken, in accordance with subsection (1)(c), to have been issued under an Act specified in the Pulp Mill Permit, does not include –

(a) the surrender –

(i) of the Pulp Mill Permit by the holder of the Pulp Mill Permit; or

(ii) of the permit, licence or other approval by the holder of the permit, licence or other approval; or

(b) the cancellation, revocation or other termination of the permit, licence or other approval by –

(i) the Minister under section 10D; or

(ii) a person, body or State Service Agency responsible for the enforcement of a condition of the permit, licence or other approval.

9. Provisions of Acts, planning schemes, &c., not to apply to project

(1) The provisions of any Act, planning scheme, special planning order or interim order –

(a) requiring the approval, consent or permission of any person in connection with any use or development in relation to the project; or

(b) empowering any body to grant or refuse its consent to any such use or development; or

(c) prohibiting any such use or development; or

(d) permitting any such use or development only upon specified terms or conditions; or

(e) regulating or permitting the regulation of any such use or development –

do not apply to the project.

(2) If –

(a) the consultant reports to the Minister under [section 4\(3\)](#) that the project should not

proceed; or

(b) a House of Parliament rejects the Pulp Mill Permit –

[subsection \(1\)](#) does not apply.

(3) On the approval of the project under section 7, subsection (1) ceases to apply.

10. Amendment of relevant planning scheme, &c.

(1) If each House of Parliament accepts the Pulp Mill Permit under [section 7](#), the Minister must, in consultation with the relevant planning authority, amend any relevant planning scheme, special planning order or interim order to remove any inconsistency between it and the Pulp Mill Permit.

(2) The [Land Use Planning and Approvals Act 1993](#) does not apply to an amendment made under [subsection \(1\)](#).

(3) Where the Minister amends a planning scheme, special planning order or interim order under [subsection \(1\)](#)–

(a) the amendment is taken to have come into operation on the last day on which a House of Parliament accepted the Pulp Mill Permit; and

(b) the Minister must give notice, in the *Gazette*, of the amendment.

10A. Sale, &c., of Pulp Mill Permit

(1) The holder of the Pulp Mill Permit may sell, assign or otherwise transfer the Pulp Mill Permit to another person.

(2) If the Pulp Mill Permit is sold, assigned or otherwise transferred to another person –

(a) the rights and obligations under the Pulp Mill Permit vest in that other person; and

(b) a permit, licence or other approval referred to in section 8(1)(c) is transferred to that other person by virtue of this subsection.

(3) If the provisions of an Act under which a permit, licence or other approval is taken, in accordance with section 8(1)(c), to have been issued would, but for this subsection, apply to the transfer of the permit, licence or other approval, those provisions do not apply to the transfer.

10B. Sale, &c., of part of Pulp Mill Permit

(1) The holder of the Pulp Mill Permit may sell, assign or otherwise transfer part of the Pulp Mill Permit to another person.

(2) If part of the Pulp Mill Permit is sold, assigned or otherwise transferred to another person –

(a) the rights and obligations under that part vest in that other person; and

(b) a permit, licence or other approval referred to in section 8(1)(c) that relates to that part is transferred to that other person by virtue of this subsection.

(3) If the provisions of an Act under which a permit, licence or other approval is taken, in accordance with section 8(1)(c), to have been issued would, but for this subsection, apply to the transfer of the permit, licence or other approval, those provisions do not apply to the transfer.

10C. Notification of sale, &c., of Pulp Mill Permit

(1) The person to whom the Pulp Mill Permit is sold, assigned or otherwise transferred, in whole or in part, must notify the Minister of the sale, assignment or transfer within 28 days of the sale, assignment or transfer.

(2) Upon receipt of notification under subsection (1), the Minister is to cause the person, body or State Service Agency responsible for the enforcement of a condition of a permit, licence or other approval transferred pursuant to section 10A(2) or 10B(2) to be notified of the sale, assignment or transfer within 28 days of the receipt of the notification.

10D. Cancellation, &c., of permit, licence or other approval

(1) The Minister, on the recommendation of a person, body or State Service Agency responsible for the enforcement of a condition of a permit, licence or other approval referred to in section 8(1)(c), may cancel, revoke or otherwise terminate the permit, licence or other approval.

(2) The Minister is to cause the person, body or State Service Agency referred to in subsection (1) to be notified of the cancellation, revocation or other termination of the permit, licence or other approval referred to in that subsection within 28 days of the cancellation, revocation or other termination.

(3) Subsection (1) does not preclude a person, body or State Service Agency referred to in that subsection from exercising a power to cancel, revoke or otherwise terminate a permit, licence or other approval.

11. Limitation of rights of appeal

(1) Subject to [subsection \(3\)](#) and notwithstanding the provisions of any other Act –

(a) a person is not entitled to appeal to a body or other person, court or tribunal; or

(b) no order or review may be made under the *Judicial Review Act 2000*; or

(c) no declaratory judgment may be given; or

(d) no other action or proceeding may be brought –

in respect of any action, decision, process, matter or thing arising out of or relating to any assessment or approval of the project under this Act.

(2) For the purposes of [subsection \(1\)](#), "any action, decision, process, matter or thing arising out of or relating to any assessment or approval of the project under this Act" includes any action, decision, process, matter or thing arising out of or relating to a condition of the Pulp Mill Permit requiring that the person proposing the project apply for such other permits, licences or other approvals as may be necessary for the project.

(3) [Subsection \(1\)](#) does not apply to any action, decision, process, matter or thing which has involved or has been affected by criminal conduct.

(4) No review under [subsection \(3\)](#) operates to delay the issue of the Pulp Mill Permit or any action authorised by that permit.

12. Administration of Act

Until provision is made in relation to this Act by order under [section 4 of the Administrative](#)

Arrangements Act 1990 –

- (a) the administration of this Act is assigned to the Minister for Planning; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Justice.

13. Legislation revoked

The legislation specified in [Schedule 2](#) is revoked.

SCHEDULE 1 - Recommended Environmental Emission Limit Guidelines for any new Bleached Eucalypt Kraft Pulp Mill in Tasmania

[Section 3](#)

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[If passed, the above Table of Amendments would include something along the lines of

Pulp Mill Assessment Amendment Act 2014

No 1 of 2014

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