

**STATEMENT OF REASONS FOR DECISION UNDER SECTION 158 OF THE
ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999**

I, MALCOLM BLIGH TURNBULL, Minister for the Environment and Water Resources, provide this statement of reasons under subsection 158(7) of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) for my decision under subsection 158(3) to exempt the Tasmanian Government from the application of all of the provisions of Part 3 of the EPBC Act in relation to the following action:

The release of up to 2,000 megalitres (ML) of water from Lake Crescent, Tasmania, for purposes critical to human need, including for town supply, domestic supply for riparian land holders and for stock, between 7 November 2007 and 31 May 2008.

Legislation

1. Section 158 of the EPBC Act provides:

158 Exemptions from Part 3 and this Chapter

- (1) A person proposing to take a controlled action, or the designated proponent of an action, may apply in writing to the Minister for an exemption from a specified provision of Part 3 or of this Chapter.
- (2) The Minister must decide within 20 business days of receiving the application whether or not to grant the exemption.
- (3) The Minister may, by written notice, exempt a specified person from the application of a specified provision of Part 3 or of this Chapter in relation to a specified action.
- (4) The Minister may do so only if he or she is satisfied that it is in the national interest that the provision not apply in relation to the person or the action.
- (5) In determining the national interest, the Minister may consider Australia's defence or security or a national emergency. This does not limit the matters the Minister may consider.
- (6) A provision specified in the notice does not apply in relation to the specified person or action on or after the day specified in the notice. The Minister must not specify a day earlier than the day the notice is made.
- (7) Within 10 business days after making the notice, the Minister must:
 - (a) publish a copy of the notice and his or her reasons for granting the exemption in accordance with the regulations; and
 - (b) give a copy of the notice to the person specified in the notice.

Background

2. On 22 October 2007, the Tasmanian Minister for Primary Industries and Water, the Hon David Llewellyn MHA, applied for an exemption under section 158 of the EPBC Act in relation to a proposed release of water from Lake Crescent for essential water supplies to the town of Bothwell, for stock and domestic purposes within the Clyde River Valley and possible fire fighting.
3. On 7 November 2007 I decided, in accordance with section 158 of the EPBC Act, to exempt the Tasmanian Government, and those acting of behalf of the government, from the application of all of the provisions of Part 3 of the EPBC Act in relation to the proposed release of water for essential water supplies.

Evidence or other material on which my findings were based

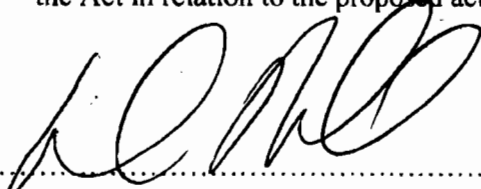
4. The evidence or other material on which my findings were based was a brief from my Department of 30 October 2007.

Findings on material questions of fact

5. I found that, in the absence of significant rainfall or releases of water from Lake Crescent, there would likely be immediate and significant shortfalls in the availability of water supplies for critical human needs and for stock within the Clyde River Valley.
6. I found that there was no readily available alternative option for providing water for essential town supplies to Bothwell, for domestic supplies to rural properties and for stock watering.
7. I found that Minister Llewellyn undertook to minimise the water releases through late spring to autumn for essential needs and that measures will be implemented to restrict water usage by Bothwell residents during this period.
8. I found that maintenance of appropriate water levels and conditions in Lake Crescent is critical to the listed threatened Golden Galaxias and the Interlaken Lakeside Reserve declared Ramsar wetland. I found that it is likely that the proposed action was likely to have a significant impact on these matters protected by Part 3 of the EPBC Act and therefore would be a controlled action requiring assessment and approval under the Act if an exemption was not granted.
9. I found that adherence to the assessment and approval process under the EPBC Act would prevent the timely release of water supplies from Lake Crescent for essential human and stock needs if the provisions of Part 3 applied to the action.

Reasons for decision

10. In light of my findings in paragraphs 5, 6, 7 and 9, and taking into account my findings in paragraph 8, I concluded that it was in the national interest that the proposed action to release water for essential human and stock needs not be subject to environmental assessment and approval under the EPBC Act. I therefore decided to grant an exemption from all of the provisions of Part 3 of the Act in relation to the proposed action.



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Minister for the Environment and Water Resources

20 11 2007