

TASMANIA

URBAN DRAINAGE BILL 2013

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URBAN DRAINAGE BILL 2013

(Brought in by Minister for Primary Industries and Water, the Honourable Bryan Alexander Green)

A BILL FOR

An Act to provide for the management of urban drainage and stormwater systems and infrastructure, to repeal the *Drains Act 1954* and amend related legislation and for related purposes

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

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Urban Drainage Act 2013*.

2. Commencement

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

3. Interpretation

In this Act, unless the contrary intention appears –

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Appeal Tribunal means the Resource Management and Planning Appeals Tribunal established under the *Resource Management and Planning Appeal Tribunal Act 1993*;

authorised officer means a person authorised to enter land under section 20A of the *Local Government Act 1993*;

connection point means –

- (a) the point at which a property’s private stormwater system connects with the public stormwater system; or
- (b) such other point as may be prescribed by regulations as the connection point;

contract means –

- (a) an agreement, arrangement, undertaking, lease, licence, warranty or other contract; or
- (b) part of an agreement, arrangement, undertaking, lease, licence, warranty or other contract;

council has the same meaning as in the *Local Government Act 1993*;

expenses, in relation to a stormwater service provider, includes –

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-
- (a) the salaries and wages of its employees; and
 - (b) the compensation, purchase money or rent payable for land; and
 - (c) the cost of materials used, and the consideration payable under any contract, in connection with any work, undertaking or duty which the stormwater service provider is empowered or required to undertake or perform under this Act;

general manager has the same meaning as in the *Local Government Act 1993*;

municipal area has the same meaning as in the *Local Government Act 1993*;

private stormwater system means an installation on a property, that –

- (a) is not part of the public stormwater system; and
- (b) is used for collecting or disposing of stormwater; and
- (c) comprises any or all of the following:
 - (i) roof gutters and downpipes;
 - (ii) rainwater tanks;

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- (iii) surface channels;
- (iv) kerbs and gutters;
- (v) subsoil drains and stormwater drains;
- (vi) any inlet pits which are used, or intended to be used, for the conveyance of stormwater to a disposal system;

public land means land owned by –

- (a) the Crown; or
- (b) an instrumentality or agent of the Crown; or
- (c) a council or other local government body, other than a water or sewerage corporation;

public stormwater system means –

- (a) the whole, or part, of a waterway;
and
- (b) any infrastructure used for –
 - (i) the collection or storage of stormwater, including connection points; or
 - (ii) the conveyance or reticulation of stormwater; or

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- (iii) the treatment or disposal of stormwater, including any outfall pipe or other work that stores or conveys water leaving the infrastructure that is used for the treatment and or the disposal of stormwater –

but does not include –

- (c) any private stormwater system, including any pipe, fitting or apparatus that is situated upstream of a connection point to a public stormwater system; or
- (d) infrastructure situated entirely within one property and not connected to any other infrastructure situated within another property;

regulations means regulations made under this Act;

stormwater means run-off water that has been concentrated by means of a drain, surface channel, subsoil drain or formed surface;

stormwater service means the service that is provided in connection with the collection, storage, treatment, reticulation and disposal of stormwater;

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stormwater service provider means the council, or an agent engaged to act on behalf of the council, that operates and maintains the public stormwater system within a municipal area;

waterway means a creek, rivulet, stream or other natural depression in the land into which rainwater flows.

4. Objects of Act

The objects of this Act are –

- (a) to protect people and property by ensuring that stormwater services, infrastructure and planning are provided so as to minimise the risk of urban flooding due to stormwater flows; and
- (b) to provide for the safe, environmentally responsible, efficient and sustainable provision of stormwater services in accordance with the objectives of the resource management and planning system of Tasmania as set out in Schedule 1.

**PART 2 – OBLIGATIONS OF STORMWATER
SERVICE PROVIDERS**

5. Council to provide adequate public stormwater systems

- (1) A council must, in accordance with the objects of this Act, provide for such public stormwater systems as may be necessary to effectively drain the urban area of the council’s municipal area.
- (2) If a complaint is made to the Minister that a council has failed or neglected to make provision in accordance with subsection (1), the Minister may investigate the complaint.
- (3) If, after investigating a complaint, the Minister is satisfied that the council has failed or neglected to perform its duty, he or she may make an order declaring the council to be in default and directing it to make provision in accordance with subsection (1) within such period as may be specified in the order.
- (4) A council may appeal to the Appeal Tribunal against an order under subsection (3) within the period specified in the order.
- (5) The Appeal Tribunal is to hear and determine an appeal in accordance with the *Resource Management and Planning Appeal Tribunal Act 1993*.
- (6) A council must –

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- (a) comply with an order under subsection (3) within the period specified; or
- (b) lodge an appeal in accordance with subsection (4).

Penalty: Fine not exceeding 1 000 penalty units.

- (7) If a council fails to comply with any requirement of an order within the period specified, the Minister may take whatever action he or she considers necessary to rectify the council's default, and all the costs and expenses of and incidental to the Minister's action must be paid by the council to the Crown.

6. Provision of stormwater services

- (1) Except as otherwise provided in this Act, a council must keep the public stormwater systems owned and operated by it in good working order.
- (2) For the purposes of cleaning, maintaining and repairing public stormwater systems, a council may exercise all the powers available to it for the construction of public stormwater systems.
- (3) In ensuring that stormwater services are available to the urban areas of its municipal area, a council may engage a third-party to provide stormwater services, or use the infrastructure of a third-party.

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- (4) If a council wishes to engage a third-party or use its infrastructure under subsection (3), the parties must enter into a commercial agreement for that use or engagement.
- (5) Nothing in this Act authorises a council to use, injure or interfere with any sluices, flood gates, sewers, breakwaters, sea defences or other works, whether made before or after the commencement of this Act, that are vested in, or under the control of, any person, drainage trust or Corporation, within the meaning of the *Water and Sewerage Corporations Act 2012*, without the consent of that person, trust or Corporation, as the case requires.
- (6) Consent under this section must not be unreasonably withheld and, if a question arises as to whether or not the consent is unreasonably withheld, either party may require its reference to an arbitrator, to be appointed in accordance with the *Commercial Arbitration Act 2011*.

7. Negotiation for provision of stormwater services

Where a council or a third-party provider of stormwater services wishes to commence negotiations with the other for the provision of stormwater services, either party may serve on the other party a written notice setting out –

- (a) the general terms and conditions for the provision of those services; and
- (b) any other matters that may be prescribed.

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8. Provision where commercial arrangements cannot be agreed

- (1) Subject to subsection (2), where a council and a third-party owner of infrastructure or operator of stormwater services cannot reach agreement on the contract details for the provision of stormwater services, either party may refer the matter to an arbitrator to be appointed in accordance with the *Commercial Arbitration Act 2011*.
- (2) A matter may be referred to an arbitrator only after at least one of the following conditions has been satisfied:
 - (a) at least 6 months have passed since the service of the notice under section 7 and in the opinion of one or both parties it is unlikely a resolution will be quickly reached;
 - (b) in the opinion of the council involved, the third-party provider of stormwater services is unreasonably withholding consent for the council to use the third-party's infrastructure.
- (3) For the purposes of subsection (1), an arbitrator has, in addition to the powers conferred by the *Commercial Arbitration Act 2011*, the power to determine –
 - (a) the conditions relating to the supply of stormwater services; and

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- (b) a price for those services and transition price policies to minimise price shocks; and
 - (c) any performance indicators to be implemented and modified over time; and
 - (d) the period over which the commercial agreement applies; and
 - (e) contract dispute resolution processes.
- (4) Before making a determination under subsection (3), the arbitrator is to seek advice from –
- (a) the Department; and
 - (b) the Tasmanian Economic Regulator established under section 9 of the *Economic Regulator Act 2009*; and
 - (c) any other persons the arbitrator thinks fit.
- (5) In making a determination in respect of assets that have been transferred from a council to a water and sewerage corporation in accordance with a notice under section 41 of the *Water and Sewerage Corporations Act 2008*, an arbitrator must try to achieve the best outcomes for the community in respect of –
- (a) limiting price shocks; and
 - (b) providing for the equitable distribution of costs.

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- (6) In making a determination to which subsection (5) applies, the arbitrator is to take into account the following:
- (a) that the asset will be renewed over time;
 - (b) that the provider should be provided with a reasonable opportunity to recover the efficient costs which it reasonably incurs in providing the service and complying with its regulatory obligations;
 - (c) the returns on council-owned stormwater assets in Tasmania;
 - (d) that both parties are not to be constrained from executing their statutory obligations;
 - (e) that any charge for providing stormwater services must take into account any costs of operating and maintaining the service that have been paid by another customer;
 - (f) any other matter that is prescribed or that the arbitrator considers relevant.

9. Local government authorities for delivery of stormwater services

This Act does not limit in any way a council's ability to establish a single authority, or be one of the councils to establish a joint authority, as outlined in the *Local Government Act 1993*, for the provision of stormwater services.

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10. Stormwater system management plans

- (1) A council must develop a stormwater system management plan for the urban area of its municipal area within 6 years after the day on which this Act commences.
- (2) A stormwater system management plan is to specify –
 - (a) plans for the management of any assets used for the delivery of a stormwater service; and
 - (b) the level of risk from flooding for each urban stormwater catchment in the public stormwater system; and
 - (c) any other matters prescribed in the regulations or that the council considers appropriate.

11. Power of council to adopt stormwater systems

- (1) A general manager may agree with a person who has private stormwater systems, or is constructing or proposing to construct private stormwater systems or associated works, that if those works are constructed in accordance with the terms of the agreement, the council will, upon the completion of the work, or at some specified date, or on the happening of some future event, declare the works to be vested in the council.

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- (2) An agreement under subsection (1) is enforceable against the council by the owner or occupier for the time being of any premises that are, or are intended to be, served by the works.
- (3) A council must not make an agreement under this section with respect to works situated within the municipal area of another council unless that other council consents.
- (4) Where a person proposes to construct a drain, the general manager may, if the general manager considers that the proposed drain is, or is likely to be, needed to form part of a public stormwater system that it has provided or proposes to provide, require that person to construct the drain in a different way, to a greater hydraulic capacity or with different materials from which the person proposes or could otherwise be required by the council.
- (5) A person must comply with the requirements of a council under subsection (4).
- (6) A person who is aggrieved by the requirements of a council under subsection (4) may, within 28 days after receipt of notification of the requirements, apply to the Appeal Tribunal to review the requirements.
- (7) On receipt of an application, the Appeal Tribunal may –
 - (a) disallow the requirement; or
 - (b) allow the requirement; or

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- (c) allow the requirement with modifications.
- (8) A council that imposes a requirement under subsection (4) must pay to the person constructing the drain –
 - (a) any extra expenses reasonably incurred by the person in complying with the requirement; and
 - (b) until the drain becomes part of a system, any expenses reasonably incurred by the person, in repairing or maintaining the drain, as may be attributable to that requirement.

12. Council to maintain maps

A council that provides stormwater services must maintain and make publicly available maps showing all public stormwater systems within the urban area of its municipal area, including those portions of waterways that have a primary role in transporting stormwater.

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13. Protection of stormwater assets

- (1) Unless subsection (11) applies, a person must not, without a general manager's consent, cause or permit –
- (a) any prescribed structure to be built on, or any filling to be placed on or removed from, land over which –
 - (i) an easement exists in favour of the relevant council; or
 - (ii) an easement exists for public stormwater systems; or
 - (b) any prescribed structure to be built on, or any filling to be placed or removed from, within one metre laterally from the outer edge of any public stormwater systems of the council or such other distance as determined by the general manager; or
 - (c) any prescribed structure to be built above or below any area prohibited by paragraph (b); or
 - (d) the removal of any soil, rock or other matter that supports, protects or covers any stormwater-related works of the council.

Penalty: Fine not exceeding 100 penalty units.

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- (2) If, in contravention of this section, any thing is erected or constructed, the general manager may serve on the person responsible for the building or construction a written notice requiring the person to demolish, remove or remedy the works and carry out such other works as are necessary to restore or reinstate the public stormwater system within 28 days or any longer period the general manager allows.
- (3) A person must comply with a notice issued under subsection (2).

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 500 penalty units; or
 - (b) an individual, a fine not exceeding 200 penalty units.
- (4) If a person fails to carry out the works required in the notice within the specified period, the council may demolish, remove or remedy the building or construction and carry out any works necessary for restoring or reinstating the public stormwater system.
 - (5) If the council carries out works under subsection (4) –
 - (a) the person who carried out the erection or construction and any person who directed it to be done are jointly and severally liable for the expenses incurred by the council in carrying out the works referred to in subsection (4); and

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- (b) any such expenses are recoverable in a court of competent jurisdiction.
- (6) This section does not prevent or impede the maintenance, repair or renewal of a building, wall, bridge, fence or other structure under which a public stormwater system has been constructed so long as that work does not injure or obstruct the system.
- (7) An application for the general manager's consent under subsection (1) must be made in the manner determined by the general manager, and must be accompanied by any plans and other information that the general manager requires.
- (8) The general manager may –
 - (a) refuse the application; or
 - (b) grant the application; or
 - (c) grant the application subject to any terms and conditions that he or she thinks fit.
- (9) A person who, with the consent of a general manager, causes or permits anything referred to in subsection (1) to be done must make sure that it is done in accordance with any terms and conditions subject to which the general manager gave his or her consent in granting the application under subsection (8)(c).

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 500 penalty units; or

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- (b) an individual, a fine not exceeding 200 penalty units.
- (10) Terms and conditions subject to which the general manager grants an application under subsection (8)(c) are binding on the successors in title or assigns of the person who applied for that consent.
- (11) Subsection (1) does not apply in respect of the authority responsible for the management of a road if it is necessary for the authority to do anything referred to in that subsection for the purpose of constructing a road or conducting maintenance works on a road.

14. Interference with public stormwater systems

- (1) A person must not, without a general manager's consent, cause or permit –
 - (a) any works to be connected to a public stormwater system; or
 - (b) the alteration or removal of, or interference with, a public stormwater system.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 500 penalty units; or
- (b) an individual, a fine not exceeding 200 penalty units.

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- (2) If a person contravenes subsection (1), a general manager may serve on the person a written notice requiring the person to remove the connection, rectify any damage or desist from discharging material into the public stormwater system within 28 days or any longer period the general manager allows.
- (3) A person must comply with a notice issued under subsection (2).

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 200 penalty units; or
 - (b) an individual, a fine not exceeding 50 penalty units.
- (4) If a person fails to comply with the notice within the specified period, the council may demolish, remove or remedy the works and carry out any works necessary for restoring or reinstating the infrastructure.
 - (5) If the council carries out works under subsection (4) –
 - (a) the person responsible for the works demolished, removed or remedied and any person who directed those works to be done are jointly and severally liable for the expenses incurred by the council in carrying out the works referred to in subsection (4); and

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- (b) any such expenses are recoverable in a court of competent jurisdiction.

15. Power of authorised officers to carry out work on or adjacent to public land

- (1) An authorised officer may enter and remain on land to –
 - (a) install public stormwater systems on public land or on a waterway located on, or adjacent to, public land; and
 - (b) carry out operational work or protective work, on public stormwater systems on public land or a waterway located on or adjacent to public land, for the provision of a stormwater service.
- (2) Subject to subsections (3) and (7), if an authorised officer seeks to enter land under this section, the officer must give the authority responsible for the land not less than 7 days' written notice stating the reason and the date and time of the proposed entry.
- (3) If the purpose of the authorised officer's entry is only to undertake –
 - (a) investigations of existing public stormwater systems; or
 - (b) pre-construction investigations on public land on which the council plans to construct new public stormwater systems –

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the officer must –

- (c) if the occupier is present at the time of entry, give notice to the occupier before entering the land; or
 - (d) if the occupier is not present at the time of entry, leave notice that the officer entered the land.
- (4) An authorised officer must –
- (a) subject to subsection (5), only exercise a power of entry under this section between the hours of 7 a.m. and 7 p.m. on any day; and
 - (b) obtain the agreement of the authority responsible for the land as to how the installation or work is to be carried out before commencing the installation or work.
- (5) An authorised officer may exercise a power of entry under this section outside the hours referred to in subsection (4)(a) if a general manager determines that the relevant works can be carried out more effectively outside those hours.
- (6) An authorised officer entering land under this section must produce on request an identity card issued under section 20B of the *Local Government Act 1993*.

Penalty: Fine not exceeding 10 penalty units.

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- (7) In an emergency, an authorised officer may exercise a power of entry under this section –
- (a) at any time and without prior notice, if it is not practicable to give such notice; and
 - (b) if necessary in the circumstances, by the use of reasonable force.
- (8) When an authorised officer enters land under this section, the officer –
- (a) may be accompanied by such other persons as the officer considers necessary or appropriate; and
 - (b) may bring on to the land any vehicles and equipment that the officer considers necessary or appropriate for the work which the council is to carry out on the land.
- (9) If the authority responsible for the land, on being given notice under subsection (2) –
- (a) seeks to include, in the agreement under subsection (4)(b), conditions that the council considers unreasonable; or
 - (b) disputes that the council is entitled to carry out the proposed work –

the council may appeal to the Appeal Tribunal.

- (10) Subsection (9) does not apply if the authority responsible for the land is a Minister or a person or body to whom directions may be given by a Minister in respect of the matter in dispute.

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- (11) Except as provided by subsection (12), the Appeal Tribunal is to hear and determine the appeal in accordance with the *Resource Management and Planning Appeal Tribunal Act 1993*.
- (12) Notwithstanding section 14(2) of the *Resource Management and Planning Appeal Tribunal Act 1993*, the Appeal Tribunal must not, under that section, allow any person other than the council and the authority responsible for the land to be a party to the appeal.
- (13) A council must make good, to the satisfaction of the authority responsible for the land, any damage caused by the exercise of powers under this section as soon as practicable.
- (14) If a council fails to make good, to the satisfaction of the authority responsible for the land, any damage caused by the exercise of powers under this section, the responsible authority may make good the damage itself.
- (15) The cost of making good the damage referred to in subsection (14) may be recovered by the authority responsible for the land in a court of competent jurisdiction as a debt owed to it by the council.
- (16) This section does not derogate from an obligation to comply with any other Act.

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16. Power of authorised officers to enter private land, &c.

- (1) An authorised officer may –
 - (a) enter and remain on private land or a waterway located on or adjacent to private land to install or construct a public stormwater system and to carry out investigations in connection with that installation or construction; and
 - (b) enter and remain on private land or a waterway located on or adjacent to private land, for the purposes of carrying out operational or protective work on land on which a public stormwater system is situated, where that land is identified, on a map maintained in accordance with section 12, as containing part of the public stormwater system.
- (2) Subject to subsections (3) and (7), if an authorised officer seeks to enter land under this section, the officer must give the occupier of the land not less than 7 days' written notice stating the reason and the date and time of the proposed entry.
- (3) If the purpose of the authorised officer's entry is only to undertake –
 - (a) investigations of existing public stormwater systems; or
 - (b) pre-construction investigations on private land on which the council plans to

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construct new public stormwater
systems –

the officer must –

- (c) if the occupier is present at the time of entry, give notice to the occupier before entering the land; or
 - (d) if the occupier is not present at the time of entry, leave notice that the officer entered the land.
- (4) Subject to subsection (5), an authorised officer may only exercise a power of entry under this section between the hours of 7 a.m. and 7 p.m. on any day.
- (5) An authorised officer may exercise a power of entry under this section outside the hours referred to in subsection (4) if a general manager determines that the relevant works can be carried out more effectively outside those hours.
- (6) An authorised officer entering land under this section must produce on request an identity card issued under section 20B of the *Local Government Act 1993*.

Penalty: Fine not exceeding 10 penalty units.

- (7) In an emergency, an authorised officer may exercise a power of entry under this section –
- (a) at any time and without prior notice, if it is not practicable to give such notice; and

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- (b) if necessary in the circumstances, by the use of reasonable force.
- (8) When an authorised officer enters land under this section, the officer –
 - (a) may be accompanied by such other persons as the officer considers necessary or appropriate; and
 - (b) may bring on to the land any vehicles and equipment that the officer considers necessary or appropriate for the work which the officer is to carry out on the land.
- (9) Subject to this section, the council must make good any damage caused by the exercise of powers under this section as soon as practicable or pay reasonable compensation for the damage.
- (10) If the owner of the land and the council do not agree as to the extent of compensation, or the council refuses to pay compensation, the claim for compensation is to be determined –
 - (a) if it is a minor civil claim within the meaning of the *Magistrates Court (Civil Division) Act 1992*, by the minor civil claims division of the Magistrates Court; or
 - (b) in any other case, as if it were a disputed claim for compensation under the *Land Acquisition Act 1993*.

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Part 3 – Powers of Stormwater Service Providers

17. Power to undertake construction of public stormwater systems

- (1) If, in the opinion of the council, a street, right-of-way or private land is not adequately drained, the council may construct any public stormwater systems it thinks fit for the purpose of meeting its obligations under this Act.
- (2) Before proceeding with the construction, the council is to give to the owners of all land through, under or over which the public stormwater system is to pass 28 days' notice in writing of its intention to construct it.

18. Discharge of matter into public stormwater system

- (1) A person must not discharge, or cause or permit to be discharged, anything other than stormwater into a public stormwater system.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 100 penalty units; or
 - (b) an individual, a fine not exceeding 10 penalty units.
- (2) Without the permission of the relevant general manager, a person must not discharge, or cause or permit to be discharged, stormwater into any system other than the public stormwater system.

Penalty: In the case of –

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- (a) a body corporate, a fine not exceeding 100 penalty units; or
 - (b) an individual, a fine not exceeding 10 penalty units.
- (3) For the purposes of this section, the permission of a general manager may be general or specific and conditional or unconditional.

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Part 4 – Connections

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19. Connection to stormwater service

- (1) If a property at its nearest property boundary point is located within 30 metres of a public stormwater system, and it is reasonable to make a connection, the stormwater service provider must provide the property with a connection point for the disposal of stormwater.
- (2) If the owner of a property that is permitted to connect to a public stormwater system requests to do so, the stormwater service provider must ensure that a single separate stormwater connection point is constructed.
- (3) The stormwater service provider may set an appropriate fee for the cost of providing a stormwater connection point to a property and the property owner is to pay that fee before the work is undertaken.
- (4) A stormwater service provider must not deprive a property that is lawfully connected to a public stormwater system of the use of that infrastructure, unless the stormwater service provider –
 - (a) provides an alternative public stormwater system that is equally effective for the purpose; and
 - (b) at its own expense, carries out any work necessary to connect the property to the

alternative public stormwater system so provided.

20. Limits on connection point

- (1) A private stormwater system serviced by a connection point must be wholly contained within the boundaries of the property, unless the general manager gives specific approval for the connection point to service more than one property.
- (2) A property will be provided with a single connection point to a public stormwater system, unless the general manager provides approval for more than one connection to be provided.

21. Requirement to connect

- (1) A general manager may, by notice served on the owner of a property, require the owner to connect the property's private stormwater system to a public stormwater system to reduce the flooding risk to the property or to other properties in the stormwater catchment, if the property is located within 30 metres of the public stormwater system.
- (2) The owner of a property who has been served with a notice under subsection (1) must comply with the notice within the period specified, or any longer period allowed by the general manager.

Penalty: In the case of –

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- (a) a body corporate, a fine not exceeding 100 penalty units; or
 - (b) an individual, a fine not exceeding 50 penalty units.
- (3) If an owner of land who has been served with a notice under subsection (1) does not comply with the notice within 28 days, or any longer period allowed by the general manager, the council may –
 - (a) do the things that the owner was required by the notice to do; and
 - (b) recover from the owner its reasonable costs of doing so, other than costs that are prescribed in the regulations to be the responsibility of the council.
- (4) The owner of land who has been served with a notice under subsection (1) may apply to the Appeal Tribunal for a review of the decision by the general manager to serve the notice.

22. Requirement to disconnect

- (1) A general manager may, by notice served on the owner of a property, require the owner to remove any existing connection between that property and the public stormwater system –
 - (a) if that connection has been made in contravention of this Act or it contravenes any regulation made under this Act; or

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- (b) if, in the opinion of the general manager, it is necessary to do so; or
 - (c) if it is in the interests of health, safety or the environment; or
 - (d) to prevent damage to the public stormwater system.
- (2) The owner of land who has been served with a notice under subsection (1) must comply with the notice within 28 days, or any longer period allowed by the general manager.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 100 penalty units; or
 - (b) an individual, a fine not exceeding 50 penalty units.
- (3) If an owner of land who has been served with a notice under subsection (1) does not comply with the notice within 28 days or any longer period allowed by the general manager, the council may –
- (a) do the things that the owner was required by the notice to do; and
 - (b) recover from the owner its reasonable costs of doing so.
- (4) The owner of land who has been served with a notice under subsection (1) may apply to the Appeal Tribunal for a review of the decision by the general manager to serve the notice.

PART 5 – MISCELLANEOUS

23. Property owners not to direct stormwater onto neighbouring properties

- (1) A property owner must ensure that stormwater is not discharged from a private stormwater system so that it causes or is likely to cause a nuisance to a neighbouring property or its residents.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 100 penalty units; or
 - (b) an individual, a fine not exceeding 20 penalty units.
- (2) If a property owner directs stormwater onto a neighbouring property and creates a nuisance, a general manager may –
- (a) issue a notice to the property owner giving him or her 28 days to stop causing the nuisance; and
 - (b) if the property owner does not comply with the notice, the council may carry out such works as may be necessary to rectify the nuisance, with the costs of such rectification to be borne by the property owner.
- (3) Any costs incurred under subsection (2)(b) are recoverable in a court of competent jurisdiction.

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24. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may provide for –
 - (a) matters to be taken into account when determining appropriate pricing for the provision of stormwater services; and
 - (b) matters that may be included in stormwater system management plans.

25. Consequential amendments

The legislation specified in Schedule 2 is amended as specified in that Schedule.

26. Legislation repealed

The Act specified in Schedule 3 is repealed and all Statutory Rules made under that Act are rescinded.

27. Consequential amendments of regulations do not prevent their subsequent amendment

The amendment by this Act of a provision of any regulations does not prevent that or any other provision of those regulations from being amended or rescinded by a subsequent regulation.

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Part 5 – Miscellaneous

28. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Primary Industries and Water; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Primary Industries, Parks, Water and Environment.

**SCHEDULE 1 – OBJECTIVES OF RESOURCE
MANAGEMENT AND PLANNING SYSTEM OF
TASMANIA**

Section 4

1. The objectives of the resource management and planning system of Tasmania are –
 - (a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and
 - (b) to provide for the fair, orderly and sustainable use and development of air, land and water; and
 - (c) to encourage public involvement in resource management and planning; and
 - (d) to facilitate economic development in accordance with the objectives specified in paragraphs (a), (b) and (c); and
 - (e) to promote the sharing of responsibility for resource management and planning between the different spheres of government, the community and industry in Tasmania.

2. In item 1(a) –

sustainable development means managing the use, development and protection of natural and physical resources in a way,

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or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety while –

- (a) sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and
- (b) safeguarding the life-supporting capacity of air, water, soil and ecosystems; and
- (c) avoiding, remedying or mitigating any adverse effects of activities on the environment.

SCHEDULE 2 – CONSEQUENTIAL AMENDMENTS

Section 25

Building Regulations 2004

1. Schedule 5 is amended by omitting item 2 from Part 3.

Local Government (Building and Miscellaneous Provisions)
Act 1993

1. Section 3(1) is amended by inserting after the definition of *public* the following definition:

public stormwater system has the same meaning as in the *Urban Drainage Act 2013*;

2. Section 86 is amended as follows:

- (a) by omitting from subsection (2)(c) “in an urban land drainage district, payment for a common stormwater drain” and substituting “located within 30 metres of the existing public stormwater system as shown on the map made available under section 12 of the *Urban Drainage Act 2013*, payment for a public stormwater system”;

- (b) by omitting from subsection (2)(c) “and connection of drains from a place on the boundary of each lot to the common drain” and substituting “of stormwater connections from a place on the

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boundary of each lot to the public stormwater system”;

- (c) by omitting from subsection (4)(a) “common stormwater drain” and substituting “public stormwater system”.

3. Divisions 3 and 4 of Part 8 are repealed.

Local Government (General) Regulations 2005

1. Regulation 3 is amended as follows:

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

connection point has the same meaning as in the *Urban Drainage Act 2013*;

- (b) by inserting the following definitions after the definition of *open tender*:

private stormwater system has the same meaning as in the *Urban Drainage Act 2013*;

public stormwater system has the same meaning as in the *Urban Drainage Act 2013*;

2. Part 5 of Schedule 7 is amended as follows:

- (a) by omitting

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Drains Act 1954

and substituting the following item:

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- (b) by omitting “or land drainage” from column 2 of item 31 in the table;
- (c) by omitting paragraphs (a) and (b) from item 31 and substituting the following:
 - (a) Has the council a record showing that, on or under the specified land, there is a private stormwater system connection point connected to the public stormwater system? If YES, provide particulars.
 - (b) If NO or UNKNOWN to (a), is the specified land –
 - (i) within the area marked as being serviced by the council’s public stormwater system on a map made available under section 12 of the *Urban Drainage Act 2013*; and

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- (ii) within 30 metres from the council's public stormwater system or a form of drain capable of providing an acceptable form of drainage from the specified land.

- (d) by omitting "pipe main or drain" from column 2 of item 32 in the table and substituting "public stormwater system";
- (e) by omitting "trunk mains or other pipes" from column 2 of paragraph (a) of item 32 in the table and substituting "parts of its public stormwater system";
- (f) by omitting "pipes" from column 2 of paragraph (b) of item 32 in the table and substituting "public stormwater system";
- (g) by omitting "*Drains Act 1954*" from column 2 of paragraph (a) of item 33 in the table and substituting "*Urban Drainage Act 2013*".

Local Government (Savings and Transitional) Act 1993

1. Section 37 is amended by omitting subsection (3).

Local Government Act 1993

1. Section 96 is amended by omitting the definition of *drainage district* and substituting the following definition:

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public stormwater system means a public stormwater system as defined in the *Urban Drainage Act 2013*.

2. Section 97 is amended as follows:

- (a) by omitting from subsection (1) “within a drainage district and”;
- (b) by omitting from subsection (1) “council’s pipe supplying a drain connection” and substituting “public stormwater system”;
- (c) by omitting from subsection (2) “drain” and substituting “public stormwater system”.

3. Section 98(1) is amended as follows:

- (a) by omitting “within a drainage district” and substituting “that is within 30 metres of a public stormwater system”;
- (b) by omitting “land in such a district” and substituting “that land”.

4. Section 99 is amended as follows:

- (a) by omitting from paragraph (a) “drain” and substituting “public stormwater system”;

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(b) by omitting from paragraph (b) “council pipe” and substituting “public stormwater system”.

- 5.** Section 208(2) is amended by omitting “section 13 of the *Drains Act 1954*” and substituting “section 12 of the *Urban Drainage Act 2013*”.

Plumbing Regulations 2004

- 1.** Schedule 4 is amended by omitting item 4F.

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SCHEDULE 3 – LEGISLATION REPEALED

Section 26

Drains Act 1954 (No. 67 of 1954)