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State Policies and Projects Act 1993

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State Policies and Projects Act 1993

An Act to provide for Tasmanian Sustainable Development Policies, to provide for the integrated assessment of projects of State significance, to provide for State of the Environment Reporting and for related purposes

[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 State Policies and Projects Act 1993 .

2. Commencement

This Act commences on a day to be proclaimed.

3. Interpretation

(1) In this Act, unless the contrary intention appears –*[Section 3 Subsection (1) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]*

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 planning authority; or
- (d) the Municipal Association of Tasmania; or
- (e) any other person undertaking a function for the public benefit;

[Section 3 Subsection (1) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998] [Section 3 Subsection (1) amended by No. 28 of 2009, s. 55, Applied:01 Sep 2009] **Commission** means the Tasmanian Planning Commission established under the Tasmanian Planning Commission Act 1997 ;

State of the Environment Report means a report prepared under section 29 ;

State Policy means a Tasmanian Sustainable Development Policy.

(2) Words and expressions used both in this Act and in the Land Use Planning and Approvals Act 1993 have in this Act, unless the contrary intention appears, the same respective meanings as they have in that Act.

4. Act to bind Crown

This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

PART 2 - Tasmanian sustainable development policies

5. Requirements for making of State Policies

(1) A State Policy –

- (a) must seek to further the objectives set out in Schedule 1 ; and
- (b) may be made only where there is, in the opinion of the Minister, a matter of State significance to be dealt with in the State Policy; and
- (c) must seek to ensure that a consistent and co-ordinated approach is maintained throughout the State with respect to the matters contained in the State Policy; and
- (d) must incorporate the minimum amount of regulation necessary to obtain its objectives.

(2) *[Section 5 Subsection (2) omitted by No. 21 of 1997, s. 4, Applied:01 Aug 1997]*

5A. Matters to be contained in State Policies

[Section 5A Inserted by No. 21 of 1997, s. 5, Applied:01 Aug 1997] A State Policy may contain matters relating to one or more of the following:

- (a) sustainable development of natural and physical resources;
- (b) land use planning;
- (c) land management;
- (d) environmental management;
- (e) environment protection;
- (f) any other matter that may be prescribed.

6. Preparation of draft State Policies

(1) *[Section 6 Subsection (1) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* *[Section 6 Subsection (1) amended by No. 21 of 1997, s. 6, Applied:01 Aug 1997]* Where a draft State Policy has been prepared and the Minister is satisfied that the draft State Policy deals with a subject requiring a State Policy, the Minister may give a written direction to the Commission to prepare a report on the draft State Policy and the Commission must prepare a report in accordance with the direction.

(2) *[Section 6 Subsection (2) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* *[Section 6 Subsection (2) substituted by No. 21 of 1997, s. 6, Applied:01 Aug 1997]* Where the Commission is directed to prepare a report on a draft State Policy, it must –

- (a) cause a copy of the draft State Policy to be placed on public exhibition at its office for a period of 8 weeks; and
- (b) advertise, as prescribed, the exhibition of the draft State Policy.

(3) *[Section 6 Subsection (3) omitted by No. 21 of 1997, s. 6, Applied:01 Aug 1997]*

7.

[Section 7 Repealed by No. 21 of 1997, s. 7, Applied:01 Aug 1997]

8. Representations in respect of draft State Policies

[Section 8 Amended by No. 21 of 1997, s. 8, Applied:01 Aug 1997] *[Section 8 Amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* Where a draft State Policy is placed on public exhibition, representations in relation to the draft State Policy may be submitted to the Commission by any person before the expiration of the exhibition period referred to in section 6(2)(a) .

9. Consideration by Commission of representations

(1) *[Section 9 Subsection (1) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* As soon as practicable after receipt by it of representations in relation to a draft State Policy, the Commission must consider the representations.

(2) [Section 9 Subsection (2) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998] For the purposes of considering representations under subsection (1), the Commission may hold a hearing in relation to each representation.

(3) [Section 9 Subsection (3) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998] The Commission may consolidate any of the representations and hold a hearing in relation to the consolidated representations.

10. Modification of draft State Policies

(1) [Section 10 Subsection (1) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998] The Commission may, after its consideration under section 9 of the representations in relation to a draft State Policy, modify the draft State Policy.

(2) [Section 10 Subsection (2) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998] Where the Commission modifies a draft State Policy and it considers that the provisions of this Part should apply to the modification of the draft State Policy, the provisions of this Part apply to the modification as if it were a draft State Policy.

11. Making of State Policies by Governor

(1) [Section 11 Subsection (1) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998] After consideration by the Commission of a draft State Policy (including any modifications made under section 10), the Commission must submit a report on the draft State Policy to the Minister.

(2) [Section 11 Subsection (2) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998] The Commission must publish notice of its report to the Minister under subsection (1) in the *Gazette* and must make the report publicly available.

(3) [Section 11 Subsection (3) amended by No. 17 of 1996, Applied:15 May 1998] [Section 11 Subsection (3) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998] The Minister may, on receipt of a report on a draft State Policy from the Commission, recommend to the Governor the making of a Tasmanian Sustainable Development Policy.

(4) The Governor may make a Tasmanian Sustainable Development Policy in accordance with a recommendation made under subsection (3), and fix a day on which it will come into operation.

(5) Before it comes into operation, a State Policy must be notified in the *Gazette*.

(6) The Minister must cause a State Policy to be laid before each House of Parliament within the first 10 sitting days of the House after it is so notified.

(7) A State Policy is of no effect until it has been approved by both Houses of Parliament.

(8) For the purposes of subsection (7), a House of Parliament is to be taken to have approved a State Policy if a copy of it has been laid on the table of that House and –

(a) it is approved by that House; or

(b) [Section 11 Subsection (8) amended by No. 21 of 1997, s. 9, Applied:01 Aug 1997] at the expiration of 10 sitting days after it was laid on the table of that House, no notice has been given of a motion to disallow it or, if such notice has been given, the notice has been withdrawn or the motion has been negatived; or

(c) [Section 11 Subsection (8) amended by No. 21 of 1997, s. 9, Applied:01 Aug 1997] if any notice of a motion to disallow it is given during that period of 10 sitting days, the notice is, after the expiration of that period, withdrawn or the motion is negatived.

12. Interim State Policies

(1) [Section 12 Subsection (1) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998] Where the Governor is satisfied, on the recommendation of the Minister, that it is necessary that a State Policy should come into operation without delay, the Governor may, at the same time as, or at any time after, a draft State Policy is placed on public exhibition at the Commission's office declare, by notice published in the *Gazette*, that the State Policy will come into operation on a temporary basis on a day specified in the notice.

(2) Where a notice has been published under subsection (1), the State Policy comes into operation on the day specified in the notice.

- (3) A State Policy that has come into operation under this section ceases to operate –
- (a) if the Governor, by notice published in the *Gazette*, terminates its operation; or
 - (b) if either House of Parliament passes a resolution disallowing it; or
 - (c) if it is superseded by a State Policy that comes into operation under section 11 ; or
 - (d) in the case of a State Policy that has not already ceased to operate by virtue of paragraph (a) , (b) or (c) , at the expiration of 12 months from the day on which it came into operation.
- (4) The Rules Publication Act 1953 does not apply to a notice referred to in subsection (1) .

12A. National environment protection measures taken to be State Policies

[Section 12A Inserted by No. 54 of 1995, s. 65]

- (1) A national environment protection measure is taken to be a State Policy and is taken to have been approved by both Houses of Parliament.
- (2) Section 15 does not apply to a national environment protection measure taken to be a State Policy.
- (3) In this section, ***national environment protection measure*** means a national environment protection measure made under section 14 (1) of the National Environment Protection Council (Tasmania) Act 1995 .

13. Effect of State Policies

- (1) Where there is an inconsistency between a provision of a State Policy and a provision of a planning scheme or an interim order in force at the time when the State Policy comes into operation, the provision of the planning scheme or interim order is void to the extent of the inconsistency.
- (2) *[Section 13 Subsection (2) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* The Minister must advise the Commission and all appropriate agencies of the making of a State Policy within 14 days of its coming into operation.
- (3) *[Section 13 Subsection (3) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998] [Section 13 Subsection (3) substituted by No. 21 of 1997, s. 10, Applied:01 Aug 1997]* The Commission must, as soon as practicable after a State Policy comes into operation, other than a State Policy which comes into operation under section 12 , amend a planning scheme or special planning order to incorporate all those parts of the State Policy which are relevant to it and to remove any inconsistency between it and the State Policy.
- (3A) *[Section 13 Subsection (3A) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998] [Section 13 Subsection (3A) inserted by No. 21 of 1997, s. 10, Applied:01 Aug 1997]* The Commission may, after a State Policy comes into operation under section 12 , amend a planning scheme or special planning order to incorporate those parts of the State Policy which are relevant to it and to remove an inconsistency between it and the State Policy.
- (3B) *[Section 13 Subsection (3B) inserted by No. 21 of 1997, s. 10, Applied:01 Aug 1997]* A State Policy may be implemented by any means available to the Crown.
- (4) The Land Use Planning and Approvals Act 1993 does not apply to an amendment made under subsection (3) .
- (5) *[Section 13 Subsection (5) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* Where the Commission amends a planning scheme or an interim order pursuant to subsection (3) –
- (a) the amendment is deemed to have come into operation on the date on which the State Policy came into operation; and
 - (b) *[Section 13 Subsection (5) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* the Commission must give notice, as prescribed, of the amendment.
- (6) Subsection (1) applies to a planning scheme or an interim order that is made before or after the commencement of this section.

13A. Delegation of implementation of State Policies

[Section 13A Inserted by No. 21 of 1997, s. 11, Applied:01 Aug 1997]

- (1) The Minister may, by instrument in writing, delegate the implementation of a State Policy to another Minister specified in the instrument of delegation.

- (2) The Minister may revoke, wholly or in part, or vary a delegation at any time.
- (3) A delegation under this section may be made subject to such conditions as are specified in the instrument of delegation.
- (4) A State Policy, the implementation of which has been delegated under this section, may be implemented only in accordance with the terms of the delegation and any conditions to which the delegation is subject.
- (5) A State Policy, the implementation of which has been delegated under this section, that is implemented by a delegate is taken to have been implemented by the delegator.
- (6) If the implementation of a State Policy is delegated to a particular Minister –
- (a) the delegation does not cease to have effect merely because the person who was the particular Minister when the implementation of the State Policy was delegated ceases to be that Minister; and
 - (b) the State Policy may be implemented by the person for the time being occupying or acting in the office of that Minister.
- (7) A State Policy, the implementation of which has been delegated under this section, may, notwithstanding the delegation, be implemented by the delegator.
- (8) In all courts and before all persons acting judicially, an instrument purporting to be executed by a delegate in the capacity as a delegate is to be received in evidence as if it were an instrument executed by the delegator and is to be taken to be an instrument executed by the delegator.

13B. State Policies may require statutory authorities to undertake certain activities

[Section 13B Inserted by No. 21 of 1997, s. 11, Applied:01 Aug 1997]

- (1) Subject to subsection (3), a State Policy may require a statutory authority or statutory office holder to undertake activities, perform functions and exercise powers specified in the State Policy.
- (2) A statutory authority that, or statutory office holder who, undertakes activities, performs functions or exercises powers specified in a State Policy pursuant to a requirement under subsection (1) must, in doing so, seek to promote the principles contained in the State Policy and to further the objectives set out in Schedule 1.
- (3) A statutory authority or statutory office holder is not to be required to undertake activities, perform functions or exercise powers that are inconsistent with the statutory functions or powers of the statutory authority or statutory office holder.
- (4) In this section –

statutory authority means an incorporated or unincorporated body which is established, constituted or continued by or under an Act or under the royal prerogative, being a body which, or of which the governing authority, wholly or partly comprises a person or persons appointed by the Governor, a Minister or another statutory authority;

statutory functions or powers, in relation to a statutory authority or statutory office holder, means the functions or powers conferred on the statutory authority or statutory office holder by an enactment;

statutory office holder means the holder of an office which is established by or under an enactment.

13C. State Policies to bind Crown and councils

[Section 13C Inserted by No. 21 of 1997, s. 11, Applied:01 Aug 1997] A State Policy binds –

- (a) the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities; and
- (b) a council.

13D. State Policies may adopt standards, codes, &c.

[Section 13D Inserted by No. 21 of 1997, s. 11, Applied:01 Aug 1997]

- (1) A State Policy may adopt, either wholly or in part and with or without modification and either specifically or by reference, any of the standards, rules, codes, specifications, management plans or similar

documents of any body approved by the Minister, whether the standards, rules, codes, specifications, management plans or documents are published, made or amended before or after the commencement of the State Policies and Projects Amendment Act 1997 .

(2) A reference in subsection (1) to standards, rules, codes, specifications, management plans or documents includes an amendment of those standards, rules, codes, specifications, management plans or documents whether the amendment is published, made or issued before or after the commencement of the State Policies and Projects Amendment Act 1997 .

14. Contraventions, &c., of State Policies

(1) A person who contravenes or fails to comply with a provision of a State Policy or a requirement or obligation imposed under a State Policy is guilty of an offence punishable on summary conviction in accordance with subsection (2) .

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding 500 penalty units, and a person who is so convicted in respect of a continuing contravention of or failure to comply with a provision of a State Policy or a requirement or obligation imposed under a State Policy –

(a) is liable, in addition to the fine otherwise applicable to that offence, to a fine for each day during which the contravention or failure to comply continued of not more than 50 penalty units; and

(b) if the contravention or failure to comply continues after the person is convicted, is guilty of a further offence against subsection (1) and is liable, in addition to the fine otherwise applicable to that further offence, to a fine for each day during which that contravention or failure to comply continued after that conviction of not more than 50 penalty units.

15. Review of State Policies

[Section 15 Substituted by No. 21 of 1997, s. 12, Applied:01 Aug 1997]

(1) The Minister or such other Minister as the first-mentioned Minister may determine must review a State Policy at least once within the period of 5 years from the date on which it came into operation and at least once within each period of 5 years from the date on which the last review was conducted.

(2) If after the completion of a review of a State Policy the Minister considers that an amendment is required to the State Policy, the provisions of section 15A apply to that amendment as if it were a proposed amendment submitted to the Minister under that section.

15A. Amendment of State Policies

[Section 15A Inserted by No. 21 of 1997, s. 12, Applied:01 Aug 1997]

(1) In this section,

referred amendment means a proposed amendment to a State Policy, or that part of a proposed amendment to a State Policy, specified in a direction given under subsection (2) .

(2) *[Section 15A Subsection (2) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* Where a proposed amendment to a State Policy has been submitted to the Minister, the Minister may give a written direction to the Commission to advise whether the Commission considers the proposed amendment, or that part of it specified in the direction, constitutes a significant change to the State Policy.

(3) *[Section 15A Subsection (3) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* Where the Commission is directed to provide advice in accordance with subsection (2) it must, within 21 days or such longer period as the Minister may allow, provide the advice to the Minister.

(4) *[Section 15A Subsection (4) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* The Commission must –

(a) publish notice of its advice to the Minister under subsection (3) in the *Gazette*; and

(b) make the advice available to any person who wishes to view it.

(5) *[Section 15A Subsection (5) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* Where on receipt of advice from the Commission the Minister determines that a referred amendment does not constitute a significant change to the State Policy, the Minister must –

- (a) publish a notice in the *Gazette* specifying the details of the referred amendment and that the Minister considers that the referred amendment does not constitute a significant change to the State Policy; and
- (b) [Section 15A Subsection (5) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998] cause the notice and the advice of the Commission provided to the Minister under subsection (3) to be laid before each House of Parliament within the first 10 sitting days of the House after it has been published.
- (6) The referred amendment specified in the notice under subsection (5) takes effect on the date of publication of the notice in the *Gazette*.
- (7) [Section 15A Subsection (7) amended by No. 17 of 1996, Applied:15 May 1998] If either House of Parliament passes a resolution within the first 5 sitting days after a notice referred to in subsection (5) is laid before it that the notice be disallowed, the amendment specified in the notice is void and, from that date of disallowance, the amendment ceases to have effect.
- (8) [Section 15A Subsection (8) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998] Where on receipt of advice from the Commission the Minister determines that a referred amendment constitutes a significant change to the State Policy, the Minister must give a written direction to the Commission to prepare a report on the referred amendment and the Commission must prepare a report in accordance with the direction.
- (9) Where the Minister determines under subsection (8) that a referred amendment constitutes a significant change to the State Policy, the provisions of sections 6 , 8 , 9 , 10 , 11 and 12 apply in relation to the referred amendment as if it were a draft State Policy.
- (10) For the purposes of this section, a referred amendment is taken to be a significant change to the State Policy to which it relates if it is a change which substantially alters the content or effect of the State Policy.

PART 3 - Integrated assessment of projects of State significance

16. Interpretation: Part 3

[Section 16 Substituted by No. 21 of 1997, s. 13, Applied:01 Aug 1997]

(1) For the purposes of this Part, a project is eligible to be a project of State significance if it possesses at least 2 of the following attributes:

- (a) significant capital investment;
- (b) significant contribution to the State's economic development;
- (c) significant consequential economic impacts;
- (d) significant potential contribution to Australia's balance of payments;
- (e) significant impact on the environment;
- (f) complex technical processes and engineering designs;
- (g) significant infrastructure requirements.

(2) [Section 16 Subsection (2) substituted by No. 3 of 2005, s. 4, Applied:12 Apr 2005] For the purposes of this Part –

integrated assessment, in relation to a project of State significance, means a consideration of environmental, social, economic and community issues relevant to that project and such other issues as may be prescribed;

person proposing the project of State significance includes any person for the time being proposing to undertake the project of State significance or any use or development included in that project.

17. Guidelines for projects of State significance

- (1) The Minister may publish guidelines setting out the development approval process for projects of State significance.
- (2) The guidelines must be published in the *Gazette* and in such other manner as the Minister considers will best bring them to the attention of persons having an interest in undertaking major development projects in the State.
- (3) The Minister must cause guidelines published in accordance with subsection (2) to be laid on the table of both Houses of Parliament within 5 sitting days of being first published in the *Gazette*.

18. Declaration of project of State significance

- (1) If the Minister considers that a project is a project of State significance, the Minister may recommend to the Governor the making of an order declaring the project to be a project of State significance.
- (2) The Governor may make an order in accordance with a recommendation made under subsection (1) .
- (3) An order under subsection (2) must be published in the *Gazette*.
- (4) The Minister must cause an order under subsection (2) to be laid before each House of Parliament within the first 10 sitting days of the House after it is so published.
- (5) An order under subsection (2) is of no effect until it has been approved by both Houses of Parliament.
- (6) For the purposes of subsection (5) , a House of Parliament is to be taken to have approved an order under subsection (2) if a copy of it has been laid on the table of that House and –
 - (a) it is approved by that House; or
 - (b) at the expiration of 15 sitting days after it was laid on the table of that House, no notice has been given of a motion to disallow it or, if such notice has been given, the notice has been withdrawn or the motion has been negated; or
 - (c) if any notice of a motion to disallow it is given during that period of 15 sitting days, the notice is, after the expiration of that period, withdrawn or the motion is negated.

18A. Content of order declaring project to be a project of State significance

[Section 18A Inserted by No. 3 of 2005, s. 5, Applied:12 Apr 2005] An order under section 18(2) declaring a project to be a project of State significance may include in the project any use or development which is necessary or convenient for the implementation of the project, whether or not the use or development is to be undertaken by or on behalf of any person named in the order.

18B. Part 3 continues to apply despite change in identity or number of proponents

[Section 18B Inserted by No. 3 of 2005, s. 5, Applied:12 Apr 2005] Where an order under section 18(2) declaring a project to be a project of State significance is made, this Part continues to apply to the project despite any change in the identity or number of the persons proposing the project or any use or development included in the project.

19. Effect of order declaring a project of State significance

(1) *[Section 19 Subsection (1) amended by No. 44 of 1998, s. 4, Applied:18 Dec 1998]* Where an order under section 18 (2) declaring a project to be a project of State significance is made, the provisions of any Act, planning scheme or interim order—

(a) *[Section 19 Subsection (1) amended by No. 3 of 2005, s. 6, Applied:12 Apr 2005]* requiring the approval, consent or permission of any person in connection with any use or development to which the order relates; or

(b) *[Section 19 Subsection (1) amended by No. 3 of 2005, s. 6, Applied:12 Apr 2005]* empowering any body to grant or refuse its consent to any such use or development; or

(c) *[Section 19 Subsection (1) amended by No. 3 of 2005, s. 6, Applied:12 Apr 2005]* prohibiting any such use or development; or

(d) *[Section 19 Subsection (1) amended by No. 3 of 2005, s. 6, Applied:12 Apr 2005]* permitting any such use or development only upon specified terms or conditions; or

(e) *[Section 19 Subsection (1) amended by No. 3 of 2005, s. 6, Applied:12 Apr 2005]* regulating or permitting the regulation of any such use or development—

do not apply unless the order has been revoked.

(2) *[Section 19 Subsection (2) amended by No. 3 of 2005, s. 6, Applied:12 Apr 2005]* Use or development, other than use or development for the purposes of an integrated assessment, may not be undertaken in respect of the project of State significance until an order under section 26 (6) or (8) is made.

20. Integrated assessment of projects of State significance

(1) *[Section 20 Subsection (1) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* Where an order under section 18 (2) has been made, the Minister must give a written direction to the Commission to undertake an integrated assessment of the project of State significance, and the Commission must undertake an integrated assessment in accordance with the direction.

(2) *[Section 20 Subsection (2) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* A direction under subsection (1) may not be given to the Commission after either House of Parliament has approved, within the meaning of section 18 (6) , the order under section 18 (2) .

(2A) *[Section 20 Subsection (2A) inserted by No. 44 of 1998, s. 5, Applied:18 Dec 1998]* A direction under subsection (1) may be given to the Commission at any time after the making by the Governor of the relevant order under section 18(2) to enable the Commission to prepare for the integrated assessment before the order is approved or disallowed under section 18 .

(2B) *[Section 20 Subsection (2B) inserted by No. 44 of 1998, s. 5, Applied:18 Dec 1998]* Any preparation by the Commission under subsection (2A) may include the preparation and public exhibition of guidelines to be followed in the preparation of reports to be presented to the Commission for the purposes of the integrated assessment.

(3) *[Section 20 Subsection (3) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* A direction under subsection (1) may require the Commission to comply with any requirement regarding—

(a) the matters to be addressed in the integrated assessment; or

- (b) the process to be followed in undertaking the integrated assessment; or
- (c) the time within which the integrated assessment must be completed.

(4) *[Section 20 Subsection (4) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* Where under any law a project has been advertised or publicly notified, a direction under subsection (1) may require the Commission to dispense with the public exhibition of a draft integrated assessment report.

(5) *[Section 20 Subsection (5) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* The integrated assessment by the Commission under subsection (1) –

- (a) must seek to further the objectives set out in Schedule 1 ; and
- (b) must be undertaken in accordance with State Policies; and
- (c) must take into consideration the matters set out in the representations referred to in section 23 .

21. Referral to relevant agencies

(1) *[Section 21 Subsection (1) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* Where the Commission is directed to undertake an integrated assessment of a project of State significance, it must, within 14 days of commencing that assessment, notify the council of a municipality in which the project is located and each agency which in the Commission's opinion has an interest in the project that an integrated assessment is being undertaken by it in respect of the project.

(2) *[Section 21 Subsection (2) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* Where the council of a municipality or an agency is notified under subsection (1) , it may, within 28 days after receipt of the notification or within such longer period as the Commission may allow, give to the Commission submissions setting out its views in relation to the project of State significance.

22. Preparation and public exhibition of draft integrated assessment report

[Section 22 Amended by No. 21 of 1997, s. 14, Applied:01 Aug 1997] *[Section 22 Amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* In consultation with the council of the municipality and the agencies notified under section 21 (1) , the Commission must, within such period as the Minister may allow, prepare a draft integrated assessment report and–

- (a) cause a copy of the draft report, and any submissions received under section 21 (2) , to be placed on public exhibition at its office for a period of at least 28 days; and
- (b) advertise, as prescribed, the exhibition of the draft report.

23. Representations in respect of draft integrated assessment report

[Section 23 Amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998] Where a draft integrated assessment report is placed on public exhibition, representations in relation to the draft report may be submitted to the Commission by any person before the expiration of the exhibition period referred to in section 22 (a) .

24. Consideration by Advisory Council of representations

(1) *[Section 24 Subsection (1) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* As soon as practicable after receipt by it of representations in relation to a draft integrated assessment report, the Commission must consider the representations.

(2) *[Section 24 Subsection (2) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* For the purposes of considering representations under subsection (1) , the Commission may hold a hearing in relation to each representation.

(3) *[Section 24 Subsection (3) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* The Commission may consolidate any of the representations and hold a hearing in relation to the consolidated representations.

25. Modification of draft integrated assessment report

(1) *[Section 25 Subsection (1) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* The Commission may, after its consideration under section 24 of the representations in relation to a draft integrated assessment report, modify the report.

(2) *[Section 25 Subsection (2) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* Where the Commission modifies a draft integrated assessment report and it considers the provisions of this Part should apply to the

modification of the report, the provisions of this Part apply to the modification as if it were a draft integrated assessment report.

26. Recommendation to Minister on project of State significance

(1) *[Section 26 Subsection (1) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* As soon as practicable after undertaking an integrated assessment of a project of State significance, the Commission must submit a report to the Minister on whether or not the project should proceed, and if so on what conditions.

(2) *[Section 26 Subsection (2) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* Where the report of the Commission recommends that a project of State significance should proceed on conditions, it must specify—

(a) those conditions; and

(b) *[Section 26 Subsection (2) amended by No. 44 of 1998, s. 6, Applied:18 Dec 1998]* the Act pursuant to which, and the permit, licence or other approval in which, each condition would normally be imposed; and

(c) the agency responsible for the enforcement of each condition.

(2A) *[Section 26 Subsection (2A) inserted by No. 44 of 1998, s. 6, Applied:18 Dec 1998]* If in the opinion of the Commission it may be necessary following the making of an order under subsection (6) or (8) to specify, pursuant to section 26A, additional conditions upon which the project of State significance is to proceed, the report of the Commission must specify—

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

(b) the reason why the Commission is unable to specify the condition at the time the Commission makes its recommendation under subsection (2).

(3) *[Section 26 Subsection (3) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* The Commission must publish notice of its report to the Minister under subsection (1) in the *Gazette* and must make the report publicly available.

(4) The Minister must make a decision with respect to the report within 28 days of receiving it.

(5) *[Section 26 Subsection (5) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* The Minister may recommend to the Governor the making of an order in accordance with the report of the Commission.

(6) The Governor may make an order in accordance with a recommendation made under subsection (5).

(7) *[Section 26 Subsection (7) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* Where the Minister does not recommend to the Governor the making of an order in accordance with a report of the Commission, the Minister may recommend to the Governor the making of an order enabling the project of State significance to proceed on conditions, and specifying—

(a) those conditions; and

(b) *[Section 26 Subsection (7) amended by No. 44 of 1998, s. 6, Applied:18 Dec 1998]* the Act pursuant to which, and the permit, licence or other approval in which, each condition would normally be imposed; and

(c) the agency responsible for the enforcement of each condition.

(8) The Governor may make an order in accordance with a recommendation made under subsection (7).

(9) An order under subsection (8) is of no effect until it has been approved by resolution of each House of Parliament.

(10) The Clerk of the House by which a resolution referred to in subsection (9) is passed must publish notice of the resolution in the *Gazette* as soon as possible after it is passed.

26A. Recommendation to Minister relating to additional conditions

[Section 26A Inserted by No. 44 of 1998, s. 7, Applied:18 Dec 1998]

(1) After the making of an order under section 26(6) or (8), the Commission may submit a report to the Minister recommending that an order be made specifying additional conditions subject to which the project of State significance should proceed.

- (2) Where the Commission submits a report to the Minister under subsection (1) , it must specify –
 - (a) the additional conditions; and
 - (b) the Act pursuant to which, and the permit, licence or other approval in which, each condition would normally be imposed; and
 - (c) the agency responsible for the enforcement of each condition.
- (3) The Commission must publish notice of its report under subsection (1) in the *Gazette* and must make the report publicly available.
- (4) The Minister must make a decision with respect to the report within 28 days of receiving it.
- (5) The Minister may recommend to the Governor the making of an order in accordance with the report of the Commission.
- (6) The Governor may make an order in accordance with a recommendation made under subsection (5) .
- (7) If the Governor makes an order under subsection (6) , the Minister must publish notice in the *Gazette* specifying details of the order.
- (8) Subject to subsection (10) , the order takes effect on the date of publication of the notice in the *Gazette*.
- (9) If the order made under subsection (6) relates to an order which was approved by resolution of each House of Parliament under section 26(9) , the Minister must cause the notice referred to in subsection (7) and the order made under subsection (6) to be laid before each House of Parliament within the first 10 sitting days of the House after the notice has been published.
- (10) If either House of Parliament passes a resolution within the first 3 sitting days after the notice referred to in subsection (9) is laid before it that the order made under subsection (6) be disallowed, the order is void and, from the date of disallowance, the order ceases to have effect.

26B. Amendment of order approving project of State significance

[Section 26B Inserted by No. 44 of 1998, s. 7, Applied: 18 Dec 1998]

- (1) In this section,

amending order means an order which amends or revokes an order made under section 26(6) or (8) or section 26A or an order which is made in substitution for an order made under section 26(6) or (8) or section 26A .
- (2) The Minister may give a written direction to the Commission requiring it to advise whether or not an amending order should be made.
- (3) Where the Commission receives a direction under subsection (2) , it must provide the Minister, within the time specified by the Minister in the direction, with a report advising whether or not an amending order should be made.
- (4) The Commission may of its own volition provide the Minister with a report recommending that an amending order should be made.
- (5) Where a report of the Commission recommends that an amending order should be made which would include conditions subject to which the project of State significance may proceed, the report must specify –
 - (a) those conditions; and
 - (b) the Act pursuant to which, and the permit, licence or other approval in which, each condition would normally be imposed; and
 - (c) the agency responsible for the enforcement of each condition.
- (6) The Commission must publish notice of a report to the Minister under subsection (3) or (4) in the *Gazette* and must make the report publicly available.
- (7) The Minister must make a decision with respect to a report under subsection (3) or (4) within 28 days of receiving it.
- (8) The Minister may recommend to the Governor the making of an order in accordance with a report of the Commission under subsection (3) or (4) .

- (9) The Governor may make an order in accordance with the recommendation of the Minister.
- (10) If the Governor makes an order under subsection (9) , the Minister must publish a notice in the *Gazette* specifying the details of the order.
- (11) Subject to subsection (13) , the order takes effect on the date of publication of the notice in the *Gazette*.
- (12) If the order relates to an order which was approved by resolution of each House of Parliament under section 26(9) , the Minister must cause the notice referred to in subsection (10) and the order to be laid before each House of Parliament within the first 10 sitting days of the House after the notice has been published.
- (13) If either House of Parliament passes a resolution within the first 3 sitting days after the notice referred to in subsection (12) is laid before it that the order be disallowed, the order is void and, from the date of disallowance, the order ceases to have effect.

27. Effect of order approving project of State significance

[Section 27 Substituted by No. 44 of 1998, s. 8, Applied: 18 Dec 1998]

- (1) Where an order is made under section 26 (6) or (8) –
- (a) subject to subsections (2) , (3) and (4) , the project of State significance may proceed on the conditions specified in the order; and
 - (b) a permit, licence or other approval is deemed to have been issued under the Act specified in the order in relation to each condition, and that Act applies as if such a permit, licence or other approval had been issued on the conditions set out in the order in relation to that Act; and
 - (c) the agency specified as the agency responsible for the enforcement of each condition must enforce the condition to the extent of its powers.
- (2) Where an order is made under section 26A –
- (a) subject to subsections (3) and (4) , the project of State significance may proceed on the conditions specified in the order; and
 - (b) a permit, licence or other approval is deemed to have been issued under the Act specified in the order in relation to each condition, and that Act applies as if such a permit, licence or other approval had been issued on the conditions set out in the order in relation to that Act; and
 - (c) the agency specified as the agency responsible for the enforcement of each condition must enforce the condition to the extent of its powers.
- (3) Where an order is made under section 26B –
- (a) subject to subsection (4) , the project of State significance may proceed on the conditions specified in the order; and
 - (b) a permit, licence or other approval is deemed to have been issued under the Act specified in the order in relation to each condition, and that Act applies as if such a permit, licence or other approval had been issued on the conditions set out in the order in relation to that Act; and
 - (c) the agency specified as the agency responsible for the enforcement of each condition must enforce the condition to the extent of its powers.
- (4) An order to which this section relates may require the person proposing the project of State significance to apply for such other permits, licences or other approvals as may be necessary for the proposal to proceed and the person proposing the project of State significance must comply with the requirement.

27A. Amendment of planning schemes, &c., to remove inconsistencies

[Section 27A Inserted by No. 3 of 2005, s. 7, Applied: 12 Apr 2005]

- (1) As soon as practicable after an order under section 26(6) or (8) , 26A or 26B takes effect, the Commission must, in consultation with the relevant planning authority, amend any relevant planning scheme or special planning order to remove any inconsistency between it and the order.

- (2) The Land Use Planning and Approvals Act 1993 does not apply to an amendment made under subsection (1) .
- (3) Where the Commission amends a planning scheme or special planning order under subsection (1) –
- (a) the amendment is taken to have come into operation on the date on which the order under section 26(6) or (8) , 26A or 26B to which it relates was made; and
 - (b) the Commission must give notice, as prescribed, of the amendment.

28. Limitation on rights of appeal and other rights

(1) *[Section 28 Subsection (1) amended by No. 44 of 1998, s. 9, Applied:18 Dec 1998]* Subject to section 27 and notwithstanding the provisions of any other Act–

- (a) a person is not entitled to appeal to a body or other person, court or tribunal; or
- (b) no other action or proceeding may be brought; or
- (c) *[Section 28 Subsection (1) amended by No. 54 of 2000, Sched. 4, Applied:01 Dec 2001]* no order of review may be made under the Judicial Review Act 2000 ; or
- (d) no declaratory judgment may be given–

in respect of any matter or thing arising out of or relating to the conditions specified in an order made under section 26(6) , 26(8) , 26A or 26B .

(2) *[Section 28 Subsection (2) amended by No. 44 of 1998, s. 9, Applied:18 Dec 1998]* A person who would, but for subsection (1) , have had a right under any other law to require an agency to enforce a condition specified in an order made under section 26(6) , 26(8) , 26A or 26B may take action to require the agency to enforce the condition.

28A. Revocation of order declaring project to be a project of State significance made on recommendation of Commission

[Section 28A Inserted by No. 44 of 1998, s. 10, Applied:18 Dec 1998]

- (1) If the Commission is satisfied, at any time before the submission of its report to the Minister under section 26(1) , that there is no reasonable prospect that its report will contain a recommendation that a project of State significance should proceed, the Commission may submit a report to the Minister recommending that the order made under section 18(2) in relation to the project be revoked.
- (2) Before the Commission submits a report to the Minister in accordance with subsection (1) , it must give to the person proposing the project of State significance a draft of the report.
- (3) The person proposing the project of State significance may make a written submission to the Commission in relation to the draft of the report within 14 days of being given the draft.
- (4) If a written submission is made under subsection (3) , the Commission must forward the submission to the Minister at the same time that it submits its report to the Minister.
- (5) After considering the Commission's report and any submission made under subsection (3) , the Minister may recommend to the Governor the making of an order revoking the order made under section 18(2) .
- (6) The Governor may make an order revoking the order made under section 18(2) in accordance with a recommendation made under subsection (5) .
- (7) If an order is made under subsection (6) revoking an order that declared a project to be a project of State significance, any direction given by the Minister under section 20 in relation to the project is revoked.
- (8) No action may be brought against the Crown or any servant or agent of the Crown for loss sustained by reason of the making of an order under subsection (6) .

PART 4 - State of the environment reporting

29. Preparation of State of the Environment Reports

(1) *[Section 29 Subsection (1) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* The Commission must, as soon as reasonably practicable after the commencement of this Act and after that commencement at intervals of 5 years, produce a consolidated State of the Environment Report relating to—

- (a) the condition of the environment; and
- (b) trends and changes in the environment; and
- (c) the achievement of resource management objectives; and
- (d) recommendations for future action to be taken in relation to the management of the environment.

(2) *[Section 29 Subsection (2) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* The Commission must—

- (a) submit a State of the Environment Report produced by it to the Minister; and
- (b) cause notice to be given, as prescribed, that the State of the Environment Report will be available to the public for inspection and purchase.

(3) The Minister must cause a State of the Environment Report to be laid on the table of each House of Parliament within the first 15 sitting days of the House after the Report is received by the Minister.

PART 5 - Functions of Commission under this Act

[Part 5 Substituted by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]

30. Functions of Commission

[Section 30 Substituted by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998] The functions of the Commission under this Act are –

- (a) to report to the Minister on the preparation of draft State Policies; and
- (b) in accordance with directions under section 20(1) , to report to the Minister on projects of State significance; and
- (c) to prepare State of the Environment Reports; and
- (d) perform such other functions as are imposed on it by or under this Act.

31.

[Section 31 Subsection (1) amended by No. 88 of 1995, s. 41 and Sched. 1][Section 31 Subsection (1) amended by No. 37 of 1996, s. 3 and Sched. 1][Section 31 Subsection (1) amended by No. 77 of 1995, s. 3 and Sched. 1][Section 31 Subsection (1) amended by No. 21 of 1997, s. 15, Applied:01 Aug 1997] [Section 31 Subsection (2) amended by No. 77 of 1995, s. 3 and Sched. 1][Section 31 Repealed by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]

32.

[Section 32 Repealed by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]

33.

[Section 33 Repealed by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]

34.

[Section 34 Repealed by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]

35.

[Section 35 Repealed by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]

36.

[Section 36 Repealed by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]

37.

[Section 37 Repealed by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]

38.

[Section 38 Repealed by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]

39.

[Section 39 Repealed by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]

40.

[Section 40 Repealed by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]

41.

[Section 41 Repealed by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]

42.

[Section 42 Repealed by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]

43.

[Section 43 Repealed by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]

PART 6 - Miscellaneous

44. Evidentiary provision

[Section 44 Amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998] Evidence of a State Policy 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 State Policy and purporting to be certified as a true copy by a person authorized, in writing, by the Commission.

45. State Policies to be judicially noticed

A State Policy is a public document of which a court or tribunal or person acting judicially must take judicial notice without formal proof of its contents.

46. 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 –
 - (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
 - (b) be of general or specially limited application; and
 - (c) *[Section 46 Subsection (2) amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]* 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.

47. Requirement to pay fees

[Section 47 Amended by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998] *[Section 47 Amended by No. 17 of 1996, Applied:15 May 1998]* The Commission is not required to take any action under this Act, and any submission or representation which is lodged under this Act is not valid, unless any requirements imposed by regulations made under section 46 as to the payment of fees in respect of the taking of that action or the lodging of that submission or representation have been complied with.

47A. Validation of actions, &c., of delegates of Advisory Council

[Section 47A Inserted by No. 21 of 1997, s. 16, Applied:01 Aug 1997] Any hearing conducted, meeting held or decision made by the delegates of the Advisory Council considering the draft State Policy on Water Quality Management before the commencement of the State Policies and Projects Amendment Act 1997 is taken to have been validly conducted, held or made and any action taken by a person acting pursuant to a decision of those delegates before that commencement is deemed to be validly taken.

48. 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 of the Resource Management and Planning System of Tasmania

Sections 5 , 15 and 20

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.

SCHEDULE 2

[Schedule 2 Amended by No. 77 of 1995, s. 3 and Sched. 1][Schedule 2 Amended by No. 37 of 1996, s. 3 and Sched. 1]

[Schedule 2 Repealed by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]

SCHEDULE 3

[Schedule 3 Repealed by No. 85 of 1997, Sched. 4, Applied:01 Jan 1998]