
Clause Notes

Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2024

	PART 1 – PRELIMINARY
Clause 1	Short title This Act may be cited as the <i>Land Use Planning and Approvals Amendment (Development Assessment Panels) Bill 2024</i> .
Clause 2	Commencement This clause provides that the provisions of this Act commence on a day or days to be proclaimed.
Clause 3	Repeal of Act This clause specifies that this amendment Act is repealed on the first anniversary of the day the last uncommenced provision of this Act comes into effect.
	PART 2 – LAND USE PLANNING AND APPROVALS ACT 1993 AMENDED
Clause 4	Principal Act This clause provides that in Part 2 of this amended Act, the term ‘Principal Act’ refers to the <i>Land Use Planning and Approvals Act 1993</i> .
Clause 5	Section 3 amended (Interpretation) This clause amends the definition of ‘discretionary permit’, which currently applies to applications for permits under section 57 of the Principal Act, or where section 57 would apply if not for section 40Y(5) of the Principal Act. The amendment designates this application of the definition as paragraph

	<p>(a) and introduces paragraph (b), expanding the definition to include applications for permits where Division 2AA of Part 4 applies.</p>
Clause 6	<p>Section 8A amended</p> <p>This clause includes a new purpose for the issuing of guidelines under the Principal Act. The amendment designates the current purposes as subsection (1) and introduces the new purpose as subsection (2).</p> <p>New subsection (2) enables the Commission to issue guidelines for the purposes of Division 2AA of Part 4 of the Principal Act to assist the Minister in determining whether a development includes social or affordable housing. These guidelines can assist the Minister in making determinations in accordance with proposed section 60AD(1)(a) to refer an application to a Development Assessment Panel.</p>
Clause 7	<p>Section 40BA inserted</p> <p>This clause inserts new section 40BA in Division 2 of Part 3B of the Principal Act. This section follows section 40B and relates to the Minister's authority to review certain decisions.</p> <p>40BA. Minister may review certain decisions</p> <p>New subsection (1) provides that if a person receives notice from the relevant planning authority under section 40B(6)(b) indicating that it will not prepare a draft amendment to the Local Provisions Schedule (LPS), the person may request the Minister to review that decision, which is termed as a 'reviewable decision'.</p> <p>New subsection (2) provides that an application to the Minister regarding a reviewable decision must be submitted in a form approved by the Minister and include the prescribed information. The application must also contain copies of specific documents related to the reviewable decision, including the notification from the planning authority under section 40B(6)(b), the notice from the Tasmanian Planning Commission (Commission) under section 40B(5), the notice related to the decision by the planning authority under section 38(3), the request from the person for the planning authority to amend an LPS under section 37(1), and any other required documents.</p> <p>New subsection (3) provides that upon receiving an application regarding a reviewable decision, the Minister must give a copy to the planning authority and the Commission. Within 7 days of receiving the application, the planning authority must submit its written reasons for the decision under section 40B(6) along with its opinion on the merits of the reviewable</p>

	<p>decision. The Commission may also submit any additional relevant information in writing to the Minister regarding the reviewable decision.</p> <p>New subsection (4) provides that after reviewing an application regarding a reviewable decision, the Minister may either direct the relevant planning authority, under section 40C, to prepare a draft amendment to the LPS related to the request made under section 37(1) or refuse to take any action regarding the application.</p> <p>New subsection (5) provides that the Minister may only decide to direct the preparation of a draft amendment to the LPS only if the Minister considers that the draft amendment meets LPS criteria.</p> <p>New subsection (6) provides the Minister, in making a decision on an application regarding a reviewable decision, may inform themselves in the manner that they think is appropriate on any matter they think is relevant to the application.</p> <p>New subsection (7) provides that after making a decision on an application regarding a reviewable decision, the Minister must provide written notice of the decision, as soon as practicable, along with the reasons for the decision, to the planning authority, the Commission, and the person making the application.</p> <p>New subsection (8) serves as avoidance of doubt, confirming that an application regarding a reviewable decision may be made to determine whether the Commission is satisfied with the planning authority's decision under section 40B(1), regardless of whether a permit application requiring an amendment of LPS has also been made under section 40T(1).</p>
<p>Clause 8</p>	<p>Section 40C amended (Direction to prepare draft amendments of LPS)</p> <p>This clause amends section 40C(1) in Division 3 of Part 3B of the Principal Act. The existing section provides that the Minister may direct a planning authority in respect of a municipal area, to prepare a draft amendment to an LPS to: ensure compliance or consistency with the State Planning Provisions; align with the regional land use strategy; ensure the application of a State Policy; follow a Ministerial direction under the Act; or any other purpose the Minister thinks fit, based on advice from the Commission.</p> <p>The new subparagraph (da) follows paragraph (d) and adds an additional purpose under which the Minister may direct the planning authority to</p>

	implement a decision made under new section 40BA(4) to prepare a draft amendment to an LPS.
Clause 9	<p>Part 4, Division 2AA inserted</p> <p>This clause inserts new Division 2AA in Part 4 of the Principal Act.</p> <p>Division 2AA – Development Assessment Panels</p> <p>This new Division follows section 60A and relates to Development Assessment Panels. Five new subdivisions are introduced in this Division.</p> <p>Subdivision 1 – General</p> <p>This clause inserts new subdivision 1 and section 60AA to provide definitions for terms used in this Division.</p> <p>60AA. Interpretation of Division</p> <p>New subsection (1) provides definitions used across Division 2AA:</p> <p>‘Assessment Panel’ means the Development Assessment Panel established by the Commission under sections 60AE or 60AR and is to be constituted in accordance with 60AB.</p> <p>‘City’ has the same meaning as defined in section 16A of the <i>Local Government Act 1993</i>.</p> <p>‘Exhibition period’ means the 14-day period commencing on the day specified in the notice published under section 60AH(1)(b).</p> <p>‘Homes Tasmania’ has the same meaning as in the <i>Homes Tasmania Act 2022</i>.</p> <p>‘Party’ includes the proponent of the development related to the application and the relevant planning authority.</p> <p>‘Registered community housing provider’ has the same meaning as it has in the Community Housing Providers National Law (Tasmania), which has adopted by Tasmania from the Community Housing Providers National Law (NSW) 2012.</p> <p>‘Reviewing entity’ includes the planning authority for each relevant municipal area, the Heritage Council under the <i>Historic Cultural Heritage Act 1995</i> if the application involves heritage works, the relevant regulated entity as defined in Part Division 2A of the Principal Act which has the same meaning as in section 56N of the <i>Water and Sewerage Industry Act 2008</i>, and a pipeline licensee under Part 4 Division 2A if the application</p>

pertains to land within a gas infrastructure planning corridor as defined by the *Gas Industry Act 2019*.

'Subdivision' has the same meaning as in Part 3 of the *Local Government (Building and Miscellaneous Provisions) Act 1993*.

New subsection (2) serves as avoidance of doubt that the *Tasmanian Planning Commission Act 1997* applies to this Division as if a reference in to an Assessment Panel were a reference to the Tasmanian Planning Commission.

60AB. Constitution of an Assessment Panel

This clause specifies how the Commission must constitute an Assessment Panel.

New subsection (1) requires the Commission to appoint 3 persons as members of the Assessment Panel. New subsection (2) provides for the Commission to appoint up to 5 persons as members of the Assessment Panel if the Commission is:

- of the opinion that the scale, specialist nature or complexity of the development requires the Assessment Panel to include persons with particular qualifications or experience to assist in the assessment; and
- satisfied, on reasonable grounds, that more than 3 persons are required to ensure the Assessment Panel has the necessary qualifications and experience.

Subdivision 2 – Certain new applications may be determined by Assessment Panel

This clause inserts new subdivision 2 and sections 60AC, 60AD and 60AE to provide the types of discretionary permit applications that may be determined by the Assessment Panel.

60AC. Certain new permit applications may be made to Commission

New subsection (1) provides that a person may apply to the Commission for a discretionary permit to be determined by an Assessment Panel if the application:

- is being made by, or on behalf of, Homes Tasmania or a registered community housing provider and it relates to a

development or subdivision that includes social or affordable housing;

- the development is valued over \$5,000,000 in a city or over \$2,000,000 in other areas, unless otherwise prescribed in the regulations;
- the council is both the applicant and the planning authority and the development valued over \$1,000,000; or
- if the application falls within a prescribed class for this section.

New subsection (2) provides that a discretionary permit application may be made only by the applicant or the relevant planning authority with the applicant's consent. The application must be in a form approved by the Commission, contain the prescribed information, and include evidence that it meets one or more of the specified requirements.

New subsection (3) provides that a discretionary permit application may not be made if it falls under section 25 of the *Environmental Management and Pollution Control Act 1994*.

New subsection (4) provides that the Commission may request additional information from the Board of the Environmental Protection Authority, defined by the *Environmental Management and Pollution Control Act 1994*, to determine if a discretionary permit application falls under subsection (3).

New subsection (5) provides that within 7 days of receiving a discretionary permit application, the Commission may request additional information from either party, return the application if it does not meet requirements or falls under section 25 of the *Environmental Management and Pollution Control Act 1994*, or establish an Assessment Panel under section 60AE for the application.

60AD. Minister may refer certain new permit applications to Commission

New subsection (1) provides that a party, being the proponent or the planning authority, to a discretionary permit application may request the Minister to direct the Commission to establish an Assessment Panel regarding the application if:

- relates to a development or subdivision that includes social or affordable housing for persons who may otherwise be unable to access suitable accommodation in the private rental or property market;

- the development could be significant for its area or the State;
- either party, being the proponent or the planning authority, has concerns that the planning authority lacks the technical expertise to assess the application;
- the development is likely to be controversial;
- there is a real or perceived conflict of interest or bias involving the planning authority; or
- falls within a prescribed class for this section.

New subsection (2) provides that a discretionary permit application that is subject to a request must be in a form approved by the Commission, include a statement explaining the reason for the request, provide evidence that it meets one or more requirements of subsection (1), and contain the prescribed information.

New subsection (3) provides that if the Minister receives a request for a discretionary permit application from only one party, the Minister notifies the other party, provides them with a copy of the application, and informs them of their right to respond to the request within 7 days after the Minister receives the request.

New subsection (4) provides that the Minister may refer a discretionary permit application to the Commission if, in the opinion of the Minister, it meets the requirements of subsection (1) and does not fall under section 25 of the *Environmental Management and Pollution Control Act 1994*.

New subsection (5) requires the Minister to consult with the relevant department that is responsible for administering the Principal Act before referring an application under subsection 4.

New subsection (6) provides that the Minister may refuse to refer a discretionary permit application to the Commission for any reason.

New subsection (7) provides that within 7 days of receiving a discretionary permit application referred by the Minister, the Commission may either return the application to the applicant if it falls under section 25 of the *Environmental Management and Pollution Control Act 1994* or does not meet any administrative or procedural requirement requirements, or establish an Assessment Panel under section 60AE for the application.

60AE. Commission to establish Assessment Panel

New subsection (1) provides that the Commission must establish an Assessment Panel to assess a discretionary permit application made under section 60AC or referred under section 60AD if it determines that

the application does not fall under section 25 of the *Environmental Management and Pollution Control Act 1994* and meets the relevant requirements of this Division.

New subsection (2) provides that if an Assessment Panel is established for a discretionary permit application, the *Historic Cultural Heritage Act 1995* does not apply to the assessment of that application.

Subdivision 3 – Assessment of new application by Assessment Panel

This clause inserts new subdivision 3 and sections 60AF, 60AG, 60AH, 60AI, 60AJ, 60AK and 60AL to provide the assessment process for discretionary permit applications that may be determined by the Assessment Panel.

60AF. Applications for permits to be provided to certain entities

New subsection (1) provides that once the Commission establishes an Assessment Panel for a discretionary permit application under section 60AE, the Assessment Panel provides a copy of the application to each reviewing entity as soon as practicable.

New subsection (2) provides that within 28 days of receiving a copy of a discretionary permit application, each planning authority must provide the Assessment Panel with advice on various matters, including:

- compliance with the *Local Government (Building and Miscellaneous Provisions) Act 1993*;
- any issues or concerns regarding the application, such as engineering concerns or impacts on infrastructure assets owner or operated by the planning authority;
- suggested terms and conditions for a permit and the reasons for them; and
- any other relevant matters.

The planning authority may also provide advice related to the application of the relevant planning scheme. Additionally, all other reviewing entities must also provide advice on any relevant issues concerning the application, including, but not limited to, suggested terms and conditions for a permit and the reasons for them.

New subsection (3) applies Division 5B of Part 3 of the *Electricity Supply Industry Act 1995* to applications referred to the Assessment Panel. This

enables relevant applications to be referred to the relevant entity under the Electricity Supply Industry Act so that relevant advice on electricity infrastructure may be provided to the applicant.

60AG. Additional information may be required

New subsection (1) provides that a reviewing entity may request further information from the Assessment Panel within 14 days of receiving a copy of a discretionary permit application under section 60AF(1) to assist in providing advice on the application.

New subsection (2) provides that a planning authority may only request further information for the purposes of:

- determining the impact of the proposed use and development on council infrastructure if the permit is issued,
- preparing advice on the application of the relevant planning scheme;
- assisting in preparing recommended conditions regarding that impact on council infrastructure; and
- addressing any matters it is entitled to consider under the *Local Government (Building and Miscellaneous Provisions) Act 1993*.

New subsection (3) provides that if a reviewing entity requests further information regarding a discretionary permit application, the Assessment Panel may notify them in writing that it believes the requested information is irrelevant to the application, provide reasons for this belief, and indicate that the information is no longer considered a valid request under this section.

New subsection (4) provides that after 21 days of providing copies of a discretionary permit application to each reviewing entity under section 60AF(1), the Assessment Panel must request in writing that the applicant supply further information requested by a reviewing entity under subsection (1) and any such further information requested by the Assessment Panel. To request the further information the Assessment Panel must be satisfied that its relevant to the application and not already available to the Panel. The Assessment Panel must also send a copy of this request to the reviewing entities.

New subsection (5) provides that when an applicant submits further information to the Assessment Panel in response to a request under subsection (4), the Panel must share this information with all reviewing entities. Each reviewing entity is then required to inform the Assessment

Panel whether they believe the additional information fulfils the requests or if they think further information is still needed from the applicant.

New subsection (6) provides that within 7 days of receiving further information requested from the applicant, the Assessment Panel must either determine that the applicant has provided all requested information or that they have provided all reasonably available information. If the Panel is not satisfied with the applicant's compliance, it must notify the applicant of this.

New subsection (7) provides that if an Assessment Panel requests further information from an applicant, the relevant time periods for the discretionary permit application are paused until the Panel determines that all requests for information have been satisfactorily addressed.

New subsection (8) serves as an avoidance of doubt, clarifying that further information cannot be requested by a reviewing entity if more than 14 days have passed since the Assessment Panel provided the reviewing entity with a copy of the application.

60AH. Exhibition of applications

New subsection (1) provides that within 14 days after the specified period in section 60AF(2) for a discretionary permit application, the Assessment Panel must prepare a draft assessment report and publish an exhibition notice. The exhibition notice must detail the start date for public viewing of relevant documents and information, the location for public access during the exhibition period, and a website for downloading the documents and information. The Panel must also distribute a copy of the notice to adjoining property owners. The exhibited documents and information include the application, documents from reviewing entities, any additional information from the applicant under section 54 of the Principal Act and in accordance with section 60AG, the draft assessment report, a draft permit if applicable, the date of a potential hearing (at least 10 days after the exhibition ends) under section 60AI, and a statement regarding the possibility of cancelling the hearing under section 60AJ.

New subsection (2) requires that an exhibition notice under subsection (1) must be published as prescribed in regulations.

New subsection (3) provides that the exhibition is to last for 14 days from the start date specified in the published notice, excluding any days when the exhibition premises are closed to the public during regular business hours.

New subsection (4) provides that during the exhibition period, individuals may submit comments and feedback to the Assessment Panel regarding the discretionary permit application.

60AI. Hearings in respect of applications

New subsection (1) provides that the Assessment Panel is required to hold a hearing for a discretionary permit application as indicated in the published information under section 60AH(1)(b), unless the hearing is cancelled under section 60AJ.

New subsection (2) provides that a hearing for a discretionary permit application must be open to all parties involved, each reviewing entity, and anyone who submitted a representation regarding the application.

New subsection (3) requires a hearing to be held within 28 days after the close of the exhibition period and before taking an action specified in section 60AL(1).

60AJ. Hearing may be cancelled in certain circumstances

New subsection (1) provides that the Assessment Panel may cancel a proposed hearing for a discretionary permit application if no reviewing entity requested a hearing be held and, during the exhibition period, either no representations were made or any representations made were in support of the application or indicated that the person did not wish to be heard at the hearing.

New subsection (2) provides that if a hearing for a discretionary permit application is cancelled, the Assessment Panel may direct the relevant planning authority to issue a permit based on the draft assessment report related to that application.

New subsection (3) provides that if the Assessment Panel cancels a hearing, it must provide written notice indicating that the hearing will not take place under section 60AI and that the relevant planning authority has been instructed to issue a permit for the application.

New subsection (4) provides that a written notice regarding the cancellation of a hearing for an application must be provided to all parties involved, each reviewing entity, and anyone who submitted a representation regarding the application.

New subsection (5) serves as an avoidance of doubt, clarifying that the Assessment Panel is not obligated to cancel a hearing.

60AK. Frivolous or vexatious representations

This new section provides that if the Assessment Panel believes that a representation made during the discretionary permit application's exhibition period is frivolous or vexatious, it must notify the person who made the representation as soon as practicable. This notification should include the Assessment Panel's opinion that the representation is frivolous or vexatious, along with the reasons for this conclusion. Such a representation will not be considered valid for the purposes of this Subdivision.

60AL. Determination of application by Assessment Panel

This new section outlines the process for the Assessment Panel making a decision on a discretionary permit application.

New subsection (1) provides that within 28 days after the exhibition period ends, the Assessment Panel must either refuse or approve the discretionary permit application. In either scenario, the decision must be communicated to all parties, reviewing entities, and individuals who made representations. If the application is approved, the Panel must direct the relevant planning authority to issue a permit.

New subsection (2) requires that an Assessment Panel, in making its decision under subsection (1), must:

- apply the provision of the relevant planning scheme as in effect on the day on which the applications was made;
- seek to further the objectives set out in Schedule 1 of the Principal Act;
- have regard to any advice provided by a reviewing entity under section 60AF; and
- take into consideration the:
 - matters prescribed as relevant to the development to which the application applies;
 - matters identified in the representations made on the application; and
 - submissions made at any hearing held under section 60AI;
- accept any relevant bushfire hazard management plan, or other prescribed management plan relating to environmental hazards or natural hazards, that has been certified as acceptable by an accredited person or a State Service Agency; and

- if the application relates to any land within Wellington Park, as defined in the *Wellington Park Act 1993*, take into account the standards, values and conditions set out in each management plan, within the meaning of that Act, as in force at the date of the application.

New subsection (3) provides that the Assessment Panel must not make a decision on an application under subsection (1) if, had the application been made to the planning authority under section 51 of the Principal Act, the planning authority would have not been able to make the same decision in respect of the application.

New subsection (4) provides that the Assessment Panel may request an extension from the Minister if additional time is needed beyond the period specified in subsection (1).

New subsection (5) provides that at the request of the Assessment Panel, the Minister may grant a single extension of up to 21 days to the period specified in subsection (1) if deemed reasonable.

New subsection (6) provides that subsections (4) and (5) do not apply to an Assessment Panel if both the Panel and the applicant mutually agree on an extension of the period specified in subsection (1) and its duration.

New subsection (7) provides that if an extension is granted under subsection (5) or agreed under subsection (6), the Assessment Panel must inform all parties involved, reviewing entities, and individuals who made representations, about the extension and its duration.

New subsection (8) provides that if a permit is granted, section 53 of the Principal Act applies to the permit as if a reference to the planning authority in that section is a reference to the Assessment Panel.

Subdivision 4 – Certain existing applications may be referred to Assessment Panel

This clause inserts new subdivision 4 and sections 60AM, 60AN, 60AO, 60AP, 60AQ and 60AR to provide definitions for terms used in this subdivision and that certain discretionary permit applications may be transferred to the Assessment Panel.

60AM. Interpretation of Subdivision

This clause provides definitions used in this Subdivision:

‘Permit application’, in relation to a transfer application, means the discretionary permit application that is the subject of either an application

to the Commission under section 60AN or a request to the Minister under section 60AO.

'Transfer application' means a request made to the Commission under section 60AN or to the Minister under section 60AO for a discretionary permit application to be determined by an Assessment Panel.

60AN. Certain permit applications may be transferred to Assessment Panel

New subsection (1) provides that a party involved in a permit application currently under review by the relevant planning authority may request the Commission to refer the application to an Assessment Panel if:

- by, or on behalf of, Homes Tasmania or a registered community housing provider and it relates to a development or subdivision that includes social or affordable housing;
- the development is valued over \$5,000,000 in a city or over \$2,000,000 in other areas, unless otherwise prescribed in the regulations;
- the council is both the applicant and the planning authority and the development valued over \$1,000,000; or
- if the application falls within a prescribed class for this section.

New subsection (2) provides that a transfer application may be made only by the applicant for the discretionary permit or by the relevant planning authority with the applicant's consent. The application must be in a form approved by the Commission and contain the prescribed information. It must be accompanied by a copy of the permit application and evidence that such application meets one or more of the specified requirements. If applicable, it should include any additional information provided by the applicant regarding the permit application under the Principal Act, a statement detailing the assessment process undertaken by the planning authority, and all correspondence between the applicant and the planning authority concerning the permit application.

New subsection (3) provides that a transfer application may not be made if it falls under section 25 of the *Environmental Management and Pollution Control Act 1994*.

New subsection (4) provides that the Commission may request additional information from the Board of the Environmental Protection Authority, defined by the *Environmental Management and Pollution Control Act 1994*, to determine if a permit application falls under subsection (3).

New subsection (5) provides that within 7 days of receiving a transfer application, the Commission may request additional information from either party to the permit application, return the application if it does not meet requirements or falls under section 25 of the *Environmental Management and Pollution Control Act 1994*, or notify the applicant of the Commission's determination regarding the permit application under section 60AQ.

60AO. Minister may refer certain existing permit applications to Commission

New subsection (1) provides that a party to a permit application being considered by a planning authority may request the Minister to direct the Commission to establish an Assessment Panel regarding the application if the development could be significant for its area or the State; if either party has concerns that the planning authority lacks the technical expertise to assess the application; if the development is likely to be controversial; or if there is a real or perceived conflict of interest or bias involving the planning authority. The request may also be made if the application falls within a prescribed class for this section.

New subsection (2) provides that a permit application subject to a request must include a statement explaining the reason for the request. It must be accompanied by a copy of the permit application and evidence that the application meets one or more of the specified requirements. If applicable, it should include any additional information provided by the applicant regarding the permit application under the Principal Act, a statement detailing the assessment process undertaken by the planning authority, and all correspondence between the applicant and the planning authority concerning the permit application.

New subsection (3) provides that if the Minister receives a request for a permit application from only one party, the Minister notifies the other party to the permit application, provides them with a copy of the documentation, and informs them of their right to respond to the request within 7 days after the Minister receives the request.

New subsection (4) provides that the Minister may refer a permit application to the Commission for the granting of a discretionary permit by

an Assessment Panel if, in the opinion of the Minister, it meets the requirements of subsection (1) and does not fall under section 25 of the *Environmental Management and Pollution Control Act 1994*.

New subsection (5) requires the Minister to consult with the relevant department that is responsible for administering the Principal Act before referring an application under subsection 4.

New subsection (6) provides that the Minister may refuse to refer a permit application to the Commission for any reason.

New subsection (7) provides that within 7 days of receiving a permit application referred by the Minister, the Commission may either return the application to the applicant if it falls under section 25 of the *Environmental Management and Pollution Control Act 1994* or does not meet any administrative or procedural requirement requirements, or notify the applicant of the Commission's determination regarding the permit application under section 60AQ.

60AP. Effect of application under this Subdivision

This new section provides that when a person submits a transfer application or request regarding a permit application, the relevant planning authority must halt its assessment, and all other assessments on the permit application must also cease until the transfer application or request is resolved. Additionally, all timeframes related to the permit application are paused until the transfer application or request is concluded.

60AQ. Commission may determine status of certain existing applications

New subsection (1) provides that if the Commission determines that an Assessment Panel can be established for a permit application under section 60AR, it must decide which provisions of Subdivision 3 apply to the permit application. The Commission may exclude a provision if the applicant has already met a similar requirement under this amended Act and may also set a different timeframe for any applicable provision in Subdivision 3.

New subsection (2) provides that before establishing an Assessment Panel for a permit application, the Commission must give the applicant written notice of each determination made under subsection (1) regarding applicable provisions and any specified timeframes for the permit application.

New subsection (3) provides that an applicant must notify the Commission in writing within 7 days of receiving the notice under subsection (2), indicating whether they agree or disagree with the determination.

New subsection (4) provides that if an applicant agrees with the Commission's determination, the Commission must send a copy of the notice from subsection (2) to the proponent and relevant planning authority and establish an Assessment Panel for the permit application under section 60AE and proceed with the assessment and determination of the application as outlined in the Commission's determination.

New subsection (5) provides that if an applicant disagrees with the Commission's determination or does not respond within the specified timeframe, the transfer application is considered withdrawn, and all paused assessments and timeframes for the permit application under section 60AP will resume.

New subsection (6) serves as an avoidance of doubt, confirming that a determination by the Commission regarding a permit application is final and cannot be appealed. The Commission or an Assessment Panel may amend the determination, and it may require the applicant to complete a process identical to or similar to one previously completed under another provision of the amended Act.

New subsection (7) provides that if the Assessment Panel amends a determination under subsection (6), it must provide the applicant with a written copy of the amended determination as if it were a notice under subsection (2).

60AR. Commission to establish Assessment Panel

New subsection (1) provides that the Commission must establish an Assessment Panel to assess a permit application if the applicant notifies agreement with the Commission's determination and the application does not fall under section 25 of the *Environmental Management and Pollution Control Act 1994*.

New subsection (2) provides that the Assessment Panel established under this section must assess and determine the permit application in accordance with the Commission's determination made under section 60AQ.

Subdivision 5 – Miscellaneous

This clause inserts new subdivision 5 and sections 60AS, 60AT, 60AU and 60AV to provide information on withdrawal applications, issued permits and fees.

60AS. Application may be withdrawn by applicant

New subsection (1) provides that an applicant can withdraw their application at any time before the Assessment Panel direct the relevant planning authority to issue a permit under section 60AJ(2) or 60AL(1)(b), by providing written notice to the Assessment Panel.

New subsection (2) provides that if an application is withdrawn, the Assessment Panel must notify each reviewing entity that received the application under section 60AF, and each person who made a representation regarding the application if it was exhibited under section 60AH.

60AT. Effect of issuing permit in respect of certain applications

New subsection (1) provides that when a relevant planning authority issues a permit as directed by an Assessment Panel under section 60AJ(2) or 60AL(1)(b), it must do so within 7 days of receiving the direction. The planning authority may only issue the permit as directed without imposing additional conditions, and the permit takes effect immediately or on a later date specified by the Assessment Panel. There is no right to appeal the permit on merit grounds, but the enforcement and minor amendment provisions of the amended Act still apply.

New subsection (2) provides that when a planning authority issues a permit directed by an Assessment Panel for a subdivision, as defined in the *Local Government (Building and Miscellaneous Provisions) Act 1993*, any references to the council in that Act should also be understood to refer the Assessment Panel concerning certain functions or powers.

60AU. Fees under this Division

New subsection (1) provides that the regulations may specify the fees associated with applications, matters, or assessments under this Division, as well as the maximum fees that may be payable and methods for calculating these fees.

	<p>New subsection (2) provides that this section does not limit or restrict the authority to create regulations under section 87 of the Principal Act related to this Division, including matters outlined in section 87(2)(b).</p> <p>New subsection (3) provides that the Commission may waive or reduce all or part of any fee required under this Division.</p> <p>New subsection (4) provides that a planning authority, or reviewing entity, may only charge a fee as prescribed for this Division.</p> <p>60AV. Review of Division</p> <p>New subsection (1) requires the Minister to causes a review of the operation of this Division to be carried out as soon as practicable after the 5 years since its commencement.</p> <p>New subsection (2) outlines that a review under subsection (1) may include, but is not limited to, the operation of any time period specified in this Division.</p> <p>New subsection (3) provides that the persons who carry out the review are to give the Minister a written report on the outcome of the review.</p> <p>New subsection (4) requires the Minister to tabled the report provided under subsection (3) in each House of Parliament within 10 sitting-days of that House after the report is received.</p>
	<p>PART 3 – HISTORIC CULTURAL HERITAGE ACT 1995 AMENDED</p>
Clause 10	<p>Principal Act</p> <p>This clause provides that in Part 3 of this amended Act, the term ‘Principal Act’ refers to the <i>Historic Cultural Heritage Act 1995</i>.</p>
Clause 11	<p>Section 33 substituted</p> <p>This clause repeals section 33 of the Principal Act, which currently states that the provisions of Part 6 of the Principal Act take precedence over any conflicting provisions in the <i>Land Use Planning and Approvals Act 1993</i>, as well as any associated planning schemes, special planning orders, or planning directives in effect.</p> <p>The section is substituted by moving the existing content as part of a new subsection (1) and introducing a new subsection (2) to include conditions applicable to subsection (1).</p>

33. Application of Planning Act to heritage works is subject to this Part

New subsection (1) provides that, subject to subsection (2), the provisions of Part 6 of the Principal Act take precedence over any conflicting provisions in the *Land Use Planning and Approvals Act 1993*, as well as any associated planning schemes, special planning orders, or planning directives in effect.

New subsection (2) provides that Part 6 of the Principal Act does not apply to permit applications that will be determined by an Assessment Panel under Division 2AA of Part 4 of the *Land Use Planning and Approvals Act 1993*, nor to heritage works carried out under a discretionary permit resulting from such permit applications.