

3. The Tasmanian Framework

There are over 100 individual Tasmanian Acts of Parliament that relate to environmental control in some way. They include controls on everything from fluoridation of our water supplies, to wildlife protection, to management of marine areas.

This mountain of legislation can be very off-putting but, take heart, most environmental issues are dealt with under a handful of important Acts.

The following chapters of this handbook outline the most salient aspects of this bank of environmental legislation.

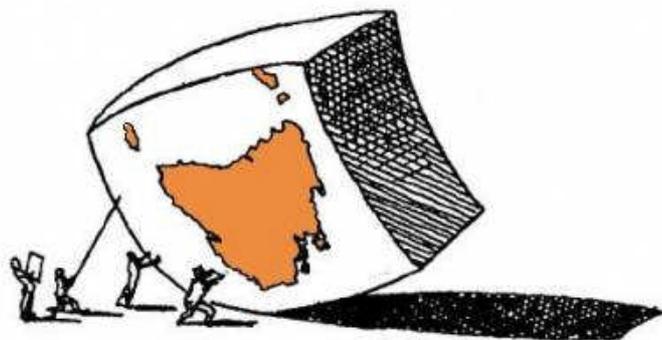
- Go to [Chapter 4](#) for a listing of the most relevant laws
- Go to [Chapter 15](#) to see how some federal laws also apply to Tasmania

3.1 How effective are Tasmania's environmental laws?

During the 1990s welcome reforms brought about a level of uniformity, rigour and fairness into Tasmania's ramshackle environmental laws. Although they have been slowly upgraded, there are still many gaping holes.

To give an indication of their haphazard nature, you can be prohibited by law from painting a heritage building the wrong colour, but there is still no legislative constraint placed on the volume of greenhouse gases that you emit.

You can be profligately wasteful of resources, but be fined heavily for littering.



What are we doing well?

Tasmania boasts a fairly sophisticated set of integrated planning laws, with considerable scope for public participation – the Resource Management and Planning System (**RMPS**).

- Go to [Chapter 4](#), [5](#) & [6](#) for a full description

The RMPS is an integrated suite of legislation at the core of our environmental and planning system – we cannot overstate its fundamental importance, especially where land use and development issues are concerned. Key features of this system include recognising the importance of sustainable development, guaranteeing opportunities for public participation in decision-making, and independent reviews of resource and land use decisions.

Unlike other states, Tasmania's Director of Public Health can require any developer to include an assessment of potential health impacts in an Environmental Impact Assessment carried out in respect of a development. For project where the State government is the proponent, climate change impacts must also be considered.

Encouragingly, a proposed ban on all plastic bags is expected to be introduced by June 2013. The proposed ban will prohibit retailers from supplying customers with lightweight plastic bags. This initiative will hopefully decrease the estimated 3.9 billion plastic bags Australians use each year.

What could we do better?

Unlike some Australian jurisdictions, Tasmania still has:

- No packaging deposit legislation (although the Packaging Covenant Action Plan is underway)
- No specific soil conservation legislation
- Limited vegetation clearance protections, particularly in bushland fringe / rural residential areas
- No waste minimisation legislation (there is legislation that governs the management of waste, but as yet there is none that specifically acts to minimise it)
- Minimal marine areas set aside as reserves (although there is policy such as the Tasmanian Marine Protected Areas Strategy)
- No legislated sea level rise benchmarks (☛ See [Chapter 7](#) for information about the new sea level rise allowances adopted by the government, but yet to be incorporated in legislation).



Where does environment fit in?

Tasmania's legislation in relation to the protection of Aboriginal cultural heritage is outdated, but is currently subject to a long overdue review.

There are also exemptions (separate regulation) for powerful industry sectors. For example, the logging industry, mineral exploration and aquaculture industries have been specifically exempted from local council planning schemes. In turn, citizens' rights of appeal and redress have been partially or extensively curtailed in the case of these industry sectors.

Where are we ahead of the pack?

The state can, however, boast a sophisticated set of planning laws, with considerable scope for public participation – the *Resource Management and Planning System (RMPS)*. The RMPS is an integrated suite of legislation. It is the hub of this state's environmental and planning system – we cannot overstate its fundamental importance, especially where land use and development issues are concerned.

A key feature of this system is that it guarantees the opportunity for public participation and review by an independent body.

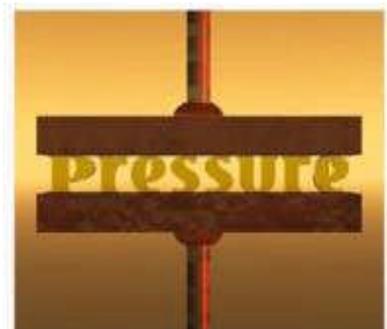
☛ Go to [Chapters 4, 5 & 6](#) for a full description of how the RMPS works

Another plus - an *Environmental Impact Assessment* carried out in Tasmania must include a *Health Impact Assessment* if required by the *Director of Public Health*. Tasmania is the only state to have such a legislated requirement.

Lobbying for better laws

Since 1990 we have seen genuine moves to progressively upgrade Tasmania's bank of environmental legislation, and this process is still gradually happening. But more recently there have been some disturbing backward moves.

Public pressure is the key to developing sound environmental legislation. The onus is on concerned citizens, business and community groups to help lobby for and assist in the retention, development and implementation of progressive and fair environmental laws in our state.



3.2 Which government agencies regulate the environment?

Environmental management in Tasmania is managed via a confusing tangle of departments and sub-agencies.

This complexity makes it difficult to manage environmental regulation and to work out who is responsible for dealing with problems.

The main agencies

Department	What it does
Primary Industries, Parks, Water and Environment	This is the department with responsibility for general environmental management, such as pollution, national parks and heritage issues, natural resource management and services to primary industries.
Justice	This department oversees the independent planning and appeals system.
Infrastructure Energy & Resources	This department oversees extractive industries, including mining, forestry and energy issues as well as transport.
Health & Human Services	This department is responsible for environmental health issues, including drinking water quality.

Having no one agency with overarching statewide responsibility for environmental management can cause some confusion, overlays and duplication. For instance, some agencies (including local councils) are currently accountable for environmental laws that are handled by several departments instead of one. These inefficiencies are a problem for developers and environmental defenders alike.

• See below for a more comprehensive outline of the various government agencies and the environmental issues that they deal with.

Independent agencies

However, Tasmania's administrative setup is characterised by important independent agencies that have key roles. These agencies are designed to be independent of any direct political influence.

They are particularly important because they guarantee significant public input into planning & development issues and environmental dispute resolution – as you will find out throughout this handbook.

<p>Tasmanian Planning Commission</p>	 <p>Resource Management and Planning Appeal Tribunal</p>	 <p>The State Ombudsman</p>	 <p>Environment Protection Authority</p>
<p>Assessment agency for planning matters</p>	<p>Publicly accessible tribunal to hear environmental and planning disputes</p>	<p>Agency reviewing citizens' complaints regarding government process</p>	<p>Assessment agency for environmentally relevant activities</p>

☛ See further below for an explanation of the roles of these agencies.

Importance of local councils

Local councils play a major role in environmental management in Tasmania.

They are delegated (via legislation) to carry out a wide range of duties in relation to most environmental issues that you are likely to face, including land use issues, planning & pollution controls, heritage & habitat protection and environmental health problems. They are the first point of call for citizens and businesses when most issues arise or if developmental plans are being drawn up.

☛ Contact details for all councils are available in the Local Government Directory on the [DPAC website](#).

Councils can also pass their own by-laws, to regulate certain activities within that specific council area.

Please note: In Tasmanian legislation, councils are often referred to as *Planning Authorities*.

3.3 How the administration is set up

Local councils

For most purposes this is your first point of contact

What councils are required to do

- They have general responsibility for local planning
- They handle development applications in the first instance
- They manage [pollution control](#) at local level (but will refer to state departments where necessary)
- They assess and regulate low-impact (Level 1) developments

Major Departments

Primary Industries, Parks, Water and Environment (DPIPWE)

EPA Division

- Provides expert environmental advice to the EPA in relation to Level 2 activities
- Sets environmental standards
- Deals with pollution 'incidents'
- Monitors fresh water quality and water pollution

Parks & Wildlife Division

- Manages terrestrial and aquatic reserves
- Regulates flora and fauna protection

Aboriginal Heritage office

- Identifies, conserves and manages Tasmania's Aboriginal heritage assets and facilitates greater community awareness of, and interaction with, Aboriginal heritage

Heritage Tasmania

- Provides support for the Tasmanian Heritage Council

Water Resources Division

- Manages fresh water & groundwater resources and water licensing.

Food and Agriculture Division

- Manages rural lands, agricultural practices, chemicals and spraying
- Manages marine farming and wild fisheries
- Jointly manages marine reserves (with *Parks & Wildlife Service*)

Biodiversity Conservation Unit

- Issues permits for taking wildlife
- Assesses applications for taking threatened species

Sea Fishing & Aquaculture

- Manages aquaculture, fisheries, the marine environment and its fish stocks

Biosecurity & Product Integrity (Including Quarantine)

- Protects against the negative impacts of pests, diseases and weeds
- Regulates introduction of genetically modified organisms

Lands Titles Office

- Manages the whole-of-government, integrated *Land Information System (LIST)*

Crown Land Services

- Oversees management, use and development of Crown Land

Natural Resource Management Unit

- Provides data, support and strategies to assist with Tasmania's overall natural resource management - in parallel with Australia-wide NRM program

Justice

- Oversees the RMPAT and the Planning Commission
- Oversees the Ombudsman and the Integrity Commission
- Coordinates Right to Information laws

Health and Human Services

Public & Environmental Health Service

- Regulates quality of food (including shellfish)
- Regulates sanitation and health standards
- Regulates quality of drinking and recreational water sources (including fluoridation)
- Involved with *Health Impact Assessments*

Infrastructure, Energy & Resources (DIER)

Infrastructure division

- Oversees state-owned businesses (GBOs) such as Forestry Tasmania, Hydro Tasmania and Aurora Energy

Transport division

- State transport planning (includes protection of roadside vegetation)

Mineral Resources Tasmania

- Manages and regulates exploration, mining and quarrying

Office of Energy Planning & Conservation

- Responsible for regulation of energy sector

Forestry Division

- Oversees Forest Practices Authority and Private Forests Tasmania
- Responsible for implementation of RFA and Permanent Forest Estate Policy

Independent Agencies

These are statutory bodies that are intended to operate without any direct political or government intervention.

Tasmanian Planning Commission

- Assesses local government [Planning Schemes](#)
- Assesses public land use issues
- Assesses [Major Development Projects](#) ('Level 3' developments)
- Reviews [Water Management Plans](#)
- Reviews [State Policies](#) and Planning Directives
- Prepares State-of-the-Environment reports
 - ☛ Go to [Chapters 4](#) and [5](#) for more information

Resource Management & Planning Appeal Tribunal

- Hears appeals against various resource management decisions
- Conducts [enforcement proceedings](#) about alleged or potential breaches of environmental laws
- Can then issue 'orders' that protect environmental (or planning) rights and values
 - ☛ Go to [Chapter 14](#) to see how it operates

State Ombudsman

- Investigates public complaints about the administrative actions of state and local government, public authorities and agencies
 - ☛ Go to [Chapter 13](#) to see how it operates

Supreme Court of Tasmania

- Final court of appeal for most matters. Civil and criminal jurisdiction
 - ☛ Go to [Chapter 14](#) to see how it operates

Tasmanian Heritage Council

- Manages historic and cultural heritage legislation, including listing of heritage sites
- Makes recommendations to planning authorities regarding development applications affecting heritage listed buildings and sites
 - ☛ Go to [Chapter 12](#) to see how it operates

Forest Practices Authority

- Develops and updates Forest Practices Code
- Regulates environmental controls in crown and private forestry, including the clearing of threatened native vegetation
 - ☛ Go to [Chapter 8](#) for more information

Environment Protection Authority

- Assesses larger developments ('level 2' developments)
- Requires and assesses environmental improvement programs

- Carries out environmental audits
- Negotiates and enforces environmental agreements
- Go to [Chapters 5](#) and [6](#) for more information

Director of the EPA

- Regulates 'level 2' developments
- Empowered to enforce pollution control laws with respect to any activity.

Other relevant agencies

Climate Change Office

- Developing and monitoring climate change policy.

Forestry Tasmania

- Regulates the commercial harvest of timber on crown land

Inland Fisheries Service

- Regulates commercial and recreational fishing in inland waters

TasWater

- Sourcing, treating and supplying drinking water
- Removing, treating and disposing of wastewater

Where to seek information

Service Tasmania centres

Purchase copies of reports / documents, ask for information and ask questions about who to contact about your concerns. There are street front offices in most major towns