

TASMANIA

**LAND USE PLANNING AND APPROVALS
AMENDMENT BILL 2013**

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**LAND USE PLANNING AND APPROVALS
AMENDMENT BILL 2013**

*(Brought in by the Minister for Planning, the Honourable
Bryan Alexander Green)*

A BILL FOR

An Act to amend the *Land Use Planning and Approvals Act 1993* and the *Building Act 2000*

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 Amendment Act 2013*.

2. Commencement

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

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Part 2 – Building Act 2000 Amended

PART 2 – BUILDING ACT 2000 AMENDED

3. Principal Act

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

4. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of *insurance*:

low risk development has the same meaning as in the *Land Use Planning and Approvals Act 1993*;

- (b) by inserting the following definitions after the definition of *permit to proceed*:

planning compliance certificate has the same meaning as in the *Land Use Planning and Approvals Act 1993*;

planning directive has the same meaning as in the *Land Use Planning and Approvals Act 1993*;

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Part 2 – Building Act 2000 Amended

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planning scheme has the same meaning as in the *Land Use Planning and Approvals Act 1993*;

- (c) by inserting the following definition after the definition of *Recorder of Titles*:

relevant planning requirements has the meaning it has in section 71A;

- (d) by inserting the following definitions after the definition of *sewerage system*:

single dwelling development has the same meaning as in the *Land Use Planning and Approvals Act 1993*;

special planning order has the same meaning as in the *Land Use Planning and Approvals Act 1993*.

5. Section 71 amended (Consideration of application for building permit)

Section 71(1) of the Principal Act is amended by inserting after paragraph (d) the following paragraph:

- (da) the relevant planning requirements;

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Part 2 – Building Act 2000 Amended

6. Section 71A inserted

After section 71 of the Principal Act, the following section is inserted in Division 3:

71A. Relevant planning requirements

For the purposes of this Act, the relevant planning requirements, in relation to a development, within the meaning of the *Land Use Planning and Approvals Act 1993*, consisting in whole or in part of building work, are –

- (a) that the development is not prohibited by a planning scheme, special planning order, or planning directive, that applies in relation to the land on which the development is to be situated; and
- (b) if a permit in relation to the development is required under the planning scheme, special planning order, or planning directive, that applies in relation to the land on which the development is to be situated – that such a permit is in force in relation to the building work; and
- (c) if a permit in relation to the development has been granted under a planning scheme or special planning order and it is a requirement of the permit that a condition, in respect of building

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work, will be complied with in relation to the building work – that documents indicate that the condition will be complied with; and

- (d) if the development is a single dwelling development or a low risk development – that there is a planning compliance certificate in relation to the development.

7. Section 72 amended (Granting building permit)

Section 72 of the Principal Act is amended by inserting after subsection (1) the following subsection:

- (1A) If an application for a building permit in relation to building work is accompanied by a planning compliance certificate in relation to the development to which the building work relates –
 - (a) the development is to be taken to be a single dwelling development, or a low risk development, as specified in the planning compliance certificate; and
 - (b) the development is to be taken to comply with the relevant planning requirements.

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Part 2 – Building Act 2000 Amended

8. Section 73 amended (Refusing building permit)

Section 73 of the Principal Act is amended by inserting after subsection (1) the following subsection:

- (1A) If an application for a building permit in relation to building work is accompanied by a planning compliance certificate in relation to the development to which the building work relates, the permit authority may not refuse to grant a building permit in relation to the building work on the grounds that the development does not comply with the relevant planning requirements in respect of the development.

9. Section 251 amended (Immunity from liability)

Section 251 of the Principal Act is amended by inserting after subsection (4) the following subsection:

- (5) A permit authority is not liable for, or in respect of, anything done, or omitted to be done, in reliance on a planning compliance certificate.

**PART 3 – LAND USE PLANNING AND APPROVALS
ACT 1993 AMENDED**

10. Principal Act

In this Part, the *Land Use Planning and Approvals Act 1993** is referred to as the Principal Act.

11. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of *Appeal Tribunal*:

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

- (b) by inserting the following definitions after the definition of *bushfire hazard management plan*:

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

certifiable permitted use or development means a use, or

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development, that is prescribed for the purposes of section 50A;

- (c) by inserting the following definitions after the definition of *development*:

dispensation means a dispensation, granted under section 30W, that is in force;

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

- (d) by inserting the following definition after the definition of *permit*:

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

- (e) by inserting the following definitions after the definition of *planning authority*:

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;

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- (f) by inserting “, or a planning directive issued under section 12A, that is in force” after “section 13” in the definition of *planning directive*;
- (g) by inserting the following after the definition of *use*:

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

12. Section 12A inserted

After section 12 of the Principal Act, the following section is inserted in Part 2A:

12A. Issue of interim planning directives

- (1) The Commission may recommend to the Minister that the Minister issue under this section a planning directive that is in the terms of a draft planning directive –
 - (a) that is lodged with the Commission or prepared by the Commission; and
 - (b) in relation to which the Commission has made under section 10(3) a recommendation that an assessment should be undertaken.
- (2) After considering a recommendation made to him or her under subsection (1) to issue a planning directive in the terms

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of a draft planning directive, the Minister may –

- (a) issue under this section a planning directive that is in the terms of the draft planning directive; or
 - (b) determine not to issue under this section a planning directive.
- (3) The Minister may only issue under subsection (2) a planning directive that is in the terms of a draft planning directive if the Minister issues, or has issued, a direction under section 11 that an assessment of the draft planning directive be undertaken by the Commission.
- (4) If the Minister issues under this section a planning directive, the Minister must –
- (a) give written notice of the planning directive to the Commission and all planning authorities affected by the planning directive; and
 - (b) publish in the *Gazette* notice of the issue of the planning directive and of the day on which the planning directive is to take effect.
- (5) If the Minister determines not to issue under this section a planning directive,

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the Minister must give written notice of that determination to the Commission.

- (6) A planning directive issued under this section takes effect on the day specified, in the notice of its issue published in the *Gazette*, as the day on which the planning directive is to take effect.
- (7) The Minister may revoke a planning directive issued under this section.
- (8) If the Minister revokes under subsection (7) a planning directive, the Minister must –
 - (a) give written notice of the revocation to the Commission and all planning authorities affected by the planning directive; and
 - (b) publish in the *Gazette* notice of the revocation and of the day on which the revocation is to take effect.
- (9) A revocation of a planning directive under subsection (7) takes effect on the day specified, in the notice of its issue published in the *Gazette*, as the day on which the revocation is to take effect.
- (10) A planning directive issued under this section that is in the terms of a draft planning directive remains in force until –

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- (a) the end of the period of 12 months from the day on which the planning directive took effect; or
- (b) a planning directive that is in the same terms as –
 - (i) the draft planning directive; or
 - (ii) the draft planning directive modified as recommended by the Commission in a report, in relation to the draft planning directive, provided to the Minister under section 12(5) –

is issued by the Minister under section 13(1); or
- (c) a revocation of the planning directive under subsection (7) takes effect –

whichever occurs first.

13. Section 15 amended (Modification or revocation of planning directive)

Section 15 of the Principal Act is amended by inserting “, except in the case of a revocation under section 12A(7),” after “and”.

14. Part 3, Division 1A, Subdivision 1: Heading inserted

Division 1A of Part 3 of the Principal Act is amended by inserting the following heading before section 30A:

Subdivision 1 – Purposes and interpretation

15. Section 30B amended (Interpretation: Division 1A)

Section 30B of the Principal Act is amended by omitting the definition of *dispensation*.

16. Part 3, Division 1A, Subdivision 2: Heading inserted

Division 1A of Part 3 of the Principal Act is amended by inserting the following heading after section 30B:

Subdivision 2 – Regional areas and land use strategies

17. Part 3, Division 1A, Subdivision 3: Heading inserted

Division 1A of Part 3 of the Principal Act is amended by inserting the following heading after section 30C:

Subdivision 3 – Interim planning schemes

18. Section 30IA amended (Urgent amendment of interim planning schemes)

Section 30IA(6) of the Principal Act is amended as follows:

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- (a) by inserting in paragraph (i) “or Subdivision 4” after “30N”;
- (b) by omitting from paragraph (j) “under section 30R”.

19. Sections 30P, 30Q and 30R substituted

Sections 30P, 30Q and 30R of the Principal Act are repealed and the following Subdivision is substituted:

Subdivision 4 – Dispensations

30P. Interpretation of Subdivision 4

In this Subdivision –

relevant exhibition documents, in relation to an application under section 30Q(1), means –

- (a) the application; and
- (b) any documentation that accompanied the application; and
- (c) any additional information provided in relation to the application, pursuant to a request under section 30Q(6); and
- (d) if the application includes a request under section 30Q(3) –
 - (i) a copy of the application under section 30R(1) to

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- which the request relates;
and
- (ii) any documentation that accompanied the application under section 30R(1); and
 - (iii) any additional information that accompanied the application under section 30R(1) pursuant to a request under section 30R(6); and
 - (iv) a copy of a permit granted under section 30T, or of a decision under section 30T to refuse to grant a permit, pursuant to the application under section 30R(1).

30Q. Applications for dispensations

- (1) A person may, in a form approved by the Commission, apply to a planning authority for a dispensation from a local provision of an interim planning scheme administered by the planning authority.
- (2) If the person who makes an application under subsection (1) is not the owner of the land to which the application relates, the application must be –

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- (a) signed by the owner or owners of the land; and
 - (b) accompanied by the written permission of the owner or owners for the application to be made.
- (3) A person who makes an application under subsection (1) for a dispensation from a local provision of an interim planning scheme may request the planning authority to consider at the same time an application under section 30R(1) by the person for a permit that could not be granted under the scheme if the dispensation were not granted.
- (4) A planning authority to which an application under subsection (1) is made may, by notice to the applicant, modify the application.
- (5) An application under subsection (1) that is modified under subsection (4) is to be taken to be the application under subsection (1).
- (6) A planning authority to which an application under subsection (1) is made may, within 28 days, by notice in writing served on the applicant, request the applicant to provide the planning authority with additional information in

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relation to the application before it considers the application.

(7) If a planning authority requests under subsection (6) additional information to be provided in relation to an application under subsection (1) –

(a) the period referred to in section 30S(1) does not run in relation to the application while the request for information has not been answered to the satisfaction of the planning authority; and

(b) the period referred to in section 30T(3) does not, while the request for information has not been answered to the satisfaction of the planning authority, run in relation to an application under section 30R(1) to which relates a request under subsection (3) that is included in the application under subsection (1).

30R. Application for permit that relates to application for dispensation

(1) A person may apply to a planning authority for a permit which could not be granted under an interim planning scheme unless a dispensation from a local provision of the interim planning scheme were granted.

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- (2) An application under subsection (1) by a person is to accompany an application under section 30Q(1) by the person.
- (3) 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 an interim 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.
- (4) Sections 52 and 52A apply in relation to an application under subsection (1).
- (5) Sections 51, 53, 54, 55, 56, 56A, 57, 57A and 58 do not apply in relation to an application under subsection (1).
- (6) A planning authority to which an application under subsection (1) is made may, within 28 days, by notice in writing served on the applicant, request the applicant to provide the planning authority with additional information in relation to the application before it considers the application.

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- (7) If a planning authority requests under subsection (6) additional information to be provided in relation to an application under subsection (1) –
- (a) the period referred to in section 30T(3) does not run in relation to the application under subsection (1) while the request for information has not been answered to the satisfaction of the planning authority; and
 - (b) the period referred to in section 30S(1) does not run in relation to the application under section 30Q(1) to which the application under subsection (1) relates, while the request for information has not been answered to the satisfaction of the planning authority.

30S. Planning authority to decide whether to reject or exhibit application for dispensation

- (1) Within 42 days of receiving an application under section 30Q(1) a planning authority must decide to –
- (a) reject the application; or
 - (b) exhibit the application.
- (2) A planning authority may only decide under subsection (1) to exhibit an

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application under section 30Q(1) in relation to an area of land if it is satisfied that a dispensation granted in accordance with the application –

- (a) would not conflict with a common provision in the interim planning scheme that applies to the area of land; and
 - (b) would further the objectives set out in Schedule 1; and
 - (c) would be in accordance with all State policies; and
 - (d) would be in accordance with the regional land use strategy for the regional area in which the land is situated; and
 - (e) is consistent with the safety requirements set out in the standards prescribed under the *Gas Pipelines Act 2000*; and
 - (f) as far as practicable, will not conflict with a use, or development, in respect of land next to the land to which the application relates, that is a use or development permissible under the relevant interim planning scheme.
- (3) If a planning authority decides under subsection (1) to reject an application

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under section 30Q(1) that includes a request under section 30Q(3) in relation to an application under section 30R(1) for a permit, the planning authority is to be taken to have refused the permit.

(4) A planning authority that decides under subsection (1) to reject an application under section 30Q(1) must give notice in writing to the following persons of its decision, and, if subsection (3) applies, notice that the planning authority has refused to grant the permit:

- (a) the applicant;
- (b) if the applicant is not the owner of the land to which the application relates, the owner or owners of the land;
- (c) the Commission.

30T. Planning authority that agrees to exhibition is to consider permit application first

(1) This section applies to an application to a planning authority under section 30R(1) if the planning authority has decided under section 30S to exhibit an application under section 30Q(1) that includes under section 30Q(3) a request in relation to the application under section 30R(1).

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- (2) The planning authority must decide under subsection (3) an application under section 30R(1) to which this section applies, by reference to the provisions of the interim planning scheme, as in force at the date of its decision, that applies in relation to the land to which the application relates, as if the application under section 30Q(1) to which the application under section 30R(1) relates had been granted.
- (3) The planning authority, within 42 days after receiving an application under section 30R(1) to which this section applies, must decide the application by –
 - (a) granting a permit on the conditions or restrictions, if any, it thinks fit and specifies on the permit; or
 - (b) refusing to grant a permit.
- (4) In deciding under subsection (3) an application under section 30R(1) for a permit, a planning authority –
 - (a) must seek to further the objectives set out in Schedule 1; and
 - (b) must take into consideration each of the prescribed matters that are relevant to the use or development to which the application relates.

30U. Exhibition of applications for dispensations

- (1) If the planning authority decides under section 30S(1) to exhibit an application under section 30Q(1) that does not include a request under section 30Q(3), the planning authority must –
 - (a) as soon as practicable, exhibit in accordance with subsection (3) the relevant exhibition documents in relation to the application under section 30Q(1); and
 - (b) within 7 days, notify the Commission that the planning authority is to exhibit in accordance with subsection (3) the relevant exhibition documents; and
 - (c) within 7 days, provide to the Commission the relevant exhibition documents.
- (2) If a planning authority decides under section 30T(3) an application under section 30R(1) to which relates a request under section 30Q(3) that is included in an application under section 30Q(1), the planning authority must –
 - (a) as soon as practicable, exhibit in accordance with subsection (3) the relevant exhibition documents in relation to the application under section 30Q(1); and

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- (b) within 7 days, notify the Commission that the planning authority is to exhibit in accordance with subsection (3) the relevant exhibition documents; and
 - (c) within 7 days, provide to the Commission the relevant exhibition documents.
- (3) If the planning authority is required under subsection (1) or (2) to exhibit in accordance with this subsection the relevant exhibition documents in relation to an application under section 30Q(1), the planning authority must ensure that –
 - (a) the relevant exhibition documents are, for a period of 3 weeks, publicly exhibited at the office of the planning authority at which the interim planning scheme to which the application relates is publicly exhibited in accordance with section 30H; and
 - (b) the relevant exhibition documents are, for a period of 3 weeks, made available for viewing at the website at which the interim planning scheme is made available for viewing in accordance with section 30H; and

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- (c) a notice in relation to the relevant exhibition documents is published in a daily newspaper circulating generally in the area to which applies the interim planning scheme to which the application relates.
- (4) The notice under subsection (3)(c) in relation to the relevant exhibition documents in relation to an application under section 30Q(1) is to –
- (a) specify that an application under section 30Q(1), and an application under section 30R(1), if any, have been made; and
 - (b) indicate the area of land to which the application or applications relate; and
 - (c) specify that the relevant exhibition documents are, or will be, on public display at the address of the offices of the planning authority specified in the notice; and
 - (d) specify that copies of the relevant exhibition documents are available for viewing at a website address specified in the notice; and
 - (e) specify that representations in relation to the relevant exhibition

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Part 3 – Land Use Planning and Approvals Act 1993 Amended

documents may be made to the planning authority –

- (i) at the address of the planning authority specified in the notice; and
 - (ii) at any time within 3 weeks from the date, specified in the notice, on which the public exhibition of those documents is to begin.
- (5) If a period, in relation to an application, referred to in this section includes any days on which the office of a planning authority is closed during normal business hours in that part of the State to which applies the interim planning scheme to which the application relates, the period is extended by the number of those days.

30V. Representations and reports in relation to applications for dispensations and permits

- (1) A person may make to a planning authority a representation in relation to the relevant exhibition documents in relation to an application under section 30Q(1) that are exhibited at the offices of the authority in accordance with section 30U.

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- (2) A representation may only be made in relation to the relevant exhibition documents within the period that is, in accordance with section 30U(4)(e)(ii), specified in the notice under section 30U(3)(c) in relation to the documents as the period in which representations may be made.
 - (3) A planning authority that has exhibited the relevant exhibition documents in relation to an application under section 30Q(1) must provide to the Commission a report in relation to the documents.
 - (4) The report in relation to the relevant exhibition documents in relation to an application under section 30Q(1) is to be provided to the Commission not later than 35 days after –
 - (a) the end of the period for which the documents have been publicly exhibited in accordance with section 30U; or
 - (b) the end of a further period that the Commission allows.
 - (5) The report in relation to the relevant exhibition documents in relation to an application under section 30Q(1) is to contain –

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- (a) a copy of each representation made in relation to the documents; and
 - (b) a statement as to the planning authority's opinion as to the merit of each representation, including, in particular, if the application included a request under section 30Q(3) in relation to an application under section 30R(1), its views as to the need for modification of a decision by the planning authority in relation to the application under section 30R(1); and
 - (c) a statement as to the merit of the relevant exhibition documents and as to whether the planning authority recommends any modification of any permit included in those documents or any condition on such a permit.
- (6) If an application under section 30Q(1) includes a request under section 30Q(3) in relation to an application under section 30R(1) and the application under section 30R(1) has been referred to the Board of the Environment Protection Authority under section 24 or section 25 of the *Environmental Management and Pollution Control Act 1994* –

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- (a) the planning authority must, not later than 7 days after the expiration of the exhibition period referred to in section 30U, forward copies of all representations received under subsection (1) to the Board of the Environment Protection Authority; and
 - (b) the Board of the Environment Protection Authority must, within 28 days of receiving the representations, provide a report to the Commission containing –
 - (i) the Board’s opinion as to the merit of each representation; and
 - (ii) the Board’s opinion as to the need for modification of a decision by the planning authority in relation to the application under section 30R(1); and
 - (iii) the Board’s recommendations, if any, in relation to the planning authority’s decision.

30W. Grant of dispensations

- (1) The Commission, after receiving a report under section 30V in relation to the

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relevant exhibition documents in relation to an application under section 30Q(1) –

- (a) must hold a hearing in relation to each of the representations, if any, contained in the report; and
 - (b) may consolidate any of those representations and, if it does so, must hold a hearing in relation to the consolidated representations; and
 - (c) may hold hearings in relation to other matters as it thinks fit; and
 - (d) must consider the applicable matters in relation to the relevant exhibition documents.
- (2) The applicable matters in relation to the relevant exhibition documents in relation to an application under section 30Q(1) are –
- (a) the interim planning scheme to which the application relates; and
 - (b) the report provided under section 30V in relation to the documents; and
 - (c) matters raised at any hearings under subsection (1) in relation to the documents; and

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- (d) the regional land use strategy, if any, for the regional area in which the interim planning scheme is to apply; and
 - (e) any applicable State policy.
- (3) The Commission, after considering an application made under section 30Q(1) and complying with subsection (1), must decide –
- (a) to grant the dispensation sought in the application, with or without the modifications the Commission thinks fit; or
 - (b) to refuse to grant the dispensation sought in the application.
- (4) The Commission must decide under subsection (3) an application under section 30Q(1) within 3 months after receiving the report under section 30V in relation to the application or a later date, if any, approved by the Minister.
- (5) The Commission may only grant a dispensation if it is satisfied that the dispensation –
- (a) would not conflict with a common provision in the interim planning scheme that applies to the area of land; and

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- (b) would further the objectives set out in Schedule 1; and
 - (c) would be in accordance with all State policies; and
 - (d) would be in accordance with the regional land use strategy for the regional area in which the land is situated; and
 - (e) is consistent with the safety requirements set out in the standards prescribed under the *Gas Pipelines Act 2000*; and
 - (f) as far as practicable, will not conflict with a use, or development, in respect of land next to the land to which the application relates, that is a use or development permissible under the relevant interim planning scheme.
- (6) A dispensation may be granted on the conditions specified in the dispensation.
- (7) A person to whom a dispensation has been granted must comply with, and not contravene, the conditions, if any, specified in the dispensation.

Penalty: Fine not exceeding 100 penalty units.

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- (7) The Commission is to give notice in writing to the following persons of its decision under subsection (3) in relation to an application under section 30Q(1):
- (a) the applicant;
 - (b) if the applicant is not the owner of the land to which the application relates, the owner or owners of the land;
 - (c) the planning authority in respect of the land to which the application relates.
- (8) If a person is granted a dispensation in relation to a local provision of an interim planning scheme –
- (a) the local provision does not apply, to the extent of any inconsistency with the dispensation, to the land to which the dispensation relates; and
 - (b) the dispensation applies to the land as if it were a local provision of the interim planning scheme; and
 - (c) when the interim planning scheme, as modified if at all under section 30M, is made a planning scheme under section 30N –

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- (i) a provision of the planning scheme that is inconsistent with the dispensation does not apply in relation to the land to which the dispensation relates; and
- (ii) the dispensation applies to the land as if it were a local provision of the planning scheme.

30X. Alteration of certain planning schemes and revocation of dispensations

- (1) An owner of land to which a dispensation relates may apply to the Commission for a revocation of the dispensation.
- (2) The Commission, after receiving an application under subsection (1) in relation to a dispensation, may revoke or refuse to revoke the dispensation.
- (3) If the Commission has granted a dispensation in relation to an area of land to which an interim planning scheme relates –
 - (a) the Commission may direct under section 30M the planning authority in relation to the land to prepare a modification to the scheme so that the planning scheme consisting of the interim

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planning scheme, as so modified, made in relation to the land under section 30N will be, in relation to the land, to the same effect as the dispensation; and

- (b) after the planning scheme, consisting of the interim planning scheme, as so modified, if at all under section 30M, is made under section 30N, the Commission may revoke the dispensation by notice in writing to the owner of the land to which the dispensation relates.
- (4) If the Commission has granted a dispensation in relation to an area of land to which a planning scheme made under section 30N relates –
- (a) the Commission, for the purpose of ensuring a use or development to which a permit granted or confirmed under section 30Y(1) relates is consistent with the planning scheme, may modify the planning scheme; and
 - (b) may revoke the dispensation by notice in writing to the owner of the land to which the dispensation relates.

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- (5) The Commission may, under subsection (3) or (4), revoke a dispensation only if –
- (a) the Commission has notified the owner of the land to which the dispensation relates of the Commission's intention –
 - (i) to modify a planning scheme or to issue a direction to modify an interim planning scheme; and
 - (ii) to revoke the dispensation; and
 - (b) has, in the notice under paragraph (a), invited the owner of the land to make representations, within a period specified in the notice, to the Commission as to why the Commission ought not to carry out its intentions; and
 - (c) the Commission has considered any representations made to it by the owner of the land within the period specified in the notice.
- (6) If the Commission modifies a planning scheme under subsection (4) –

- (a) Division 2 of Part 3 does not apply in respect of the modification; and
- (b) the modification takes effect on the day specified by the Commission; and
- (c) the Commission must give notice, as prescribed, of the modification.

30Y. Decision in relation to permit application accompanying dispensation application

- (1) If an application under section 30Q(1) includes a request under section 30Q(3) in relation to an application under section 30R(1), the Commission must, at the same time as it decides under section 30W(3) the application under section 30Q(1) –
 - (a) where the Commission decides to reject the application under section 30Q(1), refuse to grant a permit in relation to the application under section 30R(1); or
 - (b) confirm the decision of the planning authority in relation to the application under section 30R(1); or
 - (c) where the Commission disagrees with the decision of the planning

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authority, in relation to the application under section 30R(1), to grant a permit –

- (i) refuse the permit; or
 - (ii) modify or delete conditions or restrictions attached to the permit or add new conditions or restrictions to the permit; or
 - (d) where the the Commission disagrees with the decision of the planning authority, in relation to the application under section 30R(1), to refuse to grant the permit, grant a permit subject to the conditions or restrictions that the Commission thinks fit.
- (2) If an application under section 30Q(1) includes a request under section 30Q(3) in relation to an application under section 30R(1) and the Commission makes under subsection (1) a decision, in relation to the application under section 30R(1), that confirms the grant of a permit by a planning authority, or results in a permit being granted, the permit takes effect on whichever of the following dates occurs last:
- (a) the date on which the decision is made under subsection (1);

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- (b) a later date, specified in the decision made under subsection (1);
 - (c) if any approvals under this or any other Act are required for the proposed use or development to which the permit relates, the date on which all those approvals are granted;
 - (d) if an agreement is, under the permit, required to be entered into, the date on which the agreement is executed.
- (3) If the use or development in respect of which a permit is granted under subsection (1), or in respect of which the grant of a permit is confirmed under subsection (1), is not substantially commenced –
- (a) within 2 years from the date on which the permit was granted or confirmed; or
 - (b) within a further period of 2 years, if the planning authority has granted an extension under subsection (4) –
- the permit lapses.
- (4) If the use or development –

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- (a) in respect of which a permit is granted under subsection (1); or
- (b) in respect of which the grant of a permit is confirmed under subsection (1) –

is not, or is unlikely to be, substantially commenced before the permit would otherwise lapse under subsection (3)(a), the planning authority may grant, once only, an extension of the period in which the use or development must be substantially commenced.

(5) If –

- (a) an application under section 30Q(1) includes a request under section 30Q(3) to consider an application under section 30R(1) for a permit; and
- (b) the planning authority granted the permit; and
- (c) the Commission makes a decision under subsection (1) to refuse the permit –

the permit is cancelled by virtue of this section.

(6) The Commission is to give notice in writing to the following persons of its decision under subsection (1) in relation to an application under section 30R(1):

- (a) the applicant;
- (b) if the applicant is not the owner of the land to which the application relates, the owner or owners of the land;
- (c) the planning authority in respect of the land to which the application relates.

30Z. Correction of mistakes in permits referred to in section 30Y and minor amendments

A planning authority may correct a permit referred to in section 30Y 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.

30ZA. Minor amendments of permits referred to in section 30Y

- (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 referred to in section 30Y which applies to that land.

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- (2) The planning authority may amend the permit if it is satisfied that the amendment –
- (a) does not change the effect of any decision of the Commission under section 30Y; 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 by making a minor change to the description of the use or development.
- (3) If the planning authority amends a permit referred to in section 30Y, 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) the owner or occupier of any property which adjoins the land; and
 - (d) any person who made a representation under section 30V(1) in relation to the application for the permit –

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notify those persons of the amendments made to the permit.

- (4) If the planning authority amends a permit referred to in section 30Y 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.
- (5) If the planning authority amends a permit in respect of which the Commission has modified, deleted or added conditions or restrictions under section 30Y(1)(c)(ii), the planning authority must, by notice in writing served on the Commission, notify the Commission of the amendments made to the permit.
- (6) Section 56A applies to an amendment of a permit referred to in section 30Y.

30ZB. Dispensation applications that are not decided before planning scheme made

- (1) If a planning authority has not decided under section 30S(1) an application under section 30Q(1) for a dispensation from an interim planning scheme before a planning scheme, consisting of the interim planning scheme, or the interim planning scheme as modified under

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section 30M, is made under section 30N, the application lapses.

(2) If an application under section 30Q(1) for a dispensation from an interim planning scheme is made and the Commission has not decided the application under section 30W(3) before a planning scheme, consisting of the interim planning scheme, or the interim planning scheme as modified under section 30M, is made under section 30N –

(a) the Commission is to continue to determine the application; and

(b) if the application includes a request under section 30Q(3) in relation to an application under section 30R(1), the Commission is to make its decision under section 30Y in relation to the application under section 30R –

as if the interim planning scheme continued to apply in relation to the land rather than the planning scheme made under section 30N.

20. Sections 50A, 50B, 50C and 50D inserted

After section 50 of the Principal Act, the following sections are inserted in Division 2:

50A. Certifiable schemes and orders and certifiable permitted uses and developments

- (1) The regulations may prescribe –
 - (a) a planning scheme, or special planning order, to be a certifiable scheme or order; and
 - (b) a use or development, referred to in a certifiable scheme or order, to be a certifiable permitted use or development in relation to the land.
- (2) The regulations may only prescribe a use or development specified in a planning scheme, or special planning order, to be a certifiable permitted use or development in relation to land if the use or development is a use or development in relation to which, under the planning scheme, or special planning order, a person to whom an application for a permit in relation to the use or development is made is bound to grant a permit either unconditionally or subject to conditions or restrictions.

50B. Permitted use or development certificates

- (1) A person may apply to a planning certifier, in a form approved by the Commission, for the issue of a permitted use or development certificate in relation to a certifiable permitted use or development.

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- (2) A planning certifier who receives from a person an application under subsection (1) in relation to a use or development may –
- (a) if the planning certifier is satisfied that the use or development is a certifiable permitted use or development, issue a permitted use or development certificate in relation to the use or development; or
 - (b) if the planning certifier is not satisfied that the use or development is a certifiable permitted use or development, by notice to the person, refuse to issue a permitted use or development certificate in relation to the use or development.
- (3) A person must not obtain or attempt to obtain a permitted use or development certificate 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.

50C. Permitted use or development certificates if water or sewerage supply implications

- (1) In this section –

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application means an application under section 50B(1);

operations has the same meaning as in the *Water and Sewerage Industry Act 2008*;

regulated entity has the same meaning as in the *Water and Sewerage Industry Act 2008*;

relevant regulated entity, in relation to an application, means the regulated entity in relation to which an occupier or owner of the building or land to which the application relates is, or is likely to become, a customer in relation to the building or land;

sewerage infrastructure has the same meaning as in the *Water and Sewerage Industry Act 2008*;

works has the same meaning as in the *Water and Sewerage Industry Act 2008*.

- (2) If a planning certifier receives an application in relation to any use or development that would –
- (a) increase the demand for water supplied by the relevant regulated entity; or

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- (b) increase the amount of sewage or toxins that is to be removed by, or discharged into, the relevant regulated entity's sewerage infrastructure; or
- (c) damage or interfere with the relevant regulated entity's works; or
- (d) adversely affect the relevant regulated entity's operations –

the planning certifier must give the relevant regulated entity notice of the application, unless subsection (3) applies in relation to the application.

- (3) This subsection applies in relation to an application if –
 - (a) the planning certifier refuses under section 50B(2) to issue a permitted use or development certificate in respect of the use or development to which the application relates; or
 - (b) the application is one that, if it were an application for a permit made to a planning authority, would be exempted by regulations made for the purposes of section 56O of the *Water and Sewerage Industry Act 2008*.

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- (4) The relevant regulated entity may make submissions to the planning certifier in respect of a use or development to which applies a notice under subsection (2) given by the planning certifier.
- (5) A submission under subsection (4) by a relevant regulated entity to a planning certifier, in respect of a use or development to which a notice under subsection (2) applies, may include a submission that –
 - (a) the regulated entity does not object to the issue of a permitted use or development certificate in relation to the use or development; or
 - (b) the regulated entity does not object to the issue of a permitted use or development certificate in relation to the use or development if the certificate is subject to conditions specified by the regulated entity.
- (6) The planning certifier may assume that the relevant regulated entity has no submissions to make in relation to an application to which a notice under subsection (2) applies if no such submissions are received by the planning certifier –

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- (a) within 14 days after the notice was given to the relevant regulated entity; or
 - (b) within a further period that the planning certifier allows.
- (7) Despite subsection (6), the planning certifier must allow a reasonable further period if the certifier receives notice under subsection (8) or (9) that the regulated entity requires additional information.
- (8) A regulated entity may, by notice in writing served on a planning certifier within the period of 7 days from the day on which the regulated entity receives a notice under subsection (2), request the planning certifier to provide it with additional information before it considers the application.
- (9) The regulated entity must, within 7 days from the date it receives the additional information under subsection (8), notify the planning certifier if the request for information has not been answered to its satisfaction and in that notification require the planning certifier to provide it with the additional information.
- (10) If the period referred to in subsection (8) or (9) includes any days on which the office of the planning certifier is closed during normal business hours in that part

of the State where the land subject to the application is situated, that period is to be extended by the number of those days.

50D. Water and sewerage certificates

- (1) A planning certifier may issue a water and sewerage certificate in relation to a certifiable permitted use or development.
- (2) A water and sewerage certificate in relation to a certifiable permitted use or development is a certificate, in a form approved by the Commission, that is issued by a planning certifier and that states that –
 - (a) the use or development is not a use or development to which, in the opinion of the planning certifier, section 50C(2) applies; or
 - (b) a submission has been made under section 50C(4) in relation to the use or development; or
 - (c) a notice in relation to the use or development has been given by the planning certifier under section 50C(2) and the planning certifier is entitled to make an assumption under section 50C(6) in relation to the use or development.

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21. Section 51 amended (Permits)

Section 51 of the Principal Act is amended by inserting after subsection (1B) the following subsections:

(1C) An application that relates only to a certifiable permitted use or development may be accompanied by –

(a) a permitted use or development certificate in relation to the use or development; and

(b) a water and sewerage certificate in relation to the use or development.

(1D) If an application is accompanied by a water and sewerage certificate in relation to a certifiable permitted use or development, the certificate is to be accompanied by –

(a) a copy of all submissions made under section 50C(4) in relation to the use or development; or

(b) if the planning certifier who issued the water and sewerage certificate is entitled to make an assumption under section 50C(6) in relation to the use or development, a copy of the notice under section 50C(2) given to the regulated entity in relation to the use or development.

22. Section 53 amended (When does a permit take effect?)

Section 53(7) of the Principal Act is amended as follows:

- (a) by omitting “unless” and substituting “until”;
- (b) by omitting from paragraph (b) “permit.” and substituting “permit; or”;
- (c) by inserting the following paragraph after paragraph (b):
 - (c) it is cancelled under section 65G.

23. Section 58 amended (Application for other permits)

Section 58 of the Principal Act is amended by inserting after subsection (3) the following subsections:

- (4) If a privately certified application in relation to a use or development is made to a planning authority –
 - (a) the applicant is only required to pay to the planning authority half of the amount of any fee that would otherwise be payable under this Act, or the *Local Government Act 1993*, in relation to the application or the grant of a permit pursuant to the application; and

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- (b) a reference in subsection (2) to a period is to be taken, in relation to the application, including for the purposes of any other provision of this Act, to be a reference to a period of 10 days; and
 - (c) the planning authority is to consider whether the use or development to which the application relates meets the requirements of the planning scheme, or special planning order, to which the application relates; and
 - (d) if the planning authority considers that the use or development does not meet the requirements of the planning scheme, or special planning order, to which the application relates, the planning authority must refuse the permit and notify the applicant of that refusal within 7 days after the application is received.
- (5) If a privately certified application in relation to a use or development is made to a planning authority, the planning authority –
- (a) is not required, in relation to the use or development, to comply

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with section 56O of the *Water and Sewerage Industry Act 2008*; and

- (b) in determining whether to impose conditions on a permit granted in relation to the use or development, must take into account any submissions made under section 50C(4) in relation to the use or development; and
- (c) must impose on a permit granted in relation to the use or development any condition that is specified in a submission made under section 50C(4) in relation to the use or development as being required to be imposed on the use or development; and
- (d) must not attach, to a permit granted in relation to the use or development, a condition that would conflict with a condition that must be imposed on the permit in accordance with paragraph (c); and
- (e) must give to the relevant regulated entity a copy of any permit, and any notice of appeal under section 61, in relation to the use or development.

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- (6) If an appeal under section 61 relates wholly or partly to the imposition of conditions on a permit by a planning authority as required under subsection (5)(c), the relevant regulated entity is taken to be a party to that appeal.
- (7) If a period referred to in subsection (4) 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 is situated, that period is to be extended by the number of those days.
- (8) In this section –

privately certified application means an application under section 51 that –

- (a) relates only to a certifiable use or development; and
- (b) is accompanied, in accordance with section 51(1C), by a permitted use or development certificate, and a water and sewerage certificate, in relation to the use or development;

relevant regulated entity has the same meaning as it has in section 50C.

24. Section 58A amended (Permits requiring entering into of agreements)

Section 58A(1) of the Principal Act is amended by inserting “section 30T or” after “under”.

25. Section 60C amended (Projects eligible to be declared projects of regional significance)

Section 60C of the Principal Act is amended by omitting subsection (8) and substituting the following subsection:

(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) an interim planning scheme; or

(b) a planning scheme made under section 30N –

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.

26. Section 60Y amended (Amendment of planning schemes, &c.)

Section 60Y(1)(a) of the Principal Act is amended by omitting “(other than an interim

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planning scheme, or a planning scheme made under section 30N)”.

27. Part 4, Division 2B inserted

After section 60Z of the Principal Act, the following Division is inserted in Part 4:

Division 2B – Planning compliance certificates

60ZA. Interpretation of Division 2B

In this Division –

ancillary dwelling means a dwelling that –

- (a) has a floor area not greater than 60m²; and
- (b) is appurtenant to a dwelling on a lot on which no other dwelling is situated; and
- (c) shares, with the dwelling to which it is appurtenant, any access and parking, water, sewerage, gas, electricity or telecommunications connections and meters;

dwelling means a building, or a part of a building, which building or part of a building –

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(a) is used as a self-contained residence; and

(b) includes food preparation facilities, a bath or shower, laundry facilities, a toilet and sink –

and may include any outbuildings and works normally forming part of a dwelling;

low risk development means a development, other than a single dwelling development, which –

(a) is within a class of development in relation to which no permit is required, and that is not prohibited, under the planning scheme, or special planning order, that applies in relation to the land on which the development is to be situated; and

(b) is for the purposes of a low risk use;

low risk use means a use of land, other than a single dwelling use, that is a use –

(a) in relation to which no permit is required; and

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(b) that is not prohibited –

under the planning scheme, or special planning order, that applies in relation to the land;

single dwelling means –

(a) a dwelling on a lot on which no other dwelling is situated; or

(b) a dwelling, and an ancillary dwelling, on a lot on which no other dwelling is situated;

single dwelling development means a development, consisting of a single dwelling or an ancillary dwelling, that –

(a) is within a class of development in relation to which no permit is required, and that is not prohibited, under the planning scheme, or special planning order, that applies in relation to the land on which the development is to be situated; and

(b) is for the purposes of a single dwelling use;

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single dwelling use means a use of land that is a use –

- (a) that is classified as a residential use; and
- (b) in relation to which no permit is required; and
- (c) that is not prohibited –

under the planning scheme, or special planning order, that applies in relation to the land.

60ZB. Planning compliance certificates to be obtained

- (1) A person must not develop a single dwelling development, or a low risk development, unless there is a planning compliance certificate in relation to the development.

Penalty: Fine not exceeding 200 penalty units.

- (2) If a person is convicted of an offence against subsection (1), 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.
- (3) If a person is convicted of an offence against subsection (1), the court may order that –

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- (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 a person is work that will ensure that a development or use carried out by the person on land is in accordance with the planning scheme, or special planning order, that applies to the land.
- (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) Subsection (1) does not apply in relation to a development that commenced before the day on which this section commences.

60ZC. Applications for planning compliance certificates

- (1) A person may, in a form approved by the Commission, apply to a planning authority, or a planning certifier, for the issue of a planning compliance certificate in relation to –
 - (a) a single dwelling development and a single dwelling use; or
 - (b) a low risk development and a low risk use.
- (2) An application under subsection (1) is to be accompanied by the prescribed information and the prescribed documents.
- (3) A person must not obtain, or attempt to obtain, a planning compliance certificate 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.

60ZD. Issue of planning compliance certificates

- (1) A planning authority, or planning certifier, to which an application is made under section 60ZC(1) in relation to a development and a use –

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- (a) must issue a planning compliance certificate specifying that –
 - (i) the development is a single dwelling development; and
 - (ii) the use is a single dwelling use –if the planning authority or planning certifier is of the opinion that the development is a single dwelling development and the use is a single dwelling use; or
 - (b) must refuse to issue a planning compliance certificate in relation to the development and the use if the planning authority or planning certifier is not of the opinion that the development is a single dwelling development and the use is a single dwelling use.
- (2) A planning authority, or planning certifier, to which an application is made under section 60ZC(1) in relation to a development and a use –
- (a) must issue a planning compliance certificate, specifying that –
 - (i) the development is a low risk development; and

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- (ii) the use is a low risk use –
 - if the planning authority or planning certifier is of the opinion that the development is a low risk development and the use is a low risk use; or
 - (b) must refuse to issue a planning compliance certificate in relation to the development and the use if the planning authority or planning certifier is not of the opinion that the development is a low risk development and the use is a low risk use.
- (3) In determining whether to issue a planning compliance certificate in relation to a development and a use, a planning authority, and a planning certifier, must take into account the prescribed matters, if any.
- (4) A person who has applied to a planning authority, or a planning certifier, for the issue of a planning compliance certificate may appeal to the Appeal Tribunal against a decision by the planning authority or planning certifier to refuse to issue such a certificate.
- (5) After hearing an appeal in relation to a refusal by a planning authority or a planning certifier to issue a planning compliance certificate, the Appeal

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Tribunal may, in addition to its powers under the *Resource Management and Planning Appeal Tribunal Act 1993*, direct the planning authority or planning certifier, respectively, to issue a planning compliance certificate.

60ZE. Planning compliance certificates

- (1) A planning compliance certificate is a certificate, in the prescribed form, that specifies that –
 - (a) a development to which the certificate relates is a single dwelling development and a use to which the certificate relates is a single dwelling use; or
 - (b) a development to which the certificate relates is a low risk development and a use to which the certificate relates is a low risk use.
- (2) If a development, or use, to which a planning compliance certificate relates is not substantially commenced within the period of 2 years after the certificate is issued, or within the period extended under subsection (3), the certificate is cancelled.
- (3) If a development, or use, to which a planning compliance certificate relates is not, or is unlikely to be, substantially

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commenced before the certificate would otherwise be cancelled under subsection (2), the planning authority in respect of the land on which the development is, or is to be, situated may grant (once only) a 2-year extension of the period during which that development or use must be substantially commenced.

- (4) If –
- (a) a planning compliance certificate in relation to a development, and a use, on land is issued on a day; and
 - (b) the development and use, on that day, is authorised under the planning scheme, or special planning order, in relation to the land, to be carried out without a permit and is not prohibited; and
 - (c) the planning scheme, or special planning order in relation to the land (*the altered scheme or order*) –
 - (i) ceases, after that day, to authorise the development and the use to be carried out on the land; or
 - (ii) ceases, after that day, to authorise the development and use to be carried out

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on the land unless there is a permit in relation to the development and the use; or

(iii) prohibits, after that day, a development, or use, of that kind to be carried out on the land; and

(d) the planning compliance certificate has not been cancelled –

the development and use on that land is to be taken, from the day on which the certificate is issued until the certificate is cancelled, if at all, to be lawfully established before the altered scheme or order came into operation.

(5) A planning authority must –

(a) keep a register of all planning compliance certificates which it has issued or copies of which have been received by the planning authority under section 80I; and

(b) provide to the Commission, before 1 August in each year, copies of all entries in the register in relation to planning compliance certificates –

- (i) which it has issued during the previous financial year; or
- (ii) notice of the issue of which it has received under section 80I during the previous financial year.

60ZF. Cancellation of planning compliance certificates

- (1) A planning authority may, by notice to a person to whom a planning compliance certificate was issued by the planning authority, or a planning certifier, in relation to an area of land within the municipal area of the planning authority, cancel the certificate, if the planning authority is satisfied that –
 - (a) the certificate was issued in error; or
 - (b) the issue of the certificate was not authorised under this Act.
- (2) A notice under subsection (1) to a person must inform the person of the person's rights under this Act to appeal against the decision to cancel the certificate under that subsection.

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- (3) A planning authority may only cancel a planning compliance certificate issued to a person if –
- (a) the planning authority has given to the person a notice in writing specifying –
 - (i) that the planning authority is considering cancelling the planning compliance certificate; and
 - (ii) the reasons why the planning authority is considering cancelling the planning compliance certificate; and
 - (iii) that the person may, within the period of not less than 28 days specified in the notice, make written submissions to the planning authority in relation to the proposal; and
 - (b) the planning authority has considered any submissions that are made by the person within the period specified in the notice in accordance with paragraph (a)(iii) and that have not been withdrawn by the person; and

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- (c) the period specified in the notice in accordance with paragraph (a)(iii) has expired.
- (4) A person may appeal to the Appeal Tribunal against a decision by a planning authority to cancel a planning compliance certificate.

28. Section 61 amended (Appeals against planning decisions)

Section 61 of the Principal Act is amended as follows:

- (a) by inserting the following subsection after subsection (3A):
 - (3B) If a planning authority has amended a permit under section 30ZA, any person referred to in section 30ZA(3), (4) or (5) may appeal to the Appeals Tribunal against the decision of the planning authority within 14 days after the day on which the notice was served on the person under section 30ZA(3), (4) or (5).
- (b) by inserting in subsection (4) “(otherwise than by virtue of the operation of section 30S(3))” after “grant a permit”;
- (c) by inserting in subsection (4)(c) “or section 58(4)(d)” after “(3)”;

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(d) by inserting the following subsections after subsection (6):

(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 –

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appeal to the Appeal Tribunal against the decision of the planning authority to cancel the permit.

29. Section 62 amended (Determination of appeals)

Section 62(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (d)(ii) “section 43K(2) or 56(2)” and substituting “section 30ZA(2), section 43K(2) or section 56(2)”;
- (b) by omitting from paragraph (d)(ii) “Tribunal.” and substituting “Tribunal; or”;
- (c) by inserting the following paragraph after paragraph (d):
 - (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.

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30. Section 63 amended (Obstruction of sealed schemes)

Section 63 of the Principal Act is amended by omitting subsection (5) and substituting the following subsections:

- (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

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planning scheme, special planning order, 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.

31. Section 63B inserted

After section 63A of the Principal Act, the following section is inserted in Division 4:

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 –

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- (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

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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

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- (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.

32. Section 64 amended (Civil enforcement proceedings)

Section 64 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “the Commission, a planning authority or a person” and substituting “other than section 48AA or 48A or section 63A, a person, other than the Commission or a planning authority,”;
- (b) by inserting the following subsections after subsection (1):
 - (1A) An applicant may only make an application under subsection (1)

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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

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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

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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.
- (c) by omitting subsections (2A), (2B) and (2C) and substituting the following subsections:
- (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

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- 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

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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.

33. Part 4, Divisions 4A and 4B inserted

After section 65 of the Principal Act, the following Divisions are inserted in Part 4:

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*

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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

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offence against section 57(4A), section 60ZB(1), 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

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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

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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

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- 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

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- (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

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- (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

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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 a State Policy, permit, special permit, planning scheme, or special planning order, 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,

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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

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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:

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- (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

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- (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, special planning order, 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.

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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

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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

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- (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

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- (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.

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- (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.

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- (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

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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 –

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- (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

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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 –

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- (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 –

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- (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

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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

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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

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(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.

34. Section 69B inserted

After section 69A of the Principal Act, the following section is inserted in Division 5:

69B. Protection from liability in respect of certain certificates issued by planning certifiers

- (1) A planning authority does not incur any liability for, or in respect of, anything done, or omitted to be done, in reliance on a planning compliance certificate, or a permitted use or development certificate, issued by a planning certifier.
- (2) Nothing in subsection (1) is to be taken to derogate from the requirements imposed on a planning authority under Part 4.

35. Part 5A inserted

After section 80A of the Principal Act, the following Part is inserted:

PART 5A – PLANNING CERTIFIERS
Division 1 – Authorisation of planning certifiers

80B. Transitional applicants for authorisations

- (1) A person may, within 6 months after the day on which this section commences, apply to the Minister for approval as a transitional applicant.
- (2) The Minister, on receiving an application under subsection (1), may, with the approval of the Commission, approve a person as a transitional applicant.
- (3) The Minister may only approve a person as a transitional applicant if the person had, within the period of 5 years before the commencement of this section, at least 2 years' (whether or not continuous) practical experience in the assessment of whether uses or developments comply with the requirements of planning schemes or special planning orders.

80C. Authorisation of planning certifiers

- (1) A person may apply to the Commission for authorisation as a planning certifier.
- (2) An application under subsection (1) is to be –
 - (a) in the form, and the manner, approved by the Commission;
and

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- (b) accompanied by the prescribed fee, if any.
- (3) The Commission may require a person who has made an application under subsection (1) –
 - (a) to provide to the Commission further information requested by the Commission; and
 - (b) to verify by statutory declaration any information supplied to the Commission for the purposes of the application.
- (4) The Commission may authorise as a planning certifier, or refuse to so authorise, a person who has made an application under subsection (1).
- (5) The Commission may only authorise a person under subsection (4) if the Commission is satisfied that the person –
 - (a) is competent to issue planning compliance certificates and permitted use or development certificates; and
 - (b) either –
 - (i) has the prescribed qualifications in planning and 2 years' (whether or not continuous) practical experience in the

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assessment of whether uses or developments comply with the requirements of planning schemes or special planning orders; or

- (ii) is approved as a transitional applicant under section 80B; and
- (c) is covered, or is likely to be covered, by insurance that relates to the issue by the person of planning compliance certificates and permitted use or development certificates and that is, in the opinion of the Commission, adequate; and
- (d) has complied with any or all of the requirements approved by the Commission for the purposes of this section; and
- (e) has not made the application during a period, declared in accordance with section 80D(6) in a notice given under section 80D(2), to be a period in which the person is disqualified from applying for an authorisation; and
- (f) has complied with this Act and any requirements for professional

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development, and any code of conduct, that are prescribed under subsection (9).

- (6) An authorisation under subsection (4) is subject to the conditions and restrictions, if any, specified in the authorisation.
- (7) A person to whom an authorisation under subsection (4) relates must not fail to comply with any condition or restriction specified in the authorisation.

Penalty: Fine not exceeding 400 penalty units.

- (8) If the Commission refuses to grant an authorisation under subsection (4), the Commission must provide the applicant with reasons for the refusal –
 - (a) within 3 months after receiving the application under subsection (1) to which the authorisation relates; or
 - (b) if the Commission has requested further information be provided in relation to the application, within 3 months after receiving the last information requested.
- (9) The regulations may provide for the following:
 - (a) the duties of planning certifiers;

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- (b) a code of conduct for planning certifiers;
- (c) the handling of complaints relating to the conduct of planning certifiers;
- (d) audits to be conducted in relation to the performance of planning certifiers;
- (e) requirements for planning certifiers to undertake professional development;
- (f) other matters related to the functions and powers of planning certifiers and the issue of planning compliance certificates and permitted use or development certificates.

80D. Surrender, revocation and suspension of authorisation

- (1) A person to whom an authorisation has been issued under section 80C may surrender the authorisation at any time.
- (2) The Commission, by notice to a person to whom an authorisation has been issued under section 80C –
 - (a) may suspend the authorisation for the period specified in the notice;
or

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- (b) may revoke the authorisation from the date on which the notice is given or a later date specified in the notice.
- (3) The Commission may only suspend or revoke under subsection (2) a person's authorisation under section 80C if the Commission considers the person is no longer a person who may, in accordance with section 80C(5), be authorised under section 80C.
- (4) The Commission may only suspend or revoke under subsection (2) a person's authorisation under section 80C if –
 - (a) the Commission has given to the person a notice in writing specifying –
 - (i) that the Commission is proposing to suspend or revoke the authorisation; and
 - (ii) the reasons why the Commission is proposing to suspend or revoke the authorisation; and
 - (iii) that the person may, within the period of not less than 28 days specified in the notice, make written submissions to the Commission in

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relation to the proposal;
and

- (b) the Commission has considered any submissions that are made by the person within the period specified in the notice in accordance with paragraph (a)(iii) and that have not been withdrawn by the person; and
 - (c) the period specified in the notice in accordance with paragraph (a)(iii) has expired.
- (5) The Commission must specify, in the notice under subsection (2) of the suspension or revocation of a person's authorisation under section 80C –
- (a) the reasons for the revocation or suspension; and
 - (b) the person's right of appeal under subsection (8).
- (6) If the Commission revokes under subsection (2) the authorisation of a person, the Commission may, in the notice under subsection (2), declare that the person is, during the period specified in the notice, disqualified from applying for authorisation under section 80C.
- (7) The Commission, by written notice to a person, may withdraw a suspension or

revocation of the person's authorisation under section 80C.

- (8) A person who is not satisfied with a decision of the Commission under this section in relation to the person may apply to the Magistrates Court (Administrative Appeals Division) for a review of the decision.
- (9) If, for any period, a person who is authorised under section 80C is not covered by insurance that relates to the issue by the person of planning compliance certificates or permitted use or development certificates, the person's authorisation is suspended for that period.

80E. Variation and revocation of conditions and restrictions specified on authorisations

- (1) The Commission, by notice to a person to whom an authorisation has been issued under section 80C –
- (a) may specify in the authorisation a condition or restriction; or
 - (b) may vary a condition or restriction specified in the authorisation.
- (2) The Commission may, under subsection (1), only specify a condition or restriction in, or vary a condition or

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restriction specified in, an authorisation issued under section 80C to a person, if –

- (a) the Commission has given a notice in writing to the person specifying –
 - (i) that the Commission is proposing to specify or vary the condition or restriction; and
 - (ii) the reasons why the Commission is proposing to specify or vary the condition or restriction; and
 - (iii) that the person may, within the period of not less than 28 days specified in the notice, make written submissions in relation to the proposal; and
- (b) the Commission has considered any submissions that have been made by the person within the period specified in the notice in accordance with paragraph (a)(iii) and that have not been withdrawn by the person; and
- (c) the period specified in the notice in accordance with paragraph (a)(iii) has expired.

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- (3) The Commission must specify in the notice under subsection (1) of the specification, or variation of a condition or restriction, in a person's authorisation under section 80C –
- (a) the reasons for the specification or variation; and
 - (b) the person's right of appeal under subsection (7).
- (4) A person who is authorised under section 80C may apply to the Commission for a revocation or variation of a condition or restriction specified in the authorisation.
- (5) The Commission, after receiving an application under subsection (4) from a person to whom an authorisation is issued under section 80C, may, by notice to the person, revoke or vary, or refuse to revoke or vary, a condition or restriction specified in the person's authorisation.
- (6) The Commission must specify in a notice under subsection (5) of a refusal to revoke or vary a condition or restriction –
- (a) the reasons for the refusal; and
 - (b) the person's right of appeal under subsection (7).
- (7) A person who is not satisfied with a decision of the Commission under this

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section in relation to the person may apply to the Magistrates Court (Administrative Appeals Division) for a review of the decision.

80F. Planning certifier must not issue false statement or act in conflict of duty

(1) A planning certifier must not issue –

- (a) a planning compliance certificate;
or
- (b) a water and sewerage certificate;
or
- (c) a permitted use or development certificate –

that the planning certifier knows, or ought reasonably be expected to know, contains a statement that is false or misleading in a material particular.

Penalty: Fine not exceeding 100 penalty units.

(2) A planning certifier must not issue a planning compliance certificate, or a permitted use or development certificate, if the planning certifier has a direct or indirect pecuniary interest –

- (a) in the person who has applied for the certificate to be issued; or

(b) in the development, or use, to which the application for the certificate relates; or

(c) in any person associated with the development, or use, to which the application for the certificate relates.

Penalty: Fine not exceeding 100 penalty units.

80G. Change of, or referral to, other planning certifiers

(1) A person must not engage a planning certifier to exercise a power relating to the issue of a planning compliance certificate, or a permitted use or development certificate, in respect of a use or development in respect of which another planning certifier has already exercised, refused to exercise or is taken to have refused to exercise, the power to issue such a certificate, unless the matter was referred by that other planning certifier.

Penalty: In the case of –

(a) a natural person, a fine not exceeding 100 penalty units; or

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- (b) a body corporate, a fine not exceeding 500 penalty units.
- (2) A planning certifier may refer a matter to another planning certifier to be dealt with by that other planning certifier, if the other planning certifier agrees.
- (3) A person who engaged a planning certifier must not remove that planning certifier from that engagement without the consent of the Commission, given before the planning certifier has determined to issue, or to refuse to issue, a planning compliance certificate or a permitted use or development certificate.

Penalty: In the case of –

- (a) a natural person, a fine not exceeding 100 penalty units; or
- (b) a body corporate, a fine not exceeding 500 penalty units.
- (4) If a planning certifier resigns from an engagement, dies or becomes incapable for any reason of exercising a power, relating to the issue of a planning compliance certificate, or a permitted use or development certificate, for which he or she was engaged, the person who engaged the planning certifier may, with

the consent of the Commission, engage another planning certifier.

Division 2 – Rights and duties in relation to planning certifiers

80H. Planning certifier may charge for services

A planning certifier may charge a person, who makes an application for a planning compliance certificate, a permitted use or development certificate or a water and sewerage certificate, any amount the planning certifier thinks fit in relation to the application.

80I. Information to be provided to planning authorities

- (1) If an application is made to a planning certifier for the issue of a planning compliance certificate or a permitted use or development certificate, the planning certifier must –
 - (a) as soon as practicable after the application is made, notify the planning authority in respect of the land to which the application relates of the identity of the person making the application and the development and use to which the application relates; and

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- (b) as soon as practicable after deciding to refuse, or not to proceed, to issue such a certificate in relation to the development or the use, notify of the decision the planning authority in respect of the land to which the application relates.

Penalty: Fine not exceeding 20 penalty units.

- (2) A planning certifier, within 14 days after issuing a planning compliance certificate, must provide to the planning authority in respect of the land to which the certificate relates –

- (a) a copy of the certificate; and
- (b) any information or documents relied on by the person in issuing the certificate.

Penalty: Fine not exceeding 20 penalty units.

36. Part 6, Division 1 inserted

Before section 81 of the Principal Act, the following Division is inserted in Part 6:

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

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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) each interim planning scheme, declared under section 30F and prescribed for the purposes of this

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- section, as in force from time to time; and
- (b) each planning scheme, made under section 30N and prescribed for the purposes of this section, as in force from time to time; and
 - (c) each planning scheme, approved under section 29 after the day on which this section commences and prescribed for the purposes of this section, as in force from time to time; and
 - (d) each special planning order, made under section 47 after the day on which this section commences and prescribed for the purposes of this section, as in force from time to time; and
 - (e) each dispensation, as in force from time to time, from a provision of an interim planning scheme, declared under section 30F, that is a scheme prescribed for the purposes of this section.
- (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

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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 Part 3 to the instrument; or

(ii) an alteration, if any, as in force during the period, made under section 800 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;

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- (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,

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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 interim planning scheme declared under section 30F; and
 - (b) a planning scheme made under section 30N; and
 - (c) a planning scheme approved under section 29 after the day on which this section commences; and

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- (d) a special planning order made under section 47 after the day on which this section commences.

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 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 that planning scheme, special planning order, or dispensation, as in force at that date.
- (2) The authorised version of a planning scheme, special planning order or dispensation at a particular date is to be taken to be, in all circumstances and for

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all purposes, 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

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- 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,

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made under section 800
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 800 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

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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

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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,

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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.

80O. 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

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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,

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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 –

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(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.

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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

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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

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interim planning scheme;
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.

37. Part 6, Division 2: Heading inserted

Part 6 of the Principal Act is amended by inserting the following heading before section 81:

Division 2 – Other matters

38. Section 81A amended (Planning schemes, &c., to be registered in Central Plan Register)

Section 81A of the Principal Act is amended by inserting “(other than a planning scheme, or special planning order, prescribed for the purpose of section 80K)” after “a special planning order”.

39. Section 82 substituted

Section 82 of the Principal Act is repealed and the following section is substituted:

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) –

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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.

40. Section 85A inserted

After section 85 of the Principal Act, the following section is inserted in Division 2:

85A. Immunity from liability

- (1) An authorised officer, or a person assisting an authorised officer under section 65K, is not personally liable in respect of any act done or omitted to be done by the officer or person in good faith in the performance or exercise, or purported performance or exercise, of a function or power of an authorised officer under this Act.
- (2) A member of a planning authority is not personally liable in respect of any act done or omitted to be done by the planning authority in good faith in the performance or exercise, or purported performance or exercise, of a function or power of a planning authority under this Act.
- (3) Nothing in subsection (1) or (2) precludes the Crown or a planning authority from incurring liability that an authorised officer, a person assisting an authorised officer under section 65K or a member of a planning authority would otherwise incur.

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Part 4 – Concluding provision

PART 4 – CONCLUDING PROVISION

41. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which all of the provisions of this Act commence.