

TASMANIA

BUILDING AND CONSTRUCTION (REGULATORY REFORM AMENDMENTS) BILL 2020

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**BUILDING AND CONSTRUCTION
(REGULATORY REFORM AMENDMENTS) BILL
2020**

*(Brought in by the Minister for State Growth, the Honourable
Michael Darrel Joseph Ferguson)*

A BILL FOR

An Act to amend the *Land Use Planning and Approvals Act 1993*, the *Electricity Supply Industry Act 1995* and the *Water and Sewerage Industry Act 2008*

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 *Building and Construction (Regulatory Reform Amendments) Act 2020*.

2. Commencement

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

Building and Construction (Regulatory Reform Amendments) Act
2020
Act No. of 2020

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Part 2 – Electricity Supply Industry Act 1995 Amended

**PART 2 – ELECTRICITY SUPPLY INDUSTRY ACT
1995 AMENDED**

3. Principal Act

In this Part, the *Electricity Supply Industry Act 1995** is referred to as the Principal Act.

4. Part 3, Division 5B inserted

After section 44J of the Principal Act, the following Division is inserted in Part 3:

***Division 5B – Special provisions relating to certain
transmission and distribution entities***

44K. Interpretation of Division 5B

In this Division –

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*

*No. 58 of 1995

*Building and Construction (Regulatory Reform Amendments) Act
2020
Act No. of 2020*

Part 2 – Electricity Supply Industry Act 1995 Amended

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

connection means so much of a physical link, so as to allow the flow of electricity between a distribution network and the premises of a person, as does not extend beyond the point of demarcation of ownership between the relevant entity's electricity infrastructure and the person's electrical installation or proposed electrical installation;

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

discretionary development permit means a permit for a development or use to which section 57 of the

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Part 2 – Electricity Supply Industry Act 1995 Amended

*Land Use Planning and
Approvals Act 1993 applies;*

permit means –

- (a) a combined permit; and
- (b) a discretionary development permit; and
- (c) a permitted development permit;

permitted development permit means
a permit for a development or use
to which section 58 of the *Land
Use Planning and Approvals Act
1993* applies;

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

relevant entity means –

- (a) TasNetworks; and
- (b) an electricity entity that –
 - (i) holds a licence to
distribute
electricity by way
of the distribution
network or a
licence authorising
the operation of a

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2020
Act No. of 2020*

Part 2 – Electricity Supply Industry Act 1995 Amended

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transmission
system; and

- (ii) is prescribed for
the purposes of
this paragraph;

relevant electricity infrastructure
means electricity infrastructure
related to an electricity generating
plant, a transmission network or a
distribution network but does not
include electricity infrastructure
that is prescribed;

relevant notice, in relation to an
application for a permit made to a
planning authority, means –

- (a) a copy of the application;
and
- (b) a copy of all plans and
other documents
submitted to the planning
authority with the
application; and
- (c) any information, in
relation to the application,
that is provided to the
planning authority by the
person who made the
application; and

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2020
Act No. of 2020*

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Part 2 – Electricity Supply Industry Act 1995 Amended

- (d) a notice requiring the relevant entity to whom the relevant notice is given to give to the planning authority a notice under section 44M(1) within 10 business days after receiving the notice;

TasNetworks means Tasmanian Networks Pty Ltd (ABN 24 167 357 299);

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

works means works related to the provision of relevant electricity infrastructure and includes the making of a connection and any activities that are prescribed to be works for the purposes of this definition, but does not include activities that are prescribed not to be works for the purposes of this definition.

44L. Planning authorities to notify relevant entities of planning applications

- (1) If a planning authority receives an application for a permit in relation to a use or development and it is likely that –

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2020
Act No. of 2020*

Part 2 – Electricity Supply Industry Act 1995 Amended

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(a) works would be required to be carried out by a relevant entity before the development or use may occur; or

(b) the use or development would adversely affect a relevant entity's operations –

the planning authority must, as soon as practicable, provide to the relevant transmission entity the relevant notice in relation to the application.

(2) Subsection (1) does not apply in relation to an application for a permit made to a planning authority if –

(a) the planning authority decides under section 57(2) of the *Land Use Planning and Approvals Act 1993* to refuse to grant the permit; or

(b) the application is within a class of applications that is prescribed.

(3) Subsection (1) does not apply in relation to an application for a permit made to a planning authority before the day on which this section commences.

*Building and Construction (Regulatory Reform Amendments) Act
2020
Act No. of 2020*

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Part 2 – Electricity Supply Industry Act 1995 Amended

44M. Relevant entity to give notice to planning authority

- (1) A relevant entity must, within 10 business days after receiving under section 44L(1), from a planning authority, a relevant notice in relation to an application for a permit, give to the planning authority a notice specifying –
 - (a) whether a development or use to which the application relates is, if carried out, likely to adversely affect the relevant entity's operations and, if so, how; and
 - (b) whether the relevant entity considers it likely that works would be required to be carried out in order for a development or use to which the application relates to be carried out; and
 - (c) if the relevant entity considers that works are likely to be required to be carried out in order for a development or use to which the application relates to be carried out – the contact details of the person, or the unit of administration, that is to be responsible to the relevant entity for ensuring compliance by the relevant entity with section 44N.

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- (2) A planning authority must, within 5 business days after receiving under subsection (1) a notice in relation to an application for a permit, provide a copy of the notice to the person who made the application.

44N. Duty of relevant entity to advise applicant for permit

- (1) This section applies to a relevant entity in relation to an application for a permit, if the relevant entity specifies in a notice under section 44M(1) that the entity considers it likely that works will be required to be carried out in order for a development or use to occur if the permit is granted.
- (2) If this section applies to a relevant entity in relation to an application for a permit, the entity must ensure that, at the request of the person who applied for the permit, information is provided to the person, as soon as reasonably practicable, in relation to –
- (a) the process required to be undertaken by the entity in relation to the design and carrying out of the works; and
 - (b) the stages of the process referred to in paragraph (a) and the time at

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Part 2 – Electricity Supply Industry Act 1995 Amended

which each stage of the process is likely to be completed; and

- (c) the works likely to be required to be carried out in order for a development or use to which the application relates to be carried out; and
- (d) the scope of the works; and
- (e) a general outline of the design, of the works, that would be required to be carried out; and
- (f) the charges that may be incurred for the design, or carrying out of the works, or both, by the entity.

44O. Process and timing for works

(1) The regulations may prescribe –

- (a) the stages of the process required to be undertaken by a relevant entity in relation to –
 - (i) works required for the purposes of enabling a use, or development, referred to in an application for a permit under the *Land Use Planning and Approvals*

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Act No. of 2020*

Part 2 – Electricity Supply Industry Act 1995 Amended

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Act 1993, to be carried out
if the permit is granted; or

- (ii) works that the relevant entity is requested by a person to carry out; or
- (iii) works to be carried out by the relevant entity in prescribed circumstances; and
- (b) the time by which a relevant entity is to complete a stage of a process specified in accordance with paragraph (a).
- (2) Without limiting the generality of subsection (1), the stages to which regulations for the purposes of that subsection may relate include any of the following stages:
 - (a) the determination of the scope of the works;
 - (b) the design of the works;
 - (c) the checking of, and the approval of, the design of the works;
 - (d) the construction of relevant electricity infrastructure, including for connections, as part of the works;

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Part 2 – Electricity Supply Industry Act 1995 Amended

- (e) the inspection and approval of relevant electricity infrastructure, including infrastructure for connections, that has been constructed as part of the works;
- (f) the making of a connection.

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Part 3 – Land Use Planning and Approvals Act 1993 Amended

s. 5

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

5. Principal Act

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

6. Section 51A inserted

After section 51 of the Principal Act, the following section is inserted in Division 2:

51A. Fees payable for application

(1) In this section –

relevant legislative instrument
means –

- (a) this Act or the *Local Government Act 1993*; or
- (b) a regulation made under this Act or a by-law or regulation made under the *Local Government Act 1993*;

valid application for a permit means
an application for a permit that is,
in accordance with section

*No. 70 of 1993

*Building and Construction (Regulatory Reform Amendments) Act
2020
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s. 6

Part 3 – Land Use Planning and Approvals Act 1993 Amended

51(1AC), a valid application for a permit for the purposes of section 51(1AB).

(2) Despite section 86, a planning authority is not entitled –

- (a) to refuse to take an action in relation to determining whether or not an application for a permit is valid; or
- (b) to refuse to accept a valid application for a permit –

on the ground that a fee, under a relevant legislative instrument, for an application for a permit has not been paid, unless –

- (c) the planning authority has, before, or within 4 business days after, the day on which a person lodges, or attempts to lodge, with the planning authority, the application for the permit, demanded the payment of the fee; and
 - (d) the fee has not been paid within the 21-day period after the day on which the demand is made.
- (3) If –
- (a) the planning authority has demanded payment of a fee,

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Part 3 – Land Use Planning and Approvals Act 1993 Amended

s. 6

under a relevant legislative instrument, for an application for a permit before, or within 4 business days after, the day on which a person lodges, or attempts to lodge, with the planning authority, the application for the permit; and

- (b) the fee has been paid within the 21-day period after the day on which the demand is made –

the application, if it is a valid application, is taken for the purposes of this Act to have been received on the day on which the fee is paid.

- (4) If the planning authority has not demanded payment of a fee, under a relevant legislative instrument, for an application for a permit before, or within 4 business days after, the day on which a person lodges, or attempts to lodge, with the planning authority, the application for the permit –

- (a) the planning authority, despite section 86, is not entitled to refuse to take any action in relation to the application for the permit; and

- (b) the application, if it is a valid application, is taken for the

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Part 3 – Land Use Planning and Approvals Act 1993 Amended

purposes of this Act to have been received on the fifth business day after the day which the person lodges, or attempts to lodge, with the planning authority, the application for the permit.

7. Section 54 amended (Additional information)

Section 54(3) of the Principal Act is amended by omitting “14 days” and substituting “5 business days”.

8. Section 56 amended (Minor amendments of permits issued by a planning authority)

Section 56 of the Principal Act is amended by inserting after subsection (1) the following subsection:

(1A) A planning authority that receives a request under subsection (1) to amend a permit –

(a) must, within the 28-day period after the request was received, amend, or refuse to amend, the permit; and

(b) must, within 7 days –

(i) after amending the permit, comply with subsection (3); or

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Act No. of 2020*

Part 3 – Land Use Planning and Approvals Act 1993 Amended

s. 9

- (ii) after refusing to amend the permit, give notice of the refusal to the person who made the request.

9. Section 56AA inserted

After section 56 of the Principal Act, the following section is inserted in Division 2:

56AA. Fees for amendment of permits under section 56

- (1) In this section –

relevant legislative instrument
means –

- (a) this Act or the *Local Government Act 1993*; or
 - (b) a regulation made under this Act or a by-law or regulation made under the *Local Government Act 1993*.
- (2) Despite section 86, a planning authority is not entitled –
- (a) to refuse to take an action in relation to determining whether or not an application under section 56 for an amendment of a permit is valid; or

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Part 3 – Land Use Planning and Approvals Act 1993 Amended

- (b) to refuse to accept a valid application under section 56 for an amendment of the permit –

on the ground that a fee, under a relevant legislative instrument, for an application for an amendment of a permit under section 56 has not been paid, unless –

- (c) the planning authority has, before, or within 4 business days after, the day on which a person lodges, or attempts to lodge, with the planning authority, the application for an amendment of the permit, demanded the payment of the fee; and
- (d) the fee has not been paid within the 21-day period after the day on which the demand is made.

(3) If –

- (a) the planning authority has demanded payment of a fee, under a relevant legislative instrument, for an application for an amendment of a permit under section 56 before, or within 4 business days after, the day on which a person lodges, or attempts to lodge, with the planning authority, the

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Part 3 – Land Use Planning and Approvals Act 1993 Amended

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application for the amendment of
the permit; and

- (b) the fee has been paid within the
21-day period after the day on
which the demand is made –

the application, if it is a valid application
for an amendment of a permit, is taken
for the purposes of this Act to have been
received on the day on which the fee is
paid.

- (4) If the planning authority has not
demanded payment of a fee, under a
relevant legislative instrument, for an
application for an amendment of a permit
under section 56 before, or within 4
business days after, the day on which a
person lodges, or attempts to lodge, with
the planning authority, the application for
the amendment of the permit –

- (a) the planning authority, despite
section 86, is not entitled to
refuse to take any action in
relation to the application for an
amendment of the permit; and

- (b) the application, if it is a valid
application, is taken for the
purposes of this Act to have been
received on the fifth business day
after the day on which the person
lodges, or attempts to lodge, with

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2020
Act No. of 2020*

s. 10

Part 3 – Land Use Planning and Approvals Act 1993 Amended

the planning authority, the application for the amendment of the permit.

10. Section 87E inserted

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

87E. Savings and transitional – *Development Reform (Miscellaneous Amendments) Act 2020*

The savings and transitional provisions specified in Schedule 8 have effect.

11. Schedule 8 inserted

After Schedule 7 to the Principal Act, the following Schedule is inserted:

**SCHEDULE 8 – SAVINGS AND TRANSITIONAL
PROVISIONS – *BUILDING AND CONSTRUCTION
(REGULATORY REFORM AMENDMENTS) ACT 2020***

1. Application of amendments

(1) In this clause –

amending Act means the *Building and Construction (Regulatory Reform Amendments) Act 2020*.

(2) Section 51A, as inserted by a provision of the amending Act, does not apply in

*Building and Construction (Regulatory Reform Amendments) Act
2020
Act No. of 2020*

Part 3 – Land Use Planning and Approvals Act 1993 Amended

s. 11

relation to an application for a permit that has been lodged, or that a person has attempted to lodge, with a planning authority before the day on which the provision of the amending Act commences.

- (3) The amendment to section 54(3) made by a provision of the amending Act does not apply in relation to additional information that is received under section 54(1) before the day on which the provision of the amending Act commences.
- (4) Section 56(1A), as inserted by a provision of the amending Act, applies in relation to a request for an amendment to a permit –
 - (a) that has been received under section 56(1); and
 - (b) that has not been determined by the day on which the provision of the amending Act commences –

as if the reference in section 56(1A) to the 28-day period after the request was received were a reference to a 28-day period beginning on the day on which the provision of the amending Act commences.

- (5) Section 56AA, as inserted by a provision of the amending Act, does not apply in

*Building and Construction (Regulatory Reform Amendments) Act
2020
Act No. of 2020*

s. 11 Part 3 – Land Use Planning and Approvals Act 1993 Amended

relation to an application for an amendment of a permit that has been lodged, or that a person has attempted to lodge, with a planning authority before the day on which the provision of the amending Act commences.

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Act No. of 2020

Part 4 – Water and Sewerage Industry Act 2008 Amended

s. 12

**PART 4 – WATER AND SEWERAGE INDUSTRY ACT
2008 AMENDED**

12. Principal Act

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

13. Part 4, Division 5A inserted

After section 68A of the Principal Act, the following Division is inserted in Part 4:

Division 5A – Service standards

68B. Service standards

(1) In this section –

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*

*No. 13 of 2008

*Building and Construction (Regulatory Reform Amendments) Act
2020
Act No. of 2020*

s. 13

Part 4 – Water and Sewerage Industry Act 2008 Amended

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

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

discretionary development permit means a permit for a development or use to which section 57 of the *Land Use Planning and Approvals Act 1993* applies;

permit means –

- (a) a combined permit; and
- (b) a discretionary development permit; and
- (c) a permitted development permit;

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Part 4 – Water and Sewerage Industry Act 2008 Amended

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permitted development permit means
a permit for a development or use
to which section 58 of the *Land
Use Planning and Approvals Act
1993* applies;

relevant entity means a person holding
a licence, or an interim licence,
granted under this Act;

relevant infrastructure means
sewerage infrastructure, or water
infrastructure, but does not
include sewerage infrastructure,
or water infrastructure, that is
prescribed;

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

works means works related to the
provision of relevant
infrastructure and includes the
establishment of a connection
point and any activities that are
prescribed to be works for the
purposes of this definition, but
does not include activities that are
prescribed not to be works for the
purposes of this definition.

(2) The regulations may prescribe –

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Part 4 – Water and Sewerage Industry Act 2008 Amended

- (a) the stages of the process required to be undertaken by a relevant entity in relation to –
 - (i) works that are required for the purposes of enabling a use, or development, referred to in an application for a permit, to be carried out if the permit is granted; or
 - (ii) works that the relevant entity is requested by a person to carry out; or
 - (iii) works to be carried out by the relevant entity in prescribed circumstances; and
- (b) the time by which a relevant entity is to complete a stage of a process specified in accordance with paragraph (a).
- (3) Without limiting the generality of subsection (2), the stages to which regulations for the purposes of that subsection may relate include any of the following stages:
 - (a) the determination of the scope of the works;
 - (b) the design of the works;

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Part 4 – Water and Sewerage Industry Act 2008 Amended

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- (c) the checking of, and the approval of, the design of the works;
- (d) the construction of relevant infrastructure, including for connection points, as part of the works;
- (e) the inspection and approval of relevant infrastructure, including infrastructure for connection points, that has been constructed as part of the works;
- (f) the making of a connection.

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Part 5 – Concluding Provision

PART 5 – CONCLUDING PROVISION

14. Repeal of Act

This Act is repealed on the first anniversary of the day on which the last uncommenced provision of this Act commenced.