

TASMANIA

LAND USE PLANNING AND APPROVALS AMENDMENT (TASMANIAN PLANNING SCHEME) BILL 2015

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**LAND USE PLANNING AND APPROVALS
AMENDMENT (TASMANIAN PLANNING
SCHEME) BILL 2015**

*(Brought in by the Minister for Planning and Local
Government, the Honourable Peter Carl Gutwein)*

A BILL FOR

An Act to amend the *Land Use Planning and Approvals Act 1993* and various enactments consequent on those amendments

Be it enacted by Her 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 (Tasmanian Planning Scheme) Act 2015*.

2. Commencement

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

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Planning Scheme) Act 2015*
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Part 2 – Land Use Planning and Approvals Act 1993 Amended

**PART 2 – LAND USE PLANNING AND APPROVALS
ACT 1993 AMENDED**

3. Principal Act

In this Part, the *Land Use Planning and Approvals Act 1993** 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 definitions after the definition of *agreement*:

amendment of an LPS means an amendment, of an LPS, that is approved under section 40Q;

amendment of the SPPs means an amendment, of the SPPs, that is made under section 30P;

- (b) by omitting “, or special planning order,” from the definition of *certifiable scheme or order*;
- (c) by inserting “or to which, but for section 40Y(5), section 57 would apply”

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after “applies” in the definition of *discretionary permit*;

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

dispensation means a dispensation granted under this Act;

- (e) by omitting the definitions of *interim planning directive* and *interim planning scheme*;

- (f) by inserting the following definitions after the definition of *land*:

Local Provisions Schedule means a Local Provisions Schedule that is in effect under section 35M(3) and includes such a Schedule as amended, if at all, by an amendment of an LPS that is in effect under section 40S(1);

LPS means a Local Provisions Schedule;

LPS criteria means the matters specified in section 34;

- (g) by inserting the following definitions after the definition of *modification*:

municipal area includes a part of a municipal area;

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municipal district means a municipal
area;

- (h) by omitting the definition of *municipal district*;
- (i) by omitting “or special planning order” from the definition of *permit*;
- (j) by omitting the definitions of *planning directive* and *planning scheme* and substituting the following definition:

planning scheme – see
section 10(2)(a);

- (k) by omitting “section 30C” from the definition of *regional area* and substituting “section 5A”;
- (l) by omitting “section 30C(3)” from the definition of *regional land use strategy* and substituting “section 5A”;
- (m) by omitting the definition of *representation* and substituting the following definitions:

representation, in relation to –

- (a) a draft of the SPPs, a draft amendment of the SPPs, a draft LPS or a draft amendment of an LPS; or
- (b) an application for a permit; or

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(c) a project in respect of which a special permit may be granted –

includes a written statement of facts or reasons in support of or in opposition to the draft, application or project;

Special Local Provisions Schedule means a Special Local Provisions Schedule, approved under section 35Q(3), that is in effect;

Special LPS means a Special Local Provisions Schedule;

(n) by omitting the definition of *special planning order* and substituting the following definitions:

special planning order means an order that was, at any time before the substitution of section 47 of this Act by the Tasmanian Planning Scheme Amendment Act, in operation under this Act;

SPPs criteria means the matters specified in section 15;

State authority means any body or authority, whether incorporated or not, that is –

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- (a) established or constituted under a written law or under the royal prerogative; and
- (b) a body, or authority, which, or of which the governing authority, wholly or partly comprises a person, or persons, appointed by the Governor, a Minister or another State authority;
- (o) by inserting the following definitions after the definition of *State Policy*:

Tasmanian Planning Scheme – see section 9;

Tasmanian Planning Scheme Amendment Act means the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015*;

the SPPs means the State Planning Provisions;

the State Planning Provisions means the State Planning Provisions, made under section 27, that are in effect under section 29(2) as part of the Tasmanian Planning Scheme, as those Provisions are amended, if at all, under

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Division 2 of Part 3 by an amendment of the State Planning Provisions that is in effect as part of the Tasmanian Planning Scheme under section 30R(2);

5. Section 5A inserted

After section 5 of the Principal Act, the following section is inserted in Part 1:

5A. Regional areas and regional land use strategies

- (1) The Minister, by notice in the *Gazette*, may specify the regional areas into which the State is divided for the purposes of this Act.
- (2) A notice under subsection (1) is to specify the municipal areas that are within a regional area specified in the notice.
- (3) The Minister, by notice in the *Gazette*, may declare a regional land use strategy for a regional area.
- (4) The Minister must consult with –
 - (a) the Commission; and
 - (b) the planning authorities; and

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(c) the State Service Agencies, and State authorities, as he or she thinks fit –

before issuing a notice under subsection (3).

- (5) A regional land use strategy may incorporate or refer to any document prepared, by a planning authority in respect of a municipal area to which the regional land use strategy relates, for the purposes of reflecting the application of the regional land use strategy to the municipal area.
- (6) The Minister must keep all regional land use strategies under regular and periodic review.

6. Section 7 amended (Application of Tasmanian Planning Scheme, and exercise by municipalities of powers, in respect of accretions from sea, &c.)

Section 7 of the Principal Act is amended as follows:

- (a) by omitting “A municipality” and substituting “A planning scheme and the Tasmanian Planning Scheme may apply to, and a municipality”;
- (b) by omitting from paragraph (d) “section 20(7)(c) and (d)” and substituting “section 11(3)(c) and (d)”.

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7. Part 2: Heading repealed

The Principal Act is amended by omitting the heading “**PART 2 — FUNCTIONS OF COMMISSION UNDER THIS ACT**”.

8. Section 8 amended (Functions of Commission)

Section 8 of the Principal Act is amended by omitting paragraph (a) and substituting the following paragraphs:

- (a) when required to do so under this Act, prepare draft SPPs, draft Special LPSs, draft LPSs, draft amendments of the SPPs and draft amendments of LPSs and conduct public exhibition, and prepare reports, in relation to such drafts; and
- (ab) conduct reviews of the SPPs and the LPSs, when required to do so under this Act; and
- (ac) approve Local Provisions Schedules, Special Local Provisions Schedules and amendments of LPSs; and

9. Section 8A inserted

After section 8 of the Principal Act, the following section is inserted in Part 1:

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Part 2 – Land Use Planning and Approvals Act 1993 Amended

8A. Guidelines

The Commission may, with the approval of the Minister, issue guidelines for the purpose of assisting planning authorities in respect of –

- (a) the preparation of draft LPSs and draft amendments of LPSs; and
- (b) the implementation and operation of the Tasmanian Planning Scheme.

10. Parts 2A and 3 substituted

Parts 2A and 3 of the Principal Act are repealed and the following Parts are substituted:

PART 2 – THE TASMANIAN PLANNING SCHEME

9. The Tasmanian Planning Scheme

- (1) There is to be a Tasmanian Planning Scheme.
- (2) The Tasmanian Planning Scheme consists of –
 - (a) the State Planning Provisions; and
 - (b) each Local Provisions Schedule and each Special Local Provisions Schedule.

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10. Tasmanian Planning Scheme in relation to particular municipal area

- (1) The Tasmanian Planning Scheme, in relation to a municipal area, consists of –
 - (a) the State Planning Provisions that are, under section 30(2), in effect in relation to the municipal area, as the State Planning Provisions are amended by any amendment, of the State Planning Provisions, that is, under section 30S(2), in effect in relation to the municipal area; and
 - (b) the Local Planning Schedule that is, under section 35M(3), in effect in relation to the municipal area, as the Local Planning Schedule is amended from time to time by any amendment of an LPS, that is, under section 40S(1), in effect in relation to the municipal area; and
 - (c) any Special LPS that is, under section 35R(1), in effect in relation to the municipal area.
- (2) In this Act, a reference to –
 - (a) a planning scheme is a reference to –

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- (i) the Tasmanian Planning Scheme in relation to the municipal area to which the planning scheme relates; or
 - (ii) a planning scheme that is taken to be in force in relation to the municipal area by virtue of Schedule 6; and
- (b) a planning authority, in relation to an LPS, a Special LPS or a planning scheme, is a reference to the planning authority in respect of the municipal area to which the LPS, Special LPS or planning scheme applies.

11. Contents of planning schemes and Tasmanian Planning Scheme

(1) In this section –

fishing means fishing as defined in the *Living Marine Resources Management Act 1995* and as conducted in accordance with that Act;

forestry operations includes the processes and works connected with –

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- (a) the establishment of forests; and
- (b) the growing of timber; and
- (c) the harvesting of timber; and
- (d) land clearing, land preparation, burning off, road construction, and associated quarry works, conducted in relation to an activity specified in paragraph (a), (b) or (c);

marine farming means marine farming as defined in the *Marine Farming Planning Act 1995* and as conducted in accordance with that Act and the *Living Marine Resources Management Act 1995*;

proclaimed wharf area means the area of a wharf, the boundaries of which have been defined, altered or redefined under the *Marine Act 1976* before the commencement of the *Port Companies Act 1997*;

State waters means State waters as defined in the *Living Marine Resources Management Act 1995*.

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- (2) Subject to this Act, a planning scheme or the Tasmanian Planning Scheme may –
- (a) make any provision which relates to the use, development, protection or conservation of any land; and
 - (b) set out policies and specific objectives; and
 - (c) regulate or prohibit the use or development of any land; and
 - (d) set out requirements for the provision of public utility services to any land; and
 - (e) require specified things to be done to the satisfaction of the relevant agency or a planning authority; and
 - (f) apply, adopt or incorporate any document which relates to the use, development or protection of any land; and
 - (g) provide that any use or development of any land is conditional on an agreement being entered into under Part 5; and

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- (h) set out provisions relating to the implementation in stages of uses or developments; and
 - (i) provide for any other matter which this Act permits, or requires, to be included in the Tasmanian Planning Scheme; and
 - (j) provide for an application to be made to a planning authority to bring an existing use of land that does not conform to the Tasmanian Planning Scheme into conformity, or greater conformity, with the Tasmanian Planning Scheme; and
 - (k) make any provision that relates to a matter referred to in this subsection.
- (3) Nothing in a planning scheme or the Tasmanian Planning Scheme affects –
- (a) forestry operations conducted on land declared as a private timber reserve under the *Forest Practices Act 1985*; or
 - (b) the undertaking of mineral exploration in accordance with a mining lease, an exploration licence, a special exploration licence, or a retention licence, issued under the *Mineral*

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Resources Development Act 1995, provided that any mineral exploration carried out is consistent with the standards specified in the Mineral Exploration Code of Practice, published by Mineral Resources Tasmania, as in force from time to time; or

(c) fishing; or

(d) marine farming in State waters.

(4) Subsection (3)(d) does not apply to –

(a) any bridge, jetty, wharf, boathouse, shed, pipeline, or other structure, that is used in connection with marine farming and that is constructed wholly or in part on, or above, the high water mark; or

(b) a use or development on any accretion from the sea.

(5) It is not a defence to a charge of an offence of using or developing land in a municipal area in contravention of a planning scheme or this Act that, after the offence was committed, the use or development has become lawful under a provision of a planning scheme or the Tasmanian Planning Scheme in relation to the municipal area.

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- (6) A planning scheme or the Tasmanian Planning Scheme may require a use to which section 12(1) applies to comply with a code of practice approved or ratified by Parliament under an Act.
- (7) A planning scheme or the Tasmanian Planning Scheme is not to prohibit or require a discretionary permit for the use or development of a proclaimed wharf area for port and shipping purposes.

12. Existing uses and developments

- (1) Subject to subsections (5), (6) and (7), nothing in a provision of a planning scheme, or of the Tasmanian Planning Scheme, in relation to a municipal area is to be taken (including by virtue of requiring a permit to be obtained) to –
 - (a) prevent the continuance of the use, of any land, in the municipal area, upon which buildings or works are not erected, for the purposes for which the land was being lawfully used before the provision came into effect; or
 - (b) prevent –
 - (i) the use, of any building in the municipal area that was erected before that provision came into effect

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- in relation to the municipal area, for any purpose for which the building was lawfully being used immediately before the provision came into effect in relation to the municipal area; or
 - (ii) the maintenance or repair of such a building; or
- (c) prevent the use, of any works constructed in the municipal area before the provision came into effect in relation to the municipal area, for any purpose for which the works were being lawfully used immediately before the provision came into effect in relation to the municipal area; or
- (d) prevent the use of any building, or works, in the municipal area, for any purpose for which it or they were being lawfully erected, or carried out, immediately before the provision came into effect in relation to the municipal area; or
- (e) require the removal or alteration of any lawfully constructed buildings, or works, in the municipal area.

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(2) Nothing in a provision of a planning scheme, or the Tasmanian Planning Scheme, in relation to a municipal area is to be taken to prevent a development, in the municipal area –

(a) that is a development in relation to which a permit, or a special permit, is in force; and

(b) that is a development that was not completed before the provision came into effect in relation to the municipal area –

from being completed within 3 years of that provision coming into effect in relation to the municipal area or any lesser or greater period specified in respect of the completion of that development under the terms of the permit or another permit or to prevent the use of the land on which the development is carried out for any use that is authorised by the permit.

(3) Nothing in a provision of a planning scheme, or the Tasmanian Planning Scheme, in relation to a municipal area is to be taken to prevent a development, in the municipal area –

(a) that is a development –

(i) that was, before the commencement of the

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provision, a development in relation to which a permit under this Act was not required; and

(ii) in relation to which a permit, or a certificate of likely compliance, under the *Building Act 2000* is in force; and

(iii) that was not completed before the provision came into effect in relation to the municipal area; or

(b) that is a development that was lawfully commenced but was not completed before the provision came into effect in relation to the municipal area –

from being completed within 3 years of that provision coming into effect in relation to the municipal area or to prevent the use of the land for the purposes for which the development was carried out.

(4) Nothing in a provision of a planning scheme, or the Tasmanian Planning Scheme, in relation to a municipal area is to be taken to prevent (including by virtue of requiring a permit to be obtained) the reconstruction of a

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building, or restoration of works, that is or are destroyed or damaged and was or were integral and subservient to a lawfully established existing use, whether or not the use conforms to the provision, if –

- (a) the destruction or damage was not caused intentionally by the owner of that building or those works; and
- (b) the building or works was or were lawfully established before the provision came into effect in relation to the municipal area –

or to prevent the use of the reconstructed building or works for the purposes for which they were reconstructed or restored.

- (5) Subsections (1), (2), (3) and (4) do not apply to, or in relation to, a use of land –
 - (a) that has stopped for a continuous period of 2 years; or
 - (b) that has stopped for 2 or more periods which together total 2 years in any period of 3 years; or
 - (c) that is seasonal in nature, if the use does not take place for 2 years in succession.

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- (6) Subsection (1) does not apply to the extension or transfer from one part of a parcel of land to another of a use previously confined to the first-mentioned part of that parcel of land.
- (7) Subsections (1), (2), (3) and (4) do not apply to, or in relation to, a use, of any land, building or work, that is substantially intensified.

PART 3 – STATE PLANNING PROVISIONS
Division 1 – Making of State Planning Provisions
Subdivision 1 – Interpretation of Division 1

13. Interpretation of Division 1

In this Division –

exhibition notice, in relation to a draft of the SPPs, means the exhibition notice published under section 22 in relation to the draft of the SPPs;

exhibition period, in relation to a draft of the SPPs, means the period specified, in accordance with section 22(3)(a), in the exhibition notice as the exhibition period in relation to the draft of the SPPs;

exhibition premises, in relation to a draft of the SPPs, means premises –

- (a) to which the public has access during normal business hours; and
- (b) that are specified, in accordance with section 22(3)(b)(i), in the exhibition notice in relation to the draft of the SPPs;

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explanatory document, in relation to a draft of the SPPs, means an explanatory document approved under section 16(5) in relation to the draft of the SPPs;

relevant exhibition documents, in relation to a draft of the SPPs, means –

- (a) the terms of reference in accordance with which the draft of the SPPs was prepared; and
- (b) the draft of the SPPs; and
- (c) any document applied, adopted or incorporated in the draft of the SPPs; and
- (d) the explanatory document in relation to the draft of the SPPs.

***Subdivision 2 – Contents, criteria and explanatory
documents in relation to SPPs***

14. Contents of State Planning Provisions

(1) The SPPs –

- (a) may contain any provision that may, under section 11, be included in the Tasmanian Planning Scheme; and

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- (b) may not contain a provision that is inconsistent with section 11 or, if the Tasmanian Planning Scheme were in effect in relation to a municipal area, would be inconsistent with a provision of section 12; and
- (c) may contain a provision indicating or specifying the structure to which an LPS is to conform and the form that a provision of an LPS is to take; and
- (d) may contain a provision permitting an LPS to provide for the detail of the SPPs in respect of, or the application of the SPPs to, a particular place or matter; and
- (e) may contain a provision permitting a provision of an LPS to override a provision of the SPPs; and
- (f) may contain a provision permitting the modification, in relation to a part of a municipal area, of the application of a provision of the SPPs; and
- (g) may contain a provision requiring, or permitting, an LPS

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to contain a map, an overlay, a list, or another provision, that provides for the spatial application of the SPPs to land; and

(h) may contain a provision requiring an LPS to contain a provision of a kind specified or referred to in the SPPs.

(2) The SPPs may contain a provision permitting an LPS to include –

(a) a particular purpose zone, being a group of provisions consisting of –

(i) a zone that is particular to an area of land specified in the LPS; and

(ii) the provisions that are to apply in relation to that zone; or

(b) a specific area plan, being a plan consisting of –

(i) a map or overlay that delineates a particular area of land; and

(ii) the provisions, specified in the LPS, that are to apply to that land in

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addition to, in
modification of, or in
substitution for, a
provision, or provisions,
of the SPPs; or

- (c) a site-specific qualification, being a provision, or provisions, that are specified, in relation to a particular area of land, in the LPS and that modify, are in substitution for, or are in addition to, a provision, or provisions, of the SPPs.

15. SPPs criteria

- (1) In this section –

relevant planning instrument means a draft of the SPPs, the SPPs, a draft amendment of the SPPs and an amendment of the SPPs.

- (2) The SPPs criteria to be met by a relevant planning instrument are that the instrument –
- (a) only contains provisions that the SPPs may contain under section 14; and
- (b) furthers the objectives set out in Schedule 1; and

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- (c) is consistent with each State Policy; and
 - (d) has regard to the safety requirements set out in the standards prescribed under the *Gas Pipelines Act 2000*.
- (3) An amendment of the SPPs, or a draft amendment of the SPPs, is taken to meet the SPPs criteria if the amendment of the SPPs, or an amendment of the SPPs made in the terms of the draft amendment of the SPPs, will not have the effect that the State Planning Provisions, as amended, will cease to meet the SPPs criteria.

16. Explanatory documents

- (1) The Minister may prepare an explanatory document in relation to the draft SPPs or a draft amendment of the SPPs.
- (2) The Minister, by notice to the Commission, may direct the Commission to prepare and submit to the Minister, within a period specified in the notice, an explanatory document in relation to the draft SPPs or a draft amendment of the SPPs.
- (3) An explanatory document in relation to the draft SPPs or a draft amendment of the SPPs is a document setting out in

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general terms the purpose and terms of the draft SPPs or the draft amendment of the SPPs.

- (4) The Commission must, within the period specified in a notice under subsection (2) in relation to the draft SPPs or a draft amendment of the SPPs, submit to the Minister an explanatory document in relation to the draft SPPs or the draft amendment of the SPPs.
- (5) The Minister may approve in relation to the draft SPPs or a draft amendment of the SPPs –
 - (a) an explanatory document prepared by him or her under subsection (1); or
 - (b) an explanatory document submitted to him or her under subsection (4) and amended by the Minister as the Minister thinks fit.

Subdivision 3 – Preparation of draft of the SPPs

17. Terms of reference in relation to draft of the SPPs

- (1) The Minister may prepare terms of reference in relation to the preparation of a draft of the SPPs.

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- (2) The Minister must give notice, in a newspaper that is published, and circulates generally, in Tasmania, that he or she has prepared terms of reference in relation to the preparation of a draft of the SPPs.
- (3) The Minister must not prepare terms of reference in relation to a draft of the SPPs unless the Minister is satisfied that a draft of the SPPs prepared in accordance with the terms of reference is likely to meet the SPPs criteria.

18. Preparation of draft of the SPPs by Minister

- (1) The Minister may prepare a draft of the SPPs that is in accordance with terms of reference prepared under section 17(1).
- (2) The Minister must consult with –
 - (a) the Commission; and
 - (b) the planning authorities; and
 - (c) the State Service Agencies, and the State authorities, as he or she thinks fit –

in relation to the preparation of a draft of the SPPs.

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19. Minister may direct Commission to prepare draft of the SPPs

(1) The Minister, by notice to the Commission, may –

(a) provide to the Commission terms of reference prepared under section 17(1); and

(b) direct the Commission to submit to the Minister a draft of the SPPs that is in accordance with the terms of reference; and

(c) determine the period within which the draft of the SPPs is to be submitted to the Minister by the Commission.

(2) The Commission must consult with –

(a) the planning authorities; and

(b) the State Service Agencies, and the State authorities, that it thinks fit –

in relation to the preparation by the Commission of a draft of the SPPs.

(3) The Commission, within the period determined by the Minister in a notice under subsection (1) or a longer period allowed by the Minister, must prepare and submit to the Minister a draft of the

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SPPs that is in accordance with the terms of reference specified in the notice.

- (4) The Commission must not submit a draft of the SPPs to the Minister under subsection (3) unless it is satisfied that the draft of the SPPs meets the SPPs criteria.

20. Minister may direct Commission to modify draft of the SPPs

- (1) The Minister, by notice to the Commission, may direct the Commission –
- (a) to modify, in accordance with the notice, a draft of the SPPs submitted to the Minister under section 19(3) or subsection (2); and
 - (b) to submit to the Minister under subsection (2), within a period specified in the notice, the draft of the SPPs as so modified.
- (2) The Commission, within the period specified in a notice under subsection (1) or a longer period allowed by the Minister, must prepare and submit to the Minister a draft of the SPPs modified in accordance with the notice.

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- (3) The Commission is not to submit a draft of the SPPs to the Minister under subsection (2) unless it is satisfied that the draft of the SPPs meets the SPPs criteria.

Subdivision 4 – Public exhibition

21. Approval for public exhibition

- (1) The Minister must consider whether to approve for public exhibition a draft of the SPPs prepared by the Minister under section 18(1) or submitted to the Minister under section 19(3) or section 20(2).
- (2) In considering whether to approve for public exhibition a draft of the SPPs, the Minister may inform himself or herself as he or she thinks fit in relation to any matters.
- (3) The Minister, by notice in writing to the Commission, may approve for public exhibition a draft of the SPPs prepared by the Minister under section 18(1) or submitted to the Minister under section 19(3) or section 20(2).
- (4) The Minister must not approve for public exhibition a draft of the SPPs unless the Minister is satisfied that the draft of the SPPs meets the SPPs criteria.

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**22. Exhibition of relevant exhibition documents
in relation to draft of the SPPs**

- (1) The Commission, as soon as practicable after receiving notice under section 21(3) that a draft of the SPPs has been approved for public exhibition, must ensure an exhibition notice in relation to the draft of the SPPs is published in accordance with this section.
- (2) The exhibition notice is to be published once before, and once within 14 days after, the first day of the exhibition period, in a newspaper that is published, and circulates generally, in Tasmania.
- (3) An exhibition notice is to –
 - (a) specify the period that is to be the exhibition period in relation to the draft of the SPPs; and
 - (b) specify that the relevant exhibition documents are or will be –
 - (i) available for viewing by the public, during the exhibition period, at premises, that are offices of the Commission, specified in the notice; and

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- (ii) available for viewing and downloading by the public, during the exhibition period, at an electronic address specified in the notice; and
- (c) contain an invitation to all persons and bodies to, within the exhibition period, make to the Commission a representation in relation to the draft of the SPPs by submitting the representation to –
 - (i) the premises specified in the notice in accordance with paragraph (b)(i); or
 - (ii) an electronic address specified in the notice.
- (4) The exhibition period, in relation to a draft of the SPPs, is to be a period of 60 days –
 - (a) beginning on the day on which the draft of the SPPs begins to be available for viewing by the public at exhibition premises in accordance with subsection (6)(a); and

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- (b) excluding any days on which the exhibition premises are closed during normal business hours.
- (5) The Commission must, as soon as practicable after receiving notice under section 21(3) that a draft of the SPPs has been approved for public exhibition, give to each planning authority –
 - (a) a copy of the relevant exhibition documents in relation to the draft of the SPPs; and
 - (b) an invitation to make to the Commission a representation in relation to the draft of the SPPs.
- (6) The Commission must ensure that copies of the relevant exhibition documents in relation to the draft of the SPPs are, for the exhibition period –
 - (a) available for viewing by the public at the exhibition premises; and
 - (b) available for viewing and downloading by the public at an electronic address specified in the exhibition notice.

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23. Representations

- (1) A person or body may make to the Commission a representation in relation to a draft of the SPPs that is available for viewing by the public at the exhibition premises in accordance with section 22(6)(a).
- (2) A representation in relation to a draft of the SPPs –
 - (a) is to be made under subsection (1) within the exhibition period in relation to the draft of the SPPs; and
 - (b) must be made by submitting the representation to the premises, or to the electronic address, that are specified, in accordance with section 22(3)(b), in the exhibition notice in relation to the draft of the SPPs.
- (3) For the purposes of this Part, any matter, contained in a representation under subsection (1) in relation to a draft of the SPPs, that does not relate to the contents or merits of the draft is taken to not be part of the representation.

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24. Consideration by Commission

The Commission, as soon as practicable, after the end of the exhibition period in relation to a draft of the SPPs –

- (a) must consider the terms of reference in accordance with which the draft of the SPPs was prepared; and
- (b) must consider each representation, in relation to the draft of the SPPs, made under section 23(1) before the end of the exhibition period; and
- (c) may, at its discretion, consider a representation, in relation to the draft of the SPPs, made under section 23(1) after the end of the exhibition period; and
- (d) may, if it thinks fit, hold one or more hearings in relation to the representations that it has considered under paragraph (b) or (c); and
- (e) must consider whether it is satisfied that the draft of the SPPs meets the SPPs criteria; and
- (f) may consider whether there are any matters that relate to issues of a technical nature or that may be

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relevant to the implementation of the State Planning Provisions if the State Planning Provisions were made under section 27 in the terms of the draft of the SPPs.

25. Commission report

- (1) The Commission, within 90 days, or a longer period allowed by the Minister, after the end of the exhibition period in relation to a draft of the SPPs, must provide to the Minister a report in relation to the draft of the SPPs.
- (2) The report in relation to a draft of the SPPs is to contain –
 - (a) a copy of the draft of the SPPs in the form in which the draft was available for viewing by the public in accordance with section 22(6)(a); and
 - (b) a summary of –
 - (i) the representations, in relation to the draft of the SPPs, that it has considered in accordance with section 24(b) and (c); and

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- (ii) the Commission’s opinion as to the merit of those representations; and
 - (c) a summary of the information obtained at hearings, if any, in relation to the draft of the SPPs; and
 - (d) the recommendations of the Commission in relation to the draft of the SPPs; and
 - (e) a statement as to whether the Commission is satisfied that the draft of the SPPs meets the SPPs criteria.
- (3) The recommendations under subsection (2)(d) that are included in the report under subsection (1) in relation to a draft of the SPPs, contained, in accordance with subsection (2)(a), in the report, are to include a recommendation that –
 - (a) the Minister make the State Planning Provisions in the terms of the draft of the SPPs; or
 - (b) the Minister make the State Planning Provisions in the terms of the draft of the SPPs with modifications; or

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- (c) the Minister refuse to make the State Planning Provisions in the terms of the draft of the SPPs.
- (4) If the recommendations under subsection (2)(d) that are included in the report under subsection (1) include, in accordance with subsection (3)(b), a recommendation that the Minister make the State Planning Provisions in the terms of the draft of the SPPs contained, in accordance with subsection (2)(a), in the report, with modifications, the report is to include –
 - (a) a copy, of the draft of the SPPs, that includes the modifications; and
 - (b) a recommendation as to whether or not the draft of the SPPs that includes the modifications ought to be re-exhibited.
- (5) The recommendations under subsection (2)(d) that are included in the report under subsection (1) in relation to a draft of the SPPs may include recommendations in respect of any matters that relate to issues of a technical nature or that may be relevant to the implementation of the State Planning Provisions if the State Planning Provisions were made under section 27 in the terms of the draft of the SPPs.

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Subdivision 5 – Making of Special Planning Provisions

26. Matters to be considered in making the State Planning Provisions

- (1) The Minister must not make the State Planning Provisions under section 27 unless the Minister is satisfied that the State Planning Provisions meet the SPPs criteria.
- (2) The Minister, before making the State Planning Provisions under section 27, may inform himself or herself, in the manner he or she thinks fit, in relation to any matter.
- (3) Without limiting the manner in which the Minister may inform himself or herself for the purposes of subsection (2), the Minister may require the Commission to provide him or her with further information for the purposes of that subsection.

27. Making of State Planning Provisions

- (1) The Minister, after considering a report provided to the Minister under section 25(1) in relation to a draft of the SPPs, contained, in accordance with section 25(2)(a), in the report, and any other matters the Minister thinks fit, may –

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- (a) make the State Planning Provisions in the terms of the draft of the SPPs; or
- (b) if the Minister is satisfied that a provision or provisions of the draft of the SPPs ought to be modified but that the modified provisions do not require re-exhibition – make the State Planning Provisions in the terms of the draft of the SPPs, with the modifications, if any, that the Minister thinks fit; or
- (c) if the Minister is satisfied that a provision or provisions of the draft of the SPPs ought to be modified and re-exhibited –
 - (i) take the appropriate action to ensure re-exhibition of that provision, or those provisions, as so modified; and
 - (ii) make the State Planning Provisions in the terms of the draft of the SPPs, excluding the provision or provisions that are to be modified and re-exhibited and including the other provisions, which may be

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modified as the Minister thinks fit without being re-exhibited; or

- (d) refuse to make the State Planning Provisions in the terms of the draft of the SPPs.
- (2) For the purposes of subsection (1)(c)(i), the appropriate action to ensure re-exhibition of the provision, or provisions, of the draft of the SPPs that the Minister is satisfied ought to be modified and re-exhibited (the *relevant provisions*) is that the Minister, after the SPPs are made under subsection (1), either –
- (a) prepares terms of reference under section 30C(1) in relation to the relevant provisions and issues a notice under section 30E(1) in relation to the relevant provisions; or
 - (b) approves under section 30G(3) for public exhibition a draft amendment of the SPPs, containing the relevant provisions, as so modified, as if the draft had been submitted to the Minister under section 30E(3) or section 30F(2).
- (3) As soon as practicable after, under subsection (1)(d), refusing to make the

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State Planning Provisions, the Minister must publish a notice in the *Gazette* specifying that he or she has refused to make the State Planning Provisions.

28. Notice of decision in relation to modifications of draft of the SPPs

- (1) If the Minister makes, with the modifications the Minister thinks fit, the State Planning Provisions under section 27(1)(b) in the terms of a draft of the SPPs, contained, in accordance with section 25(2)(a), in a report under section 25(1), the Minister must give notice, in a newspaper that is published, and circulates generally, in Tasmania –
 - (a) that he or she has made the State Planning Provisions in the terms of the draft of the SPPs with the modifications to its provisions that the Minister thinks fit; and
 - (b) of the reasons why he or she modified the provisions of the draft of the SPPs; and
 - (c) of the reasons why he or she was satisfied that a draft of the SPPs with the modifications did not require re-exhibition.
- (2) If the Minister, under section 27(1)(c), is satisfied that a provision or provisions of

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the draft of the SPPs contained in a report under section 25(1) ought to be modified and re-exhibited, the Minister must give notice, in a newspaper that is published, and circulates generally, in Tasmania –

- (a) that he or she intends to take the appropriate action to ensure re-exhibition of that provision, or those provisions, as modified; and
- (b) of the reasons why he or she is satisfied that the provision or provisions of the draft of the SPPs ought to be modified and re-exhibited.

29. When the SPPs come into effect as part of Tasmanian Planning Scheme

- (1) As soon as practicable after, under section 27(1), making the State Planning Provisions, the Minister must publish a notice in the *Gazette* –
 - (a) specifying that the Minister has made the State Planning Provisions; and
 - (b) specifying –
 - (i) a day, after the day on which the notice is

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published in the *Gazette*,
on which; or

- (ii) a period, after the day on which the notice is published in the *Gazette*, at the end of which –

the State Planning Provisions are to come into effect as part of the Tasmanian Planning Scheme.

- (2) The State Planning Provisions made under section 27 come into effect as part of the Tasmanian Planning Scheme –
 - (a) on the day specified, in the notice published in the *Gazette* under subsection (1), as the day on which the State Planning Provisions are to come into effect as part of the Tasmanian Planning Scheme; or
 - (b) on the day after the end of the period specified, in the notice published in the *Gazette* under subsection (1), as the period at the end of which the State Planning Provisions are to come into effect as part of the Tasmanian Planning Scheme.

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30. When the SPPs come into effect in relation to municipal area

(1) The Minister may publish a notice in the *Gazette* specifying –

- (a) a day, after the day on which the notice is published in the *Gazette*, on which; or
- (b) the period, beginning on the day on which the notice is published in the *Gazette*, at the end of which –

the State Planning Provisions, which are in effect as part of the Tasmanian Planning Scheme, are to come into effect in relation to a municipal area specified in the notice.

(2) The State Planning Provisions come into effect in relation to a municipal area –

- (a) on the day specified, in the notice published in the *Gazette* under subsection (1), as the day on which the State Planning Provisions are to come into effect in relation to the municipal area; or
- (b) on the day after the end of the period specified, in the notice published in the *Gazette* under subsection (1), as the period at

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the end of which the State
Planning Provisions are to come
into effect in relation to the
municipal area.

Division 2 – Amendment of the SPPs
Subdivision 1 – Interpretation of Division 2

30A. Interpretation of Division 2

In this Division –

exhibition notice, in relation to a draft amendment of the SPPs, means the exhibition notice published under section 30K in relation to the draft amendment of the SPPs;

exhibition period, in relation to a draft amendment of the SPPs, means the period specified, in accordance with section 30K(3)(a), in the exhibition notice as the exhibition period in relation to the draft amendment of the SPPs;

exhibition premises, in relation to a draft amendment of the SPPs, means premises –

- (a) to which the public has access during normal business hours; and

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- (b) that are specified, in accordance with section 30K(3)(b)(i), in the exhibition notice in relation to the draft amendment of the SPPs;

explanatory document, in relation to a draft amendment of the SPPs, means an explanatory document approved under section 16(5) in relation to the draft amendment of the SPPs;

relevant exhibition documents, in relation to a draft amendment of the SPPs, means –

- (a) the terms of reference in accordance with which the draft amendment of the SPPs was prepared; and
- (b) the draft amendment of the SPPs; and
- (c) any document applied, adopted or incorporated in the draft amendment of the SPPs; and
- (d) the explanatory document in relation to the draft amendment of the SPPs.

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***Subdivision 2 – Preparation of draft amendments of the
SPPs***

30B. Contents of amendments

An amendment of the SPPs may consist of –

- (a) an amendment of one or more of the provisions of the SPPs; or
- (b) the insertion of a provision into the SPPs; or
- (c) a revocation of one or more provisions of the SPPs; or
- (d) the substitution of one or more, or all, of the provisions of the SPPs.

30C. Terms of reference in relation to draft amendment of the SPPs

- (1) The Minister may prepare terms of reference in relation to the preparation of a draft amendment of the SPPs.
- (2) The Minister must give notice, in a newspaper that is published, and circulates generally, in Tasmania, that he or she has prepared terms of reference in relation to the preparation of a draft amendment of the SPPs.

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- (3) The Minister must not prepare terms of reference in relation to a draft amendment of the SPPs unless he or she is satisfied that a draft amendment of the SPPs prepared in accordance with the terms of reference is likely to meet the SPPs criteria.
- (4) A planning authority or another person may request the Minister to consider preparing terms of reference in relation to a draft amendment of the SPPs.
- (5) The Minister must consider a request made to him or her under subsection (4).
- (6) The Minister may consult with the Commission in relation to a request made to him or her under subsection (4).

30D. Preparation of draft amendment of the SPPs by Minister

- (1) The Minister may prepare a draft amendment of the SPPs that is in accordance with terms of reference prepared under section 30C(1).
- (2) The Minister must consult with –
 - (a) the Commission; and
 - (b) the planning authorities; and

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- (c) the State Service Agencies, and the State authorities, as he or she thinks fit –

in relation to the preparation by the Minister of a draft amendment of the SPPs.

30E. Minister may direct Commission to prepare draft amendment of the SPPs

- (1) The Minister, by notice to the Commission, may –
 - (a) provide to the Commission terms of reference prepared under section 30C(1); and
 - (b) direct the Commission to submit to the Minister a draft amendment of the SPPs that is in accordance with the terms of reference; and
 - (c) determine the period within which the draft amendment of the SPPs is to be submitted to the Minister by the Commission.
- (2) The Commission must consult with –
 - (a) the planning authorities; and
 - (b) the State Service Agencies, and the State authorities, that it thinks fit –

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in relation to the preparation by the Commission of a draft amendment of the SPPs.

- (3) The Commission, within the period determined by the Minister in a notice under subsection (1) or a longer period allowed by the Minister, must prepare and submit to the Minister a draft amendment of the SPPs that is in accordance with the terms of reference specified in the notice.
- (4) The Commission must not submit a draft amendment of the SPPs to the Minister under subsection (3) unless it is satisfied that the draft amendment of the SPPs meets the SPPs criteria.

30F. Minister may require Commission to modify draft amendment of the SPPs

- (1) The Minister, by notice to the Commission, may direct the Commission –
 - (a) to modify, in accordance with the notice, a draft amendment of the SPPs submitted to the Minister under section 30E(3) or subsection (2); and
 - (b) to submit to the Minister under subsection (2), within a period specified in the notice, the draft

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amendment of the SPPs as so
modified.

- (2) The Commission, within the period specified in a notice under subsection (1) or a longer period allowed by the Minister, must prepare and submit to the Minister a draft amendment of the SPPs modified in accordance with the notice.
- (3) The Commission must not submit a draft amendment of the SPPs to the Minister under subsection (2) unless it is satisfied that the draft amendment of the SPPs meets the SPPs criteria.

Subdivision 3 – Public exhibition

30G. Approval for public exhibition

- (1) The Minister must consider whether to approve for public exhibition a draft amendment of the SPPs prepared by the Minister under section 30D(1) or submitted to the Minister under section 30E(3) or section 30F(2).
- (2) In considering whether to approve for public exhibition a draft amendment of the SPPs, the Minister may inform himself or herself as he or she thinks fit in relation to any matters.
- (3) The Minister, by notice in writing to the Commission, may approve for public

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exhibition a draft amendment of the SPPs prepared by the Minister under section 30D(1) or submitted to the Minister under section 30E(3) or section 30F(2).

- (4) The Minister must not approve for public exhibition a draft amendment of the SPPs unless the Minister is satisfied that the draft amendment of the SPPs meets the SPPs criteria.

30H. When public exhibition not required

- (1) The Commission may notify the Minister that, in its opinion, public exhibition in relation to a draft amendment of the SPPs is not required, because –
- (a) the amendment of the SPPs is urgently required; or
 - (b) the amendment is for a purpose specified in subsection (3)(b) –

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

- (2) The Minister, by notice in writing to the Commission, may declare that public exhibition is not required in relation to a draft amendment of the SPPs prepared by the Minister under section 30D(1) or

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submitted to the Minister under section 30E(3) or section 30F(2).

- (3) A declaration may only be made under subsection (2) in relation to a draft amendment of the SPPs if the Minister has received a notice from the Commission under subsection (1) and is satisfied that public exhibition in relation to the draft amendment of the SPPs is not required because –
- (a) the amendment of the SPPs is urgently required; or
 - (b) the draft amendment of the SPPs is an amendment for one or more of the following purposes:
 - (i) correcting an error in the SPPs;
 - (ii) removing an anomaly in the SPPs;
 - (iii) clarifying or simplifying the SPPs;
 - (iv) removing an inconsistency in the SPPs;
 - (v) removing an inconsistency between the SPPs and this Act or any other Act;

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- (vi) making a change to a procedure set out in the SPPs;
- (vii) bringing the SPPs into conformity with a State Policy;
- (viii) changing provisions of the SPPs that indicate or specify the structure to which an LPS is to conform or the form that a provision of an LPS is to take;
- (ix) a prescribed purpose –

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

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

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

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

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- (2) The notice published under subsection (1) is to set out in general terms –
 - (a) the contents of the draft amendment of the SPPs to which the notice relates; and
 - (b) why the Minister is satisfied under section 30H(3) that public exhibition is not required in relation to the draft amendment of the SPPs.
- (3) The Minister must give to the Commission a copy of the notice published under subsection (1).

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

- (1) The Commission, within 42 days after a declaration is made under section 30H(2) in relation to a draft amendment of the SPPs, must provide to the Minister a report.
- (2) The report in relation to a draft amendment of the SPPs is to contain –
 - (a) a copy of the draft amendment of the SPPs to which the declaration relates; and

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- (b) the recommendations of the Commission in relation to the draft amendment of the SPPs; and
 - (c) a statement as to whether the Commission is satisfied that the draft amendment of the SPPs meets the SPPs criteria.
- (3) The recommendations under subsection (2)(b) that are included in the report under subsection (1) in relation to a draft amendment of the SPPs contained in the report in accordance with subsection (2)(a) are to include a recommendation that –
 - (a) the Minister make an amendment of the SPPs in the terms of the draft amendment of the SPPs; or
 - (b) the Minister make, with modifications, an amendment of the SPPs in the terms of the draft amendment of the SPPs; or
 - (c) the Minister refuse to make an amendment of the SPPs.
- (4) If the recommendations under subsection (2)(b) that are included in the report under subsection (1) include, in accordance with subsection (3)(b), a recommendation that the Minister make, with modifications, an amendment of the SPPs in the terms of the draft amendment

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of the SPPs contained, in accordance with subsection (2)(a), in the report, the report is to include a copy of the draft amendment of the SPPs that contains the modifications.

- (5) A draft amendment of the SPPs, as modified by the Commission, may only be contained in the report in accordance with subsection (4) if the draft amendment as so modified is, in the opinion of the Commission, a draft amendment that is urgently required or is for a purpose specified in section 30H(3)(b).

30K. Exhibition of relevant exhibition documents in relation to draft amendment of the SPPs

- (1) The Commission, as soon as practicable after receiving notice under section 30G(3) that a draft amendment of the SPPs has been approved for public exhibition, must ensure an exhibition notice in relation to the draft amendment of the SPPs is published in accordance with this section.
- (2) The exhibition notice is to be published once before, and once within 14 days after, the first day of the exhibition period, in a newspaper that is published, and circulates generally, in Tasmania.
- (3) An exhibition notice is to –

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- (a) specify the period that is to be the exhibition period in relation to the draft amendment of the SPPs; and
- (b) specify that the relevant exhibition documents are or will be –
 - (i) available for viewing by the public, during the exhibition period, at premises, that are offices of the Commission, specified in the notice; and
 - (ii) available for viewing and downloading by the public, during the exhibition period, at an electronic address specified in the notice; and
- (c) contain an invitation to all persons and bodies to, within the exhibition period, make to the Commission a representation in relation to the draft amendment of the SPPs by submitting the representation to –

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- (i) the premises specified in the notice in accordance with paragraph (b)(i); or
 - (ii) an electronic address specified in the notice.
- (4) The exhibition period, in relation to a draft amendment of the SPPs, is to be a period of 42 days –
 - (a) beginning on the day on which the draft amendment of the SPPs begins to be available for viewing by the public at exhibition premises in accordance with subsection (6)(a); and
 - (b) excluding any days on which the exhibition premises are closed during normal business hours.
- (5) The Commission must, as soon as practicable after receiving notice under section 30G(3) that a draft amendment of the SPPs has been approved for public exhibition, give to each planning authority –
 - (a) a copy of the relevant exhibition documents in relation to the draft amendment of the SPPs; and
 - (b) an invitation to make to the Commission a representation in

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relation to the draft amendment
of the SPPs.

- (6) The Commission must ensure that copies of the relevant exhibition documents in relation to the draft amendment of the SPPs are, for the exhibition period –
- (a) available for viewing by the public at the exhibition premises; and
 - (b) available for viewing and downloading by the public at an electronic address specified in the exhibition notice.

30L. Representations

- (1) A person or body may make to the Commission a representation in relation to a draft amendment of the SPPs that is available for viewing by the public at exhibition premises in accordance with section 30K(6)(a).
- (2) A representation in relation to a draft amendment of the SPPs –
- (a) is to be made under subsection (1) within the exhibition period in relation to the draft amendment of the SPPs; and

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- (b) must be made by submitting the representation to the premises, or to the electronic address, that are specified, in accordance with section 30K(3)(c), in the exhibition notice in relation to the draft amendment of the SPPs.
- (3) For the purposes of this Part, any matter, contained in a representation under subsection (1) in relation to a draft amendment of the SPPs, that does not relate to the contents or merits of the draft is not to be taken to be part of the representation.

30M. Consideration by Commission

The Commission, as soon as practicable after the end of the exhibition period in relation to a draft amendment of the SPPs –

- (a) must consider the terms of reference in accordance with which the draft amendment of the SPPs was prepared; and
- (b) must consider each representation, in relation to the draft amendment of the SPPs, made under section 30L(1) before the end of the exhibition period; and

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- (c) may, at its discretion, consider a representation, in relation to the draft amendment of the SPPs, made under section 30L(1) after the end of the exhibition period; and
- (d) may, if it thinks fit, hold one or more hearings in relation to the representations that it has considered under paragraph (b) or (c); and
- (e) must consider whether it is satisfied that the draft amendment of the SPPs meets the SPPs criteria; and
- (f) may consider whether there are any matters that relate to issues of a technical nature or that may be relevant to the implementation of an amendment of the SPPs if the amendment of the SPPs were made under section 30P in the terms of the draft amendment of the SPPs.

30N. Commission report

- (1) The Commission, within 90 days, or a longer period allowed by the Minister, after the end of the exhibition period in relation to a draft amendment of the SPPs, must provide to the Minister a

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report in relation to the draft amendment
of the SPPs.

- (2) The report in relation to a draft amendment of the SPPs is to contain –
- (a) a copy of the draft amendment of the SPPs in the form in which the draft was available for viewing by the public in accordance with section 30K(6)(a); and
 - (b) a summary of –
 - (i) the representations, in relation to the draft amendment of the SPPs, that it has considered in accordance with section 30M(b) and (c); and
 - (ii) the Commission’s opinion as to the merit of those representations; and
 - (c) a summary of the information obtained at hearings, if any, in relation to the draft amendment of the SPPs; and
 - (d) the recommendations of the Commission in relation to the draft amendment of the SPPs; and

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- (e) a statement as to whether the Commission is satisfied that the draft amendment of the SPP meets the SPPs criteria.
- (3) The recommendations under subsection (2)(d) that are included in the report under subsection (1) in relation to a draft amendment of the SPPs contained, in accordance with subsection (2)(a), in the report are to include a recommendation that –
- (a) the Minister make an amendment of the SPPs in the terms of the draft amendment of the SPPs; or
 - (b) the Minister make an amendment of the SPPs in the terms of the draft amendment of the SPPs with modifications; or
 - (c) the Minister refuse to make an amendment of the SPPs in the terms of the draft amendment of the SPPs.
- (4) If the recommendations under subsection (2)(d) that are included in the report under subsection (1) include a recommendation that the Minister make an amendment of the SPPs in the terms of a draft amendment of the SPPs contained, in accordance with

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subsection (2)(a), in the report, with modifications, the report is to include –

- (a) a copy, of the draft amendment of the SPPs, that includes the modifications; and
 - (b) a recommendation as to whether or not the draft amendment of the SPPs that includes the modifications ought to be re-exhibited.
- (5) The recommendations under subsection (2)(d) that are included in the report under subsection (1) in relation to a draft amendment of the SPPs may include recommendations in respect of any matters that relate to issues of a technical nature or that may be relevant to the implementation of an amendment of the SPPs if the amendment of the SPPs were made under section 30P in the terms of the draft amendment of the SPPs.

Subdivision 4 – Making of amendment of the SPPs

30O. Matters to be considered in making amendment of the SPPs

- (1) The Minister must not make an amendment of the SPPs under section 30P unless the Minister is

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satisfied that the amendment of the SPPs meets the SPPs criteria.

- (2) The Minister, before making an amendment of the SPPs under section 30P, may inform himself or herself, in the manner he or she thinks fit, in relation to any matter.
- (3) Without limiting the manner in which the Minister may inform himself or herself for the purposes of subsection (2), the Minister may require the Commission to provide him or her with further information for the purposes of that subsection.

30P. Making of amendment of the SPPs

- (1) The Minister, after considering a report provided to the Minister under section 30N(1) in relation to a draft amendment of the SPPs, contained, in accordance with section 30N(2)(a), in the report, and any other matters that the Minister thinks fit, may –
 - (a) make an amendment of the SPPs in the terms of the draft amendment of the SPPs; or
 - (b) if the Minister is satisfied that a provision or provisions of the draft amendment of the SPPs ought to be modified but that the

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modified provisions do not require re-exhibition – make the amendment of the SPPs in the terms of the draft amendment of the SPPs, with the modifications, if any, that the Minister thinks fit; or

- (c) if the Minister is satisfied that a provision or provisions of the draft amendment of the SPPs ought to be modified and re-exhibited –
 - (i) take the appropriate action to ensure re-exhibition of that provision, or those provisions, as so modified; and
 - (ii) make the amendment of the SPPs in the terms of the draft amendment of the SPPs, excluding the provision or provisions that are to be modified and re-exhibited and including the other provisions, which may be modified as the Minister thinks fit without being re-exhibited; or

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- (d) refuse to make an amendment of the SPPs in the terms of the draft amendment of the SPPs.
- (2) For the purposes of subsection (1)(c)(i), the appropriate action to ensure re-exhibition of the provision, or provisions, of the draft amendment of the SPPs that the Minister is satisfied ought to be modified and re-exhibited (the ***relevant provisions***) is that the Minister either –
- (a) prepares terms of reference under section 30C(1) in relation to the relevant provisions and issues a notice under section 30E(1) in relation to the modified provisions; or
 - (b) approves under section 30G(3) for public exhibition a draft amendment of the SPPs, containing the relevant provisions, as so modified, as if the draft had been submitted to the Minister under section 30E(3) or section 30F(2).
- (3) As soon as practicable after, under subsection (1)(d), refusing to make an amendment of the SPPs, the Minister must publish a notice in the *Gazette* specifying that he or she has refused to make the amendment of the SPPs.

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- (4) The Minister must consider a report provided to the Minister under section 30J(1) in relation to a draft amendment of the SPPs in relation to which public exhibition is, by virtue of a declaration under section 30H(2), not required.
- (5) The Minister, after considering a report provided to the Minister under section 30J(1) in relation to a draft amendment of the SPPs contained in the report in accordance with section 30J(2)(a), may –
- (a) make an amendment of the SPPs in the terms of the draft amendment of the SPPs, modified as the Minister thinks fit; or
 - (b) refuse to make an amendment of the SPPs in the terms of the draft amendment of the SPPs.
- (6) The Minister may only make under subsection (5) an amendment of the SPPs to which a declaration under section 30H(2) relates if the Minister is satisfied that the amendment of the SPPs is urgently required or is for a purpose specified in section 30H(3)(b).

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30Q. Notice of decision in relation to modifications of draft amendment of the SPPs

- (1) If the Minister makes, with the modifications the Minister thinks fit, an amendment of the SPPs under section 30P(1)(b) in the terms of a draft amendment of the SPPs, contained, in accordance with section 30N(2)(a), in a report under section 30N(1), the Minister must give notice, in a newspaper that is published, and circulates generally, in Tasmania –
 - (a) that he or she has made the amendment of the SPPs in the terms of the draft amendment of the SPPs with the modifications to its provisions that the Minister thinks fit; and
 - (b) of the reasons why he or she modified the provisions of the draft amendment of the SPPs; and
 - (c) of the reasons why he or she was satisfied that a draft amendment of the SPPs with the modifications did not require re-exhibition.
- (2) If the Minister, under section 30P(1)(c), is satisfied that a provision or provisions of the draft amendment of the SPPs,

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contained, in accordance with section 30N(2)(a), in a report under section 30N(1), ought to be modified and re-exhibited the Minister must give notice, in a newspaper that is published, and circulates generally, in Tasmania –

- (a) that he or she intends to take the appropriate action to ensure re-exhibition of that provision, or those provisions, as modified; and
- (b) of the reasons why he or she is satisfied that the provision or provisions of the draft amendment of the SPPs ought to be modified and re-exhibited.

30R. When amendment of the SPPs comes into effect as part of Tasmanian Planning Scheme

- (1) As soon as practicable after, under section 30P, making an amendment of the SPPs, the Minister must publish a notice in the *Gazette* –
 - (a) specifying that the Minister has made an amendment of the SPPs; and
 - (b) specifying –

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(i) a day, after the day on which the notice is published in the *Gazette*, on which; or

(ii) a period, after the day on which the notice is published in the *Gazette*, at the end of which –

the amendment of the SPPs is to come into effect as part of the Tasmanian Planning Scheme.

(2) An amendment of the SPPs made under section 30P comes into effect as part of the Tasmanian Planning Scheme –

(a) on the day specified, in the notice published in the *Gazette* under subsection (1), as the day on which the amendment of the SPPs is to come into effect as part of the Tasmanian Planning Scheme; or

(b) on the day after the end of the period, specified in the notice published in the *Gazette* under subsection (1) as the period at the end of which the amendment of the SPPs is to come into effect as part of the Tasmanian Planning Scheme.

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30S. When amendment of the SPPs comes into effect in relation to municipal area

(1) The Minister may publish a notice in the *Gazette* specifying –

- (a) a day, after the day on which the notice is published in the *Gazette*, on which; or
- (b) the period, beginning on the day on which the notice is published in the *Gazette*, at the end of which –

an amendment of the SPPs, that has come into effect as part of the Tasmanian Planning Scheme, is to come into effect in relation to a municipal area specified in the notice.

(2) An amendment of the SPPs comes into effect in relation to a municipal area –

- (a) on the day specified, in the notice published in the *Gazette* under subsection (1), as the day on which the amendment of the SPPs is to come into effect in relation to the municipal area; or
- (b) on the day after the end of the period specified, in the notice published in the *Gazette* under subsection (1), as the period at the end of which the amendment

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of the SPPs is to come into effect
in relation to the municipal area.

Division 3 – Miscellaneous

30T. Review of the SPPs

- (1) The Minister must, at the end of every 5-year period after the SPPs are made –
 - (a) conduct a review of the SPPs; or
 - (b) direct the Commission to conduct a review of the SPPs and provide to the Minister a report in relation to the review within the period specified in the notice.
- (2) The Minister, by notice to the Commission, may direct the Commission at any time –
 - (a) to conduct a review of the SPPs generally or in relation to the matters specified in the notice; and
 - (b) to provide to the Minister, within a period specified in the notice, a report in relation to the review.
- (3) The Commission must, within the period specified in a notice under subsection (1) or (2), comply with a direction contained in the notice.

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- (4) A report in relation to a review of the SPPs is to contain the recommendations of the Commission as to whether the SPPs require amendment in relation to the matters to which the review relates.
- (5) The Minister must consider a report provided by the Commission to him or her in relation to a review.

PART 3A – LOCAL PROVISIONS SCHEDULES
Division 1 – Interpretation

31. Interpretation of Part

In this Part –

exhibition notice, in relation to a draft LPS, means the exhibition notice published under section 35C in relation to the draft LPS;

exhibition period, in relation to a draft LPS, means the period specified, in accordance with section 35C(4)(a), in the exhibition notice as the exhibition period in relation to the draft LPS;

exhibition premises, in relation to a draft LPS, means premises –

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(a) to which the public has access during normal business hours; and

(b) that are specified, in accordance with section 35C(4)(b)(i), in the exhibition notice in relation to the draft LPS;

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

(a) the draft LPS; and

(b) any document applied, adopted or incorporated in the draft LPS.

Division 2 – Contents of LPSs

32. Contents of LPSs

(1) An LPS is to consist of provisions that apply only to a single municipal area specified in the LPS.

(2) An LPS –

(a) must specify the municipal area to which its provisions apply; and

(b) must contain a provision that the SPPs require to be included in an LPS; and

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- (c) must contain a map, an overlay, a list, or another provision, that provides for the spatial application of the SPPs to land, if required to do so by the SPPs; and
- (d) may, subject to this Act, contain any provision in relation to the municipal area that may, under section 11 or 12, be included in the Tasmanian Planning Scheme; and
- (e) may contain a map, an overlay, a list, or another provision, that provides for the spatial application of the SPPs to particular land; and
- (f) must not contain a provision that is inconsistent with a provision of section 11 or 12; and
- (g) may designate land as being reserved for public purposes; and
- (h) may, if permitted to do so by the SPPs, provide for the detail of the SPPs in respect of, or the application of the SPPs to, a particular place or matter; and
- (i) may, if permitted to do so by the SPPs, override a provision of the SPPs; and

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- (j) may, if permitted to do so by the SPPs, modify, in relation to a part of the municipal area, the application of a provision of the SPPs; and
 - (k) may, subject to this Act, include any other provision that –
 - (i) is not a provision of the SPPs or inconsistent with a provision of the SPPs; and
 - (ii) is permitted by the SPPs to be included in an LPS; and
 - (l) must not contain a provision that the SPPs specify must not be contained in an LPS.
- (3) Without limiting subsection (2) but subject to subsection (4), an LPS may, if permitted to do so by the SPPs, include –
- (a) a particular purpose zone, being a group of provisions consisting of –
 - (i) a zone that is particular to an area of land; and
 - (ii) the provisions that are to apply in relation to that zone; or

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- (b) a specific area plan, being a plan consisting of –
 - (i) a map or overlay that delineates a particular area of land; and
 - (ii) the provisions that are to apply to that land in addition to, in modification of, or in substitution for, a provision, or provisions, of the SPPs;
 - (c) a site-specific qualification, being a provision, or provisions, in relation to a particular area of land, that modify, are in substitution for, or are in addition to, a provision, or provisions, of the SPPs.
- (4) An LPS may only include a provision referred to in subsection (3) in relation to an area of land if –
- (a) a use or development to which the provision relates is of significant social, economic or environmental benefit to the State, a region or a municipal area; or
 - (b) the area of land has particular environmental, economic, social

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or spatial qualities that require provisions, that are unique to the area of land, to apply to the land in substitution for, or in addition to, or modification of, the provisions of the SPPs.

- (5) An LPS must be in accordance with the structure, if any, that is indicated, or specified, in the SPPs to be the structure to which an LPS is to conform.
- (6) A provision of an LPS must be in the form, if any, that the SPPs indicate a provision of an LPS is to take.
- (7) A provision of an LPS in relation to a municipal area is not to be taken to have failed to comply with this section, or to be inconsistent with a provision of the SPPs, by reason only that it is inconsistent with a provision of the SPPs that has not come into effect in relation to the municipal area.

33. Interpretation of inconsistency in LPS

- (1) In the event of an inconsistency between provisions of an LPS, the LPS must, so far as practicable, be read so as to resolve the inconsistency.
- (2) In the event of an inconsistency between a provision, of a planning scheme that applies to a municipal area, that is a

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provision of the LPS in relation to the municipal area, and a provision of the planning scheme that is a provision of the SPPs that is in effect in relation to the municipal area –

- (a) the planning scheme must, so far as practicable, be read so as to resolve the inconsistency; and
 - (b) subject to paragraph (a), the provision of the SPPs prevails to the extent of any inconsistency with the provision of the LPS.
- (3) Despite subsection (2), if a provision of the SPPs permits a provision of an LPS to override a provision of the SPPs (*the overridden provision*), a provision of an LPS that overrides, in accordance with the provision of the SPPs, the overridden provision prevails to the extent of any inconsistency with the overridden provision.
- (4) Despite subsection (2), if a provision of an LPS that is a provision to which section 32(3) applies is inconsistent with a provision of the SPPs that is in force in relation to the municipal area to which the LPS applies, the provision of the LPS prevails to the extent of any inconsistency with the provision of the SPPs.

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- (5) Despite subsection (2), if a provision of the SPPs permits a provision of an LPS to modify, in relation to a part of the municipal area, the application of a provision of the SPPs (*the modified provision*), a provision of an LPS that modifies, in accordance with the provision of the SPPs, the modified provision prevails to the extent of any inconsistency with the modified provision.

34. LPS criteria

- (1) In this section –

relevant planning instrument means a draft LPS, an LPS, a draft amendment of an LPS and an amendment of an LPS.

- (2) The LPS criteria to be met by a relevant planning instrument are that the instrument –
- (a) contains all the provisions that the SPPs specify must be contained in an LPS; and
 - (b) is in accordance with section 32; and
 - (c) furthers the objectives set out in Schedule 1; and

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- (d) is consistent with each State policy; and
 - (e) is consistent with the regional land use strategy, if any, for the regional area in which is situated the land to which the relevant planning instrument relates; and
 - (f) is consistent with the strategic plan, prepared under section 66 of the *Local Government Act 1993*, that applies in relation to the land to which the relevant planning instrument relates; and
 - (g) as far as practicable, is consistent with and co-ordinated with any LPSs that apply to municipal areas that are adjacent to the municipal area to which the relevant planning instrument relates; and
 - (h) has regard to the safety requirements set out in the standards prescribed under the *Gas Pipelines Act 2000*.
- (3) An amendment of an LPS, or a draft amendment of an LPS, is taken to meet the LPS criteria if the amendment of the LPS, or the draft amendment of the LPS, if made, will not have the effect that the

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LPS, as amended, will cease to meet the LPS criteria.

Division 3 – Preparation of draft LPS

35. Draft LPS to be provided to Commission

- (1) A planning authority may prepare and submit to the Commission a draft LPS that applies to the municipal area of the planning authority.
- (2) The Minister, by notice in writing to a planning authority, may direct the planning authority to prepare and submit to the Commission a draft LPS that applies to the municipal area of the planning authority.
- (3) A direction to a planning authority under subsection (2) in relation to a draft LPS may require that the draft LPS be submitted to the Commission by a date, specified in the direction, that is not less than 42 days after the date on which the direction is given.
- (4) A planning authority must submit to the Commission in accordance with a direction under subsection (2) a draft LPS by the date, if any, specified in the direction as the date by which the draft LPS must be submitted or within a longer period allowed by the Minister.

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- (5) If a planning authority has submitted to the Commission a draft LPS under this section, the Commission must –
- (a) submit the draft LPS to the Minister under section 35B(1) together with a request under that section for approval to issue a direction under section 35B(4) in relation to the draft LPS; or
 - (b) by notice in writing to the planning authority, direct the authority to prepare and submit to the Commission, within the period specified in the direction, the draft LPS modified in accordance with the direction; or
 - (c) with the agreement of the planning authority, modify the draft LPS so that the draft LPS meets the LPS criteria.
- (6) A planning authority to which a direction under subsection (5)(b) is given must prepare and submit to the Commission, within the period specified in the direction or a longer period allowed by the Commission, a draft LPS modified in accordance with the direction.
- (7) A planning authority must not prepare and submit a draft LPS to the Commission under this section unless the

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planning authority is satisfied that the draft LPS meets the LPS criteria.

35A. Commission may be required to provide draft LPS

- (1) If a planning authority has failed to submit to the Commission a draft LPS in accordance with a direction under section 35(2) or (5), the Minister, by notice in writing to the Commission, may issue to the Commission a direction.
- (2) A direction to the Commission under subsection (1) may require that the Commission prepare a draft LPS within the period specified in the direction.
- (3) The Commission, within the period specified in a direction under subsection (1) or a longer period allowed by the Minister, must prepare a draft LPS in accordance with the direction.
- (4) If the Commission has prepared a draft LPS in relation to a municipal area in accordance with a direction under subsection (1), the Commission must provide to the planning authority in respect of the municipal area –
 - (a) a copy of the draft LPS; and
 - (b) a notice stating that the planning authority may, within 14 days,

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provide to the Commission its
comments in relation to the draft.

- (5) A planning authority to which a draft LPS and a notice are provided under subsection (4) may, within 14 days, provide to the Commission the planning authority's comments in relation to the draft LPS.
- (6) The Commission, before submitting to the Minister under section 35B(1) a draft LPS prepared in accordance with a direction under subsection (1), must consider any comments provided by a planning authority under subsection (5) in relation to the draft LPS.

Division 4 – Public exhibition

35B. Directions to exhibit draft LPSs

- (1) The Commission is to submit to the Minister a request that the Minister approve the issue by the Commission of a direction under subsection (4) in relation to a draft LPS, submitted with the request, that –
 - (a) a planning authority has submitted to the Commission under section 35; or
 - (b) the Commission has prepared under section 35A(3).

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- (2) The Commission must not submit a request under subsection (1) that relates to a draft LPS unless it is satisfied that the draft LPS meets the LPS criteria.
- (3) The Minister may approve, or refuse to approve, the giving by the Commission of a direction under subsection (4) in relation to a draft LPS.
- (4) The Commission, with the approval of the Minister under subsection (3), may direct a planning authority to undertake public exhibition in respect of a draft LPS that has been submitted to the Minister under subsection (1).
- (5) A direction under subsection (4) in relation to a draft LPS –
 - (a) is to specify the State Service Agencies, or State authorities, that the Commission considers may have an interest in the draft LPS; and
 - (b) may specify a date, within 14 days after the direction is given, before which public exhibition of the draft LPS is to begin.

35C. Notice of exhibition of draft LPS

- (1) A planning authority that is given a direction under section 35B(4) in relation

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to a draft LPS must give notice of the public exhibition of the draft LPS to –

- (a) each other planning authority for a municipal area that is within the same regional area as the planning authority that received the direction; and
 - (b) each other planning authority for a municipal area that is adjacent to the municipal area in respect of the planning authority that received the direction; and
 - (c) each State Service Agency, or State authority, specified in the direction.
- (2) A planning authority that receives a direction under section 35B(4) in relation to a draft LPS must ensure that an exhibition notice in relation to the draft LPS is published in accordance with this section.
- (3) The exhibition notice is to be published once before, and once within 14 days after, the first day of the exhibition period, in a newspaper that is published, and circulates generally, in Tasmania.
- (4) An exhibition notice is to –

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- (a) specify the period that is to be the exhibition period in relation to the draft LPS; and
- (b) specify that the relevant exhibition documents are or will be –
 - (i) available for viewing by the public, during the exhibition period, at premises, that are offices of the planning authority, specified in the notice; and
 - (ii) available for viewing and downloading by the public, during the exhibition period, at an electronic address specified in the exhibition notice; and
- (c) contain an invitation to all persons and bodies to, within the exhibition period, make to the planning authority a representation in relation to the draft LPS by submitting the representation to –
 - (i) the premises specified in the notice in accordance with paragraph (b)(i); or

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- (ii) an electronic address specified in the notice.
- (5) The exhibition period, in relation to a draft LPS, is to be a period of 60 days –
 - (a) beginning on the day on which the draft LPS begins to be available for viewing by the public at exhibition premises in accordance with section 35D(1)(a)(i); and
 - (b) excluding any days on which the exhibition premises are closed during normal business hours.

35D. Exhibition of draft LPS

- (1) A planning authority that is given a direction under section 35B(4) in relation to a draft LPS must –
 - (a) within the period, if any, specified, in accordance with section 35B(5)(b), in the direction, cause a copy of the draft LPS –
 - (i) to begin to be available for viewing by the public at the exhibition premises; and

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- (ii) to begin to be available for viewing and downloading by the public at the electronic address specified, in accordance with section 35C(4)(b)(ii), in the exhibition notice; and
- (b) ensure that the copy of the draft LPS is, for the exhibition period –
 - (i) available for viewing by the public at the exhibition premises; and
 - (ii) available for viewing and downloading by the public at the electronic address specified, in accordance with section 35C(4)(b)(ii), in the exhibition notice.
- (2) The Commission must cause a copy of a draft LPS to which a direction under section 35B(4) relates to be, for the exhibition period in relation to the draft LPS –
 - (a) available for viewing by the public at its office; and
 - (b) available for viewing and downloading by the public at an

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electronic address of the
Commission.

35E. Representations

- (1) A person or body may make to a planning authority a representation in relation to a draft LPS that is made available by the planning authority for viewing by the public at exhibition premises in accordance with section 35D(1)(a).
- (2) A representation in relation to a draft LPS –
 - (a) is to be made under subsection (1) within the exhibition period in relation to the draft LPS; and
 - (b) must be made by submitting the representation to the premises, or to the electronic address, that are specified, in accordance with section 35C(4)(b), in the exhibition notice in relation to the draft LPS.
- (3) Without limiting the generality of subsection (1), a person or body may make in relation to a draft LPS a representation as to whether –

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- (a) a provision of the draft LPS is inconsistent with a provision of the SPPs; or
 - (b) the draft LPS should, or should not, apply a provision of the SPPs to an area of land; or
 - (c) the draft LPS should, or should not, contain a provision that an LPS is permitted under section 32 to contain.
- (4) A representation in relation to a draft LPS must not be a representation to the effect that the content of a provision of the SPPs should be altered.
- (5) For the purposes of this Part, any matter, contained in a representation under subsection (1) in relation to a draft LPS, that –
- (a) does not relate to the contents or merits of the draft; or
 - (b) is not a matter to which subsection (3) relates; or
 - (c) is a representation to which subsection (4) relates –

is not to be taken to be part of the representation.

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35F. Report by planning authority to Commission about exhibition

- (1) A planning authority, within 60 days after the end of the exhibition period in relation to a draft LPS in relation to the municipal area of the planning authority or a longer period allowed by the Commission, must provide to the Commission a report in relation to the draft LPS.
- (2) The report by the planning authority in relation to the draft LPS is to contain –
 - (a) a copy of each representation made under section 35E(1) in relation to the draft LPS before the end of the consultation period in relation to the draft LPS, or, if no such representations were made before the end of the consultation period, a statement to that effect; and
 - (b) a copy of each representation, made under section 35E(1) in relation to the draft LPS after the end of the consultation period in relation to the draft LPS, that the planning authority, in its discretion, includes in the report; and

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- (c) a statement of the planning authority's opinion as to the merit of each representation included under paragraph (a) or (b) in the report, including, in particular, as to –
 - (i) whether the planning authority is of the opinion that the draft LPS ought to be modified to take into account the representation; and
 - (ii) the effect on the draft LPS as a whole of implementing the recommendation; and
 - (d) a statement as to whether it is satisfied that the draft LPS meets the LPS criteria; and
 - (e) the recommendations of the planning authority in relation to the draft LPS.
- (3) Without limiting the generality of subsection (2)(e), the recommendations in relation to a draft LPS may include recommendations as to whether –
- (a) a provision of the draft LPS is inconsistent with a provision of the SPPs; or

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- (b) the draft LPS should, or should not, apply a provision of the SPPs to an area of land; or
- (c) the draft LPS should, or should not, contain a provision that an LPS is permitted under section 32 to contain.

35G. Planning authority may notify Minister as to whether amendment of SPPs is required

- (1) A planning authority, by notice to the Commission, may advise the Commission that, having considered –
 - (a) a draft LPS, in relation to the municipal area of the planning authority, that has been made available for viewing by the public under section 35D(1)(b)(i); and
 - (b) representations made under section 35E(1) in relation to the draft LPS –

the planning authority is of the opinion that the content of a provision of the SPPs should be altered.

- (2) The Commission must consider the advice of a planning authority received under subsection (1) and, if it considers the advice has merit, provide to the

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Minister notice of the advice and of the Commission's opinion in relation to the advice.

- (3) The Minister must consider the notice, and the Commission's opinion, provided to him or her under subsection (2).

35H. Hearings

- (1) As soon as practicable after receiving, in relation to a draft LPS, a report under section 35F(1) that contains a copy of a representation in relation to the draft LPS, the Commission must hold a hearing in relation to the representation.
- (2) Subsection (1) does not apply in relation to a representation in relation to a draft LPS if the Commission decides to dispense with a hearing in relation to the representation because –
- (a) the Commission is satisfied that all the representations received by the relevant planning authority are in support of the draft LPS; or
 - (b) the person or body that made the representation notifies the Commission that he, she or it does not wish a hearing to be held in relation to the representation; or

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- (c) the Commission is satisfied that the representation indicates that the draft LPS will require modification for a purpose referred to in section 40I(2)(b) and the Minister has agreed to the modification for that purpose.
- (3) The Commission must give at least 14 days' notice, as prescribed, of a hearing to be held under subsection (1).
- (4) The Commission may consolidate any of the representations and hold a hearing in relation to the consolidated representations.
- (5) The Commission may hold together hearings that relate to more than one draft LPS.
- (6) The Commission is not to consider, in a hearing in relation to a draft LPS, a matter that, if it were included in a representation, would, in accordance with section 35E(5), not be taken to be included in the representation.

35I. Withdrawal of draft LPS

- (1) A planning authority may apply to the Commission for approval to withdraw a draft LPS prepared by the planning authority.

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- (2) An application may only be made under subsection (1) in relation to a draft LPS if –
 - (a) a report, in relation to the draft LPS, has not been provided to the Commission under section 35F(1); and
 - (b) the planning authority proposes to prepare a further draft LPS, or a Special LPS, for an area the same as, or greater than, the area to which the draft LPS that is to be withdrawn relates.
- (3) After considering an application under subsection (1) in relation to a draft LPS, the Commission, with the approval of the Minister, may –
 - (a) approve the withdrawal of the draft LPS; or
 - (b) refuse to approve the withdrawal of the draft LPS.
- (4) The Commission is to notify the planning authority that made an application under subsection (1) of a decision under subsection (3) in relation to the application.
- (5) A draft LPS is withdrawn 7 days after the day on which an approval is given under

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subsection (3) to the withdrawal of the draft LPS.

- (6) A planning authority, by notice published in a daily newspaper that is published in Tasmania and circulates generally in the area to which a draft LPS that is withdrawn relates, must give notice –
- (a) that the draft LPS is withdrawn; and
 - (b) of the date on which the withdrawal takes or took effect.

Division 5 – Approval of Local Provisions Schedules

35J. Matters to be considered by Commission

- (1) As soon as practicable after receiving a report under section 35F(1) in relation to a draft LPS and holding any hearings under section 35H, the Commission must consider –
- (a) the report and the draft LPS to which it relates; and
 - (b) the information obtained at the hearings; and
 - (c) whether it is satisfied that the draft LPS meets the LPS criteria; and

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- (d) whether modifications ought to be made to the draft LPS.
- (2) The Commission, after receiving a report under section 35F(1) in relation to a draft LPS and holding all hearings that it is required to hold under section 35H, may consider whether there are any matters that relate to issues of a technical nature or that may be relevant to the implementation of the Local Provisions Schedule if the Local Provisions Schedule were approved under section 35L in the terms of the draft LPS.

35K. Modifications to draft LPS

- (1) The Commission, after complying with section 35J in relation to a draft LPS in relation to the municipal area of a planning authority, may –
 - (a) by notice to the planning authority, direct the planning authority to modify the draft LPS in the manner specified in the notice; or
 - (b) modify the draft LPS itself and notify the planning authority of the Commission's modification; or

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- (c) by notice to the planning authority, reject the draft LPS and direct the planning authority to –
 - (i) submit to the Commission a substitute draft LPS within 28 days or a longer period allowed by the Commission; or
 - (ii) substantially modify a part of the draft LPS and submit to the Commission the part of the draft LPS, as so modified, within the period specified in the direction.
- (2) If a planning authority is directed under subsection (1)(a) to modify a draft LPS –
 - (a) the planning authority must undertake the modification in accordance with the direction and submit the modified draft LPS to the Commission within 28 days or a longer period allowed by the Commission; and
 - (b) the Commission may, if it is not satisfied with a modified draft submitted to the Commission under paragraph (a), issue a further notice under subsection (1) in relation to the

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- draft LPS to which the modifications relate; and
- (c) the period referred to in section 35L(3) in relation to a draft LPS to which a report under section 35F(1) applies does not run until the modified draft LPS is submitted to the Commission under paragraph (a); and
 - (d) the planning authority must not issue a permit, or do any other thing that would, if the draft LPS as modified were an LPS, be a contravention of the LPS.
- (3) If the Commission issues under subsection (1)(c)(i) a direction, in relation to a draft LPS (***the original draft LPS***), requiring a planning authority to submit to the Commission a substitute draft LPS –
- (a) the direction is taken to be a direction of the Minister under section 35(2) to submit to the Commission a draft LPS; and
 - (b) this Division ceases to apply to the original draft LPS.
- (4) If the Commission issues under subsection (1)(c)(ii) a direction, in relation to a draft LPS (***the original draft LPS***), requiring a planning authority to

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submit to the Commission a part of the draft LPS that has been modified in accordance with the direction –

- (a) the provisions of this Part apply in relation to the part of the draft LPS so submitted as if the part of the draft LPS were a draft LPS, separate from the original draft LPS, prepared in accordance with a direction of the Minister under section 35(2); but
- (b) the part of the draft LPS so submitted is to be treated under section 35L(1)(c) as a part of the original draft LPS, rather than as a separate draft LPS.

35L. Approval of Local Provisions Schedules

- (1) The Commission, after complying with section 35J and taking the action, if any, it thinks fit under section 35K in relation to a draft LPS, may, with the agreement of the Minister, approve a Local Provisions Schedule in the terms of –
 - (a) the draft LPS; or
 - (b) the draft LPS modified in accordance with section 35K(1) or (2); or

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- (c) the draft LPS containing a modified part in accordance with a direction under section 35K(1)(c)(ii).
- (2) The Commission must not approve a Local Provisions Schedule under subsection (1) unless the Commission is satisfied the Local Provisions Schedule meets the LPS criteria.
- (3) The Commission must approve under subsection (1) a Local Provisions Schedule –
 - (a) within 90 days, or a longer period allowed by the Minister, after receiving a report under section 35F(1) in relation to the draft LPS to which the Local Provisions Schedule relates; or
 - (b) if any part of the draft LPS to which the Local Provisions Schedule relates was required to be resubmitted by a direction under section 35K(1)(c)(ii) – within 90 days, or a longer period allowed by the Minister, after the day on which the report in relation to the substituted part of the draft LPS was submitted under section 35F(1).

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- (4) An approval by the Commission of a Local Provisions Schedule must be signed –
 - (a) by the Chairperson of the Commission; or
 - (b) if the Chairperson of the Commission is unavailable or unable to sign the approval – by a person approved under subsection (5) to sign the approval.

- (5) The Commission may approve a member of the Commission –
 - (a) to sign the approval of a particular Local Provisions Schedule if the Chairperson is unavailable or unable to sign that approval; or
 - (b) to sign approvals of Local Provisions Schedules during any period in which the Chairperson is unavailable or unable to sign such approvals.

35M. Notice of approval of Local Provisions Schedules

- (1) As soon as practicable after approving a Local Provisions Schedule under section 35L(1), the Commission must –

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- (a) notify the planning authority for the municipal area to which the Local Provisions Schedule relates; and
 - (b) cause a notice of the approval of the Local Provisions Schedule to be published in the *Gazette*.
- (2) A planning authority that is notified under subsection (1)(a) must give the prescribed notice of the approval of a Local Provisions Schedule to which the notice relates.
- (3) A Local Provisions Schedule approved under section 35L(1) comes into effect –
 - (a) on the date on which notice of its approval appears in the *Gazette*; or
 - (b) if a later date is specified in the notice as the date on which the Local Provisions Schedule is to come into effect – on that date.
- (4) The failure to comply with a provision of this Part within the period referred to in the provision does not invalidate an approval under section 35L(1) of a Local Provisions Schedule.

Division 6 – Review of LPSs

35N. Purposes of review

The purposes of a review of an LPS, or a part of an LPS, are as follows:

- (a) to determine whether the LPS or part effectively sets out the policy objectives for use and development of land to which the LPS applies;
- (b) to determine whether the LPS or part complies with, or is consistent with, the SPPs;
- (c) to determine whether the LPS or part is consistent with any applicable regional land use strategy;
- (d) to determine whether the LPS or part satisfactorily applies a State Policy;
- (e) to determine whether, as far as practicable, the LPS or part is consistent with and co-ordinated with the LPS that applies to municipal areas that are adjacent to the municipal area to which the LPS applies;

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- (f) to determine whether the LPS or part is in accordance with any direction issued by the Minister under this Act.

350. Requirement for review of LPSs

- (1) A planning authority must regularly conduct, for each of the purposes specified in section 35N, a review of an LPS in relation to the municipal area of the planning authority.
- (2) A planning authority must, after the end of each 5-year period after an LPS in relation to the municipal area of the planning authority has been in effect, conduct, for each of the purposes specified in section 35N, a review of the LPS.
- (3) Subsection (2) does not apply if a planning authority has prepared a draft LPS under section 35 that, if approved under section 35L(1), would replace the LPS required to be reviewed.
- (4) The Minister, by notice in writing to a planning authority in respect of a municipal area or to the Commission, may direct the authority or the Commission, respectively, to review, for one or more of the purposes, specified in section 35N, that are specified in the

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notice, all or part of the LPS that applies
to the area.

35P. Conduct of review

- (1) If a planning authority or the Commission must, as required by section 35O(1) or (2) or by a notice under section 35O(4), conduct a review of an LPS or a part of an LPS, the planning authority or the Commission, respectively –
 - (a) must publish notice, in a newspaper published in, and circulating generally in, Tasmania, that –
 - (i) a review of an LPS or a part of an LPS is to be conducted; and
 - (ii) specifying the matters to which the review relates; and
 - (iii) inviting all persons and bodies to provide to the planning authority, or the Commission, respectively, comments, in relation to the matters to which the review relates, within the period of not less than 21 days,

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specified in the notice;
and

- (b) for a period specified, in accordance with paragraph (a)(iii) in the notice, must receive comments from persons and bodies in relation to the matters to which the review relates; and
- (c) must consider the matters to which the review relates; and
- (d) after taking into account public comments received within the period referred to in paragraph (a)(iii), must prepare a report in relation to the review; and
- (e) in the case –
 - (i) of the planning authority – must provide the report to the Commission within 90 days after beginning the review or a longer period allowed by the Commission; or
 - (ii) of the Commission – must provide the report to the Minister within 90 days after beginning the review

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or a longer period allowed
by the Minister.

- (2) For the purposes of this section, the matters to which a review relates are –
- (a) if the review is required under section 35O(1) or (2), all the purposes of a review specified in section 35N; or
 - (b) if the review is pursuant to a direction in a notice under section 35O(4), the purposes, specified in section 35N, that are specified in the notice.
- (3) A report by a planning authority or the Commission for the purposes of subsection (1)(d) in relation to the review of an LPS, or a part of an LPS, is to contain –
- (a) the details and conclusions of the review of the LPS, or the part of an LPS, in relation to the matters to which the review relates; and
 - (b) a statement of the opinion of the planning authority, or the Commission, as the case may be, as to whether the LPS requires amendment, needs to be replaced with another LPS, or can continue without amendment.

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- (4) If the Commission is satisfied that a report prepared by a planning authority under subsection (1) has not been prepared in accordance with the requirements of this section, the Commission must, by notice to the planning authority, direct the planning authority to revise the report and provide the revised report to the Commission within 60 days or a longer period allowed by the Commission.
- (5) A planning authority must provide to the Commission a report in accordance with a notice under subsection (4).
- (6) Subsection (5) does not apply if a planning authority has prepared a draft LPS under section 35 that, if a Local Provisions Schedule were approved under section 35L(1) in the terms of the draft LPS, would replace the LPS required to be reviewed.
- (7) If a planning authority fails to comply with a requirement or a notice under this Division –
 - (a) the Commission may assume the responsibilities and obligations of the planning authority under this Division; and
 - (b) the planning authority must pay to the Commission all costs

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incurred by the Commission in assuming the responsibilities and obligations of the authority under this Division.

- (8) The Commission must, as soon as practicable after receiving under this section a report in relation to a review that it is satisfied has been prepared in accordance with the requirements of this section, give to the Minister its recommendations in relation to the review.

Division 7 – Special Local Provisions Schedules

35Q. Special Local Provisions Schedules

- (1) The Commission may prepare a draft Special LPS and approve a Special Local Provisions Schedule in the terms of the draft Special LPS so prepared.
- (2) A planning authority may prepare a draft Special LPS and submit it to the Commission.
- (3) The Commission, if it receives from a planning authority a draft Special LPS submitted to the Commission under subsection (2), must –
- (a) approve a Special Local Provisions Schedule in the terms of the draft Special LPS; or

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- (b) with the agreement of the planning authority, modify the draft Special LPS and then approve a Special Local Provisions Schedule in the terms of the draft Special LPS so modified; or
 - (c) refuse to approve a Special Local Provisions Schedule in the terms of the draft Special LPS.
- (4) A Special Local Provisions Schedule that applies to a municipal area may only be approved under subsection (3) if the Commission is satisfied that –
 - (a) either –
 - (i) there are contradictions in, or inconsistencies between, the provisions of an LPS that applies to the municipal area; or
 - (ii) it is necessary to introduce an LPS that applies to a municipal area to which an LPS does not apply or will cease to operate; and
 - (b) the application of the provisions of Division 4 to the making of an LPS to address the matters referred to in paragraph (a)(i) or

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- (ii) would result in an unacceptable delay; and
- (c) it is in the public interest to do so.
- (5) A Special LPS must comply with Division 2 as if a reference in that Division to a draft LPS were a reference to a draft Special LPS.
- (6) Divisions 3, 4 and 5 do not apply in relation to a draft Special LPS.
- (7) The Commission must provide to a planning authority in relation to a municipal area notice of the approval of a Special Local Provisions Schedule under subsection (1), or of a decision under subsection (3) in relation to a draft Special LPS, that relates to the planning authority's municipal area.
- (8) The Commission must cause notice of the approval of a Special Local Provisions Schedule, and of the place at which the Special Local Provisions Schedule may be inspected, to be published in the *Gazette* and in a newspaper that is published in Tasmania and circulates generally in the municipal area to which the Special Local Provisions Schedule relates.

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35R. Operation of Special LPSs

- (1) A Special LPS comes into effect on the date specified in the notice in the *Gazette* published under section 35Q(8) or, if no date is specified, 7 days after the date on which the notice is so published.
- (2) If a provision of a Special LPS that applies to a municipal area is inconsistent with any existing LPS that applies to the municipal area, the provision of the LPS does not apply to the extent of the inconsistency.
- (3) The Commission must provide to the Clerk of each House of Parliament a copy of a Special LPS within 10 sitting-days after the Special LPS is approved under section 35Q(1) or (3).
- (4) A Clerk of a House of Parliament must table in the House a copy of a Special LPS that is provided under subsection (3).
- (5) A Special LPS ceases to be in effect if –
 - (a) the Commission revokes the Special LPS under section 35S; or
 - (b) either House of Parliament passes a resolution disallowing the Special LPS; or

- (c) an LPS, that applies to the area and specifies that the Special LPS is revoked, comes into effect.

35S. Revocation of Special LPSs

- (1) The Commission, of its own motion or at the request of a planning authority, may revoke a Special LPS.
- (2) The Commission must cause notice of the revocation of a Special LPS to be published in the *Gazette* and in a newspaper that is published in Tasmania and circulates generally in the municipal area to which the LPS relates.
- (3) The revocation of a Special LPS comes into effect on the date specified in the *Gazette* notice published under subsection (2) as the date on which the Special LPS is revoked or, if no date is specified, 7 days after the date on which the notice is so published.

***Division 8 – Commission may take over certain
responsibilities of planning authority***

35T. Commission may take over responsibilities of planning authority

- (1) If a planning authority fails to comply with a provision of this Part within the period referred to in that provision –

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- (a) the Commission may assume the responsibilities and obligations of the planning authority under this Part; and
 - (b) the planning authority must pay to the Commission all costs incurred by the Commission in assuming the responsibilities and obligations of the planning authority under this Part.
- (2) The failure to comply with a provision of this Part within the period referred to in the provision does not invalidate an LPS, or a Special LPS, approved by the Commission under this Part.

PART 3B – AMENDMENTS OF LPSS

Division 1 – Interpretation

36. Interpretation of Part

In this Part –

exhibition notice, in relation to a draft amendment of an LPS, means the exhibition notice published under section 40G in relation to the draft amendment of an LPS;

exhibition period, in relation to a draft amendment of an LPS, means the period specified, in accordance with section 40G(3)(a), in the

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exhibition notice as the exhibition period in relation to the draft amendment of an LPS;

exhibition premises, in relation to a draft amendment of an LPS, means premises –

- (a) to which the public has access during normal business hours; and
- (b) that are specified, in accordance with section 40G(3)(b)(i), in the exhibition notice in relation to the draft amendment of an LPS;

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

- (a) the draft amendment of an LPS; and
- (b) any document applied, adopted or incorporated in the draft amendment of an LPS.

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Division 2 – Requests for amendments of LPSs

37. Request for amendment of LPSs

- (1) A person may request a planning authority to amend an LPS that applies to the municipal area of the planning authority.
- (2) A request under subsection (1) is to be in a form approved by the planning authority or, if a form has been approved by the Commission, is to be in that form.
- (3) A request under subsection (1) by a person to a planning authority to amend the zoning or use or development of one or more parcels of land specified in an LPS must, if the person is not the owner, or the sole owner, of the land –
 - (a) be signed by each owner of the land; or
 - (b) be accompanied by the written permission of each owner of the land to the making of the request.

38. Decision in relation to request

- (1) A planning authority, before deciding whether to prepare a draft amendment of an LPS in relation to a municipal area in accordance with a request under section 37(1), must be satisfied that such

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a draft amendment of an LPS will meet the LPS criteria.

- (2) A planning authority, within 42 days after receiving a request under section 37(1) or a longer period allowed by the Commission, must –
 - (a) decide to agree to the amendment and prepare a draft amendment of the LPS; or
 - (b) decide to refuse to prepare the draft amendment of the LPS.
- (3) A planning authority, within 7 days of deciding under subsection (2) whether or not to prepare a draft amendment of an LPS in accordance with a request under section 37(1), must give notice of the decision to the person who made the request.

39. Limitation on multiple requests for same amendment

- (1) A person may not, within 2 calendar years from the date of a decision by a planning authority under section 38 not to prepare a draft amendment of an LPS, request the planning authority under section 37(1) to prepare a draft amendment of the LPS that is substantially the same as the draft amendment to which the decision relates,

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unless the leave of the Commission has been obtained under subsection (2).

- (2) The Commission may, on the application of a person who wishes to make a request under section 37(1) (*the new request*), give leave to the person to request the planning authority under section 37(1) to prepare a draft amendment of an LPS that is substantially the same as a previous request to prepare an amendment.
- (3) The Commission may only give leave to a person to request the planning authority under section 37(1) to prepare a draft amendment of an LPS if –
 - (a) there has been a change to –
 - (i) the SPPs; or
 - (ii) a regional land use strategy that applies to the municipal area in which is situated the land to which the new request relates; and
 - (b) the Commission is satisfied the change may be relevant to the consideration by the planning authority of the new request.

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40. Additional information may be requested

- (1) A planning authority, within 28 days from the day on which it receives from a person a request under section 37(1) for an amendment of an LPS, may, by notice in writing served on the person, require the person to provide to the planning authority additional information before it considers the request.
- (2) A period referred to in section 38(2) or (3) does not run in relation to a request under section 37(1) by a person while additional information that the planning authority has required the person to provide has not, in the opinion of the planning authority, been provided to the planning authority.
- (3) If additional information is not provided, in accordance with a requirement under subsection (1), within 5 years after the requirement is made and the requirement is not revoked in accordance with a direction under section 40A(4), the request under section 37(1) for an amendment of an LPS lapses.

40A. Review of requirement for additional information

- (1) A person, within 14 days after being served a notice under section 40(1) containing a requirement that the person

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provide additional information, may request the Commission to consider whether the planning authority ought to have imposed the requirement.

- (2) The Commission, after receiving a request under subsection (1) in relation to a planning authority, may, by notice to the planning authority, require the planning authority to provide to the Commission any material, relevant to the request, that was in the possession of the planning authority before the day on which the Commission issued the notice.
- (3) A planning authority, within 7 days of receiving notice of a requirement under subsection (2), must comply with the requirement.

Penalty: Fine not exceeding 100 penalty units.

- (4) The Commission, within 28 days after receiving from a person a request under subsection (1) in relation to a requirement of a planning authority imposed by a notice under section 40(1), or a longer period allowed by the Minister, must –
 - (a) direct the planning authority –
 - (i) to revoke the notice under section 40(1) imposing the requirement; or

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- (ii) to issue a new notice under section 40(1) imposing a requirement that the person provide additional information that is specified in the notice from the Commission; or
- (b) determine that the Commission is satisfied that the requirement was appropriate.
- (5) The Commission, within 7 days of making a direction or determination under subsection (4), must give notice of the direction or determination to the planning authority and the person who made the request under subsection (1) to which the direction or determination relates.
- (6) A period referred to in section 38(2) or (3) does not run in relation to a request under section 37(1) by a person while the Commission is determining a request under subsection (1) by the person.

40B. Review of refusal of request to amend LPS

- (1) A person, within 14 days of receiving a notice under section 38(3) that the planning authority has decided not to prepare a draft amendment of an LPS in accordance with the person's request,

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may request the Commission to determine whether the Commission is satisfied that the planning authority took into account, in making its decision, the matters referred to in section 38(1).

- (2) The Commission may, if it receives a request under subsection (1) in relation to a decision of a planning authority, by notice in writing to a planning authority, request the planning authority to provide it with any material relevant to the decision.
- (3) A planning authority, within 7 days of receiving a request under subsection (2), must provide to the Commission the material requested.

Penalty: Fine not exceeding 100 penalty units.

- (4) The Commission, within 28 days after receiving from a planning authority the material requested under subsection (2) or a longer period allowed by the Minister, must –
 - (a) direct the planning authority to reconsider whether to prepare a draft amendment of an LPS in relation to a request under section 37(1); or
 - (b) determine that, in the opinion of the Commission, the planning

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authority, in making its decision in relation to a request under section 37(1), took into account the matters referred to in section 38(1).

- (5) The Commission, within 7 days of making a direction or determination under subsection (4), must give notice of the decision to the planning authority and the person who made the request under subsection (1) to which the direction or determination relates.
- (6) A planning authority that is given notice under subsection (5) of a decision under subsection (4) to direct the planning authority to reconsider whether to prepare a draft amendment of an LPS –
 - (a) must reconsider whether to prepare a draft amendment of the LPS; and
 - (b) within 7 days of making a decision whether to prepare a draft amendment of an LPS, must notify of its decision the person who made the request under subsection (1) to which the decision relates.
- (7) A period referred to in section 38(2) or (3) or section 40D(a) does not run in relation to an application under

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section 37 while the Commission is determining a request under subsection (1).

Division 3 – Amendment of LPSs

Subdivision 1 – Preparation of draft amendments of LPSs

40C. Direction to prepare draft amendments of LPS

- (1) The Minister, by notice in writing to a planning authority in respect of a municipal area, may direct the authority to prepare under section 40D a draft amendment of an LPS that applies to the area, for any one or more of the following purposes:
 - (a) to ensure that the LPS will comply with, or be consistent with, the SPPs;
 - (b) to ensure that the LPS is consistent with the applicable regional land use strategy;
 - (c) to ensure the satisfactory application of a State Policy;
 - (d) to ensure that the LPS is in accordance with a direction of the Minister under this Act;

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- (e) on the advice of the Commission, any other purpose the Minister thinks fit.
- (2) A direction to a planning authority under subsection (1) requiring the planning authority to prepare a draft amendment of an LPS may require that the draft amendment of an LPS so prepared be provided to the Commission by a date, specified in the direction, that is not less than 42 days after the date on which the direction is given.
- (3) The Minister must give notice, in a newspaper published in, and circulating generally in, Tasmania, of a direction given under subsection (1).

40D. Preparation of draft amendments

A planning authority –

- (a) must prepare a draft amendment of an LPS, and certify it under section 40F, within 42 days after receiving the request under section 37(1) to which the amendment relates, if –
 - (i) it decides under section 38(2) to prepare a draft amendment of an LPS; or

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- (ii) after reconsidering, in accordance with a direction under section 40B(4)(a), a request under section 37(1) whether to prepare a draft amendment of an LPS, it decides to prepare such an amendment; or
- (b) may, of its own motion, prepare a draft amendment of an LPS; or
- (c) must, if it receives under section 40C(1) a direction to do so, prepare a draft amendment of an LPS and submit it to the Commission within the period specified in the direction or a longer period allowed by the Commission.

40E. Withdrawal of draft amendments

- (1) A planning authority may at any time decide to withdraw a draft amendment of an LPS –
 - (a) with the agreement of the person who requested under section 37(1) that the draft amendment be prepared; or

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- (b) that it has prepared of its own motion under section 40D(b).
- (2) The withdrawal of a draft amendment of an LPS comes into effect 7 days after the date on which the planning authority decides to withdraw the amendment.
- (3) A planning authority that withdraws a draft amendment of an LPS is to –
 - (a) notify the Commission of the withdrawal of the draft amendment; and
 - (b) give notice, in a newspaper published in Tasmania and circulating generally in the area to which the draft amendment relates, that the draft amendment has been withdrawn and of the date on which the withdrawal takes effect.

40F. Certification of draft amendments

- (1) A planning authority that has prepared a draft amendment of an LPS must consider whether it is satisfied that the draft amendment of an LPS meets the LPS criteria.
- (2) If a planning authority determines that –

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- (a) it is satisfied as to the matters referred to in subsection (1), the planning authority must certify the draft as meeting the requirements of this Act; or
 - (b) it is not satisfied as to the matters referred to in subsection (1), the planning authority must modify the draft so that it meets the requirements and then certify the draft as meeting those requirements.
- (3) The certification of a draft amendment of an LPS under subsection (2) is to be by instrument in writing affixed with the common seal of the planning authority.
- (4) A planning authority, within 7 days of certifying a draft amendment of an LPS under subsection (2), must provide to the Commission a copy of the draft and the certificate.

Subdivision 2 – Public exhibition

40G. Notice of exhibition

- (1) A planning authority, as soon as practicable after providing to the Commission under section 40F(4) a copy of a draft amendment of an LPS, must ensure an exhibition notice in relation to the draft amendment of an LPS is

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published in accordance with this section, unless the planning authority receives a notice under section 40I(1) in relation to the draft amendment.

- (2) The exhibition notice is to be published once before, and once within 14 days after, the first day of the exhibition period, in a newspaper that is published in Tasmania and circulates generally in the area to which the draft amendment of an LPS relates.
- (3) The exhibition notice is to –
 - (a) specify the period that is to be the exhibition period in relation to the draft amendment of the LPS; and
 - (b) specify that the draft amendment of the LPS is or will be –
 - (i) available for viewing by the public, during the exhibition period, at premises, that are offices of the planning authority, specified in the notice; and
 - (ii) available for viewing and downloading by the public, during the exhibition period, at an electronic address

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specified in the exhibition
notice; and

- (c) contain an invitation to all persons and bodies to, within the exhibition period, make to the planning authority a representation in relation to the draft amendment of the LPS by submitting the representation to –
 - (i) the premises specified in the notice in accordance with paragraph (b)(i); or
 - (ii) an electronic address specified in the notice.
- (4) The exhibition period, in relation to a draft amendment of an LPS, is to be a period of 28 days –
 - (a) beginning on the day on which the draft amendment of the LPS begins to be available for viewing by the public at exhibition premises in accordance with section 40H; and
 - (b) excluding any days on which the exhibition premises are closed during normal business hours.

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40H. Exhibition

A planning authority, as soon as practicable after providing to the Commission under section 40F(4) a copy of a draft amendment of an LPS, must ensure that a copy of the draft amendment of the LPS is, for a period of 28 days –

- (a) available for viewing by the public at the exhibition premises; and
- (b) made available for viewing and downloading by the public at the electronic address specified, in accordance with section 40G(3)(b)(ii), in the exhibition notice.

40I. Exemption from public exhibition

- (1) The Commission, by notice in writing to a planning authority, may dispense with the requirements of sections 40G, 40H, 40J, 40K, 40L, 40M, 40N, 40O and 40P in relation to a draft amendment of an LPS that has been provided to the Commission under section 40F(4).
- (2) The Commission may only issue a notice under subsection (1) in relation to a draft amendment of an LPS if the Commission is satisfied that –

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- (a) an amendment of the LPS in the form of the draft amendment of the LPS is urgently required and the Minister has approved the issuing of the notice on this ground; or
- (b) the draft amendment is for one or more of the following purposes:
 - (i) correcting an error in the LPS;
 - (ii) removing an anomaly in the LPS;
 - (iii) clarifying or simplifying the LPS;
 - (iv) removing an inconsistency in the LPS; or
 - (v) removing an inconsistency between the LPS and this Act or any other Act;
 - (vi) removing an inconsistency between the LPS and the SPPs;
 - (vii) making a change to a procedure set out in the LPS;

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(viii) bringing the LPS into conformity with a State Policy;

(ix) changing the structure of the provisions of the LPS, or the form of a provision of an LPS, so that the LPS conforms with the structure to which an LPS is required by the SPPs to conform or the form that a provision of an LPS is to take;

(x) a prescribed purpose –

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

(3) If the Commission issues a notice under subsection (1) in relation to a draft amendment of an LPS that has been provided to the Commission under section 40F(4), sections 40G, 40H, 40J, 40K, 40L, 40M, 40N, 40O and 40P do not apply in relation to the draft amendment of an LPS.

40J. Representations

(1) A person or body may make to a planning authority a representation in

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relation to a draft amendment of an LPS that is made available by the planning authority for viewing by the public at exhibition premises in accordance with section 40H(a).

- (2) A representation in relation to a draft amendment of an LPS –
 - (a) is to be made under subsection (1) within the exhibition period in relation to the draft amendment of an LPS; and
 - (b) must be made by submitting the representation to the premises, or to the electronic address, that are specified, in accordance with section 40G(3)(b), in the exhibition notice in relation to the draft amendment of an LPS.
- (3) Without limiting the generality of subsection (1), a person or body may make a representation in relation to a draft amendment of an LPS as to whether –
 - (a) a provision of the draft amendment of an LPS is inconsistent with the SPPs; or
 - (b) a provision of the draft amendment of an LPS should, or

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should not, apply a provision of
the SPPs to an area of land; or

- (c) the draft amendment of an LPS
should, or should not, contain a
provision that an LPS is
permitted under section 32 to
contain.
- (4) A representation in relation to a draft
amendment of an LPS must not be a
representation to the effect that the
content of a provision of the SPPs should
be altered.
- (5) For the purposes of this Part, any matter,
contained in a representation under
subsection (1) in relation to a draft
amendment of the LPS, that –
 - (a) does not relate to the contents or
merits of the draft amendment; or
 - (b) is a matter to which
subsection (3) does not apply; or
 - (c) is a representation to which
subsection (4) relates –

is not to be taken to be part of the
representation.

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40K. Report to Commission about draft amendments

- (1) A planning authority, within 35 days after the end of the exhibition period in relation to a draft amendment of an LPS in relation to the municipal area of the planning authority or a longer period allowed by the Commission, must provide to the Commission a report in relation to the draft amendment of an LPS.
- (2) The report by a planning authority in relation to the draft amendment of an LPS must contain –
 - (a) a copy of each representation made under section 40J in relation to the draft amendment before the end of the consultation period in relation to the draft amendment, or, if no such representations were made before the end of the consultation period, a statement to that effect; and
 - (b) a copy of each representation, made under section 40J in relation to the draft amendment after the end of the consultation period in relation to the draft amendment, that the planning authority, in its discretion, includes in the report; and

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- (c) a statement of the planning authority's opinion as to the merit of each representation included under paragraph (a) or (b) in the report, including, in particular, as to –
 - (i) whether the planning authority is of the opinion that the draft amendment ought to be modified to take into account the representation; and
 - (ii) the effect on the draft amendment, and the LPS to which it relates, as a whole, of implementing the recommendation; and
 - (d) a statement as to whether it is satisfied that the draft amendment of an LPS meets the LPS criteria; and
 - (e) any recommendations in relation to the draft amendment that the planning authority thinks fit.
- (3) Without limiting the generality of subsection (2)(e), the recommendations in relation to a draft amendment of an LPS may include recommendations as to whether –

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- (a) a provision of the draft amendment of an LPS is inconsistent with a provision of the SPPs; or
 - (b) the draft amendment of an LPS should, or should not, apply a provision of the SPPs to an area of land; or
 - (c) the draft amendment of an LPS should, or should not, contain a provision that an LPS is permitted under section 32 to contain.
- (4) A planning authority must not include in a recommendation in relation to a draft amendment of an LPS a recommendation to the effect that the content of a provision of the SPPs should be altered.

40L. Hearings

- (1) The Commission, as soon as practicable after receiving under section 40K a report, in relation to a draft amendment of an LPS, that contains a copy of a representation, must hold a hearing in relation to the representation.
- (2) Subsection (1) does not apply in relation to a representation in relation to a draft amendment of an LPS if the Commission

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decides to dispense with the hearing in relation to the representation because –

- (a) the Commission is satisfied that all the representations received by the planning authority are in support of the draft amendment; or
- (b) the person or body who or that made the representation has notified the Commission in writing that he, she or it does not wish to be heard at such a hearing; or
- (c) the Commission is satisfied that –
 - (i) the draft amendment is urgently required and the Minister has agreed that a hearing should be dispensed with in relation to the representation; or
 - (ii) the draft amendment is for a purpose referred to in section 40I(2)(b) –

and that the public interest would not be prejudiced by the draft amendment not being publicly exhibited.

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- (3) The Commission must give at least 14 days' notice, as prescribed, of a hearing to be held under subsection (1).
- (4) The Commission may consolidate any of the representations and hold a hearing in relation to the consolidated representations.
- (5) The Commission may hold together hearings that relate to amendments to different LPSs.
- (6) The Commission is not to consider, in a hearing in relation to a draft amendment of an LPS, a matter that, if it were included in a representation, would, in accordance with section 40J(5), not be taken to be part of the representation.

Subdivision 3 – Approval of amendments of LPS

40M. Matters to be considered by Commission

- (1) As soon as practicable after receiving a report under section 40K in relation to a draft amendment of an LPS and holding any hearings under section 40L, the Commission must consider –
 - (a) the report and the draft amendment of an LPS to which it relates; and

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- (b) the information obtained at the hearings; and
 - (c) whether it is satisfied that the draft amendment of an LPS meets the LPS criteria; and
 - (d) whether modifications ought to be made to the draft amendment of an LPS.
- (2) The Commission, after receiving a report under section 40K in relation to a draft amendment of an LPS and holding any hearings under section 40L, may consider whether there are any matters that relate to issues of a technical nature or that may be relevant to the implementation of an amendment of the LPS if the amendment of the LPS were approved under section 40Q in the terms of the draft amendment of an LPS.

40N. Action to be taken by Commission after considering report

- (1) The Commission, after complying with section 40M in relation to a draft amendment of an LPS in relation to the municipal area of a planning authority, may –
- (a) by notice to the planning authority, direct the planning authority to modify the draft

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- amendment in the manner
specified in the notice; or
- (b) modify the draft amendment itself and notify the planning authority of the Commission's modification; or
 - (c) by notice to the planning authority, reject the draft amendment of the LPS and direct the planning authority to –
 - (i) submit to the Commission a substitute draft amendment of an LPS within the period specified in the direction; or
 - (ii) substantially modify a part of the draft amendment of the LPS and submit to the Commission the part of the draft amendment of the LPS, as so modified, within 28 days or a longer period allowed by the Commission; or
 - (d) substantially modify the draft amendment itself and notify the planning authority of the Commission's modification; or

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- (e) reject the draft amendment and notify the planning authority of the rejection.
- (2) The Commission may, if it is not satisfied with a modified draft amendment of an LPS submitted to the Commission under section 40O(1), issue a further notice under subsection (1) in relation to the draft amendment of an LPS to which the modifications relate.

40O. Minor modifications of draft amendments

- (1) A planning authority to which a notice is given under section 40N(1)(a) must submit to the Commission a draft amendment of an LPS, modified as required by the notice, within 28 days or a longer period allowed by the Commission.
- (2) If a notice is given under section 40N(1)(a) in relation to a draft amendment of an LPS, the period referred to in section 40Q(2) does not run in relation to the draft amendment until the period by which the planning authority must submit to the Commission a modified draft amendment of the LPS has expired.

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40P. Substantial modification to draft amendments

- (1) A planning authority to which a notice is given under section 40N(1)(c) must, within 28 days or a longer period allowed by the Commission, submit to the Commission, as the case may be –
 - (a) a draft amendment of an LPS, modified as required by the notice; or
 - (b) a substitute draft amendment of an LPS.
- (2) If a notice is given under section 40N(1)(c) in relation to a draft amendment of an LPS, the period referred to in section 40Q(2) does not run in relation to the draft amendment, or the substitute draft amendment, until the period, specified in the notice, by which the planning authority must submit to the Commission the modified draft amendment of the LPS, or the substitute draft amendment of the LPS, has expired.
- (3) The Commission, after preparing a substantially modified draft amendment of an LPS in accordance with section 40N(1)(d), or within 28 days after receiving a substitute draft amendment of the LPS, or a modified draft amendment of the LPS, under subsection (1), must, if

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satisfied that the draft amendment satisfies the requirements of this Act –

- (a) certify the draft amendment; and
 - (b) by notice in writing to the planning authority, direct the planning authority to comply with sections 40G and 40H in relation to the draft amendment as if the draft amendment were a draft amendment that had been given to the Commission by the planning authority under section 40F(4).
- (4) If a notice is given to a planning authority under subsection (3)(b) in relation to a draft amendment of the LPS –
- (a) the planning authority is to comply with sections 40G and 40H in relation to the draft amendment of the LPS, and this Division applies in relation to the draft amendment, as if the draft amendment were a draft amendment that had been given to the Commission by the planning authority under section 40F(4); and

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- (b) this Division ceases to apply to the original draft amendment of an LPS.

40Q. Approval of amendment of LPS

- (1) If the Commission, after considering in accordance with section 40M a draft amendment of an LPS, including any modifications –
 - (a) made to it by the Commission in accordance with section 40N(1)(b); or
 - (b) made to it by the planning authority in accordance with a direction under section 40N(1)(a) or (c) –

is satisfied the draft amendment meets the LPS criteria, it must approve an amendment of an LPS in the terms of the draft amendment, or, if it is not so satisfied, refuse to approve an amendment of the LPS in the terms of the draft amendment.

- (2) An approval under subsection (1) of an amendment of an LPS, or a refusal to make such an approval, must be given within 90 days after the report in relation to the draft amendment to which the approval relates is given to the

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Commission under section 40K or within
a longer period allowed by the Minister.

- (3) If the Commission has issued a notice under section 40I(1) in relation to a draft amendment of an LPS, the Commission may approve, or refuse to approve, an amendment of an LPS in the terms of the draft amendment.
- (4) The Commission may, before approving under subsection (1) or (3) an amendment of an LPS in the terms of a draft amendment, modify the draft amendment so as to correct any errors or remove any anomalies in the draft amendment.

40R. How Commission to sign approvals

- (1) An approval under section 40Q of an amendment of an LPS must be signed –
 - (a) by the Chairperson of the Commission; or
 - (b) if the Chairperson of the Commission is unavailable or unable to sign the approval – by a person approved under subsection (2) to sign the approval.
- (2) The Commission may approve a member of the Commission –

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- (a) to sign an approval of a particular amendment of an LPS if the Chairperson is unavailable or unable to sign that approval; or
- (b) to sign approvals of draft amendments of an LPS during any period in which the Chairperson is unavailable or unable to sign such approvals.

40S. When amendments of LPS come into effect

- (1) An amendment of an LPS comes into effect on –
 - (a) a date, after the date on which the approval of the amendment of an LPS is signed in accordance with section 40R, specified in the approval as the date on which the amendment is to come into effect; or
 - (b) if no date is specified in the approval as the date on which the amendment is to come into effect – 7 days after the date on which the approval is signed in accordance with section 40R.
- (2) The Commission must notify a planning authority of an approval under section 40Q of an amendment of an LPS

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that applies to the municipal area of the planning authority.

- (3) A planning authority that is notified under subsection (2) must give the prescribed notice of the approval of an amendment of an LPS to which the notice relates.
- (4) The failure to comply with a provision of this Part within the period referred to in the provision does not invalidate an approval under section 40Q of an amendment of an LPS.

Division 4 – Combined permit and amendment process

40T. Permit application that requires amendment of LPS

- (1) A person who requests a planning authority under section 37 to amend an LPS may also, under this subsection –
 - (a) make an application to the planning authority for a permit, which permit could not be issued unless the LPS were amended as requested; and
 - (b) request the planning authority to consider the request to amend the LPS and the application for a permit at the same time.

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- (2) An application for a permit under subsection (1) is to be in a form, if any, approved by the Commission.
- (3) A planning authority must not refuse to accept a valid application for a permit, unless the application does not include a declaration that the applicant has –
 - (a) notified the owner of the intention to make the application; or
 - (b) obtained the written permission of the owner under subsection (6).
- (4) For the purposes of subsection (3), a valid application is an application that contains all relevant information required by the planning scheme applying to the land that is the subject of the application.
- (5) If –
 - (a) an undertaking is in respect of a combination of uses or developments or of one or more uses and one or more developments; and
 - (b) under a planning scheme any of those uses or developments requires a permit to be granted –

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a person may, in the one application under subsection (1), apply to the planning authority for a permit with respect to the undertaking.

- (6) An application for a permit under subsection (1) by a person to a planning authority to amend the zoning or use or development of one or more parcels of land specified in an LPS must, if the person is not the owner, or the sole owner, of the land and the relevant planning scheme does not provide otherwise –
- (a) be signed by each owner of the land; or
 - (b) be accompanied by the written permission of each owner of the land to the making of the request.
- (7) Subsection (6) does not apply to an application for a permit to carry out mining operations, within the meaning of the *Mineral Resources Development Act 1995*, if a mining lease or a production licence which authorises those operations has been issued under that Act.

40U. Additional information

- (1) A planning authority, within 28 days from the day on which it receives from a person an application under

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section 40T(1) for a permit, may, by notice in writing served on the person, require the person to provide to the planning authority additional information before it considers the application.

- (2) A period referred to in section 38(2) or section 40D(a) does not run, in relation to an application under section 37 to which a request under section 40T(1) relates, while additional information that the planning authority has required the person to provide has not, in the opinion of the planning authority, been provided to the planning authority.
- (3) If additional information is not provided, in accordance with a request under subsection (1), within 5 years after the request is made and the request is not revoked in accordance with a direction under section 40V(4), the application under section 40T(1) for a permit, to which the request relates, lapses.

40V. Review of requirement for additional information

- (1) A person, within 14 days after being served a notice under section 40U(1) containing a requirement that the person provide additional information, may request the Commission to consider

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whether the planning authority ought to have imposed the requirement.

- (2) The Commission, after receiving a request under subsection (1) in relation to a planning authority, may, by notice to the planning authority, require the planning authority to provide to the Commission any material, relevant to the request, that was in the possession of the planning authority before the day on which the Commission issued the notice.
- (3) A planning authority, within 7 days of receiving notice of a requirement under subsection (2), must comply with the requirement.

Penalty: Fine not exceeding 100 penalty units.

- (4) The Commission, within 28 days after receiving from a person a request under subsection (1) in relation to a requirement of a planning authority imposed by a notice under section 40T(1), or a longer period allowed by the Minister, must –
 - (a) direct the planning authority –
 - (i) to revoke the notice under section 40T(1) imposing the requirement; or

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- (ii) to issue a new notice under section 40T(1) imposing a requirement that the person provide additional information specified in the notice from the Commission; or
 - (b) determine that the Commission is satisfied that the requirement was appropriate.
- (5) The Commission, within 7 days of making a direction or determination under subsection (4), must give notice of the direction or determination to the planning authority and the person who made the request under subsection (1) to which the direction or determination relates.
- (6) The period referred to in section 38(2) or (3) does not run in relation to a request under section 37(1) by a person while the Commission is determining a request under subsection (1) by the person.

40W. Determination of amendment where concurrent permit application sought

- (1) A planning authority to which a request is made under section 40T(1) may agree, or refuse to agree, to the request.

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- (2) A planning authority must notify a person who has made a request under section 40T(1) of its decision under subsection (1) in relation to the request.
- (3) If the planning authority agrees to a request under section 40T(1), Division 3, apart from section 40I, applies in relation to the application for an amendment of the LPS to which the request relates.

40X. Permit application may be considered concurrently with application for LPS amendment

A planning authority that has –

- (a) decided under section 40W(1) to agree to a request under section 40T(1); and
- (b) decided under section 40D to prepare a draft amendment of an LPS to which a request under section 40T(1) relates –

may consider the application under section 40T(1) for a permit at the same time as it prepares the draft amendment of an LPS.

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40Y. Determination of concurrent permit application

- (1) A planning authority that agrees to a request under section 40T(1) must determine under subsection (2) the application under section 40T(1) for a permit that accompanies the request, before it complies with section 40G in relation to the draft amendment of an LPS to which the request relates.
- (2) A planning authority that agrees to a request under section 40T(1) must determine the application under section 40T(1) for a permit that accompanies the request by –
 - (a) granting the permit unconditionally or subject to the conditions or restrictions that the planning authority thinks fit and imposes on the permit; or
 - (b) refusing to grant the permit.
- (3) A planning authority, in determining under subsection (2) an application for a permit under section 40T(1) –
 - (a) must seek to further the objectives set out in Schedule 1; and
 - (b) must take into consideration any matters prescribed for the

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purposes of this section that are relevant to the application.

- (4) The determination by a planning authority under subsection (2) of an application under section 40T(1) for a permit is to be made by reference to the provision of the planning scheme as in force at the date of the decision, as if the scheme had been amended in accordance with the draft amendment of the LPS, to which the application for the permit relates, that the planning authority has decided under section 40D to prepare.
- (5) Sections 51, 52, 53, 54, 55, 56, 57, 58 and 59 do not apply in relation to an application under section 40T(1) for a permit.
- (6) A planning authority, within 7 days of determining under subsection (2) an application under section 40T(1) for a permit, must provide to the Commission –
 - (a) a copy of the application and any documentation submitted with the application; and
 - (b) a copy of the planning authority's decision and a copy of any permit granted under the decision.

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40Z. Exhibition in respect of permit application

(1) In this section –

relevant permit material, in relation to a request under section 40T(1), means –

- (a) a copy of the application under section 40T(1) for a permit that accompanies the request; and
- (b) any documentation submitted to the planning authority with the application for a permit; and
- (c) a copy of the planning authority's decision under section 40Y(2) in relation to the application for a permit and a copy of any permit granted under the decision.

(2) A planning authority that published an exhibition notice under section 40G in relation to a draft amendment of an LPS prepared pursuant to the request under section 40T(1) must include in the notice a statement that the relevant permit material in relation to the request under section 40T(1) is –

- (a) available for viewing by the public at the exhibition premises in relation the draft amendment of an LPS; and

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- (b) available for viewing and downloading at the electronic address specified in the exhibition notice in accordance with section 40H.
- (3) A planning authority that makes available for viewing by the public under section 40H a draft amendment of an LPS pursuant to a request under section 40T(1) must cause a copy of the relevant permit material to be, during the exhibition period in relation to the draft amendment of an LPS –
 - (a) available for viewing by the public at the exhibition premises in relation to the draft amendment of an LPS; and
 - (b) available for viewing and downloading at the electronic address specified, in accordance with section 40H, in the exhibition notice in relation to the draft amendment of an LPS.

41. Representations

- (1) A person may make a representation to the planning authority in relation to the decision under section 40Y(2) in relation to an application for a permit under section 40T(1).

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- (2) A representation in relation to a decision under section 40Y(2) in relation to an application for a permit under section 40T(1) that relates to a draft amendment of an LPS –
- (a) is to be made under subsection (1) before the end of the exhibition period in relation to the draft amendment of an LPS; and
 - (b) is to be made by submitting a copy of the representation to the premises, or to the electronic address, that are specified, in accordance with section 40G(3)(b), in the exhibition notice in relation to the draft amendment of an LPS.
- (3) If an application for a permit under section 40T(1) has been referred to the Board of the Environment Protection Authority under section 24 or 25 of the *Environmental Management and Pollution Control Act 1994*, the planning authority, before 7 days after the end of the exhibition period in relation to the request for an amendment of an LPS to which the application for a permit relates, must provide to the Board copies of the representation received under subsection (1).

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-
- (4) The Board of the Environment Protection Authority must, within 28 days of receiving under subsection (3) representations, provide a report to the Commission containing –
- (a) a statement of its opinion as to the merit of each representation, including, in particular, its views as to the need, in light of that representation, for modification of the planning authority's decision in relation to the application for a permit; and
 - (b) the recommendations, in respect of the decision in relation to the application for a permit, that the Board thinks fit.

42. Report in relation to draft amendment of LPS to contain representations

When a planning authority provides to the Commission under section 40K a report in relation to an application for an amendment of an LPS to which a request under section 40T(1) relates, the planning authority must also provide to the Commission –

- (a) a copy of each representation made under section 41(1) in relation to –

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(i) the application for a permit to which the request relates; or

(ii) the decision in relation to the application –

or, if no representations have been made, a statement to that effect; and

(b) a statement of its opinion as to the merit of each representation including, in particular, its views as to the need, in light of that representation, for modification of the planning authority's decision in relation to the application for a permit; and

(c) the recommendations, in respect of the decision in relation to the application for a permit, that the planning authority thinks fit.

42A. Consideration by Commission of permit application

(1) The Commission must, at the same time as it considers under section 40M a draft amendment of an LPS to which a request under section 40T(1) relates, consider the representations, statements and recommendations provided to the Commission under section 42 in relation

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to the application under section 40T(1) for a permit that accompanies the request.

- (2) Section 42 applies to representations, statements and recommendations referred to in subsection (1) as if they were representations, statements and recommendations referred to in that section.

42B. Commission to review planning authority's decision about permit

- (1) The Commission must, at the same time as it makes a decision under section 40Q in relation to a draft amendment of an LPS to which a request under section 40T(1) relates –
- (a) confirm the decision of the planning authority under section 40Y in relation to the application for a permit to which the request relates; or
 - (b) if the decision in relation to the application for a permit to which the request relates was to grant a permit –
 - (i) refuse the permit; or
 - (ii) modify or delete a condition or restriction

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attached to the permit or
add new conditions or
restrictions to the permit;
or

- (c) if the decision in relation to the application for a permit to which the request relates was to refuse to grant a permit – grant a permit subject to the conditions or restrictions that the Commission thinks fit; or
 - (d) if the Commission decides under section 40Q to refuse to approve the draft amendment of an LPS – refuse the permit.
- (2) If the Commission decides under section 40Q to approve a draft amendment of an LPS to which a request under section 40T(1) relates, the decision by the Commission under subsection (1) in relation to an application under section 40T(1) for a permit is to be made by reference to the provision of the planning scheme as in force at the date of the decision, as if the scheme had been amended in accordance with the draft amendment of the LPS.
- (3) If the Commission decides under section 40Q not to approve a draft amendment of an LPS to which a request under section 40T(1) relates, the decision

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by the Commission under subsection (1) in relation to an application under section 40T(1) for a permit is to be made by reference to the provision of the planning scheme as in force at the date of the decision.

- (4) The Commission must give notice in writing, of a decision under subsection (1) in relation to an application under section 40T(1), to –
- (a) the planning authority to which the application was made; and
 - (b) the applicant; and
 - (c) each person or body who or that made a representation under section 41(1) in relation to the permit to which the application relates; and
 - (d) the Board of the Environment Protection Authority, if the permit application has been referred to the Board under section 24 or 25 of the *Environmental Management and Pollution Control Act 1994*.

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42C. When permit that relates to LPS amendment takes effect

- (1) If the Commission, under section 42B(1), grants a permit, or confirms a decision of a planning authority to grant a permit, the permit takes effect on whichever is the latest of the following dates:
 - (a) the date on which the Commission decides under section 40Q to approve the draft amendment of an LPS to which the permit relates;
 - (b) a date specified in the permit;
 - (c) if any other approvals under this Act or another Act are required for the proposed use or development to which the permit relates – the date on which all those approvals have been obtained;
 - (d) if under the permit an agreement is required to be entered into – the date on which the agreement is executed.
- (2) A permit in relation to a use or development in respect of which a permit referred to in subsection (1) is granted lapses if the use or development is not substantially commenced before the end of the period of –

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- (a) 2 years after the date on which the permit is granted; or
 - (b) 4 years after the date on which the permit is granted, if the planning authority has granted an extension under subsection (4); or
 - (c) 6 years after the date on which the permit is granted, if the planning authority has granted a final extension under subsection (5).
- (3) A person may apply to a planning authority for an extension, or a final extension, under subsection (4) or (5) at any time before the end of the period of 6 months from the day on which the permit has lapsed.
- (4) If the use or development in respect of which a permit was granted is not, or is unlikely to be, substantially commenced before the permit would otherwise lapse under subsection (2)(a), the planning authority may grant, once only, an extension of the period during which that use or development must be substantially commenced.
- (5) If the use or development in respect of which a permit was granted is not, or is unlikely to be, substantially commenced before the permit would otherwise lapse

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under subsection (2)(b), the planning authority may grant, once only, a final extension of the period during which that use or development must be substantially commenced.

- (6) In determining whether to grant an extension, or a final extension, of the period of a permit under subsection (4) or (5), the planning authority may consider any matter it thinks fit, including whether the SPPs or an LPS has been amended since the permit was issued.
- (7) If an application is made under subsection (3), for an extension, or a final extension, under subsection (4) or (5) of a permit, within the end of the period of 6 months from the day on which the permit has lapsed and the period of a permit is extended under subsection (4) or (5), the permit is to be taken to not have lapsed on that day.

42D. Correction of mistakes in permit

A planning authority or the Commission may correct a permit to which a decision under section 42B(1) relates if the permit contains –

- (a) a clerical mistake or an accidental omission; or

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- (b) an evident material miscalculation of figures or an evident material mistake in the description of any person, thing or property referred to in the permit.

43. Minor amendment of permit

- (1) An owner of land, or a person with the consent of an owner of land, may request a planning authority to amend a permit, to which a decision under section 42B(1) relates, that applies to the land.
- (2) The planning authority, on receiving a request under subsection (1) in relation to a permit to which a decision under section 42B(1) relates, may amend or refuse to amend the permit.
- (3) The planning authority may only amend under subsection (2) a permit to which a decision under section 42B(1) relates if it is satisfied that the amendment –
 - (a) is not an amendment of a condition or restriction, specified in the permit, that is required, imposed or amended by the Commission or the Appeal Tribunal; and
 - (b) does not change the effect of a condition or restriction, specified

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- in the permit, that is required,
imposed or amended by the
Commission or the Appeal
Tribunal; and
- (c) will not cause an increase in
detriment to any person; and
 - (d) does not change the use or
development for which the permit
was granted, other than a minor
change to the description of the
use or development.
- (4) An amendment of a condition or
restriction specified in a permit is not to
be taken to contravene subsection (3)(b)
by reason only that other conditions or
restrictions have been specified in the
permit, or amended, by the Commission
or the Appeal Tribunal.
- (5) A condition or restriction (*the fresh
condition or restriction*) specified by the
Commission or the Appeal Tribunal in a
permit is not to be taken, for the purposes
of this section, to be required or imposed
by the Commission, or the Appeal
Tribunal, if –
- (a) the fresh condition or restriction
is to the same effect as a
condition or restriction that was
specified in the permit by the
planning authority before the

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Commission or the Appeal Tribunal specified the fresh condition or restriction in the permit; and

- (b) the fresh condition or restriction is not referred to in the decision, in relation to the permit, of –
 - (i) the Appeal Tribunal under section 23 of the *Resource Management and Planning Appeal Tribunal Act 1993*; or
 - (ii) the Commission under section 42B.
- (6) If the planning authority amends under subsection (2) a permit, it must, by notice in writing served on the following persons, notify them of the amendment:
 - (a) the applicant for the amendment;
 - (b) if the applicant is not the owner of the land to which the permit relates – the owner of the land;
 - (c) any person or body who or that made a representation under section 41(1) in relation to the application for the permit under section 40T(1);

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- (d) the owner or occupier of any property which adjoins the land to which the permit relates.
- (7) If the planning authority amends under subsection (2) a permit that contains a condition or restriction that the Board of the Environment Protection Authority has required under section 25(5) of the *Environmental Management and Pollution Control Act 1994*, the planning authority must, by notice in writing served on the Board, notify it of the amendment.
- (8) Section 56A applies to an amendment of a permit under subsection (2).
- (9) If the planning authority amends a permit in respect of which the Commission has modified, deleted or added conditions or restrictions under section 42B(1)(b), the planning authority must, by notice in writing served on the Commission, notify it of the amendments made to the permit.
- (10) If the planning authority amends under subsection (2) a permit containing a condition or restriction which the Heritage Council has specified under section 39(6) of the *Historic Cultural Heritage Act 1995*, the planning authority must, by notice in writing served on the Heritage Council, notify the Council of the amendment.

Division 5 – Miscellaneous

44. Commission may take over responsibilities of planning authority

- (1) If a planning authority fails to comply with a provision of Division 2 or 3 within the period referred to in that provision –
 - (a) the Commission may assume the responsibilities and obligations of the authority under that Division in relation to the preparation and certification of a draft amendment; and
 - (b) the planning authority must pay to the Commission all costs incurred by the Commission in assuming the responsibilities and obligations of the authority in relation to the preparation and certification of the draft amendment.
- (2) The failure to comply with a provision of Division 2 or 3 within the period referred to in the provision does not invalidate an amendment of an LPS approved by the Commission under Division 3.
- (3) If a planning authority fails, in relation to a request for an amendment of an LPS that is made under section 40T(1), to comply with a provision of Division 3 or

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section 40Y within the period referred to in that provision –

- (a) the Commission may assume the responsibilities and obligations of the authority under that provision in relation to the preparation of the amendment of the LPS and the decision in relation to the application for a permit that accompanied that request; and
 - (b) the planning authority must pay to the Commission all costs incurred by the Commission in assuming those responsibilities and obligations.
- (4) The failure to comply with a provision of Division 3 or section 40Y within the period referred to in the provision does not invalidate an amendment of an LPS approved by the Commission under that Division or a decision under this Division in relation to an application under section 40T(1) for a permit.

45. Abolition of, or change of boundaries of, municipal area

If a municipal area is abolished or a boundary of a municipal area is changed, the Commission may, by notice published in the *Gazette*, designate the planning authority that is to have

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jurisdiction over a planning scheme or a part of a planning scheme.

11. Section 48 amended (Enforcement of observance of planning schemes)

Section 48 of the Principal Act is amended by omitting “or special planning order” three times occurring.

12. Section 48A amended (Notice to remove signs)

Section 48A(1) of the Principal Act is amended as follows:

- (a) by omitting “or special planning order”;
- (b) by omitting “or order”.

13. Section 49 repealed

Section 49 of the Principal Act is repealed.

14. Section 50 amended (Certain applications deemed to be applications for permits)

Section 50 of the Principal Act is amended by omitting “section 20(2)(j)” and substituting “section 11(2)(j)”.

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15. Section 51 amended (Permits)

Section 51 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “or special planning order”;
- (b) by omitting from subsection (1) “or order” and substituting “, the Commission, or the Tribunal,”;
- (c) by omitting from subsection (1A) “or special planning order”;
- (d) by omitting from subsection (1A) “or order”;
- (e) by omitting from subsection (1B) “or special planning order”;
- (f) by omitting from subsection (3)(a) “or special planning order”;
- (g) by inserting in subsection (3)(b) “of this Act, as in force before the day on which section 10 of the Tasmanian Planning Scheme Amendment Act commences,” after “section 28(1)(a)”;
- (h) by inserting the following paragraph after paragraph (b) in subsection (3):
 - (ba) if the planning authority has been directed under section 35K(1)(a) to modify a draft LPS and that draft LPS has not been approved

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by the Commission at the date of that decision, to the provisions of the draft LPS modified as required; or

- (i) by inserting in subsection (3)(c) “of this Act, as in force before the day on which section 10 of the Tasmanian Planning Scheme Amendment Act commences,” after “section 41(a)”;
- (j) by omitting from subsection (3)(c) “become operative” first occurring and substituting “come into effect”;
- (k) by omitting from subsection (3)(c) “become operative.” and substituting “come into effect; or”;
- (l) by inserting the following paragraph after paragraph (c) in subsection (3):
 - (d) if the planning authority has been required under section 40N to modify, or substantially modify, a draft amendment of an LPS and that draft amendment has not come into effect at the date of that decision, to the provisions of the planning scheme as they would be if the draft amendment modified, or substantially modified, as required had come into effect.

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- (m) by omitting from subsection (4) “or special planning order”.

16. Section 52 amended (What if applicant is not the owner?)

Section 52 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(c) “or special planning order”;
- (b) by inserting in subsection (1A) “, or a production licence,” after “lease”;
- (c) by omitting from subsection (1B) “or special planning order”;
- (d) by inserting in subsection (1H) “, or a production licence,” after “lease”;
- (e) by omitting from subsection (3) “or a special planning order”.

17. Section 54 amended (Additional information)

Section 54 of the Principal Act is amended by inserting after subsection (2) the following subsection:

- (2AA) If additional information is not provided, in accordance with a request under subsection (1), within 5 years after the request is made, the application for a

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permit, to which the request relates,
lapses.

18. Section 57 amended (Applications for discretionary permits)

Section 57(1) of the Principal Act is amended as follows:

- (a) by omitting “or special planning order”;
- (b) by omitting from paragraph (b) “or order”.

19. Section 58 amended (Application for other permits)

Section 58 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “or special planning order”;
- (b) by omitting from subsection (2) “28 days” and substituting “21 days”;
- (c) by omitting from subsection (2) “28-day” and substituting “21-day”;
- (d) by inserting the following subsection after subsection (3):
 - (4) If a notice has been given on a day to a relevant regulated entity under section 56O of the *Water and Sewerage Industry Act 2008*,

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the period referred to in subsection (2) does not run from that day until the day on which the entity has made under section 56P of that Act a submission in relation to the application.

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

Section 58A(1) of the Principal Act is amended by omitting “section 30T” and substituting “section 40Y”.

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

Section 60C of the Principal Act is amended by omitting subsections (8) and (9) 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 planning scheme that applies in relation to the land, but only if the use or development would be consistent with a regional land use strategy that applies in relation to the land.

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22. Section 60N amended (Panel to determine guidelines for how assessment is to be made)

Section 60N(6) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “(whether the scheme is an interim planning scheme, a planning scheme declared under section 30N or a planning scheme approved under section 29)”;
- (b) by omitting paragraph (b).

23. Section 60T amended (Grant of special permit)

Section 60T of the Principal Act is amended as follows:

- (a) by omitting from subsection (4)(b) “, planning directive, interim planning scheme or any planning scheme that is made under section 30N” and substituting “or planning scheme”;
- (b) by omitting from subsection (5) “(other than an interim planning scheme or a planning scheme that is made under section 30N)”.

24. Section 60X amended (Amendment, revocation and correction of special permits)

Section 60X(9)(b) of the Principal Act is amended by omitting “interim planning scheme,

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or planning scheme made under section 30N,”
and substituting “planning scheme”.

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

Section 60Y of the Principal Act is amended as follows:

- (a) by omitting paragraph (b) from subsection (1);
- (b) by omitting from subsection (1) “or special planning order”;
- (c) by omitting from subsection (2) “Division 2 of Part 3” and substituting “Part 3B”.

26. Section 61 amended (Appeals against planning decisions)

Section 61 of the Principal Act is amended by omitting subsection (3A) and substituting the following subsection:

- (3A) If a planning authority has amended a permit under section 43 or 56, any person referred to in section 43(6), (7), (9) or (10) or 56(3) or (4) may appeal to the Appeal Tribunal against the decision of the planning authority within 14 days after the day on which notice was served on the person under section 43(6), (7), (9) or (10) or 56(3) or (4).

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27. Section 62 amended (Determination of appeals)

Section 62 of the Principal Act is amended as follows:

(a) by omitting from subsection (3) “in place” and substituting “in effect”;

(b) by inserting the following subsection after subsection (4):

(5) If a permit is, by or pursuant to a determination of the Appeal Tribunal, granted, or amended, by the Appeal Tribunal or a planning authority, in accordance with a provision of a planning scheme, that –

(a) was in effect at the time (*the relevant time*) the planning authority determined the application for a permit to which the determination relates; but

(b) has been replaced, or amended, by another provision (*the subsequent provision*) after the relevant time and before the time the Appeal Tribunal or planning authority makes or amends the permit in

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accordance with the
determination –

then the permit has effect as if the planning scheme that was in effect at the time the planning authority determined the application for a permit remained in effect, and section 12 applies in relation to a use to which the permit relates as if the land to which the permit relates were being lawfully used for the purposes of that use immediately before the subsequent provision came into effect.

28. Section 63 amended (Obstruction of sealed schemes)

Section 63 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2)(a) “, a planning scheme or special planning order” and substituting “or a planning scheme”;
- (b) by omitting from subsection (2)(b) “or order”;
- (c) by omitting from subsection (2)(c) “or order”;
- (d) by omitting from subsection (5B) “special planning order”;

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(e) by omitting from subsection (6) “or special planning order”;

(f) by omitting from subsection (6) “or order”.

29. Section 63A amended (Enforcing compliance with planning schemes)

Section 63A(1) of the Principal Act is amended by omitting “or special planning order”.

30. Section 65B amended (Notice of intention to issue enforcement notice)

Section 65B(1) of the Principal Act is amended by omitting “section 60ZB(1)”.

31. Section 65D amended (Requirements of enforcement notices)

Section 65D(2)(e) of the Principal Act is amended as follows:

(a) by inserting “with” after “accordance”;

(b) by omitting “, planning scheme, or special planning order” and substituting “or planning scheme”.

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32. Section 65E amended (Offences and penalties in relation to enforcement notices)

Section 65E(4) of the Principal Act is amended by omitting “special planning order,”.

33. Section 66 amended (Right to compensation)

Section 66(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “or special planning order”;
- (b) by omitting from paragraph (b) “to a planning scheme” and substituting “of an LPS”;
- (c) by omitting from paragraph (b) “under section 38” and substituting “section 40H”;
- (d) by omitting from paragraph (c) “or special planning order”.

34. Section 67 amended (Power to withdraw or modify planning scheme or interim order after compensation determined)

Section 67 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “or special planning order”;

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- (b) by omitting from subsection (2)(a) “Division 2 of Part 3” and substituting “Part 3B”;
- (c) by omitting paragraph (b) from subsection (2);
- (d) by omitting from subsection (3) “or the substitute special planning order, as the case requires”;
- (e) by omitting from subsection (3) “or the substitute special planning order, as the case may be”.

35. Section 69 amended (Indemnification of planning authorities for liability to pay compensation)

Section 69(1) of the Principal Act is amended by omitting “or special planning order”.

36. Section 71 amended (Planning authority may enter into agreements)

Section 71(1) of the Principal Act is amended by omitting “or a special planning order”.

37. Section 72 amended (Form and contents of agreement)

Section 72(2)(c) of the Principal Act is amended by omitting subparagraph (iii) and substituting the following subparagraph:

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- (iii) the objectives of the planning scheme, the SPPs or an LPS, a draft of the SPPs or LPS which has been publicly exhibited under this Act or any amendment of the SPPs or LPS which has been publicly exhibited under this Act;

38. Section 73A amended (Payments and contributions for infrastructure)

Section 73A(3)(b) of the Principal Act is amended by omitting “or special planning order”.

39. Section 74 amended (Duration of agreement)

Section 74(1)(a) of the Principal Act is amended by omitting “to a planning scheme” and substituting “of an LPS”.

40. Section 77 amended (Agreement may not breach planning scheme)

Section 77 of the Principal Act is amended by omitting “a special planning order,”.

41. Section 80 amended (Application to Appeal Tribunal)

Section 80(1)(a) of the Principal Act is amended by omitting “or special planning order”.

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42. Section 80K amended (Database)

Section 80K of the Principal Act is amended as follows:

- (a) by omitting paragraphs (a), (b), (c), (d) and (e) from subsection (2) and substituting the following paragraphs:
 - (a) the historical planning instruments; and
 - (b) the SPPs, as in force as part of the Tasmanian Planning Scheme from time to time; and
 - (c) each planning scheme, as in force from time to time in relation to a municipal area or a part of a municipal area.
- (b) by inserting the following subsection after subsection (2):
 - (2A) For the purposes of subsection (2)(a), the historical planning instruments are such of the following documents as were or are prescribed before or after the day on which section 10 of the Tasmanian Planning Scheme Amendment Act commences:
 - (a) each instrument that was, under this Act as in force before that day, a

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planning scheme or special planning order, including such a scheme or order as amended under this Act after that day;

- (b) each dispensation, granted under section 30W of this Act as in force immediately before 1 January 2015, that is in force.
- (c) by omitting from subsection (3)(b)(i) “Part 3” and substituting “this Act”;
- (d) by omitting subsection (7) and substituting the following subsection:
 - (7) The Minister, by notice, may prescribe for the purposes of this section –
 - (a) an instrument that was, under this Act as in force before the day on which section 10 of the Tasmanian Planning Scheme Amendment Act commenced, a planning scheme or special planning order, including such a scheme or order as

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amended under this Act
after that day; and

- (b) each dispensation, granted under section 30W of this Act as in force immediately after 1 January 2015, that is in force.

43. Section 80M amended (Authorised versions)

Section 80M of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “the Tasmanian Planning Scheme,” after “is the authorised version of”;
- (b) by inserting in subsection (1) “the Tasmanian Planning Scheme, or” after “Act, the authorised version of”;
- (c) by inserting in subsection (2) “the Tasmanian Planning Scheme,” after “of”;
- (d) by inserting in subsection (2) “the Tasmanian Planning Scheme,” after “purposes,”.

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44. Section 80Q amended (Documents, submissions, &c., may be issued or made electronically)

The definition of *relevant document* in section 80Q(7) of the Principal Act is amended as follows:

- (a) by inserting in paragraph (b) “, in each case within the meaning of this Act as in force before the day on which section 10 of the Tasmanian Planning Scheme Amendment Act commenced;” after “an interim planning scheme”;
- (b) by inserting the following paragraph after paragraph (b):
 - (ba) a draft of the SPPs, a draft amendment of the SPPs, a draft LPS and a draft amendment of an LPS; and

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

Section 81A of the Principal Act is amended as follows:

- (a) by omitting “or making a special planning order”;
- (b) by omitting “, or special planning order.”;

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- (c) by omitting “, amendment or special planning order” and substituting “or amendment”.

46. Section 82B inserted

After section 82A of the Principal Act, the following section is inserted in Division 2:

82B. Certain instruments and notices are not statutory rules

The following are not statutory rules for the purposes of the *Rules Publication Act 1953*:

- (a) a draft of the SPPs, the SPPs, a draft amendment of the SPPs and an amendment of the SPPs;
- (b) a draft of an LPS, an LPS, a draft amendment of an LPS and an amendment of an LPS;
- (c) a notice under Part 3, 3A or 3B.

47. Section 83 amended (Planning schemes, &c., to be judicially noticed)

Section 83 of the Principal Act is amended by omitting “a special planning order.”.

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48. Section 85 amended (Recovery of fees by municipalities)

Section 85 of the Principal Act is amended by omitting “a planning scheme” and substituting “an LPS”.

49. Section 87C inserted

After section 87B of the Principal Act, the following section is inserted in Division 2:

87C. Savings and transitional – *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015*

The savings and transitional provisions specified in Schedule 6 have effect.

50. Schedule 6 inserted

After Schedule 5 to the Principal Act, the following Schedule is inserted:

**SCHEDULE 6 – SAVINGS AND TRANSITIONAL
PROVISIONS – *LAND USE PLANNING AND
APPROVALS AMENDMENT (TASMANIAN PLANNING
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Section 87C

1. Interpretation of this Schedule

In this Schedule –

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amending Act means the Tasmanian Planning Scheme Amendment Act;

commencement day means the day on which Parts 2A and 3 of this Act, as in force immediately before the commencement day, are substituted by the amending Act;

former provisions means the provisions of this Act as in force immediately before the commencement day;

particular purpose zone means –

- (a) a zone called a particular purpose zone in the provisions of the planning scheme in which the zoning appears; or
- (b) a group of provisions, in a planning scheme, consisting of –
 - (i) a zone that is particular to an area of land; and
 - (ii) the provisions that are to apply in relation to that zone;

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permit application means an application, for a permit in relation to land, that is made before the first LPS that applies in relation to the land comes into effect;

planning directive means a planning directive as in force immediately before the commencement day;

planning instrument means a planning scheme, as in operation in relation to a municipal area before an LPS comes into effect in relation to the municipal area;

specific area plan means –

- (a) a plan referred to as a specific area plan in the provision of the planning scheme in which the plan appears; or
- (b) a plan, in a planning scheme, consisting of –
 - (i) a map or overlay that delineates a particular area of land; and
 - (ii) the provisions that are to apply to that land in addition to,

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in modification of,
or in substitution
for, a provision, or
provisions, of the
planning scheme
in which the plan
appears;

site-specific qualification means a
provision, or provisions, in a
planning scheme, that –

- (a) only apply in relation to a
particular area of land
specified in the planning
scheme; and
- (b) modify, are in substitution
for, or are in addition to,
the requirements of the
planning scheme that
would otherwise apply in
relation to the land.

**2. Saving of regional areas and regional
strategies**

- (1) An area that was a regional area under
this Act immediately before the
commencement day is taken to be a
regional area specified under section 5A
of this Act.
- (2) A document that was a regional land use
strategy under the former provisions is

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taken to be a regional land use strategy
declared under section 5A of this Act.

3. Saving of various instruments

- (1) Despite the substitution of Parts 2A and 3 of the former provisions, if there was, immediately before the commencement day, a planning instrument in operation in relation to a municipal area, then, on and from the commencement day until an LPS comes into effect in relation to the municipal area –
 - (a) any planning directive that was in force immediately before the commencement day continues to apply in relation to the municipal area and may be modified under Part 2A of the former provisions as if that Part had not been substituted under the amending Act; and
 - (b) any planning purposes notice that was in force, in relation to the municipal area, under section 30EA of the former provisions continues to apply in relation to the municipal area; and
 - (c) an interim planning directive may be made or modified under Part 2A of the former provisions as if that Part had not been substituted,

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and any interim planning directive so made is to be taken to be in force.

- (2) Despite the substitution of Parts 2A and 3 of the former provisions, if there was, immediately before the commencement day, a planning instrument in operation in relation to a municipal area, then, on and from the commencement day until an LPS comes into effect in relation to the municipal area –
- (a) the planning instrument remains in operation in relation to the municipal area as if Parts 2A and 3 of the former provisions remained in force; and
 - (b) Parts 2A and 3 of the former provisions remain in force in relation to the municipal area; and
 - (c) a request, for an amendment to the planning instrument, that is made under section 33 of the former provisions may, by notice to the planning authority in relation to the planning instrument, be withdrawn by the applicant at any time before the draft amendment is approved under section 42 of the former provisions; and

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- (d) a draft amendment, to the planning instrument, that, before the day on which the LPS comes into effect in relation to a municipal area, has been initiated by a planning authority under section 34 of the former provisions, otherwise than pursuant to a request under section 33 of the former provisions, may, with the approval of the Commission, be withdrawn at any time by the planning authority before the draft amendment is approved under section 42 of the former provisions.

4. Saving of certain requests or draft amendments to alter designation of zoning under planning instruments

- (1) Subclause (2) applies in relation to a draft amendment of a planning instrument if –
 - (a) the draft amendment is for the purposes of altering in the planning instrument the designation of a zone to an area of land in a municipal area; and
 - (b) the draft amendment has been initiated by a planning authority

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under section 34 of the former provisions before an LPS comes into effect in relation to the municipal area; and

- (c) the draft amendment has not been approved under section 42 of the former provisions before an LPS comes into effect in relation to the municipal area.

- (2) If this subclause applies in relation to a draft amendment of a planning instrument –

- (a) Part 3B of this Act applies in relation to the draft amendment as if the draft amendment were a draft amendment of the LPS for the purposes of altering in the LPS the designation of a zone to an area of land; and
- (b) the planning authority may alter the draft amendment for the purposes of ensuring that it relates to the LPS; and
- (c) if the draft amendment was initiated by a planning authority pursuant to a request under section 33 of the former provisions – the person who made the request may, by notice to the planning authority,

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withdraw the request at any time before a draft amendment of the LPS, that relates to the request, is approved under section 40Q; and

- (d) if the draft amendment was initiated by a planning authority otherwise than pursuant to a request under section 33 of the former provisions – the planning authority may, with the approval of the Commission, withdraw the draft amendment at any time before the draft amendment is approved under section 40Q.

5. Saving of certain requests or draft amendments to alter certain requirements of planning instruments

- (1) Subclause (2) applies in relation to a draft amendment of a planning instrument if –

- (a) the draft amendment is a draft amendment, of a planning instrument, for the purposes of –

- (i) altering the requirements of a particular purpose zone, or of a specific area plan, that was designated in the planning instrument to an area of land in a municipal area; or

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- (ii) establishing in the planning instrument a specific area plan in relation to an area of land in a municipal area; and
 - (b) the draft amendment has been initiated by a planning authority under section 34 of the former provisions before an LPS comes into effect in relation to the municipal area; and
 - (c) the draft amendment has not been approved under section 42 of the former provisions before an LPS comes into force in relation to the municipal area.
- (2) If this subclause applies in relation to a draft amendment of a planning instrument –
- (a) Part 3B of this Act applies in relation to the draft amendment as if the draft amendment were a draft amendment of an LPS for the purposes of –
 - (i) altering the requirements of a particular purpose zone, or of a specific area plan, that is designated under the LPS to an area of land; or

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(ii) establishing in the LPS a specific area plan in relation to an area of land in a municipal area –

as the case may be; and

- (b) the planning authority may alter the draft amendment for the purposes of ensuring that it relates to the LPS; and
- (c) if the amendment was initiated by the planning authority pursuant to a request under section 33 of the former provisions – the person who made the request may, by notice to the planning authority, withdraw the request at any time before an amendment of the LPS, that relates to the request, is approved under section 40Q; and
- (d) if the draft amendment was initiated by the planning authority otherwise than pursuant to a request under section 33 of the former provisions – the planning authority may, with the approval of the Commission, withdraw the draft amendment at any time before the draft amendment is approved under section 40Q.

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6. Application of Part 3B in relation to certain draft amendments

(1) If –

- (a) under clause 4 or 5, Part 3B of this Act applies in relation to a draft amendment of a planning instrument; and
- (b) the requirements of a provision (*the former provision*) of Division 2 or 2A of Part 3 of the former provisions have been satisfied in relation to the draft amendment before the day on which an LPS comes into effect in relation to the land to which the draft amendment applies –

the requirements of the provision of Part 3B that most closely corresponds to the former provision are to be taken to have been satisfied in relation to the draft amendment.

(2) If –

- (a) under clause 4 or 5, Part 3B of this Act applies in relation to a draft amendment of a planning instrument; and
- (b) the draft amendment was a draft amendment to which a request, in relation to an application for a

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permit, under section 43A of the former provisions applied –

the request for the draft amendment, and the application for a permit, are to be taken to be a request and an application for a permit, to which section 40T applies.

7. Certain requests and draft amendment to lapse

- (1) If, before an LPS comes into effect in relation to the municipal area –
 - (a) a request was made under section 33 of the former provisions for the preparation of a draft amendment, to a planning instrument; and
 - (b) the draft amendment, to a planning instrument, is not a draft amendment to which clause 4 or 5 applies –

the request lapses on the day on which the LPS comes into effect in relation to the municipal area.

- (2) If a request for an amendment of a planning instrument is withdrawn or lapses under this Schedule, this Act ceases to apply, on the day on which the LPS comes into effect in relation to the

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municipal area, in relation to the request and any draft amendment of the planning instrument to which the request relates.

- (3) If a draft amendment of a planning instrument, that was in operation in relation to a municipal area immediately before the day on which an LPS comes into effect in relation to the municipal area –
- (a) is not a draft amendment to which clause 4(2) or clause 5(2) applies; and
 - (b) is not approved by the Commission under section 42 of the former provisions before an LPS comes into effect in relation to the municipal area –

this Act ceases to apply in relation to the draft amendment on the day on which the LPS comes into effect in relation to the municipal area.

8. Specific area plans, particular purpose zones and site-specific qualifications

- (1) A draft LPS prepared, and an LPS made, in relation to a municipal area, under Part 3A of this Act, must contain –
- (a) the specific area plans; and

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- (b) the particular purpose zones; and
- (c) the site-specific qualifications –

that applied under the planning scheme, in relation to the municipal area, that applied to the area immediately before the commencement day.

- (2) If a specific area plan, particular purpose zone, or a site-specific qualification, is contained in an LPS in accordance with subclause (1), section 32(4) only applies, in relation to that LPS, in relation to an amendment of that LPS.
- (3) Nothing in this clause is to be taken to prevent an amendment of an LPS in relation to the specific area plans, the particular purpose zones, or a site-specific qualification, contained in the LPS.
- (4) This clause does not apply in relation to a specific area plan, a particular purpose zone, or a site-specific qualification that the Minister, after having consulted with the Commission, declares to be a plan, zone or qualification to which this clause does not apply.

9. Applications for permits

If an application for a permit in relation to an area of land in a municipal area is

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made, but not decided under this Act by the relevant decision-maker, before the day on which an LPS comes into effect in relation to the municipal area, the application may be withdrawn by the applicant at any time.

10. Saving of certain rights to appeal

If a planning authority has amended a permit under section 43K or 56 as in force before the commencement date, any person referred to in section 43K(3), (4) or (5), as in force before the commencement day, or section 56(3) or (4) may appeal to the Appeal Tribunal against the decision of the planning authority within 14 days after the day on which the notice was served under section 43K(3), (4) or (5) or 56(3) or (4).

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Part 3 – Environmental Management and Pollution Control Act 1994
Amended

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*Planning and Approvals
Amendment (Tasmanian Planning
Scheme) Act 2015; or*

- (b) under section 40Y, 57(6) or 58(2) of the *Land Use Planning and Approvals Act 1993*, as in force after the commencement of section 10 of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015* –

require the planning authority to refer the application to the Board, and the planning authority must comply with the requirement.

- (c) by inserting in subsection (1A)(a) “, as in force before the commencement of section 10 of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015*” after “section 43A of the *Land Use Planning and Approvals Act 1993*”;
- (d) by inserting the following paragraph after paragraph (a) in subsection (1A):
- (ab) in the case of an application under section 40T(2) of the *Land Use Planning and Approvals Act 1993*, as in force after the commencement of section 10 of

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Part 3 – Environmental Management and Pollution Control Act 1994
Amended

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**53. Section 25 amended (Assessment of permissible
level 2 activities)**

Section 25 of the Principal Act is amended as follows:

(a) by omitting paragraph (a) from subsection (1) and substituting the following paragraph:

(a) except in the case of –

(i) an application made under Division 2A of Part 3 of the *Land Use Planning and Approvals Act 1993*, as in force before the commencement of section 10 of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015*; or

(ii) an application made under section 40T of the *Land Use Planning and Approvals Act 1993*, as in force after the commencement of section 10 of the *Land Use Planning and Approvals Amendment (Tasmanian*

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*Amendment (Tasmanian
Planning Scheme) Act
2015 –*

the Board is to determine whether it needs to assess the activity to which the application relates under this Act.

54. Section 25A amended (Assessment of applications for permits that are combined with applications for planning scheme amendments)

Section 25A of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “, as in force before the commencement of section 10 of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015,* ” after “Division 2A of Part 3 of the *Land Use Planning and Approvals Act 1993*”;
- (b) by inserting the following subsection after subsection (1):
 - (1A) If an application for a permit made under section 40T of the *Land Use Planning and Approvals Act 1993,* as in force after the commencement of section 10 of the *Land Use Planning and Approvals*

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Amended

Amendment (Tasmanian Planning Scheme) Act 2015, is referred to it under section 24 or 25, the Board –

- (a) is to assess the activity to which the application relates; and
- (b) may, by notice in writing served on the applicant for the permit within 28 days after the day of referral, require the applicant to provide it with additional information for the purpose of the assessment.
- (c) by inserting in subsection (3) “or (1A)” after “subsection (1)”;
- (d) by inserting in subsection (4) “or (1A)” after “subsection (1)”.

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Part 4 – Historic Cultural Heritage Act 1995 Amended

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**PART 4 – HISTORIC CULTURAL HERITAGE ACT
1995 AMENDED**

55. Principal Act

In this Part, the *Historic Cultural Heritage Act 1995** is referred to as the Principal Act.

56. Section 38 amended (Procedure if Heritage Council has no interest in discretionary permit application)

Section 38(4) of the Principal Act is amended by omitting paragraph (a) and substituting the following paragraph:

- (a) if the application was made under –
 - (i) Division 2A of Part 3, or Division 2 of Part 4, of the Planning Act as in force before the commencement of section 10 of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015* – determine the application under the appropriate provisions of that Division; or
 - (ii) Division 4 of Part 3B, or Division 2A of Part 4, of the Planning Act as in force after the commencement of section 10 of the *Land Use Planning and*

*No. 117 of 1995

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Planning Scheme) Act 2015*
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Part 4 – Historic Cultural Heritage Act 1995 Amended

Approvals *Amendment*
(Tasmanian Planning Scheme)
Act 2015 – determine the
application under the appropriate
provisions of that Division; and

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Planning Scheme) Act 2015*
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Part 5 – Tasmanian Planning Commission Act 1997 Amended

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**PART 5 – TASMANIAN PLANNING COMMISSION
ACT 1997 AMENDED**

57. Principal Act

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

58. Schedule 3A amended (Provisions in respect of which delegation and directions are restricted)

Schedule 3A to the Principal Act is amended by omitting item 2 and substituting the following item:

2. Parts 2, 3, 3A, 3B and 4 of the *Land Use Planning and Approvals Act 1993*.

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*Land Use Planning and Approvals Amendment (Tasmanian
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Part 6 – Water and Sewerage Industry Act 2008 Amended

**PART 6 – WATER AND SEWERAGE INDUSTRY ACT
2008 AMENDED**

59. Principal Act

In this Part, the *Water and Sewerage Industry Act 2008** is referred to as the Principal Act.

60. Section 56N amended (Interpretation)

Section 56N of the Principal Act is amended by omitting the definition of *combined permit* and substituting the following definition:

combined permit means a permit for a development or use that is combined with the planning scheme amendment process to which –

- (a) Division 2A of Part 3 of the *Land Use Planning and Approvals Act 1993*, as in force before the commencement of section 10 of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015*, applies; or
- (b) Division 4 of Part 3B of the *Land Use Planning and Approvals Act 1993*, as in force after the commencement of section 10 of the *Land Use Planning and*

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*Approvals Amendment
(Tasmanian Planning Scheme)
Act 2015, applies;*

61. Section 56O amended (Application to go to relevant regulated entity)

Section 56O(3) of the Principal Act is amended by omitting paragraph (a) and substituting the following paragraph:

- (a) with any additional information provided, in relation to an application that is the subject of a notice under subsection (1), under –
 - (i) section 43E of the *Land Use Planning and Approvals Act 1993*, as in force before the commencement of section 10 of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015*; or
 - (ii) section 40U of the *Land Use Planning and Approvals Act 1993*, as in force after the commencement of section 10 of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015*; or

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- (iii) section 54 of the *Land Use Planning and Approvals Act 1993*; and

62. Section 56P amended (Action by relevant regulated entity)

Section 56P of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “representations under section 43F(5) or 57(5) of the *Land Use Planning and Approvals Act 1993*” and substituting “relevant representations”;
- (b) by inserting the following subsection after subsection (1):

(1A) For the purposes of subsection (1), a relevant representation is a representation made under –

- (a) section 43F(3) of the *Land Use Planning and Approvals Act 1993*, as in force before the commencement of section 10 of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015*; or

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- (b) section 41 of the *Land Use Planning and Approvals Act 1993*, as in force after the commencement of section 10 of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015*; or
- (c) section 57(5) of the *Land Use Planning and Approvals Act 1993*.

63. Section 56R amended (Notification of decision and appeal)

Section 56R(1) of the Principal Act is amended by omitting paragraphs (b) and (c) and substituting the following paragraphs:

- (b) a copy of any permit corrected or amended in accordance with –
 - (i) section 43J or 43K of the *Land Use Planning and Approvals Act 1993*, as in force before the commencement of section 10 of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015*; or

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- (ii) section 42D or 43 of the *Land Use Planning and Approvals Act 1993*, as in force after the commencement of section 10 of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015*; or
 - (iii) section 55 or 56 of the *Land Use Planning and Approvals Act 1993*; and
- (c) a notice of its decision to refuse a permit under –
- (i) section 43F(1)(b)(ii) of the *Land Use Planning and Approvals Act 1993*, as in force before the commencement of section 10 of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015*; or
 - (ii) section 40Y of the *Land Use Planning and Approvals Act 1993*, as in force after the commencement of section 10 of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015*; or

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- (iii) section 57(2) of the *Land Use Planning and Approvals Act 1993*.

64. Section 56S substituted

Section 56S of the Principal Act is repealed and the following section is substituted:

56S. Referral to regulated entities of draft amendments to planning schemes

- (1) A planning authority must refer to the relevant regulated entity –
- (a) a draft amendment, of a planning scheme administered by the planning authority, that the planning authority has prepared under section 34 of the *Land Use Planning and Approvals Act 1993* as in force before the commencement of section 10 of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015*; or
 - (b) a draft amendment of an LPS, administered by the planning authority, that the authority has prepared under section 38 of the *Land Use Planning and Approvals Act 1993* as in force after the commencement of

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Part 6 – Water and Sewerage Industry Act 2008 Amended

section 10 of the *Land Use
Planning and Approvals
Amendment (Tasmanian Planning
Scheme) Act 2015*.

- (2) The relevant regulated entity may –
- (a) submit to the planning authority, within the exhibition period referred to in section 39 of the *Land Use Planning and Approvals Act 1993* as in force before the commencement of section 10 of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015*, representations in relation to a draft amendment referred to in subsection (1)(a); or
 - (b) submit to the planning authority, within the exhibition period referred to in section 41 of the *Land Use Planning and Approvals Act 1993* as in force after the commencement of section 10 of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015*, representations in relation to a draft amendment referred to in subsection (1)(b).

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- (3) Any representations submitted by a relevant regulated entity –
- (a) in relation to an amendment referred to in subsection (1)(a) – are taken to be representations submitted in accordance with section 39 of the *Land Use Planning and Approvals Act 1993* as in force before the commencement of section 10 of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015*; or
 - (b) in relation to an amendment referred to in subsection (1)(b) – are taken to be representations submitted in accordance with section 41 of the *Land Use Planning and Approvals Act 1993* as in force after the commencement of section 10 of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015*.

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Part 7 – Concluding Provision

PART 7 – CONCLUDING PROVISION

65. Repeal of Act

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