

## **MARKED-UP VERSION OF PRINCIPAL ACT**

**All provisions that are being amended or inserted are accurate; other provisions that are not related to the amendments may contain minor omissions for technical reasons**

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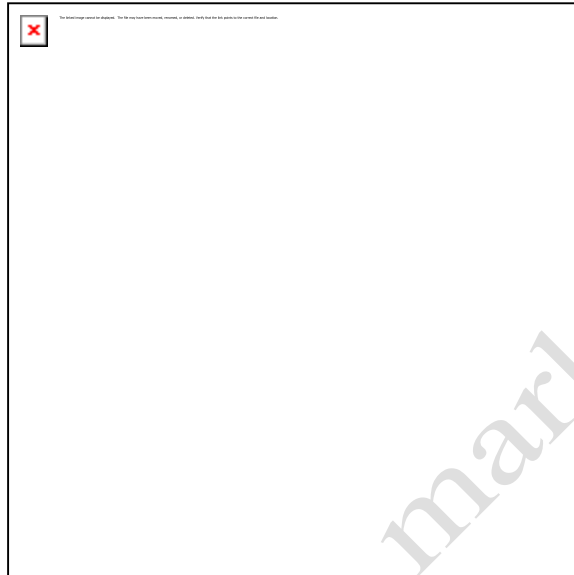
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2020***

TASMANIA



**LAND USE PLANNING AND APPROVALS ACT**  
**1993**

**No. 70 of 1993**

**An Act to make provision for land use planning and approvals**

**[Royal Assent 9 November 1993]**

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:



## Part 1 – Preliminary

### 1. Short title

This Act may be cited as the *Land Use Planning and Approvals Act 1993*.

### 2. Commencement

The provisions of this Act commence on a day or days to be proclaimed.

### 3. Interpretation

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

**"accredited person"** means a person accredited or approved for the purposes of this Act under –

- (a) the *Fire Service Act 1979*; or
- (b) any other prescribed legislation;

**"agreement"** means an agreement entered into under **Part 5**;

**"amendment of an LPS"** means an amendment, of an LPS, that is approved under section 40Q;

**"amendment of the SPPs"** means an amendment, of the SPPs, that is made under section 30P, section 30NA(6) or section 30NB(3);

**"Appeal Tribunal"** means the Tasmanian Civil and Administrative Tribunal;

**"authorised officer"** means a person who, under **section 65I**, is, or is authorised to be, an authorised officer;

**"building"** includes –

- (a) a structure and part of a building or structure; and
- (b) fences, walls, out-buildings, service installations and other appurtenances of a building; and
- (c) a boat or a pontoon which is permanently moored or fixed to land;

**"bushfire hazard management plan"** means a plan showing means of protection from bushfires in a form approved in writing by the Chief Officer;

**"certifiable scheme or order"** means a planning scheme prescribed for the purposes of section 50A;

**"certifiable permitted use or development"** means a use, or development, that is prescribed for the purposes of section 50A;

**"Chief Officer"** means the person appointed as Chief Officer under **section 10 of the *Fire Service Act 1979***;

**"Commission"** means the Tasmanian Planning Commission established under

the *Tasmanian Planning Commission Act 1997*;

**"conservation"** includes preservation, maintenance, sustainable use and restoration of the natural and cultural environment;

**"council"** has the same meaning as in the *Local Government Act 1993*;

**"development"** includes –

- (a) the construction, exterior alteration or exterior decoration of a building; and
- (b) the demolition or removal of a building or works; and
- (c) the construction or carrying out of works; and
- (d) the subdivision or consolidation of land, including buildings or airspace; and
- (e) the placing or relocation of a building or works on land; and
- (f) the construction or putting up for display of signs or hoardings –

but does not include any development of a class or description, including a class or description mentioned in paragraphs (a) to (f), prescribed by the regulations for the purposes of this definition;

**"discretionary permit"** means a permit to which **section 57** applies or to which, but for **section 40Y(5)**, **section 57** would apply;

**"dispensation"** means a dispensation granted under this Act;

**"Executive Commissioner"** means the person from time to time holding that office under the *Tasmanian Planning Commission Act 1997*;

**"general manager"**, in relation to a council, means a person who is appointed under **section 61 of the *Local Government Act 1993*** as the general manager of the council;

**"land"** includes –

- (a) buildings and other structures permanently fixed to land; and
- (b) land covered with water; and
- (c) water covering land; and
- (d) any estate, interest, easement, servitude, privilege or right in or over land;

**"Local Provisions Schedule"** means a Local Provisions Schedule that is in effect under **section 35M(3)** and includes such a Schedule as amended, if at all, by an amendment of an LPS that is in effect under **section 40S(1)**;

**"LPS"** means a Local Provisions Schedule;

**"LPS criteria"** means the matters specified in section 34;

**"major project"** has the meaning it has in section 60B;

**"major project permit"** means a major project permit granted under section 60ZZM;

**"modification"** includes elaboration, enlargement, alteration and substitution;

**"municipal area"** includes a part of a municipal area;

**"municipal district"** means a municipal area;

**"municipality"** means a council;

**"owner"** means –

- (a) in the case of a fee simple estate in land, the person in whom that estate vested; or
- (b) in the case of land not registered under the *Land Titles Act 1980* and subject to a mortgage, the person having, for the time being, the equity of redemption in that mortgage; or
- (c) in the case of land held under a tenancy for life, the person who is the life tenant; or
- (d) in the case of land held under a lease for a term of not less than 99 years or for a term of not less

than such other prescribed period,  
the person who is the lessee of  
the land; or

- (e) in the case of land in respect of  
which a person has a prescribed  
interest, that person; or
- (f) in the case of Crown land within  
the meaning of the *Crown Lands  
Act 1976*, the Crown in right of  
the State of Tasmania –

but does not include the holder of an  
interest in land other than the Crown in  
right of Tasmania if the interest of the  
holder cannot reasonably be discovered  
by a search of the Register, within the  
meaning of the *Land Titles Act 1980*, or a  
search conducted at the Registry, within  
the meaning of the *Registration of Deeds  
Act 1935*.

**"permit"** means any permit, approval or  
consent required by a planning scheme to  
be issued or given by a municipality in  
respect of the use or development of any  
land;

**"permitted use or development certificate"**  
means a certificate, issued under section  
50B, that is in force;

**"person"** includes a department, or other  
agency of Government of the State or the  
Commonwealth and an authority of the  
State or the Commonwealth;

**"planning appeal"** means an appeal under **section 61**;

**"planning authority"** means a council;

**"planning certifier"** means a person to whom has been issued an authorisation, under section 80C, that is in force;

**"planning compliance certificate"** means a planning compliance certificate, within the meaning of section 60ZE(1), that has been issued under section 60ZD and is in force;

**"planning scheme"** – see **section 10(2)(a)**;

**"regional area"** means an area specified in a notice under **section 5A** to be a regional area;

**"regional land use strategy"**, in relation to a regional area, means the regional land use strategy declared under **section 5A** in relation to the area;

**"relevant agency"** means –

- (a) a department or other agency of Government of the State or of the Commonwealth; or
- (b) an authority of the State or of the Commonwealth established for a public purpose; or
- (c) a person undertaking a function for the public benefit –

declared by the regulations to be a relevant agency for the purposes of the provision in which the expression occurs or for the purposes of a matter prescribed in the regulations;

**"representation"**, in relation to –

- (a) a draft of the SPPs or the TPPs, a draft amendment of the SPPs or the TPPs, a draft LPS or a draft amendment of an LPS; or
- (b) an application for a permit; or
- (c) a project in respect of which a major project permit may be granted –

includes a written statement of facts or reasons in support of or in opposition to the draft, application or project;

**"Special Local Provisions Schedule"** means a Special Local Provisions Schedule, approved under **section 35Q(3)**, that is in effect;

**"Special LPS"** means a Special Local Provisions Schedule;

**"special planning order"** means an order that was, at any time before the substitution of section 47 of this Act by the Tasmanian Planning Scheme Amendment Act, in operation under this Act;

**"SPPs criteria"** means the matters specified in **section 15**;



**"State authority"** means any body or authority, whether incorporated or not, that is –

- (a) established or constituted under a written law or under the royal prerogative; and
- (b) a body, or authority, which, or of which the governing authority, wholly or partly comprises a person, or persons, appointed by the Governor, a Minister or another State authority;

**"State Policy"** means a Tasmanian Sustainable Development Policy made under **section 11**, or that comes into operation under **section 12**, of the *State Policies and Projects Act 1993*;

**"Tasmanian Planning Policies"** means the Tasmanian Planning Policies made under **section 12G(2)**, as amended from time to time under that section as applied by **section 12H(3)**;

**"Tasmanian Planning Scheme"** – see **section 9**;

**"Tasmanian Planning Scheme Amendment Act"** means the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015*;

**"the SPPs"** means the State Planning Provisions;

**"the State Planning Provisions"** means the State Planning Provisions, made under

section 27, that are in effect under section 29(2) as part of the Tasmanian Planning Scheme, as those Provisions are amended, if at all, under Division 2 of Part 3 by an amendment of the State Planning Provisions that is in effect as part of the Tasmanian Planning Scheme under section 30R(2);

"the TPPs" means the Tasmanian Planning Policies;

"use", in relation to land, includes the manner of utilising land but does not include the undertaking of development;

"water and sewerage certificate" means a certificate issued under section 50D;

"works" includes any change to the natural or existing condition or topography of land including the removal, destruction or lopping of trees and the removal of vegetation or topsoil, but does not include forest practices, as defined in the *Forest Practices Act 1985*, carried out in State forests.

- (2) Words and expressions used both in this Act and in the *Local Government Act 1993* have in this Act, unless the contrary intention appears, the same respective meanings as they have in that Act.

#### **4. Application of Act**

- (1) This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.
- (2) Subject to **subsection (3)**, this Act applies to all parts of the State except such parts as may from time to time be prescribed in the regulations and, in particular, applies to land in Wellington Park, as defined in the *Wellington Park Act 1993*.
- (3) **Part 3** of this Act does not apply to public land, within the meaning of the *Public Land (Administration and Forests) Act 1991*, that is the subject of a reference to the Commission.

#### **5. Objectives to be furthered**

It is the obligation of any person on whom a function is imposed or a power is conferred under this Act to perform the function or exercise the power in such a manner as to further the objectives set out in **Schedule 1**.

#### **5A. Regional areas and regional land use strategies**

- (1) The Minister, by notice in the *Gazette*, may specify the regional areas into which the State is divided for the purposes of this Act.
- (2) A notice under **subsection (1)** is to specify the municipal areas that are within a regional area specified in the notice.

(3) The Minister, by notice in the *Gazette*, may declare a regional land use strategy for a regional area.

(3A) The Minister, having received advice from the Commission, must not declare a regional land use strategy unless he or she is satisfied that it –

(a) furthers the objectives set out in *Schedule 1*; and

(b) is consistent with each State Policy; and

(c) is consistent with the TPPs.

(4) The Minister must consult with –

(a) the Commission; and

(b) the planning authorities; and

(c) the State Service Agencies, and State authorities, as he or she thinks fit –

before issuing a notice under *subsection (3)*.

(5) A regional land use strategy may incorporate or refer to any document prepared, by a planning authority in respect of a municipal area to which the regional land use strategy relates, for the purposes of reflecting the application of the regional land use strategy to the municipal area.

(6) The Minister must keep all regional land use strategies under regular and periodic review.

(7) The Minister must, in reviewing a regional land use strategy under *subsection (6)*, consider whether the regional land use strategy –

- (a) furthers the objectives set out in **Schedule 1**; and
  - (b) is consistent with each State Policy; and
  - (c) is consistent with the TPPs.
- (8) The Minister must review all regional land use strategies as soon as practicable after making the TPPs, or an amendment of the TPPs, so as to determine whether the strategies are consistent with the TPPs, or the amendment, respectively.

## **6. Delegation**

- (1) [This component has been omitted.]
- (2) [This component has been omitted.]
- (3) A planning authority may, by resolution, delegate any of its functions or powers under this Act other than this power of delegation to a person employed by the authority.
- (4) A delegation may be made either generally or as otherwise provided by the instrument of delegation.
- (5) Notwithstanding any delegation, a planning authority may continue to perform or exercise all or any of the functions or powers delegated.
- (6) A function or power performed or exercised by a delegate has the same effect as if performed or exercised by a planning authority.

**7. Application of Tasmanian Planning Scheme, and exercise by municipalities of powers, in respect of accretions from sea, &c.**

A planning scheme and the Tasmanian Planning Scheme may apply to, and a municipality may exercise its powers under this Act in respect of–

- (a) any accretion from the sea, whether natural or unnatural, adjoining its municipal district; and
- (b) any part of the sea-shore to the low-water mark adjoining its municipal district; and
- (c) all bridges, jetties, wharves, boat-houses and other structures partly within its municipal district and partly in or over the sea adjacent to its municipal district; and
- (d) any area of the sea directly adjoining its municipal district in, on, over or under which any use or development is related to, or affects, the use of any adjacent land, subject to **section 11(3)(c)** and **(d)**.

**8. Functions of Commission**

The functions of the Commission under this Act are to –

- (a) when required to do so under this Act, prepare draft SPPs, draft Special LPSs, draft LPSs, draft amendments of the SPPs and draft amendments of LPSs and conduct public exhibition, and prepare reports, in relation to such drafts; and

- (ab) conduct reviews of the SPPs, the TPPs and the LPSs, when required to do so under this Act; and
- (ac) approve Local Provisions Schedules, Special Local Provisions Schedules and amendments of LPSs; and
- (ad) establish panels that are to assess major projects and are to determine whether to grant or refuse to grant major project permits in relation to such projects; and
- (b) perform such other functions as are imposed on it by or under this Act.

#### **8A. Guidelines**

The Commission may, with the approval of the Minister, issue guidelines for the purpose of assisting planning authorities in respect of –

- (a) the preparation of draft LPSs and draft amendments of LPSs; and
- (b) the implementation and operation of the Tasmanian Planning Scheme.

## **Part 2 – The Tasmanian Planning Scheme**

### **9. The Tasmanian Planning Scheme**

- (1) There is to be a Tasmanian Planning Scheme.
- (2) The Tasmanian Planning Scheme consists of –
  - (a) the State Planning Provisions; and
  - (b) each Local Provisions Schedule and each Special Local Provisions Schedule.

### **10. Tasmanian Planning Scheme in relation to particular municipal area**

- (1) The Tasmanian Planning Scheme, in relation to a municipal area, consists of –
  - (a) the State Planning Provisions that are, under **section 30(2)**, in effect in relation to the municipal area, as the State Planning Provisions are amended by any amendment, of the State Planning Provisions, that is, under **section 30S(2)**, in effect in relation to the municipal area; and
  - (b) the Local Provisions Schedule that is, under **section 35M(3)**, in effect in relation to the municipal area, as the Local Provisions Schedule is amended from time to time by any amendment of an LPS, that is, under **section 40S(1)**, in effect in relation to the municipal area; and



- (c) any Special LPS that is, under *section 35R(1)*, in effect in relation to the municipal area.

(2) In this Act, a reference to –

- (a) a planning scheme is a reference to –
  - (i) the Tasmanian Planning Scheme in relation to the municipal area to which the planning scheme relates; or
  - (ii) a planning scheme that is taken to be in force in relation to the municipal area by virtue of *Schedule 6*; and
- (b) a planning authority, in relation to an LPS, a Special LPS or a planning scheme, is a reference to the planning authority in respect of the municipal area to which the LPS, Special LPS or planning scheme applies.

## **11. Contents of planning schemes and Tasmanian Planning Scheme**

(1) In this section –

**"fishing"** means fishing as defined in the *Living Marine Resources Management Act 1995* and as conducted in accordance with that Act;

**"forestry operations"** includes the processes and works connected with –

- (a) the establishment of forests; and

- (b) the growing of timber; and
- (c) the harvesting of timber; and
- (d) land clearing, land preparation, burning off, road construction, and associated quarry works, conducted in relation to an activity specified in paragraph (a), (b) or (c);

**"marine farming"** means marine farming as defined in the *Marine Farming Planning Act 1995* and as conducted in accordance with that Act and the *Living Marine Resources Management Act 1995*;

**"proclaimed wharf area"** means the area of a wharf, the boundaries of which have been defined, altered or redefined under the *Marine Act 1976* before the commencement of the *Port Companies Act 1997*;

**"State waters"** means State waters as defined in the *Living Marine Resources Management Act 1995*.

(2) Subject to this Act, a planning scheme or the Tasmanian Planning Scheme may –

- (a) make any provision which relates to the use, development, protection or conservation of any land; and
- (b) set out policies and specific objectives; and
- (c) regulate or prohibit the use or development of any land; and

- (d) set out requirements for the provision of public utility services to any land; and
  - (e) require specified things to be done to the satisfaction of the relevant agency or a planning authority; and
  - (f) apply, adopt or incorporate any document which relates to the use, development or protection of any land; and
  - (g) provide that any use or development of any land is conditional on an agreement being entered into under **Part 5**; and
  - (h) set out provisions relating to the implementation in stages of uses or developments; and
  - (i) provide for any other matter which this Act permits, or requires, to be included in the Tasmanian Planning Scheme; and
  - (j) provide for an application to be made to a planning authority to bring an existing use of land that does not conform to the Tasmanian Planning Scheme into conformity, or greater conformity, with the Tasmanian Planning Scheme; and
  - (k) make any provision that relates to a matter referred to in this subsection.
- (3) Nothing in a planning scheme or the Tasmanian Planning Scheme affects –
- (a) forestry operations conducted on land declared as a private timber reserve under the *Forest Practices Act 1985*; or

- (b) the undertaking of mineral exploration in accordance with a mining lease, an exploration licence, a special exploration licence, or a retention licence, issued under the *Mineral Resources Development Act 1995*, provided that any mineral exploration carried out is consistent with the standards specified in the Mineral Exploration Code of Practice, published by Mineral Resources Tasmania, as in force from time to time; or
  - (c) fishing; or
  - (d) marine farming in State waters.
- (4) **Subsection (3)(d)** does not apply to –
  - (a) any bridge, jetty, wharf, boathouse, shed, pipeline, or other structure, that is used in connection with marine farming and that is constructed wholly or in part on, or above, the high water mark; or
  - (b) a use or development on any accretion from the sea.
- (5) It is not a defence to a charge of an offence of using or developing land in a municipal area in contravention of a planning scheme or this Act that, after the offence was committed, the use or development has become lawful under a provision of a planning scheme or the Tasmanian Planning Scheme in relation to the municipal area.
- (6) A planning scheme or the Tasmanian Planning Scheme may require a use to which **section 12(1)**

applies to comply with a code of practice approved or ratified by Parliament under an Act.

- (7) A planning scheme or the Tasmanian Planning Scheme is not to prohibit or require a discretionary permit for the use or development of a proclaimed wharf area for port and shipping purposes.

## **12. Existing uses and developments**

- (1) Subject to **subsections (5), (6) and (7)**, nothing in a provision of a planning scheme, or of the Tasmanian Planning Scheme, in relation to a municipal area is to be taken (including by virtue of requiring a permit to be obtained) to –
  - (a) prevent the continuance of the use, of any land, in the municipal area, upon which buildings or works are not erected, for the purposes for which the land was being lawfully used immediately before the provision came into effect; or
  - (b) prevent –
    - (i) the use, of any building in the municipal area that was erected before that provision came into effect in relation to the municipal area, for any purpose for which the building was lawfully being used immediately before the provision came into effect in relation to the municipal area; or
    - (ii) the maintenance or repair of such a building; or

- (c) prevent the use, of any works constructed in the municipal area before the provision came into effect in relation to the municipal area, for any purpose for which the works were being lawfully used immediately before the provision came into effect in relation to the municipal area; or
  - (d) prevent the use of any building, or works, in the municipal area, for any purpose for which it or they were being lawfully erected, or carried out, immediately before the provision came into effect in relation to the municipal area; or
  - (e) require the removal or alteration of any lawfully constructed buildings, or works, in the municipal area.
- (2) Nothing in a provision of a planning scheme, or the Tasmanian Planning Scheme, in relation to a municipal area is to be taken to prevent a development, in the municipal area –
- (a) that is a development in relation to which a permit, or a major project permit, is in force; and
  - (b) that is a development that was not completed before the provision came into effect in relation to the municipal area –

from being completed within 3 years of that provision coming into effect in relation to the municipal area or any lesser or greater period specified in respect of the completion of that development under the terms of the permit or

another permit or to prevent the use of the land on which the development is carried out for any use that is authorised by the permit.

- (3) Nothing in a provision of a planning scheme, or the Tasmanian Planning Scheme, in relation to a municipal area is to be taken to prevent a development, in the municipal area –

(a) that is a development –

(i) that was, before the commencement of the provision, a development in relation to which a permit under this Act was not required; and

(ii) in relation to which a permit, or a certificate of likely compliance, under the *Building Act 2016* is in force; and

(iii) that was not completed before the provision came into effect in relation to the municipal area; or

(b) that is a development that was lawfully commenced but was not completed before the provision came into effect in relation to the municipal area –

from being completed within 3 years of that provision coming into effect in relation to the municipal area or to prevent the use of the land for the purposes for which the development was carried out.

- (4) Nothing in a provision of a planning scheme, or the Tasmanian Planning Scheme, in relation to a municipal area is to be taken to prevent

(including by virtue of requiring a permit to be obtained) the reconstruction of a building, or restoration of works, that is or are destroyed or damaged and was or were integral and subservient to a lawfully established existing use, whether or not the use conforms to the provision, if –

- (a) the destruction or damage was not caused intentionally by the owner of that building or those works; and
- (b) the building or works was or were lawfully established before the provision came into effect in relation to the municipal area –

or to prevent the use of the reconstructed building or works for the purposes for which they were reconstructed or restored.

- (5) **Subsections (1), (2), (3) and (4)** do not apply to, or in relation to, a use of land –

- (a) that has stopped for a continuous period of 2 years; or
- (b) that has stopped for 2 or more periods which together total 2 years in any period of 3 years; or
- (c) that is seasonal in nature, if the use does not take place for 2 years in succession.

- (6) **Subsection (1)** does not apply to the extension or transfer from one part of a parcel of land to another of a use previously confined to the first-mentioned part of that parcel of land.



- (7) Subsections (1), (2), (3) and (4) do not apply to, or in relation to, a use, of any land, building or work, that is substantially intensified.

consultation mark-up

## **Part 2A – Tasmanian Planning Policies**

### **12A. Interpretation of Part 2A**

In this Part –

**"exhibition notice"**, in relation to a draft of the TPPs, means the exhibition notice published under **section 12D(1)** in relation to the draft;

**"exhibition period"**, in relation to a draft of the TPPs, means the period specified, in accordance with **section 12D(3)(a)**, in the exhibition notice as the exhibition period in relation to the draft;

**"exhibition premises"**, in relation to a draft of the TPPs, means premises –

- (a) to which the public has access during normal business hours; and
- (b) that are specified, in accordance with **section 12D(3)(b)(i)**, in the exhibition notice in relation to the draft of the TPPs;

**"TPP criteria"** means the matters referred to in **section 12B(4)**.

## **12B. Contents and purposes of Tasmanian Planning Policies**

- (1) The purposes of the TPPs are to set out the aims, or principles, that are to be achieved or applied by –
  - (a) the Tasmanian Planning Scheme; and
  - (b) the regional land use strategies.
- (2) The TPPs may relate to the following:
  - (a) the sustainable use, development, protection or conservation of land;
  - (b) environmental protection;
  - (c) liveability, health and wellbeing of the community;
  - (d) any other matter that may be included in a planning scheme or a regional land use strategy.
- (3) The TPPs may specify the manner in which the TPPs are to be implemented into the SPPs, LPSs and regional land use strategies.
- (4) The TPPs must –
  - (a) seek to further the objectives set out in **Schedule 1**; and
  - (b) be consistent with any relevant State Policy.

## **12C. Draft of the TPPs**

- (1) The Minister may prepare a draft of the TPPs.

(2) The Minister must consult with –

- (a) the Commission; and
- (b) the planning authorities; and
- (c) the State Service Agencies, and the State authorities, as the Minister thinks fit –

in relation to the intention to prepare a draft of the TPPs and a draft of the TTPs.

(3) The Minister, by notice to the Commission, may –

- (a) provide to the Commission a draft of the TPPs; and
- (b) direct the Commission to undertake public exhibition in relation to the draft of the TPPs.

#### **12D. Public exhibition of draft of the TPPs**

(1) The Commission, as soon as practicable after receiving a notice under **section 12C(3)** in relation to a draft of the TPPs, must ensure that an exhibition notice in relation to the draft of the TPPs is published in accordance with this section.

(2) The exhibition notice is to be published once before, and once within 14 days after, the first day of the exhibition period, in a newspaper that is published, and circulates generally, in Tasmania.

(3) An exhibition notice is to –

- (a) specify the period that is to be the exhibition period in relation to the draft of the TPPs; and
  - (b) specify that a copy of the draft of the TPPs is or will be –
    - (i) available for viewing by the public during the exhibition period at premises, that are offices of the Commission, specified in the notice; and
    - (ii) available for viewing and downloading by the public, during the exhibition period, at an electronic address specified in the notice; and
  - (c) contain an invitation to all persons and bodies to, within the exhibition period, make to the Commission a representation in relation to the draft of the TPPs by submitting the representation to –
    - (i) the premises specified in the notice in accordance with paragraph (b)(i); or
    - (ii) an electronic address specified in the notice.
- (4) The exhibition period, in relation to a draft of the TPPs, is to be a period of 60 days, which period –
- (a) begins on the day on which the draft of the TPPs begins to be available for viewing by the public at exhibition

premises in accordance with **subsection (6)(a)**; and

(b) excludes any days on which the exhibition premises are closed during normal business hours.

(5) The Commission must, as soon as practicable after receiving notice under **section 12C(3)** in relation to a draft of the TPPs, give to each planning authority –

(a) a copy of the draft of the TPPs; and

(b) an invitation to make to the Commission a representation in relation to the draft of the TPPs.

(6) The Commission must ensure that copies of the draft of the TPPs are, for the exhibition period –

(a) available for viewing by the public at the exhibition premises; and

(b) available for viewing and downloading by the public at an electronic address specified in the exhibition notice.

## **12E. Representations**

(1) A person or body may make to the Commission a representation in relation to a draft of the TPPs that is available for viewing by the public at the exhibition premises in accordance with **section 12D(6)**.

(2) A representation in relation to a draft of the TPPs –

- (a) is to be made under **subsection (1)** within the exhibition period in relation to the draft of the TPPs; and
  - (b) must be made by submitting the representation to the premises, or to the electronic address, that are specified, in accordance with **section 12D(3)(b)**, in the exhibition notice in relation to the draft of the TPPs.
- (3) For the purposes of this Part, any matter, contained in a representation under **subsection (1)** in relation to a draft of the TPPs, that does not relate to the contents or merits of the draft is not to be taken to be part of the representation.
- (4) The Commission must consider all representations under **subsection (1)** in relation to a draft of the TPPs.

## **12F. Report by Commission**

- (1) The Commission, as soon as practicable after the end of the exhibition period in relation to a draft of the TPPs –
  - (a) must consider whether it is satisfied that the draft of the TPPs meets the TPP criteria; and
  - (b) is to consider whether there are any matters of a technical nature, or that may be relevant, in relation to the application of the TPPs to –

- (i) the Tasmanian Planning Scheme;  
or
    - (ii) each regional land use strategy –
  - if the TPPs were made under **section 12G(2)** in the terms of the draft of the TPPs; and
  - (c) may, if it thinks fit, hold one or more hearings in relation to the representations received under **section 12E**.
- (2) The Commission, within 90 days, or a longer period allowed by the Minister, after the end of the exhibition period in relation to a draft of the TPPs, must provide to the Minister a report in relation to the draft of the TPPs.
- (3) The report in relation to a draft of the TPPs is to contain –
- (a) a summary of the issues raised in the representations in relation to the draft of the TPPs; and
  - (b) a statement as to whether the Commission is satisfied that the draft of the TPPs meets the TPP criteria; and
  - (c) a statement as to whether there are any matters of a technical nature, or that may be relevant, in relation to the application of the TPPs to –
    - (i) the Tasmanian Planning Scheme;  
or
    - (ii) each regional land use strategy –



if the TPPs were made under **section 12G(2)** in the terms of the draft of the TPPs.

## **12G. Making of the TPPs**

- (1) The Minister may inform himself or herself, in the manner he or she thinks fit, in relation to a draft of the TPPs.
- (2) The Minister may make, or refuse to make, the Tasmanian Planning Policies in the terms of the draft of the TPPs modified, if at all, as the Minister thinks fit.
- (3) If the Minister intends to substantially modify the TPPs from the draft of the TPPs, the Minister must direct the Commission to comply with **sections 12D** and **12F** in relation to the substantially modified TPPs as if the draft was a draft of the TPPs provided to the Commission under **section 12C(3)**.
- (4) The Minister may only make, or refuse to make, the Tasmanian Planning Policies under **subsection (2)** after considering the report provided to him or her under **section 12F(2)** in relation to a draft of the TPPs or a substantially modified draft of the TPPs under **subsection (3)**.
- (5) The Minister may not make the Tasmanian Planning Policies unless the Minister is satisfied, on advice from the Tasmanian Planning Commission, that they meet the TPP criteria.
- (6) As soon as practicable after, under **subsection (2)**, making the Tasmanian Planning Policies, the Minister must publish a notice in the *Gazette* –

- (a) specifying that the Minister has made the Tasmanian Planning Policies; and
  - (b) specifying –
    - (i) a day, after the day on which the notice is published in the *Gazette*, on which the Tasmanian Planning Policies come into effect; or
    - (ii) a period, after the day on which the notice is published in the *Gazette*, at the end of which the Tasmanian Planning Policies come into effect.
- (7) The Tasmanian Planning Policies made under **subsection (2)** come into effect –
- (a) on the day specified, in the notice published in the *Gazette* under **subsection (6)**, as the day on which the Tasmanian Planning Policies are to come into effect; or
  - (b) on the day after the end of the period specified, in the notice published in the *Gazette* under **subsection (6)**, as the period at the end of which the Tasmanian Planning Policies are to come into effect.
- (8) As soon as practicable after, under **subsection (2)**, refusing to make the Tasmanian Planning Policies in the form of a draft of the TPPs, the Minister must publish a notice in the *Gazette* that the Minister has refused to make the Tasmanian Planning Policies and publish his or her reasons for refusing to make the TPPs.

- (9) As soon as practicable after, under **subsection (2)**, making the Tasmanian Planning Policies, the Minister must publish in a newspaper that is published, and circulates generally, in Tasmania, a notice –
- (a) specifying that the Minister has made the Tasmanian Planning Policies; and
  - (b) specifying –
    - (i) a day on which the Tasmanian Planning Policies come into effect; or
    - (ii) a period, after the day on which the notice is published in the *Gazette*, at the end of which the Tasmanian Planning Policies come into effect; and
  - (c) specifying, if the Tasmanian Planning Policies are in the terms of a draft of the TPPs modified as the Minister thinks fit, the reasons why the Minister modified the draft of the TPPs, including the evidence on which the Minister has based his or her reasons on.

## **12H. Amendments of the TPPs**

- (1) The Minister may prepare a draft amendment of the TPPs.
- (2) A draft amendment of the TPPs, and an amendment of the Tasmanian Planning Policies, may consist of –

- (a) an amendment of one or more of the provisions of the TPPs; or
  - (b) the insertion of one or more provisions into the TPPs; or
  - (c) a revocation of one or more of the provisions of the TPPs; or
  - (d) the substitution of one or more of the provisions of the TPPs.
- (3) Except in relation to a draft amendment to which **subsection (5)** applies, this Part applies in relation to a draft amendment of the TPPs as if –
  - (a) a reference in this Part to a draft of the TPPs or the TPPs were a reference to the draft amendment of the TPPs or to an amendment of the TPPs, respectively, except that –
    - (i) the reference in **section 12D(4)** to 60 days is to be taken to be a reference to 42 days; and
    - (ii) the reference in **section 12F(2)** to 90 days is to be taken to be a reference to 60 days; and
  - (b) a reference in this Part to the Tasmanian Planning Policies were a reference to an amendment of the Tasmanian Planning Policies.
- (4) The Minister may determine that a draft amendment of the TPPs is a minor amendment, if –

- (a) the Minister is of the opinion that the public interest will not be prejudiced if the draft amendment of the TPPs is not publically exhibited; and
- (b) the draft amendment of the TPPs is for one or more of the following purposes:
  - (i) correcting an error in the TPPs;
  - (ii) removing an anomaly in the TPPs;
  - (iii) clarifying or simplifying the TPPs;
  - (iv) amending a provision of the TPPs other than so as to change the intent of a policy expressed in the TPPs;
  - (v) bringing the TPPs into conformity with a State Policy;
  - (vi) a prescribed purpose.

(5) Section 12G, other than section 12G(4), applies, in relation to a draft amendment of the TPPs that is determined under subsection (4) to be a minor amendment, as if a reference in that section to a draft of the TPPs, or the Tasmanian Planning Policies, were a reference to the draft amendment of the TPPs, and to an amendment of the Tasmanian Planning Policies, respectively.

## **12I. Minister to review the TPPs**

- (1) The Minister is to keep the TPPs under regular and periodic review.
- (2) The Minister must at the end of every 5-year period after the TPPs are made –
  - (a) conduct a review of the TPPs and the implementation of the TPPs; or
  - (b) by notice to the Commission, direct the Commission to conduct a review of the TPPs and the implementation of the TPPs and provide to the Minister a report in relation to the review within the period specified in the notice; or
  - (c) the Minister must table a report on the review conducted under **paragraph (a)** or provided by the Commission under **paragraph (b)**, in Parliament as soon as practicable.

## **Part 3 – State Planning Provisions**

### ***Division 1 – Making of State Planning Provisions***

#### ***Subdivision 1 – Interpretation of Division 1***

### **13. Interpretation of Division 1**

In this Division –

**"exhibition notice"**, in relation to a draft of the SPPs, means the exhibition notice published under **section 22** in relation to the draft of the SPPs;

**"exhibition period"**, in relation to a draft of the SPPs, means the period specified, in accordance with **section 22(3)(a)**, in the exhibition notice as the exhibition period in relation to the draft of the SPPs;

**"exhibition premises"**, in relation to a draft of the SPPs, means premises –

- (a) to which the public has access during normal business hours; and
- (b) that are specified, in accordance with **section 22(3)(b)(i)**, in the exhibition notice in relation to the draft of the SPPs;

**"explanatory document"**, in relation to a draft of the SPPs, means an explanatory document approved under **section 16(5)** in relation to the draft of the SPPs;

**"relevant exhibition documents"**, in relation to a draft of the SPPs, means –

- (a) the terms of reference in accordance with which the draft of the SPPs was prepared; and
- (b) the draft of the SPPs; and
- (c) any document applied, adopted or incorporated in the draft of the SPPs; and
- (d) the explanatory document in relation to the draft of the SPPs.

***Subdivision 2 – Contents, criteria and explanatory documents in relation to SPPs***

**14. Contents of State Planning Provisions**

(1) The SPPs –

- (a) may contain any provision that may, under **section 11**, be included in the Tasmanian Planning Scheme; and
- (b) may not contain a provision that is inconsistent with **section 11** or, if the Tasmanian Planning Scheme were in effect in relation to a municipal area, would be inconsistent with a provision of **section 12**; and
- (c) may contain a provision indicating or specifying the structure to which an LPS is to conform and the form that a provision of an LPS is to take; and



- (d) may contain a provision permitting an LPS to provide for the detail of the SPPs in respect of, or the application of the SPPs to, a particular place or matter; and
- (e) may contain a provision permitting a provision of an LPS to override a provision of the SPPs; and
- (f) may contain a provision permitting the modification, in relation to a part of a municipal area, of the application of a provision of the SPPs; and
- (g) may contain a provision requiring, or permitting, an LPS to contain a map, an overlay, a list, or another provision, that provides for the spatial application of the SPPs to land; and
- (h) may contain a provision requiring an LPS to contain a provision of a kind specified or referred to in the SPPs.

(2) The SPPs may contain a provision permitting an LPS to include –

- (a) a particular purpose zone, being a group of provisions consisting of –
  - (i) a zone that is particular to an area of land specified in the LPS; and
  - (ii) the provisions that are to apply in relation to that zone; or
- (b) a specific area plan, being a plan consisting of –

- (i) a map or overlay that delineates a particular area of land; and
  - (ii) the provisions, specified in the LPS, that are to apply to that land in addition to, in modification of, or in substitution for, a provision, or provisions, of the SPPs; or
- (c) a site-specific qualification, being a provision, or provisions, that are specified, in relation to a particular area of land, in the LPS and that modify, are in substitution for, or are in addition to, a provision, or provisions, of the SPPs.

## 15. SPPs criteria

- (1) In this section –

**"relevant planning instrument"** means a draft of the SPPs, the SPPs, a draft amendment of the SPPs and an amendment of the SPPs.

- (2) The SPPs criteria to be met by a relevant planning instrument are that the instrument –

- (a) only contains provisions that the SPPs may contain under **section 14**; and
- (b) furthers the objectives set out in **Schedule 1**; and
- (c) is consistent with each State Policy; and
- (ca) is consistent with the TPPs that are in force before the instrument is made; and

- (d) has regard to the safety requirements set out in the standards prescribed under the *Gas Safety Act 2019*.
- (3) An amendment of the SPPs, or a draft amendment of the SPPs, is taken to meet the SPPs criteria if the amendment of the SPPs, or an amendment of the SPPs made in the terms of the draft amendment of the SPPs, will not have the effect that the State Planning Provisions, as amended, will cease to meet the SPPs criteria.

## **16. Explanatory documents**

- (1) The Minister may prepare an explanatory document in relation to the draft SPPs or a draft amendment of the SPPs.
- (2) The Minister, by notice to the Commission, may direct the Commission to prepare and submit to the Minister, within a period specified in the notice, an explanatory document in relation to the draft SPPs or a draft amendment of the SPPs.
- (3) An explanatory document in relation to the draft SPPs or a draft amendment of the SPPs is a document setting out in general terms the purpose and terms of the draft SPPs or the draft amendment of the SPPs.
- (4) The Commission must, within the period specified in a notice under **subsection (2)** in relation to the draft SPPs or a draft amendment of the SPPs, submit to the Minister an explanatory document in relation to the draft SPPs or the draft amendment of the SPPs.

- (5) The Minister may approve in relation to the draft SPPs or a draft amendment of the SPPs –
  - (a) an explanatory document prepared by him or her under **subsection (1)**; or
  - (b) an explanatory document submitted to him or her under **subsection (4)** and amended by the Minister as the Minister thinks fit.

### ***Subdivision 3 – Preparation of draft of the SPPs***

#### **17. Terms of reference in relation to draft of the SPPs**

- (1) The Minister may prepare terms of reference in relation to the preparation of a draft of the SPPs.
- (2) The Minister must give notice, in a newspaper that is published, and circulates generally, in Tasmania, that he or she has prepared terms of reference in relation to the preparation of a draft of the SPPs.
- (3) The Minister must not prepare terms of reference in relation to a draft of the SPPs unless the Minister is satisfied that a draft of the SPPs prepared in accordance with the terms of reference is likely to meet the SPPs criteria.

#### **18. Preparation of draft of the SPPs by Minister**

- (1) The Minister may prepare a draft of the SPPs that is in accordance with terms of reference prepared under **section 17(1)**.
- (2) The Minister must consult with –

- (a) the Commission; and
- (b) the planning authorities; and
- (c) the State Service Agencies, and the State authorities, as he or she thinks fit –

in relation to the preparation of a draft of the SPPs.

**19. Minister may direct Commission to prepare draft of the SPPs**

(1) The Minister, by notice to the Commission, may –

- (a) provide to the Commission terms of reference prepared under **section 17(1)**; and
- (b) direct the Commission to submit to the Minister a draft of the SPPs that is in accordance with the terms of reference; and
- (c) determine the period within which the draft of the SPPs is to be submitted to the Minister by the Commission.

(2) The Commission must consult with –

- (a) the planning authorities; and
- (b) the State Service Agencies, and the State authorities, that it thinks fit –

in relation to the preparation by the Commission of a draft of the SPPs.

- (3) The Commission, within the period determined by the Minister in a notice under **subsection (1)** or a longer period allowed by the Minister, must prepare and submit to the Minister a draft of the SPPs that is in accordance with the terms of reference specified in the notice.
- (4) The Commission must not submit a draft of the SPPs to the Minister under **subsection (3)** unless it is satisfied that the draft of the SPPs meets the SPPs criteria.

**20. Minister may direct Commission to modify draft of the SPPs**

- (1) The Minister, by notice to the Commission, may direct the Commission –
  - (a) to modify, in accordance with the notice, a draft of the SPPs submitted to the Minister under **section 19(3)** or **subsection (2)**; and
  - (b) to submit to the Minister under **subsection (2)**, within a period specified in the notice, the draft of the SPPs as so modified.
- (2) The Commission, within the period specified in a notice under **subsection (1)** or a longer period allowed by the Minister, must prepare and submit to the Minister a draft of the SPPs modified in accordance with the notice.
- (3) The Commission must not submit a draft of the SPPs to the Minister under **subsection (2)** unless it is satisfied that the draft of the SPPs meets the SPPs criteria.

#### *Subdivision 4 – Public exhibition*

### **21. Approval for public exhibition**

- (1) The Minister must consider whether to approve for public exhibition a draft of the SPPs prepared by the Minister under **section 18(1)** or submitted to the Minister under **section 19(3)** or **section 20(2)**.
- (2) In considering whether to approve for public exhibition a draft of the SPPs, the Minister may inform himself or herself as he or she thinks fit in relation to any matters.
- (3) The Minister, by notice in writing to the Commission, may approve for public exhibition a draft of the SPPs prepared by the Minister under **section 18(1)** or submitted to the Minister under **section 19(3)** or **section 20(2)**.
- (4) The Minister must not approve for public exhibition a draft of the SPPs unless the Minister is satisfied that the draft of the SPPs meets the SPPs criteria.

### **22. Exhibition of relevant exhibition documents in relation to draft of the SPPs**

- (1) The Commission, as soon as practicable after receiving notice under **section 21(3)** that a draft of the SPPs has been approved for public exhibition, must ensure an exhibition notice in relation to the draft of the SPPs is published in accordance with this section.

- (2) The exhibition notice is to be published once before, and once within 14 days after, the first day of the exhibition period, in a newspaper that is published, and circulates generally, in Tasmania.
- (3) An exhibition notice is to –
- (a) specify the period that is to be the exhibition period in relation to the draft of the SPPs; and
  - (b) specify that the relevant exhibition documents are or will be –
    - (i) available for viewing by the public, during the exhibition period, at premises, that are offices of the Commission, specified in the notice; and
    - (ii) available for viewing and downloading by the public, during the exhibition period, at an electronic address specified in the notice; and
  - (c) contain an invitation to all persons and bodies to, within the exhibition period, make to the Commission a representation in relation to the draft of the SPPs by submitting the representation to –
    - (i) the premises specified in the notice in accordance with **paragraph (b)(i)**; or
    - (ii) an electronic address specified in the notice.



- (4) The exhibition period, in relation to a draft of the SPPs, is to be a period of 60 days –
- (a) beginning on the day on which the draft of the SPPs begins to be available for viewing by the public at exhibition premises in accordance with [subsection \(6\)\(a\)](#); and
  - (b) excluding any days on which the exhibition premises are closed during normal business hours.
- (5) The Commission must, as soon as practicable after receiving notice under [section 21\(3\)](#) that a draft of the SPPs has been approved for public exhibition, give to each planning authority –
- (a) a copy of the relevant exhibition documents in relation to the draft of the SPPs; and
  - (b) an invitation to make to the Commission a representation in relation to the draft of the SPPs.
- (6) The Commission must ensure that copies of the relevant exhibition documents in relation to the draft of the SPPs are, for the exhibition period –
- (a) available for viewing by the public at the exhibition premises; and
  - (b) available for viewing and downloading by the public at an electronic address specified in the exhibition notice.

## **23. Representations**

- (1) A person or body may make to the Commission a representation in relation to a draft of the SPPs that is available for viewing by the public at the exhibition premises in accordance with **section 22(6)(a)**.
- (2) A representation in relation to a draft of the SPPs –
  - (a) is to be made under **subsection (1)** within the exhibition period in relation to the draft of the SPPs; and
  - (b) must be made by submitting the representation to the premises, or to the electronic address, that are specified, in accordance with **section 22(3)(b)**, in the exhibition notice in relation to the draft of the SPPs.
- (3) For the purposes of this Part, any matter, contained in a representation under **subsection (1)** in relation to a draft of the SPPs, that does not relate to the contents or merits of the draft is not to be taken to be part of the representation.

## **24. Consideration by Commission**

The Commission, as soon as practicable, after the end of the exhibition period in relation to a draft of the SPPs –

- (a) must consider the terms of reference in accordance with which the draft of the SPPs was prepared; and

- (b) must consider each representation, in relation to the draft of the SPPs, made under **section 23(1)** before the end of the exhibition period; and
- (c) may, at its discretion, consider a representation, in relation to the draft of the SPPs, made under **section 23(1)** after the end of the exhibition period; and
- (d) may, if it thinks fit, hold one or more hearings in relation to the representations that it has considered under **paragraph (b)** or **(c)**; and
- (e) must consider whether it is satisfied that the draft of the SPPs meets the SPPs criteria; and
- (f) may consider whether there are any matters that relate to issues of a technical nature or that may be relevant to the implementation of the State Planning Provisions if the State Planning Provisions were made under **section 27** in the terms of the draft of the SPPs.

## **25. Commission report**

- (1) The Commission, within 90 days, or a longer period allowed by the Minister, after the end of the exhibition period in relation to a draft of the SPPs, must provide to the Minister a report in relation to the draft of the SPPs.
- (2) The report in relation to a draft of the SPPs is to contain –

- (a) a copy of the draft of the SPPs in the form in which the draft was available for viewing by the public in accordance with **section 22(6)(a)**; and
- (b) a summary of –
  - (i) the representations, in relation to the draft of the SPPs, that it has considered in accordance with **section 24(b)** and **(c)**; and
  - (ii) the Commission's opinion as to the merit of those representations; and
- (c) a summary of the information obtained at hearings, if any, in relation to the draft of the SPPs; and
- (d) the recommendations of the Commission in relation to the draft of the SPPs; and
- (e) a statement as to whether the Commission is satisfied that the draft of the SPPs meets the SPPs criteria.

(3) The recommendations under **subsection (2)(d)** that are included in the report under **subsection (1)** in relation to a draft of the SPPs, contained, in accordance with **subsection (2)(a)**, in the report, are to include a recommendation that –

- (a) the Minister make the State Planning Provisions in the terms of the draft of the SPPs; or

- (b) the Minister make the State Planning Provisions in the terms of the draft of the SPPs with modifications; or
  - (c) the Minister refuse to make the State Planning Provisions in the terms of the draft of the SPPs.
- (4) If the recommendations under subsection (2)(d) that are included in the report under subsection (1) include, in accordance with subsection (3)(b), a recommendation that the Minister make the State Planning Provisions in the terms of the draft of the SPPs contained, in accordance with subsection (2)(a), in the report, with modifications, the report is to include –
  - (a) a copy, of the draft of the SPPs, that includes the modifications; and
  - (b) a recommendation as to whether or not the draft of the SPPs that includes the modifications ought to be re-exhibited.
- (5) The recommendations under subsection (2)(d) that are included in the report under subsection (1) in relation to a draft of the SPPs may include recommendations in respect of any matters that relate to issues of a technical nature or that may be relevant to the implementation of the State Planning Provisions if the State Planning Provisions were made under section 27 in the terms of the draft of the SPPs.

### ***Subdivision 5 – Making of State Planning Provisions***

#### **26. Matters to be considered in making the State Planning Provisions**

- (1) The Minister must not make the State Planning Provisions under **section 27** unless the Minister is satisfied that the State Planning Provisions meet the SPPs criteria.
- (2) The Minister, before making the State Planning Provisions under **section 27**, may inform himself or herself, in the manner he or she thinks fit, in relation to any matter.
- (3) Without limiting the manner in which the Minister may inform himself or herself for the purposes of **subsection (2)**, the Minister may require the Commission to provide him or her with further information for the purposes of that subsection.

#### **27. Making of State Planning Provisions**

- (1) The Minister, after considering a report provided to the Minister under **section 25(1)** in relation to a draft of the SPPs, contained, in accordance with **section 25(2)(a)**, in the report, and any other matters the Minister thinks fit, may –
  - (a) make the State Planning Provisions in the terms of the draft of the SPPs; or
  - (b) if the Minister is satisfied that a provision or provisions of the draft of the SPPs ought to be modified but that the modified provisions do not require re-

exhibition – make the State Planning Provisions in the terms of the draft of the SPPs, with the modifications, if any, that the Minister thinks fit; or

(c) if the Minister is satisfied that a provision or provisions of the draft of the SPPs ought to be modified and re-exhibited –

(i) take the appropriate action to ensure re-exhibition of that provision, or those provisions, as so modified; and

(ii) make the State Planning Provisions in the terms of the draft of the SPPs, excluding the provision or provisions that are to be modified and re-exhibited and including the other provisions, which may be modified as the Minister thinks fit without being re-exhibited; or

(d) refuse to make the State Planning Provisions in the terms of the draft of the SPPs.

(2) For the purposes of **subsection (1)(c)(i)**, the appropriate action to ensure re-exhibition of the provision, or provisions, of the draft of the SPPs that the Minister is satisfied ought to be modified and re-exhibited (the **"relevant provisions"**) is that the Minister, after the SPPs are made under **subsection (1)**, either –

(a) prepares terms of reference under **section 30C(1)** in relation to the relevant

provisions and issues a notice under **section 30E(1)** in relation to the relevant provisions; or

(b) approves under **section 30G(3)** for public exhibition a draft amendment of the SPPs, containing the relevant provisions, as so modified, as if the draft had been submitted to the Minister under **section 30E(3)** or **section 30F(2)**.

(3) As soon as practicable after, under **subsection (1)(d)**, refusing to make the State Planning Provisions, the Minister must publish a notice in the *Gazette* specifying that he or she has refused to make the State Planning Provisions.

## **28. Notice of decision in relation to modifications of draft of the SPPs**

(1) If the Minister makes, with the modifications the Minister thinks fit, the State Planning Provisions under **section 27(1)(b)** in the terms of a draft of the SPPs, contained, in accordance with **section 25(2)(a)**, in a report under **section 25(1)**, the Minister must give notice, in a newspaper that is published, and circulates generally, in Tasmania –

(a) that he or she has made the State Planning Provisions in the terms of the draft of the SPPs with the modifications to its provisions that the Minister thinks fit; and



- (b) of the reasons why he or she modified the provisions of the draft of the SPPs; and
  - (c) of the reasons why he or she was satisfied that a draft of the SPPs with the modifications did not require re-exhibition.
- (2) If the Minister, under **section 27(1)(c)**, is satisfied that a provision or provisions of the draft of the SPPs contained in a report under **section 25(1)** ought to be modified and re-exhibited, the Minister must give notice, in a newspaper that is published, and circulates generally, in Tasmania –
  - (a) that he or she intends to take the appropriate action to ensure re-exhibition of that provision, or those provisions, as modified; and
  - (b) of the reasons why he or she is satisfied that the provision or provisions of the draft of the SPPs ought to be modified and re-exhibited.

**29. When the SPPs come into effect as part of Tasmanian Planning Scheme**

- (1) As soon as practicable after, under **section 27(1)**, making the State Planning Provisions, the Minister must publish a notice in the *Gazette* –
  - (a) specifying that the Minister has made the State Planning Provisions; and
  - (b) specifying –

- (i) a day, after the day on which the notice is published in the *Gazette*, on which; or
- (ii) a period, after the day on which the notice is published in the *Gazette*, at the end of which –

the State Planning Provisions are to come into effect as part of the Tasmanian Planning Scheme.

- (2) The State Planning Provisions made under **section 27** come into effect as part of the Tasmanian Planning Scheme –

- (a) on the day specified, in the notice published in the *Gazette* under **subsection (1)**, as the day on which the State Planning Provisions are to come into effect as part of the Tasmanian Planning Scheme; or
- (b) on the day after the end of the period specified, in the notice published in the *Gazette* under **subsection (1)**, as the period at the end of which the State Planning Provisions are to come into effect as part of the Tasmanian Planning Scheme.

### **30. When the SPPs come into effect in relation to municipal area**

- (1) The Minister may publish a notice in the *Gazette* specifying –

- (a) a day, after the day on which the notice is published in the *Gazette*, on which; or
- (b) the period, beginning on the day on which the notice is published in the *Gazette*, at the end of which –

the State Planning Provisions, which are in effect as part of the Tasmanian Planning Scheme, are to come into effect in relation to a municipal area specified in the notice.

- (2) The State Planning Provisions come into effect in relation to a municipal area –
  - (a) on the day specified, in the notice published in the *Gazette* under **subsection (1)**, as the day on which the State Planning Provisions are to come into effect in relation to the municipal area; or
  - (b) on the day after the end of the period specified, in the notice published in the *Gazette* under **subsection (1)**, as the period at the end of which the State Planning Provisions are to come into effect in relation to the municipal area.

## ***Division 2 – Amendment of the SPPs***

### ***Subdivision 1 – Interpretation of Division 2***

#### **30A. Interpretation of Division 2**

In this Division –

**"exhibition notice"**, in relation to a draft amendment of the SPPs, means the

exhibition notice published under **section 30K** in relation to the draft amendment of the SPPs;

**"exhibition period"**, in relation to a draft amendment of the SPPs, means the period specified, in accordance with **section 30K(3)(a)**, in the exhibition notice as the exhibition period in relation to the draft amendment of the SPPs;

**"exhibition premises"**, in relation to a draft amendment of the SPPs, means premises –

- (a) to which the public has access during normal business hours; and
- (b) that are specified, in accordance with **section 30K(3)(b)(i)**, in the exhibition notice in relation to the draft amendment of the SPPs;

**"explanatory document"**, in relation to a draft amendment of the SPPs, means an explanatory document approved under **section 16(5)** in relation to the draft amendment of the SPPs;

**"relevant exhibition documents"**, in relation to a draft amendment of the SPPs, means –

- (a) the terms of reference in accordance with which the draft amendment of the SPPs was prepared; and

- (b) the draft amendment of the SPPs;  
and
- (c) any document applied, adopted or incorporated in the draft amendment of the SPPs; and
- (d) the explanatory document in relation to the draft amendment of the SPPs.

***Subdivision 2 – Preparation of draft amendments of the SPPs***

**30B. Contents of amendments**

An amendment of the SPPs may consist of –

- (a) an amendment of one or more of the provisions of the SPPs; or
- (b) the insertion of a provision into the SPPs;  
or
- (c) a revocation of one or more provisions of the SPPs; or
- (d) the substitution of one or more, or all, of the provisions of the SPPs.

**30BA. Minister may determine that SPPs should reflect certain planning directives**

The Minister may determine that a planning directive (other than an interim planning directive), to which **clause 3(2)(ba) of Schedule 6** applies and that is

in force in relation to a municipal area, should be reflected in the SPPs.

**30C. Terms of reference in relation to draft amendment of the SPPs**

- (1) The Minister may prepare terms of reference in relation to the preparation of a draft amendment of the SPPs.
- (2) The Minister must give notice, in a newspaper that is published, and circulates generally, in Tasmania, that he or she has prepared terms of reference in relation to the preparation of a draft amendment of the SPPs.
- (3) The Minister must not prepare terms of reference in relation to a draft amendment of the SPPs unless he or she is satisfied that a draft amendment of the SPPs prepared in accordance with the terms of reference is likely to meet the SPPs criteria.
- (4) A planning authority or another person may request the Minister to consider preparing terms of reference in relation to a draft amendment of the SPPs.
- (5) The Minister must consider a request made to him or her under **subsection (4)**.
- (6) The Minister may consult with the Commission in relation to a request made to him or her under **subsection (4)**.

**30D. Preparation of draft amendment of the SPPs by Minister**

- (1) The Minister may prepare a draft amendment of the SPPs that is in accordance with terms of reference prepared under **section 30C(1)**.
- (2) The Minister must consult with –
  - (a) the Commission; and
  - (b) the planning authorities; and
  - (c) the State Service Agencies, and the State authorities, as he or she thinks fit –

in relation to the preparation by the Minister of a draft amendment of the SPPs.

- (3) The Minister, in his or her consultation under **subsection (2)** in relation to the preparation by the Minister of a draft amendment of the SPPs, may request the Commission, each planning authority, and each State Service Agency, or State authority, that is so consulted to advise the Minister, within the period specified by the Minister, as to whether all or some of the provisions of the draft amendment of the SPPs should become an interim SPPs amendment.

**30E. Minister may direct Commission to prepare draft amendment of the SPPs**

- (1) The Minister, by notice to the Commission, may –
  - (a) provide to the Commission terms of reference prepared under **section 30C(1)**; and

- (b) direct the Commission to submit to the Minister a draft amendment of the SPPs that is in accordance with the terms of reference; and
  - (c) determine the period within which the draft amendment of the SPPs is to be submitted to the Minister by the Commission.
- (2) The Commission must consult with –
  - (a) the planning authorities; and
  - (b) the State Service Agencies, and the State authorities, that it thinks fit –

in relation to the preparation by the Commission of a draft amendment of the SPPs.

- (3) The Commission, within the period determined by the Minister in a notice under **subsection (1)** or a longer period allowed by the Minister, must prepare and submit to the Minister a draft amendment of the SPPs that is in accordance with the terms of reference specified in the notice.
- (4) The Commission must not submit a draft amendment of the SPPs to the Minister under **subsection (3)** unless it is satisfied that the draft amendment of the SPPs meets the SPPs criteria.

**30F. Minister may require Commission to modify draft amendment of the SPPs**

- (1) The Minister, by notice to the Commission, may direct the Commission –



- (a) to modify, in accordance with the notice, a draft amendment of the SPPs submitted to the Minister under **section 30E(3)** or **subsection (2)**; and
  - (b) to submit to the Minister under **subsection (2)**, within a period specified in the notice, the draft amendment of the SPPs as so modified.
- (2) The Commission, within the period specified in a notice under **subsection (1)** or a longer period allowed by the Minister, must prepare and submit to the Minister a draft amendment of the SPPs modified in accordance with the notice.
- (3) The Commission must not submit a draft amendment of the SPPs to the Minister under **subsection (2)** unless it is satisfied that the draft amendment of the SPPs meets the SPPs criteria.

### ***Subdivision 3 – Public exhibition***

#### **30G. Approval for public exhibition**

- (1) The Minister must consider whether to approve for public exhibition a draft amendment of the SPPs prepared by the Minister under **section 30D(1)** or submitted to the Minister under **section 30E(3)** or **section 30F(2)**.
- (2) In considering whether to approve for public exhibition a draft amendment of the SPPs, the Minister may inform himself or herself as he or she thinks fit in relation to any matters.
- (3) The Minister, by notice in writing to the Commission, may approve for public exhibition

a draft amendment of the SPPs prepared by the Minister under **section 30D(1)** or submitted to the Minister under **section 30E(3)** or **section 30F(2)**.

- (4) The Minister must not approve for public exhibition a draft amendment of the SPPs unless the Minister is satisfied that the draft amendment of the SPPs meets the SPPs criteria.
- (5) This section does not apply in relation to a draft amendment of the SPPs prepared by the Minister under **section 30D(1)**, if the Minister makes under **section 30NA(6)** an amendment of the SPPs in the terms of the draft amendment of the SPPs.

**30H.** [This component has been omitted.]

**30I.** [This component has been omitted.]

**30J.** [This component has been omitted.]

**30K. Exhibition of relevant exhibition documents in relation to draft amendment of the SPPs**

- (1) The Commission, as soon as practicable after receiving notice under **section 30G(3)** that a draft amendment of the SPPs has been approved for public exhibition, must ensure an exhibition notice in relation to the draft amendment of the SPPs is published in accordance with this section.
- (2) The exhibition notice is to be published once before, and once within 14 days after, the first day of the exhibition period, in a newspaper that

is published, and circulates generally, in Tasmania.

(3) An exhibition notice is to –

- (a) specify the period that is to be the exhibition period in relation to the draft amendment of the SPPs; and
- (b) specify that the relevant exhibition documents are or will be –
  - (i) available for viewing by the public, during the exhibition period, at premises, that are offices of the Commission, specified in the notice; and
  - (ii) available for viewing and downloading by the public, during the exhibition period, at an electronic address specified in the notice; and
- (c) contain an invitation to all persons and bodies to, within the exhibition period, make to the Commission a representation in relation to the draft amendment of the SPPs by submitting the representation to –
  - (i) the premises specified in the notice in accordance with **paragraph (b)(i)**; or
  - (ii) an electronic address specified in the notice.

- (4) The exhibition period, in relation to a draft amendment of the SPPs, is to be a period of 42 days –
- (a) beginning on the day on which the draft amendment of the SPPs begins to be available for viewing by the public at exhibition premises in accordance with **subsection (6)(a)**; and
  - (b) excluding any days on which the exhibition premises are closed during normal business hours.
- (5) The Commission must, as soon as practicable after receiving notice under **section 30G(3)** that a draft amendment of the SPPs has been approved for public exhibition, give to each planning authority –
- (a) a copy of the relevant exhibition documents in relation to the draft amendment of the SPPs; and
  - (b) an invitation to make to the Commission a representation in relation to the draft amendment of the SPPs.
- (6) The Commission must ensure that copies of the relevant exhibition documents in relation to the draft amendment of the SPPs are, for the exhibition period –
- (a) available for viewing by the public at the exhibition premises; and
  - (b) available for viewing and downloading by the public at an electronic address specified in the exhibition notice.

### **30L. Representations**

- (1) A person or body may make to the Commission a representation in relation to a draft amendment of the SPPs that is available for viewing by the public at exhibition premises in accordance with **section 30K(6)(a)**.
- (2) A representation in relation to a draft amendment of the SPPs –
  - (a) is to be made under **subsection (1)** within the exhibition period in relation to the draft amendment of the SPPs; and
  - (b) must be made by submitting the representation to the premises, or to the electronic address, that are specified, in accordance with **section 30K(3)(c)**, in the exhibition notice in relation to the draft amendment of the SPPs.
- (3) For the purposes of this Part, any matter, contained in a representation under **subsection (1)** in relation to a draft amendment of the SPPs, that does not relate to the contents or merits of the draft is not to be taken to be part of the representation.

### **30M. Consideration by Commission**

The Commission, as soon as practicable after the end of the exhibition period in relation to a draft amendment of the SPPs –

- (a) must consider the terms of reference in accordance with which the draft

amendment of the SPPs was prepared;  
and

- (b) must consider each representation, in relation to the draft amendment of the SPPs, made under **section 30L(1)** before the end of the exhibition period; and
- (c) may, at its discretion, consider a representation, in relation to the draft amendment of the SPPs, made under **section 30L(1)** after the end of the exhibition period; and
- (d) may, if it thinks fit, hold one or more hearings in relation to the representations that it has considered under **paragraph (b)** or **(c)**; and
- (e) must consider whether it is satisfied that the draft amendment of the SPPs meets the SPPs criteria; and
- (f) may consider whether there are any matters that relate to issues of a technical nature or that may be relevant to the implementation of an amendment of the SPPs if the amendment of the SPPs were made under **section 30P** in the terms of the draft amendment of the SPPs.

### **30N. Commission report**

- (1) The Commission, within 90 days, or a longer period allowed by the Minister, after the end of the exhibition period in relation to a draft amendment of the SPPs, must provide to the

Minister a report in relation to the draft amendment of the SPPs.

(2) The report in relation to a draft amendment of the SPPs is to contain –

(a) a copy of the draft amendment of the SPPs in the form in which the draft was available for viewing by the public in accordance with [section 30K\(6\)\(a\)](#); and

(b) a summary of –

(i) the representations, in relation to the draft amendment of the SPPs, that it has considered in accordance with [section 30M\(b\)](#) and [\(c\)](#); and

(ii) the Commission's opinion as to the merit of those representations; and

(c) a summary of the information obtained at hearings, if any, in relation to the draft amendment of the SPPs; and

(d) the recommendations of the Commission in relation to the draft amendment of the SPPs; and

(e) a statement as to whether the Commission is satisfied that the draft amendment of the SPP meets the SPPs criteria.

(3) The recommendations under [subsection \(2\)\(d\)](#) that are included in the report under [subsection \(1\)](#) in relation to a draft amendment of the SPPs contained, in accordance with

subsection (2)(a), in the report are to include a recommendation that –

- (a) the Minister make an amendment of the SPPs in the terms of the draft amendment of the SPPs; or
  - (b) the Minister make an amendment of the SPPs in the terms of the draft amendment of the SPPs with modifications; or
  - (c) the Minister refuse to make an amendment of the SPPs in the terms of the draft amendment of the SPPs.
- (4) If the recommendations under subsection (2)(d) that are included in the report under subsection (1) include a recommendation that the Minister make an amendment of the SPPs in the terms of a draft amendment of the SPPs contained, in accordance with subsection (2)(a), in the report, with modifications, the report is to include –
- (a) a copy, of the draft amendment of the SPPs, that includes the modifications; and
  - (b) a recommendation as to whether or not the draft amendment of the SPPs that includes the modifications ought to be re-exhibited.
- (5) The recommendations under subsection (2)(d) that are included in the report under subsection (1) in relation to a draft amendment of the SPPs may include recommendations in respect of any matters that relate to issues of a technical nature or that may be relevant to the



implementation of an amendment of the SPPs if the amendment of the SPPs were made under **section 30P** in the terms of the draft amendment of the SPPs.

***Subdivision 3A – Minor amendments of the SPPs***

**30NA. Preparation of minor amendments of the SPPs**

- (1) For the purposes of this section, a draft amendment of the SPPs meets the criteria for minor amendments of the SPPs if –
  - (a) the amendment is for one or more of the following purposes:
    - (i) correcting a clerical mistake, an error arising from any accidental slip or omission, an evident miscalculation of figures, or an evident material mistake, in a provision of the SPPs;
    - (ii) removing an anomaly in the SPPs;
    - (iii) clarifying or simplifying the SPPs;
    - (iv) removing an inconsistency in the SPPs;
    - (v) removing an inconsistency between the SPPs and this Act or any other Act;
    - (vi) bringing the SPPs into conformity with a State Policy;

- (vii) bringing the SPPs into conformity with a planning directive which the Minister has, under **section 30BA**, determined should be reflected in the SPPs;
    - (viii) changing provisions of the SPPs that indicate or specify the structure to which an LPS is to conform or the form that a provision of an LPS is to take;
    - (ix) a prescribed purpose; and
  - (b) the public interest will not be prejudiced by **Subdivision 3** not applying to the draft amendment of the SPPs.
- (2) The Minister, after having prepared under **section 30D(1)** a draft amendment of the SPPs that is in accordance with terms of reference in relation to which notice has been given under **section 30C(2)** –
- (a) must, if the draft amendment contains amendments for the purposes of subsection (1)(a)(iii), (vi), (vii), (viii) or (ix), consult with –
    - (i) the planning authorities; and
    - (ii) the State Service Agencies, and any State authority, that the Minister thinks fit; and
  - (b) may, if the draft amendment contains amendments for the purposes of subsection (1)(a)(i), (ii), (iv) or (v), consult with –

- (i) the planning authorities; and
  - (ii) the State Service Agencies, and any State authority, that the Minister thinks fit.
- (3) The Minister, after having prepared under **section 30D(1)** a draft amendment of the SPPs that is in accordance with terms of reference in relation to which notice has been given under **section 30C(2)**, must, by notice in writing to the Commission, request the Commission to advise the Minister, by a day specified in the notice, as to whether the Commission is of the opinion that the draft amendment of the SPPs meets the criteria for minor amendments of the SPPs.
- (4) The Commission must, before the day specified in a notice under **subsection (3)** in relation to a draft amendment of the SPPs, or a longer period allowed by the Minister, advise the Minister –
  - (a) that the Commission is of the opinion that the draft amendment of the SPPs meets the criteria for minor amendments of the SPPs; or
  - (b) that the Commission is of the opinion that the draft amendment of the SPPs does not meet the criteria for minor amendments of the SPPs –

and provide to the Minister the Commission's reasons for being of that opinion.

- (5) The Minister, after considering all advice and reasons provided in the course of consultation under **subsections (2) and (4)** in relation to a

draft amendment of the SPPs, may determine that –

- (a) the draft amendment of the SPPs, modified, if at all, as the Minister thinks fit, meets the criteria for minor amendments of the SPPs; or
- (b) the draft amendment of the SPPs does not meet the criteria for minor amendments of the SPPs.

(6) If –

- (a) the Minister makes a determination under **subsection (5)(a)** in relation to a draft amendment of the SPPs; and
- (b) the Minister is satisfied that the amendment of the SPPs meets the SPPs criteria –

the Minister may make an amendment of the SPPs in the terms of the draft amendment of the SPPs, without publicly exhibiting the draft in accordance with **Subdivision 3**.

(7) As soon as practicable after the Minister makes a determination under **subsection (5)** in relation to a draft amendment of the SPPs –

- (a) the Commission must place on the Commission's principal website –
  - (i) a copy of the advice provided under **subsection (4)** in relation to the draft amendment of the SPPs; and

- (ii) the Commission's reasons for giving that advice; and
- (b) the Minister must place on a website of the Department a copy of the Minister's reasons for making the determination.

### ***Subdivision 3B – Interim SPPs amendments***

#### **30NB. Interim SPPs amendments**

- (1) The Minister, after having given a notice under **section 30G(3)** of the approval for exhibition of a draft amendment of the SPPs, may give to the Commission a notice requesting the Commission to advise the Minister, within a period specified in the notice, as to whether some or all of the provisions of the draft amendment of the SPPs should become an interim SPPs amendment.
- (2) The Commission, within the period specified in a notice under **subsection (1)** or a longer period allowed by the Minister, is to –
  - (a) advise the Minister whether, in the opinion of the Commission, some or all of the provisions of the draft amendment of the SPPs should become an interim SPPs amendment; and
  - (b) give to the Minister the Commission's reasons for giving that advice.
- (3) The Minister, after considering the advice, and opinion, received under **subsection (2)** in relation to a draft amendment of the SPPs, may –

- (a) make an interim SPPs amendment in the terms of some or all of the provisions of the draft amendment of the SPPs, modified, if at all, as the Minister thinks fit; or
  - (b) decide not to make an interim SPPs amendment in the terms of some or all of the provisions of the draft amendment of the SPPs.
- (4) The Minister may only make an interim SPPs amendment under **subsection (3)(a)** in the terms of some or all of the provisions of a draft amendment of the SPPs, modified, if at all, as the Minister thinks fit, if the Minister is satisfied that –
  - (a) it is necessary or desirable to make the interim SPPs amendment in order to urgently address issues relating to a natural or environmental hazard, public health, public safety or a prescribed circumstance or matter; and
  - (b) it is in the public interest to give effect as soon as practicable to the provisions of the draft amendment of the SPPs contained in the interim SPPs amendment.
- (5) If the Minister makes an interim SPPs amendment under **subsection (3)(a)**, the Minister must –
  - (a) give written notice of the interim SPPs amendment to the Commission and all planning authorities; and

- (b) publish in the *Gazette* notice of the making of the interim SPPs amendment and of the day on which the interim SPPs amendment is to come into effect as an amendment of the Tasmanian Planning Scheme, which is to be a day on or after the day on which the notice is so published.
- (6) If the Minister decides under **subsection (3)(b)** not to make an interim SPPs amendment, the Minister must give written notice of the decision to the Commission.
- (7) As soon as practicable after the Minister makes a decision under **subsection (3)** in relation to a draft amendment of the SPPs –
  - (a) the Commission must place on the Commission's principal website a copy of the advice and reasons given under **subsection (2)** in relation to the draft amendment of the SPPs; and
  - (b) the Minister must place on a website of the Department a copy of the Minister's reasons for making the decision.

### **30NC. Effect, and taking effect, of interim SPPs amendment**

- (1) An interim SPPs amendment made under **section 30NB(3)(a)** comes into effect as an amendment of the Tasmanian Planning Scheme on the day specified, in the notice published under **section 30NB(5)(b)** in relation to the interim SPPs amendment, as the day on which the interim SPPs amendment is to come into

effect as an amendment of the Tasmanian Planning Scheme.

(2) An interim SPPs amendment remains in effect as an amendment of the Tasmanian Planning Scheme until –

- (a) the end of the period of 12 months from the day on which the interim SPPs amendment comes into effect as an amendment of the Tasmanian Planning Scheme; or
- (b) the day on which a draft amendment of the SPPs, in the same terms as the interim SPPs amendment, comes into effect under **section 30R** as an amendment of the Tasmanian Planning Scheme; or
- (c) a revocation of the interim SPPs amendment comes into effect under **section 30ND(5)** –

whichever occurs first.

(3) If an interim SPPs amendment has come into effect as an amendment of the Tasmanian Planning Scheme –

- (a) the SPPs are, for the period that the interim SPPs amendment remains in effect, amended in accordance with the interim SPPs amendment; and
- (b) the SPPs cease to be amended in accordance with the interim SPPs amendment when the interim SPPs amendment ceases to be in effect as an



amendment of the Tasmanian Planning Scheme.

(4) The Minister may publish a notice in the *Gazette* specifying –

- (a) a day, after the day on which the notice is published in the *Gazette*, on which; or
- (b) the period, beginning on the day on which the notice is published in the *Gazette*, after the end of which –

an interim SPPs amendment, that has come into effect under **subsection (1)** as an amendment of the Tasmanian Planning Scheme, is to come into effect as an amendment of the Tasmanian Planning Scheme in relation to a municipal area specified in the notice.

(5) An interim SPPs amendment comes into effect in relation to a municipal area –

- (a) on the day specified, in the notice published in the *Gazette* under **subsection (4)(a)**, as the day on which the interim SPPs amendment is to come into effect as an amendment of the Tasmanian Planning Scheme in relation to the municipal area; or
- (b) on the day immediately after the end of the period specified, in the notice published in the *Gazette* under **subsection (4)(b)**, as the period after the end of which the interim SPPs amendment is to come into effect as an amendment of the Tasmanian Planning Scheme in relation to the municipal area.

- (6) An interim SPPs amendment remains in effect as an amendment of the Tasmanian Planning Scheme in relation to a municipal area until –
- (a) the end of the period of 12 months from the day on which the interim SPPs amendment comes into effect as an amendment of the Tasmanian Planning Scheme (other than as an amendment of the Tasmanian Planning Scheme in relation to the municipal area); or
  - (b) the day on which a draft amendment of the SPPs, in the same terms as the interim SPPs amendment, comes into effect under [section 30S](#) in relation to the municipal area; or
  - (c) a revocation of the interim SPPs amendment comes into effect under [section 30ND\(5\)](#) in relation to the municipal area; or
  - (d) the interim SPPs amendment ceases to have effect as an amendment of the Tasmanian Planning Scheme in relation to the municipal area under [section 30ND\(7\)](#) –

whichever occurs first.

- (7) If an interim SPPs amendment has come into effect as an amendment of the Tasmanian Planning Scheme in relation to a municipal area –
- (a) the Tasmanian Planning Scheme in relation to the municipal area, as amended by the interim SPPs

amendment, remains in effect for the period that the interim SPPs amendment remains in effect in relation to the municipal area; and

- (b) the Tasmanian Planning Scheme in relation to the municipal area ceases to be amended, in accordance with the interim SPPs amendment, when the interim SPPs amendment ceases to be in effect under **subsection (6)** as an amendment of the Tasmanian Planning Scheme in relation to a municipal area.

### **30ND. Revocation of interim SPPs amendment**

- (1) The Minister may revoke an interim SPPs amendment.
- (2) If the Minister revokes under **subsection (1)** an interim SPPs amendment, the Minister must –
  - (a) give written notice of the revocation of the interim SPPs amendment to the Commission and all planning authorities; and
  - (b) publish in the *Gazette* notice of the revocation of the interim SPPs amendment and of the day on which the revocation takes effect, which is to be a day on or after the day on which the notice is so published.
- (3) If the Minister revokes under **subsection (1)** an interim SPPs amendment, the revocation takes effect on the day specified in the notice under

**subsection (2)(b)** as the day on which the revocation takes effect.

- (4) If the Minister revokes under **subsection (1)** an interim SPPs amendment that has come into effect under **section 30NC(5)** in relation to a municipal area, the Minister must –
  - (a) give written notice of the revocation of the interim SPPs amendment to the Commission and to the planning authority for the municipal area; and
  - (b) publish in the *Gazette* notice of the revocation of the interim SPPs amendment and of the day on which the revocation takes effect in relation to a municipal area specified in the notice, which is to be the day, or a day after the day, on which the notice is so published.
- (5) If the Minister revokes under **subsection (1)** an interim SPPs amendment, the revocation of the interim SPPs amendment takes effect in relation to a municipal area on the day specified in the notice under **subsection (4)(b)** as the day on which the revocation takes effect in relation to the municipal area.
- (6) The Minister may, by notice in the *Gazette*, declare that an interim SPPs amendment ceases to have effect in relation to a municipal area on a day specified in the notice.
- (7) An interim SPPs amendment ceases to have effect in relation to a municipal area on the day specified in the notice under **subsection (6)** in relation to the municipal area.

#### ***Subdivision 4 – Making of amendment of the SPPs***

##### **30O. Matters to be considered in making amendment of the SPPs**

- (1) The Minister must not make an amendment of the SPPs under **section 30P**, **section 30NA(6)** or **section 30NB(3)(a)** unless the Minister is satisfied that the amendment of the SPPs meets the SPPs criteria.
- (2) The Minister, before making an amendment of the SPPs under **section 30P**, **section 30NA(6)** or **section 30NB(3)(a)**, may inform himself or herself, in the manner he or she thinks fit, in relation to any matter.
- (3) Without limiting the manner in which the Minister may inform himself or herself for the purposes of **subsection (2)**, the Minister may require the Commission to provide him or her with further information for the purposes of that subsection.

##### **30P. Making of amendment of the SPPs**

- (1) The Minister, after considering a report provided to the Minister under **section 30N(1)** in relation to a draft amendment of the SPPs, contained, in accordance with **section 30N(2)(a)**, in the report, and any other matters that the Minister thinks fit, may –
  - (a) make an amendment of the SPPs in the terms of the draft amendment of the SPPs; or

- (b) if the Minister is satisfied that a provision or provisions of the draft amendment of the SPPs ought to be modified but that the modified provisions do not require re-exhibition – make the amendment of the SPPs in the terms of the draft amendment of the SPPs, with the modifications, if any, that the Minister thinks fit; or
- (c) if the Minister is satisfied that a provision or provisions of the draft amendment of the SPPs ought to be modified and re-exhibited –
  - (i) take the appropriate action to ensure re-exhibition of that provision, or those provisions, as so modified; and
  - (ii) make the amendment of the SPPs in the terms of the draft amendment of the SPPs, excluding the provision or provisions that are to be modified and re-exhibited and including the other provisions, which may be modified as the Minister thinks fit without being re-exhibited; or
- (d) refuse to make an amendment of the SPPs in the terms of the draft amendment of the SPPs.

- (2) For the purposes of **subsection (1)(c)(i)**, the appropriate action to ensure re-exhibition of the provision, or provisions, of the draft amendment of the SPPs that the Minister is satisfied ought to

be modified and re-exhibited (the **"relevant provisions"**) is that the Minister either –

- (a) prepares terms of reference under **section 30C(1)** in relation to the relevant provisions and issues a notice under **section 30E(1)** in relation to the modified provisions; or
  - (b) approves under **section 30G(3)** for public exhibition a draft amendment of the SPPs, containing the relevant provisions, as so modified, as if the draft had been submitted to the Minister under **section 30E(3)** or **section 30F(2)**.
- (3) As soon as practicable after, under **subsection (1)(d)**, refusing to make an amendment of the SPPs, the Minister must publish a notice in the *Gazette* specifying that he or she has refused to make the amendment of the SPPs.
- (4) [This component has been omitted.]
- (5) [This component has been omitted.]
- (6) [This component has been omitted.]

**30Q. Notice of decision in relation to modifications of draft amendment of the SPPs**

- (1) If the Minister makes, with the modifications the Minister thinks fit, an amendment of the SPPs under **section 30P(1)(b)** in the terms of a draft amendment of the SPPs, contained, in accordance with **section 30N(2)(a)**, in a report

under **section 30N(1)**, the Minister must give notice, in a newspaper that is published, and circulates generally, in Tasmania –

- (a) that he or she has made the amendment of the SPPs in the terms of the draft amendment of the SPPs with the modifications to its provisions that the Minister thinks fit; and
- (b) of the reasons why he or she modified the provisions of the draft amendment of the SPPs; and
- (c) of the reasons why he or she was satisfied that a draft amendment of the SPPs with the modifications did not require re-exhibition.

(2) If the Minister, under **section 30P(1)(c)**, is satisfied that a provision or provisions of the draft amendment of the SPPs, contained, in accordance with **section 30N(2)(a)**, in a report under **section 30N(1)**, ought to be modified and re-exhibited the Minister must give notice, in a newspaper that is published, and circulates generally, in Tasmania –

- (a) that he or she intends to take the appropriate action to ensure re-exhibition of that provision, or those provisions, as modified; and
- (b) of the reasons why he or she is satisfied that the provision or provisions of the draft amendment of the SPPs ought to be modified and re-exhibited.



**30R. When amendment of the SPPs comes into effect as part of Tasmanian Planning Scheme**

(1) As soon as practicable after, under **section 30P** or **section 30NA(6)**, making an amendment of the SPPs, the Minister must publish a notice in the *Gazette* –

(a) specifying that the Minister has made an amendment of the SPPs; and

(b) specifying –

(i) a day, after the day on which the notice is published in the *Gazette*, on which; or

(ii) a period, after the day on which the notice is published in the *Gazette*, at the end of which –

the amendment of the SPPs is to come into effect as part of the Tasmanian Planning Scheme.

(2) An amendment of the SPPs made under **section 30P** or **section 30NA(6)** comes into effect as part of the Tasmanian Planning Scheme –

(a) on the day specified, in the notice published in the *Gazette* under **subsection (1)**, as the day on which the amendment of the SPPs is to come into effect as part of the Tasmanian Planning Scheme; or

(b) on the day after the end of the period, specified in the notice published in the *Gazette* under **subsection (1)** as the

period at the end of which the amendment of the SPPs is to come into effect as part of the Tasmanian Planning Scheme.

**30S. When amendment of the SPPs comes into effect in relation to municipal area**

- (1) The Minister may publish a notice in the *Gazette* specifying –
- (a) a day, after the day on which the notice is published in the *Gazette*, on which; or
  - (b) the period, beginning on the day on which the notice is published in the *Gazette*, at the end of which –

an amendment of the SPPs, that has come into effect as part of the Tasmanian Planning Scheme, is to come into effect in relation to a municipal area specified in the notice.

- (2) An amendment of the SPPs comes into effect in relation to a municipal area –
- (a) on the day specified, in the notice published in the *Gazette* under **subsection (1)**, as the day on which the amendment of the SPPs is to come into effect in relation to the municipal area; or
  - (b) on the day after the end of the period specified, in the notice published in the *Gazette* under **subsection (1)**, as the period at the end of which the amendment of the SPPs is to come into effect in relation to the municipal area.

### *Division 3 – Miscellaneous*

#### **30T. Review of the SPPs**

- (1) The Minister must, at the end of every 5-year period after the SPPs are made and as soon as practicable after the TPPs, or an amendment of the TPPs, is or are made –
  - (a) conduct a review of the SPPs; or
  - (b) by notice to the Commission, direct the Commission to conduct a review of the SPPs and provide to the Minister a report in relation to the review within the period specified in the notice.
- (1A) The Minister may, at any time, conduct a review of the SPPs.
- (2) The Minister, by notice to the Commission, may direct the Commission at any time –
  - (a) to conduct a review of the SPPs generally or in relation to the matters specified in the notice; and
  - (b) to provide to the Minister, within a period specified in the notice, a report in relation to the review.
- (3) The Commission must, within the period specified in a notice under **subsection (1) or (2)**, comply with a direction contained in the notice.
- (4) A report in relation to a review of the SPPs is to contain the recommendations of the Commission as to whether the SPPs require amendment in

relation to the matters to which the review relates.

- (4A) Without limiting the matters to which a review of the SPPs may relate, such a review may consist of a review as to whether the SPPs are consistent with the TPPs.
- (4B) A review of the SPPs that is, in accordance with subsection (1), conducted after the TPPs, or an amendment of the TPPs, is or are made is to consist of a review as to whether the SPPs are consistent with the TPPs, or the amendment of the TPPs, respectively.
- (5) The Minister must consider a report provided by the Commission to him or her in relation to a review.

## **Part 3A – Local Provisions Schedules**

### ***Division 1 – Interpretation***

#### **31. Interpretation of Part**

In this Part –

**"exhibition notice"**, in relation to a draft LPS, means the exhibition notice published under **section 35C** in relation to the draft LPS;

**"exhibition period"**, in relation to a draft LPS, means the period specified, in accordance with **section 35C(4)(a)**, in the exhibition notice as the exhibition period in relation to the draft LPS;

**"exhibition premises"**, in relation to a draft LPS, means premises –

- (a) to which the public has access during normal business hours; and
- (b) that are specified, in accordance with **section 35C(4)(b)(i)**, in the exhibition notice in relation to the draft LPS;

**"LPS criteria outstanding issues notice"** means a notice prepared under **section 35B(4B)**;

**"relevant exhibition documents"**, in relation to a draft LPS, means –

- (a) the draft LPS; and

- (ab) an LPS criteria outstanding issues notice in relation to the draft LPS, if a direction under **section 35B(4)** in relation to the draft LPS includes a statement that the notice forms part of the relevant exhibition documents in relation to the draft LPS; and
- (b) any document applied, adopted or incorporated in the draft LPS.

### ***Division 2 – Contents of LPSs***

#### **32. Contents of LPSs**

- (1) An LPS is to consist of provisions that apply only to a single municipal area specified in the LPS.
- (2) An LPS –
  - (a) must specify the municipal area to which its provisions apply; and
  - (b) must contain a provision that the SPPs require to be included in an LPS; and
  - (c) must contain a map, an overlay, a list, or another provision, that provides for the spatial application of the SPPs to land, if required to do so by the SPPs; and
  - (d) may, subject to this Act, contain any provision in relation to the municipal area that may, under **section 11** or **12**, be included in the Tasmanian Planning Scheme; and

- (e) may contain a map, an overlay, a list, or another provision, that provides for the spatial application of the SPPs to particular land; and
- (f) must not contain a provision that is inconsistent with a provision of **section 11** or **12**; and
- (g) may designate land as being reserved for public purposes; and
- (h) may, if permitted to do so by the SPPs, provide for the detail of the SPPs in respect of, or the application of the SPPs to, a particular place or matter; and
- (i) may, if permitted to do so by the SPPs, override a provision of the SPPs; and
- (j) may, if permitted to do so by the SPPs, modify, in relation to a part of the municipal area, the application of a provision of the SPPs; and
- (k) may, subject to this Act, include any other provision that –
  - (i) is not a provision of the SPPs or inconsistent with a provision of the SPPs; and
  - (ii) is permitted by the SPPs to be included in an LPS; and
- (l) must not contain a provision that the SPPs specify must not be contained in an LPS.

(3) Without limiting **subsection (2)** but subject to **subsection (4)**, an LPS may, if permitted to do so by the SPPs, include –

(a) a particular purpose zone, being a group of provisions consisting of –

(i) a zone that is particular to an area of land; and

(ii) the provisions that are to apply in relation to that zone; or

(b) a specific area plan, being a plan consisting of –

(i) a map or overlay that delineates a particular area of land; and

(ii) the provisions that are to apply to that land in addition to, in modification of, or in substitution for, a provision, or provisions, of the SPPs; or

(c) a site-specific qualification, being a provision, or provisions, in relation to a particular area of land, that modify, are in substitution for, or are in addition to, a provision, or provisions, of the SPPs.

(4) An LPS may only include a provision referred to in **subsection (3)** in relation to an area of land if –

(a) a use or development to which the provision relates is of significant social, economic or environmental benefit to the State, a region or a municipal area; or



- (b) the area of land has particular environmental, economic, social or spatial qualities that require provisions, that are unique to the area of land, to apply to the land in substitution for, or in addition to, or modification of, the provisions of the SPPs.
- (5) An LPS must be in accordance with the structure, if any, that is indicated, or specified, in the SPPs to be the structure to which an LPS is to conform.
- (6) A provision of an LPS must be in the form, if any, that the SPPs indicate a provision of an LPS is to take.
- (7) A provision of an LPS in relation to a municipal area is not to be taken to have failed to comply with this section, or to be inconsistent with a provision of the SPPs, by reason only that it is inconsistent with a provision of the SPPs that has not come into effect in relation to the municipal area.

### **33. Interpretation of inconsistency in LPS**

- (1) In the event of an inconsistency between provisions of an LPS, the LPS must, so far as practicable, be read so as to resolve the inconsistency.
- (2) In the event of an inconsistency between a provision, of a planning scheme that applies to a municipal area, that is a provision of the LPS in relation to the municipal area, and a provision of the planning scheme that is a provision of the

SPPs that is in effect in relation to the municipal area –

- (a) the planning scheme must, so far as practicable, be read so as to resolve the inconsistency; and
  - (b) subject to **paragraph (a)**, the provision of the SPPs prevails to the extent of any inconsistency with the provision of the LPS.
- (3) Despite **subsection (2)**, if a provision of the SPPs permits a provision of an LPS to override a provision of the SPPs ("**the overridden provision**"), a provision of an LPS that overrides, in accordance with the provision of the SPPs, the overridden provision prevails to the extent of any inconsistency with the overridden provision.
- (4) Despite **subsection (2)**, if a provision of an LPS that is a provision to which **section 32(3)** applies is inconsistent with a provision of the SPPs that is in force in relation to the municipal area to which the LPS applies, the provision of the LPS prevails to the extent of any inconsistency with the provision of the SPPs.
- (5) Despite **subsection (2)**, if a provision of the SPPs permits a provision of an LPS to modify, in relation to a part of the municipal area, the application of a provision of the SPPs ("**the modified provision**"), a provision of an LPS that modifies, in accordance with the provision of the SPPs, the modified provision prevails to the extent of any inconsistency with the modified provision.

### 34. LPS criteria

(1) In this section –

**"relevant planning instrument"** means a draft LPS, an LPS, a draft amendment of an LPS and an amendment of an LPS.

(2) The LPS criteria to be met by a relevant planning instrument are that the instrument –

- (a) contains all the provisions that the SPPs specify must be contained in an LPS; and
- (b) is in accordance with **section 32**; and
- (c) furthers the objectives set out in **Schedule 1**; and
- (d) is consistent with each State policy; and
- (da) satisfies the relevant criteria in relation to the TPPs; and
- (e) as far as practicable, is consistent with the regional land use strategy, if any, for the regional area in which is situated the land to which the relevant planning instrument relates; and
- (f) has regard to the strategic plan, prepared under **section 66 of the *Local Government Act 1993***, that applies in relation to the land to which the relevant planning instrument relates; and
- (g) as far as practicable, is consistent with and co-ordinated with any LPSs that apply to municipal areas that are adjacent

to the municipal area to which the relevant planning instrument relates; and

- (h) has regard to the safety requirements set out in the standards prescribed under the *Gas Safety Act 2019*.

(2A) A relevant planning instrument satisfies the relevant criteria in relation to the TPPs if –

- (a) where the SPPs and the relevant regional land use strategy have not been reviewed under **section 30T(1)** or **section 5A(8)** after the TPPs, or an amendment to the TPPs, is or are made – the relevant planning instrument is consistent with the TPPs, as in force before the relevant planning instrument is made; and
- (b) whether or not the SPPs and the applicable regional land use strategy have been reviewed under **section 30T(1)** or **section 5A(8)** after the TPPs, or an amendment to the TPPs, is or are made – the relevant planning instrument complies with each direction, contained in the TPPs in accordance with **section 12B(3)**, as to the manner in which the TPPs are to be implemented into the LPSs.

- (3) An amendment of an LPS, or a draft amendment of an LPS, is taken to meet the LPS criteria if the amendment of the LPS, or the draft amendment of the LPS, if made, will not have the effect that the LPS, as amended, will cease to meet the LPS criteria.

***Division 3 – Preparation of draft LPS***  
***Unvalidated References : section 35B(1)***

**35. Draft LPS to be provided to Commission**

- (1) A planning authority may prepare and submit to the Commission a draft LPS that applies to the municipal area of the planning authority.
- (2) The Minister, by notice in writing to a planning authority, may direct the planning authority to prepare and submit to the Commission a draft LPS that applies to the municipal area of the planning authority.
- (3) A direction to a planning authority under **subsection (2)** in relation to a draft LPS may require that the draft LPS be submitted to the Commission by a date, specified in the direction, that is not less than 42 days after the date on which the direction is given.
- (4) A planning authority must submit to the Commission in accordance with a direction under **subsection (2)** a draft LPS by the date, if any, specified in the direction as the date by which the draft LPS must be submitted or within a longer period allowed by the Minister.
- (5) If a planning authority has submitted to the Commission a draft LPS under this section, the Commission must –
  - (a) submit the draft LPS to the Minister under **section 35B(1)** together with a request under that section for approval to issue a direction under **section 35B(4)** in relation to the draft LPS; or

- (b) by notice in writing to the planning authority, direct the authority to prepare and submit to the Commission, within the period specified in the direction, the draft LPS modified in accordance with the direction; or
- (c) with the agreement of the planning authority, modify the draft LPS so that the draft LPS meets the LPS criteria.

(5A) Without limiting the generality of **subsection (5)(b)**, the Commission may give to a planning authority under **subsection (5)(b)** a direction to modify a draft LPS –

- (a) to include provisions that correspond to provisions that were included, in the planning scheme, within the meaning of **section 10(2)(a)(ii)**, that applies in relation to the municipal area, by an amendment, of that planning scheme, that came into effect after the draft LPS was submitted to the Commission under **subsection (1)**; or
- (b) so that the provisions of the draft LPS, as modified in accordance with the direction, will correspond to the provisions, of the planning scheme, within the meaning of **section 10(2)(a)(ii)**, that applies to the municipal area, as that planning scheme is altered by an amendment, of that planning scheme, that is in effect on the day on which the draft LPS is submitted to the Commission under **subsection (1)**.

(5B) A direction may not be given under subsection (5A) unless the provisions to be included in the draft LPS, as so modified, if at all, in accordance with the direction, are provisions of a kind that may be included in a draft LPS prepared under section 35.

(5C) A provision that is to be included, in a draft LPS in relation to a municipal area, in accordance with a direction under subsection (5A) to modify the draft LPS, may be varied so that the provision –

- (a) will conform to the requirements of the SPPs in relation to the LPS; or
- (b) will reflect the terminology used in the SPPs or in the LPS, including, but not limited to including, where the modification relates to the designation of a zone in the planning scheme, by changing the designation of the zone to the zone in the draft LPS that most closely corresponds to the zone in the planning scheme; or
- (c) will contain provisions that –
  - (i) are appropriately numbered; or
  - (ii) make correct references to provisions in the draft LPS or in other instruments, including but not limited to the SPPs; or
- (d) will achieve the effect intended by the amendment of the planning scheme to which the direction relates.

- (6) A planning authority to which a direction under **subsection (5)(b)** is given must prepare and submit to the Commission, within the period specified in the direction or a longer period allowed by the Commission, a draft LPS modified in accordance with the direction.
- (7) A planning authority must not prepare and submit a draft LPS to the Commission under this section unless the planning authority is satisfied that the draft LPS meets the LPS criteria.

***Unvalidated References : section 35B(1)***

**35A. Commission may be required to provide draft LPS**

- (1) If a planning authority has failed to submit to the Commission a draft LPS in accordance with a direction under **section 35(2)** or **(5)**, the Minister, by notice in writing to the Commission, may issue to the Commission a direction.
- (2) A direction to the Commission under **subsection (1)** may require that the Commission prepare a draft LPS within the period specified in the direction.
- (3) The Commission, within the period specified in a direction under **subsection (1)** or a longer period allowed by the Minister, must prepare a draft LPS in accordance with the direction.
- (4) If the Commission has prepared a draft LPS in relation to a municipal area in accordance with a direction under **subsection (1)**, the Commission must provide to the planning authority in respect of the municipal area –
  - (a) a copy of the draft LPS; and



- (b) a notice stating that the planning authority may, within 14 days, provide to the Commission its comments in relation to the draft.
- (5) A planning authority to which a draft LPS and a notice are provided under **subsection (4)** may, within 14 days, provide to the Commission the planning authority's comments in relation to the draft LPS.
- (6) The Commission, before submitting to the Minister under **section 35B(1)** a draft LPS prepared in accordance with a direction under **subsection (1)**, must consider any comments provided by a planning authority under **subsection (5)** in relation to the draft LPS.

#### ***Division 4 – Public exhibition***

##### **35B. Directions to exhibit draft LPSs**

- (1) [This component has been omitted.]
- (2) [This component has been omitted.]
- (3) [This component has been omitted.]
- (4) The Commission may direct a planning authority to undertake public exhibition in respect of a draft LPS that –
  - (a) a planning authority has submitted to the Commission under **section 35**; or

- (b) the Commission has prepared under **section 35A(3)**.
- (4A) The Commission may only issue a direction under **subsection (4)** –
  - (a) if the Commission is of the opinion that the draft LPS meets the LPS criteria; or
  - (b) if the Commission –
    - (i) prepares in relation to the draft LPS an LPS criteria outstanding issues notice under **subsection (4B)**; and
    - (ii) includes in the direction under **subsection (4)** a statement that the LPS criteria outstanding issues notice forms part of the relevant exhibition documents in relation to the draft LPS; and
    - (iii) attaches to the direction a copy of the LPS criteria outstanding issues notice.
- (4B) The Commission may prepare in relation to a draft LPS an LPS criteria outstanding issues notice.
- (4C) An LPS criteria outstanding issues notice is a notice, in relation to a draft LPS, setting out the LPS criteria in relation to which the Commission considers that it needs further information in order for the Commission to be of the opinion that the draft LPS meets the LPS criteria.
- (4D) The Commission is to notify the Minister of a direction given under **subsection (4)**.

- (5) A direction under **subsection (4)** in relation to a draft LPS –
- (a) is to specify the State Service Agencies, or State authorities, that the Commission considers may have an interest in the draft LPS; and
  - (b) may specify a period of 21 days, within which public exhibition of the draft LPS is to begin.

**35C. Notice of exhibition of draft LPS**

- (1) A planning authority that is given a direction under **section 35B(4)** in relation to a draft LPS must give notice of the public exhibition of the draft LPS to –
- (a) each other planning authority for a municipal area that is within the same regional area as the planning authority that received the direction; and
  - (b) each other planning authority for a municipal area that is adjacent to the municipal area in respect of the planning authority that received the direction; and
  - (c) each State Service Agency, or State authority, specified in the direction.
- (2) A planning authority that receives a direction under **section 35B(4)** in relation to a draft LPS must ensure that an exhibition notice in relation to the draft LPS is published in accordance with this section.

(3) The exhibition notice is to be published once before, and once within 14 days after, the first day of the exhibition period, in a newspaper that is published, and circulates generally, in Tasmania.

(4) An exhibition notice is to –

(a) specify the period that is to be the exhibition period in relation to the draft LPS; and

(b) specify that the relevant exhibition documents are or will be –

(i) available for viewing by the public, during the exhibition period, at premises, that are offices of the planning authority, specified in the notice; and

(ii) available for viewing and downloading by the public, during the exhibition period, at an electronic address specified in the notice; and

(c) contain an invitation to all persons and bodies to, within the exhibition period, make to the planning authority a representation in relation to the relevant exhibition documents in relation to the draft LPS by submitting the representation to –

(i) the premises specified in the notice in accordance with paragraph (b)(i); or

- (ii) an electronic address specified in the notice.
- (5) The exhibition period, in relation to a draft LPS, is to be a period of 60 days –
  - (a) beginning on the day on which relevant exhibition documents in relation to the draft LPS begin to be available for viewing by the public at exhibition premises in accordance with [section 35D\(1\)\(a\)\(i\)](#); and
  - (b) excluding any days on which the exhibition premises are closed during normal business hours.

### **35D. Exhibition of draft LPS**

- (1) A planning authority that is given a direction under [section 35B\(4\)](#) in relation to a draft LPS must –
  - (a) within the period, if any, specified, in accordance with [section 35B\(5\)\(b\)](#), in the direction, cause the relevant exhibition documents in relation to the draft LPS –
    - (i) to begin to be available for viewing by the public at the exhibition premises; and
    - (ii) to begin to be available for viewing and downloading by the public at the electronic address specified, in accordance with [section 35C\(4\)\(b\)\(ii\)](#), in the exhibition notice; and

- (b) ensure that the relevant exhibition documents in relation to the draft LPS are, for the exhibition period –
  - (i) available for viewing by the public at the exhibition premises; and
  - (ii) available for viewing and downloading by the public at the electronic address specified, in accordance with **section 35C(4)(b)(ii)**, in the exhibition notice.
- (2) The Commission must cause the relevant exhibition documents in relation to a draft LPS to which a direction under **section 35B(4)** relates to be, for the exhibition period in relation to the draft LPS –
  - (a) available for viewing by the public at its office; and
  - (b) available for viewing and downloading by the public at an electronic address of the Commission.

### **35E. Representations**

- (1) A person or body may make to a planning authority a representation in relation to the relevant exhibition documents in relation to a draft LPS (apart from the documents referred to in **paragraph (b)** of the **definition of "relevant exhibition documents"** in **section 31**) that are made available by the planning authority for viewing by the public at

exhibition premises in accordance with [section 35D\(1\)\(a\)](#).

(2) A representation in relation to the relevant exhibition documents in relation to a draft LPS –

(a) is to be made under [subsection \(1\)](#) within the exhibition period in relation to the draft LPS; and

(b) must be made by submitting the representation to the premises, or to the electronic address, that are specified, in accordance with [section 35C\(4\)\(b\)](#), in the exhibition notice in relation to the draft LPS.

(3) Without limiting the generality of [subsection \(1\)](#) but subject to [subsection \(3A\)](#), a person or body may make in relation to the relevant exhibition documents in relation to a draft LPS a representation as to whether –

(a) a provision of the draft LPS is inconsistent with a provision of the SPPs; or

(b) the draft LPS should, or should not, apply a provision of the SPPs to an area of land; or

(c) the draft LPS should, or should not, contain a provision that an LPS is permitted under [section 32](#) to contain.

(3A) A representation in relation to the relevant exhibition documents that relate to a draft LPS may not be made in relation to a provision included in the draft LPS in accordance with a direction referred to in [section 35\(5A\)](#).

- (4) A representation in relation to the relevant exhibition documents in relation to a draft LPS must not be a representation to the effect that the content of a provision of the SPPs should be altered.
- (5) For the purposes of this Part, any matter, contained in a representation under **subsection (1)** in relation to the relevant exhibition documents in relation to a draft LPS, that –
  - (a) does not relate to the contents or merits of the draft; or
  - (b) is not a matter to which **subsection (3)** relates; or
  - (c) is a representation to which **subsection (4)** relates –

is not to be taken to be part of the representation.

### **35F. Report by planning authority to Commission about exhibition**

- (1) A planning authority, within 60 days after the end of the exhibition period in relation to a draft LPS in relation to the municipal area of the planning authority or a longer period allowed by the Commission, must provide to the Commission a report in relation to the draft LPS.
- (2) The report by the planning authority in relation to the draft LPS is to contain –
  - (a) a copy of each representation made under **section 35E(1)** in relation to the relevant



exhibition documents in relation to the draft LPS before the end of the exhibition period in relation to the draft LPS, or, if no such representations were made before the end of the exhibition period, a statement to that effect; and

(b) a copy of each representation, made under **section 35E(1)** in relation to the relevant exhibition documents in relation to the draft LPS after the end of the exhibition period in relation to the draft LPS, that the planning authority, in its discretion, includes in the report; and

(ba) a statement containing the planning authority's response to the matters referred to in an LPS criteria outstanding issues notice, if any, in relation to the draft LPS; and

(c) a statement of the planning authority's opinion as to the merit of each representation included under **paragraph (a)** or **(b)** in the report, including, in particular, as to –

(i) whether the planning authority is of the opinion that the draft LPS ought to be modified to take into account the representation; and

(ii) the effect on the draft LPS as a whole of implementing the recommendation; and

(d) a statement as to whether it is satisfied that the draft LPS meets the LPS criteria; and

- (e) the recommendations of the planning authority in relation to the draft LPS.
- (3) Without limiting the generality of **subsection (2)(e)**, the recommendations in relation to a draft LPS may include recommendations as to whether –
  - (a) a provision of the draft LPS is inconsistent with a provision of the SPPs; or
  - (b) the draft LPS should, or should not, apply a provision of the SPPs to an area of land; or
  - (c) the draft LPS should, or should not, contain a provision that an LPS is permitted under **section 32** to contain.

**35G. Planning authority may notify Minister as to whether amendment of SPPs is required**

- (1) A planning authority, by notice to the Commission, may advise the Commission that, having considered –
  - (a) a draft LPS, in relation to the municipal area of the planning authority, that has been made available for viewing by the public under **section 35D(1)(b)(i)**; and
  - (b) representations made under **section 35E(1)** in relation to the relevant exhibition documents in relation to the draft LPS –

the planning authority is of the opinion that the content of a provision of the SPPs should be altered.

- (2) The Commission must consider the advice of a planning authority received under **subsection (1)** and, if it considers the advice has merit, provide to the Minister notice of the advice and of the Commission's opinion in relation to the advice.
- (3) The Minister must consider the notice, and the Commission's opinion, provided to him or her under **subsection (2)**.

### **35H. Hearings**

- (1) As soon as practicable after receiving, in relation to a draft LPS, a report under **section 35F(1)** that contains a copy of a representation in relation to the relevant exhibition documents in relation to the draft LPS, the Commission must hold a hearing in relation to the representation.
- (2) **Subsection (1)** does not apply in relation to a representation in relation to the relevant exhibition documents in relation to a draft LPS if the Commission decides to dispense with a hearing in relation to the representation because –
  - (a) the Commission is satisfied that all the representations received by the relevant planning authority are in support of the draft LPS; or
  - (b) the person or body who or that made the representation notifies the Commission that he, she or it does not wish a hearing

to be held in relation to the representation; or

- (c) the Commission is satisfied that the representation indicates that the draft LPS will require modification for a purpose referred to in **section 40I(2)(b)** and the Minister has agreed to the modification for that purpose.
- (3) The Commission must give at least 14 days' notice, as prescribed, of a hearing to be held under **subsection (1)**.
- (4) The Commission may consolidate any of the representations and hold a hearing in relation to the consolidated representations.
- (5) The Commission may hold together hearings that relate to more than one draft LPS.
- (6) The Commission is not to consider, in a hearing in relation to a draft LPS, a matter that, if it were included in a representation, would, in accordance with **section 35E(5)**, not be taken to be part of the representation.

### **35L. Withdrawal of draft LPS**

- (1) A planning authority may apply to the Commission for approval to withdraw a draft LPS prepared by the planning authority.
- (2) An application may only be made under **subsection (1)** in relation to a draft LPS if –

- (a) a report, in relation to the draft LPS, has not been provided to the Commission under **section 35F(1)**; and
  - (b) the planning authority proposes to prepare a further draft LPS, or a Special LPS, for an area the same as, or greater than, the area to which the draft LPS that is to be withdrawn relates.
- (3) After considering an application under **subsection (1)** in relation to a draft LPS, the Commission, with the approval of the Minister, may –
  - (a) approve the withdrawal of the draft LPS; or
  - (b) refuse to approve the withdrawal of the draft LPS.
- (4) The Commission is to notify the planning authority that made an application under **subsection (1)** of a decision under **subsection (3)** in relation to the application.
- (5) A draft LPS is withdrawn 7 days after the day on which an approval is given under **subsection (3)** to the withdrawal of the draft LPS.
- (6) A planning authority, by notice published in a daily newspaper that is published in Tasmania and circulates generally in the area to which a draft LPS that is withdrawn relates, must give notice –
  - (a) that the draft LPS is withdrawn; and
  - (b) of the date on which the withdrawal takes or took effect.

## ***Division 5 – Approval of Local Provisions Schedules***

### **35J. Matters to be considered by Commission**

- (1) As soon as practicable after receiving a report under **section 35F(1)** in relation to a draft LPS and holding any hearings under **section 35H**, the Commission must consider –
  - (a) the report and the draft LPS to which it relates; and
  - (b) the information obtained at the hearings; and
  - (c) whether it is satisfied that the draft LPS meets the LPS criteria; and
  - (d) whether modifications ought to be made to the draft LPS.
- (2) The Commission, after receiving a report under **section 35F(1)** in relation to a draft LPS and holding all hearings that it is required to hold under **section 35H**, may consider whether there are any matters that relate to issues of a technical nature or that may be relevant to the implementation of the Local Provisions Schedule if the Local Provisions Schedule were approved under **section 35L** in the terms of the draft LPS.

### **35K. Modifications to draft LPS**

- (1) The Commission, after complying with **section 35J** in relation to a draft LPS in relation to the municipal area of a planning authority, may –

- (a) by notice to the planning authority, direct the planning authority to modify the draft LPS in the manner specified in the notice; or
- (b) modify the draft LPS itself and notify the planning authority of the Commission's modification; or
- (c) by notice to the planning authority, reject the draft LPS and direct the planning authority to submit to the Commission a substitute draft LPS within 28 days, or a longer period allowed by the Commission, from the date of the notice.

(2) If a planning authority is directed under **subsection (1)(a)** to modify a draft LPS –

- (a) the planning authority must undertake the modification in accordance with the direction and submit the modified draft LPS to the Commission within 28 days or a longer period allowed by the Commission; and
- (b) the Commission may, if it is not satisfied with a modified draft submitted to the Commission under **paragraph (a)**, issue a further notice under **subsection (1)** in relation to the draft LPS to which the modifications relate; and
- (c) the period referred to in **section 35L(3)** in relation to a draft LPS to which a report under **section 35F(1)** applies does not run until the modified draft LPS is submitted to the Commission under **paragraph (a)**.

(d) [This component has been omitted.]

(3) If the Commission issues under **subsection (1)(c)** a direction, in relation to a draft LPS ("**the original draft LPS**"), requiring a planning authority to submit to the Commission a substitute draft LPS –

- (a) the direction is taken to be a direction of the Minister under **section 35(2)** to submit to the Commission a draft LPS; and
- (b) this Division ceases to apply to the original draft LPS.

(4) [This component has been omitted.]

#### **35KA. Modifications to draft LPS relating to subsequent planning scheme amendments**

(1) The modifications that the Commission may make, or direct a planning authority to make, under **section 35K(1)(a)** or **(b)**, to a draft LPS, include, but are not limited to including, a relevant modification.

(2) For the purposes of this section, a relevant modification is a modification to a draft LPS in relation to a municipal area –

- (a) to include provisions that correspond to provisions that were included, in the planning scheme, within the meaning of **section 10(2)(a)(ii)**, that applies in relation to the municipal area, by an amendment, of that planning scheme, that is in effect at the time at which the



draft LPS is to be modified under **section 35K(1)(a) or (b)**; or

- (b) so that the provisions to be included in the draft LPS, as so modified by the relevant modification, will correspond to the provisions, of the planning scheme within the meaning of **section 10(2)(a)(ii)**, that applies to the municipal area, as altered by an amendment, of that planning scheme, that is in effect at the time at which the draft LPS is to be modified under **section 35K(1)(a) or (b)**.
- (3) Despite **subsection (1)**, a relevant modification may not be made unless the provisions to be included in the draft LPS, as so altered, if at all, in accordance with the relevant modification, are provisions of a kind that may be included in a draft LPS prepared under **section 35**.
- (4) A provision that is to be included, in a draft LPS in relation to a municipal area, in accordance with a relevant modification, may be varied so that the provision –
  - (a) will conform to the requirements of the SPPs in relation to the LPS; or
  - (b) will reflect the terminology used in the SPPs or the LPS, including, but not limited to including, where the relevant modification relates to the designation of a zone in the planning scheme, by changing the designation of the zone to the zone in the draft LPS that most closely corresponds to the zone in the planning scheme; or

- (c) will contain provisions that –
  - (i) are appropriately numbered; or
  - (ii) make correct references to provisions in the draft LPS or in other instruments, including but not limited to the SPPs; or
- (d) will achieve the effect intended by the amendment of the planning scheme to which the relevant modification relates.

**35KB. Where substantial modifications required**

- (1) The Commission, after complying with **section 35J** in relation to a draft LPS in relation to the municipal area of a planning authority, may issue, in relation to the draft LPS, a direction to the planning authority.
- (2) The Commission may only issue, in relation to a draft LPS, a direction under **subsection (1)** if the Commission is of the opinion that the draft LPS requires substantial modification but that the modification required is such that it is suitable for it to be made by way of an amendment, under **Part 3B**, of the LPS in relation to the municipal area of the planning authority, after the LPS comes into effect.
- (3) A direction issued under **subsection (1)** to a planning authority is to direct the planning authority –
  - (a) to prepare, in the terms specified in the direction, an amendment, under **Part 3B**,

of the LPS in relation to the municipal area of the planning authority; and

- (b) to submit to the Commission the amendment of the LPS within 42 days, or a longer period allowed by the Commission, after the LPS comes into effect.

(4) If a direction is issued under **subsection (1)** to a planning authority –

(a) the planning authority –

- (i) must prepare, in the terms specified in the direction, an amendment, under **Part 3B**, of the LPS in relation to the municipal area of the planning authority; and

- (ii) must submit the amendment to the Commission within 42 days, or a longer period allowed by the Commission, after the LPS comes into effect; and

(b) the Commission may, on receiving from the planning authority a draft of the amendment of the LPS under **paragraph (a) or (c)** –

- (i) by notice to the planning authority, require the planning authority to publicly exhibit the amendment in accordance with **section 40G**; or

- (ii) by notice to the planning authority, require the planning

authority to resubmit to the Commission an amended draft of the amendment of the LPS within the period specified in the notice; and

- (c) the planning authority is to resubmit to the Commission an amended draft of the amendment of the LPS within the period specified in the notice, if any, under paragraph (b)(ii).

### **35L. Approval of Local Provisions Schedules**

- (1) The Commission, after complying with section 35J and taking the action, if any, it thinks fit under section 35K in relation to a draft LPS, may, with the agreement of the Minister, approve a Local Provisions Schedule in the terms of –

- (a) the draft LPS; or
- (b) the draft LPS modified in accordance with section 35K(1) or (2).

- (c) [This component has been omitted.]

- (2) The Commission must not approve a Local Provisions Schedule under subsection (1) unless the Commission is satisfied the Local Provisions Schedule meets the LPS criteria.

- (3) The Commission must approve under subsection (1) a Local Provisions Schedule within 90 days, or a longer period allowed by the Minister, after receiving a report under

**section 35F(1)** in relation to the draft LPS to which the Local Provisions Schedule relates.

- (4) An approval by the Commission of a Local Provisions Schedule must be signed –
  - (a) by the Chairperson of the Commission; or
  - (b) if the Chairperson of the Commission is unavailable or unable to sign the approval – by a person approved under **subsection (5)** to sign the approval.
- (5) The Commission may approve a member of the Commission –
  - (a) to sign the approval of a particular Local Provisions Schedule if the Chairperson is unavailable or unable to sign that approval; or
  - (b) to sign approvals of Local Provisions Schedules during any period in which the Chairperson is unavailable or unable to sign such approvals.

### **35M. Notice of approval of Local Provisions Schedules**

- (1) As soon as practicable after approving a Local Provisions Schedule under **section 35L(1)**, the Commission must –
  - (a) notify the planning authority for the municipal area to which the Local Provisions Schedule relates; and

- (b) cause a notice of the approval of the Local Provisions Schedule to be published in the *Gazette*.
- (2) A planning authority that is notified under **subsection (1)(a)** must give the prescribed notice of the approval of a Local Provisions Schedule to which the notice relates.
- (3) A Local Provisions Schedule approved under **section 35L(1)** comes into effect –
  - (a) on the date on which notice of its approval appears in the *Gazette*; or
  - (b) if a later date is specified in the notice as the date on which the Local Provisions Schedule is to come into effect – on that date.
- (4) The failure to comply with a provision of this Part within the period referred to in the provision does not invalidate an approval under **section 35L(1)** of a Local Provisions Schedule.

### ***Division 6 – Review of LPSs***

#### **35N. Purposes of review**

The purposes of a review of an LPS, or a part of an LPS, are as follows:

- (a) to determine whether the LPS or part effectively sets out the policy objectives for use and development of land to which the LPS applies;

- (b) to determine whether the LPS or part complies with, or is consistent with, the SPPs;
- (c) to determine whether the LPS or part is consistent with any applicable regional land use strategy;
- (d) to determine whether the LPS or part satisfactorily applies a State Policy;
- (e) to determine whether, as far as practicable, the LPS or part is consistent with and co-ordinated with the LPS that applies to municipal areas that are adjacent to the municipal area to which the LPS applies;
- (f) to determine whether the LPS or part is in accordance with any direction issued by the Minister under this Act.

### **350. Requirement for review of LPSs**

- (1) A planning authority must regularly conduct, for each of the purposes specified in **section 35N**, a review of an LPS in relation to the municipal area of the planning authority.
- (2) A planning authority must, after the end of each 5-year period after an LPS in relation to the municipal area of the planning authority has been in effect, conduct, for each of the purposes specified in **section 35N**, a review of the LPS.
- (3) **Subsection (2)** does not apply if a planning authority has prepared a draft LPS under

section 35 that, if approved under section 35L(1), would replace the LPS required to be reviewed.

- (4) The Minister, by notice in writing to a planning authority in respect of a municipal area or to the Commission, may direct the authority or the Commission, respectively, to review, for one or more of the purposes, specified in section 35N, that are specified in the notice, all or part of the LPS that applies to the area.

### **35P. Conduct of review**

- (1) If a planning authority or the Commission must, as required by section 35O(1) or (2) or by a notice under section 35O(4), conduct a review of an LPS or a part of an LPS, the planning authority or the Commission, respectively –
  - (a) must publish notice, in a newspaper published in, and circulating generally in, Tasmania, that –
    - (i) a review of an LPS or a part of an LPS is to be conducted; and
    - (ii) specifying the matters to which the review relates; and
    - (iii) inviting all persons and bodies to provide to the planning authority, or the Commission, respectively, comments, in relation to the matters to which the review relates, within the period of not less than 21 days, specified in the notice; and



- (b) for a period specified, in accordance with paragraph (a)(iii) in the notice, must receive comments from persons and bodies in relation to the matters to which the review relates; and
- (c) must consider the matters to which the review relates; and
- (d) after taking into account public comments received within the period referred to in paragraph (a)(iii), must prepare a report in relation to the review; and
- (e) in the case –
  - (i) of the planning authority – must provide the report to the Commission within 90 days after beginning the review or a longer period allowed by the Commission; or
  - (ii) of the Commission – must provide the report to the Minister within 90 days after beginning the review or a longer period allowed by the Minister.

(2) For the purposes of this section, the matters to which a review relates are –

- (a) if the review is required under section 35O(1) or (2), all the purposes of a review specified in section 35N; or
- (b) if the review is pursuant to a direction in a notice under section 35O(4), the

purposes, specified in **section 35N**, that are specified in the notice.

- (3) A report by a planning authority or the Commission for the purposes of **subsection (1)(d)** in relation to the review of an LPS, or a part of an LPS, is to contain –
  - (a) the details and conclusions of the review of the LPS, or the part of an LPS, in relation to the matters to which the review relates; and
  - (b) a statement of the opinion of the planning authority, or the Commission, as the case may be, as to whether the LPS requires amendment, needs to be replaced with another LPS, or can continue without amendment.
- (4) If the Commission is satisfied that a report prepared by a planning authority under **subsection (1)** has not been prepared in accordance with the requirements of this section, the Commission must, by notice to the planning authority, direct the planning authority to revise the report and provide the revised report to the Commission within 60 days or a longer period allowed by the Commission.
- (5) A planning authority must provide to the Commission a report in accordance with a notice under **subsection (4)**.
- (6) **Subsection (5)** does not apply if a planning authority has prepared a draft LPS under **section 35** that, if a Local Provisions Schedule were approved under **section 35L(1)** in the terms

of the draft LPS, would replace the LPS required to be reviewed.

- (7) If a planning authority fails to comply with a requirement or a notice under this Division –
  - (a) the Commission may assume the responsibilities and obligations of the planning authority under this Division; and
  - (b) the planning authority must pay to the Commission all costs incurred by the Commission in assuming the responsibilities and obligations of the authority under this Division.
- (8) The Commission must, as soon as practicable after receiving under this section a report in relation to a review that it is satisfied has been prepared in accordance with the requirements of this section, give to the Minister its recommendations in relation to the review.

#### ***Division 7 – Special Local Provisions Schedules***

##### **35Q. Special Local Provisions Schedules**

- (1) The Commission may prepare a draft Special LPS and approve a Special Local Provisions Schedule in the terms of the draft Special LPS so prepared.
- (2) A planning authority may prepare a draft Special LPS and submit it to the Commission.

- (3) The Commission, if it receives from a planning authority a draft Special LPS submitted to the Commission under **subsection (2)**, must –
- (a) approve a Special Local Provisions Schedule in the terms of the draft Special LPS; or
  - (b) with the agreement of the planning authority, modify the draft Special LPS and then approve a Special Local Provisions Schedule in the terms of the draft Special LPS so modified; or
  - (c) refuse to approve a Special Local Provisions Schedule in the terms of the draft Special LPS.
- (4) A Special Local Provisions Schedule that applies to a municipal area may only be approved under **subsection (3)** if the Commission is satisfied that –
- (a) either –
    - (i) there are contradictions in, or inconsistencies between, the provisions of an LPS that applies to the municipal area; or
    - (ii) it is necessary to introduce an LPS that applies to a municipal area to which an LPS does not apply or will cease to operate; and
  - (b) the application of the provisions of **Division 4** to the making of an LPS to address the matters referred to in

paragraph (a)(i) or (ii) would result in an unacceptable delay; and

(c) it is in the public interest to do so.

- (5) A Special LPS must comply with **Division 2** as if a reference in that Division to a draft LPS were a reference to a draft Special LPS.
- (6) **Divisions 3, 4 and 5** do not apply in relation to a draft Special LPS.
- (7) The Commission must provide to a planning authority in relation to a municipal area notice of the approval of a Special Local Provisions Schedule under **subsection (1)**, or of a decision under **subsection (3)** in relation to a draft Special LPS, that relates to the planning authority's municipal area.
- (8) The Commission must cause notice of the approval of a Special Local Provisions Schedule, and of the place at which the Special Local Provisions Schedule may be inspected, to be published in the *Gazette* and in a newspaper that is published in Tasmania and circulates generally in the municipal area to which the Special Local Provisions Schedule relates.

### **35R. Operation of Special LPSs**

- (1) A Special LPS comes into effect on the date specified in the notice in the *Gazette* published under **section 35Q(8)** or, if no date is specified, 7 days after the date on which the notice is so published.

- (2) If a provision of a Special LPS that applies to a municipal area is inconsistent with any existing LPS that applies to the municipal area, the provision of the LPS does not apply to the extent of the inconsistency.
- (3) The Commission must provide to the Clerk of each House of Parliament a copy of a Special LPS within 10 sitting-days after the Special LPS is approved under **section 35Q(1)** or **(3)**.
- (4) A Clerk of a House of Parliament must table in the House a copy of a Special LPS that is provided under **subsection (3)**.
- (5) A Special LPS ceases to be in effect if –
  - (a) the Commission revokes the Special LPS under **section 35S**; or
  - (b) either House of Parliament passes a resolution disallowing the Special LPS; or
  - (c) an LPS, that applies to the area and specifies that the Special LPS is revoked, comes into effect.

### **35S. Revocation of Special LPSs**

- (1) The Commission, of its own motion or at the request of a planning authority, may revoke a Special LPS.
- (2) The Commission must cause notice of the revocation of a Special LPS to be published in the *Gazette* and in a newspaper that is published

in Tasmania and circulates generally in the municipal area to which the LPS relates.

- (3) The revocation of a Special LPS comes into effect on the date specified in the *Gazette* notice published under **subsection (2)** as the date on which the Special LPS is revoked or, if no date is specified, 7 days after the date on which the notice is so published.

***Division 8 – Commission may take over certain responsibilities of planning authority***

**35T. Commission may take over responsibilities of planning authority**

- (1) If a planning authority fails to comply with a provision of this Part within the period referred to in that provision –
  - (a) the Commission may assume the responsibilities and obligations of the planning authority under this Part; and
  - (b) the planning authority must pay to the Commission all costs incurred by the Commission in assuming the responsibilities and obligations of the planning authority under this Part.
- (2) The failure to comply with a provision of this Part within the period referred to in the provision does not invalidate an LPS, or a Special LPS, approved by the Commission under this Part.

## **Part 3B – Amendments of LPSs**

### ***Division 1 – Interpretation***

#### **36. Interpretation of Part**

In this Part –

**"exhibition notice"**, in relation to a draft amendment of an LPS, means the exhibition notice published under **section 40G** in relation to the draft amendment of an LPS;

**"exhibition period"**, in relation to a draft amendment of an LPS, means the period specified, in accordance with **section 40G(3)(a)**, in the exhibition notice as the exhibition period in relation to the draft amendment of an LPS;

**"exhibition premises"**, in relation to a draft amendment of an LPS, means premises –

- (a) to which the public has access during normal business hours; and
- (b) that are specified, in accordance with **section 40G(3)(b)(i)**, in the exhibition notice in relation to the draft amendment of an LPS;

**"relevant exhibition documents"**, in relation to a draft amendment of an LPS, means –

- (a) the draft amendment of an LPS; and



- (b) any document applied, adopted or incorporated in the draft amendment of an LPS.

## ***Division 2 – Requests for amendments of LPSs***

### **37. Request for amendment of LPSs**

- (1) A person may request a planning authority to amend an LPS that applies to the municipal area of the planning authority.
- (2) A request under **subsection (1)** is to be in a form approved by the planning authority or, if a form has been approved by the Commission, is to be in that form.
- (3) A request under **subsection (1)** by a person to a planning authority to amend the zoning or use or development of one or more parcels of land specified in an LPS must, if the person is not the owner, or the sole owner, of the land –
  - (a) be signed by each owner of the land; or
  - (b) be accompanied by the written permission of each owner of the land to the making of the request.

### **38. Decision in relation to request**

- (1) A planning authority, before deciding whether to prepare a draft amendment of an LPS in relation to a municipal area in accordance with a request under **section 37(1)**, must be satisfied that such a draft amendment of an LPS will meet the LPS criteria.

- (2) A planning authority, within 42 days after receiving a request under **section 37(1)** or a longer period allowed by the Commission, must –
  - (a) decide to agree to the amendment and prepare a draft amendment of the LPS; or
  - (b) decide to refuse to prepare the draft amendment of the LPS.
- (3) A planning authority, within 7 days of deciding under **subsection (2)** whether or not to prepare a draft amendment of an LPS in accordance with a request under **section 37(1)**, must give notice of the decision to the person who made the request.

### **39. Limitation on multiple requests for same amendment**

- (1) A person may not, within 2 calendar years from the date of a decision by a planning authority under **section 38** not to prepare a draft amendment of an LPS, request the planning authority under **section 37(1)** to prepare a draft amendment of the LPS that is substantially the same as the draft amendment to which the decision relates, unless the leave of the Commission has been obtained under **subsection (2)**.
- (2) The Commission may, on the application of a person who wishes to make a request under **section 37(1)** ("**the new request**"), give leave to the person to request the planning authority under **section 37(1)** to prepare a draft amendment of an LPS that is substantially the

same as a previous request to prepare an amendment.

- (3) The Commission may only give leave to a person to request the planning authority under **section 37(1)** to prepare a draft amendment of an LPS if –
  - (a) there has been a change to –
    - (i) the SPPs; or
    - (ii) a regional land use strategy that applies to the municipal area in which is situated the land to which the new request relates; and
  - (b) the Commission is satisfied the change may be relevant to the consideration by the planning authority of the new request.

#### **40. Additional information may be requested**

- (1) A planning authority, within 28 days from the day on which it receives from a person a request under **section 37(1)** for an amendment of an LPS, may, by notice in writing served on the person, require the person to provide to the planning authority additional information before it considers the request.
- (2) A period referred to in **section 38(2)** or (3) does not run in relation to a request under **section 37(1)** by a person while additional information that the planning authority has required the person to provide has not, in the

opinion of the planning authority, been provided to the planning authority.

- (3) If additional information is not provided, in accordance with a requirement under **subsection (1)**, within 5 years after the requirement is made and the requirement is not revoked in accordance with a direction under **section 40A(4)**, the request under **section 37(1)** for an amendment of an LPS lapses.

#### **40A. Review of requirement for additional information**

- (1) A person, within 14 days after being served a notice under **section 40(1)** containing a requirement that the person provide additional information, may request the Commission to consider whether the planning authority ought to have imposed the requirement.
- (2) The Commission, after receiving a request under **subsection (1)** in relation to a planning authority, may, by notice to the planning authority, require the planning authority to provide to the Commission any material, relevant to the request, that was in the possession of the planning authority before the day on which the Commission issued the notice.
- (3) A planning authority, within 7 days of receiving notice of a requirement under **subsection (2)**, must comply with the requirement.

Penalty: Fine not exceeding 100 penalty units.

- (4) The Commission, within 28 days after receiving from a person a request under **subsection (1)** in relation to a requirement of a planning authority

imposed by a notice under **section 40(1)**, or a longer period allowed by the Minister, must –

- (a) direct the planning authority –
    - (i) to revoke the notice under **section 40(1)** imposing the requirement; or
    - (ii) to issue a new notice under **section 40(1)** imposing a requirement that the person provide additional information that is specified in the notice from the Commission; or
  - (b) determine that the Commission is satisfied that the requirement was appropriate.
- (5) The Commission, within 7 days of making a direction or determination under **subsection (4)**, must give notice of the direction or determination to the planning authority and the person who made the request under **subsection (1)** to which the direction or determination relates.
- (6) A period referred to in **section 38(2)** or (3) does not run in relation to a request under **section 37(1)** by a person while the Commission is determining a request under **subsection (1)** by the person.

#### **40B. Review of refusal of request to amend LPS**

- (1) A person, within 14 days of receiving a notice under **section 38(3)** that the planning authority

has decided not to prepare a draft amendment of an LPS in accordance with the person's request, may request the Commission to determine whether the Commission is satisfied that the planning authority took into account, in making its decision, the matters referred to in [section 38\(1\)](#).

- (2) The Commission may, if it receives a request under [subsection \(1\)](#) in relation to a decision of a planning authority, by notice in writing to a planning authority, request the planning authority to provide it with any material relevant to the decision.
- (3) A planning authority, within 7 days of receiving a request under [subsection \(2\)](#), must provide to the Commission the material requested.

Penalty: Fine not exceeding 100 penalty units.

- (4) The Commission, within 28 days after receiving from a planning authority the material requested under [subsection \(2\)](#) or a longer period allowed by the Minister, must –
  - (a) direct the planning authority to reconsider whether to prepare a draft amendment of an LPS in relation to a request under [section 37\(1\)](#); or
  - (b) determine that, in the opinion of the Commission, the planning authority, in making its decision in relation to a request under [section 37\(1\)](#), took into account the matters referred to in [section 38\(1\)](#).

- (5) The Commission, within 7 days of making a direction or determination under **subsection (4)**, must give notice of the decision to the planning authority and the person who made the request under **subsection (1)** to which the direction or determination relates.
- (6) A planning authority that is given notice under **subsection (5)** of a decision under **subsection (4)** to direct the planning authority to reconsider whether to prepare a draft amendment of an LPS –
  - (a) must reconsider whether to prepare a draft amendment of the LPS; and
  - (b) within 7 days of making a decision whether to prepare a draft amendment of an LPS, must notify of its decision the person who made the request under **subsection (1)** to which the decision relates.
- (7) A period referred to in **section 38(2)** or **(3)** or **section 40D(a)** does not run in relation to an application under **section 37** while the Commission is determining a request under **subsection (1)**.

### ***Division 3 – Amendment of LPSs***

#### ***Subdivision 1 – Preparation of draft amendments of LPSs***

#### **40C. Direction to prepare draft amendments of LPS**

- (1) The Minister, by notice in writing to a planning authority in respect of a municipal area, may direct the authority to prepare under **section 40D**

a draft amendment of an LPS that applies to the area, for any one or more of the following purposes:

- (a) to ensure that the LPS will comply with, or be consistent with, the SPPs;
  - (b) to ensure that the LPS is, as far as practicable, consistent with the applicable regional land use strategy;
  - (c) to ensure the satisfactory application of a State Policy;
  - (d) to ensure that the LPS is in accordance with a direction of the Minister under this Act;
  - (e) on the advice of the Commission, any other purpose the Minister thinks fit.
- (2) A direction to a planning authority under **subsection (1)** requiring the planning authority to prepare a draft amendment of an LPS may require that the draft amendment of an LPS so prepared be provided to the Commission by a date, specified in the direction, that is not less than 42 days after the date on which the direction is given.
- (3) The Minister must give notice, in a newspaper published in, and circulating generally in, Tasmania, of a direction given under **subsection (1)**.

#### **40D. Preparation of draft amendments**

A planning authority –



- (a) must prepare a draft amendment of an LPS, and certify it under **section 40F**, within 42 days after receiving the request under **section 37(1)** to which the amendment relates, if –
  - (i) it decides under **section 38(2)** to prepare a draft amendment of an LPS; or
  - (ii) after reconsidering, in accordance with a direction under **section 40B(4)(a)**, a request under **section 37(1)** whether to prepare a draft amendment of an LPS, it decides to prepare such an amendment; or
- (b) may, of its own motion, prepare a draft amendment of an LPS; or
- (c) must, if it receives under **section 40C(1)** a direction to do so, prepare a draft amendment of an LPS and submit it to the Commission within the period specified in the direction or a longer period allowed by the Commission.

#### **40E. Withdrawal of draft amendments**

- (1) A planning authority may at any time decide to withdraw a draft amendment of an LPS –
  - (a) with the agreement of the person who requested under **section 37(1)** that the draft amendment be prepared; or

- (b) that it has prepared of its own motion under **section 40D(b)**.
- (2) The withdrawal of a draft amendment of an LPS comes into effect 7 days after the date on which the planning authority decides to withdraw the amendment.
- (3) A planning authority that withdraws a draft amendment of an LPS is to –
  - (a) notify the Commission of the withdrawal of the draft amendment; and
  - (b) give notice, in a newspaper published in Tasmania and circulating generally in the area to which the draft amendment relates, that the draft amendment has been withdrawn and of the date on which the withdrawal takes effect.

#### **40F. Certification of draft amendments**

- (1) A planning authority that has prepared a draft amendment of an LPS must consider whether it is satisfied that the draft amendment of an LPS meets the LPS criteria.
- (2) If a planning authority determines that –
  - (a) it is satisfied as to the matters referred to in **subsection (1)**, the planning authority must certify the draft as meeting the requirements of this Act; or
  - (b) it is not satisfied as to the matters referred to in **subsection (1)**, the planning authority must modify the draft so that it

meets the requirements and then certify the draft as meeting those requirements.

- (3) The certification of a draft amendment of an LPS under **subsection (2)** is to be by instrument in writing affixed with the common seal of the planning authority.
- (4) A planning authority, within 7 days of certifying a draft amendment of an LPS under **subsection (2)**, must provide to the Commission a copy of the draft and the certificate.

**40FA. Notice to certain agencies and State authorities**

- (1) A planning authority, before exhibiting a draft amendment of an LPS under **section 40H**, is to notify –
  - (a) the relevant agencies; and
  - (b) those State Service Agencies, or State authorities, that the planning authority considers may have an interest in the draft amendment of the LPS –of the date on which the exhibition period in relation to the draft amendment of the LPS is to begin.
- (2) **Subsection (1)** does not apply in relation to a draft amendment of an LPS to which a notice under **section 40I(1)** relates.

## *Subdivision 2 – Public exhibition*

### **40G. Notice of exhibition**

- (1) A planning authority, as soon as practicable after providing to the Commission under **section 40F(4)** a copy of a draft amendment of an LPS or receiving under **section 35KB(4)(b)(i)** a notice in relation to a draft amendment of an LPS, must ensure an exhibition notice in relation to the draft amendment of an LPS is published in accordance with this section, unless the planning authority receives a notice under **section 40I(1)** in relation to the draft amendment.
- (2) The exhibition notice is to be published once before, and once within 14 days after, the first day of the exhibition period, in a newspaper that is published in Tasmania and circulates generally in the area to which the draft amendment of an LPS relates.
- (3) The exhibition notice is to –
  - (a) specify the period that is to be the exhibition period in relation to the draft amendment of the LPS; and
  - (b) specify that the draft amendment of the LPS is or will be –
    - (i) available for viewing by the public, during the exhibition period, at premises, that are offices of the planning authority, specified in the notice; and
    - (ii) available for viewing and downloading by the public,

during the exhibition period, at an electronic address specified in the exhibition notice; and

- (c) contain an invitation to all persons and bodies to, within the exhibition period, make to the planning authority a representation in relation to the draft amendment of the LPS by submitting the representation to –

- (i) the premises specified in the notice in accordance with paragraph (b)(i); or
- (ii) an electronic address specified in the notice.

- (4) The exhibition period, in relation to a draft amendment of an LPS, is to be a period of 28 days –

- (a) beginning on the day on which the draft amendment of the LPS begins to be available for viewing by the public at exhibition premises in accordance with section 40H; and
- (b) excluding any days on which the exhibition premises are closed during normal business hours.

#### **40H. Exhibition**

A planning authority, as soon as practicable after providing to the Commission under section 40F(4) a copy of a draft amendment of an LPS or receiving under section 35KB(4)(b)(i)

a notice in relation to a draft amendment of an LPS, must ensure that a copy of the draft amendment of the LPS is, for a period of 28 days –

- (a) available for viewing by the public at the exhibition premises; and
- (b) available for viewing and downloading by the public at the electronic address specified, in accordance with **section 40G(3)(b)(ii)**, in the exhibition notice.

#### **40L. Exemption from public exhibition**

- (1) The Commission, by notice in writing to a planning authority, may dispense with the requirements of **sections 40G, 40H, 40J, 40K, 40L, 40M, 40N, 40O and 40P** in relation to a draft amendment of an LPS that has been provided to the Commission under **section 40F(4)**.
- (2) The Commission may only issue a notice under **subsection (1)** in relation to a draft amendment of an LPS if the Commission is satisfied that –
  - (a) an amendment of the LPS in the form of the draft amendment of the LPS is urgently required and the Minister has approved the issuing of the notice on this ground; or
  - (b) the draft amendment is for one or more of the following purposes:
    - (i) correcting an error in the LPS;

- (ii) removing an anomaly in the LPS;
- (iii) clarifying or simplifying the LPS;
- (iv) removing an inconsistency in the LPS;
- (v) removing an inconsistency between the LPS and this Act or any other Act;
- (vi) removing an inconsistency between the LPS and the SPPs;
- (vii) making a change to a procedure set out in the LPS;
- (viii) bringing the LPS into conformity with a State Policy;
- (ix) changing the structure of the provisions of the LPS, or the form of a provision of an LPS, so that the LPS conforms with the structure to which an LPS is required by the SPPs to conform or the form that a provision of an LPS is to take;
- (x) a prescribed purpose –

and if it is satisfied that the public interest will not be prejudiced by the draft amendment not being publicly exhibited.

- (3) If the Commission issues a notice under **subsection (1)** in relation to a draft amendment of an LPS that has been provided to the Commission under **section 40F(4), sections 40G, 40H, 40J, 40K, 40L, 40M, 40N, 40O and 40P** do

not apply in relation to the draft amendment of an LPS.

#### **40J. Representations**

- (1) A person or body may make to a planning authority a representation in relation to the relevant exhibition documents (apart from the documents referred to in paragraph (b) of the definition of "relevant exhibition documents" in section 31) that is made available by the planning authority for viewing by the public at exhibition premises in accordance with section 40H(a).
- (2) A representation in relation to a draft amendment of an LPS –
  - (a) is to be made under subsection (1) within the exhibition period in relation to the draft amendment of an LPS; and
  - (b) must be made by submitting the representation to the premises, or to the electronic address, that are specified, in accordance with section 40G(3)(b), in the exhibition notice in relation to the draft amendment of an LPS.
- (3) Without limiting the generality of subsection (1), a person or body may make a representation in relation to a draft amendment of an LPS as to whether –
  - (a) a provision of the draft amendment of an LPS is inconsistent with the SPPs; or



- (b) a provision of the draft amendment of an LPS should, or should not, apply a provision of the SPPs to an area of land; or
  - (c) the draft amendment of an LPS should, or should not, contain a provision that an LPS is permitted under **section 32** to contain.
- (4) A representation in relation to a draft amendment of an LPS must not be a representation to the effect that the content of a provision of the SPPs should be altered.
- (5) For the purposes of this Part, any matter, contained in a representation under **subsection (1)** in relation to a draft amendment of the LPS, that –
  - (a) does not relate to the contents or merits of the draft amendment; or
  - (b) is not a matter to which **subsection (3)** relates; or
  - (c) is a representation to which **subsection (4)** relates –

is not to be taken to be part of the representation.

#### **40K. Report to Commission about draft amendments**

- (1) A planning authority, within 35 days after the end of the exhibition period in relation to a draft amendment of an LPS in relation to the municipal area of the planning authority or a longer period allowed by the Commission, must

provide to the Commission a report in relation to the draft amendment of an LPS.

(2) The report by a planning authority in relation to the draft amendment of an LPS is to contain –

- (a) a copy of each representation made under **section 40J** in relation to the draft amendment before the end of the exhibition period in relation to the draft amendment, or, if no such representations were made before the end of the exhibition period, a statement to that effect; and
- (b) a copy of each representation, made under **section 40J** in relation to the draft amendment after the end of the exhibition period in relation to the draft amendment, that the planning authority, in its discretion, includes in the report; and
- (c) a statement of the planning authority's opinion as to the merit of each representation included under **paragraph (a)** or **(b)** in the report, including, in particular, as to –
  - (i) whether the planning authority is of the opinion that the draft amendment ought to be modified to take into account the representation; and
  - (ii) the effect on the draft amendment, and the LPS to which it relates, as a whole, of

implementing the  
recommendation; and

- (d) a statement as to whether it is satisfied that the draft amendment of an LPS meets the LPS criteria; and
  - (e) any recommendations in relation to the draft amendment that the planning authority thinks fit.
- (3) Without limiting the generality of **subsection (2)(e)**, the recommendations in relation to a draft amendment of an LPS may include recommendations as to whether –
- (a) a provision of the draft amendment of an LPS is inconsistent with a provision of the SPPs; or
  - (b) the draft amendment of an LPS should, or should not, apply a provision of the SPPs to an area of land; or
  - (c) the draft amendment of an LPS should, or should not, contain a provision that an LPS is permitted under **section 32** to contain.
- (4) A planning authority must not include in a recommendation in relation to a draft amendment of an LPS a recommendation to the effect that the content of a provision of the SPPs should be altered.

#### **40L. Hearings**

- (1) The Commission, as soon as practicable after receiving under **section 40K** a report, in relation to a draft amendment of an LPS, that contains a copy of a representation, must hold a hearing in relation to the representation.
- (2) **Subsection (1)** does not apply in relation to a representation in relation to a draft amendment of an LPS if the Commission decides to dispense with the hearing in relation to the representation because –
  - (a) the Commission is satisfied that all the representations received by the planning authority are in support of the draft amendment; or
  - (b) the person or body who or that made the representation has notified the Commission in writing that he, she or it does not wish to be heard at such a hearing; or
  - (c) the Commission is satisfied that –
    - (i) the draft amendment is urgently required and the Minister has agreed that a hearing should be dispensed with in relation to the representation; or
    - (ii) the draft amendment is for a purpose referred to in **section 40I(2)(b)** –

and that the public interest would not be prejudiced by the draft amendment not being publicly exhibited.

- (3) The Commission must give at least 14 days' notice, as prescribed, of a hearing to be held under **subsection (1)**.
- (4) The Commission may consolidate any of the representations and hold a hearing in relation to the consolidated representations.
- (5) The Commission may hold together hearings that relate to amendments to different LPSs.
- (6) The Commission is not to consider, in a hearing in relation to a draft amendment of an LPS, a matter that, if it were included in a representation, would, in accordance with **section 40J(5)**, not be taken to be part of the representation.

### ***Subdivision 3 – Approval of amendments of LPS***

#### **40M. Matters to be considered by Commission**

- (1) As soon as practicable after receiving a report under **section 40K** in relation to a draft amendment of an LPS and holding any hearings under **section 40L**, the Commission must consider –
  - (a) the report and the draft amendment of an LPS to which it relates; and
  - (b) the information obtained at the hearings; and
  - (c) whether it is satisfied that the draft amendment of an LPS meets the LPS criteria; and

- (d) whether modifications ought to be made to the draft amendment of an LPS.
- (2) The Commission, after receiving a report under **section 40K** in relation to a draft amendment of an LPS and holding any hearings under **section 40L**, may consider whether there are any matters that relate to issues of a technical nature or that may be relevant to the implementation of an amendment of the LPS if the amendment of the LPS were approved under **section 40Q** in the terms of the draft amendment of an LPS.

**40N. Action to be taken by Commission after considering report**

- (1) The Commission, after complying with **section 40M** in relation to a draft amendment of an LPS in relation to the municipal area of a planning authority, may –
  - (a) by notice to the planning authority, direct the planning authority to modify the draft amendment in the manner specified in the notice; or
  - (b) modify the draft amendment itself and notify the planning authority of the Commission's modification; or
  - (c) by notice to the planning authority, reject the draft amendment of the LPS and direct the planning authority to –
    - (i) submit to the Commission a substitute draft amendment of an LPS within the period specified in the direction; or

- (ii) substantially modify a part of the draft amendment of the LPS and submit to the Commission the part of the draft amendment of the LPS, as so modified, within 28 days or a longer period allowed by the Commission; or
  - (d) substantially modify the draft amendment itself and notify the planning authority of the Commission's modification; or
  - (e) reject the draft amendment and notify the planning authority of the rejection.
- (2) The Commission may, if it is not satisfied with a modified draft amendment of an LPS submitted to the Commission under **section 40O(1)**, issue a further notice under **subsection (1)** in relation to the draft amendment of an LPS to which the modifications relate.

#### **40O. Modifications of draft amendments**

- (1) A planning authority to which a notice is given under **section 40N(1)(a)** must submit to the Commission a draft amendment of an LPS, modified as required by the notice, within 28 days or a longer period allowed by the Commission.
- (2) If a notice is given under **section 40N(1)(a)** in relation to a draft amendment of an LPS, the period referred to in **section 40Q(2)** does not run in relation to the draft amendment until the period by which the planning authority must

submit to the Commission a modified draft amendment of the LPS has expired.

**40P. Substantial modification of draft amendments**

- (1) A planning authority to which a notice is given under **section 40N(1)(c)** must, within 28 days or a longer period allowed by the Commission, submit to the Commission, as the case may be –
  - (a) a draft amendment of an LPS, modified as required by the notice; or
  - (b) a substitute draft amendment of an LPS.
- (2) If a notice is given under **section 40N(1)(c)** in relation to a draft amendment of an LPS, the period referred to in **section 40Q(2)** does not run in relation to the draft amendment, or the substitute draft amendment, until the period by which the planning authority must submit to the Commission the modified draft amendment of the LPS, or the substitute draft amendment of the LPS, has expired.
- (3) The Commission, after preparing a substantially modified draft amendment of an LPS in accordance with **section 40N(1)(d)**, or within 28 days after receiving a substitute draft amendment of the LPS, or a modified draft amendment of the LPS, under **subsection (1)**, must, if satisfied that the draft amendment satisfies the requirements of this Act –
  - (a) certify the draft amendment; and
  - (b) by notice in writing to the planning authority, direct the planning authority to



comply with **sections 40G** and **40H** in relation to the draft amendment as if the draft amendment were a draft amendment that had been given to the Commission by the planning authority under **section 40F(4)**.

- (4) If a notice is given to a planning authority under **subsection (3)(b)** in relation to a draft amendment of the LPS –
  - (a) the planning authority is to comply with **sections 40G** and **40H** in relation to the draft amendment of the LPS, and this Division applies in relation to the draft amendment, as if the draft amendment were a draft amendment that had been given to the Commission by the planning authority under **section 40F(4)**; and
  - (b) this Division ceases to apply to the original draft amendment of an LPS.

#### **40Q. Approval of amendment of LPS**

- (1) If the Commission, after considering in accordance with **section 40M** a draft amendment of an LPS, including any modifications –
  - (a) made to it by the Commission in accordance with **section 40N(1)(b)**; or
  - (b) made to it by the planning authority in accordance with a direction under **section 40N(1)(a)** or **(c)** –

is satisfied the draft amendment meets the LPS criteria, it must approve an amendment of an

LPS in the terms of the draft amendment, or, if it is not so satisfied, refuse to approve an amendment of the LPS in the terms of the draft amendment.

- (2) An approval under **subsection (1)** of an amendment of an LPS, or a refusal to make such an approval, must be given within 90 days after the report in relation to the draft amendment to which the approval relates is given to the Commission under **section 40K** or within a longer period allowed by the Minister.
- (3) If the Commission has issued a notice under **section 40I(1)** in relation to a draft amendment of an LPS, the Commission may approve, or refuse to approve, an amendment of an LPS in the terms of the draft amendment.
- (4) The Commission may, before approving under **subsection (1)** or (3) an amendment of an LPS in the terms of a draft amendment, modify the draft amendment so as to correct any errors or remove any anomalies in the draft amendment.

#### **40R. How Commission to sign approvals**

- (1) An approval under **section 40Q** of an amendment of an LPS must be signed –
  - (a) by the Chairperson of the Commission;  
or
  - (b) if the Chairperson of the Commission is unavailable or unable to sign the approval – by a person approved under **subsection (2)** to sign the approval.

- (2) The Commission may approve a member of the Commission –
  - (a) to sign an approval of a particular amendment of an LPS if the Chairperson is unavailable or unable to sign that approval; or
  - (b) to sign approvals of draft amendments of an LPS during any period in which the Chairperson is unavailable or unable to sign such approvals.

**40S. When amendments of LPS come into effect**

- (1) An amendment of an LPS comes into effect on –
  - (a) a date, after the date on which the approval of the amendment of an LPS is signed in accordance with **section 40R**, specified in the approval as the date on which the amendment is to come into effect; or
  - (b) if no date is specified in the approval as the date on which the amendment is to come into effect – 7 days after the date on which the approval is signed in accordance with **section 40R**.
- (2) The Commission must notify a planning authority of an approval under **section 40Q** of an amendment of an LPS that applies to the municipal area of the planning authority.
- (3) A planning authority that is notified under **subsection (2)** must give the prescribed notice of

the approval of an amendment of an LPS to which the notice relates.

- (4) The failure to comply with a provision of this Part within the period referred to in the provision does not invalidate an approval under **section 40Q** of an amendment of an LPS.

#### ***Division 4 – Combined permit and amendment process***

##### **40T. Permit application that requires amendment of LPS**

- (1) A person who requests a planning authority under **section 37** to amend an LPS may also, under this subsection –
  - (a) make an application to the planning authority for a permit, which permit could not be issued unless the LPS were amended as requested; and
  - (b) request the planning authority to consider the request to amend the LPS and the application for a permit at the same time.
- (2) An application for a permit under **subsection (1)** is to be in a form, if any, approved by the Commission.
- (3) A planning authority must not refuse to accept a valid application for a permit, unless the application does not include a declaration that the applicant has –
  - (a) notified the owner of the intention to make the application; or
  - (b) obtained the written permission of the owner under **subsection (6)**.

(4) For the purposes of **subsection (3)**, a valid application is an application that contains all relevant information required by the planning scheme applying to the land that is the subject of the application.

(5) If –

- (a) an undertaking is in respect of a combination of uses or developments or of one or more uses and one or more developments; and
- (b) under a planning scheme any of those uses or developments requires a permit to be granted –

a person may, in the one application under **subsection (1)**, apply to the planning authority for a permit with respect to the undertaking.

(6) An application for a permit under **subsection (1)** by a person to a planning authority to amend the zoning or use or development of one or more parcels of land specified in an LPS must, if the person is not the owner, or the sole owner, of the land and the relevant planning scheme does not provide otherwise –

- (a) be signed by each owner of the land; or
- (b) be accompanied by the written permission of each owner of the land to the making of the request.

(7) **Subsection (6)** does not apply to an application for a permit to carry out mining operations, within the meaning of the *Mineral Resources Development Act 1995*, if a mining lease or a

production licence which authorises those operations has been issued under that Act.

#### **40U. Additional information**

- (1) A planning authority, within 28 days from the day on which it receives from a person an application under **section 40T(1)** for a permit, may, by notice in writing served on the person, require the person to provide to the planning authority additional information before it considers the application.
- (2) A period referred to in **section 38(2)** or **(3)** or **section 40D(a)** does not run, in relation to a request under **section 37** to which an application under **section 40T(1)** relates, while additional information that the planning authority has required the person to provide has not, in the opinion of the planning authority, been provided to the planning authority.
- (3) If additional information is not provided, in accordance with a request under **subsection (1)**, within 5 years after the request is made and the request is not revoked in accordance with a direction under **section 40V(4)**, the application under **section 40T(1)** for a permit, to which the request relates, lapses.

#### **40V. Review of requirement for additional information**

- (1) A person, within 14 days after being served a notice under **section 40U(1)** containing a requirement that the person provide additional information, may request the Commission to

consider whether the planning authority ought to have imposed the requirement.

- (2) The Commission, after receiving a request under **subsection (1)** in relation to a planning authority, may, by notice to the planning authority, require the planning authority to provide to the Commission any material, relevant to the request, that was in the possession of the planning authority before the day on which the Commission issued the notice.
- (3) A planning authority, within 7 days of receiving notice of a requirement under **subsection (2)**, must comply with the requirement.

Penalty: Fine not exceeding 100 penalty units.

- (4) The Commission, within 28 days after receiving from a person a request under **subsection (1)** in relation to a requirement of a planning authority imposed by a notice under **section 40T(1)**, or a longer period allowed by the Minister, must –
  - (a) direct the planning authority –
    - (i) to revoke the notice under **section 40T(1)** imposing the requirement; or
    - (ii) to issue a new notice under **section 40T(1)** imposing a requirement that the person provide additional information specified in the notice from the Commission; or
  - (b) determine that the Commission is satisfied that the requirement was appropriate.

- (5) The Commission, within 7 days of making a direction or determination under **subsection (4)**, must give notice of the direction or determination to the planning authority and the person who made the request under **subsection (1)** to which the direction or determination relates.
- (6) The period referred to in **section 38(2)** or **(3)** or **section 40D(a)** does not run in relation to a request under **section 37(1)** by a person while the Commission is determining a request under **subsection (1)** by the person.

**40W. Determination of amendment where concurrent permit application sought**

- (1) A planning authority to which a request is made under **section 40T(1)** may agree, or refuse to agree, to the request.
- (2) A planning authority must notify a person who has made a request under **section 40T(1)** of its decision under **subsection (1)** in relation to the request.
- (3) If the planning authority agrees to a request under **section 40T(1)**, **Division 3**, apart from **section 40I**, applies in relation to the application for an amendment of the LPS to which the request relates.

**40X. Permit application may be considered concurrently with application for LPS amendment**

A planning authority that has –



- (a) decided under **section 40W(1)** to agree to a request under **section 40T(1)**; and
- (b) decided under **section 40D** to prepare a draft amendment of an LPS to which a request under **section 40T(1)** relates –

may consider the application under **section 40T(1)** for a permit at the same time as it prepares the draft amendment of an LPS.

#### **40Y. Determination of concurrent permit application**

- (1) A planning authority that agrees to a request under **section 40T(1)** must determine under **subsection (2)** the application under **section 40T(1)** for a permit that accompanies the request, before it complies with **section 40G** in relation to the draft amendment of an LPS to which the request relates.
- (2) A planning authority that agrees to a request under **section 40T(1)** must determine the application under **section 40T(1)** for a permit that accompanies the request by –
  - (a) granting the permit unconditionally or subject to the conditions or restrictions that the planning authority thinks fit and imposes on the permit; or
  - (b) refusing to grant the permit.
- (3) A planning authority, in determining under **subsection (2)** an application for a permit under **section 40T(1)** –

- (a) must seek to further the objectives set out in **Schedule 1**; and
  - (b) must take into consideration any matters prescribed for the purposes of this section that are relevant to the application.
- (4) The determination by a planning authority under **subsection (2)** of an application under **section 40T(1)** for a permit is to be made by reference to the provision of the planning scheme as in force at the date of the decision, as if the scheme had been amended in accordance with the draft amendment of the LPS, to which the application for the permit relates, that the planning authority has decided under **section 40D** to prepare.
- (5) **Sections 51, 52, 53, 54, 55, 56, 57, 58 and 59** do not apply in relation to an application under **section 40T(1)** for a permit.
- (6) A planning authority, within 7 days of determining under **subsection (2)** an application under **section 40T(1)** for a permit, must provide to the Commission –
  - (a) a copy of the application and any documentation submitted with the application; and
  - (b) a copy of the planning authority's decision and a copy of any permit granted under the decision.

#### **40Z. Exhibition in respect of permit application**

(1) In this section –

**"relevant permit material"**, in relation to a request under **section 40T(1)**, means –

- (a) a copy of the application under **section 40T(1)** for a permit that accompanies the request; and
- (b) any documentation submitted to the planning authority with the application for a permit; and
- (c) a copy of the planning authority's decision under **section 40Y(2)** in relation to the application for a permit and a copy of any permit granted under the decision.

(2) A planning authority that published an exhibition notice under **section 40G** in relation to a draft amendment of an LPS prepared pursuant to the request under **section 40T(1)** must include in the notice a statement that the relevant permit material in relation to the request under **section 40T(1)** is –

- (a) available for viewing by the public at the exhibition premises in relation to the draft amendment of an LPS; and
- (b) available for viewing and downloading at the electronic address specified in the exhibition notice in accordance with **section 40H**.

(3) A planning authority that makes available for viewing by the public under **section 40H** a draft

amendment of an LPS pursuant to a request under **section 40T(1)** must cause a copy of the relevant permit material to be, during the exhibition period in relation to the draft amendment of an LPS –

- (a) available for viewing by the public at the exhibition premises in relation to the draft amendment of an LPS; and
- (b) available for viewing and downloading at the electronic address specified, in accordance with **section 40H**, in the exhibition notice in relation to the draft amendment of an LPS.

#### **41. Representations**

- (1) A person or body may make a representation to the planning authority in relation to the decision under **section 40Y(2)** in relation to an application for a permit under **section 40T(1)**.
- (2) A representation in relation to a decision under **section 40Y(2)** in relation to an application for a permit under **section 40T(1)** that relates to a draft amendment of an LPS –
  - (a) is to be made under **subsection (1)** before the end of the exhibition period in relation to the draft amendment of an LPS; and
  - (b) is to be made by submitting a copy of the representation to the premises, or to the electronic address, that are specified, in accordance with **section 40G(3)(b)**, in the

exhibition notice in relation to the draft amendment of an LPS.

- (3) If an application for a permit under **section 40T(1)** has been referred to the Board of the Environment Protection Authority under section 24 or 25 of the *Environmental Management and Pollution Control Act 1994*, the planning authority, before 7 days after the end of the exhibition period in relation to the request for an amendment of an LPS to which the application for a permit relates, must provide to the Board copies of the representation received under **subsection (1)**.
- (4) The Board of the Environment Protection Authority must, within 28 days of receiving under **subsection (3)** representations, provide a report to the Commission containing –
  - (a) a statement of its opinion as to the merit of each representation, including, in particular, its views as to the need, in light of that representation, for modification of the planning authority's decision in relation to the application for a permit; and
  - (b) the recommendations, in respect of the decision in relation to the application for a permit, that the Board thinks fit.

#### **42. Report in relation to draft amendment of LPS to contain representations**

When a planning authority provides to the Commission under **section 40K** a report in relation to an application for an amendment of

an LPS to which a request under **section 40T(1)** relates, the planning authority must also provide to the Commission –

- (a) a copy of each representation made under **section 41(1)** in relation to –
  - (i) the application for a permit to which the request relates; or
  - (ii) the decision in relation to the application –

or, if no representations have been made, a statement to that effect; and

- (b) a statement of its opinion as to the merit of each representation including, in particular, its views as to the need, in light of that representation, for modification of the planning authority's decision in relation to the application for a permit; and
- (c) the recommendations, in respect of the decision in relation to the application for a permit, that the planning authority thinks fit.

#### **42A. Consideration by Commission of permit application**

- (1) The Commission must, at the same time as it considers under **section 40M** a draft amendment of an LPS to which a request under **section 40T(1)** relates, consider the representations, statements and recommendations provided to the Commission under **section 42** in relation to the application

under **section 40T(1)** for a permit that accompanies the request.

- (2) **Section 42** applies to representations, statements and recommendations referred to in **subsection (1)** as if they were representations, statements and recommendations referred to in that section.

**42B. Commission to review planning authority's decision about permit**

- (1) The Commission must, at the same time as it makes a decision under **section 40Q** in relation to a draft amendment of an LPS to which a request under **section 40T(1)** relates –
  - (a) confirm the decision of the planning authority under **section 40Y** in relation to the application for a permit to which the request relates; or
  - (b) if the decision in relation to the application for a permit to which the request relates was to grant a permit –
    - (i) refuse the permit; or
    - (ii) modify or delete a condition or restriction attached to the permit or add new conditions or restrictions to the permit; or
  - (c) if the decision in relation to the application for a permit to which the request relates was to refuse to grant a permit – grant a permit subject to the

conditions or restrictions that the Commission thinks fit; or

- (d) if the Commission decides under **section 40Q** to refuse to approve the draft amendment of an LPS – refuse the permit.

- (2) If the Commission decides under **section 40Q** to approve a draft amendment of an LPS to which a request under **section 40T(1)** relates, the decision by the Commission under **subsection (1)** in relation to an application under **section 40T(1)** for a permit is to be made by reference to the provision of the planning scheme as in force at the date of the decision, as if the scheme had been amended in accordance with the draft amendment of the LPS.

- (3) If the Commission decides under **section 40Q** not to approve a draft amendment of an LPS to which a request under **section 40T(1)** relates, the decision by the Commission under **subsection (1)** in relation to an application under **section 40T(1)** for a permit is to be made by reference to the provision of the planning scheme as in force at the date of the decision.

- (4) The Commission must give notice in writing, of a decision under **subsection (1)** in relation to an application under **section 40T(1)**, to –

- (a) the planning authority to which the application was made; and
- (b) the applicant; and
- (c) each person or body who or that made a representation under **section 41(1)** in



relation to the permit to which the application relates; and

- (d) the Board of the Environment Protection Authority, if the permit application has been referred to the Board under section 24 or 25 of the *Environmental Management and Pollution Control Act 1994*.

**42C. When permit that relates to LPS amendment takes effect**

- (1) If the Commission, under *section 42B(1)*, grants a permit, or confirms a decision of a planning authority to grant a permit, the permit takes effect on whichever is the latest of the following dates:
  - (a) the date on which the Commission decides under *section 40Q* to approve the draft amendment of an LPS to which the permit relates;
  - (b) a date specified in the permit;
  - (c) if any other approvals under this Act or another Act are required for the proposed use or development to which the permit relates – the date on which all those approvals have been obtained;
  - (d) if under the permit an agreement is required to be entered into – the date on which the agreement is executed.
- (2) A permit in relation to a use or development in respect of which a permit referred to in

**subsection (1)** is granted lapses if the use or development is not substantially commenced before the end of the period of –

- (a) 2 years after the date on which the permit is granted; or
  - (b) 4 years after the date on which the permit is granted, if the planning authority has granted an extension under **subsection (4)**; or
  - (c) 6 years after the date on which the permit is granted, if the planning authority has granted a final extension under **subsection (5)**.
- (3) A person may apply to a planning authority for an extension, or a final extension, under **subsection (4)** or **(5)** at any time before the end of the period of 6 months from the day on which the permit has lapsed.
- (4) If the use or development in respect of which a permit was granted is not, or is unlikely to be, substantially commenced before the permit would otherwise lapse under **subsection (2)(a)**, the planning authority may grant, once only, an extension of the period during which that use or development must be substantially commenced.
- (5) If the use or development in respect of which a permit was granted is not, or is unlikely to be, substantially commenced before the permit would otherwise lapse under **subsection (2)(b)**, the planning authority may grant, once only, a final extension of the period during which that use or development must be substantially commenced.

- (6) In determining whether to grant an extension, or a final extension, of the period of a permit under **subsection (4) or (5)**, the planning authority may consider any matter it thinks fit, including whether the SPPs or an LPS has been amended since the permit was issued.
- (7) If an application is made under **subsection (3)**, for an extension, or a final extension, under **subsection (4) or (5)** of a permit, within the end of the period of 6 months from the day on which the permit has lapsed and the period of a permit is extended under **subsection (4) or (5)**, the permit is to be taken to not have lapsed on that day.

#### **42D. Correction of mistakes in permit**

A planning authority or the Commission may correct a permit to which a decision under **section 42B(1)** relates if the permit contains –

- (a) a clerical mistake or an accidental omission; or
- (b) an evident material miscalculation of figures or an evident material mistake in the description of any person, thing or property referred to in the permit.

#### **43. Minor amendment of permit**

- (1) An owner of land, or a person with the consent of an owner of land, may request a planning authority to amend a permit, to which a decision

under **section 42B(1)** relates, that applies to the land.

- (2) The planning authority, on receiving a request under **subsection (1)** in relation to a permit to which a decision under **section 42B(1)** relates, may amend or refuse to amend the permit.
- (3) The planning authority may only amend under **subsection (2)** a permit to which a decision under **section 42B(1)** relates if it is satisfied that the amendment –
  - (a) is not an amendment of a condition or restriction, specified in the permit, that is required, imposed or amended by the Commission or the Appeal Tribunal; and
  - (b) does not change the effect of a condition or restriction, specified in the permit, that is required, imposed or amended by the Commission or the Appeal Tribunal; and
  - (c) will not cause an increase in detriment to any person; and
  - (d) does not change the use or development for which the permit was granted, other than a minor change to the description of the use or development.
- (4) An amendment of a condition or restriction specified in a permit is not to be taken to contravene **subsection (3)(b)** by reason only that other conditions or restrictions have been specified in the permit, or amended, by the Commission or the Appeal Tribunal.
- (5) A condition or restriction ("**the fresh condition or restriction**") specified by the Commission or

the Appeal Tribunal in a permit is not to be taken, for the purposes of this section, to be required or imposed by the Commission, or the Appeal Tribunal, if –

- (a) the fresh condition or restriction is to the same effect as a condition or restriction that was specified in the permit by the planning authority before the Commission or the Appeal Tribunal specified the fresh condition or restriction in the permit; and
  - (b) the fresh condition or restriction is not referred to in the decision, in relation to the permit, of –
    - (i) the Appeal Tribunal made under **section 78** of the *Tasmanian Civil and Administrative Tribunal Act 2020*; or
    - (ii) the Commission under **section 42B**.
- (6) If the planning authority amends under **subsection (2)** a permit, it must, by notice in writing served on the following persons, notify them of the amendment:
- (a) the applicant for the amendment;
  - (b) if the applicant is not the owner of the land to which the permit relates – the owner of the land;
  - (c) any person or body who or that made a representation under **section 41(1)** in relation to the application for the permit under **section 40T(1)**;

- (d) the owner or occupier of any property which adjoins the land to which the permit relates.
- (7) If the planning authority amends under **subsection (2)** a permit that contains a condition or restriction that the Board of the Environment Protection Authority has required under section 25(5) of the *Environmental Management and Pollution Control Act 1994*, the planning authority must, by notice in writing served on the Board, notify it of the amendment.
- (8) **Section 56A** applies to an amendment of a permit under **subsection (2)**.
- (9) If the planning authority amends a permit in respect of which the Commission has modified, deleted or added conditions or restrictions under **section 42B(1)(b)**, the planning authority must, by notice in writing served on the Commission, notify it of the amendments made to the permit.
- (10) If the planning authority amends under **subsection (2)** a permit containing a condition or restriction which the Heritage Council has specified under section 39(6) of the *Historic Cultural Heritage Act 1995*, the planning authority must, by notice in writing served on the Heritage Council, notify the Council of the amendment.

## *Division 5 – Miscellaneous*

### **44. Commission may take over responsibilities of planning authority**

- (1) If a planning authority fails to comply with a provision of **Division 2** or **3** within the period referred to in that provision –
  - (a) the Commission may assume the responsibilities and obligations of the authority under that Division in relation to the preparation and certification of a draft amendment; and
  - (b) the planning authority must pay to the Commission all costs incurred by the Commission in assuming the responsibilities and obligations of the authority in relation to the preparation and certification of the draft amendment.
- (2) The failure to comply with a provision of **Division 2** or **3** within the period referred to in the provision does not invalidate an amendment of an LPS approved by the Commission under **Division 3**.
- (3) If a planning authority fails, in relation to a request for an amendment of an LPS that is made under **section 40T(1)**, to comply with a provision of **Division 3** or **section 40Y** within the period referred to in that provision –
  - (a) the Commission may assume the responsibilities and obligations of the authority under that provision in relation to the preparation of the amendment of the LPS and the decision in relation to

the application for a permit that accompanied that request; and

- (b) the planning authority must pay to the Commission all costs incurred by the Commission in assuming those responsibilities and obligations.

- (4) The failure to comply with a provision of **Division 3** or **section 40Y** within the period referred to in the provision does not invalidate an amendment of an LPS approved by the Commission under that Division or a decision under this Division in relation to an application under **section 40T(1)** for a permit.

#### **45. Abolition of, or change of boundaries of, municipal area**

If a municipal area is abolished or a boundary of a municipal area is changed, the Commission may, by notice published in the *Gazette*, designate the planning authority that is to have jurisdiction over a planning scheme or a part of a planning scheme.

19A. [This component has been omitted.]

28AA. [This component has been omitted.]

28A. [This component has been omitted.]

28B. [This component has been omitted.]

28C. [This component has been omitted.]

28D. [This component has been omitted.]



28E. [This component has been omitted.]

28F. [This component has been omitted.]

1A. [This component has been omitted.]

2A. [This component has been omitted.]

2B. [This component has been omitted.]

3A. [This component has been omitted.]

4. [This component has been omitted.]

5. [This component has been omitted.]

## **Part 4 – Enforcement of Planning Control**

### ***Division 1 – General***

#### **48. Enforcement of observance of planning schemes**

Where a planning scheme is in force, the planning authority must, within the ambit of its power, observe, and enforce the observance of, that planning scheme in respect of all use or development undertaken within the area to which the planning scheme relates, whether by the authority or by any other person.

#### **48AA. Enforcement of major project permits**

A planning authority must, within the ambit of its power, enforce the observance of any condition or restriction to which a major project permit is subject.

#### **48A. Notice to remove signs**

(1) If a person is erecting or placing, or has erected or placed, a sign for which the issue of a permit is required under the provisions of a planning scheme, unless the planning authority which administers the scheme has granted a permit in respect of that sign and the permit is in effect, the planning authority may do one or more of the following:

- (a) by written notice given to the person, require the person to cease erecting or placing the sign;

- (b) by written notice given to the person, require the person to remove the sign or that part of the sign that has been erected or placed;
  - (c) by written notice given to the person, require the person to take all action necessary to restore the land or any building to the condition it was in before the person erected or placed, or started erecting or placing, the sign;
  - (d) take all action necessary to remove the sign or that part of the sign that has been erected or placed and restore the land or any building to the condition it was in before the person erected or placed, or started erecting or placing, the sign.
- (2) If the planning authority takes any action under **subsection (1)(d)**, the planning authority, by written notice given to the person who is erecting or placing or has erected or placed a sign, may require the person to pay the reasonable costs of that action, and those costs –
  - (a) are a debt due and payable to the planning authority; and
  - (b) may be recovered in a court of competent jurisdiction.
- (3) If the planning authority takes any action under **subsection (1)(d)**, the planning authority is not liable for any damages caused to the sign, or any structure to which the sign was affixed, through the removal of the sign or the storage of the sign on its removal.

- (4) The planning authority may dispose of the sign after 2 months from the date on which the planning authority took action under **subsection (1)(d)** if the sign has not been collected by the person who erected or placed the sign.
- (5) For the purposes of this section, a **"person"** includes the owner and the occupier of the property on which the sign is being erected or placed or has been erected or placed.

49. [This component has been omitted.]

### ***Division 2 – Development control***

#### **50. Certain applications deemed to be applications for permits**

An application of the kind referred to in **section 11(2)(j)** is deemed to be an application for a permit.

#### **51. Permits**

- (1) A person must not commence any use or development which, under the provisions of a planning scheme, requires a permit unless the planning authority which administers the scheme, the Commission, or the Tribunal, has granted a permit in respect of that use or development and the permit is in effect or a major project permit has been granted in respect of that use or development and the permit is in effect.

- (1A) A person may apply to a planning authority which administers a planning scheme for the granting of a permit for a use or development which under that scheme requires a permit to be granted in respect of that use or development.
- (1AA) An application is to be in a form, if any, approved by the Commission.
- (1AB) A planning authority must not refuse to accept a valid application for a permit, unless the application does not include a declaration that the applicant has –
- (a) notified the owner of the intention to make the application; or
  - (b) obtained the written permission of the owner under [section 52](#).
- (1AC) For the purposes of [subsection \(1AB\)](#), a valid application is an application that contains all relevant information required by the planning scheme applying to the land that is the subject of the application.
- (1B) If an undertaking is in respect of–
- (a) a combination of uses; or
  - (b) a combination of developments; or
  - (c) a combination of one or more uses and one or more developments–

and under a planning scheme any of those uses or developments requires a permit to be granted in respect of them, a person, in one application, may apply to the planning authority for a permit with respect to that undertaking.

- (2) In determining an application for a permit, a planning authority –
- (a) must seek to further the objectives set out in **Schedule 1**; and
  - (b) must take into consideration such of the prescribed matters as are relevant to the use or development the subject of the application; and
  - (c) must take into consideration the matters set out in representations relating to the application that were made during the period referred to in **section 57(5)**; and
  - (d) must accept –
    - (i) any relevant bushfire hazard management plan, or other prescribed management plan relating to environmental hazards or natural hazards, that has been certified as acceptable by an accredited person or a State Service Agency; or
    - (ii) any certificate issued by an accredited person or a State Service Agency and stating that the proposed use or development will result in an insufficient increase in risk from the environmental hazard or natural hazard to warrant any specific protection measures.
- (3) The decision of a planning authority on an application referred to in **subsection (1A)** or **(1B)**

is to be made in accordance with the provisions of the planning scheme as in effect on the day on which the application is validly made, unless another subsection of this section applies in relation to the application.

(3AA) If –

- (a) an application, referred to in subsection (1A) or (1B), is validly made to a planning authority after the end of the 7-day period after the planning authority has been directed under section 41(a) of this Act, as in force before the day on which section 10 of the Tasmanian Planning Scheme Amendment Act commenced, to modify, or alter to a substantial degree, a draft amendment of a planning scheme; and
- (b) there is not in effect, on the day on which the application is validly made, an amendment, of the planning scheme, in the terms, or substantially in the terms, of the draft amendment of the planning scheme, modified or altered as required by the direction –

the planning authority is to make the decision on the application in accordance with the provisions, of the planning scheme, as those provisions would be in effect on that day if an amendment of the planning scheme, in the terms, or substantially in the terms, of the draft amendment, modified or altered as required by the direction, were in effect on that day.

(3AB) If –

- (a) an application, referred to in **subsection (1A) or (1B)**, is validly made to a planning authority after the end of the 7-day period after the planning authority has been directed under **section 35K(1)(a)** to modify a draft LPS; and
- (b) there is not in effect, on the day on which the application is validly made, an LPS, in the terms, or substantially in the terms, of the draft LPS, modified as required by the direction –

the planning authority is to make the decision on the application in accordance with the provisions, of the planning scheme, as those provisions would be in effect on that day if –

- (c) an LPS, in the terms, or substantially in the terms, of the draft LPS modified in accordance with the direction, were in effect on that day; and
- (d) the SPPs were, on that day, in effect in relation to the land to which the application relates.

(3AC) If –

- (a) an application, referred to in **subsection (1A) or (1B)**, is validly made to a planning authority after the end of the 7-day period after the planning authority has, in relation to a draft LPS, been directed under **section 35KB** to prepare an amendment, under **Part 3B**, of an LPS made in the terms, or



substantially in the terms, of the draft LPS; and

- (b) there is not in effect on the day on which the application is validly made, an LPS in the terms, or substantially in the terms, of the draft LPS, modified as required by the direction –

the planning authority is to make the decision on the application in accordance with the provisions, of the planning scheme, as those provisions would be in effect on that day if –

- (c) an LPS, in the terms, or substantially in the terms, of the draft LPS, were in effect on that day; and
- (d) an amendment of the LPS in the terms, or substantially in the terms, of the draft amendment of the LPS made in accordance with the direction, were in effect on that day; and
- (e) the SPPs were in effect in relation to the land on that day.

(3AD) If –

- (a) an application, referred to in **subsection (1A) or (1B)**, is validly made to a planning authority after the end of the 7-day period after the planning authority has, in relation to a draft LPS, been directed under **section 35KB** to prepare an amendment, under **Part 3B**, of an LPS made in the terms, or substantially in the terms, of the draft LPS; and

- (b) there is in effect, on the day on which the application is validly made, an LPS, in the terms, or substantially in the terms, of the draft LPS; and
- (c) there is no amendment of the LPS, in the terms, or substantially in the terms, of the draft amendment of the LPS prepared in accordance with the direction, that is in effect on that day –

the planning authority is to make the decision on the application in accordance with the provisions, of the planning scheme, as those provisions would be in effect on that day if an amendment of the LPS, in the terms of a draft amendment of the LPS prepared in accordance with the direction, were in effect on that day.

(3AE) If –

- (a) an application, referred to in **subsection (1A) or (1B)**, is validly made to a planning authority after the end of the 7-day period after the planning authority has, in relation to a draft LPS, been directed under **section 35KB** to prepare an amendment, under **Part 3B**, of an LPS made in the terms, or substantially in the terms, of the draft LPS; and
- (b) the planning authority has been directed under **section 35K(1)(a)** to modify a draft LPS but there is not in effect, on the day on which the application is validly made, an LPS, in the terms, or substantially in the terms, of the draft LPS, modified as required by the direction –

the planning authority is to make the decision on the application in accordance with the provisions, of the planning scheme, as those provisions would be in effect on that day if –

- (c) an LPS, in the terms, or substantially in the terms, of the draft LPS modified in accordance with the direction under **section 35K(1)(a)**, were in effect on that day; and
- (d) an amendment had been made, under **Part 3B**, of an LPS in the terms, or substantially in the terms, of the draft of the amendment of the LPS that the planning authority has been directed under **section 35KB** to prepare; and
- (e) the SPPs were, on that day, in effect in relation to the land to which the application relates.

(3AF) If –

- (a) an application, referred to in **subsection (1A) or (1B)**, is validly made to a planning authority after the end of the 7-day period after the planning authority has been directed under **section 40N** to modify, or substantially modify, a draft amendment of an LPS; and
- (b) there is no amendment of the LPS, substantially in the terms of the draft amendment of the LPS, modified, or substantially modified, in accordance with the direction that is in effect on that day –

the planning authority is to make the decision on the application in accordance with the provisions, of the planning scheme, as they would be in effect on that day if an amendment of the LPS made in accordance with the direction were in effect in relation to the land on that day.

- (3AG) If a permit in relation to land is granted, by a planning authority or the Appeal Tribunal, in accordance with a decision or determination that is made under this section or **section 62** in accordance with the provisions, of the planning scheme, as those provisions would be in effect in relation to land, the decision or determination, and the grant of the permit, are not to be taken to be made in contravention of the provisions of the planning scheme as in effect on the day on which the decision or determination is made.
- (3A) A permit to which **section 57** applies may be subject to such conditions or restrictions as the planning authority may impose.
- (4) A permit to which **section 58** applies may be granted subject to such conditions or restrictions as the planning authority may impose with respect to any matter specified in the relevant planning scheme.

#### **51A. Fees payable for application**

- (1) In this section –

**"relevant legislative instrument"** means –

- (a) this Act or the *Local Government Act 1993*; or

- (b) a regulation made under this Act or a by-law or regulation made under the *Local Government Act 1993*;

**"valid application for a permit"** means an application for a permit that is, in accordance with *section 51(1AC)*, a valid application for a permit for the purposes of *section 51(1AB)*.

- (2) Despite *section 86*, a planning authority is not entitled –

- (a) to refuse to take an action in relation to determining whether or not an application for a permit is valid; or
- (b) to refuse to accept a valid application for a permit –

on the ground that a fee, under a relevant legislative instrument, for an application for a permit has not been paid, unless –

- (c) the planning authority has, before, or within 4 business days after, the day on which a person lodges, or attempts to lodge, with the planning authority, the application for the permit, demanded the payment of the fee; and
- (d) the fee has not been paid within the 21-day period after the day on which the demand is made.

- (3) If –

- (a) the planning authority has demanded payment of a fee, under a relevant

legislative instrument, for an application for a permit before, or within 4 business days after, the day on which a person lodges, or attempts to lodge, with the planning authority, the application for the permit; and

- (b) the fee has been paid within the 21-day period after the day on which the demand is made –

the application, if it is a valid application, is taken for the purposes of this Act to have been received on the day on which the fee is paid.

- (4) If the planning authority has not demanded payment of a fee, under a relevant legislative instrument, for an application for a permit before, or within 4 business days after, the day on which a person lodges, or attempts to lodge, with the planning authority, the application for the permit –

- (a) the planning authority, despite **section 86**, is not entitled to refuse to take any action in relation to the application for the permit; and

- (b) the application, if it is a valid application, is taken for the purposes of this Act to have been received on the fifth business day after the day which the person lodges, or attempts to lodge, with the planning authority, the application for the permit.

## 52. What if applicant is not the owner?

(1) If –

(a) the applicant for a permit is not the owner of the land in respect of which the permit is required; and

(b) the land is not –

(i) Crown land, within the meaning of the *Crown Lands Act 1976*; or

(ii) land owned by a council; or

(iii) land administered by the Crown or a council; and

(c) the planning scheme does not provide otherwise –

the applicant must include in the application for the permit a declaration that the applicant has notified the owner of the intention to make the application.

(1A) **Subsection (1)** does not apply to an application for a permit to carry out mining operations, within the meaning of the *Mineral Resources Development Act 1995*, if a mining lease, or a production licence, has been issued under that Act which authorises those operations.

(1B) If land in respect of which an application for a permit is required is Crown land, within the meaning of the *Crown Lands Act 1976*, is owned by a council or is administered or owned by the Crown or a council and a planning scheme does not provide otherwise, the application must –

- (a) be signed by the Minister of the Crown responsible for the administration of the land or by the general manager of the council; and
- (b) be accompanied by the written permission of that Minister or general manager to the making of the application.

(1C) [This component has been omitted.]

- (1D) The Minister of the Crown administering the *Crown Lands Act 1976* may delegate his or her functions under subsection (1B) to the Director-General of Lands.
- (1E) The Director-General of Lands may delegate to a person prescribed for the purposes of section 71(2) of the *Crown Lands Act 1976* a function delegated to the Director-General under subsection (1D).
- (1F) A Minister of the Crown administering land administered or owned by the Crown, other than the Minister of the Crown administering the *Crown Lands Act 1976*, may delegate to any person the Minister considers appropriate his or her functions under subsection (1B).
- (1G) The general manager of a council may delegate to an employee of the council his or her functions under subsection (1B).
- (1H) If land in respect of which an application for a permit is required is Crown land, within the meaning of the *Crown Lands Act 1976*, subsection (1B) does not apply to an application for a permit to carry out mining operations, within the meaning of the *Mineral Resources*



*Development Act 1995*, if a mining lease, or a production licence, has been issued under that Act which authorises those operations.

- (2) A person must not obtain or attempt to obtain a permit by wilfully making or causing to be made any false representation or declaration either orally or in writing.

Penalty: Fine not exceeding 20 penalty units.

- (3) A provision in a planning scheme is of no effect to the extent that it provides that an application for a permit by a person who is not the owner of the land in respect of which the permit is required must be signed by, or accompanied by the written permission of, the owner.

#### **52A. Permit for development of land in Wellington Park**

If any land in respect of which an application for a permit is required is in Wellington Park, as defined in the *Wellington Park Act 1993*, in assessing the application for the permit, the relevant planning authority must take into account the standards, values and conditions set out in each management plan, within the meaning of the *Wellington Park Act 1993*, in force as at the date of the application for the permit.

- (a) [This component has been omitted.]
- (b) [This component has been omitted.]

### **53. When does a permit take effect?**

- (1) Where a planning authority grants a permit, the permit, subject to **subsections (2), (3) and (4)**, takes effect on the day on which it is granted by the authority or, where there is a right of appeal against the granting of the permit, at the expiration of 14 days from the day on which the notice of the granting of the permit was served on the person who has the right of appeal.
- (1A) If the applicant is the only person with a right of appeal under **section 61** in relation to a permit and does not intend to exercise that right, the use or development in respect of which the permit is granted may, subject to **subsections (1B) and (4)**, be commenced before the expiration of the 14 day period specified in **subsection (1)**.
- (1B) If the applicant referred to in **subsection (1A)** proposes to commence the use or development before the expiration of the 14 day period specified in that subsection, the applicant must notify the planning authority in writing of his or her intention to commence that use or development.
- (1C) If the applicant notifies the planning authority under **subsection (1B)**, the applicant is taken to have forfeited the right to appeal in relation to the permit.
- (2) A day later than the day on which a permit would otherwise have taken effect under **subsection (1)** may be specified in the permit as the day on which it takes effect.
- (3) Where an appeal has been instituted against the planning authority's decision to grant a permit,

the permit does not take effect until the determination or abandonment of the appeal.

(4) Where any other approvals under this Act or any other Act are required for the proposed use or development to which the permit relates, the permit does not take effect until all those approvals have been granted.

(5) If the use or development in respect of which a permit was granted is not substantially commenced, the permit lapses –

(a) at the end of a period of 2 years from –

(i) the date on which the permit was granted; or

(ii) if an appeal has been instituted against the planning authority's decision to grant the permit, the date of the determination or abandonment of the appeal; or

(b) if the planning authority has granted an extension under **subsection (5A)**, at the end of a further period of 2 years from the end of the relevant period referred to in **paragraph (a)**; or

(c) if the planning authority has granted a further extension under **subsection (5B)**, at the end of a further period of 2 years from the end of the further period of 2 years for which the permit was extended under **subsection (5A)**.

(5A) If the use or development in respect of which a permit was granted is not, or is unlikely to be, substantially commenced before the permit

would otherwise lapse under **subsection (5)(a)**, the planning authority may grant (once only) an extension of the period during which that use or development must be substantially commenced.

(5B) If the use or development in respect of which a permit was granted is not, or is unlikely to be, substantially commenced before the permit would otherwise lapse under **subsection (5)(b)**, the planning authority may grant (once only) a further extension of the period during which that use or development must be substantially commenced.

(5C) An application may be made under **subsection (5A)** or **(5B)**, for an extension of a period during which a use or development in respect of which a permit was granted must be substantially commenced, at any time before the end of the period of 6 months from the day on which the permit has lapsed and, if the extension is granted, the permit is to be taken to not have lapsed on that day.

(6) If under a permit an agreement is required to be entered into, the permit does not take effect until the day the agreement is executed.

(7) The permit referred to in **subsection (1)** remains in effect until –

- (a) it lapses under **subsection (5)**; or
- (b) it expires as a result of a condition or restriction contained in the permit; or
- (c) it is cancelled under **section 65G**.

#### **54. Additional information**

- (1) A planning authority that receives an application for a permit (other than a permit referred to in **section 40T**) may –
  - (a) if the permit sought is a discretionary permit, by notice in writing served on the applicant within the period of 21 days from the day on which it receives the application; or
  - (b) if the permit sought is not a discretionary permit, by notice in writing served on the applicant within the period of 14 days from the day on which it receives the application –

require the applicant to provide it with additional information before it considers the application.

- (1A) If the period specified in **subsection (1)** includes any days on which the office of the planning authority is closed during normal business hours in that part of the State where the land subject to the application for a permit is situated, that period is to be extended by the number of those days.

- (2) If the planning authority requires the applicant to provide it with additional information, the relevant period referred to in **section 57(6)(b)** or **58(2)** does not run while the request for information has not been answered to the satisfaction of the planning authority.

- (2AA) If additional information is not provided, in accordance with a request under **subsection (1)**, within 2 years, or a longer period agreed to by

the applicant and the planning authority, after the request is made, the application for a permit, to which the request relates, lapses.

(2A) If the Appeals Tribunal determines that –

- (a) a planning authority had, in good faith, required an applicant under **subsection (1)** or **(3)** to provide the authority with additional information; but
- (b) the planning authority ought to have been satisfied with the information provided to the planning authority by the applicant before the requirement was served on the applicant –

the relevant period referred to in **section 57(6)(b)** or **58(2)** does not run for the period beginning on the day on which the requirement was served on the applicant and ending at the end of the day that is 7 clear days after the day on which the determination was made by the Appeals Tribunal.

- (3) The planning authority must, within 8 business days from the day it receives the additional information under **subsection (1)**, notify the applicant if the request for information has not been answered to its satisfaction and in that notification require the applicant to provide it with the additional information.

## **55. Correction of mistakes**

A planning authority may correct a permit granted by it if the permit contains –

- (a) a clerical mistake or an error arising from any accidental slip or omission; or
- (b) an evident material miscalculation of figures or an evident material mistake in the description of any person, thing or property referred to in the approval.

**56. Minor amendments of permits issued by a planning authority**

- (1) The owner of land, or a person with the consent of the owner, may request the planning authority in writing to amend a permit which applies to that land and which is a permit issued by the planning authority.

- (1A) A planning authority that receives a request under **subsection (1)** to amend a permit –

- (a) must, within the 28-day period after the request was received, amend, or refuse to amend, the permit; and

- (b) must, within 7 days –

- (i) after amending the permit, comply with **subsection (3)**; or

- (ii) after refusing to amend the permit, give notice of the refusal to the person who made the request.

- (2) The planning authority may amend the permit if it is satisfied that the amendment –

- (aa) is not an amendment of a condition or restriction, specified in the permit, that is

required, imposed or amended by the Appeal Tribunal; and

- (a) does not change the effect of a condition or restriction, specified in the permit, that is required, imposed or amended by the Appeal Tribunal; and
- (b) will not cause an increase in detriment to any person; and
- (c) does not change the use or development for which the permit was issued other than a minor change to the description of the use or development.

(2A) An amendment of a condition or restriction specified in a permit is not to be taken to contravene **subsection (2)(a)** by reason only that other conditions or restrictions have been specified in the permit, or amended, by the Appeal Tribunal.

(2B) A condition or restriction ("**the fresh condition or restriction**") specified by the planning authority in a permit is not to be taken, for the purposes of this section, to be required or imposed by the Appeal Tribunal if –

- (a) the fresh condition or restriction is to the same effect as a condition or restriction that was specified in the permit by the Appeal Tribunal before the planning authority specified the fresh condition or restriction in the permit; and
- (b) the fresh condition or restriction is not referred to in the decision, in relation to the permit, of the Appeal Tribunal made



under **section 78** of the *Tasmanian Civil and Administrative Tribunal Act 2020*.

- (3) If the planning authority amends a permit, it must, by notice in writing served on –
- (a) the person who requested the permit to be amended; and
  - (b) if that person is not the owner of the land, the owner; and
  - (c) in the case of a permit granted under **section 57**, the owner or occupier of any property which adjoins the land; and
  - (d) any person who made a representation under **section 57(5)** in relation to the application for the permit –

notify those persons of the amendments made to the permit.

- (4) If the planning authority amends a permit containing a condition or restriction which the Board of the Environment Protection Authority has required under **section 25(5) of the *Environmental Management and Pollution Control Act 1994***, the planning authority must, by notice in writing served on the Board, notify it of the amendments made to the permit.

#### **56AA. Fees for amendment of permits under section 56**

- (1) In this section –

**"relevant legislative instrument"** means –

- (a) this Act or the *Local Government Act 1993*; or
  - (b) a regulation made under this Act or a by-law or regulation made under the *Local Government Act 1993*.
- (2) Despite **section 86**, a planning authority is not entitled –
  - (a) to refuse to take an action in relation to determining whether or not an application under **section 56** for an amendment of a permit is valid; or
  - (b) to refuse to accept a valid application under **section 56** for an amendment of the permit –

on the ground that a fee, under a relevant legislative instrument, for an application for an amendment of a permit under **section 56** has not been paid, unless –

    - (c) the planning authority has, before, or within 4 business days after, the day on which a person lodges, or attempts to lodge, with the planning authority, the application for an amendment of the permit, demanded the payment of the fee; and
    - (d) the fee has not been paid within the 21-day period after the day on which the demand is made.
- (3) If –

- (a) the planning authority has demanded payment of a fee, under a relevant legislative instrument, for an application for an amendment of a permit under **section 56** before, or within 4 business days after, the day on which a person lodges, or attempts to lodge, with the planning authority, the application for the amendment of the permit; and
- (b) the fee has been paid within the 21-day period after the day on which the demand is made –

the application, if it is a valid application for an amendment of a permit, is taken for the purposes of this Act to have been received on the day on which the fee is paid.

- (4) If the planning authority has not demanded payment of a fee, under a relevant legislative instrument, for an application for an amendment of a permit under **section 56** before, or within 4 business days after, the day on which a person lodges, or attempts to lodge, with the planning authority, the application for the amendment of the permit –
  - (a) the planning authority, despite **section 86**, is not entitled to refuse to take any action in relation to the application for an amendment of the permit; and
  - (b) the application, if it is a valid application, is taken for the purposes of this Act to have been received on the fifth business day after the day on which the person lodges, or attempts to lodge, with the

planning authority, the application for the amendment of the permit.

**56A. When amendments to permits take effect**

- (1) If a planning authority amends a permit, the amendment, subject to **subsections (5) and (6)**, takes effect on the day on which it is made by the planning authority or, if there is a right of appeal against the amendment, at the expiration of 14 days from the day on which the notice of the amendment was served on the person who has the right of appeal.
- (2) If the person who requested an amendment to a permit is the only person with a right of appeal under **section 61** in relation to the amendment and does not intend to exercise that right, the use or development in respect of which the amendment is made may, subject to **subsection (3)**, be commenced before the expiration of the 14 day period specified in **subsection (1)**.
- (3) If the person referred to in **subsection (2)** proposes to commence the use or development in respect of which the amendment is made before the expiration of the 14 day period specified in **subsection (1)**, the person must notify the planning authority in writing of his or her intention to commence that use or development.
- (4) If the person who requested an amendment to a permit notifies the planning authority under **subsection (3)**, the person is taken to have

forfeited the right to appeal in relation to the amendment.

- (5) The day on which a permit takes effect may be specified in the permit as being a day later than the day on which the permit would otherwise have taken effect under **subsection (1)**.
- (6) If an appeal has been instituted against the planning authority's decision to amend a permit, the amendment does not take effect until the determination or abandonment of the appeal.
- (7) If the amendment requires an agreement to be entered into, the amendment does not take effect until the day on which the agreement is executed.

## **57. Applications for discretionary permits**

- (1) This section applies to an application for a permit in respect of a use or development which, under the provisions of a planning scheme—
  - (a) is of a kind specified as being a use or development which a planning authority has a discretion to refuse or permit; or
  - (b) may not proceed as proposed by the applicant unless a planning authority waives, relaxes or modifies a requirement of the scheme, or otherwise in its discretion consents to the use or development proceeding.
- (2) The planning authority may, on receipt of an application for a permit to which this section

applies, refuse to grant the permit and, if it does so –

- (a) it does not have to comply with **subsection (3)**; and
- (b) [This component has been omitted.]
- (c) it must, within 7 days of refusing to grant the permit, serve on the applicant notice of its decision.

(3) Unless the planning authority requires the applicant to give notice, the authority must give notice, as prescribed, of an application for a permit.

(4) A notice referred to in **subsection (3)** is, in addition to any other matters required to be contained in it, to name a place where a copy of the application, and of all plans and other documents submitted with the application, will be open to inspection by the public at all reasonable hours during the period for which representations may be made.

(4A) A person must not obscure or remove a notice of an application for a permit displayed on the land that is the subject of the application within the time period specified in **subsection (5)**.

Penalty: Fine not exceeding 10 penalty units.

(5) Any person may make representations relating to the application during the period of 14 days commencing on the date on which notice of the application is given under **subsection (3)** or such further period not exceeding 14 days as the planning authority may allow.

(5AA) If the time period specified in subsection (5) includes any days on which the office of the planning authority is closed during normal business hours in that part of the State where the land subject to the application for a permit is situated, that period is to be extended by the number of those days.

(5A) A person may, by notice in writing to a planning authority, withdraw a representation made under subsection (5) at any time before the planning authority grants or refuses to grant a permit under subsection (6).

(5B) If a person withdraws a representation under subsection (5A), that person is taken not to have made a representation under subsection (5).

(6) Unless the planning authority has refused to grant a permit under subsection (2), it must grant or refuse to grant the permit –

(a) not earlier than the expiration of the period of 14 days, or such further period as may be allowed under subsection (5), beginning on the date on which notice of the application for a permit is given under subsection (3); and

(b) not later than –

(i) in a case where the Heritage Council has not, under section 39(3) of the *Historic Cultural Heritage Act 1995*, required extra time to consider the application, on the expiration of the period of 42 days from the day on which the planning authority received

the application or such further period as is agreed, in writing, by the planning authority and the applicant before the expiration of that 42-day period; or

- (ii) in a case where the Heritage Council has, under section 39(3) of the *Historic Cultural Heritage Act 1995*, required extra time to consider the application, on the expiration of the period of 56 days from the day on which the planning authority received the application or such further period as is agreed, in writing, by the planning authority and the applicant before the expiration of that 56-day period.

(6A) A further period agreed to by a planning authority and an applicant under subsection (6)(b)(i) or (ii) may be extended or further extended by agreement, in writing, between the planning authority and applicant at any time before the expiration of the period to be extended and, when so extended, is taken to be the further period referred to in that subsection.

(7) If a planning authority, on an application for a permit to which this section applies, grants or refuses to grant the permit, it must, within 7 days of granting or refusing to grant the permit, serve notice of its decision –

- (a) on the applicant; and
- (b) if representations have been made in relation to the application in accordance



with this section, on all persons who made representations.

(c) [This component has been omitted.]

(8) [This component has been omitted.]

#### **57A. Mediation**

(1) In this section,

**"party"** means any of the following persons:

- (a) a person who made an application to a planning authority for a permit under **section 57**;
- (b) the planning authority to whom the application for a permit under **section 57** was made;
- (c) any person who made a representation under **section 57(5)** in relation to the application for a permit under **section 57**.

(2) If the applicant for a permit under **section 57** or any person who has made a representation under **section 57(5)** requires mediation to be conducted in relation to the application, the applicant or other person must notify, in writing, the planning authority.

(3) If the planning authority receives notification under **subsection (2)** or wishes mediation to be conducted in relation to an application for a permit under **section 57**, it must notify in writing

any other party and seek the agreement of that party for mediation to be conducted in relation to the application.

- (4) If 2 or all parties agree that mediation should be conducted in relation to an application for a permit under **section 57**, the parties must agree on the person who is to conduct the mediation and on any other terms or conditions in relation to the conduct of the mediation.
- (5) If 2 or all parties agree that mediation should be conducted in relation to an application for a permit under **section 57**, the period within which the planning authority must make its decision in relation to the application may be extended under **section 57(6A)**.

## **58. Application for other permits**

- (1) This section applies to an application for a permit in respect of a use or development for which, under the provisions of a planning scheme, a planning authority is bound to grant a permit either unconditionally or subject to conditions or restrictions.
- (2) If an application for a permit to which this section applies meets the requirements of the planning scheme to which the application relates, a planning authority must grant the application either unconditionally or subject to conditions or restrictions not later than the expiration of the period of 28 days from the day on which the planning authority received the application or such further period as is agreed to, in writing, by the planning authority and the

applicant before the expiration of that 28-day period.

- (2A) A further period agreed to by a planning authority and an applicant under **subsection (2)** may be extended or further extended by agreement, in writing, between the planning authority and applicant at any time before the expiration of the period to be extended and, when so extended, is taken to be the further period referred to in **subsection (2)**.
- (3) Where a planning authority grants a permit to which this section applies either unconditionally or subject to conditions or restrictions, it must, within 7 days of granting the permit, serve notice of its decision on the applicant.

#### **58A. Permits requiring entering into of agreements**

- (1) Without limiting **section 51(3A)** and despite **section 51(4)**, a permit granted by a planning authority under **section 40Y** or **section 57** or **58** may include a condition that an agreement is required to be entered into in respect of a use or development.
- (2) If a planning authority grants a permit which includes a condition that an agreement is required to be entered into in respect of a use or development, the planning authority must specify in the condition the matters, and the requirements with respect to those matters, to be included in the agreement.
- (3) If a person is granted a permit which includes a condition under **subsection (1)** and that person is not the owner of the land in respect of which the

agreement to be entered into relates, the planning authority must, within 7 days of granting the permit, serve notice of its decision on the owner.

**59. Failure to determine an application for a permit**

- (1) The failure of a planning authority to determine an application for a permit to which **section 57** or **58** applies before the expiration of the period, or, where applicable, the further period, referred to in **section 57(6)(b)(i)** or **(ii)** or **58(2)** is deemed to constitute a decision to grant a permit on conditions to be determined by the Appeal Tribunal.
- (2) Where the failure of a planning authority to determine an application for a permit to which **section 57** or **58** applies is deemed to constitute a decision to grant a permit on conditions to be determined by the Appeal Tribunal, the planning authority must, within 7 days of the expiration of the period, or, where applicable, the further period, referred to in **section 57(6)(b)(i)** or **(ii)** or **58(2)**, serve notice—
  - (a) on the applicant; and
  - (ab) if the Heritage Council has notified the planning authority under **section 36(3)(b)** of the *Historic Cultural Heritage Act 1995* that it wishes to be involved in the determination of the application, on the Heritage Council; and
  - (b) on any person who made representations under **section 57(5)**—

that the permit has been deemed to have been granted on conditions to be determined by the Appeal Tribunal.

- (3) If a planning authority fails to determine an application before the expiration of the relevant period referred to in [section 57\(6\)\(b\)\(i\)](#) or [\(ii\)](#) or [58\(2\)](#), the applicant may apply to the Appeal Tribunal for an order determining the conditions on which the permit is granted.
- (3A) The Appeal Tribunal must notify the planning authority and, if the Heritage Council by reason of [section 45\(5\) of the \*Historic Cultural Heritage Act 1995\*](#) is joined as a respondent to the application, the Heritage Council of an application for an order under [subsection \(3\)](#).
- (3B) The planning authority must, within 7 days of receiving notification from the Appeal Tribunal of an application under [subsection \(3\)](#), advise any person who made representations, under [section 57\(5\)](#), of that application unless the person has previously been notified under [subsection \(2\)](#).
- (4) After hearing an application under [subsection \(3\)](#), the Appeal Tribunal may, in addition to its powers under the *Tasmanian Civil and Administrative Tribunal Act 2020* –
  - (a) grant the permit unconditionally; or
  - (b) grant the permit and direct that the permit must contain specified conditions; or
  - (c) in the case of an application for a permit to which [section 57](#) applies or is taken to

apply, direct that a permit must not be granted.

(5) Subject to **subsection (5AA)**, after hearing an application under **subsection (3)**, the Appeal Tribunal must direct the planning authority to pay—

- (a) to the Appeal Tribunal an amount determined by the Appeal Tribunal as being the costs in relation to the application; and
- (b) to each other party to the appeal an amount determined by the Appeal Tribunal as being the costs of that party in relation to the application.

(5AA) The Appeal Tribunal must not make an order under **subsection (5)** directing a planning authority to pay costs for a failure to determine an application within a period, or a further period, referred to in **subsection (1)**, if the failure only arose because a purported decision of the authority within that period was of no effect in law.

(5A) If the Appeal Tribunal makes an order for costs under **subsection (5)**, it —

- (a) is to specify the time within which those costs are to be paid; and
- (b) may, by a further order, extend that time if it considers it reasonable in the circumstances.

(5B) If the Appeal Tribunal makes an order for costs before the end of any proceedings, it may require

that the order be complied with before it continues with the proceedings.

(5C) An order for costs under this section may be registered in a court having jurisdiction for the recovery of debts of the amount ordered to be paid by or under the order.

(5D) Proceedings for the enforcement of an order for costs under this section may be taken as if the order were a judgment of the court in which the order is registered.

(6) [This component has been omitted.]

(7) Notwithstanding the provisions of this Division, a planning authority may make a decision on an application for a permit to which **section 57** or **58** applies at any time before the lodging of an application under **subsection (3)**.

(8) Where a planning authority makes a decision under **subsection (7)** it must, within 7 days of making the decision, serve notice of its decision on the applicant and, where representations have been made in relation to the application under **section 57(5)**, on all persons who made representations.

(9) [This component has been omitted.]

(10) [This component has been omitted.]

## **60. Timing of determination of compliance with certain permit conditions**

(1) In this section –

**"regulatory authority"** means –

- (a) a regulated entity, within the meaning of the *Water and Sewerage Industry Act 2008*, or an employee of, or person acting on behalf of, a regulated entity; and
- (b) the holder of a licence under the *Electricity Supply Industry Act 1995* authorising the operation of a transmission system, or of a distribution network, each within the meaning of that Act, or an employee of, or person acting on behalf of, the holder of such a licence; and
- (c) the holder of a pipeline licence, within the meaning of the *Gas Pipelines Act 2000*, *Gas Industry Act 2019* or an employee of, or person acting on behalf of, the holder of such a licence; and
- (d) the Heritage Council, within the meaning of the *Historic Cultural Heritage Act 1995*; and
- (e) the holder of a prescribed office, or a prescribed body, that is established by, or has functions under, an Act; and
- (f) the holder of a statutory office under an Act;



**"relevant documents"**, in relation to a condition of a permit, means the plans, information, designs, or other documents, required, under the condition, to be prepared and provided to a planning authority;

**"relevant information"**, in relation to a condition of a permit, means information to the effect that works, required to be carried out in order to comply with the condition, have been completed.

- (2) If a person to whom a permit is granted provides to the planning authority all the relevant documents, or the relevant information, in relation to a condition of the permit, the planning authority, within 20 business days, must, by notice in writing to the person, advise the person as to whether or not the planning authority is satisfied that the condition has been complied with.
- (3) A planning authority, within 15 business days after receiving, from a person to whom a permit is granted, all the relevant documents, or the relevant information, in relation to a condition of the permit may, by notice in writing to the person –
  - (a) advise the person that the information provided to the planning authority is incomplete or inadequate; and
  - (b) request the person to provide to the planning authority further information reasonably required to assist the planning authority to determine whether the condition has been complied with.

- (4) If a planning authority receives further information from a person further to a notice given to the person under **subsection (3)** or this subsection in relation to information, the planning authority must, within 8 business days after receiving the information, by notice in writing to the person –
- (a) advise the person that the information provided is satisfactory; or
  - (b) request the person to provide to the planning authority further information reasonably required to assist the planning authority to determine whether the condition has been complied with.
- (5) The period of 20 business days referred to in **subsection (2)** does not run in relation to a permit during the period –
- (a) beginning on the day on which the planning authority gives to a person a notice under **subsection (3)** or **subsection (4)** in relation to the permit; and
  - (b) ending on the day on which the planning authority advises the person in a notice under **subsection (4)** that the information provided in response to the notice under **subsection (3)** or **subsection (4)**, respectively, is satisfactory.
- (6) A planning authority, within 5 business days after receiving from a person to whom a permit is granted a relevant document, or relevant information, in relation to a condition that is imposed on the permit in accordance with the

advice of, or on the recommendation of, a regulatory authority, may, by notice in writing to the regulatory authority, request the regulatory authority to advise the planning authority within 10 business days as to whether or not the regulatory authority is of the opinion that the condition has been complied with.

(7) A regulatory authority, within 10 business days after the day on which it receives a notice under **subsection (6)** in relation to a condition of a permit, is, by notice in writing to the planning authority, to advise the planning authority as to whether or not the regulatory authority is of the opinion that the condition has been complied with.

(8) A regulatory authority, within 8 business days after it receives –

(a) a notice under **subsection (6)** in relation to a condition of a permit; or

(b) further information under **subsection (9)** in relation to a condition of a permit –

may advise the planning authority, by notice in writing, that the regulatory authority requires further information in order to determine whether or not the regulatory authority is of the opinion that the condition has been complied with.

(9) A planning authority –

(a) within 2 business days after receiving from a regulatory authority a notice under **subsection (8)** in relation to a condition of a permit granted to a person,

is, by notice in writing to the person, to request the person to provide to the planning authority the information specified in the notice, being the information specified in the notice to the planning authority under **subsection (8)**; and

- (b) within 5 business days after receiving from a person information specified in a notice to the person under **paragraph (a)**, is to provide the information to the regulatory authority.

(10) A planning authority, within 5 business days after receiving under **subsection (7)** advice from a regulatory authority that the regulatory authority is of the opinion that a condition of a permit granted to a person has, or has not, been complied with, is to give to the person notice in writing of the opinion of the regulatory authority.

(11) The period of 10 business days referred to in **subsection (7)** does not run in relation to a permit during the period –

- (a) beginning on the day on which a regulatory authority gives to the planning authority a notice under **subsection (8)** in relation to the permit; and
- (b) ending on the day on which the regulatory authority receives further information sufficient to enable the regulatory authority to determine whether or not the regulatory authority is of the opinion that the condition has been complied with.

- (12) The period of 20 business days referred to in **subsection (2)** does not run in relation to a permit during the period –
- (a) beginning on the day on which the planning authority gives to a regulatory authority a notice under **subsection (6)**; and
  - (b) ending on the day on which the planning authority receives under **subsection (7)** from the regulatory authority advice in relation to the condition of the permit.

#### **60A. Permit for certain works not required**

- (1) If a permit for dam works, within the meaning of the *Water Management Act 1999*, is in force under that Act, a permit or major project permit for those works is not required under this Act.
- (2) A water entity administering a water management plan or a water district is not required to hold a permit or major project permit under this Act for any activities which are –
  - (a) necessary for the operation, maintenance, repair, minor modification, upgrading or replacement of existing works managed or owned by that water entity and will not cause environmental nuisance, material environmental harm or serious environmental harm; or
  - (b) required urgently to protect persons from injury or those works from damage so long as the activities will not cause serious environmental harm.

(3) In this section –

"**environmental nuisance**" has the same meaning as in the *Environmental Management and Pollution Control Act 1994*;

"**material environmental harm**" has the same meaning as in the *Environmental Management and Pollution Control Act 1994*;

"**serious environmental harm**" has the same meaning as in the *Environmental Management and Pollution Control Act 1994*;

"**water district**" has the same meaning as in the *Water Management Act 1999*;

"**water entity**" has the same meaning as in the *Water Management Act 1999*;

"**water management plan**" has the same meaning as in the *Water Management Act 1999*.

### ***Division 2A – Major projects***

#### ***Subdivision 1 – Interpretation of Division 2A***

#### **60B. Interpretation: Division 2A**

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

"**amend**", in relation to a major project permit, means to amend, vary or revoke a

provision of the permit or to add a provision to the permit;

**"application for an ordinary permit"** means an application made under **Division 2**, or **section 40T(1)**, for a permit;

**"assessment criteria"**, in relation to a major project, means the assessment criteria determined under **section 60ZM(1)** in relation to the major project;

**"assessment requirement notice"**, in relation to a major project, means an assessment requirement notice, as defined in **section 60ZA(5)**, that is given under **section 60ZA(1)(b)** in relation to the major project;

**"bilateral agreement project"** means a project –

- (a) that is reasonably likely to require approval from the Commonwealth Government under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth; and
- (b) in relation to which the proponent is likely to seek to have a bilateral agreement, within the meaning of that Act, apply;

**"declaration of a major project"** means a declaration of a major project under **section 60O(1)**, as amended if at all

under section 60TF(2), that has not been revoked under section 60U(2);

**"determination guidelines"** means determination guidelines, issued by the Commission under section 60J(1), that have not been revoked under section 60L ;

**"draft assessment criteria"**, in relation to a major project, means the draft assessment criteria prepared under section 60ZK(1) in relation to the major project;

**"EMPC Act"** means the *Environmental Management and Pollution Control Act 1994*;

**"EPA Board"** means the Board of the Environment Protection Authority established by section 13 of the EMPC Act;

**"EPA Director"** means the Director, Environment Protection Authority, appointed under section 18 of the EMPC Act;

**"final advice"**, in relation to a participating regulator, means the notice given under section 60ZZF(1) to the Panel, in relation to a major project, by the participating regulator;

**"final assessment report"**, in relation to a major project, means the final assessment report prepared under section 60ZZN in relation to the major project;



**"Heritage Council"** means the Tasmanian Heritage Council established by **section 5** of the *Historic Cultural Heritage Act 1995*;

**"initial assessment report"**, in relation to a major project, means the initial assessment report prepared under **section 60ZZA(1)** in relation to the major project;

**"major project"** means a project to which a declaration of a major project relates;

~~**"major project impact statement"**, in relation to a major project, means~~

~~(a) except if **paragraph (b)** applies, a major project impact statement provided, in relation to the major project, to the Panel under **section 60ZS(1)**; or~~

~~(b) if a major project impact statement in relation to the major project is provided to the Panel under **section 60ZV(6)**, that major project impact statement;~~

~~**"major project proposal"**, in relation to a proposed major project, means~~

~~(a) except if **paragraph (b)** or **(c)** applies, a major project proposal that, under **section 60E(1)**, accompanies a proposal for a declaration in relation to the proposed major project or that is~~

provided to the Minister under  
~~section 60E(3)~~; or

(b) except if ~~paragraph (c)~~ applies, if  
an amended major project  
proposal in relation to the project  
is ~~provided~~ under  
~~section 60G(3)~~ that major  
project proposal; or

(c) if there is an amended major  
project proposal in relation to the  
project, being a proposal to which  
~~section 60ZH(4)~~ relates that  
major project proposal;

**"major project impact statement", in**  
relation to a major project, means –

(a) except if ~~paragraph (b)~~ or (c)  
applies, a major project impact  
statement provided, in relation to  
the major project, to the Panel  
under ~~section 60ZS(1)~~; or

(b) except if paragraph (c) applies, if  
a major project impact statement  
in relation to the major project is  
provided to the Panel under  
~~section 60ZV(6)~~ – that major  
project impact statement; or

(c) if a major project impact  
statement in relation to the major  
project is provided to the Panel  
under ~~section 60ZZZAB(7)(a)~~ –  
that major project impact  
statement;

**"major project proposal"**, in relation to a proposed major project, means –

- (a) except if paragraph (b), (c) or (d) applies, a major project proposal that, under **section 60E(1)**, accompanies a proposal for a declaration in relation to the proposed major project or that is provided to the Minister under **section 60E(3)**; or
- (b) except if **paragraph (c)** or (d) applies, if an amended major project proposal in relation to the project is provided under **section 60G(3)** – that major project proposal; or
- (c) except if paragraph (d) applies, if there is an amended major project proposal in relation to the project, being a proposal to which **section 60ZH(4)** relates – that major project proposal; or
- (d) if an amended major project proposal is taken under **section 60TH(6)** to be the major project proposal – that major project proposal;

**"notice recommending revocation"**, in relation to a major project, means a notice recommending revocation, as defined in **section 60ZA(7)**, that is given under **section 60ZA(1)(c)** in relation to the major project;

**"Panel"**, in relation to a major project, means the Development Assessment Panel established under **section 60V** in relation to the major project;

**"participating regulator"**, in relation to a major project, means a relevant regulator who is, under **section 60ZB**, or who becomes, under **section 60TD(4)**, a participating regulator in relation to the project;

**"particular purpose zone"** means –

- (a) a zone called a particular purpose zone in the provisions of the planning scheme in which the zoning appears; or
- (b) a group of provisions, in a planning scheme, consisting of –
  - (i) a zone that is particular to an area of land; and
  - (ii) the provisions that are to apply in relation to that zone;

**"pipeline licensee"** has the same meaning as in the ~~Gas Pipelines Act 2000~~**Gas Industry Act 2019**;

**"preliminary advice"**, in relation to a participating regulator, means preliminary advice provided by the regulator under **section 60ZY(1)**;

**"project-associated Act"** means –

- (a) the *Aboriginal Heritage Act 1975*; and
- (b) the *Environmental Management and Pollution Control Act 1994*; and
- (c) the *Historic Cultural Heritage Act 1995*; and
- (d) the *Nature Conservation Act 2002*; and
- (e) the *Threatened Species Protection Act 1995*; and
- (f) any regulations under an Act referred to in this definition;

**"project-related permit"** means a permit, authority, licence, certificate, determination or permission, or other authorisation, however described (other than an environmental licence, within the meaning of the EMPC Act) that, further to an application under a project-associated Act, is or may be issued, granted or given under a project-associated Act;

**"proponent"**, in relation to –

- (a) a project, or a major project, that consists of one or more uses or developments to be undertaken by the one person – means the person from time to time proposing the project; or

- (b) a project, or a major project, that consists of 2 or more uses or developments that are proposed to be undertaken by different persons – means the person proposing the project or major project as a whole or, if there is more than one such person, a person who is nominated under **subsection (2)** to be the proponent in relation to the project for the purposes of this Act;

**"proposal for a declaration"** means –

- (a) a proposal made to the Minister under **section 60C(1)**; or
- (b) a proposal made by the Minister under **section 60C(2)**;

**"relevant planning authority"**, in relation to a project or a major project, means –

- (a) a planning authority for the relevant planning scheme; and
- (b) after the declaration of a major project, if all or part of the project or major project is not to be situated in a municipal area – the planning authority specified under **section 60Q(5)** in relation to the major project;

**"relevant planning scheme"**, in relation to a project or major project, means a planning scheme that applies in relation to all or part of the land on which the

project or major project is situated or is to be situated;

**"relevant regulated entity"** has the same meaning as in **section 56N** of the *Water and Sewerage Industry Act 2008*;

**"relevant regulator"**, in relation to a major project, means a person or entity that is a relevant regulator in relation to the major project under **section 60Z**;

**"relevant State entity"** means –

- (a) a State Service Agency; and
- (b) a Government Business Enterprise, within the meaning of the *Government Business Enterprises Act 1995*; and
- (c) a State-owned Company, within the meaning of the *Audit Act 2008*;

**"site-specific qualifications"** means a provision, or provisions, in a planning scheme, that –

- (a) are referred to in the planning scheme as site-specific qualifications; and
- (b) only apply in relation to a particular area of land specified in the planning scheme; and
- (c) modify, are in substitution for, or are in addition to, the requirements of the planning

scheme that would otherwise apply in relation to the land;

**"specific area plan"** means a plan referred to as a specific area plan in the provision of the planning scheme in which the plan appears;

**"State-owned company"** means a company which is incorporated under the Corporations Act and which is controlled by –

- (a) the State; or
- (b) a State authority; or
- (c) another company which is itself controlled by the State or a State authority;

**"Tasmanian Government Business"** means –

- (a) a Government Business Enterprise within the meaning of the *Government Business Enterprises Act 1995*; and
- (b) a State authority; and
- (c) a State-owned company; and
- (d) the Corporation, within the meaning of the *Water and Sewerage Corporation Act 2012*.

- (2) If a project or major project is to consist of 2 or more uses or developments that are proposed to be undertaken by different persons, those



persons may, by notice to the Minister, nominate a person to be the proponent of the project, or major project, for the purposes of this Act.

***Subdivision 2 – Proposals for major project declarations and major project proposals***

**60CA. Information about sensitive matters**

(1) A person who –

(a) is intending to make, in relation to a project, a proposal for a declaration in relation to a major project; or

(b) is required under **section 60E(2)** to make, in relation to a project, a proposal for a declaration in relation to a major project –

must, before making the proposal, make to each relevant regulator a sensitive matters request in relation to the project.

(2) A person who is intending to make, in relation to a project, a request under **section 60TB(1)** for the relevant decision-maker to advise the Minister that it is appropriate to amend a declaration in relation to a major project so that the declaration also relates to an additional area of land must, before making the request, make to each relevant regulator a sensitive matters request in relation to the project.

(3) A person who is intending to make under **section 60ZZW** or **60ZZZ** an application for an amendment to a major project permit must, before making the application, make to each

relevant regulator a sensitive matters request in relation to the project, unless the person has already given a notice under subsection (2) in relation to an additional area of land to which the application is to relate.

(4) A sensitive matters request, in relation to a project, by a person to a relevant regulator, is a notice to the relevant regulator –

(a) specifying –

(i) if subsection (1) applies to the person – the area of land to which the project is to relate; or

(ii) if subsection (2) applies to the project – the additional area of land to which the project is to relate; or

(iii) if subsection (3) applies to the person and subsection (2) does not apply to the project – the area of land to which the project relates; and

(b) including –

(i) a general description of the nature of the project; or

(ii) if subsection (3) applies to the person, the amendment for which the person proposes to apply; and

(c) requesting the relevant regulator to advise the person whether any category of information, that may be provided under this Division by the relevant

regulator, or the person, to the Panel or another person, is likely to contain sensitive matter.

(5) For the purposes of this section, a category of information is likely to contain sensitive matter if –

(a) information within the category of information is culturally sensitive; or

(b) were information within the category of information available to members of the public, there may be a risk of harm to members of a cultural group, an object or an organism.

(6) A relevant regulator that receives a sensitive matters request from a person must, within 35 days, by notice to the person –

(a) advise the person whether the relevant regulator considers that a category of information, to be provided under this Division by the relevant regulator, or the person, to a Panel or other person is likely to contain sensitive matter; and

(b) if the relevant regulator considers a category of information, to be provided by the relevant regulator, or the person, to a Panel or other person under this Act is likely to contain sensitive matter – set out in the notice the category of information.

(7) A relevant regulator that gives to a person a notice under **subsection (6)** in relation to a project must provide a copy of the notice to –

(a) the Minister, if the Minister is not the person; and

(b) the Commission; and

(c) the Panel, if any, in relation to the project.

(8) If a category of information is specified in a notice given under **subsection (6)** then, despite any other provision of this Act or any other Act, any information that is within the category of information –

(a) must not be included, in a document given to another person under this Act, that a member of the public is able to view under a provision of this Act, unless the information is not able to be viewed by a member of the public; and

(b) must not be disclosed in any meeting, or hearing, under this Act, that a member of the public may attend; and

(c) must not be disclosed in any discussion between a member of the public (or the proponent) and the Minister, a relevant regulator, a member of the Panel or the Commission; and

(d) must not be disclosed during proceedings of the Tasmanian Civil and Administrative Tribunal or a court, unless the Tribunal, or court, respectively, has been advised of the potential risk of harm to members of a cultural group, an object or an organism if the information is disclosed.

(9) If a category of information is referred to in a notice given under [subsection \(6\)](#) –

(a) the declaration of a major project; and

(b) an amendment to the declaration of a major project made under [section 60TF\(2\)](#) to which relates a notice given under [subsection \(6\)](#) in response to a notice under [subsection \(2\)](#); and

(c) any other document that a member of the public is able to view under a provision of this Division –

is to include a sensitive matters statement able to be viewed by members of the public.

(10) For the purposes of [subsection \(9\)](#), a sensitive matters statement to be included in a document is a statement that the document contains information, relating to a sensitive matter, that –

(a) is not able to be viewed by a member of the public; and

(b) must not be disclosed in any meeting, or hearing, under this Act, that a member of the public may attend; and

(c) must not be disclosed in any discussion between a member of the public (or the proponent) and the Minister, a relevant regulator, a member of the Panel or the Commission; and

(d) must not be disclosed during proceedings of the Tasmanian Civil and Administrative Tribunal or a court, unless the Tribunal, or court,

respectively, has been advised of the potential risk of harm to members of a cultural group, an object or an organism if the information is disclosed.

**60C. Proposal that project be declared major project**

- (1) A proponent of a project, or a planning authority in relation to an area of land to which a project is to relate, may, by notice in writing to the Minister, make a proposal that the project be declared to be a major project.
- (2) The Minister may, in writing, make a proposal that a project be declared to be a major project.
- (3) A proposal for the purposes of this section must consist of use and development.
- (4) A proposal that a project be declared to be a major project is to –
  - (a) specify the area of land to which the project is to relate; and
  - (b) include a general description of the nature of the project.
- (5) A proponent or a planning authority may, by notice to the Minister, withdraw a proposal made under **subsection (1)** by the proponent or planning authority, respectively.
- (6) The Minister may, in writing, withdraw a proposal made by the Minister under **subsection (2)**.

**60D. Effect, of proposal for a declaration, on permit applications, referrals and project-associated Acts**

(1) In this section –

**"applicable use or development"** means a use or development that is part of a project to which a proposal for a declaration relates;

**"decision-maker"**, in relation to an application under a project-associated Act for a project-related permit, means the person to whom the application is made under that Act;

**"referral"** means any of the following:

- (a) the giving to the Heritage Council, under **section 36(2)** of the *Historic Cultural Heritage Act 1995*, of a copy of a permit application, within the meaning of **section 32** of that Act, if the permit application relates to an applicable use or development;
- (b) the referral, to the EPA Board under **Part 3** of the EMPC Act, of an application for a permit under this Act, if the application relates to an applicable use or development;
- (c) the giving under **section 56O(1)** of the *Water and Sewerage Industry Act 2008* of notice of an application that relates to an applicable use or development;

- (d) the referral to a pipeline licensee under ~~section 70D of the Gas Pipelines Act 2000~~ section 51 of the Gas Industry Act 2019 of notice of an application that relates to an applicable use or development;

**"referred entity"** means –

- (a) the EPA Board; and
- (b) the Heritage Council; and
- (c) a pipeline licensee; and
- (d) a relevant regulated entity;

**"relevant time"**, in relation to –

- (a) an application for an ordinary permit that is made in respect of all or part of the land to which a proposal for a declaration in relation to a project relates – means the day on which the relevant planning authority –
  - (i) makes under section 60C(1) the proposal for a declaration in relation to the project; or
  - (ii) is notified under section 60I(1) of the proposal for a declaration in relation to the project; or



- (iii) is requested in a notice under **section 60H(1)** to provide information in relation to the project –

whichever day is earlier; or

- (b) an application under a project-associated Act for a project-related permit that is made in respect of all or part of the land to which a proposal for a declaration relates – means the day on which the major project to which the application relates is referred to the relevant regulator under **section 60Y(1)(a)**.

- (2) **Subsection (3)** applies to an application for an ordinary permit or an application under a project-associated Act for a project-related permit (other than such an application to which **section 60ZT(2)** applies), if the application relates to all or part of the land to which a proposal for a declaration relates and the application has been –

- (a) made to a planning authority, or the decision-maker, respectively, before the relevant time in relation to the application but has not been determined by the planning authority, or the decision-maker, respectively, before the relevant time; or
- (b) made after the relevant time and before a declaration is made under **section 60O** or the proposal for a declaration is

withdrawn, or taken to be withdrawn,  
under **section 60C(5)** or **(6)**.

- (3) If this subsection applies to an application for an ordinary permit or an application under a project-associated Act for a project-related permit –
  - (a) the planning authority, or the decision-maker, to which the application is made must not determine the application; and
  - (b) the planning authority, or the decision-maker, to which the application is made must not make a referral in relation to the application; and
  - (c) any referred entity to which a referral in relation to the application has been made must cease to take any action that, but for this section, the referred entity would be required to take because of the referral.
- (4) **Subsection (3)** ceases to apply in relation to an application, or a referral, in respect of all or part of the land to which a proposal for a declaration in relation to a project relates, when –
  - (a) a declaration is made under **section 60O(1)(b)** that the project is not to be a major project; or
  - (b) the proposal for a declaration is withdrawn, or taken to have been withdrawn, under **section 60C(5)** or **(6)**.
- (5) A determination of –
  - (a) an application for an ordinary permit to which **subsection (3)** applies; or

- (b) an application under a project-associated Act for a project-related permit to which **subsection (3)** applies –

is void if it is made, in contravention of that subsection, while that subsection applies to the application.

(6) If –

- (a) **subsection (3)** applied to an application for an ordinary permit, or an application under a project-associated Act for a project-related permit, in relation to a project; and
- (b) that subsection ceases to apply to the application on a day (the "**re-start day**") –

the application, and any referral in relation to the application, is to be taken, for the purposes of the calculation of the number of days, after the application or referral is made, in which an action is required under this Act or a project-associated Act to be taken because the application or referral is made, to have been made on the re-start day.

#### **60E. Major project proposal required**

- (1) A proponent of a project who makes under **section 60C(1)** a proposal for a declaration in relation to the project is to provide to the Minister, at the same time, a major project proposal in relation to the project.

- (2) If a planning authority or the Minister makes under **section 60C(1)** or **(2)** a proposal for a declaration in relation to a project, the Minister, by notice to the proponent of the project, may require the proponent to provide to the Minister a major project proposal in relation to the project within the period specified in the notice.
- (3) A proponent in relation to a project to whom a notice is given under **subsection (2)** is, within the period specified in the notice or a longer period allowed by the Minister, to take all reasonable steps to provide a major project proposal to the Minister.
- (4) If a proponent in relation to a project fails to comply with **subsection (3)**, an application for a permit in relation to a use or development to which the project relates may not, except with the approval of the Minister, be made by any person within the 2-year period after the day on which the notice under **subsection (2)** is given to the proponent, if the use or development –
  - (a) is the same as, or substantially the same as, a use or development to which the project relates or related; and
  - (b) would be carried out on all or part of the area of land to which the project relates or related.

#### **60F. Contents of major project proposal**

- (1) A major project proposal in relation to a project is to contain the following information:

- (a) the name and contact details of the proponent of the project;
- (b) details of the proponent's experience and of the proponent's financial capacity to implement the project;
- (c) the name of the project;
- (d) subject to **subsection (2)**, a description of the project, including –
  - (i) the activities that are proposed to be carried out as part of the project after the construction phase of the project is completed; and
  - (ii) the proposed uses or developments that are proposed to occur in relation to the project;
- (e) a map, or description, indicating the location of the proposed land on which the project is to be situated and, subject to **subsection (2)**, a plan indicating generally areas on that land on which uses or developments in relation to the project are proposed to occur;
- (f) a general description of the physical features of –
  - (i) the areas of land on which the project is to be situated; and
  - (ii) the areas of land, in the vicinity of the areas of land on which the project is to be situated, that it is

anticipated may be affected by the project;

- (g) the anticipated effect, if any, on other areas of land that are in the vicinity of the areas of land on which the project is to be situated, of the project or infrastructure associated with the project;
- (h) the key environmental, health, economic, social and heritage effects of the project that the proponent has identified and, if the effects may be detrimental, the measures that the proponent proposes to take to mitigate those effects;
- (i) the surveys, and studies, proposed or being undertaken in respect of the project;
- (j) the proposed timetable for the completion of the construction phase of the project;
- (k) whether the project is a bilateral agreement project;
- (l) a statement as to why the Minister ought to be of the opinion that the project is eligible under **section 60M** to be declared a major project;
- (m) an assessment of the extent to which the project complies with the requirements of the relevant planning scheme and a statement as to the amendments, if any, that would be required to be made to an LPS in order for the project to so comply;

- (n) information as to the consents referred to in **section 60P(2)** that have been obtained;
- (o) details of any consultation, with persons who may have an interest in whether the project is implemented, that has occurred or is proposed to occur;
- (p) details of any feasibility assessment that has been undertaken, in relation to the project, by the proponent;
- (q) any other information that is prescribed to be required to be provided for the purposes of this section.

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**(1A)** A major project proposal in relation to a project may include a statement stating –

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(a) that one or more preliminary studies, specified in the statement, may be required to be carried out before assessment criteria are determined under **section 60ZM(1)** in relation to the major project; and

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(b) why each of the preliminary studies is required to be carried out before assessment criteria are determined under **section 60ZM(1)** in relation to the major project.

- (2) If a project to which a declaration of a major project is to relate includes transport infrastructure, water or sewerage infrastructure, energy infrastructure or communications infrastructure –

- (a) the description, referred to in **subsection (1)(d)**, is to be a general description of –
    - (i) the activities that are proposed to be carried out as part of the project after the construction phase of the project is completed; and
    - (ii) the proposed uses or developments that are proposed to occur in relation to the project; and
  - (b) the plan, referred to in **subsection (1)(e)**, is to be a plan setting out generally the types of infrastructure and the areas within any part of which such infrastructure may be situated.
- (3) The reference in **subsection (1)(g)** to the anticipated effect, on other areas of land, of the project or infrastructure associated with the project, includes –
- (a) the anticipated effect on areas that are within, as well as areas that are outside, the regional area in which the project is to be situated; and
  - (b) the anticipated effect on the provision of physical, social and other infrastructure in those other areas.



**60G. Minister may request proponent to provide amended major project proposal**

- (1) The Minister, by notice to a proponent of a project, may request the proponent to provide to the Minister, within the period specified in the notice, the proponent's major project proposal, as provided to the Minister under **section 60E**, amended so as to incorporate the information specified in the notice as being required to be so incorporated.
- (2) Information may only be requested under **subsection (1)** to be incorporated in a major project proposal –
  - (a) before the Minister makes a declaration of a major project under **section 60O(1)**; and
  - (b) if it is reasonably necessary to enable the Minister to determine whether or not to make a declaration of a major project.
- (3) A proponent to whom a notice is given under **subsection (1)** is to take all reasonable steps to provide to the Minister, within the period specified in the notice, the proponent's major project proposal, amended so as to incorporate the information specified in the notice.
- (4) If –
  - (a) a copy of the major project proposal in relation to a proposed major project, amended so as to incorporate the information specified in a notice under **subsection (1)**, is not provided to the

Minister within the period specified in the notice; and

- (b) the proposal for a declaration in relation to the project was made by the proponent under **section 60C(1)** –

the proposal is taken to be withdrawn by the proponent under **section 60C(5)**.

- (5) **Subsection (6)** applies in relation to a major project proposal if –

- (a) a copy of the major project proposal in relation to a proposed major project, amended so as to incorporate the information specified in a notice under **subsection (1)**, is not provided to the Minister within the period specified in the notice; and

- (b) the proposal for a declaration in relation to the project was made by the Minister or a planning authority under **section 60C(1) or (2)**.

- (6) If this subsection applies in relation to a major project proposal –

- (a) the proposal is taken to be withdrawn by the Minister under **section 60C(6)**; and

- (b) an application for a permit in relation to a use or development may not, except with the approval of the Minister, be made by any person within the 2-year period after the day on which the notice under **subsection (1)** was given, if the use or development –

- (i) is the same as, or substantially the same as, a use or development to which the project relates or related; and
- (ii) would be carried out on all or part of the area of land to which the project relates or related.

**60H. Minister may request information from council or relevant State entity**

- (1) The Minister, by notice to a council or relevant State entity, may request the council or relevant State entity to provide to the Minister, within the period specified in the notice, the information, specified in the notice, that is in the possession of the council, or relevant State entity, respectively.
- (2) Information may only be requested under **subsection (1)** –
  - (a) before the Minister makes a declaration of a major project under **section 60O(1)**; and
  - (b) if it is reasonably necessary to enable the Minister to determine whether or not to make a declaration of a major project.
- (3) A council, or the Secretary, or chief executive officer, of a relevant State entity, to which a notice is given under **subsection (1)** is to take all reasonable steps to provide to the Minister, within the period specified in the notice, the information specified in the notice.

- (4) Without limiting the generality of **subsection (1)**, the information that may be requested under that subsection includes information as to any further approvals, permissions, licences, or authorities, however described, that, in addition to a project-related permit, may be required to be obtained by the proponent under an Act in order for the project, or activities for the purposes of the project, to be lawfully implemented or conducted.

**60I. Persons to be notified of proposal for declaration and given major project proposals**

- (1) The Minister, within 7 days after a proposal for a declaration is made, must notify of the proposal for a declaration –
  - (a) the proponent, if the proponent did not make under **section 60C(1)** the proposal for a declaration; and
  - (b) each owner of all or part of the land to which the proposal for a declaration relates, if the owner is not the proponent of the project to which the proposal relates; and
  - (c) the owners of, the occupiers of, and the lessees of, any part of land adjoining the land on which the project is to be situated; and
  - (d) the council that is the relevant planning authority in relation to the project to which the proposal relates, if the relevant planning authority did not make under

**section 60C(1)** the proposal for a declaration; and

- (e) each council that is not a relevant planning authority in relation to the project to which the proposal relates but that is the council for a municipal area that is in the regional area, or regional areas, in which the project is to be situated; and
- (f) each relevant State entity that the Minister considers may have an interest in the proposal for a declaration; and
- (g) the Commission; and
- (h) any other person, or class of persons, that is prescribed.

(2) If the Minister is satisfied that the Minister will not be issuing a notice, or another notice, under **section 60G(1)** in relation to a project, the Minister must provide a copy, of the major project proposal, in relation to the project, that is last provided to the Minister under **section 60E(1)**, **section 60E(3)** or **section 60G(3)**, to –

- (a) each owner of all or part of the land to which the proposal for a declaration relates, if the owner is not the proponent of the project to which the proposal relates; and
- (b) the owners of, the occupiers of, and the lessees of, any part of land adjoining the land on which the project is to be situated; and

- (c) the council that is the relevant planning authority in relation to the project; and
  - (d) each relevant State entity that the Minister considers may have an interest in the proposal.
- (3) A council or a relevant State entity that is provided under this section with a major project proposal in relation to a project may, within 28 days, by notice in writing to the Minister, advise the Minister as to –
  - (a) whether the council or relevant State entity considers that the Minister ought not to be of the opinion that the project is eligible to be declared to be a major project; and
  - (b) the reasons why the council or relevant State entity is of that opinion.
- (4) A person who –
  - (a) is an owner, occupier or lessee of any part of the land to which the proposal for a declaration relates or an owner, occupier or lessee of any part of land adjoining the land on which a project to which such a declaration relates is to be situated; and
  - (b) is provided under this section with a major project proposal in relation to the project –

may, within 28 days, by notice in writing to the Minister, advise the Minister why he or she does not wish the project to be declared to be a major project.

- (5) If the Minister is satisfied that the Minister will not be issuing a notice, or another notice, under **section 60G(1)** in relation to a project, the Minister must notify the proponent that the Minister is not intending that the major project proposal, in relation to the project, that is last provided to the Minister under **section 60E(1)**, **section 60E(3)** or **section 60G(3)** is to be required to be further altered.
- (6) A proponent of a project, to which a proposal for a declaration relates, who did not make the proposal for a declaration, may, by notice in writing to the Minister given within 28 days after being notified under **subsection (5)**, advise the Minister why the proponent does not wish the project to be declared to be a major project.

### ***Subdivision 3 – Determination guidelines***

#### **60J. Determination guidelines**

- (1) The Commission must issue guidelines, ("**determination guidelines**") in relation to proposals under **section 60C** for declarations of major projects.
- (2) The Commission must issue guidelines under **subsection (1)** before the end of the 6-month period after the day on which this section commences or a longer period allowed by the Minister.
- (3) Determination guidelines may only be issued under **subsection (1)** if they are not inconsistent with this Act.

- (4) The Commission, as soon as practicable after issuing determination guidelines –
- (a) must publish in the *Gazette*, and in a newspaper that is published, and circulates generally, in Tasmania, a notice specifying –
    - (i) that the determination guidelines have been issued; and
    - (ii) that copies of the guidelines may be viewed at a place specified in the notice and viewed and downloaded at the electronic address of the Commission specified in the notice; and
  - (b) must ensure that copies of the determination guidelines, while in force, are available –
    - (i) for viewing by members of the public at the place specified in the notice; and
    - (ii) for viewing and downloading at an electronic address of the Commission specified in the notice.
- (5) Determination guidelines issued under **subsection (1)** are of no effect until the notice in relation to the guidelines is published in the *Gazette* under **subsection (4)**.



**60K. Contents of determination guidelines**

- (1) Determination guidelines are to provide guidance to the Minister as to the matters to which the Minister is to have regard in determining under **section 60O** whether to declare projects to be major projects.
- (2) The determination guidelines are to be of general application to projects that may be declared to be major projects, rather than to be of application only to specific projects that may be declared to be major projects.
- (3) The determination guidelines are to provide guidance to the Minister in relation to all attributes referred to in **section 60M**.
- (4) Unless the contrary intention appears, the determination guidelines are not intended to limit the matters to which the Minister is to have regard in determining whether to declare projects to be major projects.
- (5) The determination guidelines must require the Minister to have regard to the extent to which a planning scheme demonstrates, in a specific area plan, particular purpose zone or site-specific qualifications, a detailed and specific intention, for the area of land, with which a project to which a proposal for a declaration relates is incompatible, so that it may not be suitable for such a project to be declared to be a major project in relation to the area of land.

#### **60L. Revocation of guidelines**

- (1) The Commission may revoke the determination guidelines.
- (2) The Commission, as soon as practicable after revoking the determination guidelines, must publish in the *Gazette*, and in a newspaper that is published, and circulates generally, in Tasmania, a notice specifying that the determination guidelines have been revoked.
- (3) The revocation of determination guidelines under **subsection (1)** is of no effect until the notice of the revocation of the guidelines is published in the *Gazette* under **subsection (2)**.
- (4) The Commission, as soon as practicable after revoking the determination guidelines, must issue determination guidelines under **section 60J(1)** in their place.

#### ***Subdivision 4 – Declaration of major projects***

#### **60M. When project is eligible to be declared to be major project**

- (1) Subject to **section 60N**, a project is eligible to be declared to be a major project under **section 60O** if, in the opinion of the Minister, the project has 2 or more of the following attributes:
  - (a) the project will have a significant impact on, or make a significant contribution to, a region's economy, environment or social fabric;

- (b) the project is of strategic importance to a region;
  - (c) the project is of significant scale and complexity.
- (2) For the purposes of **subsection (1)(c)**, in determining whether the project is of significant scale and complexity, the Minister is to consider –
  - (a) the following matters:
    - (i) the number of municipal areas that will be affected by the project or that contain land on which all or part of the project may be situated;
    - (ii) whether 2 or more project-related permits would be required to be obtained in order for the project to proceed;
    - (iii) the technical requirements of the project; and
  - (b) whether the activities that are proposed to be carried out on the land after the construction phase of the project is completed are of interest to, or for the benefit of, a wider sector of the public than resides in the municipal area, or municipal areas, in which the project is to be situated.
- (3) The Minister may not form an opinion in relation to a project under **subsection (1)** until he or she has considered the advice, if any, provided under **section 60I(3)** in relation to the project.

- (4) A project that is to be situated on an area of land may be declared to be a major project even though a use or development that is proposed to form part of the project is prohibited under a relevant planning scheme.

**60N. When project is ineligible to be declared to be major project**

- (1) Despite **section 60M**, a project is not eligible to be declared to be a major project under **section 60O** if the project –
  - (a) would not further the objectives specified in **Schedule 1**; or
  - (b) would be in contravention of a State Policy; or
  - (c) would be in contravention of the TPPs; or
  - (d) would be inconsistent with a regional land use strategy that applies to the land on which the project is to be situated.
- (2) Despite **section 60M**, a project is not eligible to be declared to be a major project under **section 60O** if the project –
  - (a) relates to a matter, or includes a use or development, referred to in **section 11(3)**; or
  - (b) relates to a matter, or includes a use or development, that is an EL activity within the meaning of the EMPC Act.

## **600. Declaration of major project**

- (1) The Minister, after a proposal for a declaration is made in relation to a project, must, by notice in the *Gazette* –
  - (a) declare the project to be a major project; or
  - (b) declare that the project is not to be a major project.
- (2) The Minister is to make a declaration under **subsection (1)** in relation to a project –
  - (a) within the 28-day period from the day on which he or she receives under **section 60E(1)** or **(3)** or **section 60G(3)** a major project proposal in relation to the major project; or
  - (b) within the 14-day period from the end of the 28-day period in which a person may provide advice under **section 60I** in relation to a proposal for a declaration in relation to the project; or
  - (c) within the 14-day period from the latest day on which he or she receives further information in relation to the project under **section 60H(3)** –  
whichever period ends last.
- (3) In determining whether to declare a project to be a major project, the Minister is to have regard to the determination guidelines, if any.
- (4) The Panel may, by notice in the *Gazette*, correct –

- (a) a clerical mistake, or an error arising from any accidental slip or omission in a declaration of a major project; or
- (b) an evident material miscalculation of figures or an evident material mistake in the description of any person, thing or property referred to in a declaration of a major project.

**60P. Circumstances in which declaration of major project may be made**

- (1) The Minister may only declare a project to be a major project under **section 60O** if –
  - (a) the Minister considers the project to be eligible under **section 60M** to be declared such a project; and
  - (b) the Minister has considered the advice, if any, provided in relation to the project under **section 60I**.
- (2) The Minister may only declare a project to be a major project under **section 60O** –
  - (a) if all or part of the land on which the project is to be situated is Crown land, within the meaning of the ***Crown Lands Act 1976*** – with the consent of the Minister to whom the administration of that Act is assigned; or
  - (b) if all or part of the land on which the project is to be situated is land owned by a council – with the consent of the council; or

- (c) if all or part of the land on which the project is to be situated is in Wellington Park – with the consent of the Wellington Park Management Trust.
- (3) The Minister may only declare a project to be a major project under **section 60O** if –
  - (a) where all or part of the land on which the project is to be situated is land of which the proponent is not the owner – the owner, or owners, of the land; and
  - (b) where all or part of the land on which the project is to be situated is land that is not owned by a council but is occupied or administered by a council – the council –

have been given notice in writing of the proposal for a declaration in relation to the major project.

#### **60Q. Contents of declaration of major project**

- (1) A declaration of a major project must include –
  - (a) a map, or description, indicating the location of the land on which the project is to be situated; and
  - (b) subject to **subsection (2)**, a description of the project, including –
    - (i) the activities that are proposed to be carried out as part of the project after the construction phase of the project is completed; and

- (ii) the proposed uses or developments that are proposed to occur in relation to the project; and
  - (c) subject to **subsection (2)**, a plan indicating generally the areas, on the land on which the project is to be situated, on which proposed uses or developments in relation to the project are to occur; and
  - (d) the name of the proponent of the major project; and
  - (e) the attributes of the project specified in **section 60M(1)**, which, in the opinion of the Minister, are such that the project is eligible to be declared to be a major project.
- (2) If a project to which a declaration of a major project is to relate includes transport infrastructure, water or sewerage infrastructure, energy infrastructure or communications infrastructure –
- (a) the description, referred to in **subsection (1)(b)**, is to be a general description of –
    - (i) the activities that are proposed to be carried out as part of the project after the construction phase of the project is completed; and
    - (ii) the proposed uses or developments that are proposed



to occur in relation to the project;  
and

- (b) the plan, referred to in **subsection (1)(c)**, is to be a plan setting out generally the types of infrastructure and the areas of the land within any part of which such infrastructure may be situated.

- (3) The Minister, in a declaration of a major project, may include a statement –

- (a) specifying the particular qualifications or experience that the Minister considers ought to be possessed by at least one member of the Panel in relation to the major project; and
- (b) requiring the Commission to, under **section 60W(4)**, appoint to be a member of the Panel at least one person who possesses such qualifications or experience.

- (4) The Minister may include in a declaration of a major project any use or development that is necessary for the implementation of the major project, whether or not the use or development is to be undertaken by or on behalf of the proponent named in the declaration or by and on behalf of another person.

- (5) The Minister may, in a declaration of a major project in relation to a major project that is to take place on an area of land all or part of which is not within any municipal area, specify that a planning authority nominated in the declaration is to be the planning authority in relation to the major project.

- (6) The Minister may only specify in a declaration of a major project a planning authority for the purposes of **subsection (5)** if the planning authority is the planning authority for a municipal area that is within a regional area that is adjacent to the area of land on which the major project is to be situated in whole or in part.
- (7) If the Minister specifies in a declaration of a major project, in accordance with **subsection (5)**, that a planning authority is the planning authority for a municipal area, the planning authority is, for the purposes of this Division, a relevant planning authority in relation to the major project.

**60R. Notice to be given of declaration of major project**

- (1) The Minister, within 7 days after a declaration of a major project is made in relation to a project, or within 7 days after a declaration is made under **section 60O(1)(b)** that a project is not to be a major project, is to notify, in writing –
  - (a) the proponent of the project; and
  - (b) if the proponent is not the owner of all the land on which the project is or was to be situated – the owners of the parts of the land that the proponent does not own; and
  - (c) the owners of, the occupiers of, and the lessees of, any part of land adjoining the land on which the project is or was to be situated; and

- (d) the council that is a relevant planning authority in relation to the project; and
  - (e) each council that is not a relevant planning authority in relation to the project but that is the council for a municipal area that is in the regional area, or regional areas, in which the project is or was to be situated; and
  - (f) if the project is or was to be situated on an area of land that is not within any municipal area – all councils for an area of land in a regional area that is adjacent to the area of land in which the project is or was to be situated; and
  - (g) the Commission; and
  - (h) each State Service Agency, or Tasmanian Government Business, that the Minister considers may have an interest in relation to a matter to which the project relates; and
  - (i) if the land on which the project is or was to be situated is situated in Wellington Park – the Wellington Park Management Trust; and
  - (j) any other person, or class of persons, that is prescribed.
- (2) The Minister is to provide to the Commission, together with a notice under **subsection (1)** in relation to a declaration of a major project –
- (a) the major project proposal; and

- (b) any information, in relation to the major project, provided to the Minister under **section 60H(3)**.
- (3) The Minister must ensure that a notice specifying –
  - (a) that a declaration of a major project has been made; and
  - (b) an electronic address, and an address of the Commission, where a copy of the declaration may be viewed –

is published in the *Gazette* and in a newspaper that is published, and circulates generally, in Tasmania.

**60S. Effect on planning matters of declaration of major project**

- ~~(1) A person must not undertake a use or development on land, to which a major project relates, that is a use or development for which, under a planning scheme that applies to the land, a permit is required, except if the use or development is under and in accordance with –~~
  - ~~(a) a major project permit in relation to the project; or~~
  - ~~(b) a permit that was in force immediately before the project was declared to be a major project.~~
- (1) A person must not undertake a use or development, on land to which a major project relates, that is –

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(a) the same as, or substantially the same as, a use or development to which the major project permit relates; and

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(b) a use or development for which, under a planning scheme that applies to the land, a permit is required –

except if the use or development is under and in accordance with –

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(c) a major project permit in relation to the project; or

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(d) a permit that was in force immediately before the project was declared to be a major project.

(2) **Subsection (1)** does not apply in relation to an activity if the activity is carried out in accordance with a project-related permit, notice or authority issued or granted under **section 60SA**, **section 60ZT(2)** or **section 60ZU(2)** or (4).

(3) **Subsection (1)** does not apply in relation to a use or development for the purposes of the Panel, or a relevant regulator, conducting an assessment under or for the purposes of this Division, and any such assessment is not to be taken to be in contravention of any provision of this Act or a planning scheme.

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(3A) **Subsection (1)** does not apply in relation to land to which a major project permit relates if a certificate of development completion has been issued under **subsection (3B)** in relation to the land to which the permit relates.

(3B) If the Commission is satisfied that all development, to which a major project permit in relation to land relates, has been completed, or that no further such development is intended to occur under a major project permit, the Commission may issue a certificate of development completion in relation to the land to –

(a) each landowner of the land; and

(b) the planning authority in relation to the land.

(4) If a declaration of a major project is made –

(a) an application for an ordinary permit, in relation to a use or development forming all or part of the major project, that has been made to, but not determined by, the planning authority, is taken to have been withdrawn on the day on which the declaration is made; and

(b) the planning authority to which the application was made must, as soon as practicable, refund to the applicant half of any fees that the applicant has paid in respect of the application.

(5) If a declaration of a major project is amended under [section 60TF\(2\)](#) to include an area of land –

(a) an application for an ordinary permit, in relation to a use or development forming all or part of the major project, that –

(i) relates to the area of land; and

(ii) has been made to, but not determined by, the planning authority, before the declaration of a major project is amended under [section 60TF\(2\)](#) –

is taken to have been withdrawn on the day on which the declaration of a major project is amended under [section 60TF\(2\)](#); and

(b) the planning authority to which the application was made must, as soon as practicable, refund to the applicant half of any fees that the applicant has paid in respect of the application.

**60SA. Project-related permit may be given to enable preliminary study activity**

(1) In this section –

**"preliminary study activity"** means an activity for the purposes of a preliminary study that is specified in a statement included, in accordance with [section 60F\(1A\)](#), in the major project proposal in relation to the major project.

(2) A proponent of a major project may request the Commission to authorise under [subsection \(3\)](#) a preliminary study activity that is not permitted under a planning scheme unless there is a permit in relation to the activity.

(3) The Commission may, on receiving from a proponent of a major project a request under [subsection \(2\)](#) in relation to a preliminary study

activity, authorise, on the conditions or restrictions the Commission thinks fit, all or part of the activity to be carried out on land to which the major project relates.

(4) A proponent of a major project may request a person or body, to whom an application for a project-related permit may be made under an Act, to issue to the proponent a project-related permit, authorising the carrying out all or part of a preliminary study activity specified in the request.

(5) A person or body to whom an application for a project-related permit may be made under an Act, must, on receiving from a proponent of a major project a request under [subsection \(4\)](#) in relation to a preliminary study activity, issue to the proponent a project-related permit, authorising the carrying out all or part of an activity specified in the request, as if –

(a) the proponent had made under that Act a valid application for the permit; and

(b) the permit may, under that Act, be issued, in respect of the activity, to the proponent.

(6) A project-related permit may be issued in accordance with [subsection \(5\)](#) subject to the conditions or restrictions that may be imposed on the permit under the relevant project-associated Act.

(7) An authorisation under [subsection \(3\)](#), and a project-related permit issued in accordance with [subsection \(5\)](#), in respect of an activity in



relation to a major project, ceases to be in force on whichever of the following days occurs first:

- (a) the day on which the declaration of a major project in relation to the major project is revoked under [section 60U](#);
- (b) the day on which a major project permit is granted under [section 60ZZM\(1\)\(a\)](#) in relation to the major project, or, if the project-related permit relates to a matter that is required to be addressed in a major project impact statement that relates to a proposed amendment to a major project permit, after the amendment has been granted or refused;
- (c) the day on which the proponent is notified under [section 60ZZM\(1\)\(b\)](#) that the Panel has refused to grant a major project permit in relation to the major project.

**60T. Effect on project-associated Acts, and relevant regulators, of declaration of major project**

- (1) If a declaration of a major project is made on a day –
  - (a) an application under a project-associated Act, for a project-related permit in relation to land to which the project relates, that has been made by or on behalf of the proponent but that has not been determined under that Act is taken to have been withdrawn under that Act on that day; and

(b) each relevant regulator to which an application referred to in **paragraph (a)** has been made must, as soon as practicable, refund to the applicant half of any fees that the applicant has paid in respect of the application.

(2) If a declaration of a major project is made, any referral, within the meaning of **section 60D**, that relates to the major project and that is made to a referred entity, within the meaning of that section, is to be taken to be void and of no effect.

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(3) If a declaration of a major project is, on a day, amended under **section 60TF(2)** so that the declaration also relates to an additional area of land –

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(a) an application under a project-associated Act, for a project-related permit in relation to the land, that has been made by or on behalf of the proponent but that has not been determined under that Act is taken to have been withdrawn under that Act on that day; and

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(b) each relevant regulator to which an application referred to in **paragraph (a)** has been made must, as soon as practicable, refund to the applicant half of any fees that the applicant has paid in respect of the application; and

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(c) any referral, within the meaning of **section 60D**, that relates to the additional area of land that is made to a referred entity, within the meaning of that section, is to be taken to be void and of no effect.

**Subdivision 5 – Revocation of declaration**

**Subdivision 5 – Amendment and revocation of declaration**

**60TA. Interpretation of Subdivision 5**

In this Subdivision –

**"additional area of land"** means an area of land specified in a request made under **section 60TB(1)**;

**"relevant advice body"**, in relation to a major project, means –

(a) if a major project permit has not been granted in relation to the major project – the Panel; or

(b) if a major project permit has been granted in relation to the major project – the Commission.

**60TB. Request from proponent to have declaration of a major project amended to include additional area of land**

(1) A proponent of a major project may, in writing, request the relevant advice body in relation to the major project to advise the Minister that it is appropriate to amend a declaration of a major project so that the declaration also relates to an additional area of land (the **"additional area of land"**) that adjoins, or that is additional to, the area of land to which the declaration of a major project relates.

(2) A request from a proponent, under [subsection \(1\)](#), in relation to an additional area of land –

(a) is to include a map, or description, indicating the location of the additional area of land; and

(b) is to include a description of the proposed uses or developments that the proponent proposes are to occur on the additional area of land (including any such uses or development that may only occur if a major project permit is amended); and

(c) is to include a plan indicating generally the areas, on the additional area of land, on which proposed uses or developments in relation to the project are proposed to occur; and

(d) is to set out the subsection of [section 60TE](#) under which the relevant advice body may be satisfied that it is appropriate for the Minister to amend the declaration of a project so that the declaration also relates to an additional area of land; and

(e) if the proponent requires the declaration of the major project to be amended so that the declaration also relates to an additional area of land because the proponent –

(i) proposes to make an application under [section 60ZZW\(1\)](#) for an amendment of the major project permit that applies in relation to

the major project so that the permit will relate to the additional area of land – is to include a copy of the proposed application; or

(ii) proposes to make an application under **section 60ZZZ** for an amendment of the major project permit that applies in relation to the major project so that the permit will relate to the additional area of land – is to include a copy of the proposed application; or

(f) is to include any other information that the relevant advice body requests.

(3) A relevant advice body that has received under **subsection (1)** a request from a proponent in relation to an additional area of land may, by notice to the proponent, request the proponent to provide to the relevant advice body information, or a document, specified in the notice, that the relevant advice body reasonably requires in order to determine the request.

(4) The period specified in **section 60TE(1)** does not run during the period between the day on which a relevant advice body has given to a proponent a notice under **subsection (3)** and the day on which the relevant advice body receives from the proponent the information, or the document, specified in the notice.

#### **60TC. Notification of request from proponent**

(1) The relevant advice body, on receiving under **section 60TB(1)** a request in relation to an

additional area of land in relation to a major project, must, within 7 days, give a notice in relation to the request to each of the following persons:

(a) each owner, of all or part of the additional area of land or of land adjoining the additional area of land;

(b) the owners of, the occupiers of, and the lessees of, the additional land or of land adjoining the additional area of land;

(c) the council that is the relevant planning authority in relation to the major project;

(d) each council that is not a relevant planning authority in relation to the major project but that is the council for a municipal area that is in the regional area, or regional areas, in which the project is to be situated; and

(e) each relevant State entity that the relevant advice body considers may have an interest in the additional area of land.

(2) A notice to a person under [subsection \(1\)](#) in relation to a request under [section 60TB\(1\)](#) from a proponent of a major project must –

(a) specify that the proponent has requested the relevant advice body to advise the Minister to amend a declaration of a major project so that the declaration also relates to an additional area of land; and

(b) specify the additional area of land; and

(c) specify –

- 
- (i) the reasons given by the proponent as to why the amendment is sought; and
- 
- (ii) the uses and developments that are intended to be conducted on the additional area of land; and
- 
- (d) invite the person to advise the relevant advice body, within 14 days after the notice is given to the person, as to the opinion of the person in relation to the proposed amendment of a declaration of a major project so that the declaration also relates to an additional area of land.
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- (3) A person who receives a notice under subsection (1) in relation to a request under section 60TB(1) in relation to an additional area of land may, within 14 days, advise the relevant advice body as to the opinion of the person in relation to the proposed amendment of a declaration of a major project so that the declaration also relates to an additional area of land.

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**60TD. Relevant regulators to be notified of request to amend declaration of a major project**

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- (1) The relevant advice body, on receiving under section 60TB(1) from a proponent of a major project a request in relation to an additional area of land, must, within 7 days, give a notice in relation to the request to each relevant regulator.
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- (2) A notice under subsection (1) to a relevant regulator in relation to a request under

section 60TB(1) from a proponent of a major project must –

- \_\_\_\_\_ (a) specify that the proponent has requested the relevant advice body to advise the Minister to amend a declaration of a major project so that the declaration also relates to an additional area of land; and
- \_\_\_\_\_ (b) specify the additional area of land; and
- \_\_\_\_\_ (c) specify –

  - \_\_\_\_\_ (i) the reasons given by the proponent as to why the amendment is sought; and
  - \_\_\_\_\_ (ii) the uses and developments that are intended to be conducted on the additional area of land; and
- \_\_\_\_\_ (d) if –

  - \_\_\_\_\_ (i) the request specifies, in accordance with section 60TB(2)(d), that section 60TE(6) or (7) is a section under which the relevant advice body may be satisfied that it is appropriate for the Minister to amend a declaration of a major project so that the declaration also relates to an additional area of land; and
  - \_\_\_\_\_ (ii) the relevant regulator is not a participating regulator in relation to the major project –



invite the relevant regulator to advise the relevant advice body, within 14 days after the notice is given to the relevant regulator, whether the relevant regulator wishes to become a participating regulator in relation to the major project.

(3) If –

(a) a relevant regulator receives a notice under [subsection \(1\)](#) in relation to a request under [section 60TB\(1\)](#) from a proponent in relation to a major project; and

(b) the request specifies, in accordance with [section 60TB\(2\)\(d\)](#), that [section 60TE\(6\)](#) or [\(7\)](#) is a section under which the relevant advice body may be satisfied that it is appropriate for the Minister to amend a declaration of a major project so that the declaration also relates to an additional area of land; and

(c) the relevant regulator is not a participating regulator in relation to the major project –

the relevant regulator may, within 14 days, advise the relevant advice body that the relevant regulator wishes to become a participating regulator in relation to the major project.

(4) If a relevant regulator advises the relevant advice body under [subsection \(3\)](#) that the relevant regulator wishes to become a participating regulator in relation to a major project, the relevant regulator becomes a participating regulator in relation to the major project.

**60TE. Advice from relevant advice body**

(1) The relevant advice body, on receiving under **section 60TB(1)** a request in relation to an additional area of land, must, within 28 days or a longer period allowed by the Minister –

(a) decide whether to give, or refuse to give, advice to the Minister under **subsection (2)**; and

(b) notify the person who made the request of the decision of the relevant advice body under **paragraph (a)**.

(2) The relevant advice body, on receiving under **section 60TB(1)** a request in relation to an additional area of land, may advise the Minister that it is appropriate to amend a declaration of a major project, to which the request relates, so that the declaration also relates to an additional area of land.

(3) A relevant advice body must not give advice under **subsection (2)** in relation to an additional area of land if it is of the opinion that, were the declaration of a major project amended so that the declaration also relates to an additional area of land, the project would, under **section 60N**, be not eligible to be declared to be a major project.

(4) An advice to the Minister under **subsection (2)** must include information sufficient to indicate to the Minister why the relevant advice body is satisfied that **subsection (3)** has been complied with.

(5) The relevant advice body may only advise the Minister under **subsection (2)** that it is

appropriate to amend a declaration of a major project, to which the request relates, so that the declaration also relates to an additional area of land, if –

(a) the advice is given after the end of the period in which a person may, under [section 60TC\(3\)](#), give the person's opinion to the relevant advice body; and

(b) if the relevant advice body has considered each advice given by a person under [section 60TC\(3\)](#).

(6) The relevant advice body, on receiving under [section 60TB\(1\)](#) a request in relation to an additional area of land, may advise the Minister under [subsection \(2\)](#) that it is appropriate for the Minister to amend a declaration of a major project so that the declaration also relates to an additional area of land, if the relevant advice body is satisfied that –

(a) the additional area of land is a small area, relative to the area of land to which the declaration of a major project relates, and

(b) there is no major project permit in relation to the major project; and

(c) assessment criteria have been determined under [section 60ZM\(1\)](#) in relation to the major project; and

(d) the major project impact statement in relation to the project has not been provided to the Panel under [section 60ZS](#)

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(7) The relevant advice body, on receiving under [section 60TB\(1\)](#) a request in relation to an additional area of land, may advise the Minister under [subsection \(2\)](#) that it is appropriate for the Minister to amend a declaration of a major project so that the declaration also relates to an additional area of land, if the relevant advice body is satisfied that –

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(a) the additional area of land is a small area, relative to the area of land to which the declaration of a major project relates; and

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(b) a submission made under [section 60ZZD\(1\)](#) or at a hearing under [section 60ZZE](#), suggests that it is necessary or desirable for the additional land to form part of the area of land to which the declaration of a major project relates.

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(8) The relevant advice body, on receiving under [section 60TB\(1\)](#) a request in relation to an additional area of land may advise the Minister under [subsection \(2\)](#) that it is appropriate for the Minister to amend a declaration of a major project so that the declaration also relates to an additional area of land, if –

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(a) the relevant advice body is satisfied that the area of land is a small area, relative to the area of land to which the declaration of a major project relates; and

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(b) the request is accompanied, in accordance with [section 60TB\(2\)\(e\)](#), with an application that relates to a proposed amendment, of a major project permit,

that relates to the additional area of land;  
and

(c) the relevant advice body is satisfied that  
the proposed amendment to the major  
project permit is sought by the proponent  
because the proponent is of the opinion  
that an alteration to –

(i) the use or developments to which  
the permit relates; or

(ii) the design of the major project –

is necessary or desirable to fulfil one or  
more of the purposes of the major  
project.

(9) The relevant advice body, on receiving under  
section 60TB(1) a request in relation to an  
additional area of land must not advise the  
Minister under subsection (2) that it is  
appropriate for the Minister to amend a  
declaration of a major project so that the  
declaration also relates to an additional area of  
land, unless the relevant advice body may do so  
under subsection (6), (7) or (8).

**60TF. Amendment of declaration of major project to**  
**include additional area of land**

(1) The Minister must, within 14 days after  
receiving under section 60TE(2) advice in  
relation to a major project, decide whether to  
amend under subsection (2) a declaration of a  
major project so that the declaration also relates  
to an additional area of land to which the advice  
relates.

(2) The Minister, by notice in the *Gazette*, may amend a declaration of a major project so that the declaration also relates to an additional area of land.

(3) An amendment of a declaration of a major project made under *subsection (2)* so that the declaration also relates to an additional area of land may contain the amendments to the declaration that are necessary to ensure that the declaration –

(a) also relates to the additional area of land; and

(b) includes the proposed uses or development that are proposed to occur on the additional land (including any such uses or development that may only occur if a major project permit is amended); and

(c) indicates generally the areas, on the additional area of land, on which proposed uses or developments in relation to the major project are to occur.

(4) The Minister must not amend a declaration of a major project under *subsection (2)* so that the declaration also relates to an additional area of land unless the Minister has received under *section 60TE(2)* advice from the relevant advice body in relation to the additional area of land.

(5) The Minister must not amend a declaration of a major project under *subsection (2)* so that the declaration also relates to an additional area of land if the Minister considers that, were the declaration of a major project amended so that

the declaration also relates to an additional area of land, the project would, under [section 60N](#), be not eligible to be declared to be a major project.

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(6) The Minister must not amend a declaration of a major project under [subsection \(2\)](#) so that the declaration also relates to an additional area of land, except –

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(a) if all or part of the additional area of land is Crown land, within the meaning of the [Crown Lands Act 1976](#) – with the consent of the Minister to whom the administration of that Act is assigned; or

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(b) if all or part of the additional area of land is land owned by a council – with the consent of the council; or

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(c) if all or part of the additional area of land is situated in Wellington Park – with the consent of the Wellington Park Management Trust.

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(7) The Minister must not amend a declaration of a major project under [subsection \(2\)](#) so that the declaration also relates to an additional area of land unless –

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(a) where all or part of the additional area of land is land of which the proponent is not the owner – the owner, or owners, of the land; and

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(b) where all or part of the additional area of land is land that is not owned by a council but is occupied or administered by a council – the council –

have been given notice in writing of the proposal to amend a declaration of a major project under **subsection (2)** so that the declaration also relates to the additional area of land.

(8) If –

(a) the Minister has amended a declaration of a major project under **subsection (2)** so that the declaration also relates to an additional area of land; and

(b) the Minister is satisfied that the additional area of land is no longer required for the purposes for which the amendment of the declaration of a major project was sought –

the Minister may amend the declaration of a major project so the declaration of a major project no longer relates to the additional area of land.

**60TG. Notice of amendment of declaration of major project to be given**

(1) The Minister must ensure that a notice specifying –

(a) that a declaration of a major project has been amended under **section 60TF**; and

(b) an electronic address, and an address of the Commission, where a copy of the declaration, as so amended, may be viewed –



is published in a newspaper that is published, and circulates generally, in Tasmania.

(2) The Minister, within 7 days after amending under **section 60TF** a declaration of a major project, is to notify in writing –

(a) the proponent of the major project; and

(b) if the proponent is not the owner of all the land to which the declaration relates – the owners of the parts of the land that the proponent does not own; and

(c) the owners of, the occupiers of, and the lessees of, any part of land adjoining the land to which the declaration relates or that adjoined that land before the amendment; and

(d) the council that is a relevant planning authority in relation to the project; and

(e) each council that is not a relevant planning authority in relation to the project but that is the council for a municipal area that is in the regional area, or regional areas, in which the major project is, or is to be, situated; and

(f) if the project is or was to be situated on an area of land that is not within any municipal area – all councils for an area of land in a regional area that is adjacent to the area of land in which the project is to be situated; and

(g) the Commission; and

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(h) each State Service Agency, or Tasmanian Government Business, that the Minister considers may have an interest in relation to a matter to which the project relates; and

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(i) if the land to which the declaration relates is situated in Wellington Park – the Wellington Park Management Trust; and

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(j) any other person, or class of persons, that is prescribed for the purposes of [section 60R\(1\)\(j\)](#).

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**60TH. Alteration of major project proposal may be required if alteration of declaration of major project to include additional area of land**

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(1) The Minister must give a major project proposal amendment notice to the proponent in relation to a major project, if –

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(a) the Minister has, under [section 60TF\(2\)](#), amended a declaration of a major project in relation to the major project so that the declaration also relates to an additional area of land; and

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(b) the additional area of land was specified in a request under [section 60TB\(1\)](#) that was, in accordance with [section 60TB\(2\)\(e\)](#), accompanied by an application proposed to be made under [section 60ZZZ](#) in relation to the additional area of land.

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(2) A major project proposal amendment notice to a proponent under [subsection \(1\)](#) is a notice requesting the proponent to provide to the Minister, within 14 days or a longer period allowed by the Minister, the major project proposal in relation to the project, amended so that the information, specified in [section 60F\(1\)](#) as required to be included in the proposal, refers to, and takes into account, the additional area of land.

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(3) If a major project proposal amendment notice is given to a proponent under [subsection \(1\)](#), the proponent of the project must, within 14 days or a longer period allowed by the Minister, provide to the Minister the major project proposal in relation to the major project, amended so that the information, specified in [section 60F\(1\)](#) as required to be included in the proposal, refers to, and takes into account, the additional area of land.

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(4) If an amended major project proposal that relates to a major project is given to the Minister under [subsection \(3\)](#), the Minister must notify the proponent that –

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(a) the Minister has accepted the amended major project proposal; or

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(b) the Minister requires the proponent to submit to the Minister under [subsection \(3\)](#) another amended project proposal.

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(5) The Minister must notify the proponent under [subsection \(3\)](#) that the Minister has accepted the amended major project proposal, if the Minister is satisfied that the information, specified in

section 60F(1) as required to be included in the proposal, refers to, and takes into account, the additional area of land.

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(6) If the Minister notifies the proponent that the Minister has accepted an amended major project proposal given to the Minister under subsection (3), the amended major project proposal in relation to the major project is taken to be the major project proposal in relation to the major project.

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(7) If an amended major project proposal in relation to the major project is taken under subsection (6) to be the major project proposal in relation to the major project, the Minister must provide a copy of the amended major project proposal to –

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(a) each owner of all or part of the land to which the major project relates; and

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(b) the owners of, the occupiers of, and the lessees of, any part of land adjoining the land on which the project is to be situated; and

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(c) the owners of, the occupiers of, and the lessees of, any part of land adjoining the land on which the project is to be situated; and

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(d) the council that is the relevant planning authority in relation to the project; and

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(e) each relevant State entity that the Minister considers may have an interest in the major project proposal.

## **60U. Revocation of declaration**

- (1) A proponent of a project may at any time, by notice in writing to the Minister, request the Minister to revoke the declaration of a major project in respect of all or part of the area of land to which the declaration relates.
- (2) The Minister, by notice in the *Gazette*, may revoke a declaration of a major project in respect of all or part of an area of land, if permitted or required under subsection (3) or (5) to revoke the declaration.
- (3) The Minister may revoke under subsection (2) a declaration of a major project in respect of all or part of an area of land –
  - (a) in accordance with a request under subsection (1), if there is no major project permit in relation to the land; or
  - (b) if the proponent of the project has failed to comply with section 60ZS(1), section 60ZV(6) or section 60ZX(1); or
  - (c) if the proponent of the project has provided to the Minister or the Panel information, in relation to the project, that is false or misleading in any material particular; or
  - (d) if the Minister is satisfied that the proponent does not intend the project to proceed in relation to the land or the part of the area of land and there is no major project permit in relation to the land or the part; or

- (e) subject to **subsection (4)**, if the Panel has given the Minister a no reasonable prospect notice under **section 60ZI(1)** in relation to the project.
- (4) If the Minister has received a no reasonable prospect notice under **section 60ZI(1)** in relation to a major project, the Minister must, before revoking under **subsection (2)**, on the grounds specified in **subsection (3)(e)**, the declaration of a major project in relation to the major project, consider any submission, and any comments, in relation to the major project, that are given to the Minister under **section 60ZI(7)**.
- (5) The Minister must revoke under **subsection (2)** a declaration of a major project in respect of all or part of an area of land if –
  - (a) the Panel has given to the Minister under **section 60ZG(4)** a copy of a notice under **section 60ZG(3)(a)** in relation to the major project; or
  - (b) **section 60ZH(3)** applies in relation to the declaration; or
  - (c) the Panel has refused to grant a major project permit in relation to all of the area of land or the part of the area of land, respectively; or
  - (d) the major project permit in relation to all of the area of land or the part of the area of land, respectively, has been cancelled.
- (6) The Minister is to give notice of a revocation of a declaration of a major project under **subsection (2)** to the Panel and the persons

notified under **section 60R(1)** of the declaration of the major project.

- (7) The Minister is to ensure that a notice of the revocation of a declaration of a major project under **subsection (2)** is placed in a newspaper that is published, and circulates generally, in Tasmania.
- (8) If a declaration of a major project is revoked under **subsection (2)** in relation to all or part of an area of land –
  - (a) this Division, apart from this section, **section 60ZZZD** and **section 60ZZZE**, ceases to apply, in respect of the project that was a major project, to the land to which the revocation relates; but
  - (b) a person is not to be taken to have committed an offence under this Act by reason of any action taken, or not taken, before this Division, apart from this section, **section 60ZZZD** and **section 60ZZZE**, ceased to apply, if the action or failure was lawful under this Division at the time when the action or failure occurred; and
  - (c) a proposal for a declaration in relation to a project that relates to, or an application for a permit in relation to, a use or development may not, except with the approval of the Minister, be made by any person within the 2-year period after the revocation, if the use or development –

- (i) is the same as, or substantially the same as, a use or development to which the project related; and
- (ii) would be carried out on all or part of the area of land to which the project related.

### ***Subdivision 6 – Establishment of Development Assessment Panel***

#### **60V. Establishment of Development Assessment Panel**

- (1) The Commission must establish a Development Assessment Panel (a "**Panel**") in relation to a major project.
- (2) A Panel must be established under **subsection (1)** in relation to a major project within 42 days, or a longer period allowed by the Minister, after the Commission is given a notice under **section 60R(1)** in relation to the major project.
- (3) During the period after the Commission is given notice under **section 60R(1)** in relation to the major project and before the Panel is established under **subsection (1)** in relation to the major project, the Executive Commissioner referred to in **section 5(1)(a) of the *Tasmanian Planning Commission Act 1997*** –
  - (a) is to be taken, for the purposes of this Division, to be the Panel; and
  - (b) may perform and exercise the functions and powers of the Panel.



- (4) A function or power performed or exercised under **subsection (3)** by the Executive Commissioner referred to in that subsection is to be taken to have been performed or exercised by the Panel.
- (5) As soon as practicable after establishing under **subsection (1)** a Panel in relation to a major project, the Commission must provide to the Panel –
  - (a) the major project proposal in relation to the major project; and
  - (b) the information, if any, in relation to the major project –provided to the Commission under **section 60R(1)**.

#### **60W. Appointment of members of Panel**

- (1) The Commission is to establish the Panel in relation to a major project by appointing to be members of the Panel –
  - (a) a member of the Commission, or another person nominated by the Commission, who is to be the chairperson of the Panel; and
  - (b) a member of the Commission, or another person, nominated by the Commission; and
  - (c) a person who is not a member of the Commission and who, in the opinion of the Commission, has qualifications and

experience that are relevant to the assessment of the project.

- (2) A person appointed under **subsection (1)(a)** must not be a person who is appointed to the Commission under **section 5(1)(g)** or **(h)** of the *Tasmanian Planning Commission Act 1997*.
- (3) A person has appropriate qualifications and experience for the purposes of **subsection (1)(c)** if the person has –
  - (a) qualifications or experience in land use planning, urban and regional development, commerce or industry; or
  - (b) practical knowledge of, and experience in, the provision of building or other infrastructure.
- (4) The Commission, in accordance with **subsection (5)**, may appoint to be members of the Panel, in addition to the persons appointed under **subsection (1)**, not more than 2 other persons.
- (5) The Commission –
  - (a) may appoint a person under **subsection (4)** to be a member of the Panel in relation to a major project if –
    - (i) the Commission is of the opinion that the scale, specialist nature or complexity of the major project makes it desirable to appoint to be a member of the Panel a person with particular qualifications or experience that the Commission thinks

appropriate to assist in the assessment of the project; and

- (ii) the Commission is of the opinion that the person has those qualifications or that experience; and

(b) must appoint a person under **subsection (4)** to be a member of the Panel in relation to a major project if the Commission is required to do so by a statement included, under **section 60Q(3)(a)**, in the declaration of a major project in relation to the major project.

- (6) The Commission may at any time revoke the appointment of a member of a Panel and appoint under **subsection (1)** another person in the place of the member.
- (7) A member of a Panel is entitled to be paid the remuneration that the Minister determines.
- (8) Despite **subsection (7)**, a member of a Panel who is a State Service employee or a State Service officer is not entitled to remuneration under that subsection except with the approval of the Minister to whom the administration of the *State Service Act 2000* has been assigned.
- (9) A member of the Panel in relation to a major project must, as soon as practicable after he or she becomes aware that he or she has an interest (including a pecuniary interest) in relation to the major project, advise the Commission of the interest.

- (10) The Commission, as soon as practicable after becoming aware that a member of the Panel in relation to a major project has an interest (including a pecuniary interest) in relation to the major project –
- (a) must determine whether the member has, or may be perceived to have, a conflict of interest in relation to the major project; and
  - (b) must revoke the appointment of the person as a member, if the Commission determines that the member has, or may reasonably be perceived to have, a conflict of interest in relation to the major project.

**60X. Powers, procedures and liability of Panel**

- (1) Subject to the procedures approved under **subsection (2)**, the quorum for a decision of the Panel is 3.
- (2) The Commission is to approve procedures, not inconsistent with the procedural requirements of this Division, for the conduct of proceedings under this Division.
- (3) The Panel is to conduct its proceedings in accordance with the procedures, if any, approved under **subsection (2)**.
- (4) The Panel may determine its own procedures for the conduct of proceedings, which procedures may not be inconsistent with the procedural requirements of this Division and the

procedures, if any, approved under subsection (2).

- (5) Part 3 of the *Tasmanian Planning Commission Act 1997* applies to, and in relation to, a Panel as if a reference in that Part to the Commission were a reference to the Panel.
- (6) In the event of an inconsistency between a provision of this Division and a provision of Part 3 of the *Tasmanian Planning Commission Act 1997*, the provision of this Division applies to the extent of the inconsistency.

#### ***Subdivision 7 – Referral of major project proposal to relevant regulators***

##### **60Y. Project to be referred to relevant regulators**

- (1) If a declaration of a major project is made, the Commission must, within 7 days of being notified under section 60R(1)(g) of the declaration –
  - (a) refer the major project to each relevant regulator in relation to the project; and
  - (b) provide to each relevant regulator in relation to the major project –
    - (i) the major project proposal in relation to the major project; and
    - (ii) the information, if any, in relation to the major project –

provided to the Commission under section 60R(2).

- (2) A relevant regulator in relation to a major project must carry out its assessment, for the purposes of this Act, of the project in the same manner as if the assessment were being conducted for the purposes of the project-associated Act in relation to the relevant regulator.

#### **60Z. Relevant regulators**

- (1) For the purposes of this Act, the EPA Board is a relevant regulator in relation to each major project.
- (2) For the purposes of this Act, a pipeline licensee is a relevant regulator in relation to a major project, if all or part of the project relates to land that is wholly or partly within a pipeline planning corridor, as defined in ~~section 70A of the Gas Pipelines Act 2000~~ gas infrastructure planning corridor within the meaning of the *Gas Industry Act 2019*.
- (3) For the purposes of this Act, a relevant regulated entity is a relevant regulator in relation to a major project, if –
  - (a) were this Division not to apply; and
  - (b) an application were to be made to a planning authority for a permit in relation to all or part of the project –

*section 56O(1) of the Water and Sewerage Industry Act 2008* would apply in relation to the application.

- (4) For the purposes of this Act, the Heritage Council is a relevant regulator in relation to a

major project if, were a development or use that forms part of the major project not to form part of the major project, a copy of a permit application, within the meaning of **section 32 of the *Historic Cultural Heritage Act 1995***, in relation to the development or use would be required under **section 36(2) of the *Historic Cultural Heritage Act 1995*** to be given to the Heritage Council.

- (5) For the purposes of this Act, a person is a relevant regulator in relation to a major project if, were the major project not declared to be a major project, a project-related permit would be required to be issued by the person under a project-associated Act in order for an activity in relation to the project to be lawfully carried out under that Act.

**60ZA. Relevant regulator to give notice of assessment, no assessment, or recommending revocation**

- (1) A relevant regulator in relation to a major project must, before the end of the 28-day period after the major project is referred to the regulator under **section 60Y(1)(a)** or a longer period allowed by the Minister, give to the Panel and the Commission –
  - (a) a notice of no assessment requirements in relation to the major project; or
  - (b) an assessment requirement notice in relation to the major project; or
  - (c) a notice recommending revocation.

- (2) A relevant regulator is only to give a notice under **subsection (1)** after considering the major project proposal, and any further information, in relation to the major project, that are provided to the relevant regulator under **section 60Y**.
- (3) For the purposes of this Act, a **"notice of no assessment requirements"** in relation to a major project is a notice specifying that the relevant regulator giving the notice does not require any matters to be included in the assessment criteria, in relation to the major project, as matters which the major project impact statement is required to address.
- (4) A relevant regulator that is the EPA Board may not give to the Panel and the Commission a notice of no assessment requirements in relation to a project if the project is a bilateral agreement project.
- (5) For the purposes of this Act, an **"assessment requirement notice"** in relation to a major project is a notice specifying –
- (a) the matters that the relevant regulator requires to be contained in the assessment criteria in relation to the project, as matters which the major project impact statement is required to address; and
  - (b) the reasons why the relevant regulator has specified in the notice the matters referred to in **paragraph (a)**.
- (6) A relevant regulator may only specify, in an assessment requirement notice under **subsection (1)(b)** in relation to a major project, a



matter referred to in **subsection (5)(a)** if the matter would be relevant to the decision of the relevant regulator as to the contents of the regulator's final advice that it would give under **section 60ZZF(1)** in relation to the major project.

(7) For the purposes of this Act, a **"notice recommending revocation"** is a notice that specifies –

- (a) that the relevant regulator requests the Panel to recommend to the Minister that the Minister revoke the declaration of the major project; and
- (b) the reasons for that request.

(8) A relevant regulator may only give a notice recommending revocation under **subsection (1)(c)** if –

- (a) the relevant regulator is of the opinion, having regard to the information that is available to it before receiving the major project impact statement in relation to the project, that there is no reasonable prospect that the relevant regulator will not request the Panel, in the regulator's final advice under **section 60ZZF(1)**, to refuse to grant a major project permit in relation to the major project; and
- (b) the relevant regulator specifies in the notice recommending revocation the reasons why the relevant regulator is likely to so request the Panel.

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(9) If a relevant regulator, other than the EPA Board, fails to give a notice under **subsection (1)**

in relation to a major project within the period in which such a notice is required under that subsection to be given to the Panel, the relevant regulator is to be taken to have given in relation to the major project a notice of no assessment requirements.

**60ZB. When relevant regulator becomes participating regulator**

A relevant regulator becomes a participating regulator in relation to a major project if the regulator gives –

- (a) an assessment requirement notice under **section 60ZA(1)(b)** in relation to the major project; or
- (b) a notice recommending revocation under **section 60ZA(1)(c)** in relation to the major project.

**60ZC. Special provisions relating to where EPA Board is relevant regulator**

- (1) If a participating regulator in relation to a project is the EPA Board and the project is a bilateral agreement project, that participating regulator may, within 28 days after the major project is referred to the regulator under **section 60Y(1)(a)**, give to the Panel an extension notice.
- (2) An extension notice is a notice specifying that the participating regulator will require 91 days, or a longer period allowed by the Minister, in which to provide to the Panel the participating

regulator's preliminary advice under **section 60ZY(1)** in relation to the major project.

(3) If a participating regulator in relation to a major project is the EPA Board –

(a) a major project, major project proposal or information is only to be taken under **section 60Y** to be referred, or provided, to the participating regulator if the major project, major project proposal or information, respectively, is referred, or provided, to the EPA Director; and

(b) the decision of that participating regulator under **section 60ZA(1)** is to be made by the EPA Director but is to be taken to have been made by the participating regulator.

(4) If the EPA Board has given to the Panel –

(a) an assessment requirement notice under **section 60ZA(1)(b)**; or

(b) a notice recommending revocation under **section 60ZA(1)(c)** –

in relation to a major project, the EPA Board must carry out an environmental impact assessment of the major project in accordance with **Part 5** of the EMPC Act, as modified in its application to a major project by this section.

(5) For the purposes of an environmental impact assessment of a major project in accordance with this section, the reference, in **section 74(4)** of the EMPC Act, to providing the proponent with guidance is to be taken to be satisfied if the

guidance is provided to the Panel under **subsection (6)**.

- (6) If the EPA Board has given –
- (a) an assessment requirement notice under **section 60ZA(1)(b)**; or
  - (b) a notice recommending revocation under **section 60ZA(1)(c)** –

in relation to a major project, the EPA Board must provide to the Panel the guidance that the EPA Board is required under **section 74(4)** of the EMPC Act to provide to the proponent.

- (7) The EPA Board must provide the guidance to the Panel, in accordance with **subsection (6)** –
- (a) after having considered the draft assessment criteria and after having determined whether it intends to give an alteration notice under **section 60ZL(4)**; and
  - (b) within 28 days after the end of the public exhibition of the draft assessment criteria under **section 60ZL(1)** or within a longer period allowed by the Minister.

- (8) If the EPA Board has given an assessment requirement notice under **section 60ZA(1)(b)** in relation to a major project, as altered, if at all, by an alteration notice under **section 60ZL(4)**, the assessment requirement notice is taken to be guidance that the EPA Board has provided to the proponent for the purposes of **section 74(4)** of the EMPC Act.

- (9) **Part 5** of the EMPC Act is modified in its application to a major project as follows:
- (a) **section 74(3)** of the EMPC Act does not apply in relation to the major project;
  - (b) the requirements specified in **section 74(6), (7) and (8)** of the EMPC Act are to be taken, in relation to the major project, to be satisfied when the requirements, that apply in relation to the major project and that are imposed on the EPA Board or the Panel by this Division, have been satisfied.

**60ZD. Relevant regulator may seek information from Panel**

- (1) A relevant regulator, within 21 days after a major project is referred to the regulator under **section 60Y(1)(a)**, may, by notice to the Panel, request the Panel to provide to the regulator the information specified in the notice.
- (2) The Panel, within 7 days of receiving a notice under **subsection (1)** in relation to a major project, must, by notice to the proponent of the project, request the proponent of the project to provide to the Panel, within the period specified in the notice, the information specified in the notice to the proponent.
- (3) The information specified in a notice under **subsection (2)** in relation to a major project is to be the information specified in a notice given to the Panel under **subsection (1)** in relation to the major project.

- (4) A proponent to whom a notice is given under **subsection (2)** must provide to the Panel, within the period specified in the notice or a longer period allowed by the Panel, the information specified in the notice.
- (5) The Panel, within 7 days after information is provided to the Panel under **subsection (4)**, must provide the information to the relevant regulator who made the request under **subsection (1)** in relation to which the information was provided to the Panel.
- (6) A relevant regulator, within 21 days after receiving information (the **"first information"**) provided under **subsection (5)**, may –
  - (a) notify the Panel that the information is not sufficient; and
  - (b) make under **subsection (1)** a further request for information and, if such a further request is made, the reference in that subsection to the day on which the project was referred to the regulator is to be taken to be a reference to the day on which the first information was provided under **subsection (5)**.
- (7) If a relevant regulator has requested information under **subsection (1)**, the period between –
  - (a) the making of the request; and
  - (b) the provision of information to the regulator under **subsection (5)** –

is not to be taken into account, in relation to the relevant regulator, in the calculation of the 28-day period referred to in **section 60ZA(1)**.

*Subdivision 8 – No reasonable prospect notices*

**60ZE. Notice of Panel's intention to give no reasonable prospect notice**

(1) The Panel in relation to a major project must, if it is intending to give to the Minister a no reasonable prospect notice under **section 60ZI(1)**, give to the proponent of the major project a notice (a "**warning notice**") –

(a) specifying –

(i) that the Panel intends to give a no reasonable prospect notice under **section 60ZI(1)**; and

(ii) the reasons why it intends to give the notice; and

(b) inviting the proponent to make, within 14 days after the day on which the warning notice is given, a written submission to the Panel in relation to the Panel's intention to give a no reasonable prospect notice under **section 60ZI(1)** in relation to the project.

(2) A proponent who receives a warning notice under **subsection (1)** in relation to a major project may, within 14 days, make a submission to the Panel –

(a) as to the opinion of the proponent in relation to the reasons specified in accordance with **subsection (1)(a)** in relation to the major project; and

- (b) specifying any other information that the proponent thinks relevant.

**60ZF. Where proponent makes submission about Panel's intention to give no reasonable prospect notice**

- (1) If a submission in relation to a major project is made to the Panel under **section 60ZE(2)**, the Panel –
  - (a) must, within 7 days, provide to each participating regulator a copy of the submission; and
  - (b) except if **subsection (3)** applies, must, within 7 days, provide to each participating regulator a statement informing the regulator that the regulator may give to the Panel a notice under **section 60ZA(1)** in substitution for the notice previously given by the regulator under **section 60ZA(1)** in relation to the major project.
- (2) A participating regulator, within 28 days, or a longer period allowed by the Minister, after receiving a statement under **subsection (1)(b)**, may give to the Panel a notice under **section 60ZA(1)** in substitution for the notice previously given by the regulator under **section 60ZA(1)** in relation to the major project.
- (3) If, in accordance with **subsection (2)**, a notice is given to the Panel under **section 60ZA(1)** in substitution for the notice previously given by the regulator under **section 60ZA(1)** in relation to the major project –



- (a) the first notice given in relation to the major project by the participating regulator under **section 60ZA(1)** is of no effect; and
- (b) the notice given under **section 60ZA(1)** in accordance with **subsection (2)** is to be taken for the purposes of this Division to be the notice given in relation to the major project by the participating regulator under **section 60ZA(1)**; and
- (c) no further statement may be given under **section 60ZA(1)** in substitution for the notice previously given by the regulator.

**60ZG. Proponent may revoke or amend major project proposal in response to warning notice**

- (1) If a warning notice in relation to a major project has been given to a proponent under **section 60ZE(1)**, the Panel must give to the proponent, at the relevant time, a notice advising the proponent –
  - (a) as to whether the Panel still intends to give a no reasonable prospect notice in relation to the major project; and
  - (b) that the proponent may give to the Panel a notice under **subsection (3)**.
- (2) For the purposes of **subsection (1)**, the relevant time is –
  - (a) if the proponent has made a submission under **section 60ZE(2)** in relation to a major project – 14 days after the end of

the period in which, under **section 60ZF(2)**, a participating regulator may give to the Panel a notice under **section 60ZA(1)** in relation to the major project; or

- (b) if the proponent has not made a submission under **section 60ZE(2)** in relation to a major project – 7 days after the last day on which the proponent could have made a submission under that section.
- (3) A proponent to whom a notice in relation to a major project is given under **subsection (1)** may, within 14 days, give to the Panel –
- (a) a notice requesting the Panel to notify the Minister that the declaration of a major project in relation to the major project is to be revoked under **section 60U**; or
  - (b) a notice stating that the proponent intends to provide to the Minister an amended major project proposal in relation to the major project.
- (4) If a proponent gives to the Panel a notice under **subsection (3)**, the Panel must give to the Minister a copy of the notice within 7 days.

**60ZH. Where proponent proposes amendment of major project proposal in response to warning notice**

- (1) The Minister, within 14 days after receiving under **section 60ZG(4)** a copy of a notice given by a proponent to the Panel under **section 60ZG(3)(b)**, is to give to the proponent a

notice requiring the proponent to provide an amended major project proposal in relation to the major project within the period specified in the notice or a longer period allowed by the Minister.

(2) A proponent who receives a notice under **subsection (1)** must, within the period specified in the notice or a longer period allowed by the Minister, provide to the Minister an amended major project proposal.

(3) If –

(a) a proponent provides to the Minister an amended major project proposal under **subsection (2)**; and

(b) the Minister is not satisfied that the major project to which the amended major project proposal ostensibly relates is substantially the same as the major project to which the declaration of a major project relates –

the Minister must revoke under **section 60U** the declaration of a major project.

(4) If a proponent provides to the Minister an amended major project proposal under **subsection (2)** and **subsection (3)** does not apply to the amended major project proposal –

(a) the Minister is to provide to the Panel the amended major project proposal provided to the Minister in accordance with the notice; and

(b) this Division applies in relation to the amended major project proposal as if the

Commission had just been notified under **section 60R(1)(g)** of the declaration of a major project and the proponent had not previously provided a major project proposal in relation to the major project.

**60ZI. Panel may give no reasonable prospect notice**

- (1) Subject to **section 60ZE** and this section, the Panel may give to the Minister a notice in writing ("**a no reasonable prospect notice**") in relation to a major project.
- (2) The Panel may, under **subsection (1)**, only give to the Minister a no reasonable prospect notice in relation to a major project –
  - (a) after receiving under **section 60V(5)** a copy of the major project proposal in relation to the major project; and
  - (b) before determining under **section 60ZM(1)** the assessment criteria in relation to the major project; and
  - (c) within 21 days after giving to the proponent of the major project a notice under **section 60ZG(1)**.
- (3) A no reasonable prospect notice under **subsection (1)** in relation to a major project is to specify –
  - (a) that the Panel considers that there is no reasonable prospect that the Panel will grant a major project permit in relation to the major project; and

- (b) the reasons why the Panel considers that there is no reasonable prospect that the Panel will grant a major project permit in relation to the major project.
- (4) Without limiting the generality of **subsection (1)**, the Panel may give a no reasonable prospect notice under **subsection (1)** in relation to a major project if the Panel is of the opinion that the grant of a major project permit –
  - (a) would not further the objectives specified in **Schedule 1**; or
  - (b) would be in contravention of a State Policy; or
  - (c) would be in contravention of the TPPs; or
  - (d) would be inconsistent with a regional land use strategy that applies in relation to the land to which the project relates.
- (5) Without limiting the generality of **subsection (1)**, the Panel may give a no reasonable prospect notice under **subsection (1)** in relation to a major project if a relevant regulator has, under **section 60ZA(1)**, given to the Panel a notice recommending revocation.
- (6) The Panel must not give a no reasonable prospect notice under **subsection (1)** in relation to a major project unless –
  - (a) the Panel has given to the proponent a warning notice under **section 60ZE(1)** in relation to the major project; and
  - (b) at least –

- (i) 14 days have expired since the Panel gave to the proponent the warning notice under **section 60ZE(1)**; or
- (ii) 28 days have expired since each participating regulator was provided under **section 60ZF(1)** with a copy of a submission under **section 60ZE(2)** –

whichever period expires later; and

- (c) the Panel has considered –

- (i) any submission made to the Panel under **section 60ZE(2)** in relation to the Panel's intention to give a no reasonable prospect notice in relation to the major project; and
- (ii) any notice given under **section 60ZA(1)** in accordance with **section 60ZF(2)**; and

- (d) the Panel has given the proponent a notice under **section 60ZG(1)** and has not, within 14 days after giving the notice, received a notice from the proponent under **section 60ZG(3)**.

- (7) The Panel must give to the Minister, together with a no reasonable prospect notice under **subsection (1)** in relation to a major project –

- (a) a copy of any submission made under **section 60ZE(2)** in relation to the Panel's intention to give a no reasonable prospect notice under **section 60ZI(1)**; and

- (b) any comments that the Panel thinks are appropriate in relation to the submission.

### ***Subdivision 9 – Assessment criteria***

#### **60ZJ. Comments to be sought in relation to draft assessment criteria**

- (1) The Commission, within 7 days after receiving under **section 60R(2)** the major project proposal in relation to a major project, must, by notice to the following persons, request them to provide to the Commission, within 28 days after the request is made, their comments as to what should be specified in the assessment criteria to be matters to be addressed in the major project impact statement in relation to the major project:
  - (a) if the proponent is not the owner of all of the land on which the major project is to be situated – the owners of the parts of the land that the proponent does not own;
  - (b) the owners of, the occupiers of, and the lessees of, any part of land adjoining the land on which the major project is to be situated;
  - (c) each council that is a relevant planning authority in relation to the major project;
  - (d) each council that is not a relevant planning authority in relation to the major project but that is the council for a municipal area that is in the regional area, or regional areas, in which the major project is to be situated;

- (e) the State Service Agencies, and the Tasmanian Government Businesses, that the Commission considers may have an interest in a matter to which the major project relates;
  - (f) if all or part of the land to which the major project relates is Crown land within the meaning of the *Crown Lands Act 1976* – the Minister to whom the administration of that Act is assigned;
  - (g) if all or part of the land to which the major project relates is in Wellington Park – the Wellington Park Management Trust.
- (2) A person, within 28 days after being requested to do so under **subsection (1)**, may provide to the Commission comments as to what should be contained in the assessment criteria in relation to a major project.
- (3) The Commission, as soon as practicable after receiving all comments provided to the Commission under **subsection (2)** in relation to the major project, must provide the comments to the Panel.
- (4) The Panel, before completing under **section 60ZK(1)** the preparation of the draft assessment criteria in relation to a major project, must consider all comments provided to the Panel under **subsection (3)** in relation to the major project.



**60ZK. Draft assessment criteria**

- (1) The Panel in relation to a major project must prepare draft assessment criteria in relation to the major project as soon as practicable but in any case within the relevant period in relation to the major project.
- (2) For the purposes of this section, the relevant period in relation to a major project is the period –
  - (a) beginning on the day by which each relevant regulator has given the Panel a notice under **section 60ZA(1)**, or is required under that section to have given the Panel such a notice, whichever is the later day; and
  - (b) ending 14 days, or a longer period allowed by the Minister, after that day.
- (3) **Section 60ZM** (apart from subsections (1), (2), (8) and (9)) applies in relation to draft assessment criteria as if the draft were assessment criteria.
- (4) The Panel in relation to a major project must consider the major project proposal in relation to the major project before determining the draft assessment criteria in relation to the major project.
- (5) Despite **subsection (1)**, if the Panel gives a warning notice under **section 60ZE(1)** in relation to a major project before the end of the relevant period in relation to the major project, any period that –

- (a) begins on the day on which the notice is given; and
- (b) ends on the last day on which the Panel may, in accordance with **section 60ZI(2)(c)**, give a no reasonable prospect notice in relation to the major project under **section 60ZI** –

is not to be taken into account in the calculation of the relevant period.

**60ZL. Public exhibition, submissions and alteration notices**

- (1) The Panel in relation to a major project must, after preparing under **section 60ZK(1)** draft assessment criteria in relation to the major project –

- (a) give notice, in a newspaper that is published, and circulates generally, in Tasmania, specifying –

- (i) a place where a copy of the draft assessment criteria in relation to the major project will be available for inspection by the public during normal business hours during the period of 14 days specified in the notice; and

- (ia) an electronic address at which a copy of the draft assessment criteria in relation to the major project will be available for viewing or downloading during

the period of 14 days specified in the notice; and

- (ii) that representations in relation to the draft assessment criteria may be made to the Panel during the period specified in the notice in accordance with **paragraph (b)**; and
  - (iii) the address, and an electronic address, at which a representation may be lodged; and
- (b) publicly exhibit the draft assessment criteria, together with a copy of the major project proposal in relation to the major project, for a period of 14 days beginning after the notice is given under **paragraph (a)**; and

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(ba) make the draft assessment criteria, together with a copy of the major project proposal in relation to the major project, available for viewing and downloading, at the electronic address specified in accordance with **subparagraph (ia)**, for a period of 14 days beginning after the notice is given under **paragraph (a)**; and

- (c) provide a copy of the draft assessment criteria to the proponent, each of the persons or bodies referred to in **section 60ZJ(1)** and each participating regulator in relation to the major project.

- (2) A person, within the period referred to in a notice under **subsection (1)(a)**, may make a representation in relation to the draft assessment

criteria by lodging the representation at an address, or an electronic address, specified in the notice.

- (3) The Panel, within 7 days after the end of the period referred to in a notice under **subsection (1)(a)**, may give, to each participating regulator that gave to the Panel under **section 60ZA(1)(b)** an assessment requirement notice, each representation that relates to a matter that is, in accordance with that participating regulator's assessment requirement notice, included in the draft assessment criteria.
- (4) A participating regulator, within 14 days, or a longer period allowed by the Minister, after receiving a copy of a representation under **subsection (3)**, may give to the Panel a notice (an **"alteration notice"**) specifying an alteration, as set out in the notice, to the participating regulator's assessment requirement notice given to the Panel under **section 60ZA(1)(b)**.
- (5) An alteration notice under **subsection (4)** may only specify an alteration, as set out in the notice, to the participating regulator's assessment requirement notice given to the Panel under **section 60ZA(1)(b)**, if the participating regulator's assessment requirement notice, as so altered, would be a participating regulator's assessment requirement notice that the participating regulator may give under **section 60ZA(1)(b)**.

**60ZM. Panel to determine assessment criteria**

- (1) The Panel in relation to a major project must determine the assessment criteria in relation to the major project.
- (2) The Panel in relation to a major project may only determine the assessment criteria in relation to the major project if –
  - (a) the Panel has complied with **section 60ZK** in relation to the draft assessment criteria in relation to the major project; and
  - (b) the Panel has complied with **section 60ZL** and has considered each representation made under **section 60ZL(2)** in relation to the draft assessment criteria.
- (3) The assessment criteria in relation to a major project are a document that specifies the matters to be addressed in the major project impact statement in relation to the major project.
- (4) The matters to be specified in the assessment criteria as matters required to be addressed in the major project impact statement in relation to a major project are to be –
  - (a) relevant land use planning matters; and
  - (b) any matters that the relevant participating regulator required in an assessment requirement notice under **section 60ZA(1)(b)** to be addressed in the major project impact statement in relation to the major project.

- (5) For the purposes of subsection (4)(a), the relevant land use planning matters are the matters that the Panel considers are reasonably required to enable the proper assessment of whether the use and development of the land for the purposes of the major project would be an effective and appropriate use and development of the land.
- (6) In determining, for the purposes of subsection (4)(a), the relevant land use planning matters, the Panel is to have regard to –
- (a) any relevant planning scheme, including, in particular, any specific area plan, particular purpose zone or site-specific qualifications that apply to the land to which the major project relates; and
  - (b) if the carrying out of the project is inconsistent with the provisions of a relevant planning scheme – the merit of any changes to a planning scheme (other than to the SPPs), including, in particular, to any specific area plan, particular purpose zone or site-specific qualifications that apply to the land to which the major project relates, that would be required to be made for the major project to be lawfully carried out; and
  - (c) the regional land use strategy, if any, for the regional area in which the land is situated.
- (7) The relevant land use planning matters referred to in subsection (4)(a) must –

- (a) seek to further the objectives specified in **Schedule 1**; and
  - (b) be consistent with each applicable State Policy; and
  - (c) be consistent with each applicable provision of the TPPs; and
  - (d) not be inconsistent with a regional land use strategy that applies to the land on which the project is situated.
- (8) The Panel is to provide to a participating regulator a copy of the assessment criteria if the participating regulator has given to the Panel an assessment requirement notice under **section 60ZA(1)(b)** in relation to the major project.
- (9) If a participating regulator has given to the Panel an alteration notice under **section 60ZL(4)** in relation to an assessment requirement notice given by the regulator under **section 60ZA(1)(b)** in relation to the major project, the Panel must ensure that the draft assessment criteria in relation to the major project are altered so that the assessment criteria, when determined under **subsection (1)**, take into account the assessment requirement notice as altered in accordance with the alteration notice.

**60ZN. Period in which assessment criteria to be determined**

- (1) In this section –

**"relevant period"**, in relation to a major project, means the period –

- (a) beginning on the day on which the period specified in the notice given under **section 60ZL(1)(a)** in relation to the major project expires; and
  - (b) ending 28 days, or a longer period allowed by the Minister, after that.
- (2) The Panel must determine under **section 60ZM(1)** the assessment criteria in relation to a major project before the end of the relevant period in relation to the major project day or, if the Panel considers it necessary to obtain further information from a regulator in relation to the regulator's notice of assessment requirements or alteration notice, within the period of 42 days after the period begins.
- (3) Despite **subsection (2)**, if the Panel gives a warning notice under **section 60ZE(1)** in relation to a major project before the end of the relevant period in relation to a major project, any period that –
  - (a) begins on the day on which the warning notice is given; and
  - (b) ends on the last day on which the Panel may, in accordance with **section 60ZI(2)(c)**, give a no reasonable prospect notice in relation to the major project under **section 60ZI** –



is not to be taken into account in the calculation of the relevant period.

**60ZO. Notice of assessment criteria to be given**

- (1) The Panel in relation to a major project, as soon as practicable after determining the assessment criteria in relation to the major project, must publish in the *Gazette* and in a newspaper that is published, and circulates generally, in Tasmania, a notice specifying –
  - (a) that the assessment criteria have been determined; and
  - (b) that copies of the assessment criteria may be viewed at a place specified in the notice and viewed and downloaded at an electronic address of the Commission specified in the notice.
- (2) The Panel in relation to a major project, as soon as practicable after determining the assessment criteria in relation to the major project, must ensure that copies of the assessment criteria are, until a decision is made under **section 60ZZM(1)** in relation to the major project, available –
  - (a) for viewing by members of the public at the place specified in the notice under **subsection (1)**; and
  - (b) for viewing and downloading at an electronic address of the Commission specified in the notice under **subsection (1)**.

**60ZP. Notification to be given that assessment criteria determined**

As soon as practicable, and in any case within 7 days, after determining under **section 60ZM** the assessment criteria in relation to a major project, the Panel must give a copy of the assessment criteria to –

- (a) if the proponent is not the owner of all of the land on which the major project is to be situated – the owners of the parts of the land that the proponent does not own; and
- (b) the owners of, the occupiers of, and the lessees of, any part of land adjoining the land on which the major project is to be situated; and
- (c) each person who has made a representation under **section 60ZL(2)** in relation to the draft assessment criteria in relation to the major project; and
- (d) the council that is the relevant planning authority in relation to the major project; and
- (e) each council that is not a relevant planning authority in relation to the major project but that is the council for a municipal area that is in the regional area, or regional areas, in which the major project is to be situated; and
- (f) if the major project is to be situated on an area of land that is not within any municipal area – all councils for an area

of land in a regional area that is adjacent to the area of land in which the major project is to be situated; and

- (g) each State Service Agency, or Tasmanian Government Business, that the Panel considers may have an interest in relation to a matter to which the major project relates; and
- (h) each participating regulator in relation to the major project; and
- (i) if the land on which the major project is or was to be situated is Crown land, within the meaning of the *Crown Lands Act 1976* – the Minister to whom the administration of that Act is assigned; and
- (j) if the land on which the major project is or was to be situated is situated in Wellington Park – the Wellington Park Management Trust.

#### ***Subdivision 10 – Major project impact statements***

#### **60ZQ. Proponent to be required to prepare major project impact statement**

As soon as practicable, and in any case within 7 days, after determining under *section 60ZM(1)* the assessment criteria in relation to a major project, the Panel must –

- (a) give to the proponent a copy of the assessment criteria; and

- (b) notify the proponent that the proponent is required to provide to the Panel a major project impact statement in relation to the major project within –
  - (i) the period of 12 months after receiving the copy of the assessment criteria or a longer period allowed by the Minister; or
  - (ii) another period determined by written agreement between the Panel and the proponent; or
  - (iii) a period extended under [section 60ZS\(2\)](#).

#### **60ZR. Contents of major project impact statement**

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(1) A major project impact statement is a statement that addresses the matters that are set out, in accordance with [section 60ZM\(4\)](#), in the assessment criteria in relation to the major project, as matters that are required to be addressed in a major project impact statement.

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(2) If the Minister, under [section 60TF\(2\)](#), amends a declaration of a major project so that the declaration also relates to an additional area of land, the major project impact statement in relation to the project provided under [section 60TF\(2\)](#) may relate to the additional area of land, but if it does so, the major project impact statement is to include a statement –

- 
- (a) identifying the additional area of land;  
and

- 
- (b) stating that the area of additional land was not included in the declaration of a major project as originally made.

**60ZS. Major project impact statement to be provided by proponent**

- (1) A proponent of a major project must provide to the Panel a major project impact statement in relation to the major project before the end of –
- (a) the period of 12 months from the day on which the proponent receives under **section 60ZQ(a)** a copy of the assessment criteria; or
  - (b) another period determined by written agreement between the Panel and the proponent; or
  - (c) the period extended under **subsection (2)** –
- whichever period last expires.
- (2) The Panel, by notice to a proponent, may extend the period in which the proponent must provide a major project impact statement to the Panel.
- (3) The Panel must notify the Minister if a proponent has failed to comply with **subsection (1)**.
- (4) The Panel, as soon as practicable, and in any case not more than 7 days after receiving under **subsection (1)** a major project impact statement in relation to a major project, must provide a

copy of the statement to each participating regulator.

**60ZT. Project-related permit may be given to enable preparation of major project impact statement**

- (1) **Subsection (2)** applies in relation to a major project if –
  - (a) assessment criteria are determined under **section 60ZM(1)** in relation to the major project; and
  - (b) in order to prepare a major project impact statement in relation to the major project, it is reasonably necessary for the proponent to engage in an activity that is not permitted under a project-associated Act unless there is a project-related permit in relation to the activity.
- (2) If this subsection applies in relation to a major project, the person or body to whom an application for a project-related permit may be made under an Act must issue to the proponent, under that Act, a project-related permit, authorising the carrying out of the activity, as if –
  - (a) the proponent had made under that Act a valid application for the permit; and
  - (b) the permit may, under that Act, be issued, in respect of the activity, to the proponent.
- (3) A project-related permit may be issued in accordance with **subsection (2)** subject to the

conditions or restrictions that may be imposed on the permit under the relevant project-associated Act.

- (4) A project-related permit, issued in accordance with **subsection (2)** in respect of an activity in relation to a major project, ceases to be in force on the day on which –
- (a) the declaration of a major project in relation to the major project is revoked under **section 60U**; or
  - (b) a major project permit is granted under **section 60ZZM(1)(a)** in relation to the major project or, if the project-related permit relates to a matter that is required to be addressed in a major project impact statement that relates to a proposed amendment to a major project permit, after the amendment has been granted or refused; or
  - (c) the proponent is notified under **section 60ZZM(1)(b)** that the Panel has refused to grant a major project permit in relation to the major project –

whichever occurs first.

**60ZU. Certain permissions may be given to enable preparation of major project impact statement**

- (1) **Subsection (2)** applies in relation to an activity, on land to which a major project relates, that is not permitted under a planning scheme unless there is a permit in relation to the activity, if –

- (a) assessment criteria are determined under **section 60ZM(1)** in relation to the major project; and
  - (b) in order to prepare a major project impact statement in relation to the major project, it is reasonably necessary for the proponent to engage in the activity on the land.
- (2) If this subsection applies in relation to an activity, the Panel may, by notice to the proponent of a major project, authorise, subject to the conditions or restrictions the Panel thinks fit and specifies in the notice, all or part of the activity to be carried out on the part of the land, specified in the notice, that is land to which the major project relates.
- (3) If the Panel issues under **subsection (2)** a notice in relation to an activity –
  - (a) the Panel must give to the relevant planning authority a copy of the notice; and
  - (b) the carrying out of the activity in accordance with the notice is taken to be authorised under this Act and a relevant planning scheme; and
  - (c) the carrying out of the activity in accordance with the notice is not, despite any provision of this Act or a planning scheme, to be taken to be in contravention of **section 63**.
- (4) The Minister, in writing, may grant to a proponent, under this subsection, an authority for



the proponent, and persons acting on behalf of the proponent, to do either or both of the following:

- (a) to enter land that is public land, within the meaning of **section 4** of the *Public Land (Administration and Forests) Act 1991*;
- (b) to carry out –
  - (i) on public land, with the permission of the person in whom the land is vested; or
  - (ii) on other land, if the major project relates to the land and the permission of the owner of the land has been obtained –

activities, including testing, that are reasonably required to be carried out by or on behalf of the proponent for the purposes of enabling the proponent to prepare or amend a major project impact statement in relation to the major project.

- (5) An authority under **subsection (4)** is subject to the terms and conditions specified in the authority.
- (6) If the land to which an authority under **subsection (4)** relates is not vested in the Crown, the Minister, before granting the authority, is to notify the person or body in whom or which the land is vested.
- (7) Despite any other Act, including this Act, the proponent to whom an authority is granted under **subsection (4)** and persons acting on behalf of

the proponent may, under and in accordance with the authority –

- (a) enter and remain on the land to which the authority relates, together with any vehicles, machinery and equipment necessary for carrying out activities referred to in **subsection (4)**, for the purpose of carrying out such activities; and
  - (b) carry out on that land activities referred to in **subsection (4)**.
- (8) A notice or authority issued or granted under **subsection (2)** or **subsection (4)**, in respect of an activity in relation to a major project, ceases to be in force on the day on which –
- (a) the declaration of a major project in relation to the major project is revoked under **section 60U**; or
  - (b) a major project permit is granted under **section 60ZZM(1)(a)** in relation to the major project or, if the notice or authority relates to a matter that is required to be addressed in a major project impact statement that relates to a proposed amendment to a major project permit, after the amendment has been granted or refused; or
  - (c) the proponent is notified under **section 60ZZM(1)(b)** that the Panel has refused to grant a major project permit in relation to the major project –

whichever occurs first.

**60ZV. Participating regulator and Panel may seek amended major project impact statement**

- (1) A participating regulator that has been provided under **section 60ZS(4)** with a copy of a major project impact statement may, within 21 days or a longer period allowed by the Minister, give to the Panel a notice requesting the Panel to require the proponent to provide to the Panel a major project impact statement that has been amended so as to contain the information specified in the notice.
- (2) The information specified in a notice under **subsection (1)** from a participating regulator is to be information that the participating regulator considers to be necessary to enable the regulator to determine the contents of the regulator's final advice in relation to the major project.
- (3) The Panel, within 7 days after receiving under **subsection (1)** a notice from a participating regulator in relation to a major project impact statement, must, by notice to the proponent, request the proponent to provide to the Panel, within a period specified in the notice to the proponent, the major project impact statement amended so as to contain the information specified in the notice to the proponent.
- (4) The information specified in the notice to the proponent under **subsection (3)** is to be the information specified in the notice received by the Panel under **subsection (1)**.
- (5) The Panel may only give a notice to the proponent under **subsection (3)** within the period of 42 days, or a longer period allowed by the Minister, after the Panel has received from the

proponent under **section 60ZS** a major project impact statement in relation to the major project.

- (6) A proponent to whom a notice is given under **subsection (3)** is to take all reasonable steps to provide to the Panel, as soon as practicable but in any case within the period specified in the notice, the major project impact statement amended so as to contain the information specified in the notice.
- (7) The Panel, within 7 days after a major project impact statement, amended so as to contain the information specified in the notice under **subsection (3)**, is provided to the Panel under **subsection (6)**, must –
  - (a) provide the major project impact statement, as so amended, to the participating regulator who gave under **subsection (1)** the notice to which the notice under **subsection (3)** relates; and
  - (b) if the information also relates to a matter that may be relevant to another participating regulator, provide to that particular regulator the major project impact statement as so amended.
- (8) If a participating regulator has given to the Panel a notice under **subsection (1)** in relation to a major project impact statement, the period between –
  - (a) the day on which that notice is given; and
  - (b) the day on which the major project impact statement, amended so as to contain the information specified in the

notice under **subsection (3)**, is provided to a participating regulator under **subsection (7)** –

is not to be counted in the calculation of the period referred to in **subsection (1)** in relation to the participating regulator to which the information is given.

**60ZW. Panel may request further information**

- (1) The Panel, in writing, may request any of the following persons to provide to the Panel, within the period specified in the request, further information of the kind specified in the request:
  - (a) the proponent of the major project;
  - (b) a council;
  - (c) a State Service Agency;
  - (d) a Tasmanian Government Business;
  - (e) the Wellington Park Management Trust.

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~~(2) The Panel may only request the proponent to provide further information under **subsection (1)** within the period of 42 days after the Panel has received from the proponent under **section 60ZS(1)** a major project impact statement in relation to the major project.~~

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(2) The Panel may only make a request under **subsection (1)** within the period of 42 days after the Panel has received from the proponent under **section 60ZS(1)** a major project impact statement in relation to the major project.

- (3) The Panel may only request a person to provide further information under **subsection (1)** if the information may assist the Panel to determine –
- (a) whether to grant a major project permit in relation to the major project; or
  - (b) if the Panel were to grant a major project permit in relation to the major project, the conditions or restrictions, if any, to which the permit is to be subject.
- (4) If the further information that may be provided further to a request made under **subsection (1)** may relate to a matter to which a participating regulator is likely to have regard in determining what final advice under **section 60ZZF(1)** to give in relation to the major project, the Panel must notify the participating regulator of the request and of the day on which the request was made.

#### **60ZX. Provision to Panel of further information**

- (1) A person to whom a request is made under **section 60ZW(1)** is to take all reasonable steps to provide to the Panel, as soon as practicable but in any case within the period specified in the request or a longer period allowed by the Minister, the information specified in the request.
- (2) The Panel, as soon as practicable after information in relation to the major project is provided to the Panel under **subsection (1)**, must give the information to a participating regulator, if the information relates to a matter to which the participating regulator is likely to have regard in determining the contents of the participating

regulator's final advice under **section 60ZZF(1)** in relation to the major project.

***Subdivision 11 – Participating regulator's preliminary advice and initial assessment reports***

**60ZY. Participating regulator's preliminary advice to Panel**

- (1) A participating regulator in relation to a major project must provide to the Panel, before the end of the relevant period in relation to the participating regulator, preliminary advice in relation to the major project.
- (2) A participating regulator in relation to a major project must, in determining what to include in the participating regulator's preliminary advice in relation to the major project, consider –
  - (a) the assessment criteria in relation to the major project; and
  - (b) the major project impact statement in relation to the project.
- (3) For the purposes of **subsection (1)**, the relevant period in relation to a participating regulator is –
  - (a) if the participating regulator is the EPA Board and the EPA Board has given to the Panel an extension notice under **section 60ZC(1)** – 91 days, or a longer period allowed by the Minister, after the regulator received under **section 60ZS(4)** the major project impact statement in relation to the major project; or

- (b) if paragraph (a) does not apply – 42 days, or a longer period allowed by the Minister, after the regulator received under section 60ZS(4) the major project impact statement in relation to the major project.
- (4) If the Panel has, further to a request by a participating regulator under section 60ZV(1), requested the proponent under section 60ZV(3) to provide to the Panel an amended major project impact statement in relation to a major project, the period between –
  - (a) the day on which the request is made under section 60ZV(1); and
  - (b) the day on which the Panel provides that amended major project impact statement to the participating regulator under section 60ZV(7) –

is not to be counted in the calculation of the relevant period under subsection (1) in relation to the participating regulator.

- (5) If the Panel has, under section 60ZW(1), requested a person to provide the Panel with further information that relates to a matter to which a participating regulator is likely to have regard in determining what final advice to give under section 60ZZF(1) in relation to the major project, the period between –
  - (a) the day on which the request is made under section 60ZW(1); and



- (b) the day on which the Panel gives that information to the participating regulator under **section 60ZX(2)** –

is not to be counted in the calculation of the relevant period under **subsection (1)** in relation to the participating regulator.

**60ZZ. Contents of participating regulator's preliminary advice**

- (1) For the purposes of **section 60ZY(1)**, a participating regulator's preliminary advice in relation to a major project is a document containing –
  - (a) preliminary refusal advice from the participating regulator; or
  - (b) preliminary condition advice from the participating regulator.
- (2) Preliminary refusal advice from the participating regulator is advice –
  - (a) that the participating regulator, at the time of giving the preliminary advice, intends to request the Panel, in the regulator's final advice under **section 60ZZF(1)**, to refuse to grant a major project permit in relation to the major project; and
  - (b) containing the reasons for the participating regulator's advice.
- (3) A participating regulator may only include preliminary refusal advice in its preliminary

advice if it could, in accordance with **Subdivision 13**, include, in the regulator's final advice under **section 60ZZF(1)** in relation to the major project, advice that the regulator intends, at the time of giving the advice, to request the Panel to refuse to grant a major project permit in relation to the major project.

- (4) Preliminary condition advice from the participating regulator is advice –
  - (a) that, at the time of giving the participating regulator's preliminary advice, the participating regulator does not request the Panel to impose conditions or restrictions on a major project permit, if the Panel were to grant such a permit in relation to the major project; or
  - (b) specifying the conditions or restrictions that the participating regulator, at the time of giving the participating regulator's preliminary advice, requests the Panel to impose on a major project, if the Panel were to grant such a permit in relation to the major project.
- (5) The preliminary advice of a participating regulator may only contain preliminary condition advice if the participating regulator does not, at the time of giving the preliminary advice, intend to request the Panel, in the regulator's final advice under **section 60ZZF(1)**, to refuse to grant a major project permit in relation to the major project.
- (6) A participating regulator may only include, in the participating regulator's preliminary

condition advice, advice as to a condition or restriction if such a condition or restriction could, in accordance with **Subdivision 13**, be included in the regulator's final advice under **section 60ZZF(1)** in relation to the major project.

#### **60ZZA. Initial assessment report**

~~(1) The Panel must prepare an initial assessment report in relation to a major project within 14 days, or a longer period allowed by the Minister, after last receiving from a participating regulator under **section 60ZY(1)** a preliminary advice in relation to the major project.~~

(1) The Panel must prepare an initial assessment report in relation to a major project within 28 days, or a longer period allowed by the Minister, after whichever is the later of the following:

(a) the day by which a participating regulator must give to the Panel a notice under **section 60ZV(1)**;

(b) the day on which the Panel received from a person or body information that the Panel requested under **section 60ZW**;

(c) the day on which the Panel last received under **section 60ZY(1)** a preliminary advice in relation to the major project from a participating regulator.

(2) A initial assessment report in relation to a major project –

(a) must include a statement setting out the Panel's opinion, having regard to the

information that is before the Panel prior to the public exhibition of the major project, as to the extent to which the major project impact statement in relation to the major project addresses the matters that are set out, in accordance with **section 60ZM(4)**, in the assessment criteria in relation to the major project; and

- (b) must include a statement setting out any other information in relation to the major project that is provided to the Panel by a proponent under this Division after the major project impact statement was provided to the Panel under **section 60ZS(1)**; and
- (c) may include any conditions or restrictions which the Panel considers that, having regard to the information that is before the Panel prior to the public exhibition of the major project, it may impose on a major project permit, if the Panel were to grant under **section 60ZZM** such a permit in relation to the major project.

### ***Subdivision 12 – Exhibition and hearings***

#### **60ZZB. Notification and exhibition of major project**

- (1) The Panel must give the relevant notice of the public exhibition of a major project.
- (2) The Panel must give the relevant notice of the public exhibition of a major project within 14 days after preparing under **section 60ZZA(1)** the

initial assessment report in relation to the major project.

(3) The Panel is taken to have given the relevant notice of the public exhibition of a major project if a notice for the purposes of this subsection is –

- (a) placed in a newspaper that is published, and circulates generally, in Tasmania; and
- (b) set out on a sign that is not less than A4 size and is displayed, on the land to which the major project relates, as near as practicable to each boundary of the land that adjoins land to which the public has access; and
- (c) specified in a document given to the owners, the occupiers, and the lessees, of any part of land adjoining the land to which the major project relates; and
- (d) where the proponent is not the owner of all of the land to which the major project relates – specified in a document given to each owner of the land.

(4) A notice for the purposes of **subsection (3)** in relation to a major project –

- (a) is to specify the exhibition period in relation to the major project; and
- (b) is to specify a place where a copy of –
  - (i) the assessment criteria in relation to the major project; and

- (ii) the major project impact statement in relation to the major project; and
- (iii) the initial assessment report in relation to the major project –

will be available for inspection by the public during normal business hours during the exhibition period; and

- (c) is to specify that the copies referred to in **paragraph (b)** will also be available for viewing or downloading at the website address of the Commission that is specified in the notice, being the Commission's principal website; and
- (d) is to specify that representations in relation to the major project may be made to the Panel during the exhibition period; and
- (e) is to specify the address, and an electronic address, at which a representation may be lodged; and
- (f) is to contain the prescribed information, if any.

(5) The exhibition period specified in accordance with **subsection (4)(a)** in a notice for the purposes of **subsection (3)** is to be a period that –

- (a) begins on the day on which the notice is published in a newspaper in accordance with **subsection (3)(a)**; and
- (b) ends on a day that is not less than 28 days after the notice is so published.

- (6) After the Panel gives the relevant notice of the public exhibition of a major project, the Panel, and the planning authority for any land on which all or part of the major project is to be situated, must ensure that there are available, at the place, and during the exhibition period, specified in the notice for the purposes of **subsection (3)** –
- (a) the assessment criteria in relation to the major project; and
  - (b) the major project impact statement in relation to the major project; and
  - (c) the initial assessment report in relation to the major project.
- (7) If a period referred to in this section includes any days on which the offices of the Commission are closed during its normal business hours, that period is to be extended by the number of those days.
- (8) A person must not, within the exhibition period specified in the notice for the purposes of **subsection (3)**, obscure or remove a sign that, in accordance with **subsection (3)(b)**, is displayed on the land to which the notice relates.

Penalty: Fine not exceeding 10 penalty units.

- (9) The Commission, as soon as practicable after the exhibition period in relation to a major project begins, must place on the Commission's principal website –
- (a) a copy of the information contained in the notice for the purposes of **subsection (3)** in relation to the major project; and

(b) a copy of –

- (i) the assessment criteria in relation to the major project; and
- (ii) the major project impact statement in relation to the major project; and
- (iii) the initial assessment report in relation to the major project –

and keep those copies on the website until the end of the exhibition period.

#### **60ZZC. Notification in relation to major project**

(1) The Panel, within 14 days after preparing under **section 60ZZA(1)** the initial assessment report in relation to the major project, must give a notice in relation to the major project to –

- (a) the proponent of the major project; and
- (b) if the proponent is not the owner of all of the land on which the major project is to be situated – the owners of the parts of the land that the proponent does not own; and
- (c) the owners of, the occupiers of, and the lessees of, any part of land adjoining the land on which the major project is to be situated; and
- (d) each participating regulator in relation to the major project; and



- (e) each person who has made a representation under **section 60ZL(2)** in relation to the draft assessment criteria in relation to the major project; and
- (f) the council that is the relevant planning authority in relation to the major project; and
- (g) each council that is not a relevant planning authority in relation to the major project but that is the council for a municipal area that is in the regional area, or regional areas, in which the major project is to be situated; and
- (h) if the major project is to be situated on an area of land that is not within any municipal area – all councils for an area of land in a regional area that is adjacent to the area of land in which the major project is to be situated; and
- (i) all State Service Agencies and Tasmanian Government Businesses that have been notified of the major project under **section 60ZJ(1)**; and
- (j) if all or part of the land on which the major project is to be situated is in Wellington Park – the Wellington Park Management Trust.

(2) The notice under **subsection (1)** in relation to a major project is to –

- (a) contain the information, in relation to the major project, that is specified in relation

to the major project in the notice referred to in **section 60ZZB(4)**; and

- (b) invite the person to whom the notice is given to make a representation in relation to the major project.
- (3) The Panel must, within 14 days after preparing under **section 60ZZA(1)** the initial assessment report in relation to the major project, give to the proponent a copy of the report.

**60ZZD. Representations in relation to major project**

- (1) A person may make a representation to the Panel, in relation to a major project to which a notice under **section 60ZZB(1)** relates, by lodging the representation at the address, or electronic address, specified in the notice.
- (2) A representation under **subsection (1)** by a person in relation to a major project may relate to any or all of the following matters:
  - (a) the major project;
  - (b) the major project impact statement in relation to the major project;
  - (c) any conditions or restrictions that the person considers ought to be specified on any major project permit, if the Panel were to grant such a permit in relation to the major project;
  - (d) any amendment to a planning scheme (other than to the SPPs) that the person considers may be required, or is

proposed, to be made in order for the major project to comply with the requirements of a relevant planning scheme;

- (e) any matter included, in accordance with **section 60ZZA(2)**, in the initial assessment report.

- (3) A representation under **subsection (1)** that is made by a person in relation to a matter referred to in **subsection (2)(c)** may relate to any of the following in relation to a major project:

- (a) the conditions or restrictions included, in accordance with **section 60ZZA(2)(c)**, in the initial assessment report in relation to the major project;
- (b) any other condition or restriction, in relation to a matter to which an amendment to a planning scheme (other than to the SPPs) may relate, that the person considers ought to be imposed on a major project permit, if the Panel were to grant such a permit in relation to the major project;
- (c) any other conditions or restrictions, in relation to matters to which a project-associated Act relates, that the person considers ought to be imposed on a major project permit, if the Panel were to grant such a permit in relation to the major project.

- (4) A representation may only be made under **subsection (1)** during –

- (a) the period of 28 days beginning on the date on which notice in relation to the major project is given under **section 60ZZB(1)**; or
  - (b) a longer period determined by the Panel.
- (5) The Panel must, as soon as practicable after the public exhibition of a major project under **section 60ZZB(6)** ends –
  - (a) forward to the proponent each representation made under **subsection (1)** in relation to the major project; and
  - (b) forward to each participating regulator each representation, made under **subsection (1)** in relation to the major project, that relates to a matter to which the participating regulator is likely to have regard in determining the contents of the participating regulator's final advice under **section 60ZZF(1)** in relation to the major project.
- (6) If a period referred to in this section includes any days on which the offices of the Commission are closed during its normal business hours, that period is to be extended by the number of those days.

#### **60ZZE. Hearings**

- (1) The Panel must hold hearings in respect of a major project after the public exhibition of the major project under **section 60ZZB(6)** ends.

- (2) A hearing, in relation to a major project, by the Panel may relate to –
- (a) a representation made under **section 60ZZD(1)** in relation to the major project; or
  - (b) the major project generally.
- (3) Despite **subsection (1)**, the Panel may dispense with the holding of a hearing in relation to a representation in relation to a major project if, after examining the representations received –
- (a) the Panel is satisfied that all the representations are in support of the major project; or
  - (b) the Panel has consulted with the person who made the representation and that person has advised the Panel in writing that he or she does not wish to attend a hearing.
- (4) The Panel, before holding a hearing under this section in relation to a major project, is to notify –
- (a) each person who has made a representation under **section 60ZZD(1)** in relation to the major project; and
  - (b) each participating regulator in relation to the major project; and
  - (c) each person or body, other than the Commission, that was notified under **section 60R(1)** of the declaration of a major project –

of the intention to hold a hearing and of the date, time and place on or at which the hearing is to be held.

***Subdivision 13 – Final advices from participating regulators***

**60ZZF. Participating regulator to give final advice to Panel**

- (1) A participating regulator in relation to a major project must give to the Panel a notice (a "**final advice**") in relation to the major project before the end of the 42-day period, or a longer period allowed by the Minister, after the last hearing in relation to the project is held under **section 60ZZE**.
- (2) A final advice in relation to a major project is a notice, given by a participating regulator, that –
  - (a) contains a requirement for the permit to be refused; or
  - (b) contains a requirement in relation to conditions or restrictions.
- (3) For the purposes of **subsection (2)(a)**, a requirement for the permit to be refused is a statement that the regulator requests the Panel to refuse to grant a major project permit in relation to the major project.
- (4) For the purposes of **subsection (2)(b)**, a requirement in relation to conditions or restrictions is –
  - (a) a statement that the regulator does not request the Panel to refuse to grant a

major project permit in relation to the major project; and

(b) either –

(i) that the regulator does not request the Panel to impose conditions or restrictions on a major project permit, if the Panel were to grant such a permit in relation to the major project; or

(ii) the conditions or restrictions that the regulator requests the Panel to impose on a major project permit, if the Panel were to grant such a permit in relation to the major project.

(5) A participating regulator in relation to a major project must, before giving to the Panel a final advice under **subsection (1)** in relation to the major project, consider any matters, raised in representations or hearings in relation to the major project, that are, in the opinion of the participating regulator, relevant to the regulator's consideration of whether –

(a) to request the Panel, in the final advice, to refuse to grant a major project permit in relation to the major project; or

(b) to request the Panel, in the final advice, to impose conditions or restrictions on any major project permit that may be granted in relation to the major project.

## **60ZZG. Contents of final advice of EPA Board**

- (1) A participating regulator that is the EPA Board may only specify, in a final advice under **section 60ZZF(1)** in relation to a major project, that the regulator requests the Panel to refuse to grant a major project permit in relation to the major project if the EPA Board is satisfied that the EPA Board would, if the project were not a major project and it were to deal with the project under **section 25** of the EMPC Act, direct, under **section 25(5)** of the EMPC Act, a planning authority to refuse to grant a discretionary permit in relation to the project.
- (2) The conditions which the EPA Board may include in a final advice under **section 60ZZF(1)** include, but are not limited to including, any or all of the following:
  - (a) a condition requiring the person to whom the major project permit is granted to apply for a further permit in the event of a proposed change in the activity which might result in environmental harm, within the meaning of the EMPC Act;
  - (b) a condition requiring a person to provide a document or information to a person;
  - (c) a condition requiring the person to whom the major project permit is granted to undertake regular monitoring of the environmental effects of the activity and to report the results of that monitoring to the Board on a regular basis;



- (d) a condition providing that the activity can be undertaken only for a specified period of time;
  - (e) a condition requiring that, if the activity ceases, the site must be rehabilitated in accordance with the Board's requirements;
  - (f) a condition requiring the person to whom the major project permit is granted to undertake such measures as the Board may specify to limit the environmental effects of traffic movements to and from the land to which the major project permit applies.
- (3) A participating regulator that is the EPA Board may only specify, in a final advice under **section 60ZZF(1)** in relation to a major project, that the regulator requests the Panel to impose a condition or restriction on any major project permit that may be granted in relation to the major project if the EPA Board is satisfied that, if the project were not a major project –
- (a) the EPA Board would not direct, under **section 25(5)** of the EMPC Act, a planning authority to refuse to grant a discretionary permit in relation to the project; and
  - (b) the EPA Board would, under **section 25(5)** of the EMPC Act, require a permit, granted under this Act in relation to the project, to contain the condition or restriction.

#### **60ZZH. Contents of final advice of Heritage Council**

- (1) A participating regulator that is the Heritage Council may only specify, in a final advice under **section 60ZZF(1)** in relation to a major project, that the regulator requests the Panel to refuse to grant a major project permit in relation to the major project, if the Heritage Council is satisfied that, if the project were not a major project, the Heritage Council would notify the planning authority under **section 39(6) of the *Historic Cultural Heritage Act 1995*** that a discretionary permit in relation to the project should be refused.
- (2) A participating regulator that is the Heritage Council may only specify, in a final advice under **section 60ZZF(1)** in relation to a major project, that the regulator requests the Panel to impose a condition on any major project permit that may be granted in relation to the major project, if the Heritage Council is satisfied that, if the project were not a major project, the Heritage Council would consent, under **section 39(6) of the *Historic Cultural Heritage Act 1995***, to a discretionary permit being granted in relation to the project, subject to the condition.

#### **60ZZI. Contents of final advice of pipeline licensee**

- (1) A participating regulator that is a pipeline licensee may only specify, in a final advice under **section 60ZZF(1)** in relation to a major project, that the regulator requests the Panel to refuse to grant a major project permit in relation to the major project, if the pipeline licensee is satisfied that the pipeline licensee would, if the

project were not a major project, recommend, in its advice under ~~section 70D of the Gas Pipelines Act 2000~~ section 51 of the Gas Industry Act 2019 in relation to the project, that a planning authority should refuse to grant a discretionary permit in relation to the project.

- (2) A participating regulator that is a pipeline licensee may only specify, in a final advice under section 60ZZF(1) in relation to a major project, that the regulator requests the Panel to impose a condition on any major project permit that may be granted in relation to the major project, if the pipeline licensee is satisfied that, if the project were not a major project –

(a) the pipeline licensee would not recommend, in its advice under ~~section 70D of the Gas Pipelines Act 2000~~ section 51 of the Gas Industry Act 2019 in relation to the project, that a planning authority should refuse to grant a discretionary permit in relation to the project; and

(b) the pipeline licensee –

(i) would, in its advice under ~~section 70D of the Gas Pipelines Act 2000~~ section 51 of the Gas Industry Act 2019 in relation to the project, recommend that a permit, granted under this Act in relation to the project, contain the condition; or

(ii) would require that the information specified in the condition be provided before it

would include, in its advice under ~~section 70D of the Gas Pipelines Act 2000~~ section 51 of the Gas Industry Act 2019 in relation to the project, a recommendation that such a permit may be granted, whether subject to conditions or otherwise.

**60ZZJ. Contents of final advice of relevant regulated entity**

- (1) A participating regulator that is a relevant regulated entity may only specify, in a final advice under section 60ZZF(1) in relation to a major project, that the regulator requests the Panel to refuse to grant a major project permit in relation to the major project, if the relevant regulated entity is satisfied that it would, if the project were not a major project, specify, in a submission under section 56P of the Water and Sewerage Industry Act 2008 in relation to the project, that it objects to the granting of the permit on a specified ground.
- (2) A participating regulator that is a relevant regulated entity may only specify, in a final advice under section 60ZZF(1) in relation to a major project, that the regulator requests the Panel to impose a condition or restriction on any major project permit that may be granted in relation to the major project, if the relevant regulated entity is satisfied that, if the project were not a major project –
  - (a) the relevant regulated entity would not specify, in a submission under section 56P of the Water and Sewerage Industry

*Act 2008* in relation to the project, that the entity objects to the granting of a permit on a specified ground; and

- (b) the relevant regulated entity would specify the condition or restriction in a submission under *section 56P of the Water and Sewerage Industry Act 2008* in relation to the project.

**60ZZK. Contents of final advice of other participating regulators**

- (1) A participating regulator (other than the EPA Board, the Heritage Council, a relevant regulated entity or a pipeline licensee) may only specify, in a final advice under *section 60ZZF(1)* in relation to a major project, that the regulator requests the Panel to refuse to grant a major project permit in relation to the major project, if the regulator is satisfied that the regulator would, if the project were not a major project, refuse to grant, under the project-associated Act, a project-related permit in relation to the project.
- (2) A participating regulator (other than the EPA Board, the Heritage Council, a relevant regulated entity or a pipeline licensee) may only specify, in a final advice under *section 60ZZF(1)* in relation to a major project, that the regulator requests the Panel to impose a condition or restriction on any major project permit that may be granted in relation to the major project, if the regulator would, if the project were not a major project –

- (a) grant, under the project-associated Act in relation to which the regulator is the relevant regulator under **section 60Z**, a project-related permit in relation to the project; and
- (b) impose, on a project-related permit granted under a project-associated Act in relation to the project, the condition or restriction.

**60ZZL. Participating regulator must give reasons for final advice**

A participating regulator must specify, in a final advice under **section 60ZZF(1)** in relation to a major project, the reasons for requesting the Panel to –

- (a) refuse to grant a major project permit in relation to the major project; or
- (b) impose a condition or restriction on a major project permit if the Panel were to grant such a permit in relation to the major project.

***Subdivision 14 – Major project permits***

**60ZZM. Grant of major project permit**

- (1) The Panel must, before the end of the period ending 90 days after the last day of the exhibition period specified in a notice for the purposes of **section 60ZZB(3)** in relation to a major project, or a longer period allowed by the

Minister, by notice to the proponent of a major project –

- (a) grant a major project permit in relation to the major project; or
  - (b) refuse to grant a major project permit in relation to the major project.
- (2) In deciding under **subsection (1)** whether to grant a major project permit in relation to a major project, the Panel must –
  - (a) have regard to the matters specified in **section 60ZM(6)**; and
  - (b) consider any representations made under **section 60ZZD(1)** in relation to the major project; and
  - (c) consider any matters raised in hearings in relation to the major project; and
  - (d) consider all final advices.
- (3) The Panel may only grant under **subsection (1)** a major project permit in relation to a major project if it is satisfied that the major project is an effective and appropriate use or development of the land to which the major project relates.
- (4) The Panel may only grant under **subsection (1)** a major project permit in relation to a major project if it is satisfied that –
  - (a) the assessment criteria in relation to the project have been satisfied; and

- (b) the project would be consistent with furthering the objectives specified in **Schedule 1**; and
  - (c) the project would not be in contravention of a State Policy; and
  - (d) the project would not be in contravention of the TPPs; and
  - (e) the project would not be inconsistent with a regional land use strategy that applies to the land on which the project is to be situated; and
  - (f) the relevant fee required under **section 60ZZB**, and any other fee required under any other Act to be paid for the assessment of the project, have been paid; and
  - (g) the Panel has received a final advice under **section 60ZZF(1)** from each participating regulator.
- (5) The Panel may grant under **subsection (1)** a major project permit in relation to a major project even though the use or development permitted by the permit would not be permitted under a relevant planning scheme.
- (6) The Panel must refuse to grant under **subsection (1)** a major project permit if the Panel has received, from a relevant regulator referred to in **section 60ZZP(4)**, a final advice under **section 60ZZF(1)** that requests the Panel to refuse to grant a major project permit in relation to the major project.



**60ZZMA. Major project permit may relate to additional area of land included by amendment to declaration of major project**

A major project permit may be granted under section 60ZZM(1) in relation to a major project, even though the permit relates to an area of land that was not specified in the declaration of a major project in relation to the major project when it was made under section 60O, if the declaration of a major project was amended under section 60TF(2) so that the declaration also relates to the area of land.

**60ZZMB. Power of Panel to correct certain failures of procedure under this Division**

(1) In this section –

"notice" does not include a notice required under this Division to be given in the *Gazette*.

(2) The performance or exercise by a person or body of a function or power under this Division is not invalid by reason only that a notice required under a provision of this Division to be given or provided to a person or body other than the Minister, a relevant regulator or the Panel –

(a) was not given or provided to the person or body; or

(b) was not given or provided to the person or body within the period in which, under this Division, the notice was required to be given or provided.

(3) If –

(a) a major project permit has not been issued in relation to a major project; and

(b) it appears to the Panel that a person or body (other than the Minister, a relevant regulator or the Panel) to whom a notice, in relation to the major project, is required to be given or provided under a provision of this Division –

(i) has not been given or provided with the notice under the provision; or

(ii) has not been given or provided with the notice within the period in which, under this Division, the notice was required to be given or provided to the person –

the Panel may, under **subsection (4)**, issue a notice to the person.

(4) The Panel may issue a notice to a person inviting the person to make, within the period of not less than 7 days specified in the notice, a representation to the Panel in relation to either or both of the following:

(a) whether a major project permit ought to be granted in relation to the major project;

(b) as to any conditions or restrictions that the person considers ought to be imposed on such a permit if granted.

(5) If the Panel gives a notice under **subsection (4)** to a person, the person may, within the period of not less than 7 days specified in the notice, make a representation to the Panel in relation to either or both of the following:

(a) whether a major project permit ought to be granted in relation to the major project;

(b) as to any conditions or restrictions that the person considers ought to be imposed on such a permit if granted.

(6) A representation given to the Panel by a person under **subsection (5)** is to be taken to be a representation given under **section 60ZZD**.

#### **60ZZN. Final assessment report to be prepared**

The Panel must, after making a decision under **section 60ZZM(1)** in relation to a major project, prepare a report (a "**final assessment report**") in relation to the major project, setting out –

- (a) the reasons for the decision; and
- (b) if the decision is to grant a major project permit in relation to the project on conditions or restrictions, those conditions or restrictions and the reasons for imposing them on the permit.

#### **60ZZO. Effect of refusal to grant permit**

If the Panel refuses under **section 60ZZM(1)(b)** to grant a major project permit in relation to a

major project, an application for a permit in relation to a use or development may not, except with the approval of the Minister, be made by any person within the 2-year period after the day on which notice of the refusal is given under **section 60ZZQ(2)**, if the use or development –

- (a) is the same as, or substantially the same as, a use or development to which the major project relates or related; and
- (b) would be carried out on all or part of the area of land to which the major project relates or related.

**60ZZP. Major project permit may be granted subject to conditions or restrictions**

- (1) The Panel may impose conditions or restrictions on a major project permit granted under **section 60ZZM(1)(a)**.
- (2) In addition to imposing under **subsection (1)** any conditions or restrictions on a major project permit that are required under **subsection (4)** to be imposed on a major project permit, the Panel may, subject to **subsection (5)**, impose under **subsection (1)** any conditions or restrictions that, in the opinion of the Panel, are necessary or desirable for the effective and appropriate use or development of land.
- (3) In deciding whether to impose under **subsection (1)** conditions or restrictions on a major project permit to be granted in relation to the major project, the Panel must consider –

- (a) the conditions and restrictions that a participating regulator requested, in a final advice under **section 60ZZF(1)**, the Panel to impose on a major project permit in relation to the project; and
  - (b) any representations made under **section 60ZZD(1)** in relation to such conditions or restrictions; and
  - (c) any matters raised in hearings in relation to the major project.
- (4) The Panel must, under **subsection (1)**, impose on a major project permit granted under **section 60ZZM(1)(a)** any conditions or restrictions that a participating regulator that is a relevant regulator in relation to the *Aboriginal Heritage Act 1975* or the *Threatened Species Protection Act 1995*, requests the Panel, in a final advice under **section 60ZZF(1)**, to impose on the permit.
- (5) The Panel must not impose on a major project permit a condition or restriction that is inconsistent with a condition or restriction that the Panel must, under **subsection (4)**, impose.
- (6) The conditions that may be imposed on a major project permit include, but are not limited to including, a condition that all reasonable steps must be taken to enter into an agreement in respect of a use or development forming all or part of the project to which the permit relates.
- (7) If a condition referred to in **subsection (6)** is imposed on a major project permit, the Panel must specify on the major project permit the

matters, and the requirements in respect of those matters, to be included in the agreement.

(8) If –

- (a) a person is granted a major project permit on which is imposed a condition, referred to in **subsection (6)**, that all reasonable steps must be taken to enter into an agreement; and
- (b) that person is not the owner of all of the land in respect of which the agreement must be entered into –

the Panel must, within 7 days of granting the permit, serve on each other owner of the land notice of the Panel's decision to impose the condition.

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~~(9) If a condition or restriction is imposed on a major project permit, the Panel must designate on the permit the relevant regulator, or relevant regulators, that is or are responsible for the enforcement of the condition or restriction.~~

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~~(9) If a condition or restriction is imposed under **subsection (1)** on a major project permit in accordance with **subsection (4)** the Panel must designate on the permit the relevant regulator, or relevant regulators, if any, that is or are responsible under **section 60ZZZD(4)** for the enforcement of the condition or restriction.~~

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~~(10) A condition or restriction that is imposed under **subsection (1)** on a major project permit otherwise than in accordance with **subsection (4)** may specify that –~~

(a) plans, information, designs, or other documents, are required, under the condition, to be prepared and provided to the Panel or a planning authority; and

(b) particular actions or works are to be carried out to the satisfaction of the Panel or a planning authority –

and, if such a condition refers to the Panel, then, after the major project permit has taken effect, the reference in the condition to the Panel is taken to be a reference to the Commission.

**60ZZQ. Notice to be given of grant of, or refusal to grant, major project permit**

(1) If the Panel grants a major project permit under **section 60ZZM(1)(a)**, the Panel must give notice, in the *Gazette* and in a newspaper that is published, and circulates generally, in Tasmania, of –

(a) the grant of the major project permit; and

(b) the place where a copy of the major project permit, and the final assessment report in relation to the project, may be viewed; and

(c) the electronic address of the Commission's principal website at which a copy of the major project permit, and the final assessment report in relation to the project, are available for viewing or downloading.

- (2) If the Panel, under **section 60ZZM(1)(b)**, refuses to grant a major project permit in relation to the major project, the Panel must give notice, in the *Gazette* and in a newspaper that is published, and circulates generally, in Tasmania, of –
- (a) the refusal to grant the major project permit; and
  - (b) the place where a copy of the final assessment report in relation to the project may be obtained; and
  - (c) the electronic address of the Commission's principal website at which a copy of the final assessment report in relation to the project is available for viewing or downloading.
- (3) The Panel must give to the proponent of a major project a copy of the major project permit and the final assessment report in relation to the project.
- (4) The Panel must give to the following persons or bodies a copy of a notice under **subsection (1) or (2)**:
- (a) if the proponent is not the owner of all of the land on which the major project is to be situated – the owners of the parts of the land that the proponent does not own;
  - (b) the owners of, the occupiers of, and the lessees of, any part of land adjoining the land on which the major project is to be situated;



- (c) each person who made, in relation to the major project, a representation under **section 60ZL(2)** or **section 60ZZD(1)**;
  - (d) the council that is the relevant planning authority in relation to the major project;
  - (e) all councils for municipal areas in the regional area, or regional areas, in which the major project is to be situated;
  - (f) if the major project is to be situated on an area of land that is not within any municipal area – all councils in relation to a regional area that is adjacent to the area of land;
  - (g) the Commission;
  - (h) each State Service Agency, or Tasmanian Government Business, that was notified under **section 60ZJ(1)** of the major project;
  - (i) if all or part of the land on which the major project is to be situated is within Wellington Park – the Wellington Park Trust;
  - (j) each participating regulator in relation to the major project.
- (5) The Panel must give to a person, at the person's request, a copy of a notice under **subsection (1)** or **(2)**.
- (6) The Commission must ensure that a copy of the major project permit and of the final assessment report in relation to the project –

- (a) are available for viewing at a place specified in a notice published in a newspaper under this section; and
- (b) are available for viewing or downloading at the electronic address of the Commission's principal website.

**60ZZR. Fees in relation to major projects**

- (1) The proponent of a major project in relation to which an environmental impact assessment is carried out in accordance with **section 60ZC** is liable to pay to the EPA Board, by the date specified in a notice by the Board to the proponent, the relevant fees for the assessment of the major project.
- (2) The relevant fees for the assessment by the EPA Board of a major project are the fees that the proponent would have been liable to pay for the assessment of the major project if –
  - (a) the proponent had made an application for an ordinary permit in relation to the major project; and
  - (b) the environmental impact assessment had been carried out under and in accordance with the EMPC Act as if this section did not apply.
- (3) The proponent of a major project is liable to pay to a relevant regulator in relation to the major project, other than the EPA Board or Heritage Council, the fee, calculated by multiplying the number of fee units per hour that is prescribed by the number of hours that the relevant

regulator spends performing a function or exercising a power in relation to the major project, before a determination is made under **section 60ZZM** to grant, or refuse to grant, a major project permit in relation to the major project.

(4) If a major project permit is granted to the proponent of a major project and the EPA Board or Heritage Council is a relevant regulator in relation to the major project –

- (a) the proponent is liable to pay to the EPA Board, or the Heritage Council, respectively, the fees that the proponent would have been liable to pay under the EMPC Act, or the *Historic Cultural Heritage Act 1995*, respectively, if the major project permit had been a permit within the meaning of this Act; and
- (b) the EMPC Act, or the *Historic Cultural Heritage Act 1995*, respectively, applies in relation to such fees accordingly.

(5) If a major project permit is granted to the proponent of a major project and there is in relation to the major project a relevant regulator in relation to a project-associated Act (other than the EMPC Act or the *Historic Cultural Heritage Act 1995*) –

- (a) the proponent is liable to pay to the Director, within the meaning of that Act, the fees that the proponent would have been liable to pay if the major project permit had been a project-related permit granted under that Act; and

- (b) the project-associated Act applies in relation to such fees accordingly.

**60ZZS. When major project permit takes effect**

- (1) Subject to this section, a major project permit takes effect on the day on which it is granted or another later day specified in the permit.
- (2) Despite **subsection (1)**, if the relevant fee under **section 60ZZB**, and the fees, if any, payable under **section 60ZZR**, in relation to a major project permit have not been paid by the day on which the major project permit takes effect under this section, the major project permit does not take effect before the day by which all of the fees have been paid.
- (3) If any other approvals (however described) under this Act or another Act are required for the proposed use or development to which a major project permit relates, the major project permit does not take effect until all those approvals have been granted.
- (4) If it is a condition of a major project permit that all reasonable steps be taken to enter into an agreement, the permit does not take effect until –
  - (a) the day on which the agreement is executed; or
  - (b) the day on which the Commission notifies the proponent in writing under **subsection (5)** that the Panel Commission is satisfied that the proponent has taken all reasonable steps to enter into such an agreement.

- (5) The Commission may, on the application of a proponent of a project, issue a notice in writing to the proponent stating that the Commission is satisfied that the proponent has taken all reasonable steps to enter into an agreement.
- (6) The Commission must give notice of the issue of a notice under **subsection (5)** in relation to a major project to the planning authority in relation to the land to which the notice under **subsection (5)** relates.

#### **60ZZT. When permit lapses**

- (1) A major project permit lapses –
  - (a) after a period of 5 years from the day on which the major project permit was granted; or
  - (b) where the Commission has granted an extension under **subsection (2)** – after a further period of 2 years –if the principal use or development in respect of which the major project permit was granted is not substantially commenced.
- (2) If the principal use or development in respect of which a major project permit was granted is not, or is unlikely to be, substantially commenced before the permit would otherwise lapse under **subsection (1)(a)**, the Commission may grant (once only) a 3-year extension of the period during which that use or development must be substantially commenced.

***Subdivision 15 – Amendment and cancellation of major project permits***

**60ZZU. Interpretation of Subdivision 15**

In this ~~section~~Subdivision –

**"relevant decision-maker"**, in relation to a major project permit, means –

- (a) the Panel in relation to the major project, if the permit has not taken effect under **section 60ZZS**; or
- (b) the Commission, if the major project permit has taken effect under **section 60ZZS**.

**60ZZV. Amendment of major project permit to correct mistake, &c.**

(1) The relevant decision-maker may, by notice in writing to each owner, each occupier, and each lessee of land to which a major project permit relates, amend the major project permit so as to correct –

- (a) a clerical mistake, or an error arising from any accidental slip or omission, contained in the major project permit; or
- (b) an evident material miscalculation of figures contained in the major project permit; or

- (c) an evident material mistake in the description in the major project permit of any person, thing or property.
- (2) If the relevant decision-maker, under **subsection (1)**, amends a major project permit in relation to a major project carried out, or to be carried out, on an area of land, the relevant decision-maker must give notice in writing of the amendment to –
  - (a) the proponent, if the proponent is not the owner of all of the land on which the major project is to be situated; and
  - (b) each owner, each occupier and each lessee of land to which the major project permit relates; and
  - (c) the relevant planning authority in relation to the major project; and
  - (d) each relevant regulator in relation to the major project; and
  - (e) the Commission.
- (3) The relevant decision-maker, as soon as practicable after amending under subsection (1) a major project permit, is to ensure that a notice, specifying that the amendment has been made and the nature of the amendment, is published in the *Gazette* and in a newspaper that is published, and circulates generally, in Tasmania.

**60ZZW. Minor amendment of major project permit**

**60ZZW. Amendment of major project permit where no detriment except to proponent, &c.**

- (1) Subject to **section 60ZZX**, the relevant decision-maker may, on the application of a proponent of a major project, or an owner, occupier or lessee of land, to which a major project permit relates, by notice in writing to the applicant, amend the major project permit.
- (2) The relevant decision-maker may, on the application of –
  - (a) a relevant regulator in relation to a major project to which the major project permit relates; or
  - (b) the planning authority for the area of land to which the major project relates –amend the major project permit by notice in writing to the proponent, if any, and each owner, occupier or lessee of land to which the major project permit relates.
- (3) The relevant decision-maker may only amend under **subsection (2)** a major project permit if it has invited the proponent, if any, and each owner, occupier or lessee of land to which a major project permit relates, to show cause why the major project permit should not be amended as proposed.
- (4) The relevant decision-maker may only amend under **subsection (1) or (2)** a major project



permit if, at least 14 days before amending the major project permit –

- (a) the relevant decision-maker has invited each relevant regulator, in relation to the major project to which the major project permit relates, to advise the relevant decision-maker within 14 days, or a longer period allowed by the relevant decision-maker, as to whether the relevant regulator objects to the proposed amendment; and
  - (b) the relevant regulator has not, within the time required under **paragraph (a)**, advised that the relevant regulator objects to the proposed amendment.
- (5) **Subsection (4)** does not apply in relation to a relevant regulator in relation to an amendment that the relevant regulator has applied for under **subsection (2)(a)**.
- (6) If the relevant decision-maker amends a major project permit under **subsection (1) or (2)**, the relevant decision-maker is to make a reasonable attempt to notify, in writing, of the making of the amendment, each person to whom a copy of the proposed amendment has been provided under **section 60ZZX(1)(a)**.
- (7) The relevant decision-maker, as soon as practicable after amending under **subsection (2)** a major project permit in relation to a major project, is to make a reasonable attempt to, in writing, notify of the making of the amendment each person who made a representation under **section 60ZZD(1)**, in relation to the project, that

is a representation that is relevant to the amendment.

- (8) The relevant decision-maker, as soon as practicable after amending under **subsection (1)** or **(2)** a major project permit, is to ensure that a notice, specifying that the amendment has been made and setting out the effect of the amendment, is published in the *Gazette* and in a newspaper that is published, and circulates generally, in Tasmania.

**60ZZX. Limitations on ability to make minor amendments to major project permits**

- (1) The relevant decision-maker may only amend under **section 60ZZW(1)** or **(2)** a major project permit in relation to an area of land if –
  - (a) at least 14 days before amending the permit, the relevant decision-maker has made a reasonable attempt to provide a copy of the proposed amendment to –
    - (i) the relevant planning authority in relation to the major project; and
    - (ii) the State Service Agencies, and Tasmanian Government Businesses, that the relevant decision-maker believes have an interest in the project; and
    - (iii) if all or part of the land is in Wellington Park – the Wellington Park Management Trust; and

- (iv) each person who made a representation under [section 60ZZD\(1\)](#) in relation to the major project that is a representation that is relevant to the proposed amendment; and
  - (b) the relevant decision-maker has considered any objections in relation to the proposed amendment that it has received under [subsection \(2\)](#).
- (2) A person to whom a copy of the proposed amendment of a major project permit has been provided under [subsection \(1\)](#) may, within 14 days of receiving the copy, by notice to the relevant decision-maker, set out the person's objections to the proposed amendment.
- (3) The relevant decision-maker may only amend under [section 60ZZW\(1\)](#) or (2) a major project permit if the amendment –
  - (a) will not cause an increase in detriment to any person other than the proponent; and
  - (b) does not change the use or development for which the permit was issued, other than by changing in a minor way the description of the use or development.

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[\(3A\)](#) The relevant decision-maker may, subject to [subsection \(3\)](#), amend under [section 60ZZW\(1\)](#) or (2) a major project permit in relation to an additional area of land that is specified in an amendment to a declaration made under [section 60TF\(2\)](#).

- (4) The relevant decision-maker may only amend under **section 60ZZW(1)** or **(2)** a major project permit in relation to an area of land if the relevant decision-maker is satisfied that the permit, as so amended –
- (a) would further the objectives specified in **Schedule 1**; and
  - (b) would not be in contravention of a State Policy; and
  - (c) would not be in contravention of the TPPs; and
  - (d) would not be inconsistent with a regional land use strategy that applies to the land on which the project is to be situated.
- (5) The relevant decision-maker may, if **subsection (4)** is complied with in relation to a proposed amendment, amend under **section 60ZZW(1)** or **(2)** the major project permit in relation to an area of land even though the permit, as so amended, would be inconsistent with a relevant planning scheme.

**60ZZY. Amendment of major project permits to ensure consistency with EPN**

- (1) The relevant decision-maker may, by notice in writing to each owner, occupier or lessee of land to which a major project permit relates, amend a condition or restriction imposed on the major project permit, if the amendment is necessary to ensure that the major project permit is consistent with an environment protection notice or an environmental licence.

- (2) The relevant decision-maker, as soon as practicable after amending under **subsection (1)** a condition or restriction imposed on a major project permit, is to ensure that a notice, specifying that the amendment has been made and setting out the effect of the amendment, is published in the *Gazette* and in a newspaper that is published, and circulates generally, in Tasmania.

**60ZZZ. Significant amendment of major project permits**

~~(1) For the purposes of this section, an amendment of a major project permit is a significant amendment of a major project permit if—~~

~~(a) were the permit amended in accordance with the amendment, the permit would authorise a use or development (the "**altered use or development**") that is in addition to, or in substitution for, or is of a scale or character that is different from, the uses and developments to which the major project permit relates; but~~

~~(b) the major project to which the major project permit, as so amended, would relate would be substantially the same major project as the major project to which the permit related before the amendment.~~

~~(2) A significant amendment may not be made to a major project permit under this section unless—~~

~~(a) the relevant decision-maker has, in accordance with a request under **subsection (3)**, permitted **subsection (8)**~~

to apply in relation to the major project permit; and

(b) this Division has, in accordance with ~~subsection (8)~~, applied in relation to the altered use or development to which the request relates.

(3) A proponent of a major project, or an owner, occupier or lessee of land to which a major project permit relates, by notice to the relevant decision-maker, may request the relevant decision-maker to permit ~~subsection (8)~~ to apply in relation to a significant amendment of the major project permit.

(4) A request under ~~subsection (3)~~ is to contain, in relation to an altered use or development, the matters specified in ~~section 60F~~ as required to be included in a major project proposal.

(5) If a request under ~~subsection (3)~~ relates to a matter in relation to which a participating regulator would have been likely to have had regard in giving a final advice under ~~section 60ZZF(1)~~ in relation to the relevant major project, the relevant decision-maker must—

(a) forward the request to the participating regulator; and

(b) invite the participating regulator to provide to the relevant decision-maker, within 14 days after the request is forwarded to the regulator or a longer period allowed by the Minister, the advice of the regulator in relation to the request; and

~~(c) consider each opinion provided under subsection (6);~~

~~(6) A participating regulator to whom an invitation has been issued under subsection (5) may, within 14 days or a longer period allowed by the Minister, provide to the relevant decision-maker the participating regulator's advice in relation to the request to which the invitation relates, including whether the regulator requests the relevant decision-maker~~

~~(a) to refuse to give permission under subsection (7) in relation to the major project permit; or~~

~~(b) to give permission under subsection (7) in relation to the major project permit only if the altered use or development is modified in accordance with the requirements of the regulator that are set out in the advice.~~

~~(7) The relevant decision-maker may, by notice to a proponent, or an owner, occupier or lessee of land, who has made a request under subsection (3) in relation to a major project permit~~

~~(a) give permission for subsection (8) to apply in relation to the major project permit; or~~

~~(b) refuse to give permission for subsection (8) to apply in relation to the major project permit.~~

~~(8) If the relevant decision-maker, pursuant to a request under subsection (3), gives a permission~~

under ~~subsection (7)~~ in relation to a major project permit, this Division applies in relation to the altered use or development to which the request relates as if—

(a) that altered use or development constituted the major project for the purposes of this Division; and

(b) the request were a major project proposal in relation to the major project; and

(c) the major project had just been declared under ~~section 60O~~ to be a major project; and

(d) references in this Division to a major project permit were a reference to an amendment of the major project permit that authorises the altered use or development.

(9) The relevant decision maker may only give a permission under ~~subsection (7)~~ if the relevant decision maker has not received advice under ~~subsection (6)~~ that a participating regulator that is a relevant regulator referred to in ~~section 60ZZP(4)~~ requests the relevant decision-maker to refuse to give permission under ~~subsection (7)~~ in relation to the major project permit.

(10) If a participating regulator that is a relevant regulator referred to in ~~section 60ZZP(4)~~ has, in an advice provided under ~~subsection (6)~~, requested that the relevant decision maker give permission under ~~subsection (7)~~ in relation to the major project permit only if the altered use or development is modified in accordance with the



requirements of the regulator that are set out in the advice, the relevant decision-maker may only give permission under **subsection (7)** if—

(a) the altered use or development has been modified in accordance with those requirements; and

(b) the proponent has agreed to the modification.

**60ZZZ. Application for significant amendment of major project permits**

(1) In this section —

**"altered use or development"** in relation to a major project permit, means a use or development, that —

(a) is in addition to, or in substitution of, the uses and developments to which the major project permit relates; or

(b) is of a scale or character that is different from, the uses and developments to which the major project permit relates; or

(c) may result in an increase in detriment to a person other than the proponent of the major project;

**"application"** means an application under **subsection (2)**;

"proposed significant amendment" means a significant amendment that a person wishes to be made to a major project permit in accordance with section 60ZZZAB;

"significant amendment", in relation to a major project permit, means an amendment of the permit, in accordance with section 60ZZZAB, that, if the amendment were made –

(a) would have the effect that the permit would authorise an altered use or development under the permit as so amended; but

(b) would not have the effect that the major project to which the permit relates was no longer substantially the same major project as the major project to which the permit related before the amendment was made –

and may relate to an additional area of land that is specified in an amendment to a declaration made under section 60TF(2).

(2) A person who –

(a) is a proponent of a major project to which a major project permit relates; or

(b) an owner, occupier or lessee of land to which a major project permit relates –

may make, to the relevant decision-maker, an application for a proposed significant

amendment of a major project permit in relation to a major project.

(3) An application for a proposed significant amendment of a major project permit in relation to a major project must –

(a) specify the proposed significant amendment; and

(b) contain, in relation to each altered use or development to which the proposed significant amendment relates, the matters specified in [section 60F](#) as required to be included in a major project proposal; and

(c) be accompanied by the information, if any, that the relevant decision maker requires.

(4) A relevant decision-maker that receives an application must, within 7 days or a longer period allowed by the Minister, give to each relevant regulator –

(a) a copy of the application; and

(b) a notice requesting the relevant regulator to give to the relevant decision-maker an amendment advice notice under [subsection \(5\)](#) in relation to the application.

(5) A relevant regulator that receives a notice under [subsection \(4\)](#) in relation to an application must, within 14 days or a longer period allowed by the Minister, give to the relevant decision-maker an amendment advice notice in relation to the application.

(6) An amendment advice notice given by a relevant regulator under **subsection (5)** in relation to an application for a proposed significant amendment of a major project permit in relation to a major project is a notice that contains –

(a) advice as to whether the assessment criteria in relation to the major project require amendment in order for the relevant regulator to be able to appropriately assess, in accordance with this Division, the proposed significant amendment; and

(b) advice as to the opinion of the relevant regulator in relation to the application, including whether the regulator requests the relevant decision-maker –

(i) to refuse under **section 60ZZZAB(2)** the application; or

(ii) to refuse under **section 60ZZZAB(2)** the application, unless the proposed significant amendment referred to in the application is modified in accordance with the requirements of the regulator that are set out in the advice.

(7) If a relevant regulator has given to the relevant decision-maker, in relation to an application (the "**first application**"), an amendment advice notice under **subsection (5)** containing advice referred to in **subsection (6)(b)(ii)** –

(a) the relevant decision-maker must –

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(i) notify the person who made the first application of the relevant regulator's request; and

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(ii) advise the person that the person may withdraw the first application and request the person to provide to the relevant decision-maker an application under [subsection \(2\)](#) that contains the proposed significant amendment, referred to in the first application, modified in accordance with the requirements of the regulator that are set out in the advice; and

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(b) the person may withdraw the first application and, in accordance with the request under [paragraph \(a\)\(ii\)](#), make an application under [subsection \(2\)](#) that contains the proposed significant amendment, referred to in the first application, modified in accordance with the requirements of the regulator that are set out in the advice; and

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(c) where an application is made in accordance with [paragraph \(b\)](#), the amendment advice notice under [subsection \(5\)](#) in relation to the first application is to be taken to be an amendment advice notice under [subsection \(5\)](#) in relation to the application made in accordance with [paragraph \(b\)](#), in so far as it contains advice referred to in [subsection \(6\)\(a\)](#).

**60ZZZAB. Determination as to whether, and the manner in which, proposed significant amendment may be assessed**

(1) In this section –

"**altered use or development**" has the same meaning as in **section 60ZZZ**;

"**amendment advice notice**" means an amendment advice notice received under **section 60ZZZ(5)** by the relevant decision-maker.

"**application**" has the same meaning as in **section 60ZZZ**;

"**proposed significant amendment**" has the same meaning as in **section 60ZZZ**;

"**significant amendment**" has the same meaning as in **section 60ZZZ**.

(2) The relevant decision-maker, within 14 days after the day on which the period specified in **section 60ZZZ(5)** ends or a longer period allowed by the Minister, must, after considering each amendment advice notice in relation to an application –

(a) determine that –

(i) **subsection (6)** applies in relation to the application; or

(ii) **subsection (7)** applies in relation to the application; or

(b) determine that the application does not relate to a significant amendment and refuse the application accordingly; or

(c) refuse the application.

(3) The relevant decision-maker must not determine under [subsection \(2\)](#) that [subsection \(7\)](#) applies in relation to an application unless each amendment advice notice given to the relevant decision-maker by a relevant regulator advises that the assessment criteria do not require amendment in order for the relevant regulator to be able to appropriately assess in accordance with this Division the proposed significant amendment contained in the application.

(4) The relevant decision-maker must, under [subsection \(2\)](#) refuse an application if –

(a) a relevant regulator has, in an amendment advice notice in relation to the application, requested, in accordance with [section 60ZZZ\(6\)\(b\)\(i\)](#), the relevant decision-maker to do so; or

(b) where a relevant regulator has, in an amendment advice notice in relation to the application, made a request in accordance with [section 60ZZZ\(6\)\(b\)\(ii\)](#) – the application is not an application made in accordance with [section 60ZZZ\(7\)\(b\)](#).

(5) The relevant decision-maker must, within 7 days after making a determination under [subsection \(2\)](#) in relation to an application in relation to a major project permit, give to the

following persons a notice setting out the terms and effect of the determination:

- (a) the person who made the application;
  - (b) the proponent of the major project to which the determination relates, if the proponent was not the person who made the application;
  - (c) each owner, occupier or lessee of land to which the major project permit relates.
- (6) If the relevant decision-maker determines under **subsection (2)** that this subsection applies in relation to an application, this Division applies in relation to each altered use or development to which the application relates as if –
- (a) that altered use or development contained in the application constituted the major project for the purposes of this Division; and
  - (b) the proposed significant amendment to which the application relates were a major project proposal in relation to the major project; and
  - (c) the major project had just been declared under **section 60O** to be a major project; and
  - (d) references in this Division to a major project permit were a reference to a significant amendment that authorises the altered use or development.



(7) If the relevant decision-maker determines under subsection (2) that this subsection applies in relation to an application –

(a) the proponent in relation to the major project is to provide to the Panel the major project impact statement previously provided under section 60ZS(1) in relation to the major project to which the application relates, together with an addendum to the statement that addresses the matters that are set out in the assessment criteria in relation to the major project as matters that are required to be addressed in the major project impact statement; and

(b) this Division applies in relation to each altered use or development to which the application relates as if –

(i) the altered use or development contained in the application constituted the major project for the purposes of this Division; and

(ii) the proposed significant amendment to which the application relates were a major project proposal in relation to the major project; and

(iii) references in this Division to a major project permit were a reference to a significant amendment that authorises the altered use or development; and

(iv) the major project impact statement provided under paragraph (a) had been provided under section 60ZS(1) in relation to the major project as constituted, in accordance with this subsection, by the altered use or development; and

(v) so much of the procedure set out in this Division as applies in relation to a major project after a major project impact statement is provided in relation to the major project under section 60ZS(1) applies in relation to the major project as constituted, in accordance with this subsection, by the altered use or development.

(8) If the relevant decision-maker determines under subsection (2) that subsection (7) applies in relation to an application in relation to an altered use or development, the provisions of this Division are taken to be modified in relation to the altered use or development as if –

(a) the reference in section 60ZV(1) to 21 days were a reference to 14 days; and

(b) the reference in section 60ZW(2) to 42 days were a reference to 21 days; and

(c) the reference in section 60ZY(3)(b) to 42 days were a reference to 28 days; and

(d) the reference in section 60ZZB(5)(b) to 28 days were a reference to 14 days; and

(e) the reference in **section 60ZZF(1)** to a 42-day period were a reference to a 14-day period; and

(f) the reference in **section 60ZZM(1)** to 90 days were a reference to 49 days.

#### **60ZZZA. Cancellation of major project permit**

(1) A person who is –

- (a) the proponent of a major project to which a major project permit relates; or
- (b) an owner of all or part of the land to which a major project permit relates; or
- (c) an occupier or lessee of all or part of the land to which a major project permit relates –

may apply, to the relevant decision-maker in relation to a major project permit, to cancel the permit.

(2) If the relevant decision-maker receives under **subsection (1)** an application for the cancellation of a major project permit –

- (a) the relevant decision-maker must notify each person, referred to in that subsection, other than the person who made the application, that the person may, within 14 days, give to the relevant decision-maker the person's opinion as to whether the major project permit ought to be cancelled; and

- (b) a person who is given a notice under **paragraph (a)** may, within 14 days after receiving the notice, give to the relevant decision-maker in writing the person's opinion as to whether the major project permit ought to be cancelled.
- (3) If the relevant decision-maker receives under **subsection (1)** an application for the cancellation of a major project permit the relevant decision-maker may, after considering the opinions of persons given to the relevant decision-maker under **subsection (2)(b)**, by instrument in writing, cancel the major project permit.
- (4) The relevant decision-maker, as soon as practicable after cancelling under this section a major project permit, is to ensure that there is published –
  - (a) in the *Gazette*; and
  - (b) in a newspaper that is published, and circulates generally, in Tasmania –a notice, specifying that the major project permit is cancelled from a day specified in the notice.
- (5) The day specified in a notice under **subsection (4)** as the day from which a major project permit is cancelled is to be a day after the day on which the notice is published in accordance with that subsection.
- (6) If the relevant decision-maker cancels under **subsection (3)** a major project permit in relation to a major project carried out, or to be carried out, on an area of land, the relevant decision-maker is to take reasonable steps to give notice

in writing of the cancellation, and the date from which the permit is cancelled, to –

- (a) the proponent of the project, and each owner, occupier or lessee of the land, to which the major project permit related; and
- (b) the owners, the occupiers, and the lessees, of land adjoining the land to which the major project permit related; and
- (c) each person who made, in relation to the major project, a representation under [section 60ZL\(2\)](#) or [section 60ZZD\(1\)](#); and
- (d) the council that is the relevant planning authority in relation to the major project; and
- (e) all councils for municipal areas in the regional area, or regional areas, in which the major project is or was to be situated; and
- (f) if the major project is or was to be situated on an area of land that is not within any municipal area – all councils in relation to a regional area that is adjacent to the area of land; and
- (g) the Commission; and
- (h) each State Service Agency, or Tasmanian Government Business, that was notified under [section 60ZJ\(1\)](#) of the major project; and

- (i) if all or part of the land on which the major project is or was to be situated is within Wellington Park – the Wellington Park Trust; and
  - (j) each participating regulator in relation to the major project.
- (7) The cancellation of a major project permit under this section takes effect on the day specified in the notice published in the *Gazette* under subsection (4) as the day from which the permit is cancelled.

**60ZZZAB. Enforcement certificates**

(1) The Commission may issue an enforcement certificate in relation to all or part of the land to which a major project permit relates.

(2) The Commission must not issue an enforcement certificate in relation to all or part of the land to which a major project permit relates that applies to a condition or restriction, of the major project permit in relation to the land, that was included in the final advice of a relevant regulator who is a person who has functions under –

(a) the *Aboriginal Heritage Act 1975*; or

(b) the *Threatened Species Protection Act 1995*; or

(c) the *Nature Conservation Act 2002*.

(3) If the Commission issues an enforcement certificate in relation to all or part of the land to which a major project permit relates, the

Commission must give a copy of the enforcement certificate to –

- (a) each landowner of the land to which the major project permit relates; and
  - (b) the planning authority in relation to the land to which the major project permit relates; and
  - (c) each relevant regulator.
- (4) An enforcement certificate in relation to land to which a major project permit relates is to specify one or more of the following:
- (a) that the planning authority is to be responsible for the enforcement of this Act in respect of each condition or restriction of the major project permit in relation to the land;
  - (b) that the planning authority is to be responsible for the enforcement of this Act, in relation to a part of the land that is specified in the certificate, in respect of each condition or restriction of the major project permit in relation to the land;
  - (c) that the planning authority is to be responsible for the enforcement of this Act in respect of each condition or restriction, of the major project permit in relation to the land, that relates to a use, of the land, that is specified in the certificate;
  - (d) that the planning authority is to be responsible for the enforcement of this

Act, in relation to a part of the land that is specified in the certificate, in respect of each condition or restriction, of the major project permit in relation to the land, that relates to a use, of the land, that is specified in the certificate.

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(5) The Commission may only issue an enforcement certificate in relation to land, or a part of land, to which a major project permit relates if the Commission is satisfied that –

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(a) where the certificate specifies a matter referred to in subsection (4)(a) – all development under the permit has been completed or no further such development is intended to occur under a major project permit; or

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(b) where the certificate specifies a matter referred to in subsection (4)(b) in relation to a part of land – all development, under the permit, in relation to the part of the land has been completed; or

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(c) where the certificate specifies a matter referred to in subsection (4)(c) in relation to a use – all development, under the permit, that was necessary for the use to be carried out has been completed; or

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(d) where the certificate specifies a matter referred to in subsection (4)(d) in relation to a part of land and a use – all development, under the permit, that has been carried out on the part of the land and that was necessary for the use to which the certificate relates to be carried out has been completed.



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(6) If an enforcement certificate in relation to land to which the major project permit relates –

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(a) where the certificate specifies a matter referred to in [subsection \(4\)\(a\)](#) – [sections 60ZZZD](#) and [60ZZZF](#) cease to apply in relation to the land; or

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(b) where the certificate specifies a matter referred to in [subsection \(4\)\(b\)](#) in relation to a part of the land – [sections 60ZZZD](#) and [60ZZZF](#) cease to apply in relation to the part of the land; or

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(c) where the certificate specifies a matter referred to in [subsection \(4\)\(c\)](#) in relation to a use that is specified in the certificate – [sections 60ZZZD](#) and [60ZZZF](#) cease to apply in relation to the use on that land; or

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(d) where the certificate specifies a matter referred to in [subsection \(4\)\(d\)](#) in relation to a part of the land, and to a use, that are specified in the certificate – [sections 60ZZZD](#) and [60ZZZF](#) cease to apply in relation to the use on that part of the land.

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(7) The Commission may only issue an enforcement certificate, in relation to land to which the major project permit relates, that –

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(a) specifies a matter referred to in [subsection \(4\)\(a\)](#) – if each relevant regulator, who included in the final advice of the relevant regulator, a condition or restriction of the major

project permit, has agreed to the issue of the enforcement certificate; or

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(b) specifies a matter referred to in subsection (4)(b) in relation to a part of the land – if each relevant regulator who included in the final advice of the relevant regulator a condition or restriction of the major project permit that applies in relation to the part of the land has agreed to the issue of the enforcement certificate; or

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(c) specifies a matter referred to subsection (4)(c) in relation to a use – if each relevant regulator, who included in the final advice of the relevant regulator, a condition or restriction, of the major project permit, that applies in relation to the use has agreed to the issue of the enforcement certificate; or

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(d) specifies a matter referred to in subsection (4)(d) in relation to a part of land and a use – if each relevant regulator, who included in the final advice of the relevant regulator a condition or restriction, of the major project permit, that applies in relation to the part of the land and to the use has agreed to the issue of the enforcement certificate.

### *Subdivision 16 – Miscellaneous*

#### **60ZZZB. Fees payable for the purposes of this Division**

- (1) Regulations for the purposes of this Division may prescribe that fees, as specified or calculated in accordance with those regulations, are payable in relation to the occurrence of an event referred to in a provision, or provisions, of this Act that is or are specified, in relation to the fee, in those regulations.
- (2) Regulations for the purposes of this Division may prescribe –
  - (a) a maximum and a minimum amount of a relevant fee; or
  - (b) that a relevant fee is to be calculated in accordance with a method specified in the regulations –

or both, in respect of a project or of a project of a type specified in the regulations.

- (3) If a fee is prescribed in regulations for the purposes of this Division in relation to a provision of this Act, the fee is due and payable by the proponent in relation to a project within 30 days, or another period that may be specified in the regulations, after the occurrence of an event, specified in the provision, to which the fee relates.

#### **60ZZZC. Amendment of planning scheme**

- (1) As soon as practicable after a major project permit is granted in relation to a major project or

is amended, the Commission must, in consultation with the relevant planning authority, amend a planning scheme (other than the SPPs) that applies to the land on which the major project is to be situated, so as to remove any inconsistency between the permit and the planning scheme.

- (2) The Commission may only amend under **subsection (1)** a planning scheme by inserting, amending or revoking provisions that relate only to the land to which the major project permit relates.
- (3) Part 3B does not apply to an amendment made under **subsection (1)**.
- (4) If the Commission amends under **subsection (1)** a planning scheme that applies to land on which a major project is to be situated –
  - (a) the amendment –
    - (i) is, except if **subparagraph (ii)** applies, to be taken to have come into operation on the day on which the major project permit was granted in relation to the major project; or
    - (ii) if made after the major project permit is amended, is to be taken to have come into operation on the day on which the major project permit was amended; and
  - (b) the Commission must give notice of the amendment in the *Gazette* and in a newspaper published in Tasmania and

circulating generally in the area to which the planning scheme relates.

**60ZZZD. Enforcement of compliance with conditions**

(1) If –

- (a) a major project permit is in force in relation to a major project; and
- (b) an activity is carried out in relation to the major project that, if the major project were not a major project, would be an activity in relation to which a project-related permit would be required under a project-associated Act; and
- (c) the major project permit authorises the carrying out of the activity –

the major project permit is, for the purposes of that Act, to be taken to be a project-related permit, issued under that Act, authorising the activity subject to any relevant conditions or restrictions in relation to the project-associated Act.

- (2) For the purposes of **subsection (1)**, a condition or restriction is a relevant condition or restriction in relation to a project-associated Act if the condition or restriction that is imposed on the major project permit was a condition or restriction included in the final advice of a relevant regulator who is a person who has functions under that Act.
- (3) Nothing in **subsection (1)** is to be taken to have the effect that a major project permit to which

that subsection applies ceases to be a major project permit for the purposes of this Act.

(4) If a major project permit is to be taken under **subsection (1)** to be a project-related permit issued under a project-associated Act –

(a) the project-related permit remains, despite any provision of that Act, in force until the major project permit ceases to be in effect under this Act; and

(b) subject to **paragraph (c)**, the relevant regulator, who included in a final advice a condition or restriction that is imposed on the major project permit, has the responsibility for enforcing, under the relevant project-associated Act, compliance with that condition or restriction, as a condition or restriction imposed on the project-related permit; and

(c) the project-related permit may not be cancelled under that Act.

(5) **Subsection (1)** does not apply in relation to the following project-associated Acts:

(a) the EMPC Act;

(b) the *Historic Cultural Heritage Act 1995*;

(c) the *Water and Sewerage Industry Act 2008*;

(d) the ~~*Gas Pipelines Act 2000*~~*Gas Industry Act 2019*.

**60ZZZE. Restriction on certain applications for permits or amendments to planning schemes**

Except with the permission of the Commission, a person may not, within 2 calendar years from the date of a decision by the Panel under **section 60ZZM(1)(b)** to refuse to grant a major project permit in relation to a major project, apply to a planning authority to grant a permit in relation to a project that is the same as, or substantially the same as, the major project.

**60ZZZF. Application of certain provisions in relation to enforcement**

**Sections 65F** and **65G** apply in relation to a major project permit as if a reference in those sections –

- (a) to an authorised officer were a reference to a person authorised by the Commission; and
- (b) to a permit were a reference to a major project permit; and
- (c) to a planning authority were a reference to the Commission.

**60ZZZG. False information**

A proponent in relation to a project must not, under this Division, provide orally or in writing, to the Minister, the Panel or a relevant regulator, any statement, document, or representation, in relation to the project, that the person knows to be false or misleading in any material particular.

Penalty: Fine not exceeding 50 penalty units.

**60ZZZH. Notice or document under Division may be given electronically**

(1) A notice or document that is required to be given by a person or body ("**the sender**") to another person or body ("**the receiver**") under this Division may, with the approval of the receiver, be given by the sender to the receiver by an electronic means, and to an electronic address, nominated by the receiver.

(2) If a provision of this Act requires a notice to be given to a person and for a document or information to be provided to the person together with the notice, the document or information is taken to have been provided to the person if –

(a) the notice specifies a means by which the person may view, or download a copy of, the document or information at a website specified in the notice, using a means specified in the notice; and

(b) the person may view, or download a copy of, the document or information at the website specified in the notice, using the means specified in the notice.

**60ZZZI. Review of operation of Division**

(1) The Minister, as soon as practicable after **1 January 2025**, must appoint one or more persons to conduct a review of –



- (a) whether the granting of any major project permits has been efficient and effective; and
  - (b) the exercise of the power under **section 600**; and
  - (c) the effectiveness of the determination guidelines; and
  - (d) whether, and the extent to which, this Division provides an efficient and effective process for the approval of developments.
- (2) A person may not be appointed to conduct the review for the purposes of **subsection (1)** unless, in the opinion of the Minister, the person possesses appropriate qualifications, or experience, to conduct the review.
- (3) At least one of the persons appointed to conduct the review for the purposes of **subsection (1)** must be a person who is not –
  - (a) a State Service employee or State Service officer; or
  - (b) a person employed or engaged by the Crown in the right of Tasmania or the Commonwealth; or
  - (c) a person employed or engaged by a State-owned company, a Tasmanian Government Business or another body established under an Act of the State.
- (4) The person or persons who conduct the review for the purposes of **subsection (1)** –

- (a) must, by notice in a newspaper published in the State, invite all persons to make submissions in relation to the review by a date specified in the notice; and
  - (b) consider any submissions made before the date specified in the notice; and
  - (c) within 6 months after a person is appointed to conduct the review, provide to the Minister a report in relation to the review.
- (5) The Minister must cause a copy of the report provided to the Minister under **subsection (4)(c)** to be laid before each House of Parliament within 5 sitting-days after the report is so provided to the Minister.

### ***Division 3 – Planning appeals***

#### **61. Appeals against planning decisions**

- (1) [This component has been omitted.]
- (2) [This component has been omitted.]
- (3) An applicant for a permit may appeal to the Appeal Tribunal against a requirement by a planning authority for additional information under **section 54** within 14 days after the day on which notice was served under **section 54(1)** or **(3)**.
- (3A) If a planning authority has amended a permit under **section 43** or **56**, any person referred to in

section 43(6), (7), (9) or (10) or 56(3) or (4) may appeal to the Appeal Tribunal against the decision of the planning authority within 14 days after the day on which notice was served on the person under section 43(6), (7), (9) or (10) or 56(3) or (4).

(3B) [This component has been omitted.]

(4) If a planning authority refuses to grant a permit or grants a permit subject to conditions or restrictions, the applicant for the permit may appeal to the Appeal Tribunal against the decision of the planning authority within 14 days after, as the case may be—

- (a) the day on which notice was served under section 57(2); or
- (b) the day on which notice was served on the applicant under section 57(7); or
- (c) the day on which notice was served under section 58(3); or
- (d) the day on which notice was served on the applicant under section 59(8).

(5) If a planning authority grants a permit, any person who or relevant agency which, in respect of the application for that permit, has made a representation under section 57(5) may appeal to the Appeal Tribunal against the grant of the permit within 14 days after, as the case may be –

- (a) the day on which notice was served on that person under section 57(7); or
- (b) the day on which notice was served on that person under section 59(8).

- (6) An owner notified of the decision of a planning authority under **subsection (3) of section 58A** may appeal to the Appeal Tribunal against that decision within 14 days after the day on which notice was served under that subsection.
- (7) If an authorised officer issues and serves on a person an enforcement notice under **section 65C**, the person may, within 14 days after the day on which the notice is served, appeal to the Appeal Tribunal against the decision of the authorised officer to issue and serve the notice.
- (8) If a planning authority cancels under **section 65G** a permit in relation to land –
  - (a) an owner or occupier of the land may, within 14 days after the day on which the notice cancelling the permit is served under **section 65G(1)** on the owner or occupier, respectively; and
  - (b) an owner of land may, within 14 days after the day on which the owner is notified under **section 65G(7)** of the cancellation of the permit –

appeal to the Appeal Tribunal against the decision of the planning authority to cancel the permit.

**Unvalidated References : section 43K(2)**

## **62. Determination of appeals**

- (1) After hearing an appeal, the Appeal Tribunal may, in addition to its powers under the *Tasmanian Civil and Administrative Tribunal Act 2020* –

- (a) [This component has been omitted.]
- (b) direct that additional information be supplied or that the authority proceed on the basis that the information was supplied; or
- (c) in the case of an appeal against a grant of a permit, a refusal to grant a permit or a grant of a permit subject to conditions or restrictions—
  - (i) direct the planning authority to grant the permit; or
  - (ii) direct the planning authority to grant the permit and direct the planning authority that the permit must or must not contain any specified conditions; or
  - (iii) direct the planning authority not to grant a permit; or
- (d) in the case of an appeal against the amendment of a permit –
  - (i) direct the planning authority not to amend the permit; or
  - (ii) having regard to the matters specified in **section 43K(2)** or **section 56(2)**, as the case may be, direct the planning authority to amend the permit in the manner specified by the Appeal Tribunal; or
- (e) in the case of an appeal against the cancellation of a permit –

- (i) direct the planning authority not to cancel the permit; or
  - (ii) direct the planning authority not to cancel the permit and to impose or vary specified conditions on the permit.
- (2) Where the Appeal Tribunal has determined an appeal, an application for a permit in respect of a use or development which is substantially the same as the use or development to which the appeal related may not, without the leave of the Appeal Tribunal, be made within a period of 2 years from the date on which the Appeal Tribunal made its decision.
- (3) The Appeal Tribunal must determine an appeal in accordance with the planning scheme that was in effect at the time the planning authority determined the application for a permit.
- (3A) Despite **subsection (3)**, if –
  - (a) an appeal is made to the Appeal Tribunal in relation to a determination by a planning authority of an application for a permit in relation to land; and
  - (b) in accordance with **section 51**, the planning authority was required to make its decision in relation to the application in accordance with the provisions, of a planning scheme, as they would be in effect –

the Appeal Tribunal must determine the appeal in accordance with the provisions, of the planning scheme, that are the provisions in

accordance with which, under **section 51**, the planning authority was required to make its decision in relation to the application.

- (4) In determining an appeal in accordance with **subsection (3)**, the Appeal Tribunal has the same obligations as a planning authority at the time the planning authority determined the application for the permit.
- (5) If a permit is, by or pursuant to a determination of the Appeal Tribunal, granted, or amended, by the Appeal Tribunal or a planning authority, in accordance with a provision of a planning scheme, that –
  - (a) was in effect at the time ("**the relevant time**") the planning authority determined the application for a permit to which the determination relates; but
  - (b) has been replaced, or amended, by another provision ("**the subsequent provision**") after the relevant time and before the time the Appeal Tribunal or planning authority makes or amends the permit in accordance with the determination –

then the permit has effect as if the planning scheme that was in effect at the time the planning authority determined the application for a permit remained in effect, and section 12 applies in relation to a use to which the permit relates as if the land to which the permit relates were being lawfully used for the purposes of that use immediately before the subsequent provision came into effect.

## *Division 4 – Offences, remedies, &c.*

### **63. Obstruction of sealed schemes**

- (1) [This component has been omitted.]
- (2) A person must not use land in a way, or undertake development or do any other act, that –
  - (a) is contrary to a State Policy or a planning scheme; or
  - (b) impedes or obstructs the execution of any such scheme; or
  - (c) constitutes a breach of a condition or restriction of a permit imposed by a planning authority pursuant to any such scheme or a determination of the Appeal Tribunal; or
  - (d) constitutes a breach of **section 60S(1)** or of a condition or restriction imposed under **section 60ZZP**, as amended or corrected, if at all, under **section 60ZZW**, **60ZZY** or **60ZZZ**, on a major project permit granted in relation to the land.
- (3) A person who contravenes **subsection (2)** is guilty of an offence punishable, on summary conviction, in accordance with **subsection (4)**.
- (4) A person convicted of an offence against **subsection (3)** is liable to a fine not exceeding 500 penalty units, and a person who is so



convicted in respect of a continuing contravention of **subsection (2)** –

- (a) is liable, in addition to the penalty otherwise applicable to that offence, to a fine for each day during which the contravention continued of not more than 50 penalty units; and
  - (b) if the contravention continues after the person is convicted, is guilty of a further offence against **subsection (3)** and is liable, in addition to the penalty otherwise applicable to that further offence, to a fine for each day during which the contravention continued after that conviction of not more than 50 penalty units.
- (5) If a person is convicted of an offence against **subsection (3)**, the court may order the person to pay to the planning authority the reasonable costs incurred by the authority in investigating the offence or prosecuting the offence, or both.
- (5A) If a person is convicted of an offence against **subsection (3)**, the court may order that –
  - (a) the person is required to carry out, within the period specified in the order, work specified in the order; and
  - (b) if the person does not carry out the work within that period and the relevant planning authority carries out the work under **subsection (5C)**, the person is liable to the planning authority for the reasonable costs incurred by the authority in carrying out the work.

- (5B) The work that may be specified in an order under **subsection (5A)** in relation to a person is work that will ensure that a use or development carried out by the person is in accordance with the relevant planning scheme, permit, major project permit or determination.
- (5C) If a court makes an order of a kind referred to in **subsection (5A)** in relation to a person and the person does not, within the period specified in the order, carry out the work specified in the order, the relevant planning authority may carry out the work.
- (6) The application of **subsection (2)** extends in relation to a permit or a condition or restriction attaching to a permit under a planning scheme where the scheme was in force immediately before the commencement of this Act and notwithstanding that the permit or the condition or restriction, if any, was imposed before that commencement.
- (7) Nothing in **subsection (6)** is to be construed as rendering unlawful any use or development that was completed pursuant to a permit in force before the commencement of this Act.

#### **63A. Enforcing compliance with planning schemes**

- (1) A planning authority that does not take all reasonable steps to ensure that a planning scheme that has effect in respect of an area within its municipal district is complied with is guilty of an offence punishable on summary conviction.

- (2) A planning authority convicted of an offence against **subsection (1)** is liable to a fine not exceeding 500 penalty units, and a planning authority who is so convicted in respect of a continuing contravention of this section –
- (a) is liable, in addition to the penalty otherwise applicable to that offence, to a fine for each day during which the contravention continued of not more than 500 penalty units; and
  - (b) if the contravention continues after the planning authority is convicted, is guilty of a further offence and is liable, in addition to the penalty otherwise applicable to that further offence, to a fine for each day during which the contravention continued after that conviction of not more than 50 penalty units.

**63B. Notice of suspected contravention, &c., may be given**

- (1) A person who suspects that another person (other than a planning authority) has contravened or failed, or is likely to contravene or fail, to comply with ~~section 60ZB(1)~~ or **section 63(2)** may give notice in writing of the contravention or failure, or likely contravention or failure, to the planning authority in whose municipal area the land to which the contravention or failure relates is situated.

- (2) A notice under **subsection (1)** given by a person in relation to a contravention or failure, or likely contravention or failure, is to –
- (a) specify the contravention or failure and the land to which the contravention or failure relates; and
  - (b) request the planning authority to advise the person whether it is intended that –
    - (i) charges are to be laid in relation to the contravention or failure; or
    - (ii) an infringement notice under **section 65A**, or an enforcement notice under **section 65C**, is to be issued and served on a person in relation to the contravention or failure; and
  - (c) request the planning authority to advise the person if, within 120 days after the notice is given to the planning authority –
    - (i) charges are laid against a person in relation to the contravention or failure; or
    - (ii) an infringement notice under **section 65A**, or an enforcement notice under **section 65C**, is issued and served on a person in relation to the contravention or failure.
- (3) If a notice in relation to a contravention or failure, or likely contravention or failure, is given by a person to a planning authority under

**subsection (1)**, the planning authority must issue a notice in writing to the person as soon as practicable after –

(a) it is, within 120 days after the notice is received, determined that –

(i) charges are, or are not, to be laid in relation to the contravention or failure; or

(ii) an infringement notice under **section 65A**, or an enforcement notice under **section 65C**, is, or is not, to be issued and served on a person in relation to the contravention or failure; or

(b) the planning authority, within 120 days after the notice is received, lays charges against a person in relation to the contravention or failure; or

(c) an infringement notice under **section 65A**, or an enforcement notice under **section 65C**, is issued and served on a person, within 120 days after the notice is received, in relation to the contravention or failure.

(4) A notice under **subsection (3)** in relation to a contravention or failure, or likely contravention or failure, is to advise the person to whom it is issued of the determination, the laying of charges or the issue and service of an infringement notice under **section 65A** or an enforcement notice under **section 65C**, as the case may be.

#### **64. Civil enforcement proceedings**

- (1) Where a person contravenes or fails or is likely to contravene or fail to comply with a provision of this Part, other than **section 48AA** or **48A** or **section 63A**, a person, other than the Commission or a planning authority, who has, in the opinion of the Appeal Tribunal, a proper interest in the subject matter may apply to the Appeal Tribunal for an order under this section.
- (1A) An applicant may only make an application under **subsection (1)** in relation to a contravention of or failure to comply with ~~section 60ZB(1)~~ or **section 63(2)**, or a likely contravention of or likely failure to comply with ~~section 60ZB~~ or **section 63(2)**, by a person other than a planning authority if –
  - (a) the applicant has given, to the planning authority in whose municipal area is situated the land to which the contravention or failure relates, a notice in writing under **section 63B(1)** in relation to the contravention or failure; and
  - (b) **subsection (1B)** applies in relation to the contravention or failure.
- (1B) This subsection applies in relation to a contravention or failure –
  - (a) if –
    - (i) the planning authority has notified the applicant under **section 63B(3)** of a determination that charges are not to be laid, or

an infringement notice under **section 65A**, or an enforcement notice under **section 65C**, is not to be issued and served on a person, in relation to the contravention or failure; and

(ii) before the application is made, charges are not laid, and an infringement notice under **section 65A**, or an enforcement notice under **section 65C**, is not issued and served on a person, in relation to the contravention or failure; or

(b) where **paragraph (a)** does not apply, if within 120 days of the planning authority being given the notice under **section 63B(1)** in relation to the contravention or failure –

(i) charges in relation to the contravention or failure have not been laid; and

(ii) an infringement notice under **section 65A**, or an enforcement notice under **section 65C**, has not been issued and served on a person, in relation to the contravention or failure.

(2) The application may be made *ex parte* and, if the Appeal Tribunal is satisfied that there are sufficient grounds, it must issue a summons requiring the respondent to appear before the Appeal Tribunal to show cause why an order should not be made under this section.

(2A) If an application under this section is made by a person in relation to land –

(a) the owner and the occupier of the land are taken to be parties to the application, if –

(i) the respondent to the application is the planning authority, other than by virtue of a contravention, or likely contravention, of **section 63(2)** by the planning authority or a failure, or likely failure, by the planning authority to comply with **section 63(2)**; and

(ii) the owner or occupier is not the planning authority; and

(b) the planning authority in whose municipal area the land is situated is taken to be a party to the application, if –

(i) the planning authority is not the respondent to the application; or

(ii) a direction is made under **subsection (2B)** in relation to the planning authority.

(2B) Despite **subsection (1)**, at any time after receiving an application made under this section, the Appeal Tribunal may direct that the planning authority, in whose municipal area the land to which the application relates is situated, be made an applicant in the application.

(2C) [This component has been omitted.]

(3) If –



(a) after hearing—

(i) the applicant and the respondent;  
and

(ii) any other person who has, in the opinion of the Appeal Tribunal, a proper interest in the subject matter of the proceedings and desires to be heard in the proceedings—

the Appeal Tribunal is satisfied, on the balance of probabilities, that the respondent to the application has contravened or failed or is likely to contravene or fail to comply with a provision of this Part; or

(b) the respondent fails to appear in response to the summons or, having appeared, does not avail himself or herself of an opportunity to be heard —

the Appeal Tribunal may, by order —

(c) require the respondent to refrain, either temporarily or permanently, from the act, or course of action, that constitutes the contravention of, or failure to comply with, this Part; and

(d) preclude, for a period specified by the Appeal Tribunal, the respondent from carrying out any use or development in relation to the land in respect of which the failure to comply or contravention relates; and

- (e) require the respondent to make good the contravention or default in a manner, and within a period, specified by the Appeal Tribunal.
- (4) Any person with a legal or equitable interest in land to which an application under this section relates is entitled to appear and be heard in proceedings based on the application before a final order is made.
- (5) If, in proceedings under this section, the Appeal Tribunal is satisfied that, in order to preserve the rights or interests of parties to the proceedings or for any other reason, it is desirable to make a temporary order under this section, the Appeal Tribunal may at any time during those proceedings make such an order.
- (6) A temporary order –
  - (a) may be made on an *ex parte* application before a summons has been issued under subsection (2); and
  - (b) may be made subject to such conditions as the Appeal Tribunal thinks fit, including a condition that requires an undertaking by the applicant, not being a planning authority or the Crown, at whose instance the temporary order is granted to pay to the respondent any damages that the respondent may sustain because of the order; and
  - (c) is not to operate after the proceedings in which it is made are finally determined.

- (6A) An application for an order for payment of damages is to be made to the Appeal Tribunal.
- (6B) The Appeal Tribunal may order the applicant at whose instance the temporary order is granted to pay all or part of the damages, as determined by the Appeal Tribunal, that the respondent may sustain because of the order.
- (7) A person who contravenes, or fails to comply with, an order or a temporary order under this section is guilty of an offence.

Penalty: Fine not exceeding 500 penalty units.

- (8) Where the Appeal Tribunal makes an order under **subsection (3)(e)** and the respondent fails to comply with the order within the period specified by the Appeal Tribunal, the Commission or a planning authority may, by leave of the Appeal Tribunal, cause any work contemplated by the order to be carried out, and may recover the costs of that work, as a debt, from the respondent.
- (9) The Appeal Tribunal may, if it thinks fit, adjourn proceedings under this section in order to permit the respondent to make an application for a permit that should have been but was not made, or to remedy any other default.
- (10) The Appeal Tribunal may, on an application under this section, exercise the powers conferred on it by **section 62(1)** in relation to any use or development of land as if the application were a hearing of an appeal.

- (11) For the purposes of the *Tasmanian Civil and Administrative Tribunal Act 2020*, an application under this section is deemed to be an appeal.
- (12) The Appeal Tribunal must make such orders in relation to the costs of proceedings under this section as it thinks fit and in making such orders must take into account –
- (a) the result of the proceedings; and
  - (b) whether a party has raised frivolous or vexatious issues at the hearing; and
  - (c) whether any party has unnecessarily or unreasonably prolonged the hearing or increased the costs of it; and
  - (d) the capacity of the parties to meet an order for costs.
- (13) If the Appeal Tribunal is of the opinion that an application under this section is frivolous or vexatious, the Appeal Tribunal must dismiss the application and order the applicant to pay an amount determined by the Appeal Tribunal as being the costs of the proceedings in relation to the application and the costs of any person referred to in **subsection (3)(a)(ii)**.
- (14) An order under **subsection (12)** or **(13)** may be registered in a court having jurisdiction for the recovery of debts up to the amount ordered to be paid by or under the order.
- (15) Proceedings for the enforcement of an order under **subsection (13)** may be taken as if the order were a judgment of the court in which the order is registered.

- (16) Proceedings under this section may be commenced at any time within 24 months after the date of the alleged contravention of, or failure to comply with, a provision of this Part.

65. [This component has been omitted.]

***Division 4A – Enforcement by planning authorities***

**65A. Infringement notices**

- (1) An authorised officer may issue an infringement notice and serve it on a person if the officer reasonably believes that the person has committed an infringement offence.
- (2) An infringement notice may not be served on an individual who has not attained the age of 16 years.
- (3) An infringement notice –
  - (a) is to be in accordance with **section 14 of the *Monetary Penalties Enforcement Act 2005***; and
  - (b) is not to relate to more than 4 offences.
- (4) The regulations –
  - (a) may prescribe the penalty applicable to each infringement offence that is payable under an infringement notice; and
  - (b) may prescribe different penalties for bodies corporate and individuals.
- (5) The penalty prescribed for any infringement offence is not to exceed 20% of the maximum

penalty that could be imposed on an individual by a court in respect of the offence.

(6) In this section –

**"infringement offence"** means an offence against this Act, or the regulations, that is prescribed by the regulations to be an infringement offence.

**65B. Notice of intention to issue enforcement notice**

- (1) An authorised officer who reasonably believes a person has committed, is committing, or is about to commit, an offence against **section 57(4A)**, **section 63(3)** or **section 64(7)** may issue a notice (a **"notice of intention to issue an enforcement notice"**) in relation to the offence and serve it on the person.
- (2) A notice of intention to issue an enforcement notice in relation to an offence must –
  - (a) be in writing; and
  - (b) specify the provision to which the offence relates; and
  - (c) contain particulars of the offence that give adequate information as to the nature of the offence; and
  - (d) specify that it is proposed that an enforcement notice be issued in relation to the offence; and
  - (e) specify that representations may be made in relation to the offence to an authorised officer specified in the notice; and

- (f) specify that the representations may only be made in writing, delivered to an address specified in the notice, within the period specified in the notice.
- (3) The last day of a period specified under **subsection (2)(f)** in a notice of intention to issue an enforcement notice must not be sooner than 14 business days after the notice is served.
- (4) A person on whom a notice of intention to issue an enforcement notice is served may, within the period specified under **subsection (2)(f)** in the notice, make representations in writing to an address specified in the notice.
- (5) The planning authority must notify in writing an owner of land, in relation to which a notice of intention to issue an enforcement notice is served under **subsection (1)**, if the person on whom the notice is served is not the owner of the land.
- (6) A notice of intention to issue an enforcement notice in relation to a use or development of land may, as an alternative to being served in accordance with **section 84**, be served by affixing the notice to a building or structure on the land in a place where a person entering the land would be likely to see the notice.

## **65C. Enforcement notices**

- (1) An authorised officer who reasonably believes a person has committed, is committing, or is about to commit, an offence against **section 57(4A)**, ~~section 60ZB(1)~~, **section 63(3)** or **section 64(7)** may issue a notice (an **"enforcement notice"**)

in relation to the offence and serve it on the person.

(2) Subject to **subsection (3)**, an enforcement notice in relation to an offence may only be issued and served on a person if –

- (a) a notice of intention to issue an enforcement notice in relation to the same offence has been issued and served on the person under section 65B; and
- (b) the enforcement notice is issued and served after the end of the last day of the period specified under section 65B(2)(f) in the notice of intention to issue an enforcement notice; and
- (c) the authorised officer has considered any representations made under section 65B(4) by the person on whom the notice of intention to issue an enforcement notice was served.

(3) **Subsection (2)** does not apply in relation to an enforcement notice if the authorised officer issuing the notice reasonably believes that it is necessary that the notice be issued and served without delay –

- (a) so as to prevent the imminent commission of, or the continuation of, the offence to which the notice relates; and
- (b) because, were the offence to be committed or to continue to be committed –



- (i) damage might be caused to the property of another person; or
  - (ii) actions could not be taken easily or without significant expense to restore land or a building or other structure on land to the condition it was in before the offence was committed.
- (4) An enforcement notice issued and served on a person in respect of an offence must –
  - (a) be in writing; and
  - (b) specify the provision to which the offence relates; and
  - (c) contain particulars of the offence that give adequate information as to the nature of the offence; and
  - (d) inform the person of the person's rights under this Act to appeal against the notice; and
  - (e) specify the requirements, referred to in **section 65D**, that are imposed on the person.
- (5) The planning authority must notify in writing an owner of land, in relation to which an enforcement notice is served under **subsection (1)**, if the person on whom the enforcement notice is served is not the owner of the land.
- (6) An enforcement notice that imposes on a person a requirement, referred to in **section 65D**, that the person stop carrying out a use or

development on land may, as an alternative to being served in accordance with **section 84**, be served by affixing the notice to a building or structure on the land in a place where a person entering the land would be likely to see the notice.

- (7) An authorised officer may, by notice served on a person on whom an enforcement notice has been served under **subsection (1)**, withdraw the enforcement notice.
- (8) If an authorised officer withdraws under **subsection (7)** an enforcement notice in relation to land –
  - (a) a person may not be prosecuted for having failed to comply with the enforcement notice; and
  - (b) the authorised officer is to give notice in writing of the withdrawal of the enforcement notice to any owner of the land who was notified under **subsection (5)** in relation to the enforcement notice.

#### **65D. Requirements of enforcement notices**

- (1) An enforcement notice that is served on a person under **section 65C** may require the person to do any one or more of the following:
  - (a) not to commit, or to cease to commit, the offence to which the notice relates;

- (b) to take the action, specified in the notice, to remedy the consequences of the commission of the offence;
  - (c) to take all reasonable steps to ensure that a permit, or a planning compliance certificate, in relation to the land to which the notice relates is granted under this Act.
- (2) Without limiting the generality of the requirements that, under **subsection (1)**, may be imposed on a person by an enforcement notice, an enforcement notice may contain one or more of the following requirements:
- (a) that the person stop carrying out development of the kind specified in the notice;
  - (b) that the person stop carrying out a use of land that is specified in the notice;
  - (c) that the person demolish or remove a building or other structure, or any works carried out, on land owned or occupied by the person;
  - (d) that the person restore, so far as reasonably practicable, land, or a building or structure on land, to the condition it was in before development was carried out by the person;
  - (e) that the person do, or not do, an act, so as to ensure that development carried out by the person on land is in accordance with a State Policy, permit, major project

permit or planning scheme, that applies to the land.

- (3) If an enforcement notice served on a person under **section 65C** requires the person to ensure that work is carried out, the notice must specify the details of the work.
- (4) If an enforcement notice served on a person under **section 65C** requires the person –
  - (a) to refrain from doing an act, the notice must also specify –
    - (i) the period for which the requirement applies; or
    - (ii) that the requirement applies until the person is otherwise notified by an authorised officer; or
  - (b) to do an act, the notice must specify the period within which the act is required to be done.
- (5) An enforcement notice issued under **section 65C** may not contain a requirement in respect of a matter in relation to which, in accordance with **section 44(1)(a), (b) or (e) or 44(2)(a), (b) or (e) of the *Environmental Management and Pollution Control Act 1994***, an environment protection notice may be issued.
- (6) An enforcement notice may not be issued under **section 65C** in relation to land if the notice contains a requirement that is inconsistent with a requirement of an environment protection notice, issued under **section 44 of the *Environmental Management and Pollution Control Act 1994***, that applies in relation to the land.

- (7) An authorised officer who issues an enforcement notice under **section 65C** in relation to land, to which an environment protection notice issued under **section 44 of the *Environmental Management and Pollution Control Act 1994*** applies, must notify the Director, within the meaning of that Act, that the enforcement notice has been issued.

**65E. Offences and penalties in relation to enforcement notices**

- (1) A person must not, without reasonable excuse, contravene or fail to comply with a requirement imposed on the person by an enforcement notice, served on the person under **section 65C**, that is in force.

Penalty: Fine not exceeding 500 penalty units.

- (2) If a person is convicted of an offence against **subsection (1)** that relates to an enforcement notice, the court may order that the person pay to the planning authority the reasonable cost incurred by the authority in investigating or prosecuting (or both) either or both of the following offences:

- (a) the offence against **subsection (1)**;
- (b) the suspected offence in relation to which the enforcement notice was served.

- (3) If a person is convicted of an offence against **subsection (1)**, the court may order that –

- (a) the person is required to carry out, within the period specified in the order, work specified in the order; and
  - (b) if the person does not carry out the work within that period and the relevant planning authority carries out the work under **subsection (5)**, the person is liable to the planning authority for the reasonable costs incurred by the authority in carrying out the work.
- (4) The work that may be specified in an order under **subsection (3)** in relation to an offence against **subsection (1)**, committed in respect of a requirement imposed on a person by an enforcement notice served on the person under **section 65C**, is –
  - (a) work that the enforcement notice required to be carried out; or
  - (b) work that is required to be carried out, because a requirement specified in the enforcement notice was not complied with –

so as to ensure that a use or development is in accordance with a State Policy, the relevant planning scheme, permit, major project permit or determination.

- (5) If a court makes an order of a kind referred to in **subsection (3)** in relation to a person and the person does not, within the period specified in the order, carry out the work specified in the order, the relevant planning authority may carry out the work.

(6) A person, other than –

- (a) an authorised officer; or
- (b) the person on whom the enforcement notice has been served by affixing the notice to land –

must not, without lawful authority, damage, deface or remove an enforcement notice that has been affixed to land.

Penalty: Fine not exceeding 500 penalty units.

**65F. Notice of intention to cancel a permit to be issued before permit cancelled**

(1) If an authorised officer considers that there are grounds on which a permit in force in relation to land may be cancelled under **section 65G**, the authorised officer may issue a notice (a **"notice of intention to cancel a permit"**) and serve it –

- (a) on an owner of the land; or
- (b) on an occupier of the land and the owner of the land, if the grounds relate to the use or development of the land by the occupier.

(2) A notice of intention to cancel a permit must –

- (a) be in writing; and
- (b) specify that the planning authority is proposing to cancel the permit to which the notice relates; and

- (c) specify on which of the grounds, referred to in **section 65G**, it is proposed to cancel the permit; and
  - (d) contain particulars of the grounds on which it is proposed to cancel the permit, which particulars give adequate information as to why it is proposed to cancel the permit; and
  - (e) specify that representations may be made, to an authorised officer specified in the notice, in relation to the proposal to cancel the permit; and
  - (f) specify that the representations may only be made in writing, delivered to an address specified in the notice, within the period specified in the notice.
- (3) The last day of a period specified under **subsection (2)(f)** in a notice of intention to cancel a permit must not be sooner than 14 business days after the notice is served.
- (4) A person on whom a notice of intention to cancel a permit has been served may, within the period specified under **subsection (2)(f)** in the notice, make representations in writing to an address specified in the notice.
- (5) A notice of intention to cancel a permit in relation to a use or development of land may, as an alternative to being served in accordance with **section 84**, be served by affixing the notice to a building or structure on the land in a place where a person entering the land would be likely to see the notice.



## **65G. Cancellation of permits**

- (1) A planning authority may cancel a permit in relation to land in the municipal area of the authority by issuing and serving a notice (a **"notice of cancellation of permit"**) –
  - (a) on the owner of the land; or
  - (b) on the occupier of the land, if the grounds on which the permit is cancelled relate to the use or development of the land by the occupier.
- (2) A permit in relation to land may only be cancelled under **subsection (1)** on any one of the grounds referred to in this section.
- (3) A planning authority has grounds for cancelling a permit in relation to land if the authority is reasonably of the opinion that the owner, or occupier, on whom an enforcement notice that is in force and relates to the land has been served under **section 65C**, has failed to comply with, or has contravened, a requirement specified in the enforcement notice.
- (4) A planning authority has grounds for cancelling a permit if the authority is reasonably of the opinion that –
  - (a) the permit would not have been granted; or
  - (b) different conditions to the conditions, if any, it imposed on the permit would have been imposed –

if the applicant had not made a material misstatement of fact, or concealed material facts, in relation to the application for the permit.

(5) A planning authority may only cancel a permit in relation to land if –

(a) a notice of intention to cancel a permit has, under **section 65F**, been served on –

(i) the owner of the land; or

(ii) both the occupier and the owner of the land, if the occupier using or developing the land is not the owner of the land; and

(b) the permit is cancelled after the end of the last day of the period specified under **section 65F(2)(f)** in the notice of intention to cancel a permit; and

(c) the authorised officer has considered any representations made under **section 65F(4)** by the person or persons on whom the notice of intention to cancel a permit was served; and

(d) the permit is to be cancelled on the same grounds as the grounds specified under **section 65F(2)(c)** in the notice of intention to cancel a permit.

(6) A notice of cancellation of permit issued and served on a person must –

(a) be in writing; and

(b) specify the permit to which the notice relates; and

- (c) specify that the permit is cancelled by virtue of the service of the notice; and
  - (d) specify the grounds, referred to in this section, on which the permit is cancelled; and
  - (e) contain particulars of the grounds on which the permit is cancelled, which particulars give adequate information as to why the permit is cancelled; and
  - (f) inform the person of the person's rights under this Act to appeal against the decision to cancel the permit.
- (7) If a notice is served under **subsection (1)** on a person other than an owner of the land to which the notice relates, the planning authority must notify the owner in writing of the cancellation of the permit to which the notice relates.

#### **65H. Issue of notices where applications made to Tribunal**

- (1) If an application is made under **section 64** in relation to a contravention of, or failure to comply with, a provision of this Part, or a likely contravention of, or likely failure to comply with, a provision of this Part, a notice under this Division may not be issued and served on a person in relation to the contravention or failure until the application is determined by the Appeal Tribunal.
- (2) If –

(a) an application is made under **section 64** in relation to a contravention of, or failure to comply with, a provision of this Part, or a likely contravention of, or likely failure to comply with, a provision of this Part; and

(b) the Appeal Tribunal makes an order in relation to the contravention or failure –

a notice under this Division may not be issued and served on a person in relation to the contravention or failure unless a person contravenes, or fails to comply with, the order.

(3) If the Appeal Tribunal has determined, on an application under **section 64**, that a contravention of, or failure to comply with, a provision of this Part, or a likely contravention of, or likely failure to comply with, a provision of this Part, has not occurred, a notice under this Division may not be issued and served on a person in relation to the contravention or failure.

(4) If an appeal is made to the Appeal Tribunal under **section 61** in relation to a decision to issue to a person an enforcement notice under **section 65C** in relation to a contravention of, or failure to comply with, a provision of this Part, a notice under this Division may not be issued and served on the person in relation to the contravention or failure until the appeal is determined.

### ***Division 4B – Authorised officers***

#### **65I. Authorised officers**

- (1) [This component has been omitted.]
- (2) A general manager of a council may authorise a person to be, for the purposes of this Act, an authorised officer in respect of the municipal area of the council.
- (3) A general manager of a council is, for the purposes of this Act, an authorised officer in respect of the municipal area of the council.
- (4) An authorised officer in respect of the municipal area of a council may only exercise a power of an authorised officer under this Act for the purposes of the administration or enforcement of this Act in relation to land within the municipal area.
- (5) A police officer is an authorised officer for the purposes of this Act.

#### **65J. Powers of authorised officers**

- (1) An authorised officer may, if reasonably required for a purpose connected with the administration or enforcement of this Act, enter and inspect any place if –
  - (a) the occupier of the place consents to the officer's entry; or

- (b) the entry is made under a warrant issued under **section 65K**; or
  - (c) the place is a public place and the entry occurs when the place is open to the public.
- (2) An authorised officer may, if reasonably required for a purpose connected with the administration or enforcement of this Act –
  - (a) take photographs, films or audio, video or other recordings; or
  - (b) examine or test any air or thing from a place or require the thing to be examined or tested or provided to the officer for examination or testing.
- (3) An authorised officer may require a person to provide to the officer a document, or a copy of a document, in the possession of the person, if the document is reasonably required for a purpose connected with the administration or enforcement of this Act.
- (4) The documents that a person may be required under **subsection (3)** to provide include, but are not limited to including, a document in writing that reproduces in a comprehensible form information in the possession of the person that is stored by an electronic device, object or process.
- (5) An authorised officer may examine, copy or take extracts from a document provided in accordance with a requirement imposed under **subsection (3)** or found in the conduct of a search under this Act.

- (6) An authorised officer may require a person to provide information to the officer that is reasonably required for a purpose connected with the administration or enforcement of this Act.
- (7) An authorised officer may require a person to answer questions in relation to a matter.
- (8) An authorised officer may only require a person to answer questions in relation to a matter if –
  - (a) the questions relate to a matter in respect of which information is reasonably required for a purpose connected with the administration or enforcement of this Act; and
  - (b) the officer reasonably suspects the person may have the information.
- (9) An authorised officer may require a person who the officer reasonably suspects has committed, is committing, or is about to commit, an offence against this Act, to –
  - (a) state the person's full name, date of birth and usual place of residence; and
  - (b) produce evidence of the person's identity.

#### **65K. Entry and search warrants**

- (1) A magistrate may issue a warrant authorising an authorised officer to enter land, and any premises on land, that is land specified in the warrant.

- (2) A magistrate may issue a warrant under **subsection (1)** in relation to land, and any premises on land, if the magistrate is satisfied, on the application of an authorised officer, that there are reasonable grounds to believe –
- (a) that a contravention of, or failure to comply with, this Act has been, is being, or is about to be, committed on the land or the premises; or
  - (b) that an object may be found, in or on the land or the premises, that constitutes evidence of a contravention of, or failure to comply with, this Act.
- (3) The grounds for an application for a warrant must be verified by affidavit.
- (4) A warrant issued under **subsection (1)** must specify –
- (a) the offence to which the warrant relates; and
  - (b) a description of the land to which the warrant relates; and
  - (c) the kinds of evidential material that are to be searched for under the warrant; and
  - (d) the name of the authorised officer or officers who is or are to be responsible for executing the warrant; and
  - (e) the period for which the warrant remains in force, which is not to be more than 28 days from the date on which the warrant is issued; and



- (f) whether the warrant may be executed at any time or during particular hours; and
- (g) that the warrant authorises the seizure of a thing that is referred to in **paragraph (c)** or any other thing, that is found on the land, or premises on the land, in the course of the search and that the person executing the warrant believes on reasonable grounds to be –
  - (i) evidential material in relation to an offence to which the warrant relates; or
  - (ii) evidential material in relation to another offence –

if the officer believes on reasonable grounds that seizure of the thing is necessary to prevent its concealment, loss or destruction or its use in committing an offence.

(5) An application for the issue of a warrant may be made either personally or by telephone.

(6) If an application for a warrant is made by telephone –

- (a) the applicant must inform the magistrate of the applicant's name and that the applicant is an authorised officer; and
- (b) the applicant must inform the magistrate of the grounds on which the applicant seeks the warrant; and
- (c) if it appears to the magistrate from the information given by the applicant that

there are proper grounds for the issue of a warrant, the magistrate –

- (i) must inform the applicant of the facts on which the magistrate relies for the issue of a warrant; and
  - (ii) must not proceed to issue the warrant unless the applicant undertakes to make an affidavit verifying those facts; and
- (d) if the applicant gives the undertaking referred to in paragraph (c), the magistrate may then make out and sign a warrant, noting on the warrant the facts on which the magistrate relies as grounds for issue of the warrant; and
- (e) the warrant will be taken to have been issued, and will come into force, when signed by the magistrate; and
- (f) the magistrate must inform the applicant of the terms of the warrant; and
- (g) the applicant must, as soon as practicable after the issue of the warrant, forward to the magistrate an affidavit verifying the facts referred to in paragraph (c).

(7) In executing a warrant –

- (a) an authorised officer specified in the warrant may obtain the assistance that is necessary and reasonable in the circumstances; and

- (b) an authorised officer specified in the warrant may, if the officer is a police officer, use the force against persons and things that is necessary and reasonable in the circumstances.
- (8) An authorised officer must, as soon as practicable after executing a warrant –
  - (a) prepare a notice in the prescribed form containing –
    - (i) the officer's name and a statement that he or she is an authorised officer; and
    - (ii) the name of the magistrate who issued the warrant and the date and time of its issue; and
    - (iii) a description of the place to which the warrant relates and of the authority conferred by the warrant; and
  - (b) give the notice to the occupier or person apparently in charge of the land to which the warrant relates or leave it, on a prominent place on the land, for the occupier or person.
- (9) A warrant expires if it has not been executed by the end of 28 days after the day on which it was issued.

**65L. Additional requirements where persons not fluent, &c., in English**

- (1) A person is entitled to be assisted by an interpreter or other representative during any questioning conducted by an authorised officer in the course of investigating an offence against this Act, if the person is not reasonably fluent in English or able to comprehend spoken English.
- (2) As soon as the authorised officer becomes aware, or ought to have become aware, that **subsection (1)** applies in relation to a person, the officer may not question or further question the person until the person has been informed, in a manner that the person is likely to comprehend, that the person has the right to an interpreter, or another representative, chosen by the person, who is willing and able to assist the person.
- (3) If the person requests the assistance of an interpreter or other representative, the officer must not continue with the questioning, or further questioning, until an interpreter or other representative, chosen by the person and willing and able to assist the person, is present.

**65M. Obstruction, &c., of authorised officers and others**

- (1) A person must not –
  - (a) assault, resist, impede or obstruct an authorised officer, or a person assisting an authorised officer under **section 65K**, in the exercise of the officer's powers, or in the performance of the officer's functions, under this Act; or

- (b) use threatening, abusive or insulting language to an authorised officer, or a person assisting an authorised officer under **section 65K**, in the exercise of the officer's powers, or in the performance of the officer's functions, under this Act; or
- (c) fail to comply with a requirement imposed on the person under **section 65J**; or
- (d) provide false or misleading information when required to provide information under **section 65J**; or
- (e) impersonate an authorised officer.

Penalty: Fine not exceeding 40 penalty units.

- (2) If a person is convicted by a court of an offence against **subsection (1)(c)** of failing to comply with a requirement, the court may order the person to comply with the requirement.

### ***Division 5 – Compensation and protection from liability***

#### **66. Right to compensation**

- (1) The owner or occupier of any land may claim compensation in accordance with Part 5 of the ***Land Acquisition Act 1993*** from a planning authority for financial loss suffered as the natural, direct and reasonable consequence of –
  - (a) the land being set aside for a public purpose under a planning scheme; or
  - (b) the land being shown as set aside for a public purpose in a proposed amendment

of an LPS which has been publicly exhibited under **section 40H**; or

(c) access to land being restricted by the closure of a road by a planning scheme.

- (2) The owner or occupier of any land may claim compensation from a planning authority for financial loss suffered as the natural, direct and reasonable consequence of a failure by the authority to grant a permit for the land on the ground that the land is or will be needed for a public purpose.
- (3) A person cannot claim compensation under **subsection (1)** if the planning authority has purchased or compulsorily acquired the land or part of the land.
- (4) Where a person would be entitled to claim compensation in respect of any matter or thing under this Division and also under any other enactment, the person is not entitled to receive compensation both under this Division and under the other enactment, nor to receive any greater compensation under this Division than the person would be entitled to receive under the other enactment.

#### **67. Power to withdraw or modify planning scheme or interim order after compensation determined**

- (1) At any time within one month after the determination of the compensation payable under **section 66**, the planning authority may give notice to the claimant of its intention to withdraw or modify all or any of the provisions

of the planning scheme which gave rise to the claim for compensation.

(2) Not later than 3 months after giving notice, the planning authority must –

(a) where the notice relates to a planning scheme, submit for the approval of the Commission an amendment of the planning scheme, prepared in accordance with **Part 3B**, carrying into effect the withdrawal or modification; and

(b) [This component has been omitted.]

(3) On the coming into operation of the amendment of the planning scheme, and on payment by the planning authority of the claimant's costs of and in connection with the making of the claim or the award of compensation, as the case may be, the judgment, order or award for payment of compensation is to be discharged, as prescribed, without prejudice to the right of the claimant to make a further claim for compensation under this Division in respect of the planning scheme as amended.

## **68. Enforcement of judgments, &c., for compensation**

Compensation under this Division is not to be enforced before the expiration of one month from the date of the determination under **section 66** or, if a notice has been given by the planning authority under **section 67(1)**, until after the expiration of 3 months from the date of the notice or, if within that period a variation of the scheme is submitted to the Commission, until

that variation has either come into operation or been disapproved by the Commission.

**69. Indemnification of planning authorities for liability to pay compensation**

- (1) Where an entitlement to compensation under this Division arises out of the inclusion in a planning scheme, at the written request, or with the written consent, of a relevant agency, of a provision reserving land for a public purpose, the planning authority is entitled to be indemnified by the State or the relevant agency, as the case requires, for the payment of that compensation.
- (2) Any sum to which an authority is entitled under **subsection (1)** may be recovered as a debt due to the planning authority in any court of competent jurisdiction.

**69A. Protection from liability in respect of bushfire hazard management plans, &c.**

A planning authority does not incur any liability for, or in respect of, anything done, or omitted to be done, in accordance with –

- (a) a bushfire hazard management plan, or other prescribed management plan relating to environmental hazards or natural hazards, that has been approved by an accredited person; or
- (b) a certificate issued by an accredited person or a State Service Agency stating that there is insufficient increase in risk



from the environmental hazard or natural hazard to warrant any specific protection measures.

consultation mark-up

## **Part 5 – Agreements**

### **70. Interpretation: Part 5**

In this Part –

**"infrastructure"** includes services, facilities, works and other uses and developments which provide the basis for meeting economic, social and environmental needs;

**"Recorder"** means the Recorder of Titles.

### **71. Planning authority may enter into agreements**

- (1) A planning authority may enter into an agreement with an owner of land in the area covered by a planning scheme.
- (2) A planning authority may enter into the agreement on its own behalf or jointly with any other person.
- (3) A planning authority may enter into an agreement under **subsection (1)** with a person in anticipation of that person becoming the owner of the land.
- (4) The planning authority is not entitled to apply to have the agreement referred to in **subsection (3)** registered under **section 78** until the person becomes the owner of the land but the agreement is binding on the parties.
- (5) An agreement is binding on the parties to the agreement on the day on which it is executed.

## 72. Form and contents of agreement

- (1) An agreement must be under seal and binds the owner to the covenants specified in the agreement.
- (2) An agreement may provide for any one or more of the following matters:
  - (a) the prohibition, restriction or regulation of use or development;
  - (b) the conditions subject to which a use or development may be undertaken;
  - (c) any matter intended to achieve or advance –
    - (i) the objectives listed in **Schedule 1** ; or
    - (ii) any State Policy or draft State Policy upon which a report has been submitted to the Minister in accordance with section 11 (1) of the *State Policies and Projects Act 1993*; or
    - (iii) the objectives of the planning scheme, the SPPs or an LPS, a draft of the SPPs or LPS which has been publicly exhibited under this Act or any amendment of the SPPs or LPS which has been publicly exhibited under this Act;
  - (d) any matter incidental to any one or more of the matters referred to in **paragraphs (a) to (c)**.

### **73. Bonds and guarantees**

- (1) An agreement may include a condition that the owner is to deposit with the planning authority –
  - (a) a sum of money fixed by or determined in accordance with the agreement; or
  - (b) an undertaking to pay that sum together with security in a form determined by or in accordance with the agreement.
- (2) The agreement may provide that the sum or part of the sum is forfeited if there is any failure by the owner to carry out the agreement to the satisfaction of the planning authority.
- (3) Any money paid must be returned to the owner on a date or dates specified in the agreement to the extent that it has not been forfeited.
- (4) Any money payable under this section is a charge on any land which is the subject of the agreement.

### **73A. Payments and contributions for infrastructure**

- (1) An agreement may include a provision for a payment or other contribution for infrastructure to be made by any party to the agreement.
- (2) Without limiting **subsection (1)**, an agreement may make provision –
  - (a) for a payment or other contribution for infrastructure to be made in stages; or
  - (b) for works or other development to be undertaken by the owner on behalf of the

planning authority or any other party to the agreement.

- (3) The matters provided for under section 86 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* may be dealt with in whole or in part under an agreement required –
  - (a) as a condition of a permit; or
  - (b) under the provisions of a planning scheme.

#### **74. Duration of agreement**

- (1) An agreement may provide that the agreement or any specified provision of the agreement comes into operation on or after –
  - (a) the coming into operation of a specified amendment of an LPS; or
  - (b) the granting of a permit permitting use or development for a specified purpose; or
  - (c) the happening of a specified event; or
  - (d) a specified time; or
  - (e) the start or completion of a use or development or a specified part of a use or development.
- (2) An agreement may provide that the agreement ends on or after –
  - (a) the happening of any specified event; or
  - (b) a specified time; or

- (c) the cessation of a use or development for a specified purpose.
- (3) An agreement may be ended by the planning authority with the approval of the Commission or by agreement between the authority and all persons who are bound by any covenant in the agreement.

#### **75. Amendment of agreements**

An agreement may be amended by agreement between the planning authority and all persons who are bound by any covenant in the agreement.

#### **76. Agreement to be lodged with Commission**

- (1) The planning authority must lodge a copy of an agreement at the office of the Commission without delay after the agreement is made.
- (2) The planning authority must keep a copy of each agreement, indicating any amendment made to it, available at its office for any person to inspect during office hours free of charge.

#### **77. Agreement may not breach planning scheme**

An agreement must not require or allow anything to be done which would contravene or not comply with a planning scheme, a permit or a major project permit.

## **78. Registration of agreements, &c.**

- (1) A planning authority may lodge with the Recorder an executed copy of an agreement, together with particulars of title to the land to which the agreement relates and must do so if it has made the agreement with an owner of land in respect of which a determination under section 4(1)(c) of the *Crown Lands (Shack Sites) Act 1997* has been made.
- (2) Where an agreement is registered, the planning authority must, as soon as practicable, lodge with the Recorder notification, in a form approved by the Recorder, of the amendment or ending of the agreement, together with particulars of title to any land to which the agreement relates.
- (3) Subject to the provisions of the *Land Titles Act 1980*, the Recorder must register –
  - (a) each agreement; and
  - (b) each notification of the amendment or ending of the agreement –lodged pursuant to **subsection (1) or (2)** on the folio of the Register, within the meaning of that Act, constituting the title to any land to which the agreement relates.
- (4) If the whole or any part of the land referred to in **subsection (3)** is not under the *Land Titles Act 1980*, the relevant agreement may be dealt with by the Recorder in the same manner as if it were a conveyance on sale within the meaning of section 28 (1) (a) of that Act.

- (5) The Recorder may require the planning authority to deposit with the Recorder –
  - (a) a plan of any land; or
  - (b) a plan of a part of any land –to which an agreement relates.
- (6) For the purpose of **subsection (5)**, the Recorder may require a plan to be made from actual survey and certified correct by a surveyor who is registered under the *Land Surveyors Act 1909*.

#### **79. Effect of registration of agreements, &c.**

After the registration of an agreement under **section 78** –

- (a) the burden of any covenant in the agreement runs with the land to which the agreement relates as if it were a covenant to which **section 102 (2)** of the *Land Titles Act 1980* applies; and
- (b) the agreement is enforceable between the parties to it, and any person deriving title under any such party, as if the agreement were entered into by a fee simple owner of land for the benefit of adjacent land held by the Crown in fee simple that was capable of being benefited by the agreement and as if that adjacent land continued to be so held by the Crown.



## **80. Application to Appeal Tribunal**

- (1) An owner of land may apply to the Appeal Tribunal for an amendment to a proposed agreement if –
  - (a) under a planning scheme, use or development for specified purposes is conditional upon an agreement being entered into under this Part; and
  - (b) the owner objects to any provision of the agreement.
- (2) The Appeal Tribunal may approve the proposed agreement with or without amendments.
- (3) For the purposes of the *Tasmanian Civil and Administrative Tribunal Act 2020*, an application under this section is deemed to be an appeal.

### **80A. Validation of agreements**

An agreement in existence immediately before the commencement of the *Land Use Planning and Approvals Amendment Act (No. 2) 1995* is valid and effectual and is always taken to be valid and effectual.

## **Part 6 – Miscellaneous**

### ***Division 1 – Electronic database and documents***

#### **80J. Interpretation of Division 1**

In this Division –

**"authorised version"**, in relation to –

- (a) an electronic planning instrument, means a version of the instrument that is an authorised version under **section 80M(1)**; and
- (b) an electronic policy instrument, means a version of the instrument that is an authorised version under **section 80M(3)**;

**"database"** means the database established under **section 80K**;

**"electronic planning instrument"** has the meaning it has in **section 80K(2)**;

**"electronic planning map"**, in relation to an authorised version of an electronic planning instrument, or electronic policy instrument, at a particular date, means an electronic map in relation to the version, consisting of the following electronic layers as at the particular date:

- (a) the electronic zoning map;
- (b) a layer of cadastral data, on the LIST database, that relates to the

area to which the electronic zoning map relates;

- (c) a layer of topographic data, on the LIST database, that relates to the area to which the electronic zoning map relates;

**"electronic policy instrument"** means any of the following documents that are included on the database under **section 80K(4)**:

- (a) a State Policy;
- (b) a planning directive;
- (c) a regional land use strategy;
- (d) any prescribed planning policy document;

**"electronic zoning map"** means an electronic version, of a zoning map, that is kept on the database;

**"LIST database"** means a database maintained by the Land Information System Tasmania;

**"planning markings"**, in relation to a map, means the markings on the map that indicate different zones or other planning requirements and includes any key, attribute table, or metadata, that is associated with the map and is necessary to interpret the map;

**"prescribed planning policy document"** means a document of a class of

documents that is prescribed for the purposes of **section 80K(4)(d)**;

**"zoning map"** means the planning markings contained on a map.

#### **80K. Database**

- (1) The Commission must establish and maintain a database containing the legislative history of the electronic planning instruments.
- (2) For the purposes of this Division, the electronic planning instruments are –
  - (a) the historical planning instruments; and
  - (b) the SPPs, as in force as part of the Tasmanian Planning Scheme from time to time; and
  - (c) each planning scheme, as in force from time to time in relation to a municipal area or a part of a municipal area.
- (d) [This component has been omitted.]
- (e) [This component has been omitted.]
- (2A) For the purposes of **subsection (2)(a)**, the historical planning instruments are such of the following documents as were or are prescribed before or after the day on which section 10 of the Tasmanian Planning Scheme Amendment Act commences:
  - (a) each instrument that was, under this Act as in force before that day, a planning

scheme or special planning order, including such a scheme or order as amended under this Act after that day;

- (b) each dispensation, granted under section 30W of this Act as in force immediately before 1 January 2015, that is in force.

- (3) For the purposes of subsection (1), the legislative history of an electronic planning instrument is –

- (a) a version of the instrument showing the instrument as it was at the date when it came into force; and
- (b) a subsequent version of the electronic planning instrument, for each period when the electronic planning instrument differs from a previous version of the instrument because the subsequent version incorporates –
  - (i) an amendment, if any, as in force during the period, made under this Act to the instrument; or
  - (ii) an alteration, if any, as in force during the period, made under section 80O to the instrument –

that was an amendment or alteration that was not in force in the period in which the previous version was in force.

- (4) The Commission may include on the database the legislative history of the following documents, as in force from time to time:

- (a) State Policies;

- (b) planning directives;
  - (c) regional land use strategies;
  - (d) any other document of a legislative or policy character that is a member of a class of documents that is prescribed for the purposes of this paragraph.
- (5) For the purposes of **subsection (1)**, the legislative history of an electronic policy instrument is –
- (a) a version of the electronic policy instrument showing the instrument as it was at the date when it came into force; and
  - (b) a subsequent version of the electronic policy instrument, for each period when the electronic policy instrument differs from a previous version of the instrument because the subsequent instrument incorporates –
    - (i) in the case of a planning directive or regional land use strategy – an amendment, as in force during the period, made under this Act; or
    - (ii) in the case of a State Policy or any prescribed planning policy document – an amendment, as in force during the period, made by the person or body that made the State Policy or document –

that was an amendment that was not in force in the period in which the previous version was in force.

- (6) The Commission is to be taken to comply with **subsection (1)** in relation to a map ("**the original map**") forming part of a planning scheme, special planning order or dispensation, as in force at any time, if the Commission establishes and maintains, as part of the database, an electronic zoning map that replicates the planning markings on the original map, as in force at that time, whether or not the Commission also establishes and maintains, as part of the database, a map that exactly replicates the original map in other respects apart from the planning markings on the original map.
- (7) The Minister, by notice, may prescribe for the purposes of this section –
  - (a) an instrument that was, under this Act as in force before the day on which section 10 of the Tasmanian Planning Scheme Amendment Act commenced, a planning scheme or special planning order, including such a scheme or order as amended under this Act after that day; and
  - (b) each dispensation, granted under section 30W of this Act as in force immediately after 1 January 2015, that is in force.

#### **80L. Back-up database to be kept**

- (1) The Commission must produce, or cause to be produced, copies of the database in electronic form and cause those copies to be held securely in a place separate from the place at which the database is held.

- (2) Copies of the database produced under subsection (1) are to be treated for all purposes as if they were the database.

#### **80M. Authorised versions**

- (1) If a version of an electronic planning instrument that is on the database specifies that it is the authorised version of the Tasmanian Planning Scheme, a planning scheme, special planning order or dispensation at a particular date, the version on the database (together with any electronic planning map in relation to the version) is to be taken to be, for the purposes of this Act, the authorised version of the Tasmanian Planning Scheme, or that planning scheme, special planning order, or dispensation, as in force at that date.
- (2) The authorised version of the Tasmanian Planning Scheme, a planning scheme, special planning order or dispensation at a particular date is to be taken to be, in all circumstances and for all purposes, the Tasmanian Planning Scheme, the planning scheme, special planning order, or dispensation, as in force at that date.
- (3) If a version of an electronic policy instrument that is on the database specifies that it is the authorised version of a State Policy, planning directive, regional land use strategy, or prescribed planning policy document, at a particular date, the version on the database (together with any electronic planning map in relation to the version) is to be taken to be, for the purposes of this Act, the authorised version



of that Policy, directive, strategy or document at that date.

- (4) The authorised version of a State Policy, planning directive, regional land use strategy, or prescribed planning policy document, at a particular date is to be taken to be, in all circumstances and for all purposes, the Policy, directive, strategy or document as in force at that particular date.

#### **80N. Certified copies of authorised versions**

- (1) The Commission may approve the production of copies, in electronic or printed form, of –
  - (a) an authorised version of an electronic planning instrument, or of an electronic policy instrument, at a particular date; or
  - (b) selected provisions of an authorised version of an electronic planning instrument, or selected provisions of a version of an electronic policy instrument, at a particular date.
- (2) A copy of an authorised version of an electronic planning instrument that is produced in accordance with an approval under **subsection (1)** is to include a certificate, displaying the signature of the Executive Commissioner, indicating that –
  - (a) the copy is a copy of the authorised version of the electronic planning instrument at the particular date specified in the certificate; and

- (b) the electronic planning instrument incorporates –
  - (i) all amendments, if any, as in force at the particular date specified in the certificate, made under **Part 3** to the instrument; and
  - (ii) all alterations, if any, as at the particular date specified in the certificate, made under **section 80O** to the instrument.
- (3) A copy of selected provisions of an authorised version of an electronic planning instrument that is produced in accordance with an approval under **subsection (1)** is to include a certificate, displaying the signature of the Executive Commissioner, indicating that –
  - (a) the copy is a copy of the selected provisions of the authorised version at the particular date specified in the certificate; and
  - (b) the copy of the selected provisions incorporates –
    - (i) all amendments, if any, as in force at the particular date specified in the certificate, made under **Part 3** to the instrument; and
    - (ii) all alterations, if any, as at the particular date specified in the certificate, made under **section 80O** to the instrument.

(4) A copy of an authorised version of an electronic policy instrument that is produced in accordance with an approval under **subsection (1)** is to include a certificate, displaying the signature of the Executive Commissioner, indicating that –

(a) the copy is a copy of the authorised version of the electronic policy instrument at the particular date specified in the certificate; and

(b) the electronic policy instrument incorporates all amendments, if any, as in force at the particular date specified in the certificate, made to the selected provisions –

(i) in the case of a planning directive or regional land use strategy – under this Act; or

(ii) in the case of a State Policy or a prescribed planning policy document – by the person or body that made the State Policy or document.

(5) A copy of selected provisions of an authorised version of an electronic policy instrument that is produced in accordance with an approval under **subsection (1)** is to include a certificate, displaying the signature of the Executive Commissioner, indicating that –

(a) the copy is a copy of the selected provisions of the authorised version of the selected provisions at the particular date specified in the certificate; and

- (b) the copy of the selected provisions incorporates all amendments, if any, as in force at the particular date specified in the certificate, made to the selected provisions of the authorised version –
  - (i) in the case of a planning directive or regional land use strategy – under this Act; or
  - (ii) in the case of a State Policy or a prescribed planning policy document – by the person or body that made the State Policy or the document.
- (6) The Executive Commissioner may charge a person a fee for the provision to the person of a copy under this section.
- (7) A copy ("**the first copy**") of an authorised version of an electronic planning instrument or an electronic policy instrument, at a particular date, that is provided under this section is not to be taken to be materially different from another copy ("**the second copy**") of the authorised version, as at the same date, provided under this section, by reason only that the first copy contains a copy, of an electronic planning map, that displays different information from that displayed in the second copy, because of the scale at which the map is reproduced.

#### **800. Commission may alter authorised versions of electronic planning instruments**

- (1) The Commission may alter an authorised version of an electronic planning instrument –

- (a) so as to correct an error in the version as to spelling, punctuation, order of provisions, cross-referencing, numbering, format or printing; or
  - (b) so as to make references to one gender include references to the other gender; or
  - (c) so as to replace a reference in the scheme to a body, office, person, place or thing with a reference to another body, office, person, place or thing that has replaced the body, office, person, place or thing; or
  - (d) so as to leave out from the version any provision that is spent, has expired or has otherwise ceased to have effect or that is a provision of a saving, transitional or validating nature that only applies to a time or event that has passed.
- (2) The Commission may authorise the alteration of an electronic zoning map forming part of an authorised version of an electronic planning instrument or an authorised version of an electronic policy instrument, so as to –
- (a) maintain alignment between that map and a layer of cadastral data on the LIST database, a layer of topographic data on the LIST database or another layer of data on the LIST database; or
  - (b) modify the technical characteristics of the map, such as attribute tables and metadata, providing that the planning markings are not altered (except in so far as **paragraph (a)** applies); or

- (c) correct errors arising from the electronic characteristics of the electronic planning map, including gaps in data or overlaps in data; or
  - (d) improve the clarity of the electronic planning map, including by altering any colours or symbols used on the map.
- (3) Unless the planning scheme or special planning order indicates a contrary intention, an alteration under this section to planning markings consisting of –
  - (a) a zone boundary set out in an electronic zoning map; or
  - (b) any other line, that –
    - (i) is set out in an electronic zoning map; and
    - (ii) separates an area, to which provisions of the planning scheme or special planning order are to have a particular effect, from another area in relation to which provisions of the scheme or order are to have a different effect –

is to be such that the zone boundary or other line follows the boundaries of parcels of land as shown on a layer of cadastral data on the LIST database.

## **80P. Offences**

- (1) A person must not falsely include in a document, that purports to be a copy of –

- (a) an authorised version of an electronic planning instrument or of an electronic policy instrument; or
- (b) selected provisions of such an authorised version –

a certificate that purports to be a certificate under **section 80N**.

Penalty: Fine not exceeding 100 penalty units.

- (2) A person must not falsely represent that a document is a copy of –

- (a) an authorised version of an electronic planning instrument; or
- (b) an authorised version of an electronic policy instrument –

that has been produced by the Commission under **section 80N**.

Penalty: Fine not exceeding 100 penalty units.

- (3) A person must not falsely represent that a document is a copy of –

- (a) an authorised version of an electronic planning instrument; or
- (b) an authorised version of an electronic policy instrument.

Penalty: Fine not exceeding 100 penalty units.

**80Q. Documents, submissions, &c., may be issued or made electronically**

- (1) A relevant person ("**the receiver**"), by notice to another relevant person ("**the sender**"), may advise the sender of an electronic method by which a relevant document, required or permitted to be given under this Act to the receiver by the sender, may be given to the receiver by the sender.
- (2) If under this Act a relevant document is required or permitted to be given to a relevant person ("**the receiver**") by another relevant person ("**the sender**"), the document may be given by the sender by an electronic method that is specified by the receiver in a notice to the sender under **subsection (1)**.
- (3) A relevant person may specify on a website of the relevant person an electronic method by which a submission in relation to a matter may be made to the relevant person by another person.
- (4) If under this Act a submission in relation to a matter may be given to a relevant person by another person, the submission may be made to the relevant person by the other person by transmitting the submission by an electronic method specified in relation to the matter under **subsection (3)** by the relevant person.
- (5) A reference in this section to the giving of a relevant document includes a reference to the issuing, provision or service, or other means of delivery, of the document.



(6) If a relevant document, referred to in a provision of this Act, may be given by a person in accordance with this section, a reference in a provision of this Act to a signature of a person on the document is to be taken to include a reference to an electronic signature, of the person, on the document.

(7) In this section –

**"relevant document"** means –

- (a) a notice (including a notice in writing and a planning purposes notice), direction (including a direction in writing), declaration and invitation; and
- (b) a draft planning scheme, draft interim planning scheme, planning scheme, interim planning scheme, draft amendment to a planning scheme and a draft amendment to an interim planning scheme, in each case within the meaning of this Act as in force before the day on which section 10 of the Tasmanian Planning Scheme Amendment Act commenced; and
- (ba) a draft of the SPPs, a draft amendment of the SPPs, a draft LPS and a draft amendment of an LPS; and
- (c) a permit, a special planning permit and a dispensation; and

- (d) a statement, submission, recommendation, modification, requirement, application, approval, report and any other document (including a document specified in a provision of this Act to be a document in writing);

**"relevant person"** means –

- (a) the Minister; and
- (b) the Commission; and
- (c) a planning authority.

### ***Division 2 – Other matters***

#### **81. Reasons for extending period to be given**

Where the Minister or the Commission extends the period for the doing of any act or thing under this Act, the Minister or the Commission, as the case may be, must, when required to do so by any person, give to that person, in writing, the reasons for extending the period.

#### **81AA. Correction of mistakes**

- (1) The Commission may correct a decision made by the Commission under this Act if the decision contains –
  - (a) a clerical mistake or an error arising from any accidental slip or omission; or

- (b) an evident material miscalculation of figures or an evident material mistake in the description of any person, thing or property referred to in the decision.
- (2) Despite **subsection (1)**, a correction of a decision of the Commission may not be made under that subsection in relation to so much of the decision as consists of –
  - (a) a draft LPS, if an LPS in the terms of the draft LPS, or the draft LPS as modified, has come into effect under **section 35M**; or
  - (b) a draft amendment of an LPS, if an amendment of an LPS in the terms of the draft amendment, or the draft amendment as modified, has come into effect under **section 40S**; or
  - (c) a draft interim planning scheme under the former provisions, within the meaning of **Schedule 6**; or
  - (d) a draft amendment of a planning scheme under the former provisions, within the meaning of **Schedule 6**, if an amendment of the planning scheme in the terms of the draft amendment, or the draft amendment as modified, has come into effect under section 42 of the former provisions.

**81A. Planning schemes, &c., to be registered in Central Plan Register**

Within 14 days of approving or amending a planning scheme (other than a planning scheme prescribed for the purpose of **section 80K**), the Commission must cause a copy of the planning scheme or amendment to be registered in the Central Plan Register.

**82. Evidentiary provision**

(1) Evidence of –

- (a) a planning scheme (other than a planning scheme prescribed for the purpose of **section 80K**); or
- (b) a special planning order (other than a special planning order prescribed for the purpose of **section 80K**); or
- (c) a permit or a major project permit; or
- (d) a dispensation from a provision of an interim planning scheme (other than a scheme that is prescribed for the purpose of **section 80K**) –

may be given in any court or tribunal, or before any person acting judicially, by the production of a document purporting to be a copy of the planning scheme, special planning order, permit or major project permit and purporting to be certified as a true copy by a person authorised, in writing, by the Commission or planning authority, as the case may require.

(2) Evidence of the provisions of –

- (a) a planning scheme, or special planning order, prescribed for the purpose of **section 80K**; or
- (b) a dispensation from a provision of an interim planning scheme that is prescribed for the purpose of **section 80K** ; or
- (c) an electronic planning policy instrument within the meaning of **section 80J** –

may be given in any court or tribunal, or before any person acting judicially, by the production of a copy, of the provisions of the scheme, order, dispensation, or electronic policy instrument, produced under **section 80N**.

**82A. Validation**

(1) In this section –

**"extension"** means the extension purportedly granted under **section 53(5A)** by the Dorset council on **16 August 2006**, in respect of the permit;

**"permit"** means the permit granted on **21 December 2004** by the Dorset council for the development of a wind farm at Musselroe.

- (2) The extension is taken to be valid and effectual and to have always been valid and effectual.
- (3) The permit is taken to be valid and effectual and to have always been valid and effectual.

**82B. Certain instruments and notices are not statutory rules**

The following are not statutory rules for the purposes of the *Rules Publication Act 1953*:

- (a) a draft of the SPPs, the SPPs, a draft amendment of the SPPs and an amendment of the SPPs;
- (b) a draft of an LPS, an LPS, a draft amendment of an LPS and an amendment of an LPS;
- (c) a notice under *Part 3, 3A or 3B*.

**83. Planning schemes, &c., to be judicially noticed**

A planning scheme, a permit or a major project permit is a public document of which a court or tribunal or person acting judicially must take judicial notice, without formal proof of its contents.

**84. Service of notices or other documents**

A notice or other document is effectively served under this Act if –

- (a) in the case of a natural person, it is –
  - (i) given to the person; or
  - (ii) left at, or sent by post to, the person's postal or residential address or place or address of business or employment last

known to the server of the notice or other document; or

(iii) sent by way of facsimile to the person's facsimile number; and

(b) in the case of any other person, it is –

(i) left at, or sent by post to, the person's principal or registered office or principal place of business; or

(ii) sent by way of facsimile to the person's facsimile number.

## **85. Recovery of fees by municipalities**

The power of a municipality to make by-laws under the *Local Government Act 1993* includes the power to make by-laws for or with respect to the recovery of fees paid by the municipality in relation to requests for the amendment of an LPS made to it under this Act.

## **86. Requirement to pay fees**

The Commission, the Appeal Tribunal or a planning authority is not required to take any action under this Act, and any application, appeal, submission, representation or document which is lodged under this Act is not valid, unless any requirements imposed by regulations made under *section 87*, or by-laws referred to in *section 85* or any imposition under *section 205 of the Local Government Act 1993*, as to the payment of fees in respect of the taking of that

action or the lodging of that application, appeal, submission, representation or document have been complied with.

#### **86A. Review of Act**

- (1) The Minister, as soon as practicable after the fourth anniversary of the commencement of section 10 of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015*, is to review the operation of the amendments to this Act made by that Act.
- (2) The Minister is to cause a report on the outcome of the review to be tabled in each House of Parliament within 10 sitting-days of that House after the review is completed.

#### **87. Regulations**

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Without limiting the generality of **subsection (1)**, regulations under this section may –
  - (a) make provision for or with respect to the procedures to be adopted by the Commission and planning authorities; and
  - (b) make provision for or with respect to –
    - (i) the payment and collection of fees by any person (including a planning authority) in relation to



any act, matter or thing done or arising under this Act; and

(ii) the remission of, or exemption from liability for, any such fees; and

(c) be of general or specially limited application; and

(d) authorize any act, matter or thing in relation to which the regulations may be made to be from time to time determined, applied or regulated by such person as is specified in the regulations, being the Minister, the Commission or another person performing duties under this Act.

(3) Without limiting the generality of **subsection (1)**, regulations under this section may make provision for or with respect to the institution, hearing and determination of civil enforcement proceedings under **section 64**.

(4) Regulations under this section may be made subject to such conditions, or be made so as to apply differently according to such factors as may be specified in the regulations or according to such limitations or restrictions, whether as to time or circumstance or otherwise, as may be so specified.

(5) Regulations under this section may –

(a) provide that a contravention of, or a failure to comply with, any of the regulations is an offence; and

(b) in respect of such an offence, provide for the imposition of a fine not exceeding 10

penalty units and, in the case of a continuing offence, a further fine not exceeding one penalty unit for each day during which the offence continues.

- (6) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.
- (7) A provision referred to in subsection (6) may, if the regulations so provide, take effect from the commencement of this Act or a later date.

**87A. Savings and transitional**

The savings and transitional provisions specified in Schedule 4 have effect.

**87B. Savings and transitional – *Land Use Planning and Approvals Amendment (Streamlining of Process) Act 2014***

The savings and transitional provisions specified in Schedule 5 have effect.

**87C. Savings and transitional – *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015***

The savings and transitional provisions specified in Schedule 6 have effect.

**87D. Savings and transitional – *Land Use Planning and Approvals Amendment (Tasmanian Planning Policies and Miscellaneous Amendments) Act 2018***

The savings and transitional provisions specified in **Schedule 7** have effect.

**87E. Savings and transitional – *Building and Construction (Regulatory Reform Amendments) Act 2020***

The savings and transitional provisions specified in **Schedule 8** have effect.

**87F. Savings and transitional – *Land Use Planning and Approvals Amendment (Major Projects) Act 2020***

The savings and transitional provisions specified in **Schedule 9** have effect.

**87G. Savings and transitional – *Building and Construction (Regulatory Reform Amendments) Act (No. 2) 2020***

The savings and transitional provisions specified in **Schedule 10** have effect.

**87H. Savings and transitional – *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Modification) Act 2021***

(1) In this section –

**"amending Act"** means the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Modification) Act 2021*;

**"amendment day"** means the day on which the amending Act commences.

(2) Until a direction, if any, referred to in **subsection (3)** is given in relation to a draft LPS –

- (a) the amendments made by the amending Act to **sections 35K** and **35L**, and **section 35KB** as inserted by the amending Act, do not apply; and
- (b) the provisions of this Act, as in force before the amendment day, apply –

in relation to a draft LPS in relation to which a direction has, before the amendment day, been given under section 35K(1)(c)(ii), as in force immediately before that day.

(3) The Commission may, by notice to a planning authority that has submitted to the Commission under **section 35(1)** a draft LPS in relation to which a direction has, before the amendment day, been given under section 35K(1)(c)(ii), as in force immediately before that day, declare that any one or more of the following applies in relation to the draft LPS:

- (a) the amendments made, by the amending Act, to **section 35K**;
- (b) the amendments made, by the amending Act, to **section 35L**;

- (c) **section 35KB**, as inserted by the amending Act.
- (4) The amendments to **section 51** made by the amending Act apply in relation to an application for a permit that has not been determined by a planning authority before the day on which the amendments come into effect.

## **88. 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 Environment and Land Management; and
- (b) the Department responsible to the Minister for Environment and Land Management in relation to the administration of this Act is the Department of Environment and Land Management.

## **Schedule 1 – Objectives**

Sections 5, 8, 20, 32, 44, 51, and 72

### **Part 1 – Objectives of the Resource Management and Planning System of Tasmania**

1. The objectives of the resource management and planning system of Tasmania are –
  - (a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and
  - (b) to provide for the fair, orderly and sustainable use and development of air, land and water; and
  - (c) to encourage public involvement in resource management and planning; and
  - (d) to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c); and
  - (e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.
2. In clause 1(a), "sustainable development" means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural well-being and for their health and safety while –

- (a) sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and
- (b) safeguarding the life-supporting capacity of air, water, soil and ecosystems; and
- (c) avoiding, remedying or mitigating any adverse effects of activities on the environment.

## **Part 2 – Objectives of the Planning Process Established by this Act**

The objectives of the planning process established by this Act are, in support of the objectives set out in **Part 1** of this Schedule –

- (a) to require sound strategic planning and co-ordinated action by State and local government; and
- (b) to establish a system of planning instruments to be the principal way of setting objectives, policies and controls for the use, development and protection of land; and
- (c) to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land; and
- (d) to require land use and development planning and policy to be easily integrated with environmental, social,

economic, conservation and resource management policies at State, regional and municipal levels; and

- (e) to provide for the consolidation of approvals for land use or development and related matters, and to co-ordinate planning approvals with related approvals; and
- (f) to promote the health and wellbeing of all Tasmanians and visitors to Tasmania by ensuring a pleasant, efficient and safe environment for working, living and recreation; and
- (g) to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value; and
- (h) to protect public infrastructure and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community; and
- (i) to provide a planning framework which fully considers land capability.

2. [This component has been omitted.]

3. [This component has been omitted.]



## **Schedule 4 – Savings and Transitional Provisions**

### **Section 87A**

#### **1. Interpretation**

- (1) In this Schedule –

**"prior scheme"** means a planning scheme made or deemed to have been made under Part XVIII of the *Local Government Act 1962*.

- (2) Unless the contrary intention appears, words and expressions used in this Act have the same respective meanings in this Schedule.

#### **2. Operation date of certain draft planning schemes and amendments**

- (1) A draft planning scheme which, before the commencement of the *Land Use Planning and Approvals Amendment Act 1995*, was given final approval by the Panel under **section 29** without a specified date of operation is taken to have come into operation on the date of that final approval.
- (2) A draft amendment which, before the commencement of the *Land Use Planning and Approvals Amendment Act 1995*, was given final approval by the Panel under **section 42** without a specified date of operation is taken to have come into operation on the date of that final approval.

### 3. Removal of doubts in relation to prior schemes, &c.

- (1) Any planning scheme or interim order finally approved under Part XVIII of the *Local Government Act 1962* and in force at the commencement of the *Land Use Planning and Approvals (Consequential and Miscellaneous Amendments) Act 1993* is valid and effective, from the day on which it was finally approved, in relation to land that is, or has been, Crown land or vested in a State authority.
- (2) For the purposes of subsection (1), "**State authority**" means a body or authority, whether incorporated or not, that is established or constituted under an Act or under the royal prerogative, being a body or authority which, or of which the governing authority, wholly or partly comprises a person or persons appointed by the Governor, a Minister or another State authority.

**Unvalidated References : section 46, section 47, section 46, section 47, (2), section 47**

### 4. Transitional provisions

- (1) On and after the commencement of the *Land Use Planning and Approvals Amendment Act (No.2) 1995*, a reference to an interim order in any law is, unless the context or subject matter otherwise indicates or requires, taken to be a reference to a special planning order within the meaning of this Act.
- (2) On and after the commencement of the *Land Use Planning and Approvals Amendment Act (No.2) 1995*, the title of an interim order, which is taken

to be a planning scheme under **section 46**, is to be read as if the words "**Section 46 Planning Scheme**" were substituted for the words "**Interim Order**".

- (3) On and after the commencement of the *Land Use Planning and Approvals Amendment Act (No.2) 1995*, a dispensation –
- (a) made under Part XVIII of the *Local Government Act 1962* and continued in force as if it had been made under this Act; or
  - (b) granted under **section 47** before the commencement of the *Land Use Planning and Approvals Amendment Act (No.2) 1995*; or
  - (c) granted after that commencement under subclause (4) of this clause –

is taken to be a provision of the relevant interim order which, at that commencement, is taken to be a planning scheme under **section 46**.

- (4) If before the commencement of the *Land Use Planning and Approvals Amendment Act (No.2) 1995* a planning authority applied to the Panel for approval under **section 47(2)** to grant a dispensation and the planning authority did not grant or refuse to grant the dispensation before that commencement, the dispensation is to continue to be dealt with in accordance with the provisions of **section 47** as in force immediately before that commencement.
- (5) On and after the commencement of the *Land Use Planning and Approvals Amendment Act (No.2)*

1995, any condition on the granting of a dispensation granted before that commencement which restricts the period for which a dispensation is in force is of no effect.

- (6) On and after the commencement of the *Land Use Planning and Approvals Amendment Act (No.2) 1995*, if any doubt is raised as to the validity of a dispensation granted before that commencement, the person granted the dispensation or the planning authority may refer the matter to the Tribunal.
- (7) The Tribunal is to determine the validity of the dispensation or its terms or conditions as if it were the subject of an appeal under **section 64**.

## **5. Provisions in relation to schemes**

On and from the commencement of the *Land Use Planning and Approvals (Consequential and Miscellaneous Amendments) Act 1993* –

- (a) a prior scheme continues in force as if it were a planning scheme made under this Act; and
- (b) a scheme provisionally approved under section 727 (1) of the *Local Government Act 1962* is taken to be a draft planning scheme certified under **section 24** of this Act; and
- (c) a scheme publicly notified under section 727 (3) of the *Local Government Act 1962* is taken to be a draft planning scheme publicly exhibited under **section 25** of this Act; and

- (d) an objection to a scheme, notice of which has been given under section 727 (4) of the *Local Government Act 1962*, is taken to be a representation submitted under **section 26(1)** of this Act; and
- (e) the objections to a scheme and the statement of a municipality as to the merit of the several objections forwarded to the Commissioner under section 728 (1) of the *Local Government Act 1962* are taken to be a report forwarded to the Panel under **section 26(2)** of this Act; and
- (f) a report forwarded to the Commissioner under section 728(2) of the *Local Government Act 1962* in relation to a scheme is taken to be a report forwarded to the Panel under **section 26(2)** of this Act; and
- (g) a hearing which has been held and determined by the Commissioner under section 729 of the *Local Government Act 1962* in relation to an objection to a scheme is taken to be a hearing which has been held and determined by the Panel under **section 27(2)** of this Act in relation to a representation; and
- (h) a decision in relation to a scheme made by the Commissioner under section 729A of the *Local Government Act 1962* is taken to be a decision of the Panel under 28(1)(b)(ii) of this Act; and
- (i) a scheme finally approved by the Commissioner under section 730 of the

*Local Government Act 1962* is taken to be a planning scheme finally approved by the Panel under **section 29** of this Act.

**6. Provisions relating to prior modifications to prior schemes**

On and from the commencement of the *Land Use Planning and Approvals (Consequential and Miscellaneous Amendments) Act 1993* –

- (a) a modification made under Part XVIII of the *Local Government Act 1962* of a scheme made or deemed to have been made under that Part continues in force as if it were an amendment made under this Act to a planning scheme; and
- (b) a modification provisionally approved under section 727(1) of the *Local Government Act 1962* of a prior scheme is taken to be a draft amendment certified under **section 35** of this Act; and
- (c) a modification publicly notified under section 727(3) of the *Local Government Act 1962* of a prior scheme is taken to be a draft amendment publicly exhibited under **section 38** of this Act; and
- (d) an objection to a modification, notice of which is given under section 727 (4) of the *Local Government Act 1962*, of a prior scheme is taken to be a representation submitted under **section 39(1)** of this Act; and

- (e) the objections to a modification of a prior scheme and the statement of a municipality as to the merit of the several objections forwarded to the Commissioner under section 728(1) of the *Local Government Act 1962* are taken to be a report forwarded to the Panel under **section 39(2)** of this Act; and
- (f) a report forwarded to the Commissioner under section 728(2) of the *Local Government Act 1962* in respect of a modification of a prior scheme is taken to be a report forwarded to the Panel under **section 39(2)** of this Act; and
- (g) a hearing which has been held and determined by the Commissioner under section 729 of the *Local Government Act 1962* in relation to an objection to a modification of a prior scheme is taken to be a hearing which has been held and determined by the Panel under **section 40 (2)** of this Act in relation to a representation; and
- (h) a modification finally approved by the Commissioner under section 732 of the *Local Government Act 1962* of a prior scheme is taken to be an amendment finally approved by the Panel under **section 42** of this Act to a planning scheme.

***Unvalidated References : section 45(8)(a), section 45(9)***

## 7. Provisions relating to interim orders

On and from the commencement of the *Land Use Planning and Approvals (Consequential and Miscellaneous Amendments) Act 1993* –

- (a) an order made or deemed to have been made under Part XVIII of the *Local Government Act 1962* continues in force as if it had been made under this Act for a period of 2 years or such longer period as the Panel may allow from the day on which it came into operation under the *Local Government Act 1962*; and
- (b) an order made by a municipality under section 734(2)(a) of the *Local Government Act 1962* is taken to be a draft interim order prepared by the municipality under section 45(1) of this Act; and
- (c) an order approved by the Commissioner under section 734(2A)(a) of the *Local Government Act 1962* is taken to be an interim order approved under section 45(8)(a) of this Act; and
- (d) an order publicly notified under section 734(2A)(b) of the *Local Government Act 1962* is taken to be an interim order notified under section 45(9) of this Act.

**Unvalidated References : section 47, (2), section 47, (3), section 47(8)**



## **8. Provisions relating to dispensations**

On and from the commencement of the *Land Use Planning and Approvals (Consequential and Miscellaneous Amendments) Act 1993* –

- (a) a dispensation made under Part XVIII of the *Local Government Act 1962* continues in force as if it had been made under this Act; and
- (b) an application to the Commissioner for approval under section 734 (2) (b) of the *Local Government Act 1962* is taken to be an application under **section 47(2)** of this Act; and
- (c) the approval of the Commissioner under section 734(2)(b) of the *Local Government Act 1962* is taken to be the approval of the Panel under **section 47(3)** of this Act and is subject to the terms and conditions approved by the Commissioner; and
- (d) a dispensation granted by a municipality under section 734(2)(b) of the *Local Government Act 1962* is taken to be a dispensation granted by the municipality under section 47(8) of this Act.

***Unvalidated References : section 49***

## **9. Provisions relating to applications for discretionary planning approvals**

On and from the commencement of the *Land Use Planning and Approvals (Consequential and Miscellaneous Amendments) Act 1993* –

- (a) an application for a planning approval under section 733B(1) of the *Local Government Act 1962* lodged before a specification under this section takes effect is to be dealt with as if this Act had not been enacted; and
- (b) a planning authority must, not later than 3 months after the commencement of **section 49** of this Act, specify in respect of each scheme or order made under Part XVIII of the *Local Government Act 1962* those applications for planning approvals which are to be treated as applications for permits for the purposes of **section 57(1)** of this Act; and
- (c) a planning authority must give notice of the specification to the Panel which may approve or reject it; and
- (d) if it approves the specification, the Panel must publish the specification in the *Gazette* and in such other manner as it considers necessary; and
- (e) on publication the specification takes effect as if it were an amendment of the scheme or order; and
- (f) a specification is to be laid before each House of Parliament within the first 10 sitting days of the House after it has been published; and
- (g) if either House of Parliament passes a resolution, of which notice has been given within the first 15 sitting days of such House after a specification is laid

before it, that the specification be disallowed –

- (i) the specification is of no effect except in relation to any right of appeal accrued by virtue of the operation of the specification; and
- (ii) an application for a planning approval under section 733B(1) of the *Local Government Act 1962* is to be dealt with as if this Act had not been enacted.

#### **10. Provisions relating to applications for planning approvals**

On and from the commencement of the *Land Use Planning and Approvals (Consequential and Miscellaneous Amendments) Act 1993* –

- (a) an application for a planning approval under a scheme or order made under Part XVIII of the *Local Government Act 1962* is to be treated as an application for a permit under this Act; and
- (b) where a scheme or an order under Part XVIII of the *Local Government Act 1962* requires a planning approval in respect of use or development, that requirement is to be treated as a requirement for a permit in respect of that use or development.

## **11. Provisions relating to planning approvals**

On and from the commencement of the *Land Use Planning and Approvals (Consequential and Miscellaneous Amendments) Act 1993*, where an appeal has been lodged under Part XVIII of the *Local Government Act 1962* before the commencement of the *Resource Management and Planning Appeal Tribunal Act 1993*, the provisions of that Part continue to apply to the appeal as if the relevant provisions of that Part had not been repealed.

## **12. Provisions relating to environment protection appeals**

Where an appeal has been lodged under the *Environment Protection Act 1973* before the commencement of the *Resource Management and Planning Appeal Tribunal Act 1993*, the provisions of the *Environment Protection Act 1973* continue to apply to the appeal as if the relevant provisions of that Act had not been repealed.

**Schedule 5 – Savings and Transitional Provisions – *Land Use Planning and Approvals Amendment (Streamlining of Process) Act 2014***

Section 87B

**1. Interpretation**

In this Schedule –

**"amending Act"** means the *Land Use Planning and Approvals Amendment (Streamlining of Process) Act 2014*;

**"dispensation"** means –

- (a) a dispensation granted under section 30W of this Act as in force before the day on which that section is repealed by the amending Act; or
- (b) a dispensation that was in force immediately before the previous amending Act came into force;

**"previous amending Act"** means the *Land Use Planning and Approvals Amendment Act 2013*;

**"section 30Q"** means section 30Q as in force immediately before the day on which that section is repealed by the amending Act;

**"section 30R"** means section 30R as in force immediately before the day on which that section is repealed by the amending Act.

***Unvalidated References : section 43H, section 43H***

## **2. Validation and savings of certain applications and dispensations**

- (1) A dispensation remains in force despite the repeal of section 30W of this Act.
- (2) Any permit that is granted or confirmed and that relates to a dispensation, including a dispensation to which **subclause (4)** applies, is to be taken to be a permit granted or confirmed, as the case may be, under **section 43H**.
- (3) **Subclause (4)** applies in relation to a dispensation, or a purported dispensation, if –
  - (a) an application under this Act for the dispensation was made before the day on which section 19 of the previous amending Act came into force; and
  - (b) the application was not determined, or was purportedly determined, under this Act before that day; and
  - (c) the dispensation has been granted, or purportedly granted, under this Act as in force after that day.
- (4) If this subclause applies in relation to a dispensation –
  - (a) the Commission, if it thinks fit, must, as soon as practicable after the day on which this Schedule commences, direct the planning authority to prepare a draft amendment, of the interim planning scheme to which the dispensation relates, that will, in the opinion of the Commission, best reflect the intended effect of the dispensation; and

- (b) the planning authority must prepare the draft amendment, to the satisfaction of the Commission, as soon as practicable after receiving the direction under paragraph (a); and
- (c) if the Commission is satisfied with the draft amendment, the Commission must –
  - (i) approve the amendment of the interim planning scheme; and
  - (ii) direct the planning authority to give notice of the amendment, and the day on which the amendment comes into effect, in accordance with the directions of the Commission; and
- (d) a planning authority that receives a direction under paragraph (c)(ii) must give notice of the amendment in accordance with the direction; and
- (e) the amendment of the interim planning scheme comes into effect on the day specified, in the notice in accordance with a direction under paragraph (c)(ii), as the day on which the amendment comes into effect.

(5) If –

- (a) an application for a permit that accompanied a request for a dispensation under this Act, as in force before the day on which section 19 of the previous

amending Act came into force, was not determined before that day; and

- (b) a permit, in relation to that application, was granted or confirmed, or purportedly granted or confirmed, under this Act after that day –

the permit is to be taken to be a permit granted or confirmed, as the case may be, under **section 43H**.

- (6) An amendment to an interim planning scheme that is made under this clause –
  - (a) in accordance with a direction given in accordance with this clause; or
  - (b) in relation to an application to which this clause relates –

may not alter the zoning of an area of land without the approval of the owner of the area of land.

***Unvalidated References : section 40T, section 43H***

### **3. Dispensations and applications for dispensations**

- (1) **Subclause (2)** applies in relation to an application for a dispensation, under this Act at any time before the day on which section 30Q is repealed, that relates to an interim planning scheme if –
  - (a) hearings under section 30K of the Act in relation to the scheme have been completed before the repeal of section 30K(1) by the amending Act; and



(b) the application –

(i) has been determined under this Act, before the day on which section 30Q is repealed by the amending Act, by granting the dispensation; or

(ii) has not been determined under this Act before the day on which section 30Q is repealed by the amending Act.

(2) If this subclause applies in relation to an application for a dispensation that relates to an interim planning scheme –

(a) the modifications that may be made to the interim planning scheme under **section 30M** include, but are not limited to including, the modifications, if any, that the Commission thinks fit that will, in the opinion of the Commission, best reflect the intended effect of any dispensation that is granted before the modifications are made; and

(b) where the application has not been determined before the hearings under section 30K of the Act in relation to the scheme have been completed – the application is to be taken to be an application to which **section 40T** applies; and

(c) where an application that is made under section 30R accompanies the application for a dispensation – **subclause (6)** applies

in relation to the application under section 30R.

(3) **Subclause (4)** applies in relation to a dispensation if –

- (a) an application under this Act, at any time before the day on which section 30Q is repealed by the amending Act, has been determined by granting the dispensation; and
- (b) **subclause (2)** does not apply in relation to the dispensation.

(4) If this subclause applies in relation to a dispensation –

- (a) the Commission, if it thinks fit, as soon as practicable after the day on which this Schedule commences, must direct the planning authority to prepare a draft amendment, of the interim planning scheme to which the dispensation relates, that will, in the opinion of the Commission, best reflect the intended effect of the dispensation; and
- (b) the planning authority must prepare the draft amendment, to the satisfaction of the Commission, as soon as practicable after receiving the direction under **paragraph (a)**; and
- (c) if the Commission is satisfied with the draft amendment, the Commission must –
  - (i) approve the amendment of the interim planning scheme; and

- (ii) direct the planning authority to give notice of the amendment, and the day on which the amendment comes into effect, in accordance with the directions of the Commission; and
  - (d) a planning authority that receives a direction under **paragraph (c)(ii)** must give notice of the amendment in accordance with the direction; and
  - (e) the amendment of the interim planning scheme comes into effect on the day specified, in the notice in accordance with a direction under **paragraph (c)(ii)**, as the day on which the amendment comes into effect.
- (5) **Subclause (6)** applies to an application that is made under section 30R if –
- (a) the application under section 30Q that accompanies the application under section 30R has been determined under this Act, before the day on which section 30R is repealed by the amending Act, by granting a dispensation; and
  - (b) the application under section 30R has been determined before that day.
- (6) If this subclause applies to an application that is made under section 30R –
- (a) any permit, to which the application relates, that is granted or confirmed under section 30Y, as in force immediately before the day on which that

section is repealed by the amending Act, is to be taken to be a permit granted or confirmed, as the case may be, under **section 43H**; and

- (b) if any period in which the person could have, under section 61(3B) as in force immediately before the amending day, appealed against an amendment of the permit under section 30ZA, as in force immediately before the amending day, has not expired – the person may appeal to the Appeal Tribunal against the decision in relation to the application as if the amending Act had not come into force.

(7) If –

- (a) an application under section 30Q for a dispensation in relation to an interim planning scheme has not, immediately before the day on which that section is repealed by the amending Act, been determined under this Act; and
- (b) an application under 30R does not accompany the application under section 30Q –

the application under section 30Q is to be taken to be an application under **section 33(1)**.

(8) If –

- (a) an application under section 30Q for a dispensation in relation to an interim planning scheme has not, immediately before the day on which that section is

repealed by the amending Act, been determined under this Act; and

- (b) an application under 30R accompanies the application under section 30Q –

the application under section 30Q is to be taken to be an application under section 33(1) and the application under section 30R is to be taken to be a request under section 40T.

- (9) An amendment to an interim planning scheme that is made under this clause –
  - (a) in accordance with a direction given in accordance with this clause; or
  - (b) in relation to an application to which this clause relates –

may not alter the zoning of an area of land without the approval of the owner of the area of land.

#### **4. Application of provisions relating to applications and periods in which actions must be taken**

- (1) If a period in which an action is required to be taken by a person under this Act as amended by the amending Act has expired before the day on which this Schedule comes into effect, the reference to the period is to be taken to be a reference to a period ending as soon as practicable after that day.
- (2) If an application under this Act made before the day on which this Schedule comes into effect was a valid application, it is not to be taken, after

that day, to be invalid by reason only that it is not in the form required under this Act after that day.

consultation mark-up

**Schedule 6 – Savings and Transitional Provisions – *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015***

**Section 87C**

**1. Interpretation of this Schedule**

In this Schedule –

**"amending Act"** means the Tasmanian Planning Scheme Amendment Act;

**"commencement day"** means the day on which Parts 2A and 3 of this Act, as in force immediately before that day, are substituted by the amending Act;

**"former provisions"** means the provisions of this Act as in force immediately before the commencement day;

**"particular purpose zone"** means –

- (a) a zone called a particular purpose zone in the provisions of the planning scheme in which the zoning appears; or
- (b) a group of provisions, in a planning scheme, consisting of –
  - (i) a zone that is particular to an area of land; and
  - (ii) the provisions that are to apply in relation to that zone;

**"permit application"** means an application, for a permit in relation to land, that is made before the first LPS that applies in relation to the land comes into effect;

**"planning directive"** means a planning directive as in force immediately before the commencement day or that is made, after that day, in accordance with **clause 3(2)(b)** and is in force;

**"planning instrument"** means a planning scheme, as in operation in relation to a municipal area before an LPS comes into effect in relation to the municipal area;

**"planning scheme"** has the same meaning as it has in the former provisions;

**"site-specific qualification"** means a provision, or provisions, in a planning scheme, that –

- (a) only apply in relation to a particular area of land specified in the planning scheme; and
- (b) modify, are in substitution for, or are in addition to, the requirements of the planning scheme that would otherwise apply in relation to the land;

**"specific area plan"** means –

- (a) a plan referred to as a specific area plan in the provision of the planning scheme in which the plan appears; or



(b) a plan, in a planning scheme, consisting of –

(i) a map or overlay that delineates a particular area of land; and

(ii) the provisions that are to apply to that land in addition to, in modification of, or in substitution for, a provision, or provisions, of the planning scheme in which the plan appears.

## **2. Saving of regional areas and regional strategies**

(1) An area that was a regional area under this Act immediately before the commencement day is taken to be a regional area specified under **section 5A** of this Act.

(2) A document that was a regional land use strategy under the former provisions is taken to be a regional land use strategy declared under **section 5A** of this Act.

## **3. Saving of various instruments**

(1) Despite the substitution of Parts 2A and 3 of the former provisions, if there was, immediately before the commencement day, a planning instrument in operation in relation to a municipal area, then, on and from the commencement day

until an LPS comes into effect in relation to the municipal area –

- (a) any planning directive that was in force immediately before the commencement day continues to apply in relation to the municipal area and may be modified or revoked under Part 2A of the former provisions as if that Part had not been substituted under the amending Act; and
    - (b) any planning purposes notice that was in force, in relation to the municipal area, under section 30EA of the former provisions continues to apply in relation to the municipal area; and
  - (c) [This component has been omitted.]
- (2) Despite the substitution of Parts 2A and 3 of the former provisions, if there was, immediately before the commencement day, a planning instrument in operation in relation to a municipal area, then, on and from the commencement day until an LPS comes into effect in relation to the municipal area –
- (a) the planning instrument remains in operation in relation to the municipal area; and
  - (b) Parts 2A and 3 of the former provisions remain in force in relation to the municipal area and accordingly a planning directive, and an interim planning directive, each within the meaning of the former provisions, may be made under Part 2A of the former

provisions in relation to the municipal area; and

- (ba) a planning directive, and an interim planning directive, each within the meaning of the former provisions, that is in force under, and is, after the commencement day, made under, Part 2A of the former provisions as they apply in accordance with paragraph (b), applies in relation to the planning instrument; and
- (c) a request, for an amendment to the planning instrument, that is made under section 33 of the former provisions may, by notice to the planning authority in relation to the planning instrument, be withdrawn by the applicant at any time before the draft amendment is approved under section 42 of the former provisions; and
- (d) a draft amendment, to the planning instrument, that, before the day on which the LPS comes into effect in relation to a municipal area, has been initiated by a planning authority under section 34 of the former provisions, otherwise than pursuant to a request under section 33 of the former provisions, may, with the approval of the Commission, be withdrawn at any time by the planning authority before the draft amendment is approved under section 42 of the former provisions.

- (2A) If a draft planning directive prepared under section 10 of the former provisions consists of

provisions that meet the relevant conditions, the Minister may issue under section 13(1) of the former provisions a planning directive in the form of the draft planning directive, even though a report and recommendations have not been made, under section 12(5) of the former provisions, in relation to the draft planning directive.

(2B) For the purposes of **subclause (2A)**, provisions of a draft planning directive (the **"relevant directive"**) meet the relevant conditions if –

- (a) the Minister has issued an interim planning directive under section 12A of the former provisions in the terms of the relevant directive; and
- (b) the relevant directive consists only of any one or more of the following provisions of the SPPs, modified, if at all, for the relevant purposes:
  - (i) planning terms and definitions contained in clause 3.0 of the SPPs;
  - (ii) exemptions contained in clause 4.0 of the SPPs;
  - (iii) application requirements contained in clause 6.1 of the SPPs;
  - (iv) general provisions contained in clause 7.0 of the SPPs;
  - (v) development standards, relating to dwellings, that relate to the General Residential Zone or the

Inner Residential Zone, as referred to in the SPPs;

- (vi) other provisions that are necessary or convenient to include for the relevant purposes.

(2C) For the purposes of **subclause (2B)(b)**, the relevant purposes are –

- (a) to enable the provisions of the SPPs included in the directive –

- (i) to operate effectively when included, in accordance with the directive, in a planning scheme to which the directive is to relate; or

- (ii) to operate effectively in conjunction with the provisions included in the planning scheme in accordance with any other planning directive that applies to the planning scheme; or

- (b) to enable the provisions of the directive to operate effectively.

(2D) The Minister may, by a planning directive issued, in accordance with **subclause (2A)**, under section 13(1) of the former provisions, modify the provisions of a directive (the **"original directive"**) that was issued, in accordance with **subclause (2A)**, under section 13(1) of the former provisions, but only if it is necessary to modify the provisions of the original directive so as to ensure that the provisions, contained in a planning scheme in accordance with the original directive, will be consistent with the provisions

of the SPPs as amended by an amendment of the SPPs made after the original directive was issued.

- (3) A planning authority, before exhibiting a draft amendment of a planning instrument under section 38 of the former provisions, is to notify –
  - (a) the relevant agencies; and
  - (b) those State Service Agencies, or State authorities, that the planning authority considers may have an interest in the draft amendment of the planning instrument –

of the date on which the amendment of the planning instrument is to be exhibited in accordance with the former provisions.

- (4) Subclause (3) does not apply in relation to a draft amendment of a planning instrument that is not required, under the former provisions, to be exhibited.
- (5) A planning authority must not –
  - (a) under section 35 of the former provisions as applied by this clause, certify a draft amendment of a planning instrument; or
  - (b) under section 41A of the former provisions as applied by this clause, undertake a modification, or an alteration to a substantial degree, of a draft amendment of a planning instrument –

unless the planning authority is satisfied that the draft amendment is consistent with the TPPs, as

in force before the relevant planning instrument is certified, modified or altered, respectively.

- (6) The Commission must not –
- (a) under section 42 of the former provisions as applied by this clause, approve a draft amendment of a planning instrument; or
  - (b) under section 41 or 41B of the former provisions as applied by this clause –
    - (i) modify, or alter to a substantial degree, a draft amendment of a planning instrument; or
    - (ii) require a draft amendment of a planning instrument to be modified or altered to a substantial degree; or
    - (iii) certify an altered draft amendment –

unless the Commission is satisfied that the draft amendment as so approved, modified, altered or certified, is or would be consistent with the TPPs, as in force before the draft amendment of the planning instrument is approved, the modification or alteration is made, or the certification occurs, respectively.

- (7) For the purposes of the application of the TPPs in relation to a draft amendment of a planning instrument referred to in **subclauses (5) and (6)** –
- (a) the aims and principles of the TPPs in relation to the Tasmanian Planning Scheme, as referred to in **section 12B**, are to be taken to be the aims and principles

of the TPPs in relation to the planning instrument; and

- (b) the TPPs may specify the manner in which the TPPs are to be implemented into a planning instrument referred to in **subclauses (5) and (6)**.

**4. Saving of certain requests or draft amendments to alter designation of zoning under planning instruments**

- (1) **Subclause (2)** applies in relation to a draft amendment of a planning instrument if –

- (a) the draft amendment is for the purposes of altering in the planning instrument the designation of a zone to an area of land in a municipal area; and
- (b) the draft amendment has been initiated by a planning authority under section 34 of the former provisions before an LPS comes into effect in relation to the municipal area; and
- (c) the draft amendment has not been approved under section 42 of the former provisions before an LPS comes into effect in relation to the municipal area.

- (2) If this subclause applies in relation to a draft amendment of a planning instrument –

- (a) Part 3B of this Act applies in relation to the draft amendment as if the draft amendment were a draft amendment of the LPS for the purposes of altering in



the LPS the designation of a zone to an area of land; and

- (b) the planning authority may alter the draft amendment for the purposes of ensuring that it relates to the LPS; and
- (c) if the draft amendment was initiated by a planning authority pursuant to a request under section 33 of the former provisions – the person who made the request may, by notice to the planning authority, withdraw the request at any time before a draft amendment of the LPS, that relates to the request, is approved under section 40Q; and
- (d) if the draft amendment was initiated by a planning authority otherwise than pursuant to a request under section 33 of the former provisions – the planning authority may, with the approval of the Commission, withdraw the draft amendment at any time before the draft amendment is approved under section 40Q.

**5. Saving of certain requests or draft amendments to alter certain requirements of planning instruments**

- (1) **Subclause (2)** applies in relation to a draft amendment of a planning instrument if –
  - (a) the draft amendment is a draft amendment, of a planning instrument, for the purposes of –

- (i) altering the requirements of a particular purpose zone, or of a specific area plan, that was designated in the planning instrument to an area of land in a municipal area; or
    - (ii) establishing in the planning instrument a specific area plan in relation to an area of land in a municipal area; and
  - (b) the draft amendment has been initiated by a planning authority under section 34 of the former provisions before an LPS comes into effect in relation to the municipal area; and
  - (c) the draft amendment has not been approved under section 42 of the former provisions before an LPS comes into effect in relation to the municipal area.
- (2) If this subclause applies in relation to a draft amendment of a planning instrument –
- (a) Part 3B of this Act applies in relation to the draft amendment as if the draft amendment were a draft amendment of an LPS for the purposes of –
    - (i) altering the requirements of a particular purpose zone, or of a specific area plan, that is designated under the LPS to an area of land; or

- (ii) establishing in the LPS a specific area plan in relation to an area of land in a municipal area –

as the case may be; and

- (b) the planning authority may alter the draft amendment for the purposes of ensuring that it relates to the LPS; and
- (c) if the draft amendment was initiated by the planning authority pursuant to a request under section 33 of the former provisions – the person who made the request may, by notice to the planning authority, withdraw the request at any time before an amendment of the LPS, that relates to the request, is approved under section 40Q; and
- (d) if the draft amendment was initiated by the planning authority otherwise than pursuant to a request under section 33 of the former provisions – the planning authority may, with the approval of the Commission, withdraw the draft amendment at any time before the draft amendment is approved under section 40Q.

## **6. Application of Part 3B in relation to certain draft amendments**

(1) If –

- (a) under **clause 4** or **5**, Part 3B of this Act applies in relation to a draft amendment of a planning instrument; and

- (b) the requirements of a provision ("**the former provision**") of Division 2 or 2A of Part 3 of the former provisions have been satisfied in relation to the draft amendment before the day on which an LPS comes into effect in relation to the land to which the draft amendment applies –

the requirements of the provision of Part 3B that most closely corresponds to the former provision are to be taken to have been satisfied in relation to the draft amendment.

(2) If –

- (a) under **clause 4** or **5**, Part 3B of this Act applies in relation to a draft amendment of a planning instrument; and
- (b) the draft amendment was a draft amendment to which a request, in relation to an application for a permit, under section 43A of the former provisions applied –

the request for the draft amendment, and the application for a permit, are to be taken to be a request and an application for a permit, to which section 40T applies.

## **7. Certain requests and draft amendment to lapse**

- (1) If, before an LPS comes into effect in relation to the municipal area –
  - (a) a request was made under section 33 of the former provisions for the preparation

of a draft amendment, to a planning instrument; and

- (b) the draft amendment, to a planning instrument, is not a draft amendment to which **clause 4** or **5** applies –

the request lapses on the day on which the LPS comes into effect in relation to the municipal area.

- (2) If a request for an amendment of a planning instrument is withdrawn or lapses under this Schedule, this Act ceases to apply, on the day on which the LPS comes into effect in relation to the municipal area, in relation to the request and any draft amendment of the planning instrument to which the request relates.
- (3) If a draft amendment of a planning instrument, that was in operation in relation to a municipal area immediately before the day on which an LPS comes into effect in relation to the municipal area –
  - (a) is not a draft amendment to which **clause 4(2)** or **clause 5(2)** applies; and
  - (b) is not approved by the Commission under section 42 of the former provisions before an LPS comes into effect in relation to the municipal area –

this Act ceases to apply in relation to the draft amendment on the day on which the LPS comes into effect in relation to the municipal area.

**8. Specific area plans, particular purpose zones and site-specific qualifications**

(1) A draft LPS prepared, and an LPS made, in relation to a municipal area, under Part 3A of this Act, must contain –

- (a) the specific area plans; and
- (b) the particular purpose zones; and
- (c) the site-specific qualifications –

that applied under the planning scheme, in relation to the municipal area, that applied to the area immediately before the commencement day, as those plans, zones or qualifications have, before an LPS comes into force in relation to the land to which the planning scheme relates, been amended, if at all, under section 30IA of Part 3 of this Act, as in force immediately before the commencement day and as it applies in relation to the planning scheme by virtue of this Schedule.

(1A) **Subclause (1)** does not apply in relation to a specific area plan, a particular purpose zone, or site-specific qualifications, if a declaration is made under **clause 8A(1)** in relation to the plan, zone or qualifications.

(2) If a specific area plan, particular purpose zone, or a site-specific qualification, is contained in an LPS in accordance with **subclause (1)**, **section 32(4)** only applies, in relation to that LPS, in relation to an amendment of that LPS.

(3) Nothing in this clause is to be taken to prevent an amendment of an LPS in relation to the specific area plans, the particular purpose zones,

or a site-specific qualification, contained in the LPS.

- (4) This clause does not apply in relation to a specific area plan, a particular purpose zone, or a site-specific qualification that the Minister, after having consulted with the Commission, declares to be a plan, zone or qualification to which this clause does not apply.

**8A. Inclusion of certain plans, zones and qualifications inserted or amended after commencement day**

(1) If –

- (a) after the commencement day but before an LPS applies in relation to a municipal area, a specific area plan, a particular purpose zone, or site-specific qualifications, is or are inserted in a planning scheme in relation to the municipal area by an amendment to the planning scheme; or
- (b) a specific area plan, a particular purpose zone, or site-specific qualifications, that is or are included in a planning scheme in relation to a municipal area before the commencement day is or are amended after the commencement day but before an LPS applies in relation to the municipal area –

the Minister, after consultation with the Commission, may, by notice to the planning authority in relation to the municipal area, declare that a draft LPS prepared, and an LPS made, in relation to the municipal area under

Part 3A of this Act must contain the plan, zone or qualifications, as so inserted or amended.

- (2) If the Minister declares under **subclause (1)** that a draft LPS prepared, and an LPS made, in relation to a municipal area must contain a specific area plan, a particular purpose zone, or site-specific qualifications, a draft LPS prepared, and an LPS made, in relation to the municipal area must contain the plan, zone or qualifications, as so inserted or amended.
- (3) This clause does not apply in relation to a specific area plan, a particular purpose zone, or site-specific qualifications to which **clause 8(1)** applies if the plan, zone or qualifications has or have, before an LPS comes into force in relation to the land to which the plan, zone or qualifications relates, been amended, if at all, under section 30IA of Part 3 of this Act as it applies in relation to the land by virtue of this Schedule.

**8B. Alteration of draft amendments to which clauses 4(2)(b) or 5(2)(b) apply**

- (1) In this clause –

**"permitted alterations"** means alterations, referred to in **subclause (3)**, to the provisions of a relevant amendment;

**"relevant amendment"** means a draft amendment to which clause 4(2)(b) or 5(2)(b) applies.

- (2) Despite clauses 4(2)(b) and 5(2)(b), but without limiting the generality of those clauses, the



alterations that may be made by a planning authority to a relevant amendment include the permitted alterations.

- (3) For the purposes of this clause, permitted alterations are alterations to a relevant amendment so that, in the opinion of the Commission, the relevant amendment –
  - (a) will conform to the requirements of the SPPs in relation to the LPS to which the relevant amendment relates; or
  - (b) will reflect the terminology used in the SPPs or the LPS, including, but not limited to including, where the relevant amendment relates to the designation of a zone in a planning instrument, by changing the designation of the zone to the zone in the LPS that most closely corresponds to the zone in the relevant amendment before the relevant amendment contains the permitted alterations; or
  - (c) will contain provisions that –
    - (i) are appropriately numbered; or
    - (ii) make correct references to provisions in the relevant amendment, in the LPS to which the relevant amendment relates, or in other instruments, including but not limited to the SPPs; or
  - (d) will achieve the effect intended, by the relevant amendment, before the

permitted alterations are contained in the relevant amendment.

(4) The Commission may, in relation to a relevant amendment, take any one or more of the following actions:

(a) by notice to the planning authority, direct the planning authority –

(i) to modify the relevant amendment in the manner specified in the notice, so that the relevant amendment contains permitted alterations; and

(ii) to submit the relevant amendment, as so modified, to the Commission for approval under **paragraph (b)**;

(b) approve, or refuse to approve, a relevant amendment as modified by a planning authority in accordance with a direction under **paragraph (a)**;

(c) direct the planning authority to take action, under a provision of Part 3B of this Act, in relation to a relevant amendment that has been approved under **paragraph (b)**.

**8C. Alteration of instruments to which clause 8(1) or 8A(1) applies**

(1) In this clause –

**"included document"** means –

- (a) a specific area plan; or
- (b) a particular purpose zone; or
- (c) site-specific qualifications –

that is or are required, under **clause 8(1)**, to be contained in a draft LPS and an LPS or to which a declaration under **clause 8A(1)** relates;

**"permitted alterations"** means alterations, referred to in **subclause (3)**, to the relevant provisions;

**"relevant provisions"** means the provisions, of an included document, that are contained in a draft LPS.

- (2) Despite **clause 8(1)** and **clause 8A(2)**, the relevant provisions may contain permitted alterations.
- (3) For the purposes of this clause, permitted alterations are alterations to the relevant provisions so that, in the opinion of the Commission, the relevant provisions –
  - (a) will conform to the requirements of the SPPs in relation to the draft LPS in which the relevant provisions are included; or
  - (b) will reflect the terminology used in the SPPs or the draft LPS, including, but not limited to including, where the relevant provisions relate to the designation of a zone in a planning instrument, by changing the designation of the zone to the zone in the draft LPS that most

closely corresponds to the zone in the relevant provisions before the relevant provisions contain the permitted alterations; or

(c) will contain provisions that –

(i) are appropriately numbered; or

(ii) make correct references to relevant provisions, other provisions in the draft LPS, or in other instruments referred to in the draft LPS, including but not limited to the SPPs; or

(d) will achieve the effect intended by the relevant provisions before they contain the permitted alterations.

(4) Alterations to the relevant provisions under **subclause (3)(d)** may consist of, but are not limited to consisting of, an alteration of an instrument referred to in a paragraph of the definition of **"included document"** in **subclause (1)** so that the instrument becomes, when included in a draft LPS, an instrument referred to in another paragraph of that definition.

(5) The Commission may, in relation to a draft LPS to which **clause 8(1)** or **clause 8A(2)** applies, take any one or more of the following actions:

(a) by notice to the planning authority, direct the planning authority –

(i) to modify the draft LPS in the manner specified in the notice, so

that the relevant provisions contain permitted alterations; and

- (ii) to submit the draft LPS, as so modified, to the Commission for approval under **paragraph (b)**;
- (b) approve a draft LPS as modified and submitted by a planning authority in accordance with a direction under **paragraph (a)**;
- (c) itself modify the draft LPS so that the relevant provisions contain the permitted alterations and –
  - (i) approve, for the purposes of **paragraph (d)**, the draft LPS as so modified; and
  - (ii) provide to the planning authority a copy of the draft LPS as so approved;
- (d) direct the planning authority to take action, under a provision of Part 3A of this Act, in relation to a draft LPS that has been approved under this subclause.

#### **8D. Inclusion in LPSs of certain code-applying provisions**

- (1) In this clause –

**"code-applying provision"** means a map, overlay, list, or provision, that, immediately before the commencement day –

- (a) was included in a planning instrument; and
- (b) applied, to a provision of the planning instrument, a provision of a code that formed part of, or was referred to in, the planning instrument.

(2) If –

- (a) a planning instrument that applied in relation to a municipal area immediately before the commencement day included, or referred to, a code immediately before that day ("**the planning instrument code**"); and
- (b) the SPPs contain a code ("**the SPPs code**") that is substantially similar to the planning instrument code; and
- (c) the planning instrument, immediately before the commencement day, contained one or more code-applying provisions in relation to the planning instrument code –

a draft LPS prepared, and an LPS made, in relation to the municipal area under Part 3A of this Act must contain each of the code-applying provisions as modified, if at all, in accordance with a determination under **subclause (7)**.

- (3) The Minister, after having consulted with the Commission, may declare that **subclause (2)** does not apply in relation to a code-applying provision, specified in the declaration, in relation to a municipal area specified in the declaration.

(4) **Subclause (2)** does not apply in relation to a code-applying provision specified in a declaration under **subclause (3)**, in relation to a municipal area specified in the declaration.

(5) The Minister may declare that –

(a) a requirement, of the SPPs, that relates to the formatting of a code-applying provision when the provision is included in a draft LPS and an LPS in accordance with **subclause (2)**; or

(b) any other requirement, of the SPPs, that relates to a code-applying provision when the provision is included in a draft LPS and an LPS in accordance with **subclause (2)** –

does not apply in relation to a particular draft LPS and LPS or to all draft LPSs and all LPSs.

(6) If the Minister declares under **subclause (5)** that a requirement, of the SPPs, does not apply in relation to a particular draft LPS and LPS or to all draft LPSs and all LPSs, the requirement of the SPPs does not, despite any other provision of this Act, apply in relation to the particular draft LPS and LPS, or to all draft LPSs and all LPSs, as the case may be.

(7) The Commission may determine that a code-applying provision that is to be included in a draft LPS in relation to a municipal area is to be included in the draft LPS as modified in accordance with the determination.

(8) The Commission may only determine under **subclause (7)** that a code-applying provision is to

be modified if the modification is necessary in order to ensure –

- (a) that a correct cross-reference is used in the code-applying provision when it is included in the draft LPS; or
  - (b) the correction of a minor error in the code-applying provision; or
  - (c) the effective operation of the provision when it is included in a draft LPS.
- (9) The Commission may, in relation to a draft LPS in relation to a municipal area, take any one or more of the following actions:
  - (a) by notice to the planning authority, direct the planning authority –
    - (i) to modify the draft LPS in the manner specified in the notice, so that the draft LPS contains a code-applying provision as so modified in accordance with the determination under **subclause (7)**; and
    - (ii) to submit the draft LPS, as so modified, to the Commission for approval under **paragraph (b)**;
  - (b) approve a draft LPS as modified by a planning authority in accordance with a direction under **paragraph (a)**;
  - (c) itself modify the draft LPS so that the draft LPS contains the code-applying provision as so modified in accordance



with the determination under subclause (7);

- (d) approve, for the purposes of paragraph (e), the draft LPS as modified under paragraph (c);
- (e) provide to the planning authority a copy of the draft LPS as approved under paragraph (d);
- (f) direct the planning authority to take action, under a provision of Part 3A of this Act, in relation to a draft LPS that has been approved under this subclause.

## **9. Applications for permits**

If an application for a permit in relation to an area of land in a municipal area is made, but not decided under this Act by the relevant decision-maker, before the day on which an LPS comes into effect in relation to the municipal area, the application may be withdrawn by the applicant at any time.

***Unvalidated References : section 43K, section 43K(3), (4), (5), section 43K(3), (4), (5)***

## **10. Saving of certain rights to appeal**

If a planning authority has amended a permit under section 43K or 56 as in force before the commencement date, any person referred to in section 43K(3), (4) or (5), as in force before the commencement day, or section 56(3) or (4) may appeal to the Appeal Tribunal against the

decision of the planning authority within 14 days after the day on which the notice was served under **section 43K(3), (4) or (5) or 56(3) or (4)**.

consultation mark-up

**Schedule 7 – Savings and Transitional Provisions – *Land Use Planning and Approvals Amendment (Tasmanian Planning Policies and Miscellaneous Amendments) Act 2018***  
**Section 87D**

**1. Application of section 34(2)(da) to each first LPS made in respect of a municipal area**

**Section 34(2)(da)** does not apply, in relation to a municipal area, in relation to the first LPS made in respect of the municipal area, but applies in relation to each amendment or substitution of an LPS in relation to the municipal area.

**Schedule 8 – Savings and Transitional Provisions –**  
***Building and Construction (Regulatory Reform***  
***Amendments) Act 2020***

**1. Application of amendments**

(1) In this clause –

**"amending Act"** means the *Building and Construction (Regulatory Reform Amendments) Act 2020*.

(2) **Section 51A**, as inserted by a provision of the amending Act, does not apply in relation to an application for a permit that has been lodged, or that a person has attempted to lodge, with a planning authority before the day on which the provision of the amending Act commences.

(3) The amendment to **section 54(3)** made by a provision of the amending Act does not apply in relation to additional information that is received under **section 54(1)** before the day on which the provision of the amending Act commences.

(4) **Section 56(1A)**, as inserted by a provision of the amending Act, applies in relation to a request for an amendment to a permit –

(a) that has been received under **section 56(1)**; and

(b) that has not been determined by the day on which the provision of the amending Act commences –

as if the reference in **section 56(1A)** to the 28-day period after the request was received were a

reference to a 28-day period beginning on the day on which the provision of the amending Act commences.

- (5) **Section 56AA**, as inserted by a provision of the amending Act, does not apply in relation to an application for an amendment of a permit that has been lodged, or that a person has attempted to lodge, with a planning authority before the day on which the provision of the amending Act commences.

consultation mark-up

**Schedule 9 – Savings and Transitional Provisions – *Land Use Planning and Approvals Amendment (Major Projects) Act 2020***

**Section 87F**

**1. References to LPS in Division 2A of Part 4**

Until an LPS comes into force in relation to a municipal area, a reference in **Division 2A of Part 4** to an LPS is to be taken, in relation to the municipal area, to be a reference to the planning scheme in relation to the area.

**2. Projects of regional significance**

(1) In this clause –

**"amending Act"** means the *Land Use Planning and Approvals Amendment (Major Projects) Act 2020*;

**"amendment day"** means the day on which **Division 2A of Part 4** of this Act is substituted by the amending Act;

**"former provisions"** means **Division 2A of Part 4** of this Act as in force immediately before the amendment day;

**"project of regional significance"** means a project to which a notice under **section 60G** of the former provisions related immediately before the amendment day.

- (2) If, before the amendment day, assessment guidelines have not been determined, under **section 60N** of the former provisions, in relation to a project of regional significance –
- (a) the project is to be taken to be a project in relation to which a declaration of a major project has been made, on the amendment day, under **section 60O** of this Act as in force after that day; and
  - (b) the statement of intent, referred to in **section 60F** of the former provisions, in relation to the project of regional significance is taken to be a major project proposal given to the Minister under **section 60E** of this Act as in force after the amendment day.
- (3) If, before the amendment day, assessment guidelines have been determined, under **section 60N** of the former provisions, in relation to a project of regional significance –
- (a) the former provisions, and any definition specified in **section 3** of this Act as in force immediately before the amendment day, continue in force in relation to the project as if they had not been repealed by the amending Act; and
  - (b) any notice or declaration, under **Division 2A** of **Part 4** of the former provisions, that related before the amendment day to the project of regional significance continues to apply in relation to the project.

**Schedule 10 – Savings and Transitional Provisions**  
**Consequent on *Building and Construction (Regulatory Reform Amendments) Act (No. 2) 2020***

Section 87G

**1. Amendments not to apply in relation to certain documents and information**

(1) In this Schedule –

**"amending Act"** means the *Building and Construction (Regulatory Reform Amendments) Act (No. 2) 2020*.

(2) **Section 60**, as inserted by the amending Act, does not apply, and this Act, as in force immediately before the day on which that section is inserted, applies, in relation to relevant documents, or relevant information, within the meaning of **section 60**, lodged with a planning authority before that day.