



Land Use Planning and Approvals Act 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;

Appeal Tribunal means the Resource Management and Planning Appeal Tribunal established under the *Resource Management and Planning Appeal Tribunal Act 1993*;

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;

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;

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, a draft amendment of the SPPs, 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 special 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 permit means a permit that is granted under section 60T and that is in force;

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 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);

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.

(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.

6. Delegation

(1)

(2)

(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 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

(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 special 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 2000* 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.

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

(d) has regard to the safety requirements set out in the standards prescribed under the *Gas Pipelines Act 2000*.

(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.

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.

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.

30H. When public exhibition not required

(1) The Commission may notify the Minister that, in its opinion, public exhibition in relation to a draft amendment of the SPPs is not required, because –

(a) the amendment of the SPPs is urgently required; or

(b) the amendment is for a purpose specified in subsection (3)(b) –

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

(2) The Minister, by notice in writing to the Commission, may declare that public exhibition is not required in relation to 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).

(3) A declaration may only be made under subsection (2) in relation to a draft amendment of the SPPs if the Minister has received a notice from the Commission under subsection (1) and is satisfied that public exhibition in relation to the draft amendment of the SPPs is not required because –

(a) the amendment of the SPPs is urgently required; or

(b) the draft amendment of the SPPs is an amendment for one or more of the following purposes:

(i) correcting an error in 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) making a change to a procedure set out in the SPPs;

(vii) bringing the SPPs into conformity with a State Policy;

(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 the Minister is satisfied that the public interest will not be prejudiced by the draft amendment of the SPPs not being publicly exhibited.

(4) If the Minister issues a notice under subsection (2) in relation to a draft amendment the SPPs, sections 30K, 30L, 30M and 30N do not apply in relation to the draft amendment of the SPPs.

30I. Notice to be given if public exhibition is not required

(1) The Minister must publish in the *Gazette* notice of a declaration made under section 30H(2).

(2) The notice published under subsection (1) is to set out in general terms –

(a) the contents of the draft amendment of the SPPs to which the notice relates; and

(b) why the Minister is satisfied under section 30H(3) that public exhibition is not required in relation to the draft amendment of the SPPs.

(3) The Minister must give to the Commission a copy of the notice published under subsection (1).

30J. Report to be given in relation to draft amendment of the SPPs that is not exhibited

(1) The Commission, within 42 days after a declaration is made under section 30H(2) 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 to which the declaration relates; and

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

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

(3) The recommendations under subsection (2)(b) that are included in the report under subsection (1) in relation to a draft amendment of the SPPs contained in the report in accordance with subsection (2)(a) 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, with modifications, an amendment of the SPPs in the terms of the draft amendment of the SPPs; or

(c) the Minister refuse to make an amendment of the SPPs.

(4) If the recommendations under subsection (2)(b) that are included in the report under subsection (1) include, in accordance with subsection (3)(b), a recommendation that the Minister make, with modifications, an amendment of the SPPs in the terms of the draft amendment of the SPPs contained, in accordance with subsection (2)(a), in the report, the report is to include a copy of the draft amendment of the SPPs that contains the modifications.

(5) A draft amendment of the SPPs, as modified by the Commission, may only be contained in the report in accordance with subsection (4) if the draft amendment as so modified is, in the opinion of the Commission a draft amendment –

(a) that is urgently required or is for a purpose specified in section 30H(3)(b); and

(b) in relation to which the Minister could reasonably be satisfied that the public interest will not be prejudiced by the draft amendment of the SPPs not being publicly exhibited.

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 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 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, 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) The Minister must consider a report provided to the Minister under section 30J(1) in relation to a draft amendment of the SPPs in relation to which public exhibition is, by virtue of a declaration under section 30H(2), not required.

(5) The Minister, after considering a report provided to the Minister under section 30J(1) in relation to a draft amendment of the SPPs contained in the report in accordance with section 30J(2)(a), may –

(a) make an amendment of the SPPs in the terms of the draft amendment of the SPPs, modified as the Minister thinks fit; or

(b) refuse to make an amendment of the SPPs in the terms of the draft amendment of the SPPs.

(6) The Minister may only make under subsection (5) an amendment of the SPPs to which a declaration under section 30H(2) relates if the Minister is satisfied that the amendment of the SPPs is urgently required or is for a purpose specified in section 30H(3)(b).

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, 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 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 –

(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.

(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.

(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;

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

(a) 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

(e) 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) is consistent with 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 Pipelines Act 2000*.

(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

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.

(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.

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) The Commission is to submit to the Minister a request that the Minister approve the issue by the Commission of a direction under subsection (4) in relation to a draft LPS, submitted with the request, that –

(a) a planning authority has submitted to the Commission under section 35; or

(b) the Commission has prepared under section 35A(3).

(2) The Commission must not submit a request under subsection (1) that relates to a draft LPS unless it is satisfied that the draft LPS meets the LPS criteria.

(3) The Minister may approve, or refuse to approve, the giving by the Commission of a direction under subsection (4) in relation to a draft LPS.

(4) The Commission, with the approval of the Minister under subsection (3), may direct a planning authority to undertake public exhibition in respect of a draft LPS that has been submitted to the Minister under subsection (1).

(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 date, within 14 days after the direction is given, before 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 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 the draft LPS begins 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 a copy of 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 copy of the draft LPS is, 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 a copy of 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 a draft LPS that is 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 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), a person or body may make 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.

(4) A representation 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 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 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 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

(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 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 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 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.

35I. 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 –

(i) submit to the Commission a substitute draft LPS within 28 days or a longer period allowed by the Commission; or

(ii) substantially modify a part of the draft LPS and submit to the Commission the part of the draft LPS, as so modified, within the period specified in the direction.

(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); and

(d) the planning authority must not issue a permit, or do any other thing that would, if the draft LPS as modified were an LPS, be a contravention of the LPS.

(3) If the Commission issues under subsection (1)(c)(i) 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) If the Commission issues under subsection (1)(c)(ii) a direction, in relation to a draft LPS (*the original draft LPS*), requiring a planning authority to submit to the Commission a part of the draft LPS that has been modified in accordance with the direction –

(a) the provisions of this Part apply in relation to the part of the draft LPS so submitted as if the part of the draft LPS were a draft LPS, separate from the original draft LPS, prepared in accordance with a direction of the Minister under section 35(2); but

(b) the part of the draft LPS so submitted is to be treated under section 35L(1)(c) as a part of the original draft LPS, rather than as a separate draft LPS.

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); or

(c) the draft LPS containing a modified part in accordance with a direction under section 35K(1)(c)(ii).

(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 –

(a) 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; or

(b) if any part of the draft LPS to which the Local Provisions Schedule relates was required to be resubmitted by a direction under section 35K(1)(c)(ii) – within 90 days, or a longer period allowed by the Minister, after the day on which the report in relation to the substituted part of the draft LPS was submitted under section 35F(1).

(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.

35O. 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 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.

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, 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, 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.

40I. 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 a draft amendment of an LPS 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. Minor 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 under section 23 of the *Resource Management and Planning Appeal Tribunal Act 1993*; 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.

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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 special permits

A planning authority must, within the ambit of its power, enforce the observance of any condition or restriction to which a special 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.

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.

(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 by reference –

(a) to the provisions of the planning scheme as in force at the date of that decision; or

(b) if the planning authority has been required under section 28(1)(a) of this Act, as in force before the day on which section 10 of the Tasmanian Planning Scheme Amendment Act commences, to modify a draft planning scheme and that draft planning scheme has not been approved by the Commission at the date of that decision, to the provisions of the draft planning scheme modified as required; or

(ba) if the planning authority has been directed under section 35K(1)(a) to modify a draft LPS and that draft LPS has not been approved by the Commission at the date of that decision, to the provisions of the draft LPS modified as required; or

(c) if the planning authority has been required under section 41(a) of this Act, as in force before the day on which section 10 of the Tasmanian Planning Scheme Amendment Act commences, to modify, or alter to a substantial degree, a draft amendment to a planning scheme and that draft amendment has not come into effect at the date of that decision, to the provisions of the planning scheme as they

would be if the draft amendment modified, or altered to a substantial degree, as required had come into effect; or

(d) if the planning authority has been required under section 40N to modify, or substantially modify, a draft amendment of an LPS and that draft amendment has not come into effect at the date of that decision, to the provisions of the planning scheme as they would be if the draft amendment modified, or substantially modified, as required had come into effect.

(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.

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) In subsection (1B), "general manager" has the same meaning as in the Local Government Act 1993.

(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)

(b)

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 43A) 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 14 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.

(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 under section 23 of the *Resource Management and Planning Appeal Tribunal Act 1993*.

(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.

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)

(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)

(8)

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 *Resource Management and Planning Appeal Tribunal Act 1993* –

(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 of the appeal; and

(b) to each other party to the appeal an amount determined by the Appeal Tribunal as being the appeal costs of that party.

(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) For the purposes of the *Resource Management and Planning Appeal Tribunal Act 1993*, an application under this section is deemed to be an appeal.

(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)

(10)

60.

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 special 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 special 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 - Special permits for projects of regional significance

60B. Interpretation: Division 2A

In this Division, unless the contrary intention appears –

application for an ordinary permit means an application made under Division 2 of this Part, or Division 2A of Part 3, for the issue of a permit;

EMPC Act means the Environmental Management and Pollution Control Act 1994;

EPA Board means the Board of the Environment Protection Authority established under section 13 of the EMPC Act;

EPA Director means the Director of the Environment Protection Authority appointed under section 18 of the EMPC Act;

Panel, in relation to a project, means the Development Assessment Panel established under section 60M in relation to the project;

project of regional significance means a project that is declared under section 60G to be a project of regional significance;

proponent, in relation to a project –

(a) means the person from time to time proposing a project consisting of one or more uses or developments; and

(b) if a project consists of 2 or more uses or developments that are proposed to be undertaken by different persons, means the person proposing the project as a whole;

statement of intent means a statement of intent that, under section 60F, accompanies a proposal from a proponent of a project.

60C. Projects eligible to be declared projects of regional significance

(1) A project is eligible to be declared to be a project of regional significance if –

(a) the project is of regional planning significance; or

(b) the project requires high-level assessment; or

(c) the project would have a significant environmental impact.

(2) A project is only of regional planning significance if, in the opinion of the Minister –

(a) the project would make a significant economic or social contribution to a region; or

(b) the project is of a scale that would be likely to significantly affect the provision of infrastructure, including social infrastructure, in the region.

(3) A project only requires high-level assessment if, in the opinion of the Minister, the project –

(a) is of such a scale or complexity; or

(b) has such characteristics –

that the planning authority that would be required under this Act to assess an application for an ordinary permit in relation to the project is unlikely to have the capability or the resources to adequately perform the assessment.

(4) A project that is to be situated on an area of land may not be declared to be a project of regional significance except with the consent of the relevant persons.

(5) For the purposes of subsection (4), the relevant persons are –

(a) if all or part of the land is Crown land, the Minister responsible for Crown land; and

(b) if all or part of the land is owned by a council, the general manager, within the meaning of the Local Government Act 1993, of the council; and

(c) if all or part of the land is in Wellington Park, the Wellington Park Management Trust.

(6) A project that is to be situated on an area of land may not be declared to be a project of regional significance unless the relevant persons have been notified.

(7) For the purposes of subsection (6), the relevant persons are –

(a) if all or part of the land is land of which the proponent is not the owner, the owner, or owners, of the land; and

(b) if all or part of the land is land that is not owned by a council but is occupied or administered by a council, the council.

(8) A project that is to be situated on an area of land may be declared to be a project of regional significance even though a use or development that is proposed to form part of the project is prohibited under a planning scheme that applies in relation to the land, but only if the use or development would be consistent with a regional land use strategy that applies in relation to the land.

(9)

60D. Proposals that projects be declared projects of regional significance

(1) A proponent for a project may, by notice in writing to the Minister, propose that the Minister declare the project to be a project of regional significance.

(2) A planning authority, by notice in writing to the Minister, may propose that the Minister declare a project to be a project of regional significance.

(3) A planning authority may only propose a project under subsection (2) if the project consists in whole or in part of a use or development that is wholly or partly within the municipal area of the planning authority.

(4) A planning authority that makes a proposal under subsection (2) in relation to an area of land must give notice in writing of the making of the proposal to –

(a) the proponent; and

(b) the owner, or owners, of the land; and

(c) if part of the land is situated within the municipality of another planning authority, that other planning authority.

(5) If a proposal is made under subsection (1), the Minister must notify each planning authority for the land to which the proposal relates.

60E. Effect of proposal on applications for ordinary permits

(1) In this section –
relevant time, in relation to an application for an ordinary permit that is made in respect of –

(a) all or part of the land to which a proposal under section 60D(1) relates, means the date on which the relevant planning authority is notified of the proposal under section 60D(5); or

(b) all or part of the land to which a proposal under section 60D(2) relates, means –

(i) the date on which the proposal is made; or

(ii) if the application is made to a planning authority other than the authority that made the proposal, the date on which the planning authority is notified of the proposal under section 60D(4)(c).

(2) This section applies to an application for an ordinary permit in respect of all or part of the land to which a proposal under section 60D relates, if the application has been made to, but not determined by, a planning authority, before the relevant time.

(3) If this section applies to an application for an ordinary permit, the planning authority must not determine the application unless and until a decision is made under section 60G(1)(b) to refuse to declare the project to be a project of regional significance.

(4) A determination of an application for an ordinary permit to which this section applies that is made in contravention of subsection (3) is void.

(5) If this section applies to an application for an ordinary permit, the period between –

(a) the relevant time; and

(b) the day on which the Minister makes a decision under section 60G in relation to the project –

is not, in relation to the application, to be taken into account in any calculation for the purposes of this Act of a period of time beginning on the day on which the application was lodged with the planning authority.

60F. Statement of intent and other information

(1) A proposal from a proponent of a project under section 60D(1) is to be accompanied by a statement of intent for the project.

(2) A statement of intent for a project is to contain the following information:

(a) the name and contact details of the proponent;

(b) the name of the project;

(c) a description of the project, including its key physical components;

(d) an outline of the proposed location of the project and a general site location plan;

(e) the anticipated impact, if any, of the project, or infrastructure associated with the project, on other areas;

(f) a general description of the physical environment that may be affected by the project;

(g) the key environmental, health, economic, social and heritage issues that the proponent has identified in respect of the project;

(h) the surveys and studies proposed or being undertaken in relation to the key issues in respect of the project;

(i) the proposed timetable for the project;

(j) how, if at all, the project may make a significant contribution to the economic or social development of the region in which it is proposed to be situated.

(3) The reference in subsection (2)(e) to the anticipated impact of the project or infrastructure on other areas includes –

(a) both areas that are in, and areas that are outside, the regional area in which the project is to be situated; and

(b) the anticipated impact on the provision of social infrastructure, and other infrastructure, in those areas.

(4) A proposal under section 60D(2) from a planning authority is to be accompanied by so much of the information that is in the possession of the planning authority as would be required to be provided by the proponent in a statement of intent under subsection (1), if the proposal were made by the proponent under section 60D(1).

(5) The Minister may accept a proposal under section 60D even though it is not accompanied by all the information required to be specified in the statement of intent required under this section to accompany the application.

(6) The Minister may request a proponent or a planning authority to provide to the Minister, within the period specified in the request, information of the kind specified in the request that is in the possession of the proponent or authority, respectively.

(7) Information may only be requested under subsection (6) if it is reasonably necessary to enable the Minister to determine whether or not to declare a project to be a project of regional significance.

(8) A proponent or planning authority to which a request is made under subsection (6) is to take all reasonable steps to provide the Minister, as soon

as practicable but in any case within the period specified in the request, with the information specified in the request.

60G. Declaration of project of regional significance

(1) The Minister may, by notice in the *Gazette*, after receiving under section 60D(1) or (2) a proposal from a person in relation to a project, declare the project –

(a) to be a project of regional significance; or

(b) to not be a project of regional significance.

(2) The Minister is to make a declaration under subsection (1) in relation to a proposal within 14 days –

(a) from the day on which he or she receives notice of the proposal under section 60D; or

(b) from the day on which he or she receives further information in accordance with a request made under section 60F(6) in relation to the proposal –

whichever is the later.

(3) The Minister, of his or her own motion, may, by notice in the *Gazette*, declare a project to be a project of regional significance.

(4) The Minister may only declare a project to be a project of regional significance if the Minister considers the project to be eligible to be declared such a project.

(5) The Commission must issue guidelines, not inconsistent with this Act, as to the matters to which the Minister is to have regard in determining whether to declare a project to be a project of regional significance.

(6) In determining whether to declare a project to be a project of regional significance, the Minister is to have regard to the guidelines issued by the Commission under subsection (5).

(7) A declaration under this section that a project is to be a project of regional significance must specify –

(a) the land on which the project is to be situated; and

(b) the uses or developments that the project proposes for the land; and

(c) the proponent of the project; and

(d) the grounds on which the Minister declared the project to be a project of regional significance.

(8) A declaration of a project of regional significance may include any use or development that is necessary for the implementation of the project, whether or not the use or development is to be undertaken by or on behalf of the proponent named in the declaration.

(9) The Minister may, in a declaration under this section of a project of regional significance that is to take place on an area of land that is not within any municipality, specify that a planning authority nominated in the notice is to be the planning authority in relation to the project.

(10) The Minister may only nominate, in a notice referred to in subsection (9) in relation to an area of land, a planning authority for a municipality that is within a regional area adjacent to the area of land.

(11) The Minister is to give notice in writing of the making of a declaration of a project under subsection (1) or (3) to –

(a) the proponent; and

(b) all planning authorities in the regional area, or regional areas in which the project to which the declaration relates is to be situated; and

(c) if the project is to take place on an area of land that is not within any municipality, all planning authorities in the regional area that is adjacent to the area of land; and

(d) the Commission; and

(e) if the land on which the project is or was to be situated is situated in Wellington Park, the Wellington Park Management Trust.

(12) The Minister must ensure that a notice of a declaration under subsection (1) or (3) in relation to a project is placed in a newspaper generally circulating in the area in which the project is or was to be situated.

60H. Effect of declaration of project of regional significance

(1) Division 2 of this Part and Division 2A of Part 3 do not apply in relation to a use or development that forms part of a project of regional significance.

(2) A person must not undertake on land a use or development that forms part of a project of regional significance on the land, except under and in accordance with a special permit granted under section 60T in relation to the project.

(3) Subsection (2) does not apply in relation to a use or development for the purposes of conducting an assessment under this Division.

(4) If a project is declared to be a project of regional significance –

(a) an application for an ordinary permit, in relation to a use or development forming all or part of the project, that has been made to, but not determined by, the planning authority, is taken to have been withdrawn on the day of the declaration; 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.

60I. Fees

(1) The relevant fee, as specified or calculated in accordance with regulations for the purposes of this section, is due and payable to the Commission by the proponent within 30 days after the project is declared under section 60G to be a project of regional significance.

(2) The proponent of a project may, within 30 days after the Panel makes a decision under section 60T in relation to the project, apply to the Commission for a review of the amount of the relevant fee paid by the proponent under subsection (1) in relation to the project.

(3) The Commission must, as soon as practicable after receiving an application under subsection (2) from a proponent, appoint a State Service employee to conduct a review of the amount of the relevant fee paid by the proponent under subsection (1) in relation to the project.

(4) A person appointed under subsection (3) to conduct a review in relation to a project must assess the costs incurred by the Panel in carrying out the Panel's function under this Part of determining whether to grant a special permit in relation to the project.

(5) If the person is satisfied that the costs referred to in subsection (4) in relation to a project are less than the amount the proponent of the project was required to pay as a relevant fee under subsection (1), the person may authorise the refund to the proponent of the difference between the amounts.

(6) A refund to the proponent is to be made in accordance with an authorisation under subsection (5).

(7) A person appointed under subsection (3) to conduct a review in relation to a project must determine the review within 30 days after he or she is so appointed.

(8) Regulations for the purposes of this section 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.

60J. 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 project of regional significance 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 project of regional significance in respect of all or part of an area of land –

(a) in accordance with a request under subsection (1); or

(b) 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.

(3) The Minister is to give notice of a revocation of a declaration of a project of regional significance to the persons notified of the declaration of the project under section 60G(11).

(4) The Minister is to ensure that a notice of the revocation of a declaration of a project of regional significance is placed in a newspaper generally circulating in the area in which the project was, or was to be, situated.

(5) If a declaration of a project of regional significance is revoked under subsection (2) in relation to all or part of an area of land –

(a) this Division ceases to apply 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 ceased to apply, if the action or failure was lawful under this Division before this Division ceased to apply.

60K. Project to be referred to Director of Environment Protection Authority

(1) If a project is declared to be a project of regional significance, the Minister must, within 7 days, refer the project to the EPA Director.

(2) If the Minister refers a project to the EPA Director, the Minister is to forward to the Director –

(a) the statement of intent, if any, in relation to the project; and

(b) any other information that is provided to the Minister under section 60F in relation to the project.

(3) If a project is referred to the EPA Director under subsection (1), he or she is to determine, within 14 days, whether the EPA Board is to undertake an environmental impact assessment of the project.

(4) The EPA Director is to notify the Minister of the Director's determination under subsection (3).

(5) The EPA Director is to be taken to have determined under subsection (3) that the EPA Board is to undertake an environmental impact assessment of a project referred to the EPA Director under subsection (1), if the EPA Director has not notified the Minister to the contrary within 14 days after the project is referred to the Director.

(6) The Minister is to notify the Panel in relation to a project about the determination of the EPA Director under this section in relation to the project.

60L. Environmental impact assessment by EPA Board

(1) If the EPA Director determines under section 60K that the EPA Board is to undertake an environmental impact assessment of a project, the EPA Board, as soon as practicable, must carry out an environmental impact assessment of the project.

(2) The environmental impact assessment of a project is to be carried out –

(a) in accordance with the Environmental Impact Assessment Principles specified in the EMPC Act; and

(b) under Division 1A of Part 3 of the EMPC Act, as modified under subsection (3), and Part 5 of that Act.

(3) For the purposes of an environmental impact assessment of a project in accordance with this section, the EMPC Act is modified as follows:

(a) a reference, in Division 1A of Part 3 of the EMPC Act, to the planning authority is to be taken to be a reference to the Panel for the project;

(b) a reference, in Division 1A of Part 3 of, or Part 5 of, the EMPC Act, to an applicant or a proponent is to be taken to be a reference to the proponent of the project;

(c) a reference, in Division 1A of Part 3 of, or Part 5 of, the EMPC Act, to an activity is to be taken to be a reference to the project;

(d) a reference, in Division 1A of Part 3 of the EMPC Act, to a referral of an application under section 25(1) of that Act is to be taken to be a reference to a referral under section 60K of this Act;

(e) a reference, in section 27B of the EMPC Act, to –

(i) a person who lodged an application for a permit is to be taken to be a reference to the proponent of the project; and

(ii) a notice of intent is to be taken to be a reference to the information provided to the EPA Director under section 60K(2);

(f) section 27C of the EMPC Act does not apply;

(g) a reference, in section 27D of the EMPC Act, to advice under section 27C is to be taken to be a reference to advice under subsection (4);

(h) section 27G(4) of the EMPC Act does not apply;

(i) a reference, in section 44 of the EMPC Act, to a permit is to be taken to include a reference to a special permit;

(j) 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 (5).

(4) If the EPA Director determines under section 60K(3) that the EPA Board is to undertake an environmental impact assessment of a project, then, within 21 days of the day on which the project is referred to the EPA Director under section 60K(1), the EPA Board is to advise the proponent, and the Minister, of the class of assessment that is proposed to be undertaken under section 27A of the EMPC Act.

(5) The EPA Board is to 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.

(6) The Panel must forward to the Director any representations received by the Panel under section 60Q in relation to the project, as soon as practicable after receiving them.

(7) The Panel must comply with a direction of the Director under section 27G of the EMPC Act.

(8) On completion of an environmental impact assessment of a project of regional significance, the EPA Board must notify the Panel for the project as to whether the EPA Board –

(a) requires any conditions or restrictions to be contained in any special permit that may be granted in relation to the project; or

(b) directs the Panel to refuse to grant a special permit in relation to the project.

(9) The EPA Board must specify in the notice under subsection (8) –

(a) any condition or restriction, of a kind specified in section 25(6) of the EMPC Act, that the EPA Board requires to be imposed on a special permit granted in relation to the project; and

(b) the reasons for requiring the condition or restriction or for directing the Panel to refuse to grant a special permit in relation to the project.

(10) The proponent of a project in relation to which an environmental impact assessment is carried out in accordance with this section 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 project.

(11) The relevant fees for the assessment by the EPA Board of a project are the fees that the proponent would have been liable to pay for the assessment of the project if –

(a) the proponent had made an application for an ordinary permit in relation to the 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.

60M. Development Assessment Panel to be established for assessment of project

(1) The Commission must establish a Development Assessment Panel in relation to a project that is declared to be a project of regional significance.

(2) A Development Assessment Panel must be established under subsection (1) in relation to a project as soon as practicable after the Commission is given notice under section 60G(11) of the declaration of the project to be a project of regional significance.

(3) The Commission is to establish a Panel in relation to a project by appointing to be members of the Panel –

(a) a member of the Commission, or any other person nominated by the Commission, who is to be the chairperson of the Panel; and

(b) a person with the appropriate qualifications and experience who is nominated by the councils for the municipalities that are within any regional areas in which part or all of the project is to take place; and

(c) a person who, in the opinion of the Commission, has qualifications or experience that are relevant to the assessment of the project.

(4) The person appointed under subsection (3)(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*.

(5) A person has appropriate qualifications and experience for the purposes of subsection (3)(b) 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 buildings or other infrastructure.

(6) The Commission is to request the councils within all regional areas in which all or part of a project is to take place to together nominate, within 21 days after receiving the request, a person for the purposes of subsection (3)(b).

(7) If the councils have not nominated a person within 21 days after receiving a request to do so, the Commission may appoint a person for the purposes of subsection (3)(b), even though the person has not been nominated by the councils, if the person satisfies the requirements of subsection (5).

(8) If the Commission is of the opinion that the scale, specialist nature or complexity of a project of regional significance makes it desirable to do so, the Commission may appoint to be members of the Panel, in addition to the persons appointed under subsection (3), not more than 2 other persons.

(9) A person appointed under subsection (8) in relation to a project is to be a person who has the qualifications and experience that the Commission thinks appropriate to assist in the assessment of the project.

(10) The quorum for a Panel is 3.

(11) Subject to this Division, a Panel is to determine its own proceedings.

60N. Panel to determine guidelines for how assessment is to be made

(1) The Panel in relation to a project must determine the assessment guidelines in respect of the project.

(2) The Panel must make a determination under subsection (1) in relation to the project before –

(a) 35 days after the declaration of the project under section 60G; or

(b) 5 clear days after the EPA Board provides to the proponent, in accordance with section 27D of the EMPC Act as applied by section 60L, guidance in relation to the project; or

(c) the end of a period approved by the Minister –

whichever period expires later.

(3) The assessment guidelines in respect of a project are the matters –

(a) to be addressed in the project impact statement in relation to the project; and

(b) to which the Panel must have regard in assessing whether to grant a special permit in relation to the project.

(4) The assessment guidelines in respect of a project are only to include matters to be addressed that are reasonably required to enable the proper assessment of –

(a) whether a special permit in relation to the project ought to be granted; and

(b) if a special permit were to be granted in relation to the project, the conditions or restrictions, if any, to which the permit ought to be subject.

(5) Before determining the assessment guidelines in respect of a project, the Panel must consult –

(a) the Commission; and

(b) the planning authorities for any regional area in which part or all of the project is to take place; and

(c) the State Service Agencies that the Panel believes to have an interest in the project; and

(d) if all or part of the land to which the project relates is in Wellington Park, the Wellington Park Management Trust.

(6) In determining the assessment guidelines in respect of a project that is to be situated on an area of land, the Panel is to have regard to –

(a) any planning scheme that applies to the land; and

(b)

(c) any regional land use strategy, if any, for the regional area in which the land is situated; and

(d) any applicable State policy.

(7) If the Panel has been notified under section 60K(6) that the EPA Board is to carry out an environmental impact assessment of the project, the Panel may not determine the assessment guidelines in respect of the project until the Panel –

(a) has received guidance in relation to the project from the EPA Board under section 60L(5); or

(b) has been notified by the Board that the Board does not intend to issue such guidance in relation to the project.

(8) If the EPA Board has, under section 60L(5), provided to the Panel guidance in relation to a use or development forming part of a project –

(a) the assessment guidelines are to include the guidance provided to the Panel by the EPA Board; and

(b) the Panel is to provide to the EPA Board a copy of the assessment guidelines in respect of the project.

(9) As soon as practicable after determining the assessment guidelines in respect of a project, the Panel must give notice of the guidelines in the prescribed manner.

60O. Project impact statements to be provided to Panel

(1) As soon as practicable, and in any case within 7 days, after determining under section 60N the assessment guidelines in respect of a project, the Panel must give to the proponent –

(a) a copy of the assessment guidelines; and

(b) a notice specifying that the proponent is required, within a period specified in the notice, to provide to the Panel a project impact statement in relation to the project.

(2) A project impact statement is a statement that addresses the matters set out in the assessment guidelines in respect of the project.

(3) A proponent of a project must provide to the Panel a project impact statement in relation to the project within the period specified in the notice under subsection (1)(b).

(4) The Panel may, by notice to a proponent, extend the period in which the proponent is to provide a project impact statement to the Panel.

(5) If the Panel has been notified under section 60K(6) that the EPA Board is to carry out an environmental impact assessment of a project, the Panel, as soon as practicable, must provide to the EPA Director a copy of a project impact statement provided to the Panel under subsection (3) in relation to the project.

60P. Panel may request information to be provided

(1) The Panel 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 for a project;

(b) a planning authority;

- (c) the Commission;
- (d) a State Service Agency;
- (e) a State authority within the meaning of the *State Service Act 2000*;
- (f) the Corporation within the meaning of the *Water and Sewerage Corporation Act 2012*;
- (g) the Wellington Park Management Trust.

(2) The Panel may only request the proponent to provide further information under subsection (1) before 28 days after the Panel has received from the proponent under section 60O(3) a project impact statement in relation to the 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 special permit in relation to a project; or

(b) if the Panel were to grant a special permit in relation to a project, the conditions or restrictions, if any, to which the permit ought to be subject.

(4) A person to whom a request is made under subsection (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, the information specified in the request.

(5) If the Panel has been notified under section 60K(6) that the EPA Board is to carry out an environmental impact assessment of a project, the Panel, as soon as practicable after information in relation to the project is provided to the Panel under subsection (4), must provide a copy of the information to the EPA Director.

60Q. Notification and exhibition of project

(1) The Panel must give notice, in the prescribed manner, of the public exhibition of a project of regional significance.

(2) The Commission must place on the Commission's principal website, for the period of the public exhibition, a notice of the public exhibition of a project of regional significance.

(3) The Panel must give notice under subsection (1) as soon as practicable after receiving under section 60O(3) a project impact statement in relation to a project, but in any case within 14 days after receiving the statement.

(4) A notice referred to in subsection (1), in addition to any other matters required by the regulations to be contained in it –

(a) is to name a place where a copy of –

(i) the assessment guidelines in respect of the project; and

(ii) the project impact statement in relation to the project –

will be available for inspection by the public at all reasonable hours during the period for which representations may be made in relation to the project; and

(b) is to specify that representations in relation to the project may be made to the Panel during the period that applies to the project under subsection (7); and

(c) is to specify the address to which a representation may be made.

(5) After the Panel gives notice in accordance with subsection (1), the Panel, and the planning authority for any land on which part or all of the project is to take place, must arrange, in the prescribed manner, the public exhibition of –

(a) the assessment guidelines in respect of the project; and

(b) the project impact statement in relation to the project –

at the place, and during the period, specified in the notice.

(6) A person may make a representation to the Panel in relation to the project.

(7) A representation may only be made under subsection (6) during –

(a) the period of 28 days beginning on the date on which notice in relation to the project is given under subsection (1); or

(b) despite paragraph (a), if the EPA Director, before the notice in relation to the project is given under subsection (1), issues in relation to the project a direction under section 27G of the EPA Act that specifies a period, that period; or

(c) despite paragraphs (a) and (b), if the Panel determines, before the notice in relation to the project is given under subsection (1), a period, of not more than 42 days, in which representations may be made, that period.

(8) A person must not, within the period specified in the notice under subsection (1), obscure or remove a notice given under subsection (1) that is displayed on the land to which the notice relates.

Penalty:

Fine not exceeding 10 penalty units.

(9) If a period referred to in this section includes any days on which the offices of the Commission are closed during normal business hours, that period is to be extended by the number of those days.

60R. Notification and hearings in relation to project

(1) As soon as practicable after the public exhibition, referred to in section 60Q(1), of the documents in relation to a project begins, the Panel must give notice in the prescribed manner.

(2) The notice under subsection (1) in relation to a project is to be given to –

(a) all planning authorities in the regional area in which the land is situated; and

(b) all State Service Agencies that have been consulted in respect of the project under section 60N(5)(c); and

(c) the Corporation within the meaning of the Water and Sewerage Corporation Act 2012; and

(d) if all or part of the land is in Wellington Park, the Wellington Park Management Trust.

(3) The notice under subsection (1) is to advise each person to whom it is given about the exhibition of the documents in relation to a project and invite the persons to make representations in relation to the project, including representations as to –

(a) whether a special permit ought to be granted in relation to the project; and

(b) if a special permit were to be granted in relation to the project, the conditions or restrictions, if any, that ought to be imposed on the permit.

(4) The Panel must hold hearings in respect of a project, as soon as practicable after the public exhibition of the project under section 60Q(5) ends.

(5) Despite subsection (4), the Panel may dispense with the holding of a hearing in relation to a representation in relation to a project if, after examining the representations received –

(a) the Panel is satisfied that all the representations are in support of the project; or

(b) the Panel has consulted with a 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.

60S. When decision about grant of special permit is to be made

(1) The Panel is to decide whether to grant a special permit in relation to a project under section 60T as soon as practicable after the end of the consultation and hearings, if any, conducted under section 60R in respect of the project.

(2) In any case, if the Panel has been notified under section 60K(6) that the EPA Board is not to undertake an environmental impact assessment of the project, the Panel is to decide whether to grant under section 60T a special permit in relation to the project –

(a) within the 4 month period after the Panel receives the project impact statement in relation to the project under section 60O(3); or

(b) within a period specified by the Minister –

whichever is the later.

(3) If the Panel has requested the proponent under section 60P to provide the Panel with further information in relation to a project, the period between the day on which that request is made and the day on which the proponent provides the information to the satisfaction of the Panel is not to be counted in the calculation of the period referred to in subsection (2) in relation to the project.

(4) In any case, if the Panel has been notified under section 60K(6) that the EPA Board is to undertake an environmental impact assessment of the project, the Panel is to decide whether to grant under section 60T a special permit in relation to the project within –

(a) one month after the Panel receives from the EPA Board a notice in relation to the project under section 60L(8); or

(b) a longer period specified by the Minister.

60T. Grant of special permit

(1) The Panel may, in accordance with this section –

(a) grant a special permit in relation to a project of regional significance; or

(b) refuse to grant a special permit in relation to a project of regional significance.

(2) A special permit may be granted unconditionally or on the conditions or restrictions, specified on the permit, that are imposed on the permit under section 60U.

(3) In deciding under subsection (1) whether to grant a permit in relation to a project, the Panel must consider any representations made under section 60Q in relation to the project.

(4) The Panel may only grant a special permit in relation to a project if it is satisfied that –

(a) the grant of the permit will further the objectives specified in Schedule 1; and

(b) the grant of the permit will not contravene any State Policy or planning scheme; and

(c) the assessment guidelines in respect of the project have been satisfied; and

(d) the relevant fee required under section 60I(1), and any other fee required under any other Act to be paid for the assessment of the project, have been paid; and

(e) the Panel has received under section 60L(8) a notice in relation to the project from the EPA Board and the EPA Board has not directed the Panel to refuse to grant a special permit in relation to the project.

(5) The Panel may grant a special permit in relation to a project, even though the use or development permitted by the permit would not be permitted under a planning scheme that applies to the land to which the permit relates.

(6) The Panel must give to the proponent, and provide on request to a person, a statement of the reasons for granting, or refusing to grant, a special permit under subsection (1).

(7) If a special permit is granted to the proponent of a project –

(a) the proponent is liable to pay to the EPA Board the fees that the proponent would have been liable to pay under that Act if the special permit had been a permit within the meaning of this Act; and

(b) the EMPC Act applies in relation to such fees accordingly.

(8) If a special permit is granted –

(a) the Panel must give in the prescribed manner notice of the grant of the permit; and

(b) the Commission must place on the Commission's principal website a copy of the permit granted.

60U. Special permit may be granted subject to conditions or restrictions

(1) Subject to section 60V, the Panel may impose on a special permit granted under section 60T(1)(a) conditions or restrictions on the use or development of the land to which the permit relates.

(2) The Panel must impose on a special permit granted under section 60T(1)(a) any conditions or restrictions required under section 60L(9) to be imposed on the permit.

(3) The Panel must not impose on a special permit a condition or restriction that is inconsistent with a condition or restriction required under section 60L(9) to be imposed on the permit.

(4) The Panel must notify, of the conditions or restrictions, if any, imposed on a permit, the persons notified under section 60V(2) in respect of the project to which the permit relates.

(5) The conditions that may be imposed on a special 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.

(6) If a condition referred to in subsection (5) is included, the Panel must specify on the special permit the matters, and the requirements in respect of those matters, to be included in the agreement.

(7) If –

(a) a person is granted a special permit on which is imposed a condition, referred to in subsection (5), that all reasonable steps must be taken to enter into an agreement; and

(b) that person is not the owner 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 the owner of the land notice of the Panel's decision to impose the condition.

60V. Process for determining conditions or restrictions to be imposed on special permits

(1) In deciding under section 60U whether to impose conditions or restrictions on a special permit to be granted in relation to the project, the Panel must consider any representations made under section 60Q or this section in relation to such conditions or restrictions.

(2) At least 14 days before granting under section 60T(1)(a) a special permit on which a condition or restriction is imposed under section 60U, the Panel must provide to the following persons a copy of the conditions or restrictions that it proposes to impose:

(a) the proponent;

(b) the planning authority for the land to which the permit is to relate;

(c) the EPA Board;

(d) the Corporation within the meaning of the Water and Sewerage Corporation Act 2012;

(e) if all or part of the land is in Wellington Park, the Wellington Park Management Trust.

(3) At least 14 days before granting under section 60T(1)(a) a special permit on which a condition or restriction is imposed under section 60U, the Panel must provide, to those persons who made representations under section 60Q in relation to the project, a copy of the condition or restriction that it proposes to impose.

(4) A person notified under subsection (2) or (3) may, within 14 days of receiving a copy of a proposed condition or restriction in respect of a proposed special permit, set out, by notice to the Panel –

(a) any objections the person may have to the proposed condition or restriction; and

(b) any other conditions or restrictions that the person thinks ought to be specified on the proposed special permit.

(5) If a person, in a notice under subsection (4), objects to a proposed condition or restriction that the EPA Board requires, in a notice to the Panel under section 60L(8), to be specified in the permit –

(a) the Panel must forward a copy of the objection to the EPA Board; and

(b) the EPA Board may, if it thinks fit, within 14 days, by notice to the Panel, amend the notice under section 60L(8).

(6) If a period referred to in this section includes any days on which the offices of the Commission are closed during normal business hours, that period is to be extended by the number of those days.

60W. When special permit takes effect

(1) A special permit takes effect on the day on which it is granted or another later day specified in the permit.

(2) If any other approvals under this Act or another Act are required for the proposed use or development to which a special permit relates, the special permit does not take effect until all those approvals have been granted.

(3) If it is a condition of a special permit that all reasonable steps be taken to enter into an agreement, the permit does not take effect until –

(a) the day the agreement is executed; or

(b) the day the Commission notifies the proponent in writing under subsection (4) that the Commission is satisfied that the proponent has taken all reasonable steps to enter into such an agreement.

(4) 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.

(5) The Commission must give notice of the issue of a notice under subsection (4) in relation to a project to the council for the land to which the notice under subsection (4) relates.

(6) If –

(a) after a period of 4 years from the date on which a special permit was granted; or

(b) where the Commission has granted an extension under subsection (7), after a further period of 2 years –

the principal use or development in respect of which a special permit was granted is not substantially commenced, the permit lapses.

(7) If the principal use or development in respect of which a special permit was granted is not, or is unlikely to be, substantially commenced before the permit would otherwise lapse under subsection (6)(a), the Commission may grant (once only) a 2-year extension of the period during which that use or development must be substantially commenced.

60X. Amendment, revocation and correction of special permits

(1) The Commission may, on the application of the proponent of a project, by notice in writing to the proponent, amend a condition or restriction imposed on a special permit granted in relation to the project.

(2) The Commission may, on the application of –

(a) the EPA Director; or

(b) the planning authority for the area of land to which the project relates –

by notice in writing to the proponent, amend a condition or restriction imposed on a special permit granted in relation to the project.

(3) The Commission may only amend under subsection (2) a condition or restriction imposed on a permit if it has invited the proponent of the project to

which the permit relates to show cause why the condition or restriction should not be amended as proposed.

(4) The Commission may only amend under subsections (1) or (2) a condition or restriction imposed on a special permit if, at least 14 days before amending the condition or restriction –

(a) the Commission has invited the EPA Director to advise the Commission within 14 days, or a longer period allowed by the Commission, as to whether the EPA Director objects to the condition or restriction being amended as proposed; and

(b) the EPA Director has not, within the time required under paragraph (a), advised that the Director objects to the condition or restriction being amended as proposed.

(5) Subsection (4) does not apply in relation to an amendment of a condition or restriction imposed on a special permit that has been requested by the EPA Director under subsection (2).

(6) The Commission may only amend under subsections (1) or (2) a condition or restriction imposed on a special permit in relation to an area of land if –

(a) at least 14 days before amending the condition or restriction the Panel has provided a copy of the proposed conditions or restrictions to –

(i) the planning authority for the area of land; and

(ii) the Corporation within the meaning of the *Water and Sewerage Corporation Act 2012*; and

(iii) if all or part of the land is in Wellington Park, the Wellington Park Management Trust; and

(b) the Commission has considered any objections in relation to the condition or restriction that it has received under subsection (7).

(7) A person notified under subsection (6) may, within 14 days of receiving the notice, by notice to the Panel, set out the person's objections to the amendment of the condition or restriction.

(8) The Commission may only amend under subsections (1) or (2) a condition or restriction imposed on a special 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.

(9) The Commission may only amend a condition or restriction imposed on a special permit in relation to an area of land if it is satisfied that the condition or restriction of the permit, as so amended, would not be inconsistent with –

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

(b) any planning scheme that applies to the land; and

(c) a planning directive or State policy.

(10) If the Commission amends a condition or restriction imposed on a special permit in relation to a project, the Commission is to give notice in writing to –

(a) each person notified under subsection (4) or (6) of the proposal to amend the condition or restriction; and

(b) each person who has made a representation under section 60Q(6) in relation to the conditions or restrictions to be imposed on the special permit.

(11) The Commission may, on the application of a proponent of a project or the owner of the land to which a special permit relates, by notice in writing to the proponent or owner, as the case may be, revoke a special permit granted in relation to a project.

(12) The Commission may, by notice in writing to the proponent, correct a special permit 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 permit.

(13) If the Commission revokes or corrects a special permit in relation to a project carried out or to be carried out on an area of land, the Commission must give notice in writing of the revocation or correction to –

(a) the proponent; and

(b) the owner of the land; and

(c) the planning authority for the land.

(14) In this section –

amend, in relation to a condition of a special permit, means to amend, vary or revoke a condition of the permit or to add a condition to the permit.

60Y. Amendment of planning schemes, &c.

(1) As soon as practicable after a special permit is granted in relation to a project, the Commission must, in consultation with the relevant planning authority, by notice in the *Gazette*, amend –

(a) any planning scheme; or

(b)

that applies to the land on which the project is to be situated, so as to remove any inconsistency between the permit and the planning scheme.

(2) Part 3B does not apply to an amendment made under subsection (1).

(3) If the Commission amends under subsection (1) a planning scheme that applies to land on which a project of regional significance is to be situated –

(a) the amendment is to be taken to have come into operation on the date on which the project was declared to be a project of regional significance; and

(b) the Commission must give notice, as prescribed in the regulations, of the amendment.

60Z. Review of Division

(1) An independent review of this Division must be commissioned by the Minister as soon as possible after 1 January 2013 to enable consideration of –

(a) the effectiveness of this Division in approving special permits for projects of regional significance; and

(b) the operation of the powers under this Division permitting the Minister to declare a project to be a project of regional significance; and

(c) the effectiveness of guidelines issued by the Commission under this Division as to the matters to which the Minister is to have regard as to determining whether a project is to be declared a project of regional significance; and

(d) any other matters relevant to the effect of this Division on providing an efficient and effective planning approval process in Tasmania.

(2) A person or group who undertakes such a review must invite submissions relevant to the review from the public and give due consideration to the content of any such submissions.

(3) A person or group who undertakes such a review must give the Minister a written report of the review.

(4) The Minister must cause a copy of the report of the review to be laid before each House of Parliament within 14 days of the Minister receiving the report.

(5) In this section –
independent review means a review undertaken by persons who –

(a) in the opinion of the Minister possess appropriate qualifications to undertake the review; and

(b) includes one or more persons that are not employed by the State of Tasmania, a State Service Agency, the Commonwealth, a Commonwealth authority or any entity created under this Act.

Division 3 - Planning appeals

61. Appeals against planning decisions

(1)

(2)

(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)

(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.

62. Determination of appeals

(1) After hearing an appeal, the Appeal Tribunal may, in addition to its powers under the *Resource Management and Planning Appeal Tribunal Act 1993* –

(a)

(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.

(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)

(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 60H(2) or of a condition or restriction imposed under section 60U, as amended, if at all, under section 60X, on a special 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, special 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(1) 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)

(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 *Resource Management and Planning Appeal Tribunal Act 1993*, 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. Appeal in respect of decision of Appeal Tribunal under section 64

(1) Subject to the Rules of the Supreme Court, an appeal lies to the Supreme Court against –

(a) an order of the Appeal Tribunal made in the exercise of the jurisdiction conferred by section 64; or

(b) a decision by the Appeal Tribunal not to make an order under that section.

(2) An appeal under this section must be instituted within 30 days of the date of the decision or order subject to appeal or such longer period as may be allowed by the Supreme Court.

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, special 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, special 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) In this section –

general manager of a council means a person who is appointed under section 61 of the Local Government Act 1993 to be the general manager of a council.

(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)

(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.

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 special 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 *Resource Management and Planning Appeal Tribunal Act 1993*, 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)

(e)

(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 80Q 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 80Q 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.

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 special 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 special 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 special 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.

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.

SCHEDULE 2

SCHEDULE 3

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.

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 section 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.

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.

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.

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.

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.

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 43A 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 43A.

(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.

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 the commencement 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;

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;

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 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) an interim planning directive may be made or modified under Part 2A of the former provisions as if that Part had not been substituted, and any interim planning directive so made is to be taken to be in force.

(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 as if Parts 2A and 3 of the former provisions remained in force; and

(b) Parts 2A and 3 of the former provisions remain in force in relation to the municipal area; 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.

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.

(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.

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.

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).

Table Of Amendments

Act	Number and year	Date of commencement
Land Use Planning and Approvals Act 1993	No. 70 of 1993	1.1.1994
Statute Law Revision Act 1994	No. 68 of 1994	25.11.1994
Land Use Planning and Approvals Amendment Act 1995	No. 6 of 1995	23.5.1995
Local Government (Consequential Amendments) Act 1995	No. 30 of 1995	1.9.1995
Land Use Planning and Approvals Amendment Act (No. 2) 1995	No. 104 of 1995	1.1.1996
Local Government Amendment Act 1995	No. 88 of 1995	1.1.1996
Marine Resources (Consequential Amendments) Act 1995	No. 18 of 1995	31.5.1996
Land Use Planning and Approvals Amendment Act 1996	No. 60 of 1996	17.12.1996
Marine (Consequential Amendments) Act 1997	No. 16 of 1997	30.7.1997
State Policies and Projects Amendment Act 1997	No. 21 of 1997	1.8.1997
Land Use Planning and Approvals Amendment Act 1997	No. 84 of 1997	1.1.1998
Resource Planning and Development Commission Act 1997	No. 85 of 1997	1.1.1998
Crown Lands (Shack Sites) Act 1997	No. 87 of 1997	15.1.1998
Legislation Publication Act 1996	No. 17 of 1996	19.5.1998 Commencement generated under Legislation Publication Act.
Land Use Planning and Approvals Amendment (Private Timber Reserves) Act 1998	No. 49 of 1998	18.12.1998
Land Use Planning and Approvals Amendment Act 1999	No. 88 of 1999	15.12.1999
Water Management Act 1999	No. 45 of 1999	1.1.2000
Land Use Planning and Approvals Amendment Act 2001	No. 49 of 2001	16.7.2001
Major Infrastructure Development Approvals Amendment Act (No. 2) 2001	No. 64 of 2001	10.10.2001
Land Use Planning and Approvals Amendment Act (No. 2) 2001	No. 100 of 2001	17.12.2001 (remaining provisions)

Gas Pipelines Planning and Safety (Miscellaneous Amendments) Act 2002	No. 57 of 2002	5.12.2002
Statute Law Revision Act 2003	No. 9 of 2003	16.4.2003
Wellington Park Amendment Act 2003	No. 4 of 2003	16.4.2003
Land Use Planning and Approvals Amendment Act 2003	No. 80 of 2003	15.12.2003
Land Use Planning and Approvals Amendment Act 2005	No. 64 of 2005	15.12.2005
Land Use Planning and Approvals Amendment Act 2007	No. 26 of 2007	1.8.2007
Environmental Management and Pollution Control (Environment Protection Authority) (Consequential Amendments) Act 2007	No. 76 of 2007	1.7.2008
Land Use Planning and Approvals Amendment (Validation) Act 2009	No. 3 of 2009	27.4.2009
Land Use Planning and Approvals Amendment (State and Regional Strategies) Act 2009	No. 43 of 2009	1.1.2010
Fire Service Amendment (Bushfire-Prone Areas) Act 2011	No. 32 of 2011	25.10.2011
Land Use Planning and Approvals Amendment Act 2012	No. 19 of 2012	3.7.2012
Land Use Planning and Approvals Amendment Act (No. 2) 2012	No. 49 of 2012	6.12.2012
Water and Sewerage Corporation Act 2012	No. 51 of 2012	1.7.2013
Land Use Planning and Approvals (Developments on Mount Wellington) Amendment Act 2013	No. 62 of 2013	13.12.2013
Land Use Planning and Approvals Amendment Act 2013	No. 59 of 2013	1.1.2014
Land Use Planning and Approvals Amendment (Historic Cultural Heritage) Act 2013	No. 51 of 2013	1.3.2014
Land Use Planning and Approvals Amendment Act 2013	No. 59 of 2013	3.7.2014
Land Use Planning and Approvals Amendment (Streamlining of Process) Act 2014	No. 24 of 2014	1.1.2015
Land Use Planning and Approvals Amendment Act 2013	No. 59 of 2013	1.2.2015
		1.4.2015
Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015	No. 47 of 2015	17.12.2015
		17.12.2015

		17.12.2015
Land Use Planning and Approvals Amendment Act 2013	No. 59 of 2013	not commenced
Land Use Planning and Approvals Amendment Act (No. 2) 2001	No. 100 of 2001	not commenced S. 4

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