TASMANIA

RESOURCE PLANNING AND DEVELOPMENT
COMMISSION LEGISLATION (MISCELLANEOUS
AMENDMENTS) BILL 2009

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RESOURCE PLANNING AND DEVELOPMENT COMMISSION LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2009

(Brought in by the Minister for Planning, the Honourable David Edward Llewellyn)

A BILL FOR

An Act to amend the Resource Planning and Development Commission Act 1997 and other Acts consequential to that amendment and for related purposes

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 Resource Planning and Development Commission Legislation (Miscellaneous Amendments) Act 2009.

2. Commencement

This Act commences on a day to be proclaimed.
PART 2 – RESOURCE PLANNING AND DEVELOPMENT COMMISSION ACT 1997 AMENDED

3. Principal Act

In this Part, the Resource Planning and Development Commission Act 1997* is referred to as the Principal Act.

4. Long title amended

The long title of the Principal Act is amended by omitting “Resource Planning and Development Commission” and substituting “Tasmanian Planning Commission”.

5. Section 1 amended (Short title)

Section 1 of the Principal Act is amended by omitting “Resource Planning and Development Commission” and substituting “Tasmanian Planning Commission”.

6. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended by omitting “Resource Planning and Development

*No. 85 of 1997
Commission” from the definition of “Commission” and substituting “Tasmanian Planning Commission”.

7. Part 2: Heading amended

Part 2 of the Principal Act is amended by omitting “ESTABLISHMENT, FUNCTIONS AND POWERS OF RESOURCE PLANNING AND DEVELOPMENT COMMISSION” from the heading to that Part and substituting “ESTABLISHMENT, FUNCTIONS AND POWERS OF TASMANIAN PLANNING COMMISSION”.

8. Section 4 amended (Establishment of Tasmanian Planning Commission)

Section 4(1) of the Principal Act is amended by omitting “A Resource Planning and Development Commission” and substituting “The Tasmanian Planning Commission”.

9. Section 5 amended (Constitution of Commission)

Section 5(1) of the Principal Act is amended as follows:
(a) by omitting from paragraph (f) “interests.” and substituting “interests; and”;

(b) by inserting the following paragraphs after paragraph (f):

(g) a person, nominated by the Minister, who is either the Head of, or a State Service employee employed within, the State Service Agency that is responsible for the administration of transport and provision of infrastructure; and

(h) a person, nominated by the Minister, who is either the person appointed under the Water and Sewerage Corporations Act 2008 to be the chairperson of the Regional Corporations and the Common Services Corporation or a person who is recommended by that chairperson.

10. Section 6 amended (Functions and powers of Commission)

Section 6 of the Principal Act is amended by inserting after subsection (1) the following subsection:
(1A) In addition to the functions and powers referred to in subsection (1), the Commission has the following functions and powers:

(a) to provide advice and support to the Minister in relation to the performance of his or her functions, and the exercise of his or her powers, in relation to land use planning under this or any other Act;

(b) to provide advice to the Minister in respect of matters related to land use planning;

(c) to plan for the coordinated provision of transport, and of infrastructure, for land development;

(d) to provide advice to local government in relation to planning schemes under the Land Use Planning and Approvals Act 1993 and the functions of local government under that Act;

(e) to review, and advise the Minister in respect of, State and regional strategic land use planning matters.
11. **Section 7 amended (Commission subject to directions of Minister)**

Section 7 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

(2) The Minister may not give a direction to the Commission in relation to the outcome of the exercise of a power, or the performance of a function, specified in Schedule 3A.

12. **Sections 7A and 7B inserted**

After section 7 of the Principal Act, the following sections are inserted in Part 2:

**7A. Commission to comply with ministerial statement of expectation**

The Commission is to conduct its business and affairs in a manner that is consistent with the ministerial statement of expectation that is provided to the Commission under section 7B and that is in force.

**7B. Ministerial statement of expectation**

(1) The Minister must provide the Commission with a ministerial statement of expectation by 31 January in each even-numbered year.
(2) The ministerial statement of expectation is to specify the objectives of the Minister in respect of any matter relating to the functions of the Commission.

(3) The ministerial statement of expectation –

   (a) may not prevent the Commission from performing a function it is required to perform or otherwise complying with any Act; and
   
   (b) may not extend the functions and powers of the Commission.

(4) The Minister must consult with the Commission before preparing the ministerial statement of expectation.

(5) The ministerial statement of expectation and any amendment to the ministerial statement of expectation is to be in writing and signed by the Minister.

(6) The Minister may at any time, at his or her discretion or after receiving an application from the Commission –

   (a) amend the ministerial statement of expectation; or
   
   (b) revoke the ministerial statement of expectation and substitute
another ministerial statement of expectation –
by providing the amendment or substituted ministerial statement of expectation to the Commission.

(7) The ministerial statement of expectation, or an amendment to the ministerial statement of expectation, takes effect on a day specified in it, being a day not earlier than the day on which it is provided to the Commission.

(8) The Commission is to make the ministerial statement of expectation, as in force from time to time, available to the public on its website.

13. **Section 8 amended (Delegation by Commission)**

Section 8 of the Principal Act is amended as follows:

(a) by omitting from subsection (3) “The” and substituting “Subject to subsection (4), the”;

(b) by inserting the following subsection after subsection (3):

(4) The Commission may not delegate any of its functions or powers under a provision
specified in Schedule 3A to a member of the Commission referred to in section 5(1)(g) or (h).

14. Schedule 2 amended (Provisions with respect to appointment, constitution and membership of commission)

Clause 8(2) of Schedule 2 to the Principal Act is amended as follows:

(a) by omitting from paragraph (f) “Minister.” and substituting “Minister; and”;

(b) by inserting the following paragraphs after paragraph (f):

(g) referred to in section 5(1)(g) is to be a State Service employee, nominated by the Minister, who is employed in the State Service Agency that is responsible for the administration of transport and provision of infrastructure; and

(h) referred to in section 5(1)(h) is to be a person nominated by the Minister on the recommendation of the person appointed under the Water and Sewerage Corporations Act 2008 to be the
chairperson of the Regional Corporations and the Common Services Corporation.

15. Schedule 3 amended (Provisions with respect to meetings of Commission)

Clause 2(1) of Schedule 3 to the Principal Act is amended by omitting “Three” and substituting “Four”.

16. Schedule 3A inserted

After Schedule 3 to the Principal Act, the following Schedule is inserted:

**SCHEDULE 3A – PROVISIONS IN RESPECT OF WHICH DELEGATION AND DIRECTIONS ARE RESTRICTED**

Sections 7(2) and 8(4)

1. Part 3 of this Act.

2. Section 12 and Parts 3 and 4 of the *Land Use Planning and Approvals Act 1993*.


4. Sections 22, 23 and 24 of the *National Parks and Reserves Management Act 2002*. 


PART 3 – CONVEYANCING AND LAW OF PROPERTY ACT 1884 AMENDED

17. Principal Act

In this Part, the Conveyancing and Law of Property Act 1884* is referred to as the Principal Act.

18. Section 84E amended (Applications for orders)

Section 84E(5) of the Principal Act is amended as follows:

(a) by omitting “Resource Planning and Development Commission” first occurring and substituting “Tasmanian Planning Commission”;

(b) by omitting “Resource Planning and Development Commission Act 1997” and substituting “Tasmanian Planning Commission Act 1997”;

(c) by omitting “Resource Planning and Development Commission” third occurring and substituting “Tasmanian Planning Commission”.

*No. 19 of 1884
PART 4 – ENVIRONMENTAL MANAGEMENT AND POLLUTION CONTROL ACT 1994 AMENDED

19. Principal Act

In this Part, the *Environmental Management and Pollution Control Act 1994* is referred to as the Principal Act.

20. Section 26 amended (Assessment of level 3 activities)

Section 26 of the Principal Act is amended as follows:

(a) by omitting “Resource Planning and Development Commission” first occurring and substituting “Tasmanian Planning Commission”;

(b) by omitting “Resource Planning and Development Commission Act 1997” and substituting “Tasmanian Planning Commission Act 1997”.

*No. 44 of 1994*

Section 96A of the Principal Act is amended as follows:

(a) by omitting from subsection (2)(a) “Resource Planning and Development Commission” and substituting “Tasmanian Planning Commission”;

(b) by omitting from subsection (2B) “Resource Planning and Development Commission” and substituting “Tasmanian Planning Commission”.

22. **Schedule 5A amended (Membership, proceedings, meetings and hearings of Panel)**

Schedule 5A to the Principal Act is amended by omitting “Resource Planning and Development Commission” from clause 2(2) of Part 1 and substituting “Tasmanian Planning Commission”.
PART 5 – EVIDENCE (AUDIO AND AUDIO VISUAL LINKS) REGULATIONS 2008 AMENDED

23. Principal Regulations

In this Part, the Evidence (Audio and Audio Visual Links) Regulations 2008* are referred to as the Principal Regulations.

24. Regulation 4 amended (Certain tribunals prescribed as Tasmanian courts)

Regulation 4 of the Principal Regulations is amended by omitting paragraph (f) and substituting the following paragraph:

(f) Tasmanian Planning Commission;

*S.R. 2008, No. 72
PART 6 – FORESTRY ACT 1920 AMENDED

25. Principal Act

In this Part, the Forestry Act 1920* is referred to as the Principal Act.

26. Section 4 amended (Interpretation)

Section 4(1) of the Principal Act is amended as follows:

(a) by omitting the definition of “Resource Planning and Development Commission”;

(b) by inserting the following definition after the definition of “sustainable forest management”:

“Tasmanian Planning Commission” means the Tasmanian Planning Commission established under the Tasmanian Planning Commission Act 1997;

*No. 60 of 1920
27. Section 15 amended (Revocation of dedication of State forest)

Section 15 of the Principal Act is amended as follows:

(a) by omitting from subsection (2)(b) “Resource Planning and Development Commission” and substituting “Tasmanian Planning Commission”;

(b) by omitting from subsection (3) “Resource Planning and Development Commission” and substituting “Tasmanian Planning Commission”.

28. Section 17 amended (Register of Multiple Use Forest Land)

Section 17 of the Principal Act is amended as follows:

(a) by omitting from subsection (6)(a) “Resource Planning and Development Commission” and substituting “Tasmanian Planning Commission”;

(b) by omitting from subsection (7) “Resource Planning and Development Commission” and substituting “Tasmanian Planning Commission”.

PART 7 – GAS ACT 2000 AMENDED

29. Principal Act

In this Part, the *Gas Act 2000* is referred to as the Principal Act.

30. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended by omitting “Resource Planning and Development Commission” from the definition of “Commission” and substituting “Tasmanian Planning Commission”.

*No. 92 of 2000*
PART 8 – LOCAL GOVERNMENT (BUILDING AND MISCELLANEOUS PROVISIONS) ACT 1993 AMENDED

31. Principal Act

In this Part, the Local Government (Building and Miscellaneous Provisions) Act 1993* is referred to as the Principal Act.

32. Section 3 amended (Interpretation generally)

The definition of “Commission” in section 3(1) of the Principal Act is amended as follows:

(a) by omitting “Resource Planning and Development Commission” first occurring and substituting “Tasmanian Planning Commission”;

(b) by omitting “Resource Planning and Development Commission Act 1997” and substituting “Tasmanian Planning Commission Act 1997”.

*No. 96 of 1993
PART 9 – MAJOR INFRASTRUCTURE DEVELOPMENT APPROVALS ACT 1999 AMENDED

33. Principal Act

In this Part, the Major Infrastructure Development Approvals Act 1999* is referred to as the Principal Act.

34. Section 3 amended (Interpretation)

The definition of “Commission” in section 3(1) of the Principal Act is amended as follows:

(a) by omitting “Resource Planning and Development Commission” first occurring and substituting “Tasmanian Planning Commission”;

(b) by omitting “Resource Planning and Development Commission Act 1997” and substituting “Tasmanian Planning Commission Act 1997”.

*No. 108 of 1999
PART 10 – MARINE FARMING PLANNING ACT 1995 AMENDED

35. Principal Act

In this Part, the *Marine Farming Planning Act 1995* is referred to as the Principal Act.

36. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

(a) by omitting the definition of “Resource Planning and Development Commission”;

(b) by inserting the following definition after the definition of “sustainable development”:

“Tasmanian Planning Commission” means the Tasmanian Planning Commission established under the *Tasmanian Planning Commission Act 1997*;

*No. 31 of 1995*
37. **Section 8 amended (Marine Farming Planning Review Panel)**

Section 8(2)(b) of the Principal Act is amended by omitting “Resource Planning and Development Commission” and substituting “Tasmanian Planning Commission”.

38. **Section 20 amended (Directions for assistance)**

Section 20 of the Principal Act is amended as follows:

(a) by omitting from subsection (1) “Resource Planning and Development Commission” and substituting “Tasmanian Planning Commission”;

(b) by omitting from subsection (3) “Resource Planning and Development Commission” and substituting “Tasmanian Planning Commission”;

(c) by omitting from subsection (4) “Resource Planning and Development Commission” and substituting “Tasmanian Planning Commission”.

PART 11 – MINING (STRATEGIC PROSPECTIVITY ZONES) ACT 1993 AMENDED

39. Principal Act

In this Part, the Mining (Strategic Prospectivity Zones) Act 1993* is referred to as the Principal Act.

40. Section 7 amended (Status of Crown land in strategic prospectivity zones)

Section 7 of the Principal Act is amended as follows:

(a) by omitting from subsection (6)(c) “Resource Planning and Development Commission” first occurring and substituting “Tasmanian Planning Commission”;

(b) by omitting from subsection (6)(c) “Resource Planning and Development Commission Act 1997” and substituting “Tasmanian Planning Commission Act 1997”;

(c) by omitting from subsection (7) “Resource Planning and Development Commission” first occurring and

*No. 26 of 1993
substituting “Tasmanian Planning Commission”;

(d) by omitting from subsection (7) “Resource Planning and Development Commission Act 1997” and substituting “Tasmanian Planning Commission Act 1997”. 
PART 12 – NATIONAL PARKS AND RESERVES MANAGEMENT ACT 2002 AMENDED

41. Principal Act

In this Part, the *National Parks and Reserves Management Act 2002* is referred to as the Principal Act.

42. Section 3 amended (Interpretation)

The definition of “Commission” in section 3(1) of the Principal Act is amended as follows:

(a) by omitting “Resource Planning and Development Commission” first occurring and substituting “Tasmanian Planning Commission”;

(b) by omitting “section 4 of the Resource Planning and Development Commission Act 1997” and substituting “section 4 of the Tasmanian Planning Commission Act 1997”.

43. Section 22 amended (Review by Commission)

Section 22(5) of the Principal Act is amended by omitting “Resource Planning and Development

*No. 62 of 2002*
s. 43  Part 12 – National Parks and Reserves Management Act 2002 Amended

Commission Act 1997” and substituting “Tasmanian Planning Commission Act 1997”.
PART 13 – NATURE CONSERVATION ACT 2002 AMENDED

44. Principal Act

In this Part, the *Nature Conservation Act 2002* is referred to as the Principal Act.

45. Section 3 amended (Interpretation)

The definition of “Commission” in section 3(1) of the Principal Act is amended as follows:

(a) by omitting “Resource Planning and Development Commission” first occurring and substituting “Tasmanian Planning Commission”;

(b) by omitting “section 4 of the Resource Planning and Development Commission Act 1997” and substituting “section 4 of the Tasmanian Planning Commission Act 1997”.

*No. 63 of 2002*
PART 14 – PUBLIC LAND (ADMINISTRATION AND FORESTS) ACT 1991 AMENDED

46. Principal Act

In this Part, the Public Land (Administration and Forests) Act 1991* is referred to as the Principal Act.

47. Section 4 amended (Interpretation of Part)

The definition of “Commission” in section 4 of the Principal Act is amended as follows:

(a) by omitting “Resource Planning and Development Commission” first occurring and substituting “Tasmanian Planning Commission”;

(b) by omitting “Resource Planning and Development Commission Act 1997” and substituting “Tasmanian Planning Commission Act 1997”.

*No. 42 of 1991
PART 15 – RALPHS BAY CONSERVATION AREA
(CLARIFICATION) ACT 2006 AMENDED

48. Principal Act

In this Part, the Ralphs Bay Conservation Area (Clarification) Act 2006* is referred to as the Principal Act.

49. Section 2 amended (Commencement)

Section 2(2)(a) of the Principal Act is amended by omitting “Resource Planning and Development Commission” and substituting “Tasmanian Planning Commission”.

50. Section 4 amended (Power of Resource Planning and Development Commission to determine status of land)

Section 4 of the Principal Act is amended by omitting “Resource Planning and Development Commission” and substituting “Tasmanian Planning Commission”.

*No. 14 of 2006
51. **Section 5 amended (Power of Minister to give written directions to Resource Planning and Development Commission)**

Section 5 of the Principal Act is amended as follows:

(a) by omitting from subsection (1) “Resource Planning and Development Commission” and substituting “Tasmanian Planning Commission”;

(b) by omitting from subsection (2) “Resource Planning and Development Commission” first occurring and substituting “Tasmanian Planning Commission”.
PART 16 – ROADS AND JETTIES ACT 1935 AMENDED

52. Principal Act

In this Part, the Roads and Jetties Act 1935* is referred to as the Principal Act.

53. Section 9A amended (Alignment of highways)

Section 9A(5)(a) of the Principal Act is amended as follows:

(a) by omitting “Resource Planning and Development Commission” first occurring and substituting “Tasmanian Planning Commission”;

(b) by omitting “Resource Planning and Development Commission Act 1997” and substituting “Tasmanian Planning Commission Act 1997”.

*No. 82 of 1935
PART 17 – STATE POLICIES AND PROJECTS ACT
1993 AMENDED

54. Principal Act

In this Part, the *State Policies and Projects Act 1993* is referred to as the Principal Act.

55. Section 3 amended (Interpretation)

The definition of “Commission” in section 3(1) of the Principal Act is amended as follows:

(a) by omitting “Resource Planning and Development Commission” first occurring and substituting “Tasmanian Planning Commission”;

(b) by omitting “Resource Planning and Development Commission Act 1997” and substituting “Tasmanian Planning Commission Act 1997”.

*No. 65 of 1993*
PART 18 – SURVEY CO-ORDINATION ACT 1944
AMENDED

56. Principal Act

In this Part, the Survey Co-ordination Act 1944* is referred to as the Principal Act.

57. Section 20A amended (Nomenclature Board)

Section 20A(2)(d) of the Principal Act is amended as follows:

(a) by omitting “Resource Planning and Development Commission” first occurring and substituting “Tasmanian Planning Commission”;

(b) by omitting “Resource Planning and Development Commission Act 1997” and substituting “Tasmanian Planning Commission Act 1997”.

58. Section 20J amended (Publication of final decision as to alteration of name)

Section 20J(1)(b) of the Principal Act is amended by omitting subparagraph (v) and substituting the following subparagraph:

*No. 86 of 1944
(v) the Tasmanian Planning Commission; and
PART 19 – THREATENED SPECIES PROTECTION
ACT 1995 AMENDED

59. Principal Act

In this Part, the Threatened Species Protection Act 1995* is referred to as the Principal Act.

60. Section 35 amended (Recommendation by Resource Planning and Development Commission)

Section 35(1) of the Principal Act is amended as follows:

(a) by omitting from paragraph (a) “Resource Planning and Development Commission” first occurring and substituting “Tasmanian Planning Commission”;

(b) by omitting from paragraph (a) “Resource Planning and Development Commission Act 1997” and substituting “Tasmanian Planning Commission Act 1997”;

(c) by omitting from paragraph (b) “the Commissioner” first occurring and substituting “the chairperson”;

*No. 83 of 1995
Part 19 – Threatened Species Protection Act 1995 Amended

(d) by omitting from paragraph (b) “Commissioner” second occurring and substituting “chairperson”.

PART 20 – WATER MANAGEMENT ACT 1999
AMENDED

61. Principal Act

In this Part, the Water Management Act 1999* is referred to as the Principal Act.

62. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended by omitting the definition of “Commission” and substituting the following definition:

“Commission” means the Tasmanian Planning Commission;

63. Section 27 amended (Review by Commission)

Section 27(5) of the Principal Act is amended by omitting “Part 3 of the Resource Planning and Development Commission Act 1997” and substituting “Part 3 of the Tasmanian Planning Commission Act 1997”.

*No. 45 of 1999
PART 21 – WELLINGTON PARK ACT 1993 AMENDED

64. Principal Act

In this Part, the Wellington Park Act 1993* is referred to as the Principal Act.

65. Section 3 amended (Interpretation)

The definition of “Commission” in section 3(1) of the Principal Act is amended as follows:

(a) by omitting “Resource Planning and Development Commission” first occurring and substituting “Tasmanian Planning Commission”;

(b) by omitting “section 4 of the Resource Planning and Development Commission Act 1997” and substituting “section 4 of the Tasmanian Planning Commission Act 1997”.

66. Section 24C amended (Review by Commission)

Section 24C(5) of the Principal Act is amended by omitting “Part 3 of the Resource Planning and Development Commission Act 1997” and

*No. 59 of 1993
substituting “Part 3 of the *Tasmanian Planning Commission Act 1997*”. 
PART 22 – TRANSITIONAL PROVISIONS

67. Transitional provisions

(1) In this Part –

“commencement day” means the day on which this Act commences;

“Principal Act” means the Resource Planning and Development Commission Act 1997;

“Resource Planning and Development Commission” means the Resource Planning and Development Commission established under the Principal Act as in force immediately before the commencement day;

“Tasmanian Planning Commission” means the Tasmanian Planning Commission established under the Principal Act as amended by this Act.

(2) A person who was, immediately before the commencement day, a member of the Resource Planning and Development Commission is to be taken to be a member of the Tasmanian Planning Commission until –

(a) the expiry of the period specified in the instrument under clause 4 of Schedule 2 to the Principal Act appointing the
person to be a member of the Resource Planning and Development Commission; or

(b) the person otherwise ceases under the Principal Act to be a member of the Tasmanian Planning Commission.

(3) All acts, matters and things done or omitted to be done by, or done or suffered in relation to, the Resource Planning and Development Commission before the commencement day are taken to have been done or omitted to be done by, or done or suffered in relation to, the Tasmanian Planning Commission.

(4) The reference of any question to the Resource Planning and Development Commission in respect of which that Commission has not made a final report before the commencement day is taken to be a reference of that question to the Tasmanian Planning Commission.

(5) A direction given to or by the Resource Planning and Development Commission before the commencement day and which has not been fulfilled before that day is taken to be a direction given to or by the Tasmanian Planning Commission.

(6) A delegation by the Resource Planning and Development Commission before the commencement day that is in existence on that
day is taken to be a delegation by the Tasmanian Planning Commission.

(7) A hearing conducted by or on behalf of the Resource Planning and Development Commission which has not been completed before the commencement day continues as if it had been conducted by or on behalf of the Tasmanian Planning Commission.

(8) All rights, obligations and liabilities of the Resource Planning and Development Commission which are subsisting immediately before the commencement day are transferred to the Tasmanian Planning Commission.

(9) Any contract, agreement or arrangement entered into by the Resource Planning and Development Commission before the commencement day and in force on that day is to be treated for all purposes as a contract, agreement or arrangement entered into by the Tasmanian Planning Commission.

(10) Any legal or other proceedings which, before the commencement day, might have been instituted or continued by or against the Resource Planning and Development Commission may be instituted or continued by or against the Tasmanian Planning Commission.

(11) A reference to the Resource Planning and Development Commission in any –

(a) Act; or
(b) planning scheme or other instrument; or

(c) document –

in force or subsisting on the commencement day is taken to be a reference to the Tasmanian Planning Commission.