

TASMANIA

**SULLIVANS COVE WATERFRONT
AUTHORITY BILL 2004**

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement
3. Interpretation
4. Sullivans Cove Planning Area
5. Act binds Crown
6. Objectives to be furthered

**PART 2 – SULLIVANS COVE WATERFRONT
AUTHORITY**

7. Establishment of Sullivans Cove Waterfront Authority
8. Membership of Authority
9. Functions of Authority
10. Powers of Authority
11. Making, widening, &c., of highways
12. Delegation by Authority
13. Design Panel
14. Committees
15. Responsibilities in planning area

16. Cooperation of management authorities
17. Agreements with other persons

PART 3 – STAFF OF AUTHORITY

18. Chief executive officer
19. Role of chief executive officer
20. Disclosure of interests
21. Staff of Authority

PART 4 – DEVELOPMENT PLANS

Division 1 – Form and content of development plans

22. Form of development plans
23. Development plan provisions
24. Use and development must comply with development plans
25. Authority may require preparation of a development plan before considering development
26. Use or development in development plans
27. Division 2A of Part 3 of the *Land Use Planning and Approvals Act 1993* does not apply

Division 2 – Procedures for making development plans

28. Preparation of draft development plans
29. Approval of draft development plans
30. Public exhibition of draft development plans
31. Representations in respect of draft development plans
32. Consideration by Commission of draft development plan and relevant representations
33. Report of Commission
34. Making of development plans
35. Amendment of development plans
36. Amendment of planning scheme to remove inconsistencies

**PART 5 – MATTERS TO BE TAKEN INTO
CONSIDERATION IN PLANNING SCHEMES AND
PERMITS**

- 37. New planning scheme for planning area
- 38. Amendment of planning scheme for planning area
- 39. Application for permit in planning area

PART 6 – MISCELLANEOUS

- 40. Amendments to Urban Design Framework
- 41. Notice to remove signs
- 42. Annual report
- 43. Regulations
- 44. Administration of Act
- 45. Savings and transitional
- 46. Expiry
- 47. Consequential amendments
- 48. Act repealed

SCHEDULE 1 – OBJECTIVES

SCHEDULE 2 – MEMBERSHIP OF AUTHORITY

SCHEDULE 3 – MEETINGS OF AUTHORITY

SCHEDULE 4 – DESIGN PANEL

**SCHEDULE 5 – SAVINGS AND TRANSITIONAL
PROVISIONS**

SCHEDULE 6 – CONSEQUENTIAL AMENDMENTS

SCHEDULE 7 – ACT REPEALED

SULLIVANS COVE WATERFRONT AUTHORITY BILL 2004

*(Brought in by the Premier, the Honourable Paul Anthony
Lennon)*

A BILL FOR

**An Act to provide for planning and development in
the Sullivans Cove Planning Area and for related
matters**

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

Short title

1. This Act may be cited as the *Sullivans Cove Waterfront
Authority Act 2004*.

Commencement

2. This Act commences on a day to be proclaimed.

Interpretation

3. (1) In this Act, unless the contrary intention appears –

“Authority” means the Sullivan's Cove Waterfront Authority established under section 7;

“chief executive officer” means the chief executive officer of the Authority appointed under section 18;

“Commission” means the Resource Planning and Development Commission established under the *Resource Planning and Development Commission Act 1997*;

“Design Panel” means the Sullivan's Cove Design Panel established under section 13;

“development plan” means a development plan made under section 34 which outlines a framework for future use or development within the planning area;

“planning area” means the Sullivan's Cove Planning Area specified in section 4;

“sign” has the same meaning as in the Sullivan's Cove Planning Scheme 1997;

“Urban Design Framework” means –

- (a) the document titled the Hobart Waterfront Urban Design Framework, May 2004 held in the office of the Authority; or
- (b) that document as amended under section 40.

(2) Unless the contrary intention appears, an expression used in this Act has the same meaning as it has in the *Land Use Planning and Approvals Act 1993*.

Sullivans Cove Planning Area

4. The Sullivans Cove Planning Area is the land, within the Sullivans Cove Planning Scheme 1997, as amended from time to time by the Authority with the agreement of the Hobart City Council.

Act binds Crown

5. This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

Objectives to be furthered

6. It is the duty of any person on whom a function is imposed or a power is conferred under this Act to perform the function or exercise the power in such a manner as to further the objectives specified in Schedule 1.

PART 2 – SULLIVANS COVE WATERFRONT AUTHORITY

Establishment of Sullivans Cove Waterfront Authority

7. (1) The Sullivans Cove Waterfront Authority is established.

(2) The Authority –

- (a) is a body corporate with perpetual succession;
and
- (b) has a seal; and
- (c) may sue and be sued in its corporate name.

(3) All courts and persons acting judicially must take judicial notice of the imprint of the seal on a document and presume that it was duly sealed.

Membership of Authority

8. (1) The Authority consists of 5 persons, appointed by the Minister, who collectively have skills and experience in business, urban design, architecture, heritage, conservation, arts, culture, planning and public administration –

- (a) of whom one is the chairperson; and
- (b) subject to subsection (2), of whom one is a person selected by the Minister from a list of names submitted to the Minister by the Hobart City Council; and

- (c) of whom one is the Head of a State Service Agency or a State Service officer or State Service employee.

(2) The list referred to in subsection (1)(b) is not to include a councillor, within the meaning of the *Local Government Act 1993*.

(3) The Hobart City Council is to submit the list of names referred to in subsection (1)(b) within a period specified by the Minister (being a period of not more than 2 months).

(4) If the Hobart City Council does not submit a list of names to the Minister, the Minister may nominate a person for the purpose of subsection (1)(b).

(5) Schedule 2 has effect with respect to membership of the Authority.

(6) Schedule 3 has effect with respect to meetings of the Authority.

Functions of Authority

9. The Authority has the following functions:

- (a) to identify and, where appropriate, maintain and enhance the cultural, historic, social and economic components of the planning area;
- (b) to facilitate the use or development of land and buildings in the planning area;
- (c) to assess and approve the use or development of land and buildings in the planning area;
- (d) such other functions as may be imposed on it by this Act or any other Act.

Powers of Authority

10. (1) The Authority has power to do all things necessary or convenient to be done in connection with the performance of its functions.

(2) For the purposes of the *Land Use Planning and Approvals Act 1993*, the Authority is the planning authority in respect of the planning area, and is the only person or body that may perform the functions and exercise the powers of a planning authority under that Act in that area.

(3) For the purposes of the *Building Act 2000*, the Authority has the same powers, functions and duties as a council under that Act in relation to the planning area and is the only person or body that may perform the functions and duties and exercise the powers of a council under that Act in that area.

Making, widening, &c., of highways

11. (1) Without limiting section 10(1), the Authority, as it considers necessary, in the planning area may –

- (a) make and open, widen or extend a highway under Division 1 of Part II of the *Local Government (Highways) Act 1982*; and
- (b) permanently close or divert a highway under Division 2 of Part II of the *Local Government (Highways) Act 1982*; and
- (c) temporarily close a highway under Division 3 of Part II of the *Local Government (Highways) Act 1982*; and

- (d) improve or light a highway, or light a public place, under Division 2 of Part III of the *Local Government (Highways) Act 1982* –

as if the Authority were a corporation under the *Local Government (Highways) Act 1982*.

(2) The powers of the Authority under subsection (1) extend to all local highways under the *Local Government (Highways) Act 1982* in the planning area including local highways maintainable by the Hobart City Council.

(3) Any works by the Authority involved in making and opening, widening, extending, diverting, closing, improving or lighting a highway under the *Local Government (Highways) Act 1982* are maintainable by the Hobart City Council.

(4) The Authority is not to exercise the powers or perform the functions of a corporation in subsection (1) without the agreement of the Hobart City Council.

(5) The Hobart City Council is not to exercise the powers or perform the functions of a corporation in subsection (1)(a), (b) or (d) in the planning area without the agreement of the Authority.

(6) If agreement under subsection (4) or (5) cannot be reached between the Authority and the Hobart City Council, the Minister is to determine the matter and such a determination is binding on the Authority and the Hobart City Council as if it were an agreement to which they were parties.

Delegation by Authority

12. The Authority may delegate any of its functions or powers under this Act other than this power of delegation.

Design Panel

13. (1) The Authority is to establish a panel to be called the Sullivans Cove Design Panel.

(2) The Design Panel consists of not more than 9 persons with skills and experience in one or more of the following:

- (a) planning;
- (b) urban design;
- (c) architecture;
- (d) heritage;
- (e) building construction;
- (f) engineering;
- (g) transport planning and traffic management;
- (h) any other relevant expertise.

(3) The members of the Design Panel are appointed by the Authority.

(4) A member of the Authority may be a member of the Design Panel.

(5) The Authority is required to obtain the advice of the Design Panel on any matter requiring expertise in the areas referred to in subsection (2) such as the making of development plans under Division 2 of Part 4.

(6) Schedule 4 has effect with respect to –

- (a) the membership of the Design Panel; and
- (b) the meetings of the Design Panel.

Committees

14. (1) The Authority may from time to time establish such committees as it considers necessary for the purpose of assisting it in the performance of any of its functions or the exercise of any of its powers or advising it on any matter relating to this Act.

(2) A committee comprises such persons as the Authority appoints.

(3) A member of the Authority may be a member of a committee.

(4) Subject to subsection (5), a member of a committee may be paid such remuneration and allowances as the Minister determines.

(5) A member of a committee who is a State Service officer or State Service employee is not entitled to remuneration under subsection (4) except with the approval of the Minister administering the *State Service Act 2000*.

(6) The Authority may give written directions to a committee and the committee must comply with those directions.

(7) A committee is to keep accurate minutes of its proceedings.

(8) Except as otherwise provided in this Act, a committee may regulate its own proceedings.

Responsibilities in planning area

15. Nothing in this Act affects any responsibilities or obligations of the Hobart City Council and the Hobart Ports Corporation to provide services or maintain facilities

within the planning area under the Council's or the Corporation's jurisdiction.

Cooperation of management authorities

16. (1) The Hobart City Council and the Hobart Ports Corporation, in consultation with the Authority, are to coordinate matters in relation to land under the jurisdiction of the Council or the Corporation in the planning area, including –

- (a) the promotion, organisation and conduct of events; and
- (b) the construction, establishment, maintenance and operation of public facilities; and
- (c) the carrying out of works; and
- (d) improvements to the pedestrian and road network.

(2) The Hobart City Council, if requested to do so by the Authority, is to make available to the Authority any records relating to planning and building matters in the planning area.

Agreements with other persons

17. The Authority may enter into agreements with the Hobart City Council and the Hobart Ports Corporation to assist those bodies in coordinating and undertaking any matters referred to in section 16.

PART 3 – STAFF OF AUTHORITY

Chief executive officer

18. (1) The Minister may appoint a person, other than a member of the Authority, as chief executive officer of the Authority.

(2) The chief executive officer is entitled to be paid the remuneration and allowances specified in his or her instrument of appointment.

(3) The chief executive officer holds office for a term of not more than 5 years on the terms and conditions specified in his or her instrument of appointment and may be reappointed.

Role of chief executive officer

19. (1) The chief executive officer is responsible for the general administration and management of the Authority.

(2) The chief executive officer –

- (a)** is to perform any functions, and may exercise any powers, delegated to the chief executive officer by the Authority; and
- (b)** is to perform any other functions imposed on, and may exercise any other powers conferred on, the chief executive officer by this or any other Act.

(3) For the purposes of the *Building Act 2000*, the chief executive officer has the same powers, functions and duties as a general manager or a permit authority in relation to the planning area and is the only person that may perform the functions and duties and exercise the

powers of a general manager or a permit authority under that Act in that area.

(4) The chief executive officer may delegate any powers, functions or duties vested in the chief executive officer under subsection (3) other than this power of delegation.

Disclosure of interests

20. The chief executive officer must inform the Authority, in writing, of any direct or indirect pecuniary interest that he or she has in any business or body corporate that carries on a business as soon as practicable after he or she acquires, or becomes aware of, that interest.

Staff of Authority

21. The Authority may make arrangements with the Secretary of the Department for such State Service officers and State Service employees as the Authority considers necessary to be made available to the Authority to enable it to perform its functions and exercise its powers.

PART 4 – DEVELOPMENT PLANS

Division 1 – Form and content of development plans

Form of development plans

22. Subject to this Act and the regulations, a development plan or a draft development plan is to be in such form as the Minister may direct.

Development plan provisions

23. (1) A development plan for an area –

- (a) must seek to further the objectives set out in Schedule 1; and
- (b) must be prepared in accordance with State Policies made under section 11 of the *State Policies and Projects Act 1993*; and
- (c) must have regard to the Urban Design Framework and good urban design including relationships between new and existing developments; and
- (d) must further the intent of the planning scheme relating to the planning area; and
- (e) may make any provision which relates to the use, development, protection or conservation of any land in the planning area; and
- (f) must specify the land to which the development plan applies.

(2) Without limiting subsection (1), a development plan can –

- (a) regulate or prohibit the use or development of land; and
- (b) set out requirements for the provision of public utility services to land; and
- (c) designate requirements for or treatment of public space; and
- (d) designate the form and appearance of buildings; and
- (e) set out provisions relating to the implementation in stages of uses or developments of land; and
- (f) designate requirements for improvements to pedestrian and road networks; and
- (g) require specified things to be done to the satisfaction of the Authority.

Use and development must comply with development plans

24. (1) A use or development of land subject to a development plan must comply with the provisions of the development plan and the planning scheme relating to the planning area.

(2) If there is an inconsistency between a provision of a development plan and the planning scheme relating to the planning area, the provision of the development plan prevails.

Authority may require preparation of a development plan before considering development

25. Notwithstanding anything contained in the planning scheme relating to the planning area or the *Land Use Planning and Approvals Act 1993*, the Authority may defer consideration of an application for a permit under section 43A or section 51 of the *Land Use Planning and Approvals Act 1993* until a development plan is made under section 34.

Use or development in development plans

26. (1) A use or development of land referred to in a development plan as a discretionary use or development is a use or development under section 57 of the *Land Use Planning and Approvals Act 1993*.

(2) A use or development of land referred to in a development plan as a permitted use or development is a use or development under section 58 of the *Land Use Planning and Approvals Act 1993*.

(3) A use or development of land referred to in a development plan as a prohibited use or development is a use or development that, if applied for, the Authority must refuse.

Division 2A of Part 3 of the *Land Use Planning and Approvals Act 1993* does not apply

27. Division 2A of Part 3 of the *Land Use Planning and Approvals Act 1993* does not apply to land subject to a development plan.

Division 2 – Procedures for making development plans

Preparation of draft development plans

28. (1) The Authority may prepare a draft development plan in relation to the planning area or any part of the planning area.

(2) Upon completion of the preparation of a draft development plan under subsection (1), the Authority is to provide a copy of the plan to the Minister.

Approval of draft development plans

29. (1) The Minister may –

- (a) approve a draft development plan –
 - (i) in the form in which it has been submitted to the Minister; or
 - (ii) in that form, together with such variations as the Minister may specify in the approval; or
- (b) refuse to approve the draft development plan.

(2) If the Minister refuses to approve the draft development plan, the Minister must publish in the *Gazette* the reasons for refusal.

Public exhibition of draft development plans

30. Where the Minister approves a draft development plan under section 29, the Authority must –

- (a) place a copy of the draft development plan on public exhibition for a period of 2 months; and
- (b) advertise, as prescribed, the exhibition of the draft development plan.

Representations in respect of draft development plans

31. (1) Where a draft development plan is placed on public exhibition by the Authority in accordance with section 30, representations in relation to that draft development plan may be submitted to the Authority by any person before the expiration of the exhibition period referred to in section 30(a).

(2) The Authority must, not later than the expiration of 3 months after the exhibition period referred to in section 30 or such further period as the Minister allows, forward to the Commission a report comprising –

- (a) a copy of the draft development plan; and
- (b) a copy of each representation received by the Authority in relation to the draft development plan; and
- (c) a statement of its opinion as to the merit of each such representation, including, in particular, its views as to –
 - (i) the need for modification of the draft development plan in the light of that representation; and
 - (ii) the impact of that representation on the draft development plan as a whole; and

- (d) such recommendations in relation to the draft development plan as the Authority considers necessary.

(3) If there are no representations received by the Authority in the exhibition period referred to in section 30(a), the Authority must forward to the Commission a report comprising advice to this effect, a copy of the draft development plan and such recommendations in relation to the draft development plan as the Authority considers necessary.

Consideration by Commission of draft development plan and relevant representations

32. (1) The Commission must consider the draft development plan and any representations, statements and recommendations contained in a report of the Authority forwarded under section 31(2) or (3).

(2) Within 21 days of receipt of a report of the Authority forwarded under section 31(2) or (3), or within any further period the Minister allows, the Commission is to decide whether or not to hold a hearing to assist in preparing its report under section 33.

(3) If the Commission decides to hold a hearing, the Commission is to notify the Minister of that decision.

(4) If the Commission decides not to hold a hearing, the Commission, within 14 days of making that decision, is to give written notice of that decision to –

- (a) the Authority; and
- (b) the Minister; and
- (c) any person who has submitted a representation under section 31(1).

(5) A hearing is to be conducted in accordance with Part 3 of the *Resource Planning and Development Commission Act 1997*.

Report of Commission

33. (1) The Commission, within 3 months after the submission of a report of the Authority under section 31(2) or (3), or such further period as the Minister allows, is to provide the Minister with –

- (a) a report of its consideration under section 32 including any recommendations in relation to the draft development plan; and
- (b) a copy of the report of the Authority forwarded under section 31(2) or (3).

(2) As soon as practicable after the period referred to in subsection (1), the Commission is to publish in the *Gazette* notice of –

- (a) the making of its report; and
- (b) where copies of its report are available for inspection by the public.

Making of development plans

34. (1) After considering a report prepared by the Commission under section 33(1), the Minister may –

- (a) make a development plan in accordance with the draft development plan, subject to any recommended modifications in that report being made to the draft development plan to the satisfaction of the Commission; or

(b) refuse to make a development plan.

(2) If the Minister makes a development plan –

(a) the plan must be signed by the Minister; and

(b) the Minister must advise the Authority of the Minister's making of the plan; and

(c) the Authority must give notice of the Minister's making of the plan as prescribed.

(3) If the Minister refuses to make a development plan, the Minister must publish in the *Gazette* the reasons for refusal.

(4) Notwithstanding any failure to comply with a procedural provision of this Part, a development plan comes into operation on the date on which it is signed.

(5) When a development plan comes into operation, any existing development plan covering the area to which the new development plan applies does not apply to that area.

(6) A copy of a development plan is to be available for public inspection, without charge, at the office of the Authority during office hours.

Amendment of development plans

35. (1) A development plan may be amended or repealed, in whole or in part, by a subsequent development plan.

(2) Notwithstanding subsection (1), the Minister may amend a development plan on the advice of the Commission if the Minister is satisfied the public interest will not be prejudiced and the amendment is for –

- (a) the correction of any error in the development plan; or
- (b) the removal of any anomaly in the development plan.

Amendment of planning scheme to remove inconsistencies

36. (1) As soon as practicable after the making of a development plan under section 34(1), the Commission must, in consultation with the Authority, amend the planning scheme relating to the planning area to remove any inconsistency between the planning scheme and the development plan.

(2) The *Land Use Planning and Approvals Act 1993* does not apply to an amendment made under subsection (1).

(3) Where the Commission amends the planning scheme under subsection (1) –

- (a) the amendment is taken to have come into operation on the date on which the development plan was made; and
- (b) the Commission must give notice, as prescribed, of the amendment.

**PART 5 – MATTERS TO BE TAKEN INTO
CONSIDERATION IN PLANNING SCHEMES AND
PERMITS**

New planning scheme for planning area

37. In relation to a new planning scheme for the planning area, the scheme, in addition to the matters specified in section 20 of the *Land Use Planning and Approvals Act 1993*, must have regard to the Urban Design Framework.

Amendment of planning scheme for planning area

38. In relation to the amendment of a planning scheme for the planning area, the amendment, in addition to the matters specified in section 32 of the *Land Use Planning and Approvals Act 1993*, must have regard to the Urban Design Framework.

Application for permit in planning area

39. In relation to determining an application for a permit in the planning area, the Authority, in addition to the matters specified in section 43C or section 51(2) of the *Land Use Planning and Approvals Act 1993*, must take into consideration the Urban Design Framework.

PART 6 – MISCELLANEOUS**Amendments to Urban Design Framework**

40. (1) If the Authority wishes to amend the Urban Design Framework, the Authority must –

- (a) place a copy of the draft amended Urban Design Framework on public exhibition for a period of 28 days; and
- (b) advertise, as prescribed, the exhibition of the draft amended Urban Design Framework.

(2) Where the draft amended Urban Design Framework is placed on public exhibition by the Authority in accordance with subsection (1), comments in relation to the draft amended Urban Design Framework may be submitted to the Authority by a person before the expiration of the exhibition period referred to in subsection (1)(a).

(3) The Authority must forward a report to the Minister comprising –

- (a) a copy of the draft amended Urban Design Framework; and
- (b) a copy of any comments received by the Authority in relation to the draft amended Urban Design Framework; and
- (c) such comments or recommendations in relation to the draft amended Urban Design Framework as the Authority considers necessary.

(4) After the Minister has considered the report of the Authority forwarded to the Minister under subsection (3), the Minister may recommend to the

Governor that the Urban Design Framework be amended in accordance with the draft amended Urban Design Framework.

(5) The Governor may by order amend the Urban Design Framework in accordance with the draft amended Urban Design Framework.

Notice to remove signs

41. (1) If a person is erecting or placing or has erected or placed a sign within the planning area without the issue of a permit under the planning scheme relating to the planning area, the Authority may do one or more of the following:

- (a) by written notice given to the person, require the person to cease erecting or placing the sign;
- (b) by written notice given to the person, require the person to remove the sign or that part of the sign that has been erected or placed;
- (c) by written notice given to the person, require the person to take all action necessary to restore the land to the condition it was in before the person erected or placed, or started erecting or placing, the sign;
- (d) take all action necessary to remove the sign or that part of the sign that has been erected or placed and restore the land to the condition it was in before the person erected or placed, or started erecting or placing, the sign.

(2) If the Authority takes any action under subsection (1)(d), the Authority, by written notice given to the person who is erecting or placing or has erected or

placed a sign in the planning area, may require the person to pay the reasonable costs of that action, and those costs –

- (a) are a debt due and payable to the Crown; and
- (b) may be recovered in a court of competent jurisdiction.

(3) If the Authority takes any action under subsection (1)(d), the Authority is not liable for any damages caused to the sign through the removal of the sign or the storage of the sign on its removal.

Annual report

42. (1) The Authority is to give the Minister an annual report in respect of each financial year.

(2) The annual report is to include –

- (a) a report on the performance and exercise of the Authority's functions and powers; and
- (b) the financial statements of the Authority; and
- (c) the Auditor-General's report on those financial statements; and
- (d) any information that the Minister requires, by written notice provided to the Authority, to be included; and
- (e) any other information that the Authority considers appropriate to be included.

(3) The financial statements included in the annual report are to –

- (a) be prepared and certified as specified in a direction given under subsection (4); and
- (b) present fairly –
 - (i) the financial transactions of the Authority during the financial year to which the report relates; and
 - (ii) the state of affairs of the Authority at the end of that financial year; and
- (c) be given to the Auditor-General not later than 15 August after the end of the financial year to which the report relates.
- (d) comply with any other direction given under subsection (4).

(4) The Treasurer may give written directions to the Authority in respect of the form, contents, preparation, certification and provision of its financial statements.

(5) Directions under subsection (4) may adopt, either wholly or in part, with or without modification and either specifically or by reference, any of the Treasurer's Instructions under the *Financial Management and Audit Act 1990*.

(6) The annual report may be appended to the annual report of the Department.

(7) Subsection (2) has effect notwithstanding section 36(3) of the *State Service Act 2000* or section 27(2) of the *Financial Management and Audit Act 1990*.

(8) If the Authority's annual report is not appended to the annual report of the Department, the Minister is to cause the Authority's annual report to be laid before each House of Parliament by not later than 31 October after the end of the financial year to which it relates.

(9) If the Minister is unable to cause a copy of the annual report to be laid before a House of Parliament by the date specified in subsection (8) because that House is not sitting on that day, the Minister is to –

- (a) cause a copy of the annual report to be forwarded to the Clerk of that House of Parliament immediately after that day; and
- (b) cause a copy of the annual report to be laid before that House within the next 7 sitting-days of that House.

Regulations

43. (1) The Governor may make regulations for the purposes of this Act.

(2) Without limiting subsection (1), the regulations may provide for fees payable in respect of any matter under this Act.

(3) The regulations may be made so as to apply differently according to such factors as are specified in the regulations.

(4) The regulations may authorise any matter to be from time to time determined, applied or regulated by any person or body specified in the regulations.

Administration of Act

44. 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 Premier; and

- (b) the department responsible to the Premier in relation to the administration of this Act is the Department of Primary Industries, Water and Environment.

Savings and transitional

45. Schedule 5 has effect with respect to savings and transitional provisions.

Expiry

46. This Act expires 10 years after it commences (inclusive of the day on which it commences).

Consequential amendments

47. The legislation specified in Schedule 6 is amended as specified in that Schedule.

Act repealed

48. The Act specified in Schedule 7 is repealed.

SCHEDULE 1 – OBJECTIVES

Section 6 and section 23(1)(a)

**PART 1 – OBJECTIVES OF THE RESOURCE MANAGEMENT
AND PLANNING SYSTEM OF TASMANIA**

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 set out 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 the State.

2. In item 1(a) –

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

**PART 2 – OBJECTIVES OF THE PLANNING PROCESS
ESTABLISHED BY THIS ACT**

The objectives of the planning process established by this Act are, in support of the objectives set out in Part 1 of this Schedule –

- (a) to require sound strategic planning and co-ordinated action by State and local government; and
- (b) to establish a system of planning instruments to be the principal way of setting objectives, policies and controls for the use, development and protection of land; and
- (c) to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land; and
- (d) to require land use and development planning and policy to be easily integrated with environmental, social, economic, conservation

and resource management policies at State, regional and municipal levels; and

- (e) to provide for the consolidation of approvals for land use or development and related matters, and to co-ordinate planning approvals with related approvals; and
- (f) to secure a pleasant, efficient and safe working, living and recreational environment for all Tasmanians and visitors to Tasmania; and
- (g) to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value; and
- (h) to protect public infrastructure and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community; and
- (i) to provide a planning framework which fully considers land capability.

SCHEDULE 2 – MEMBERSHIP OF AUTHORITY

Section 8(5)

Interpretation

1. In this Schedule –

“**member**” means a member of the Authority.

Term of office

2. A member is appointed for such period, not exceeding 3 years, as is specified in the member’s instrument of appointment and, if eligible, may be reappointed.

Holding other office

3. The holder of an office who is required by the terms of his or her employment to devote the whole of his or her time to the duties of that office is not disqualified from –

- (a) holding that office and also the office of a member; or
- (b) accepting any remuneration payable to a member.

State Service Act 2000

4. (1) The *State Service Act 2000* does not apply in relation to a member in his or her capacity as a member.

(2) A person may hold the office of member in conjunction with State Service employment.

Remuneration and conditions of appointment

5. (1) A member is entitled to be paid such remuneration and allowances as the Minister determines.

(2) A member who is a State Service officer or State Service employee is not entitled to remuneration or allowances under this clause except with the approval of the Minister administering the *State Service Act 2000*.

(3) A member holds office on such conditions in relation to matters not provided for by this Act as are specified in the member's instrument of appointment.

Vacation of office

6. (1) A member vacates office if he or she –

- (a) dies; or
- (b) resigns by written notice given to the Minister; or
- (c) is removed from office pursuant to subclause (2) or (3).

(2) The Minister may remove a member from office if the member –

- (a) is absent from 2 consecutive meetings of the Authority without the permission of the Authority; or
- (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration or estate for their benefit; or

- (c) is convicted, in Tasmania or elsewhere, of a crime or an offence punishable by imprisonment for a term of 12 months or longer or a fine of 300 penalty units or more; or
- (d) fails to disclose a pecuniary interest as required under clause 8 of Schedule 3.

(3) The Minister may remove a member from office if satisfied that the member is unable to perform adequately or competently the duties of office.

Filling of vacancies

7. If the office of a member becomes vacant, the Minister may appoint a person to the vacant office for the remainder of the member's term of office if the Minister is satisfied that the person has the skills and experience necessary to enable the Authority to perform its functions.

Validation of proceedings, &c.

8. (1) An act or proceeding of the Authority or of a person acting under a direction of the Authority is not invalidated by reason only that at the time when the act or proceeding was done, taken or commenced there was a vacancy in the office of a member.

(2) All acts and proceedings of the Authority or of a person acting under a direction of the Authority are, despite the subsequent discovery of a defect in the appointment of a member or that any other person was disqualified from acting as, or incapable of being, a member, as valid as if the member had been duly appointed and was qualified to act as, or capable of being,

a member, and as if the Authority had been fully constituted.

Presumptions

9. In any proceeding by or against the Authority, unless evidence is given to the contrary, proof is not required of –

- (a) the constitution of the Authority; or
- (b) the appointment of any member.

SCHEDULE 3 – MEETINGS OF AUTHORITY

Section 8(6)

Interpretation**1.** In this Schedule –

“**member**” means a member of the Authority.

Convening of meetings**2. (1)** The chairperson of the Authority, after giving each member reasonable notice of a meeting –

- (a) may convene a meeting at any time; and
- (b) must convene a meeting when requested to do so by 2 or more other members.

(2) If the chairperson of the Authority is absent from duty or otherwise unable to perform the duties of the office, a meeting may be convened, after reasonable notice of the meeting has been given, by –

- (a) two or more other members; or
- (b) a person authorised by the Authority to do so.

(3) For the purposes of subclauses (1) and (2), what constitutes reasonable notice is to be determined by the Authority.

Presiding at meetings**3. (1)** The chairperson of the Authority is to preside at all meetings of the Authority at which he or she is present.

(2) If the chairperson is not present at a meeting of the Authority, a member elected by the members present at the meeting is to preside.

Quorum and voting at meetings

4. (1) At a meeting of the Authority, a quorum is constituted by a majority of the total number of members appointed.

(2) A meeting of the Authority at which a quorum is present is competent to transact any business of the Authority.

(3) At a meeting of the Authority –

- (a) the member presiding has a deliberative vote only; and
- (b) a question is decided –
 - (i) by a majority of votes of the members present and voting; or
 - (ii) in the negative if there is an equality of votes of the members present and voting.

(4) At a meeting of the Authority where a member is excluded from being present and taking part in the consideration and decision of the Authority in relation to a matter, a quorum for the purposes of considering and making a decision in relation to the matter is constituted by the number of members specified as constituting a quorum in subclause (1) less the number of members so excluded.

Conduct of meetings

5. (1) Subject to this Act, the Authority may regulate the calling of, and the conduct of business at, its meetings as it considers appropriate.

(2) The Authority may permit members to participate in a particular meeting or all meetings by –

- (a) telephone; or
- (b) video conference; or
- (c) any other means of communication approved by the Authority.

(3) A member who participates in a meeting under a permission granted under subclause (2) is taken to be present at the meeting.

(4) Without limiting subclause (1), the Authority may allow a person to attend a meeting for the purpose of advising or informing it on any matter.

Resolutions without meetings

6. (1) If all members appointed sign a document containing a statement that they are in favour of a resolution in the terms set out in the document, a resolution in those terms is taken to have been passed at a meeting of the Authority held on the day on which the document is signed or, if the members do not sign it on the same day, on the day on which the last of the members signs the document.

(2) If a resolution is taken to have been passed under subclause (1), each member is to be –

- (a) advised immediately of the matter; and

(b) given a copy of the terms of the resolution.

(3) For the purposes of subclause (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by one or more members, is taken to constitute one document.

Minutes

7. The Authority is to keep accurate minutes of its meetings.

Disclosure of interests

8. (1) If a member has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the Authority, the member must, as soon as practicable after the relevant facts come to the member's knowledge, disclose the nature of the interest to the Authority.

Penalty: Fine not exceeding 100 penalty units or a term of imprisonment not exceeding 3 months, or both.

(2) A disclosure under subclause (1) is to be recorded in the minutes of the Authority and, unless the Authority otherwise determines, the member who has made the disclosure must not –

- (a) be present during any deliberation of the Authority in relation to the matter; or
- (b) take part in any decision of the Authority in relation to the matter.

(3) For the purpose of making a determination under subclause (2), the member to whom the determination relates must not –

- (a) be present during any deliberation of the Authority for the purpose of making the determination; or
- (b) take part in making the determination.

(4) Subclause (1) does not apply –

- (a) in respect of a contract for services supplied by the Authority if those services are ordinarily supplied by the Authority and are supplied on the same terms as they are ordinarily supplied to other persons in the same situation; or
- (b) in respect of an interest that arises only because the member is also a State Service officer or State Service employee.

General procedure

9. Except as provided by this Act, the Authority may regulate its own proceedings.

Presumptions

10. In any proceeding by or against the Authority, unless evidence is given to the contrary, proof is not required of –

- (a) any resolution of the Authority; and
- (b) the presence of a quorum at any meeting of the Authority.

SCHEDULE 4 – DESIGN PANEL

Section 13(6)

Conditions of appointment

1. (1) A member of the Design Panel is entitled to be paid such remuneration and allowances as the Minister determines.

(2) A member of the Design Panel holds that office for the term, and on the conditions, determined by the Authority.

(3) A member of the Design Panel who is a State Service officer or State Service employee is not entitled to remuneration or allowances under this clause except with the approval of the Minister administering the *State Service Act 2000*.

Vacation of office

2. (1) A member of the Design Panel vacates office if he or she –

- (a) dies; or
- (b) resigns by written notice given to the Minister; or
- (c) is removed from office pursuant to subclause (2) or (3).

(2) The Authority may remove a member of the Design Panel from office if the member –

- (a) is convicted, in Tasmania or elsewhere, of a crime or an offence punishable by imprisonment for a term of 12 months or

longer or a fine of 300 penalty units or more;
or

- (b) fails to disclose a pecuniary interest as required under clause 5.

(3) The Authority may remove a member of the Design Panel from office if satisfied that the member is unable to perform adequately or competently the duties of office.

Filling of vacancies

3. If the office of a member of the Design Panel becomes vacant, the Authority may appoint a person to the vacant office for the remainder of that member's term of office if the Authority is satisfied that the person has the skills and experience necessary to enable the Design Panel to perform its functions.

Meetings

4. (1) Meetings of the Design Panel are to be held in accordance with any directions given by the Authority.

(2) If a member of the Authority is a member of the Design Panel, that member is to preside at all meetings of the Design Panel at which he or she is present.

(3) If no member of the Authority is a member of the Design Panel, the chief executive officer is to preside at all meetings of the Design Panel at which he or she is present.

(4) The Design Panel may obtain assistance, information and advice from any person.

(5) The Design Panel is to keep accurate minutes of its proceedings.

(6) Except as provided by this Schedule, the Design Panel may regulate the calling of, and the conduct of business at, its meetings.

Disclosure of interests

5. (1) If a member of the Design Panel has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the Design Panel, the member, as soon as practicable after the relevant facts come to the member's knowledge, must disclose the nature of the interest to a meeting of the Design Panel.

Penalty: Fine not exceeding 100 penalty units or a term of imprisonment not exceeding 3 months, or both.

(2) A disclosure under subclause (1) is to be recorded in the minutes of the meeting and, unless the Design Panel otherwise determines, the member who has made the disclosure must not –

- (a) be present during any deliberation of the Design Panel in relation to the matter; or
- (b) take part in any decision of the Design Panel in relation to the matter.

(3) For the purpose of making a determination under subclause (2), the member of the Design Panel to whom the determination relates must not –

- (a) be present during any deliberation of the Design Panel for the purpose of making the determination; or
- (b) take part in making the determination.

sch. 4

No.

Sullivans Cove Waterfront Authority

2004

(4) Subclause (1) does not apply in respect of an interest that arises only because the member of the Design Panel is also a State Service officer or State Service employee.

SCHEDULE 5 – SAVINGS AND TRANSITIONAL PROVISIONS

Section 45

Interpretation

1. In this Schedule –

“planning authority” means the Hobart City Council.

Provisions relating to applications for permits

2. (1) On the commencement of this Act, an application for a permit under the planning scheme which the planning authority has not granted or has refused to grant is taken to be an application to the Authority.

(2) The planning authority must, not later than 14 days after the commencement of this Act, supply the Authority with any application referred to in subclause (1) and any associated documents.

(3) The period specified in section 57(6)(b) or section 58(2) of the *Land Use Planning and Approvals Act 1993* commences on the day on which the Authority receives the application referred to in subclause (1) from the planning authority.

Provisions relating to planning approvals

3. (1) On the commencement of this Act, if an appeal has been lodged under Division 3 of Part 4 of the *Land Use Planning and Approvals Act 1993* against a decision of the planning authority, the appeal is to be dealt with as if this Act had not been enacted.

(2) On and from the commencement of this Act, if a person has a right of appeal under Division 3 of Part 4 of the *Land Use Planning and Approvals Act 1993* against a decision of the planning authority, that right continues as if this Act had not been enacted.

Provisions relating to planning scheme amendments

4. On the commencement of this Act, if the Commission has received a report under section 39 of the *Land Use Planning and Approvals Act 1993* from the planning authority, the consideration by the Commission under section 40 of that Act continues as if this Act had not been enacted.

Proceedings under section 63 of the *Land Use Planning and Approvals Act 1993*

5. On the commencement of this Act, any proceedings already commenced by the planning authority against a person for a contravention under section 63 of the *Land Use Planning and Approvals Act 1993* continue as if this Act had not been enacted.

Proceedings under section 63A of the *Land Use Planning and Approvals Act 1993*

6. On the commencement of this Act, any proceedings already commenced against the planning authority under section 63A of the *Land Use Planning and Approvals Act 1993* continue as if this Act had not been enacted.

Proceedings under section 64 of the *Land Use Planning and Approvals Act 1993*

7. On the commencement of this Act, any proceedings already commenced by the planning authority to seek an order under section 64 of the *Land Use Planning and Approvals Act 1993* continue as if this Act had not been enacted.

Applications, permits, consents, certificates, approvals or authorisations under *Building Act 2000*

8. This Act does not apply to any application, permit, consent, certificate, approval or authorisation made, granted or in force under the *Building Act 2000* before commencement of this Act.

Notices, orders or proceedings under *Building Act 2000*

9. This Act does not apply to any notice, order or proceedings made, issued or instituted under the *Building Act 2000* before commencement of this Act.

Appeals or applications under *Building Act 2000*

10. This Act does not apply to any appeal or application to the Building Appeal Board made under the *Building Act 2000* before commencement of this Act.

sch. 6

No.

Sullivans Cove Waterfront Authority

2004

SCHEDULE 6 – CONSEQUENTIAL AMENDMENTS

Section 47

Building Act 2000

1. Section 5 is amended by inserting “, except the *Sullivans Cove Waterfront Authority Act 2004*,” after “under any other Act”.

2004	<i>Sullivans Cove Waterfront Authority</i>	No.	sch. 7
------	--	-----	---------------

SCHEDULE 7 – ACT REPEALED

Section 48

Sullivans Cove Planning Act 1995 (No. 101 of 1995)