

TASMANIA

**MINERAL RESOURCES DEVELOPMENT
AMENDMENT (NEW LANDSLIP ZONING
ARRANGEMENTS) BILL 2003**

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MINERAL RESOURCES DEVELOPMENT AMENDMENT (NEW LANDSLIP ZONING ARRANGEMENTS) BILL 2003

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*
15 April 2003

*(Brought in by the Minister for Economic Development,
Energy and Resources, the Honourable Paul Anthony
Lennon)*

A BILL FOR

An Act to amend the *Mineral Resources Development Act 1995* and to make consequential amendments to certain other Acts

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

Short title

1. This Act may be cited as the *Mineral Resources Development Amendment (New Landslip Zoning Arrangements) Act 2003*.

Commencement

2. This Act commences on the day on which this Act receives the Royal Assent.

Principal Act

3. In this Act, the *Mineral Resources Development Act 1995** is referred to as the Principal Act.

Part 9A inserted

4. After section 161 of the Principal Act, the following Part is inserted:

PART 9A – LANDSLIP AREAS

Interpretation

161A. In this Part –

“A landslip area” means an area of land declared under section 161B(1) to be an A landslip area;

“affected owner” means an owner of land that is likely to be affected by the making of an order under section 161B(1);

“B landslip area” means an area of land declared under section 161B(1) to be a B landslip area;

*No. 116 of 1995

“landslip area” means an area of land declared under section 161B(1) to be an A landslip area or B landslip area.

Declaration of landslip areas

161B. (1) The Minister on the recommendation of the Director, by order, may declare an area of a municipal area to be an A landslip area or a B landslip area.

(2) The Director may make a recommendation under subsection (1) if satisfied that the specified area is subject to earth movement because of inherent instability.

(3) The Director must give the council of the relevant municipal area written notice of his or her intention to recommend the making of an order under subsection (1).

(4) The council of the relevant municipal area, within 30 days after receiving the Director’s notice, may notify the Director in writing that the council objects to the intended recommendation.

(5) The Director must give each affected owner within the proposed landslip area written notice of –

- (a) his or her intention to recommend the making of the order; and
- (b) the effect that the making of the order would have; and
- (c) the affected owner’s right to object to the intended recommendation.

(6) An affected owner, within 30 days after receiving the Director's notice, may notify the Director in writing that the affected owner objects to the intended recommendation.

(7) A notice under subsection (3) or (5) must adequately identify the proposed landslip area.

(8) Before making a recommendation under subsection (1), the Director must –

- (a) consider each objection notified under subsection (4) or (6); and
- (b) notify each objecting affected owner, and the relevant council, of the outcome of the objection.

(9) Subsections (3), (4), (5), (6), (7) and (8) do not apply if the Director reasonably considers that an order under subsection (1) should be made urgently.

(10) An order under subsection (1) takes effect on the day specified in the order, being a day that is at least 30 days after its making is notified in the *Gazette*.

Registration of landslip area order

161C. (1) As soon as practicable after making an order under section 161B, the Minister must cause it to be registered by –

- (a) for land in the landslip area that is under the *Land Titles Act 1980*, lodging with the Recorder of Titles a copy of the order and a statement signed by the

Minister specifying the titles affected by the order; and

- (b) for other land in the landslip area, filing with the Recorder of Titles a certified copy of the order under the *Registration of Deeds Act 1935* as if it were an instrument to which the Minister is a party.

(2) The Recorder of Titles must record the particulars of an order registered under subsection (1)(a) on all titles to land affected by the order.

(3) An order recorded on a title to land is an interest for the purposes of section 40 of the *Land Titles Act 1980*.

(4) The Director must –

- (a) endorse a certified copy of an order registered under subsection (1)(b) with a statement that the order has been registered under this section; and
- (b) keep it and all other relevant documents relating to the order.

Revocation or amendment of landslip area order

161D. (1) The Minister on the recommendation of the Director may, by order –

- (a) revoke an order made under section 161B; or

- (b) amend the order by –
 - (i) changing the category of the landslip area; or
 - (ii) altering the area of the landslip area.

(2) The Minister must cause an order under subsection (1) to be registered in accordance with section 161C as soon as practicable after making the order.

(3) The provisions of sections 161B and 161C apply to an order under this section by which –

- (a) land that is not part of a landslip area becomes part of one; or
- (b) land in a B landslip area becomes part of an A landslip area.

Consequential amendments

5. The legislation specified in Schedule 1 is amended as specified in that Schedule.

Savings and transitional

6. (1) On the commencement of this Act, any specified area of a municipal area that, immediately before that commencement, was declared to be an A landslip area under section 36 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* is taken to be an A landslip area under the Principal Act.

(2) On the commencement of this Act, any specified area of a municipal area that, immediately before that commencement, was declared to be a B landslip area under section 36 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* is taken to be a B landslip area under the Principal Act.

(3) On the commencement of this Act, any order that, immediately before that commencement, was registered under section 38 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* is taken to be an order registered under section 161C of the Principal Act.

SCHEDULE 1 – CONSEQUENTIAL AMENDMENTS

Section 5

Building Act 2000

1. Section 148 is repealed and the following section is substituted:

Interpretation

- 148.** In this Division –

“A landslip area” means an area of land declared under Part 9A of the *Mineral Resources Development Act 1995* to be an A landslip area;

“B landslip area” means an area of land declared under Part 9A of the *Mineral Resources Development Act 1995* to be a B landslip area;

“landslip area” means an area of land declared under Part 9A of the *Mineral Resources Development Act 1995* to be an A landslip area or a B landslip area.

2. Section 149 is repealed.
3. Section 153 is repealed.
4. Section 154 is repealed and the following section is substituted:

**Compensation not payable for certain damage
to buildings erected in known landslip areas**

154. (1) In this section –

“**Act**” means the *Mineral Resources Development Act 1995*;

“**landslip order**” means an order under section 161B(1) of the Act;

“**registered**” means registered in accordance with section 161C of the Act;

“**revocation order**” means an order under section 161D(1)(a) of the Act.

(2) Once a landslip order declaring an area of land to be an A landslip area or B landslip area has been registered, no compensation or other relief is payable for any damage caused by earth movement to any building that is erected during the registration period in that area of land.

(3) For the purposes of subsection (2), the registration period is the period that commences on the day on which the landslip order is registered and ends on the day on which a revocation order in respect of that landslip order is registered.

5. Schedule 3 is amended by omitting clause 5.

***Local Government (Building and Miscellaneous
Provisions) Act 1993***

1. Section 5(1) is amended as follows:

- (a) by inserting the following definition before the definition of “Appeal Board”:

“A landslip area” means an area of land declared under Part 9A of the *Mineral Resources Development Act 1995* to be an A landslip area;

- (b) by inserting the following definition after the definition of “approve”:

“B landslip area” means an area of land declared under Part 9A of the *Mineral Resources Development Act 1995* to be a B landslip area;

- (c) by inserting the following definition after the definition of “inspector”:

“landslip area” means an area of land declared under Part 9A of the *Mineral Resources Development Act 1995* to be an A landslip area or a B landslip area;

2. Section 36 is repealed.

3. Section 37(1) is amended by omitting “section 36” and substituting “Part 9A of the *Mineral Resources Development Act 1995*”.

4. Section 38 is repealed.

5. Section 39 is repealed and the following section is substituted:

Compensation not payable for certain damage to buildings erected in known landslip areas

39. (1) In this section –

“Act” means the *Mineral Resources Development Act 1995*;

“landslip order” means an order under section 161B(1) of the Act;

“registered” means registered in accordance with section 161C of the Act;

“revocation order” means an order under section 161D(1)(a) of the Act.

(2) Once a landslip order declaring an area of land to be an A landslip area or B landslip area has been registered, no compensation or other relief is payable for any damage caused by earth movement to any building that is erected during the registration period in that area of land.

(3) For the purposes of subsection (2), the registration period is the period that commences on the day on which the landslip order is registered and ends on the day on which a revocation order in respect of that landslip order is registered.

6. Section 40 is repealed.