

Clause Notes

Part 1 – Preliminary	
Clause 1	<p>Short title</p> <p>This clause specifies the title of the Act.</p>
Clause 2	<p>Commencement</p> <p>The Act commences upon Royal Assent.</p>
Clause 3	<p>Interpretation</p> <p>This clause provides the definitions for key terms and phrases used throughout the legislation.</p>
Clause 4	<p>Objects of Act</p> <p>Clause four states the objectives of the Act, namely to ensure the provision of sufficient stormwater services in urban areas to reduce the risk of flooding due to stormwater, with stormwater services to be delivered in a manner that is consistent with the Resource Management and Planning System of Tasmania.</p>
Part 2 – Obligations of Stormwater Service Providers	
Clause 5	<p>Council to provide adequate stormwater systems</p> <p>This clause requires councils to provide effective stormwater services that minimise the risk of stormwater flooding in the council's urban areas.</p> <p>If a complaint is made to the Minister that a council has been substantially derelict in providing sufficient stormwater services to effectively drain an urban area, the Minister may investigate the complaint and if necessary take action to rectify the issue.</p>
Clause 6	<p>Provision of stormwater services</p> <p>This clause clarifies that councils are obligated to maintain public stormwater systems in good working order.</p> <p>The clause clarifies that a council may utilise the infrastructure of a third party to ensure adequate stormwater services are provided, but it does not authorise a council to utilise a third party's infrastructure without that party's consent.</p> <p>In addition the clause ensures that a third party infrastructure owner can not unreasonably refuse a council access to their infrastructure. If there is a belief that access to infrastructure is being unreasonably denied, either party may refer the matter to a commercial arbitrator, appointed in accordance with the <i>Commercial Arbitration Act 2011</i>.</p>
Clause 7	<p>Negotiation for provision of stormwater services</p> <p>Clause seven outlines the process that must be followed where a council or a third party provider of stormwater services wishes to initiate negotiations for the provision of stormwater services between the two</p>

	<p>parties. To initiate the formal negotiation process either party may serve a written notice on the other which sets out the general terms and conditions, and any other prescribed matters, of a proposed agreement for the provision of stormwater services by the third party provider.</p>
Clause 8	<p>Provision where commercial arrangements cannot be agreed</p> <p>Clause eight describes the process that must be followed where a commercial arrangement cannot be reached between a council and a third party for provision of stormwater services. The matter can be referred to a commercial arbitrator if more than six months has passed since the notice outlined in clause seven was served or if in the council's opinion consent to use the third party infrastructure is being unreasonably withheld.</p> <p>The clause outlines matters that an arbitrator can determine and lists a number of factors that the arbitrator must take into account when making a determination in relation to specified infrastructure.</p> <p>In trying to achieve the best outcome for the community, an arbitrator is to take into account: the rate of return on council owned stormwater assets in Tasmania, that assets will be renewed over time, that the service provider should be able to recover its reasonable costs, that both parties can continue to execute their statutory obligations, that a charge applied for providing a stormwater service takes into account the costs paid by other customers of that service and any other matter as prescribed.</p> <p>In making a determination the arbitrator is to seek advice from the Department of Primary Industries, Parks, Water and Environment and the Tasmanian Economic Regulator and any other persons they think fit.</p>
Clause 9	<p>Local government authorities for delivery of stormwater services</p> <p>Clause nine provides that nothing in this Act limits a council's ability to establish a single or joint authority as outlined in the <i>Local Government Act 1993</i>.</p>
Clause 10	<p>Stormwater system management plans</p> <p>Clause 10 provides that councils will be required to develop stormwater management plans for the urban areas of their municipalities within six years of the Act commencing.</p> <p>The stormwater management plan is to include an asset management plan for the stormwater system and outline the level of risk from flooding for each of the urban stormwater systems. Additional matters as outlined in regulations or that a council wishes to include may be added to the stormwater management plan.</p>
Clause 11	<p>Power of council to adopt stormwater systems</p> <p>This clause provides that councils may enter into an agreement to adopt stormwater assets constructed by others as part of a development or that are part of a private stormwater system. Once adopted the assets will be part of the council's stormwater system. A council cannot, without the other council's consent, adopt assets that are located within another municipality.</p> <p>Furthermore, the clause details that where a person proposes to construct</p>

	<p>stormwater infrastructure that a council wishes to adopt, the council may impose specifications that ensure the infrastructure is constructed to the council's satisfaction. If the person is not satisfied with the council's conditions they may appeal these through the Appeals Tribunal.</p>
Clause 12	<p>Council to maintain maps</p> <p>Clause 12 provides that councils must maintain a publicly available map of their stormwater system(s). The map must include those portions of waterways that have a primary role as part of a stormwater system.</p>
Part 3 – Powers of Stormwater Service Providers	
Clause 13	<p>Protection of stormwater assets</p> <p>This clause provides protection for a council's stormwater systems by requiring anyone wishing to undertake works or build a prescribed structure within a metre of stormwater infrastructure to obtain the council general manager's consent prior to commencing work. This does not apply to minor works.</p> <p>If a person has undertaken works or built over part of the stormwater system, the general manager may issue a notice to the person giving a minimum of 28 days to remove or remedy the works, rectify any damage or reinstate the stormwater system.</p> <p>If a person does not comply with the notice the council may undertake any necessary works and recover the cost of the work from the person. Penalties may also apply.</p> <p>This clause does not stop a person from undertaking maintenance of existing structures under which part of a stormwater system has previously been constructed.</p>
Clause 14	<p>Interference with public stormwater systems</p> <p>This clause provides protection for a council's stormwater systems by requiring anyone wishing to connect any works to a stormwater system or to alter or remove any part of that system to obtain a council general manager's consent prior to commencing work. If a person interferes with a stormwater system the general manager may issue a notice to the person giving a minimum of 28 days in which to rectify any damage or stop discharging into the system.</p> <p>The clause provides that if the person does not comply with the notice the council may undertake the necessary works to remove a connection or remedy the damage to the stormwater system and recover the cost for the work from the person. Penalties may also apply.</p>
Clause 15	<p>Power of authorised officers to carry out work on or adjacent to public land</p> <p>Clause 15 provides that an authorised officer may enter and remain on public land or a waterway located on or adjacent to public land, for the purposes of undertaking construction or installation of stormwater systems, operational or protective works on a stormwater system or operational or protective works on the land in which a stormwater system is located, or for carrying out investigations relevant to the provision of a</p>

	<p>stormwater service.</p> <p>The clause provides that an authorised officer must give seven days notice in writing prior to entering and remaining on public land, with the notice to outline the reason for entering the land and the proposed time and date for the works to take place. An authorised officer may only enter onto public land between the hours of 7am and 7pm and must obtain the agreement of the authority that is responsible for the land on how the works are to be carried out prior to commencing. If there is an emergency situation on public land an officer may enter onto it at any time to rectify the problem.</p> <p>An authorised officer may enter onto public land without prior notice if they are undertaking inspections of existing stormwater systems or are carrying out pre-construction inspections of land where a council intends to construct stormwater infrastructure.</p> <p>The clause makes provision for an authorised officer to take any other persons or equipment onto public land that they consider necessary or appropriate to carry out the desired work on the stormwater system.</p> <p>An authorised officer must carry a specified identity card when entering public land and show it when requested.</p> <p>The clause provides that a council has an obligation to make good any damage caused by works on the stormwater system or pay reasonable compensation for the damage to the responsible authority. If the responsible authority and council do not agree on the level of compensation, or the council refuses to pay compensation, the responsible authority may make good the damage themselves and recover the costs from the council.</p>
<p>Clause 16</p>	<p>Power of authorised officers to enter private land, &c.</p> <p>Clause 16 provides that an authorised officer may enter and remain on private land or a waterway located on or adjacent to private land, for the purposes of undertaking construction or installation of stormwater systems, operational or protective works on a stormwater system or operational or protective works on the land in which a stormwater system is located, or for carrying out investigations relevant to the provision of a stormwater service.</p> <p>An authorised officer must give seven days notice prior to entering and remaining on private land. An authorised officer may enter onto private land without prior notice if they are undertaking inspections of existing stormwater systems or are carrying out pre-construction inspections of a property where a council intends to construct a stormwater infrastructure.</p> <p>Generally, an authorised officer may only enter onto a property between the hours of 7am and 7pm. However, an authorised officer may enter onto private land outside of these times if the general manager determines that the works could be carried out more effectively outside of these hours. If there is an emergency situation on a property an authorised officer may enter onto a property at any time to rectify the problem.</p> <p>The clause makes provision for an authorised officer to take any other persons or equipment onto a property that they consider necessary or appropriate to carry out the desired work on the stormwater system.</p>

	<p>An authorised officer must carry a specified identity card when entering private land and show it when requested.</p> <p>The clause provides that a council has an obligation to make good any damage to a property caused by works on the stormwater system or pay reasonable compensation for the damage to the property owner. If the property owner and council do not agree on the level of compensation, or the council refuses to pay compensation, the property owner can take their claim to the appropriate court.</p>
Clause 17	<p>Power to undertake construction of public stormwater systems</p> <p>This clause provides that if in a council's opinion an urban area is not adequately serviced by the existing public stormwater system, a council may undertake any stormwater works it sees fit to ensure the area is adequately serviced.</p> <p>The clause requires that before a council begins construction of a new portion of a public stormwater system it is to provide a minimum of 28 days notice to all residents who may be affected by the works.</p>
Clause 18	<p>Matters not to be put into drains</p> <p>Clause 18 states that nothing but stormwater may be discharged into a stormwater system, unless the relevant council general manager has given permission to do otherwise. Penalties may apply.</p>
Part 4 – Connections	
Clause 19	<p>Connection to stormwater service</p> <p>This clause provides that any property that is located within 30 metres of an existing public stormwater system can be connected to that system, if it is reasonable to do so. The council or third party provider owner of the system may set an appropriate fee for the cost of providing the stormwater connection, with the property owner to pay this fee prior to the connection being provided.</p> <p>The clause also provides that if a council wishes to abandon a portion of a public stormwater system, the council must ensure that any properties connected to the portion to be abandoned are provided with an alternative and equally effective connection point. Any works required to connect the property to the new connection point will be at the council's expense.</p>
Clause 20	<p>Limits on connection point</p> <p>Clause 20 prescribes that a private stormwater system is to only service one property and must be wholly contained within that property, unless the council general manager has given permission for the system to service more than one property.</p> <p>The clause also provides that a property will only be provided with one connection point to the public stormwater system unless the council general manager has given permission for the property to be serviced by more than one connection.</p>
Clause 21	<p>Requirement to connect</p> <p>The clause provides that where a property is not connected to a public</p>

	<p>stormwater system a council general manager may issue a notice to require it to connect to the system to reduce the flooding risk to properties within that stormwater catchment. For a property to be required to connect to a public stormwater system it must be located with 30 metres of that system.</p> <p>The clause states that if the property owner does not comply with the notice the council may undertake the necessary works to connect the property and then reclaim the cost of the work from the property owner. Penalties may also apply. This requirement is appealable.</p>
Clause 22	<p>Requirement to disconnect</p> <p>The clause provides that if a property owner has made an illegal connection to a public stormwater system or in the council general manager's opinion a property's connection is a health and safety or environmental risk or has the potential to cause damage to a public stormwater system, the general manager may require the property owner to remove the connection.</p> <p>The clause provides that a general manager may issue a notice to a property owner to remove a property's connection to a system. If the property owner does not comply with the notice the council may undertake the necessary works to disconnect the property and recover the costs for the work from the property owner. Penalties may also apply. This requirement is appealable.</p>
Part 5 - Miscellaneous	
Clause 23	<p>Property owners not to direct stormwater onto neighbouring properties</p> <p>This clause provides that a property owner must not create a nuisance for neighbouring properties by directing stormwater from their property onto a neighbouring property.</p> <p>If a property owner does direct stormwater onto a neighbouring property creating a nuisance, the council may issue a notice to the property owner giving 28 days in which to stop causing a nuisance. The council has the power to undertake the necessary works to rectify the problem and then reclaim the cost of the work from the offending property owner. Penalties may also apply.</p>
Clause 24	<p>Regulations</p> <p>This clause provides the Governor with the power to make regulations to assist or provide direction in the operation of this legislation.</p>
Clause 25	<p>Consequential Amendments</p> <p>This clause identifies that schedule two contains consequential amendments.</p>
Clause 26	<p>Legislation repealed</p> <p>This clause identifies that schedule three contains a listing of the legislation that is to be repealed when this Act comes into force.</p>

Clause 27	<p>Consequential amendments of regulations do not prevent their subsequent amendment</p> <p>This clause specifies that the consequential amendments to regulations as described in this Act do no prevent those regulations being amended by subsequent regulations.</p>
Clause 28	<p>Administration of Act</p> <p>Clause 27 specifies that the Minister for Primary Industries and Water and the Department of Primary Industries, Parks, Water and Environment are responsible for the administration of this Act.</p>

Schedule 1
<p>Objectives of Resource Management and Planning System of Tasmania</p> <p>This clause lists the Resource Management and Planning Objectives.</p>

Schedule 2	
<p>Consequential Amendments</p> <p>This schedule lists the amendments to other legislation that will be required with the introduction of the Urban Drainage Act.</p>	
<i>Building Regulations 2004</i>	
Clause 1	<p>Schedule 5 amended (Fees)</p> <p>This clause amends Schedule 5 of the Building Regulations by omitting item 2 in Part 3, which refers to fees that apply for appeals made under the <i>Drains Act 1954</i>.</p>
<i>Local Government (Building and Miscellaneous Provisions) Act 1993</i>	
Clause 1	<p>Section 3 amended (Interpretation generally)</p> <p>This clause amends S.3 of the Local Government (Building and Miscellaneous Provisions) Act by adding a definition for public stormwater system that is consistent with the <i>Urban Drainage Act 2013</i>.</p>
Clause 2	<p>Section 86 amended (Security for payment)</p> <p>This clause amends S.86 of the Local Government (Building and Miscellaneous Provisions) Act by omitting definitions that are consistent with the <i>Drains Act 1954</i> and replacing them with definitions that are consistent with the <i>Urban Drainage Act 2013</i>.</p>

Clause 3	<p>Part 8, Divisions 3 and 4 repealed</p> <p>This clause repeals S.248, S.249 and S.251 of the Local Government (Building and Miscellaneous Provisions) Act as these clauses are now addressed by the <i>Urban Drainage Act 2013</i> and are no longer required.</p>
<i>Local Government (General) Regulations 2005</i>	
Clause 1	<p>Regulation 3 amended (Interpretation)</p> <p>This clause amends Regulation 3 of the Local Government (General) Regulations by adding definitions for connection point, private stormwater system and public stormwater system that are consistent with the <i>Urban Drainage Act 2013</i>.</p>
Clause 2	<p>Schedule 7 amended (Questions)</p> <p>This clause amends Part 5 of Schedule 7 of the Local Government (General) Regulations by omitting reference to the <i>Drains Act 1954</i> and replacing it with reference to the <i>Urban Drainage Act 2013</i>. The clause also ensures that the terminology used to describe stormwater infrastructure in this schedule is consistent with the <i>Urban Drainage Act 2013</i>.</p>
<i>Local Government (Savings and Transitional) Act 1993</i>	
Clause 1	<p>Section 37 amended (Water districts)</p> <p>This clause amends S.37 of the Local Government (Savings and Transitional) Act by removing reference to the Launceston Limited Sewerage District as this is now redundant.</p>
<i>Local Government Act 1993</i>	
Clause 1	<p>Section 96 amended (Interpretation of Division 4)</p> <p>This clause amends the Local Government Act by omitting the definition of drainage district and replacing it with a definition for public stormwater system.</p>
Clause 2	<p>Section 97 amended (Construction rate and charge)</p> <p>This clause amends S.97 of the Local Government Act by omitting “within a drainage district” from subsection 1. The clause also omits “council’s pipe supplying a drain connection” from subsection 1 and “drain” from subsection 2 and substitutes “public stormwater system” in both subsections.</p>
Clause 3	<p>Section 98 amended (Limits on construction rate and charge)</p> <p>This clause amends S.98(1) of the Local Government Act by omitting reference to “drainage districts” and substituting “that is within 30 metres of a public stormwater system” where appropriate.</p>
Clause 4	<p>Section 99 amended (Rebates and discounts)</p> <p>This clause amends S.99 of the Local Government Act by omitting “drain” from paragraph (a) and substituting “public stormwater system”, and by</p>

	omitting “council pipe” from paragraph (b) and substituting “public stormwater system”.
Clause 5	<p>Section 208 amended (Council map)</p> <p>This clause amends S.208(2) of the Local Government Act by omitting “section 13 of the <i>Drains Act 1954</i>” and substituting “section 12 of the <i>Urban Drainage Act 2013</i>”.</p>
<i>Plumbing Regulations 2012</i>	
Clause 1	<p>Schedule 4 amended (Fees)</p> <p>This clause amends Schedule 4 of the Plumbing Regulations by omitting item 4F, which refers to fees that apply for appeals made under the <i>Drains Act 1954</i>.</p>

Schedule 3
<p>Legislation repealed</p> <p>This schedule specifies that the <i>Drains Act 1954</i> is to be repealed.</p>