EPA 265-209

Ms Sally Smith
General Manager, Planning and Development
Department of Planning, Transport and Infrastructure
GPO BOX 1815
ADELAIDE SA 5001

Dear Ms Smith

Assessment Pathways: How will they work? - Technical discussion paper

Thank you for the opportunity to comment on the Assessment Pathways: How will they work? Technical discussion paper (the Assessment Pathways paper). The Environment Protection Authority (EPA) is interested in assessment pathways from the perspective of a referral body. In particular, it is interested in the powers provided to it as a referral body under the Planning, Development and Infrastructure Act 2016 (PDI Act). The EPA has restricted its review of the Assessment Pathways paper to its areas of interest in the planning system and legal responsibilities under the Environment Protection Act 1993 (EP Act).

Section 57 of the EP Act requires that the EPA must have regard to the following considerations when responding to a development application (DA) referral:

• the objects of the EP Act
• the ‘general environmental duty’ as described in section 25 of the EP Act
• any relevant environment protection policies, and
• the waste strategy for the State as adopted under the Green Industries SA Act 2004 (if relevant).

It should be noted that each environment protection policy contains specific further detail about what must be taken into account when assessing DAs referred to the EPA (i.e. noise, air quality, water quality and waste). It is important to understand this legislative framework as it requires the EPA to have regard to EP Act considerations above those referenced in the planning system. The EPA has been cognisant of this when preparing its response to the Assessment Pathways paper.

This letter contains a summary of the EPA’s high level and general comments on the Assessment Pathways paper while Attachment 1 includes a detailed response to certain specific questions asked in the paper and Attachment 2 includes EPA’s recommendations about the need for certain types and scales of development proposals to be assessed via the Impact Assessed pathway.
Elements

The EPA is familiar and works with 'activities' which are generally tied to land uses and not always built form. The EPA considers that the term 'element' needs to be defined as the Assessment Pathways paper suggests that different elements of a DA could be assessed via different assessment pathways. This need is highlighted by the comment on page 30 that "if a code assessed development application incorporates an element of 'accepted' development, assessment of that element is not required". The example given on page 29 of accepted development is a verandah in a standard residential zone. Similarly, it could be expected that a farm shed (of a certain size, setback etc.) would be an 'accepted' development in a primary production zone. However, various activities that could have off-site human health and/or environmental impacts could be proposed within the farm shed (e.g. crushing of agricultural products, wine making, abrasive blasting etc.) and should preferably be assessed via the ‘code assessed’ or ‘impact assessed’ pathway.

Impact assessed development

At its 11 September 2018 meeting, the EPA Board endorsed those activities that it considers should be prescribed by regulations as always needing to be designated as ‘impact assessed’ forms of development. Multiple factors informed the EPA Board’s recommendations, including past major development declarations, recent EPA environmental impact assessment experience, EPA licence fee components, National Pollutant Inventory data, and a jurisdictional comparison.

Attachment 2 contains the activities that the EPA recommends should be prescribed as Impact Assessed development. Such recommendations are grouped into two categories: (1) major infrastructure, and (2) emissions and hazardous industry.

DA referrals

The EPA’s DA referral review was conducted in line with ‘Guiding Principles’ endorsed by the EPA Board at its 20 March 2018 meeting. Those ‘Guiding Principles’ were communicated to the Department of Planning, Transport and Infrastructure (DPTI) via a letter dated 28 March 2018.

The ‘Guiding Principles’ recognise that an EPA referral should be necessary where an EPA licence is required to operate the proposed development or where there is the potential for ‘serious’ or ‘material’ environmental harm, as defined under the EP Act.

The EPA’s recommendations about the DA referrals it wishes to receive under the POI Act were communicated to DPTI via a letter dated 14 September 2018. The EPA’s recommendations were:

- based on a review of its current DA referrals against risk-based principles; and
- aligned with policy matters of state interest identified within the draft State Planning Policies.

As mentioned above, where an EPA referral is triggered under the new planning system, section 57 of the EP Act sets out criteria to be considered by the EPA in relation to the assessment of DAs. This important connection between the EP Act and the PDI Act will remain when the new assessment pathways commence. For this reason, it is inappropriate for DA referral triggers to referral bodies, such as the EPA, to be embedded in the Planning and Design Code (the P&D Code) as a planning instrument should not seek to fetter the discretion afforded by the EPA’s head powers as contained in section 57 of the EP Act. This circumstance was contemplated in the drafting of the PDI Act, as
section 122(2)(b) specifies that the Minister has the power to waive the requirement to have referral policy in the P&D Code if the Minister is satisfied this is not necessary or appropriate.

Provision of information
A large number of the DAs referred to the EPA do not contain the basic information requirements specified in Schedule 5 of the Development Regulations 2008.

Since receiving legal advice from the Crown Solicitor in 2013 that it could choose to not accept any DA referred to it if it does not meet the requirements of Schedule 5, the EPA has sought to obtain such information from applicants (through the relevant planning authorities), where possible, before commencing its assessment process. This requires the EPA to spend unproductive time seeking this basic information.

Even when referred DAs contained the basic Schedule 5 information, the EPA sends at least one further information request letter to applicants for a large number of applicants (71% of all referred DAs in 2017) before adequate information is obtained for EPA assessment purposes. In a small number of cases up to four further information requests have been required.

To this end, the EPA has developed a referral checklist to assist applicants which can be found on the EPA’s website at: https://www.epa.sa.gov.au/business_and_industry/environmental_planning/referral-checklist.

This checklist represents a refinement of the current Schedule 5 information requirements and should, as a minimum, become a basic information requirement for DAs that require referral to the EPA under the PDI Act.

Reserved matters
Under the current planning system the EPA would like the opportunity to apply reserved matters to some planning consents but does not have the legal ability to do so.

The EPA considers that referral bodies should be able to use reserve matters in addition to relevant authorities. If this was possible it may assist a referral body to support an application without requesting detailed supporting information to form part of the application. However, if a reserve matter was required at the direction of a referral body such as the EPA, a re-referral of the application to the referral body should be required to enable a review of whether the reserve matter has been satisfied and whether any further conditions may be necessary.

Preliminary advice
The EPA already undertakes pre-lodgement advice (preliminary advice under the PDI Act) and occasionally enters into a formal pre-lodgement agreement with an applicant where the EPA is highly likely to support the application. The EPA has only entered into a very small number (approximately 1 per year) of formal pre-lodgement agreements since Section 37AA was introduced into the Development Act 1993 in 2007.

The EPA supports the provision of informal preliminary advice to applicants. The EPA provides pre-lodgement advice to approximately 10-15% of all applicants that ultimately have their DAs formally referred to the EPA. The EPA has found that early engagement with applicants results in better
quality DAs and also improved relationships with applicants and their consultants resulting in quicker assessment times and less further information requests.

**Crown development and essential infrastructure**

The EPA has advised many times during the drafting of the PDI Act and through the development of various planning instruments that waste depots should be considered as essential infrastructure. However, it has not received an explanation from DPTI about why such facilities are not considered to be essential infrastructure. Therefore, the EPA reiterates the need for such developments to be included in the definition of essential infrastructure.

**Outline consents**

An ‘outline consent’ would not be suitable for DAs that require referral to the EPA. Any consent issued without first undertaking any necessary referrals would undermine the referral process and the directive powers provided to referral bodies. If a DA referral to the EPA was required it would undertake its assessment in accordance with Section 57 of the EP Act and may require further detailed information and possible reports to make its final determination. Therefore, it would be inappropriate to introduce the option of providing an ‘outline consent’ into the new planning system for DAs that would require subsequent referral to referral bodies.

**Deemed planning consent**

The EPA considers that a ‘deemed planning consent’ should only be available to applicants that have provided all relevant information requirements for their DA without the need for any further information requests from the relevant planning authority and/or referral body. If there are no further information requests required during the DA assessment process, timeframes are more easily tracked as the clock is not having to be stopped and started again which may otherwise introduce discrepancies, particularly where an applicant has not adequately responded to a further information request. In addition, offering the ‘deemed planning consent’ pathway to applicants who have provided the correct information up front is also an appropriate incentive.

**ePlanning development application process flow chart**

The EPA considers that the flow chart on page 14 of the Assessment Pathways paper needs to be workshopped with one or more referral bodies. Development assessment, including referral of DAs and public notification, is not a linear process. The EPA understands that this flow chart was prepared to assist with the development of an ePlanning system. The EPA has had an electronic tracking and processing system for assessing and responding to DAs since 2007. The EPA has experience with using such a system for different categories of DA referrals and is available to assist DPTI when developing the ePlanning system.
For further information on this matter, please contact Kym Pryde on [redacted].

Yours sincerely

Kathryn Bellette
DIRECTOR, STRATEGY AND ASSESSMENT
ENVIRONMENT PROTECTION AUTHORITY

Date: 19 Oct '18
ATTACHMENT 1 – EPA’S RESPONSE TO QUESTIONS IN THE ASSESSMENT PATHWAYS PAPER

Q7. What types of principles should be used when determining ‘restricted’ development types in the Planning and Design Code?

During the drafting of the PDI Act ‘restricted development’ was described as “only able to be changed by way of a rezoning” and was likened to prohibited development in the Development Assessment Forum model. Therefore, the EPA has always interpreted ‘restricted development’ as being anything that has no reasonable prospect of the potential impacts being assessed by policy. The Assessments Pathways paper does not reflect the language used by the Expert Panel or DPTI up until now.

The EPA notes the example used in the paper is a winery in a Water Protection district. Many of our wine regions are in Water Protection districts. In fact, many years have been spent developing policy for the Mt Lofty Ranges to allow wineries in this ‘district’ due to political pressure and they are not ‘restricted’. The Assessment Pathways paper references that the impacts are unknown and difficult to qualify. This is untrue. The EPA has experience in assessing the potential impact of winery DAs and it is certainly able to quantify them. The EPA considers that wineries are not a suitable example of the type of development that should be listed as restricted.

The EPA is generally happy with the dot points on page 34, however it questions the redefinition and extension of the role of ‘restricted development’ presented in the Assessment Pathways paper. If used, as proposed in the paper, it would lead to many more DAs be considered by SCAP than was originally contemplated.

The EPA’s Evaluation Distances for effective air quality and noise management publication (the Evaluation Distance publication) does have a number of activities that have minimum evaluation distances from sensitive receptors. Ideally, these activities would be categorised as ‘restricted development’ if they were proposed within the minimum distance to a sensitive receptor or zone referenced in the EPA’s Evaluation Distances publication.

Q8. How should restricted development be assessed? What other considerations outside of the Code should be taken into account?

Similar to when a ministerial decision is being made, consideration must be given to all relevant State laws, including the EP Act (particularly the general environmental duty) and relevant Environment Protection Policies.

Q9. What scale of development and/or impact types would be suited to the impact assessment (not restricted) pathway?

As referenced in the covering letter, the EPA Board has endorsed those activities that it considers should be prescribed by regulations as always needing to be impact assessed.
To determine which development proposals might have a high potential for causing serious environmental harm, and classification as impact assessed development, consideration was given to:

- previous major development declarations
- discussions with DPTI on their grounds for recommending past projects to the Minister for Planning for declaration as major developments
- recent EPA assessment experience with significant proposals including Crown-sponsored development
- EPA licence fee structure
- National Pollutant Inventory data, and in particular industries that feature in the Top 10 emissions for key substances nationally (industries that include metal smelting releasing substances such as lead and compounds, carbon monoxide, mercury, sulphur dioxide, and volatile organic compounds; sewerage services releasing nitrogen and phosphorus; and fossil fuel electricity generation releasing oxides of nitrogen, polychlorinated dioxins and furans), and
- jurisdictional comparison of major development systems.

In addition to these factors, consideration was given to community expectations around the assessment of essential infrastructure versus private proposals. With essential infrastructure there is typically a balancing act in considering social and economic impacts when evaluating the predicted short and long term environmental impacts of the proposal.

In contrast, the social and economic impact of private proposals is typically measured through an employment generation and/or capital investment value. As a consequence, when a private proposal presents a threat of causing serious environmental harm it is typically more difficult to justify the public value of the proposal when compared to an essential infrastructure proposal with a comparable threat of harm.

In view of these considerations, recommendations for impact assessed development have been separated into two classes: major infrastructure, and emissions and hazardous industry. The title of ‘emissions and hazardous industry’ was chosen as it aligns with the draft Ministerial State Planning Policy, released by the State Planning Commission. Specific recommendations for both classes of potential impact assessed development are contained in Attachment 2.

Q14. What type of information should be submitted with deemed-to-satisfy applications? Are the current requirements in Schedule 5 of the Development Regulations 2008 sufficient/too onerous?

Many of the applications received by the EPA lack sufficient basic information resulting in the EPA spends unproductive time seeking this information. Presumably the relevant authority also spend significant time doing this.

Since receiving legal advice from the Crown Solicitor in 2013 that it could choose to not accept any DA referred to it if it does not meet the requirements of Schedule 5, the EPA has sought to obtain such information from applicants (through the relevant planning authorities), where possible, before commencing its assessment process.
Even when referred DAs contained the basic Schedule 5 information, the EPA sends at least one further information request letter to applicants for a large number of applicants (71% of all referred DAs in 2017) before adequate information is obtained for EPA assessment purposes. In a small number of cases up to four further information requests have been required.

To this end, the EPA has developed a referral checklist to assist applicants which can be found on the EPA’s website at: https://www.epa.sa.gov.au/business_and_industry/environmental_planning/referral-checklist.

This checklist represents a refinement of the current Schedule 5 information requirements and should, as a minimum, become a basic information requirement for DA’s that require referral to the EPA under the POI Act. It may also be appropriate for the information requirements to be tailored to the activities or land uses proposed in DAs in the future (similar to the Guide for applicant series).

Q15. Should relevant authorities (including accredited professionals) be allowed to dispense with the requirement to provide the mandatory information listed by the regulations/code/practice directions?

In order to maintain the integrity of the planning system, the EPA considers that all applications should include basic minimum information. Beyond such basic information, there should be further information requirements tailored to the land use and/or form of development. The EPA also recommends (assuming it is possible from an information technology perspective) that the ePlanning system tailor any information requirements for particular types of DAs to the applicable Planning and Design Code policy. For instance, if the Planning and Design Code applicable policy relates to Water Sensitive Urban Design policy, then the information requirement would include the need for details about stormwater management design measures.

Q16. Should a referral agency or assessment panel be able to request additional information/amendment, separate to the one request of the relevant authority?

Yes, the EPA often requests specific data or reports in order to assess referred DAs against the criteria referred to in Section 57 of the EP Act, including relevant Environment Protection Policies with associated technical requirements. As a result, the EPA often requests detailed noise, air, waste and/or water quality reports or data from applicants.

The EPA commonly finds that when it requests additional information on a DA, the DA may be varied and/or the activities that may have triggered the referral to the EPA are expanded. For example, the EPA may get a referral for a poultry farm DA but when information is requested on how the application proposes to deal with waste it is identified that composting (a separate referral activity) is also proposed on-site. This may then require another information request on that specific ‘element’/ activity. If a separate element is identified through an information request presumably this new element would be subject to a new and different referral or, at a minimum, the timeframe is reset. How might an ePlanning system deal with situations such as these?
Q17. Should there be an opportunity to request further information on occasions where amendments to proposal plans raise more questions/assessment considerations?

As stated above, the EPA often seeks further information which then provides more detail about the DA or, additionally, it becomes aware of another element of the DA that requires a separate referral. Presumably if a new element is identified this would be subject to a separate referral with its own fee, timeframe and information requirements.

Where the EPA cannot obtain adequate information in support of a DA and, as a result, has concerns about whether the DA meets the requirements of section 57 of the EP Act, it may need to direct refusal of the DA.

Q19. When, where and for what kind of development would an outline consent be appropriate and beneficial?

An 'outline consent' would not be suitable for DAs that require referral to the EPA. Any consent issued without first undertaking any necessary referrals would undermine the referral process and the directive powers provided to referral bodies. If a DA referral to the EPA was required it would undertake its assessment in accordance with Section 57 of the EP Act and may require further detailed information and possible reports to make its final determination. Therefore, it would be inappropriate to introduce the option of providing an 'outline consent' into the new planning system for DAs that would require subsequent referral to referral bodies.

Q21. What types of development referrals should the regulations allow applicants to request for deferral to a later stage in the assessment process?

At this stage it is unclear if DA referrals to referral bodies will be required for all assessment pathways, including 'impact assessed' and Crown development. Given this, and for similar reasons detailed above for 'outline consent', the EPA considers that deferral of an EPA referral is not ideal (noting the pressure that may be exerted on the EPA to support a DA that has already received a number of consents or support at prior stages, particularly where the EPA may have concerns). However, assuming the EPA has directive powers, regardless of when the referral is made, then it could prove to be a workable option in some situations.

Q22. The Act stipulates that preliminary advice may be obtained from agencies. Should there also be a formal avenue for applicants to seek preliminary advice from the relevant authority?

The EPA already undertakes pre-lodgement advice (preliminary advice under the PDI Act) and occasionally enters into a formal pre-lodgement agreement with an applicant where the EPA is highly likely to support the application. The EPA has only entered into a small number (approximately 1 per year) of formal pre-lodgement agreements entered since Section 37AA was introduced to the Development Act 1993 in 2007.

The EPA supports the provision of informal preliminary advice to applicants. The EPA provides pre-lodgement advice to approximately 10-15% of all applicants that ultimately have their DAs formally referred to the EPA. The EPA has found that early engagement with applicants results in better
quality DAs and also improved relationships with applicants and their consultants resulting in quicker assessment times and less further information requests.

Whilst the EPA is a supporter of preliminary advice if it were to be received from a relevant authority how would this work if a referral is required? Could the relevant authority reasonably enter into a preliminary advice agreement in these circumstances? Perhaps relevant authority preliminary advice agreements should be limited to cases where referrals or public notification is not required.

**Q23. Should there be a fee involved when applying for preliminary advice?**

The EPA considers that a fee should be applicable to all development application assessment services, including preliminary advice agreements. The EPA currently invoices applicants when a formal pre-lodgement agreement is processed and considers that this should continue. The EPA currently offers informal pre-lodgement advice without fee and anticipates that it will continue to do so in the future.

**Q25. Are the current decision timeframes in the Development Act 1993/ Regulations 2008 appropriate?**

In its letter to DPTI dated 14 September 2018 the EPA recommended that 30 business days should be the applicable timeframe for DA referrals to the EPA.

The current DA referral timeframes in the Development Act 1993 and Development Regulations 2008 use a variety of business days, days and weeks which is problematic. As ‘business days’ is defined in the POI Act, all timeframes should be expressed in business days.

**Q26. Should a deemed planning consent be applicable in cases where the timeframe is extended due to:**

- a referral agency requesting additional information/amendment
- absence of any required public notification/referral
- any other special circumstances?

The EPA considers that a ‘deemed planning consent’ should only be available to applicants that have provided all relevant information requirements for their DA without the need for any further information requests from the relevant planning authority and/or referral body. It there are no further information requests required during the DA assessment process, timeframes are more easily tracked as the clock is not having to be stopped and started again which may introduce discrepancies, particular where an applicant has not adequately responded to a further information request. In addition, offering the ‘deemed planning consent’ pathway to applicants who have provided the correct information up front is also an appropriate incentive.

**Q27. What types of standard conditions should apply to a deemed consent?**

If there is the likelihood that interfaces between land uses/activities may be an issue then the EPA considers that conditions that seek to control potential off-site air and/or noise impacts would normally be necessary. The EPA would also like the see a general note made to the need for
developments to be undertaken in accordance with the general environmental duty as described in section 25 of the EP Act.

The EPA considers that if there is a current DA referral when a deemed planning consent is initiated the ePlanning system should notify the referral body that such a deemed planning consent has been initiated.

Q28. **What matters should be addressed by a practice direction on conditions?**

Any practice direction on conditions should provide clear advice to ensure that relevant authorities condition in a similar way for similar or the same types of DAs.

A practice direction could detail when it is appropriate to use conditions, including when and how to address matters such as reinforcing critical parts of the proposed development.

Any practice direction should include any legal guiding principles such as the do’s and don’ts of condition making. Ideally, the EPA would also like to see clarity on when the use of management (during construction and also ongoing) conditions is appropriate.

Q29. **What matters related to a development application should be able to be reserved on application of an applicant?**

Under the current planning system the EPA would like the opportunity to apply reserved matters to some planning consents but does not have the legal ability to do so.

The EPA considers that referral bodies should be able to use reserve matters in addition to relevant authorities. If this was possible it may assist a referral body to support an application without requesting detailed supporting information to form part of the application. However, if a reserve matter was required at the direction of a referral body such as the EPA, a re-referral of the application to the referral body should be required to enable a review of whether the reserve matter has been satisfied and whether any further conditions may be necessary.

Q32. **What types of Crown Development should be exempt from requiring approval (similar to Schedule 14 under the current Development Regulations 2008)?**

A government workshop should be held to discuss and consider this important question particularly as there are many activities licensed by the EPA licences that are currently listed in Schedule 14 of the Development Regulations 2008.

The definition of railway activities that are not development, as defined in Schedule 3 of the Development Regulations 2008, is overly complex and the EPA considers it could easily be simplified. The EPA has also had recent experience with developments that fit within the following Schedule 14, 1(1)(da) definition: the undertaking of any development for a period of not more than 2 years for the purposes of research, investigation or pilot plants (e.g. the Renewal SA soil bank at Gillman which was originally developed as a pilot plant without development approval).

The EPA’s experience with the latter type of development has highlighted that if the site is already developed and it requires a licence to operate under the EP Act it can be very difficult bringing them
up to an appropriate industry standard. These types of developments can become more permanent raising questions about the temporary nature of the original proposal and it being exempt from requiring development approval. This could potentially cross into the energy development proposal space. Again, the EPA questions if these types of developments should be exempt from requiring development approval.

Q33. *Are there any other forms of development/work that should be included in the definition of 'essential infrastructure'?*

The EPA has expressed many times during the drafting of the PDI Act and through the development of various planning instruments that waste depots should be included in the definition of 'essential infrastructure'. The EPA also recommends that cemeteries and crematoriums should be included in the definition of essential infrastructure.

**Staged consent and adaptive management**

Despite the Assessment Pathways paper not including a specific question about 'staged consents', the EPA considers it necessary to provide feedback on this issue. The PDI Act refers to staged consents or approvals in s119(12). However, there is no further detail about how it is expected to work. Some more description around what is considered a 'stage of development' would assist with this but also in responding to the EPA's questions (raised above) about outline consent and deferral of referrals. In addition, how do any of these processes or consents align with 'elements'?

There is a risk that assessing individual elements (including stages) of a proposal, as opposed to a comprehensive assessment of the entire proposal, may result in less certainty about the suitability of the final development. The EPA also considers that if applicants apply for the staged consent option, perhaps they need to sign some sort of form/disclaimer noting the risks this poses them in relation to assessment of their total final application.
## ATTACHMENT 2 - Impact assessed development recommendations

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<tr>
<th>Major Infrastructure</th>
<th>Threshold</th>
<th>Rationale</th>
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<tr>
<td><strong>Energy</strong></td>
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<td><strong>1. Energy recovery from waste</strong> – the thermal treatment of waste involving direct combustion of 200,000 tonnes or more per year, or the gasification(^1) or pyrolysis(^2) of 50,000 tonnes or more of waste per year</td>
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<td><strong>2. Energy generation and storage facilities</strong> – using any energy source other than waste with a capacity to generate more than 500 megawatts (MW)</td>
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\(^1\) The gasification of waste is a process that converts organic or fossilised organic material such as coal, at elevated temperatures and with controlled amounts of oxygen, into a synthetic gas (syngas).

\(^2\) Pyrolysis is described as a thermo-chemical decomposition of organic or inorganic material - for example synthetic tyres - at elevated temperatures in the absence of oxygen.
### Major Infrastructure

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<th>Threshold</th>
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<tr>
<td><strong>Sewerage &amp; waste</strong></td>
<td>Thresholds derived from the Environment Protection Regulations 2009 maximum environmental management fee units for sewage treatment works or septic tank effluent disposal schemes. 1,000ML threshold equates to an approximate treatment capacity equivalent to 15,000 to 20,000 persons (the City of Port Lincoln is within this range). Beneficial wastewater reuse options are limited at these design discharge volumes. Significant odour issues are also common at these treatment volumes.</td>
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**Wastewater treatment works** - sewage treatment works or community wastewater management systems discharging 1,000 megalitres (ML) or more per year to land or marine or inland waters.

**Waste depots** -
(a) for disposal of solid waste, a depot receiving more than 200,000 tonnes per year
(b) for disposal of liquid waste, a depot receiving more than 100,000 kilolitres per year
(c) for resource recovery or transfer, a depot receiving more than 200,000 tonnes per year
(d) for mechanical and biological treatment, a depot receiving 25,000 tonnes or more per year of municipal solid and/or commercial and industrial waste.

**Port facilities & dredging**

**Port or wharf facility** - capable of handling materials into or from vessels at a rate exceeding 10 million tonnes per year

A throughput exceeding 10 million tonnes is likely to include bulk ores or minerals. Port or wharf facilities are generally constructed in sheltered environments such as rivers, bays and estuaries. These areas are usually ecologically significant and are known to be more sensitive to the influx of pollutants.

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3 The licence fee system is based on ‘user pays’ and ‘polluter pays’ principles, where licence fees reflect the EPA’s regulatory effort as well as the amount and type of pollutants discharged to the environment.
### Major Infrastructure

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<td>Past major projects include the bulk exports ports of Cape Hardy (30 million tonnes/yr) and Port Bonython (50 million tonnes/yr). The combined throughput of all berths at Port Adelaide exceeds 10 million tonnes/yr.</td>
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<td>(a) located in, or likely to impact, a specially protected area (covered by River Murray Act 2003, Adelaide Dolphin Sanctuary Act 2005, Marine Parks Act 2007), or sensitive receiving environment and extracts more than 500,000 cubic metres; or (b) 1,000,000 cubic metres elsewhere in the State.</td>
<td>Dredging on this scale would likely occur every day for many months with a risk or turbidity and mobilisation of contaminated sediments. The lower threshold for specially protected areas or sensitive environments reflects the communities’ expectations for assessment scrutiny in these areas. Dredging more than 1 million m3 is uncommon in SA.</td>
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### Desalination

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<th>Threshold</th>
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<tr>
<td></td>
<td>Thresholds derived from the Environment Protection Regulations 2009 maximum environmental management fees units for desalination. The Adelaide Desalination Plant (ADP) is capable of exceeding a discharge of 10,000 ML/yr. (Apart from the ADP, Nyrstar and Olympic Dam are the only facilities in the state capable of exceeding a discharge of 500 ML/yr although for process water rather than drinking water supply purposes).</td>
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<td>(a) 10,000 ML or more per year to marine waters</td>
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<tr>
<td>(b) 500 ML or more per year to inland waters or land (other than to a wastewater lagoon).</td>
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### Emissions and hazardous industry

Emissions and hazardous industry should be classified as impact assessed development where there is high potential of serious environmental harm (including where the proposal seeks to avoid or minimise existing or predicted serious environmental harm) arising from an activity of environmental significance (or multiple activities) having regard to the following factors:

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<td><strong>a.</strong></td>
<td>the nature (amount, toxicity or characteristic) of any waste or pollution produced by the activity</td>
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<td><strong>b.</strong></td>
<td>the current state of technical knowledge and likelihood of successful application of the various pollution and waste control measures that might be taken</td>
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<td><strong>c.</strong></td>
<td>the sensitivity of likely affected populations</td>
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<td><strong>d.</strong></td>
<td>the sensitivity of the receiving environment including the location of the activity relative to <em>specially protected areas</em> (covered by the <em>River Murray Act 2003</em>, <em>Adelaide Dolphin Sanctuary Act 2005</em>, <em>Marine Parks Act 2007</em> and water protection areas declared under the <em>Environment Protection Act 1993</em>)</td>
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<td><strong>e.</strong></td>
<td>the likely extent of impacts having regard to their type, size, scope, intensity and duration, and</td>
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<td><strong>f.</strong></td>
<td>the degree to which impacts are predictable.</td>
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