

TASMANIA

**LAND USE PLANNING AND APPROVALS
AMENDMENT (STATE AND REGIONAL
STRATEGIES) BILL 2009**

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**LAND USE PLANNING AND APPROVALS
AMENDMENT (STATE AND REGIONAL
STRATEGIES) BILL 2009**

*(Brought in by the Minister for Planning, the Honourable
David Edward Llewellyn)*

A BILL FOR

An Act to amend the *Land Use Planning and Approvals Act 1993*

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:

1. Short title

This Act may be cited as the *Land Use Planning and Approvals Amendment (State and Regional Strategies) Act 2009*.

2. Commencement

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

THIS BILL IS COGNATE WITH THE *RESOURCE PLANNING AND DEVELOPMENT COMMISSION AMENDMENT BILL 2009*

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3. Principal Act

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

4. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended as follows:

- (a) by omitting the definition of “Commission” and substituting the following definition:

“**Commission**” means the Tasmanian Planning Commission established under the *Tasmanian Planning Commission Act 1997*;

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

“**interim planning scheme**” means an interim planning scheme, declared under section 30F, that is in force;

- (c) by omitting the definition of “planning scheme” and substituting the following definitions:

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“planning directive” means a planning directive issued under section 13;

“planning scheme” means –

(a) a planning scheme in force under section 29; and

(b) an interim planning scheme; and

(c) a planning scheme made under section 30N that is in force;

“regional area” means an area specified in a notice under section 30C to be a regional area;

“Regional Corporation” has the same meaning as in the *Water and Sewerage Corporations Act 2008*;

“regional land use strategy”, in relation to a regional area, means the regional land use strategy declared under section 30C(3) in relation to the area;

(d) by omitting the definition of “representation” and substituting the following definitions:

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“representation”, in relation to –

- (a) a draft planning scheme, an interim planning scheme or a draft amendment of a planning scheme; or
- (b) an application for a permit or dispensation; or
- (c) a project in respect of which a special permit may be granted –

includes a written statement of facts or reasons in support of or in opposition to the scheme, amendment, application or project;

“special permit” means a permit that is granted under section 60T and that is in force;

5. Section 20 amended (What can a planning scheme provide for?)

Section 20(3)(f)(ii) of the Principal Act is amended by inserting “or special permit” after “permit”.

6. Part 3, Division 1A inserted

After section 30 of the Principal Act, the following Division is inserted in Part 3:

***Division 1A – Regional land use strategies and interim
planning schemes***

30A. Purposes of Division

The purposes of this Division are –

- (a) to ensure greater consistency between planning schemes within regional areas; and
- (b) to ensure greater consistency between planning schemes across the State as a whole.

30B. Interpretation: Division 1A

In this Division, unless the contrary intention appears –

“common provision” means a provision, of an interim planning scheme or of a planning scheme made under section 30N, that is –

- (a) a mandatory common provision; or
- (b) an optional common provision;

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“dispensation” means a dispensation granted under section 30R;

“local provision” means a provision, of an interim planning scheme or of a planning scheme made under section 30N, that is not a common provision, and includes a zoning of a particular area of land;

“mandatory common provision” means a provision that –

(a) is specified in a planning directive; and

(b) is specified in that directive to be a provision that a planning scheme that is made after the directive comes into force must contain;

“optional common provision” means a provision that –

(a) is specified in a planning directive; and

(b) is specified in that directive to be a provision that a planning scheme that is made after the directive comes into force

may, but is not required
to, contain.

30C. Regional areas and regional land use strategies

- (1) The Minister, by notice in the *Gazette*, may specify the regional areas into which the State is divided for the purposes of this Act.
- (2) A notice under subsection (1) is to specify the municipal areas that are within a regional area specified in the notice.
- (3) The Minister, by notice in the *Gazette*, may declare a regional land use strategy for each regional area.

30D. Interim planning schemes to be provided to Minister

- (1) A planning authority may provide to the Minister a draft interim planning scheme for the authority's municipal area.
- (2) The Minister, by notice in writing to a planning authority, may request the planning authority to provide to the Minister a draft interim planning scheme for the authority's municipal area.

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- (3) The Minister may direct the Commission to prepare a draft interim planning scheme for a municipal area.
- (4) The Minister may only direct the Commission to prepare a draft interim planning scheme under subsection (3) for a municipal area if the Minister is satisfied that –
- (a) the planning authority for the area has not provided such a scheme to the Minister under subsection (1) within 21 days after being requested by the Minister to do so under subsection (2); and
 - (b) such a scheme would further the purposes of this Division.
- (5) The Commission must provide to the Minister a draft interim planning scheme prepared by the Commission in accordance with a direction under subsection (3).

30E. Contents of interim planning schemes

- (1) A draft interim planning scheme and an interim planning scheme must contain the mandatory common provisions.

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- (2) A draft interim planning scheme and an interim planning scheme may contain optional common provisions.
- (3) A draft interim planning scheme and an interim planning scheme may contain other provisions (“local provisions”) that are particular to the scheme.
- (4) A draft interim planning scheme and an interim planning scheme may only contain a local provision if the provision is not directly or indirectly inconsistent with –
 - (a) a mandatory common provision;
or
 - (b) an optional common provision that is contained in the planning scheme.
- (5) Subsection (4) does not apply in relation to a local provision that applies to an area of land, if a planning directive allows a planning scheme in relation to the land to specify that some or all of the common provisions are not to apply to such an area of land.
- (6) A draft interim planning scheme and an interim planning scheme are to be consistent with, and likely to further the objectives and outcomes of, the regional land use strategy, if any, for the regional area in which the schemes are to apply.

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- (7) Apart from sections 20 and 21, Division 1 does not apply to draft interim planning schemes and interim planning schemes.

30F. Declaration of interim planning scheme

- (1) The Minister, by notice in the *Gazette*, may declare to be an interim planning scheme a draft interim planning scheme that is provided to the Minister under section 30D(1) or (5).
- (2) The Minister may decide not to declare to be an interim planning scheme a draft interim planning scheme that is provided to the Minister under section 30D(1) or (5).
- (3) The Minister may only declare a draft interim planning scheme to be an interim planning scheme if the scheme complies with sections 20 and 21 and section 30E.
- (4) An interim planning scheme comes into operation –
- (a) on the date on which it is notified under subsection (1); or
 - (b) if a later date is specified in the notice under subsection (1), on that later date.

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(5) On and from the day on which an interim planning scheme that is declared in relation to an area of land comes into operation –

(a) the interim planning scheme applies to the land, until a planning scheme is declared under section 30N in relation to the land; and

(b) the planning scheme that applied to the land immediately before the interim planning scheme came into operation ceases to have effect; and

(c) a draft planning scheme may not be approved under section 29 in relation to the land while the interim planning scheme applies to the land.

(6) On and from the day on which an interim planning scheme that is declared in relation to an area of land comes into operation, an application for a permit that –

(a) was made under a planning scheme that applied to the land immediately before the interim planning scheme came into operation; and

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- (b) had not been determined by the date on which the interim planning scheme comes into operation –

is to be taken to be an application made, on the day on which the interim planning scheme comes into operation, under the interim planning scheme.

30G. Notice of declaration of scheme or decision not to declare scheme

- (1) The Minister must give to the following persons notice in writing of the declaration under section 30F(1) of an interim planning scheme for an area of land that is within a regional area:

- (a) the planning authority for the land;
- (b) each other planning authority for an area of land within the regional area;
- (c) the Commission;
- (d) those State Service Agencies that the Minister considers to have an interest in the scheme.

- (2) The notice under subsection (1) may specify that public exhibition of the

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scheme is to begin on a date specified in the notice.

(3) The Minister must give to the following persons notice in writing of a decision under section 30F(2) not to declare a draft interim planning scheme for an area of land in a regional area to be an interim planning scheme, and the reasons for the decision:

- (a) the planning authority for the land;
- (b) each other planning authority for an area of land within the regional area;
- (c) the Commission.

30H. Notification and public exhibition of interim planning schemes

(1) A planning authority notified under section 30G(1)(a) of the declaration of an interim planning scheme must ensure that a copy of the scheme is –

- (a) publicly exhibited at the offices of the planning authority in accordance with this section; and
- (b) made available for viewing at a website address specified in the notice in relation to the scheme in

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accordance with
subsection (6)(e).

(2) The public exhibition of an interim planning scheme by the planning authority is to begin –

(a) on the date, if any, specified in the notice under section 30G(1)(a) in relation to the scheme as the date on which public exhibition of the scheme is to begin; or

(b) if the notice under section 30G(1)(a) does not specify such a date, on a date, chosen by the planning authority, that is within 3 weeks after the authority receives the notice.

(3) The interim planning scheme is to be publicly exhibited by the planning authority for a period of 2 months.

(4) The planning authority notified under section 30G(1)(a) of the declaration of an interim planning scheme must ensure that a notice is published in a daily newspaper circulating generally in the area to which the scheme applies.

(5) The notice under subsection (4) is to be published on or before the day on which the exhibition of the planning scheme begins under subsection (2).

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(6) The notice under subsection (4) is to –

- (a) specify that an interim planning scheme has been declared; and
- (b) indicate generally the area to which the scheme applies; and
- (c) specify that the area to which the scheme applies is indicated with more particularity on a plan that is displayed at an office, of the planning authority, the address of which is specified in the notice; and
- (d) specify that a copy of the interim planning scheme is or will be on public exhibition at the address of the offices of the planning authority, and the address of the offices of the Commission, specified in the notice; and
- (e) specify that a copy of the interim planning scheme is available for viewing at a website address specified in the notice; and
- (f) specify the date on which the scheme came into operation; and
- (g) specify that representations in relation to the interim planning scheme may be made to the planning authority –

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- (i) at the address of the planning authority specified in the notice; and
 - (ii) at any time within 2 months from the date, specified in the notice, on which, under subsection (2), the public exhibition of the scheme is to begin.
- (7) If the public exhibition of 2 or more interim planning schemes for areas of land in the same regional area is required under subsection (2)(a) to begin on the same day, the planning authorities in respect of the areas of land may combine into a single notice, in one or more newspapers, all the notices for the schemes that are required under this section to be published in a daily newspaper.
- (8) The Commission must cause a copy of an interim planning scheme to be publicly exhibited at its office during the period in which the planning authority notified under section 30G(1)(a) of the declaration of the scheme is required under this section to publicly exhibit the scheme.

- (9) If a period, in relation to an interim planning scheme, referred to in this section includes any days on which the office of a planning authority is closed during normal business hours in that part of the State in which the scheme applies, that period is to be extended by the number of those days.

30I. Representations in relation to interim planning schemes

- (1) A person may make to a planning authority a representation in relation to an interim planning scheme that is exhibited at the offices of the authority in accordance with section 30H.
- (2) A representation in relation to an interim planning scheme may only be made within the period that is, under section 30H(6)(g), specified in the notice in relation to the scheme as the period in which representations may be made.
- (3) A planning authority to which a representation is made under subsection (1) in relation to a common provision of an interim planning scheme must provide a copy of the representation to each other planning authority notified under section 30G(1)(b) of the declaration of the scheme.

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- (4) The copy of the representation made in relation to an interim planning scheme is to be provided under subsection (3) within 14 days after the end of the 2-month period for which the scheme is publicly exhibited in accordance with section 30H.

30J. Report to be provided to Commission

- (1) A planning authority that has exhibited an interim planning scheme under section 30H must provide to the Commission a report in relation to the scheme.

- (2) The report in relation to an interim planning scheme is to be provided to the Commission not later than –

(a) 4 months after the end of the period for which the scheme is publicly exhibited in accordance with section 30H; or

(b) the end of a further period that the Commission allows.

- (3) The report is to contain a copy of each representation made under section 30I in relation to the interim planning scheme, or, if no representations have been made in relation to the interim planning scheme, a statement to that effect.

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- (4) The report is also to contain a statement of the planning authority's views as to the merit of each representation made to the authority under section 30I in relation to a local provision in the interim planning scheme.
- (5) The statement as to the merit of a representation in relation to a local provision is to include, in particular, the planning authority's views as to –
- (a) the need for modification of the interim planning scheme in the light of that representation; and
 - (b) the impact of that representation on the scheme as a whole.
- (6) The report is also to contain a statement of the planning authority's views as to the merit of each representation made under section 30I in relation to a common provision in the interim planning scheme.
- (7) The statement as to the merit of a representation in relation to a common provision is to include, in particular, the planning authority's views as to the impact of that representation on the interim planning scheme as a whole, if –
- (a) the relevant planning directive were to be modified to take into account the representation and the

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scheme were to be modified accordingly; or

(b) where the common provision is an optional common provision, the provision were, in accordance with the representation, to be –

(i) taken out of the scheme;
or

(ii) taken out of the scheme and replaced by another optional common provision.

(8) The report may also contain a statement of the planning authority's views, and recommendations, in respect of the operation of the interim planning scheme.

(9) If 2 or more planning authorities within a regional area are required under section 30H(2)(a) to begin to publicly exhibit interim planning schemes on the same day, the planning authorities must provide –

(a) one joint statement as to the matters referred to in subsections (6) and (7); and

(b) one joint statement as to the matters referred to in subsection (8) –

instead of each providing a separate report in relation to those matters.

- (10) A joint statement for the purposes of subsection (9) is to include the views of all the planning authorities, whether they are in agreement or not.

30K. Commission to consider scheme and representations and hold hearings

- (1) The Commission, after receiving a report under section 30J(1) in relation to an interim planning scheme –

(a) must hold a hearing in relation to each of the representations provided to the Commission, in accordance with section 30J(3), in the report; and

(b) may consolidate any of those representations and, if it does so, must hold a hearing in relation to the consolidated representations; and

(c) may hold hearings in relation to other matters that it thinks fit.

- (2) The Commission, after receiving a report under section 30J(1) in relation to an interim planning scheme, must consider

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the applicable matters in relation to the scheme.

(3) The applicable matters in relation to an interim planning scheme are –

- (a) the interim planning scheme itself; and
- (b) any documents in relation to the scheme that are provided to the Commission under section 30J; and
- (c) matters raised at any hearings in relation to the scheme under this section; and
- (d) the regional land use strategy, if any, for the regional area in which the scheme are is to apply; and
- (e) any applicable State policy.

30L. Commission to report to Minister about common provisions

- (1) The Commission must prepare a report in relation to the common provisions of an interim planning scheme.
- (2) The Commission is to prepare the report in relation to the common provisions of an interim planning scheme as soon as

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practicable after complying with section 30K.

(3) The report in relation to the common provisions of an interim planning scheme is to contain –

(a) a copy of the interim planning scheme; and

(b) a consolidation of all the statements, in relation to the common provisions in the scheme, that are provided to the Commission under section 30J(6), (8) or (9).

(4) The report in relation to the common provisions of an interim planning scheme is also to contain a statement by the Commission in relation to each common provision in respect of which a representation has been made under section 30I.

(5) The statement under subsection (4) in relation to a common provision is to specify whether the Commission is of the opinion that –

(a) the planning directive containing the provision ought to be modified to take into account the representation made in respect of the provision; and

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- (b) the interim planning scheme ought to be modified accordingly.
- (6) The statement under subsection (4) in relation to a common provision is to be prepared having regard to any statement of a local authority provided to the Commission under section 30J in relation to the common provision.
- (7) The Commission is to provide to the Minister the report prepared under subsection (1) in relation to the common provisions of an interim planning scheme.
- (8) The report in relation to the common provisions of an interim planning scheme is to be provided by the Commission to the Minister within –
 - (a) 9 months after the Commission receives a report provided under section 30J from the planning authority in respect of the scheme; or
 - (b) a longer period determined by the Minister.
- (9) The Minister, after considering the report provided under subsection (7), may direct the Commission to prepare, as a draft planning directive under section 10, a modification of a planning directive

containing a common provision to which
the report relates.

30M. Modification of interim planning scheme

- (1) After the Commission has considered under section 30K the applicable matters in relation to an interim planning scheme, the Commission may –
 - (a) direct the planning authority in respect of the scheme to prepare a modification, as specified in the direction, to the scheme; or
 - (b) itself prepare modifications to the scheme.
- (2) A planning authority that is directed to prepare a modification of an interim planning scheme under subsection (1)(a) must, in the period the Commission allows, prepare and submit to the Commission the scheme modified in accordance with the direction.
- (3) A modification of an interim planning scheme may be prepared under this section –
 - (a) in respect of a local provision; or
 - (b) to correct an error in the interim planning scheme.

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- (4) A modification of an interim planning scheme may be prepared under this section in respect of a common provision, but only if –
- (a) the modification is necessary to comply with a planning directive; or
 - (b) where the common provision is an optional common provision, the modification consists of –
 - (i) taking the provision out of the scheme; or
 - (ii) taking the provision out of the scheme and replacing it with another optional common provision.
- (5) The Commission may direct a planning authority to re-exhibit, from a date specified in the direction, a modification of an interim planning scheme that is prepared by the Commission or submitted to the Commission under subsection (2).
- (6) If a direction is given to a planning authority under subsection (5) in relation to a modification of an interim planning scheme, sections 30H, 30I, 30J, 30K and 30L and this section apply to the modification –

- (a) in the same way as those provisions apply to an interim planning scheme; and
- (b) as if the direction were a notice under section 30G(1)(a).

30N. Commission may make planning schemes

- (1) If the Commission is satisfied that an interim planning scheme, as modified if at all under section 30M, is in order, the Commission, with the approval of the Minister, must make a planning scheme consisting of the interim planning scheme.
- (2) Apart from sections 20 and 21, Divisions 1, 2 and 2A do not apply in relation to the making of a planning scheme under this section.
- (3) The Commission may only make a planning scheme under subsection (1) if –
 - (a) the scheme complies with sections 20 and 21; and
 - (b) the scheme complies with section 30E as if it were a draft interim planning scheme.

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- (4) The Commission, by notice in the *Gazette*, must declare that a planning scheme has been made under this section.
- (5) A planning scheme made under this section comes into operation –
- (a) on the day on which the notice of the declaration in relation to the scheme is given under subsection (4); or
 - (b) on a later day specified in the notice.
- (6) On the day on which a planning scheme made under this section in relation to an area of land comes into operation –
- (a) the interim planning scheme that applied to the area of land immediately before that day is revoked; and
 - (b) an application for an ordinary permit that –
 - (i) was made under the interim planning scheme; and
 - (ii) had not been determined by the date on which the planning scheme comes into operation –

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is to be taken to be an application made, under the planning scheme, on the day on which the planning scheme comes into operation.

(7) If a planning scheme is made under this section, the Commission, as soon as practicable, must give notice in writing of the making of the scheme to –

(a) all the planning authorities for land in the regional area in which is situated the land to which the scheme applies; and

(b) the State Service Agencies that the Minister notified under section 30G(1)(d) in respect of the interim planning scheme of which the planning scheme consists.

(8) If 2 or more planning authorities are required under section 30H(2)(a) to begin to exhibit interim planning schemes on the same day, the Commission is to take reasonable steps to ensure that, if the schemes are to come into operation under this section, the schemes also come into operation on the same day, unless it is of the opinion that to take such steps would cause unreasonable delay in relation to one or more of the schemes.

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**30O. Amendments under Divisions 2 and 2A of
planning schemes made under section 30N**

- (1) An amendment may only be made under Division 2 or 2A to a local provision of a planning scheme made under section 30N if the amendment is consistent with the regional land use strategy, if any, for the regional area in which is situated the land to which the scheme applies.
- (2) An amendment may only be made under Division 2 or 2A to a local provision of a planning scheme made under section 30N if the amendment is not such that the local provision as amended would be directly or indirectly inconsistent with the common provisions.
- (3) Despite subsection (2), an amendment may be made to a local provision if –
 - (a) the amendment is to the effect that a common provision is not to apply to an area of land; and
 - (b) a planning directive allows the planning scheme to specify that some or all of the common provisions are not to apply to such an area of land.
- (4) An amendment may not be made under Division 2 or 2A to a common provision of a planning scheme made under

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section 30N, but may instead be made under section 14.

- (5) Despite subsection (4), an amendment of a planning scheme made under section 30N may be made under Division 2 or 2A if the amendment consists of –
- (a) taking an optional common provision out of the scheme; or
 - (b) taking the provision out of the scheme and replacing it with another optional common provision.

30P. Application for dispensation from application of local provision of interim planning scheme

- (1) A person may apply to the Commission for a dispensation from a local provision of an interim planning scheme, including a provision providing for the zoning of an area of land to which the interim planning scheme applies.
- (2) If the applicant is not the owner of the land to which the application relates, the application must be –
- (a) signed by the owner or owners of the land; and

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- (b) accompanied by the written permission of the owner or owners for the application to be made.
- (3) The Commission must, within 14 days after receiving under subsection (1) an application for a dispensation in relation to an interim planning scheme, give notice in writing to the planning authority for the area of land to which the scheme relates.
- (4) The notice under subsection (3) is to –
 - (a) be accompanied by a copy of the application to which the notice relates; and
 - (b) request the planning authority to provide to the Commission a statement as to the opinion of the planning authority in respect of the application.
- (5) A planning authority to which a notice is given under subsection (3) may, within 28 days, provide to the Commission a statement as to the opinion of the planning authority in respect of the application to which the notice relates.

30Q. Process for consideration of dispensation

- (1) Subject to subsection (2), the Commission, after considering the opinion, if any, provided to it by a planning authority under section 30P(5) in relation to an application under section 30P(1), must decide –
 - (a) to reject the application; or
 - (b) that the application ought to be exhibited.
- (2) The Commission must, under subsection (1), reject an application under section 30P(1) if a planning authority recommends in a statement provided to the Commission under section 30P(5) in relation to the application that the Commission reject the application.
- (3) The Commission must give notice in writing to the following persons of the decision of the Commission under subsection (1) in relation to an application under section 30P(1) for a dispensation:
 - (a) the applicant;
 - (b) if the applicant is not the owner of the land to which the application relates, the owner or owners of the land;

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(c) the planning authority notified of the application under section 30P(3).

(4) If the Commission decides that an application under section 30P(1) ought to be exhibited –

(a) section 30H applies in relation to the application as if a reference in that section –

(i) to a notice under section 30G(1)(a) were a reference to a notice under subsection (3)(c); and

(ii) to an interim planning scheme were a reference to the application; and

(iii) to a period of 2 months were a reference to a period of not less than 3 weeks and not more than 2 months; and

(b) section 30I applies in relation to the application as if a reference in that section to an interim planning scheme were a reference to the application; and

(c) section 30J (apart from subsections (6), (8), (9) and (10)

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of that section) applies in relation to the application as if a reference in that section –

- (i) to an interim planning scheme, or a local provision, were a reference to the application; and
- (ii) to a period of 4 months were a reference to a period of 35 days; and
- (d) section 30K applies in relation to the application as if a reference in that section to an interim planning scheme, or a local provision, were a reference to the application.

30R. Grant and revocation of dispensations

- (1) After considering an application from a person under section 30P and holding hearings, if any, under section 30K in relation to the application, the Commission must determine –
 - (a) to grant the dispensation sought in the application; or
 - (b) to refuse to grant the dispensation sought in the application.

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- (2) The Commission may only grant a dispensation if it is satisfied that the dispensation –
- (a) would further the objectives set out in Schedule 1; and
 - (b) would be in accordance with all State policies; and
 - (c) is consistent with the safety requirements set out in the standards prescribed under the *Gas Pipelines Act 2000*; and
 - (d) as far as practicable, will not conflict with a use, or development, in respect of land next to the land to which the dispensation relates, that is a use or development permissible under the relevant interim planning scheme; and
 - (e) has been made after having considered the environmental, economic, social and heritage impact that the use and development permissible under the dispensation will have on the use and development of the regional area in which the land is situated.
- (3) A dispensation may be granted on the conditions specified in the dispensation.

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(4) The Commission is to give notice in writing to the following persons of its decision under subsection (1) in relation to an application:

- (a) the applicant;
- (b) if the applicant is not the owner of the land to which the application relates, the owner or owners of the land;
- (c) the planning authority for the land to which the application relates.

(5) If a person is granted a dispensation in relation to a local provision of an interim planning scheme –

- (a) the local provision does not apply, to the extent of any inconsistency with the dispensation, to the land to which the dispensation relates; and
- (b) the dispensation applies to the land as if it were a local provision of the interim planning scheme; and
- (c) when the interim planning scheme, as amended if at all under section 30M, is made a planning scheme under section 30N –

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- (i) a provision of the planning scheme that is inconsistent with the dispensation does not apply in relation to the land to which the dispensation relates; and
 - (ii) the dispensation applies to the land as if it were a local provision of the planning scheme.
- (6) An owner of land to which a dispensation relates may apply to the Commission for a revocation of the dispensation.
- (7) The Commission may, after receiving an application under subsection (6) in relation to a dispensation, revoke or refuse to revoke the dispensation.

7. Section 48AA inserted

After section 48 of the Principal Act, the following section is inserted in Division 1:

48AA. Enforcement of special permits

A planning authority must, within the ambit of its power, enforce the observance of any condition or restriction to which a special permit is subject.

8. Section 54 amended (Additional information)

Section 54 of the Principal Act is amended by inserting after subsection (2) the following subsection:

(2A) If the Appeals Tribunal determines that –

- (a) a planning authority had, in good faith, required an applicant under subsection (1) or (3) to provide the authority with additional information; but
- (b) the authority ought to have been satisfied with the information provided to the planning authority by the applicant before the requirement was served on the applicant –

the period referred to in section 57(6)(b) or 58(2) does not run for the period beginning on the day on which the requirement was served on the applicant and ending at the end of the day that is 7 clear days after the day on which the determination was made by the Appeals Tribunal.

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9. Section 59 amended (Failure to determine an application for a permit)

Section 59 of the Principal Act is amended as follows:

- (a) by omitting from subsection (5) “After” and substituting “Subject to subsection (5AA), after”;
- (b) by inserting the following subsection after subsection (5):

(5AA) The Appeal Tribunal must not make an order under subsection (5) directing a planning authority to pay costs for a failure to determine an application within a period, or a further period, referred to in subsection (1), if the failure only arose because a purported decision of the authority within that period was of no effect in law.

10. Section 60A amended (Permit for certain works not required)

Section 60A of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “or special permit” after “Act, a permit”;

- (b) by inserting in subsection (2) “or special permit” after “permit”.

11. Part 4, Division 2A inserted

After section 60A of the Principal Act, the following Division is inserted in Part 4:

***Division 2A – Special permits for projects of regional
significance***

60B. Interpretation: Division 2A

In this Division, unless the contrary intention appears –

“application for an ordinary permit” means an application made under Division 2 of this Part, or Division 2A of Part 3, for the issue of a permit;

“EMPC Act” means the *Environmental Management and Pollution Control Act 1994*;

“EPA Board” means the Board of the Environment Protection Authority established under section 13 of the EMPC Act;

“EPA Director” means the Director of the Environment Protection

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Authority appointed under section 18 of the EMPC Act;

“Panel”, in relation to a project, means the Development Assessment Panel established under section 60M in relation to the project;

“project of regional significance” means a project that is declared under section 60G to be a project of regional significance;

“proponent”, in relation to a project –

(a) means the person from time to time proposing a project consisting of one or more uses or developments; and

(b) if a project consists of 2 or more uses or developments that are proposed to be undertaken by different persons, means the person proposing the project as a whole;

“statement of intent” means a statement of intent that, under section 60F, accompanies a proposal from a proponent of a project.

60C. Projects eligible to be declared projects of regional significance

- (1) A project is eligible to be declared to be a project of regional significance if –
- (a) the project is of regional planning significance; or
 - (b) the project requires high-level assessment; or
 - (c) the project would have a significant environmental impact.
- (2) A project is ~~only~~ of regional planning significance if, in the opinion of the Minister –
- (a) the project would make a significant economic or social contribution to a region; or
 - (b) the project is of a scale that would be likely to significantly affect the provision of infrastructure, including social infrastructure, in the region.
- (3) A project ~~only~~ requires high-level assessment if, in the opinion of the Minister, the project –
- (a) is of such a scale or complexity; or
 - (b) has such characteristics –

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that the planning authority that would be required under this Act to assess an application for an ordinary permit in relation to the project is unlikely to have the capability or the resources to adequately perform the assessment.

- (4) A project that is to be situated on an area of land may not be declared to be a project of regional significance except with the consent of the relevant persons.
- (5) For the purposes of subsection (4), the relevant persons are –
- (a) if all or part of the land is Crown land, the Minister responsible for Crown land; and
 - (b) if all or part of the land is owned by a council, the general manager, within the meaning of the *Local Government Act 1993*, of the council; and
 - (c) if all or part of the land is in Wellington Park, the Wellington Park Management Trust.
- (6) A project that is to be situated on an area of land may not be declared to be a project of regional significance unless the relevant persons have been notified.
- (7) For the purposes of subsection (6), the relevant persons are –

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- (a) if all or part of the land is land of which the proponent is not the owner, the owner, or owners, of the land; and
 - (b) if all or part of the land is land that is not owned by a council but is occupied or administered by a council, the council.
- (8) A project that is to be situated on an area of land may not be declared to be a project of regional significance if a use or development that is proposed to form part of the project is prohibited under –
- (a) an interim planning scheme; or
 - (b) a planning scheme made under section 30N –
- that applies in relation to the land.

- (9) A project that is to be situated on an area of land may be declared to be a project of regional significance even though a use or development proposed to form part of the project is prohibited under a planning scheme (other than an interim planning scheme or a planning scheme declared under section 30N) that applies in relation to the land.

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60D. Proposals that projects be declared projects of regional significance

- (1) A proponent for a project may, by notice in writing to the Minister, propose that the Minister declare the project to be a project of regional significance.
- (2) A planning authority, by notice in writing to the Minister, may propose that the Minister declare a project to be a project of regional significance.
- (3) A planning authority may only propose a project under subsection (2) if the project consists in whole or in part of a use or development that is wholly or partly within the municipal area of the planning authority.
- (4) A planning authority that makes a proposal under subsection (2) in relation to an area of land must give notice in writing of the making of the proposal to –
 - (a) the proponent; and
 - (b) the owner, or owners, of the land; and
 - (c) if part of the land is situated within the municipality of another planning authority, that other planning authority.

- (5) If a proposal is made under subsection (1), the Minister must notify each planning authority for the land to which the proposal relates.

60E. Effect of proposal on applications for ordinary permits

- (1) In this section –

“relevant time”, in relation to an application for an ordinary permit that is made in respect of –

- (a) all or part of the land to which a proposal under section 60D(1) relates, means the date on which the relevant planning authority is notified of the proposal under section 60D(5); or

- (b) all or part of the land to which a proposal under section 60D(2) relates, means –

(i) the date on which the proposal is made; or

(ii) if the application is made to a planning authority other than the authority that made the proposal, the date on which the planning authority is

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notified of the proposal
under section 60D(4)(c).

- (2) This section applies to an application for an ordinary permit in respect of all or part of the land to which a proposal under section 60D relates, if the application has been made to, but not determined by, a planning authority, before the relevant time.
- (3) If this section applies to an application for an ordinary permit, the planning authority must not determine the application unless and until a decision is made under section 60G(1)(b) to refuse to declare the project to be a project of regional significance.
- (4) A determination of an application for an ordinary permit to which this section applies that is made in contravention of subsection (3) is void.
- (5) If this section applies to an application for an ordinary permit, the period between –
 - (a) the relevant time; and
 - (b) the day on which the Minister makes a decision under section 60G in relation to the project –

is not, in relation to the application, to be taken into account in any calculation for the purposes of this Act of a period of time beginning on the day on which the application was lodged with the planning authority.

60F. Statement of intent and other information

- (1) A proposal from a proponent of a project under section 60D(1) is to be accompanied by a statement of intent for the project.
- (2) A statement of intent for a project is to contain the following information:
 - (a) the name and contact details of the proponent;
 - (b) the name of the project;
 - (c) a description of the project, including its key physical components;
 - (d) an outline of the proposed location of the project and a general site location plan;
 - (e) the anticipated impact, if any, of the project, or infrastructure associated with the project, on other areas;

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- (f) a general description of the physical environment that may be affected by the project;
 - (g) the key environmental, health, economic, social and heritage issues that the proponent has identified in respect of the project;
 - (h) the surveys and studies proposed or being undertaken in relation to the key issues in respect of the project;
 - (i) the proposed timetable for the project;
 - (j) how, if at all, the project may make a significant contribution to the economic or social development of the region in which it is proposed to be situated.
- (3) The reference in subsection (2)(e) to the anticipated impact of the project or infrastructure on other areas includes –
- (a) both areas that are in, and areas that are outside, the regional area in which the project is to be situated; and
 - (b) the anticipated impact on the provision of social infrastructure,

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and other infrastructure, in those areas.

- (4) A proposal under section 60D(2) from a planning authority is to be accompanied by so much of the information that is in the possession of the planning authority as would be required to be provided by the proponent in a statement of intent under subsection (1), if the proposal were made by the proponent under section 60D(1).
- (5) The Minister may accept a proposal under section 60D even though it is not accompanied by all the information required to be specified in the statement of intent required under this section to accompany the application.
- (6) The Minister may request a proponent or a planning authority to provide to the Minister, within the period specified in the request, information of the kind specified in the request that is in the possession of the proponent or authority, respectively.
- (7) Information may only be requested under subsection (6) if it is reasonably necessary to enable the Minister to determine whether or not to declare a project to be a project of regional significance.

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- (8) A proponent or planning authority to which a request is made under subsection (6) is to take all reasonable steps to provide the Minister, as soon as practicable but in any case within the period specified in the request, with the information specified in the request.

60G. Declaration of project of regional significance

- (1) The Minister may, by notice in the *Gazette*, after receiving under section 60D(1) or (2) a proposal from a person in relation to a project, declare the project –

- (a) to be a project of regional significance; or
- (b) to not be a project of regional significance.

- (2) The Minister is to make a declaration under subsection (1) in relation to a proposal within 14 days –

- (a) from the day on which he or she receives notice of the proposal under section 60D; or
- (b) from the day on which he or she receives further information in accordance with a request made

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under section 60F(6) in relation
to the proposal –

whichever is the later.

- (3) The Minister, of his or her own motion, may, by notice in the *Gazette*, declare a project to be a project of regional significance.
- (4) The Minister may only declare a project to be a project of regional significance if the Minister considers the project to be eligible to be declared such a project.
- (5) The Commission, with the approval of the Minister, may issue guidelines, not inconsistent with this Act, as to the matters to which the Minister is to have regard in determining whether to declare a project to be a project of regional significance.
- (6) In determining whether to declare a project to be a project of regional significance, the Minister is to have regard to the guidelines, if any, issued by the Commission under subsection (5).
- (7) A declaration under this section that a project is to be a project of regional significance must specify –
 - (a) the land on which the project is to be situated; and

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- (b) the uses or developments that the project proposes for the land; and
 - (c) the proponent of the project; and
 - (d) the grounds on which the Minister declared the project to be a project of regional significance.
- (8) A declaration of a project of regional significance may include any use or development that is necessary for the implementation of the project, whether or not the use or development is to be undertaken by or on behalf of the proponent named in the declaration.
- (9) The Minister may, in a declaration under this section of a project of regional significance that is to take place on an area of land that is not within any municipality, specify that a planning authority nominated in the notice is to be the planning authority in relation to the project.
- (10) The Minister may only nominate, in a notice referred to in subsection (9) in relation to an area of land, a planning authority for a municipality that is within a regional area adjacent to the area of land.

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- (11) The Minister is to give notice in writing of the making of a declaration of a project under subsection (1) or (3) to –
- (a) the proponent; and
 - (b) all planning authorities in the regional area, or regional areas in which the project to which the declaration relates is to be situated; and
 - (c) if the project is to take place on an area of land that is not within any municipality, all planning authorities in the regional area that is adjacent to the area of land; and
 - (d) the Commission; and
 - (e) if the land on which the project is or was to be situated is situated in Wellington Park, the Wellington Park Management Trust.
- (12) The Minister must ensure that a notice of a declaration under subsection (1) or (3) in relation to a project is placed in a newspaper generally circulating in the area in which the project is or was to be situated.

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60H. Effect of declaration of project of regional significance

- (1) Division 2 of this Part and Division 2A of Part 3 do not apply in relation to a use or development that forms part of a project of regional significance.
- (2) A person must not undertake on land a use or development that forms part of a project of regional significance on the land, except under and in accordance with a special permit granted under section 60T in relation to the project.
- (3) Subsection (2) does not apply in relation to a use or development for the purposes of conducting an assessment under this Division.
- (4) If a project is declared to be a project of regional significance –
 - (a) an application for an ordinary permit, in relation to a use or development forming all or part of the project, that has been made to, but not determined by, the planning authority, is taken to have been withdrawn on the day of the declaration; and
 - (b) the planning authority to which the application was made must, as soon as practicable, refund to the applicant half of any fees that the

applicant has paid in respect of
the application.

60I. Fees

- (1) The relevant fee, as specified or calculated in accordance with regulations for the purposes of this section, is due and payable to the Commission by the proponent within 30 days after the project is declared under section 60G to be a project of regional significance.
- (2) The proponent of a project may, within 30 days after the Panel makes a decision under section 60T in relation to the project, apply to the Commission for a review of the amount of the relevant fee paid by the proponent under subsection (1) in relation to the project.
- (3) The Commission must, as soon as practicable after receiving an application under subsection (2) from a proponent, appoint a State Service employee to conduct a review of the amount of the relevant fee paid by the proponent under subsection (1) in relation to the project.
- (4) A person appointed under subsection (3) to conduct a review in relation to a project must assess the costs incurred by the Panel in carrying out the Panel's function under this Part of determining

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whether to grant a special permit in relation to the project.

(5) If the person is satisfied that the costs referred to in subsection (4) in relation to a project are less than the amount the proponent of the project was required to pay as a relevant fee under subsection (1), the person may authorise the refund to the proponent of the difference between the amounts.

(6) A refund to the proponent is to be made in accordance with an authorisation under subsection (5).

(7) A person appointed under subsection (3) to conduct a review in relation to a project must determine the review within 30 days after he or she is so appointed.

(8) Regulations for the purposes of this section may prescribe –

(a) a maximum and a minimum amount of a relevant fee; and

(b) that a relevant fee is to be calculated in accordance with a method specified in the regulations –

or both, in respect of a project or of a project of a type specified in the regulations.

60J. Revocation of declaration

- (1) A proponent of a project may at any time, by notice in writing to the Minister, request the Minister to revoke the declaration of a project of regional significance in respect of all or part of the area of land to which the declaration relates.
- (2) The Minister, by notice in the *Gazette*, may revoke a declaration of a project of regional significance in respect of all or part of an area of land –
 - (a) in accordance with a request under subsection (1); or
 - (b) if the Minister is satisfied that the proponent does not intend the project to proceed in relation to the land or the part of the area of land.
- (3) The Minister is to give notice of a revocation of a declaration of a project of regional significance to the persons notified of the declaration of the project under section 60G(11).
- (4) The Minister is to ensure that a notice of the revocation of a declaration of a project of regional significance is placed in a newspaper generally circulating in the area in which the project was, or was to be, situated.

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- (5) If a declaration of a project of regional significance is revoked under subsection (2) in relation to all or part of an area of land –
- (a) this Division ceases to apply to the land to which the revocation relates; but
 - (b) a person is not to be taken to have committed an offence under this Act by reason of any action taken, or not taken, before this Division ceased to apply, if the action or failure was lawful under this Division before this Division ceased to apply.

60K. Project to be referred to Director of Environment Protection Authority

- (1) If a project is declared to be a project of regional significance, the Minister must, within 7 days, refer the project to the EPA Director.
- (2) If the Minister refers a project to the EPA Director, the Minister is to forward to the Director –
- (a) the statement of intent, if any, in relation to the project; and

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- (b) any other information that is provided to the Minister under section 60F in relation to the project.
- (3) If a project is referred to the EPA Director under subsection (1), he or she is to determine, within 14 days, whether the EPA Board is to undertake an environmental impact assessment of the project.
- (4) The EPA Director is to notify the Minister of the Director's determination under subsection (3).
- (5) The EPA Director is to be taken to have determined under subsection (3) that the EPA Board is to undertake an environmental impact assessment of a project referred to the EPA Director under subsection (1), if the EPA Director has not notified the Minister to the contrary within 14 days after the project is referred to the Director.
- (6) The Minister is to notify the Panel in relation to a project about the determination of the EPA Director under this section in relation to the project.

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60L. Environmental impact assessment by EPA Board

- (1) If the EPA Director determines under section 60K that the EPA Board is to undertake an environmental impact assessment of a project, the EPA Board, as soon as practicable, must carry out an environmental impact assessment of the project.
- (2) The environmental impact assessment of a project is to be carried out –
 - (a) in accordance with the Environmental Impact Assessment Principles specified in the EMPC Act; and
 - (b) under Division 1A of Part 3 of the EMPC Act, as modified under subsection (3), and Part 5 of that Act.
- (3) For the purposes of an environmental impact assessment of a project in accordance with this section, the EMPC Act is modified as follows:
 - (a) a reference, in Division 1A of Part 3 of the EMPC Act, to the planning authority is to be taken to be a reference to the Panel for the project;

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- (b) a reference, in Division 1A of Part 3 of, or Part 5 of, the EMPC Act, to an applicant or a proponent is to be taken to be a reference to the proponent of the project;
- (c) a reference, in Division 1A of Part 3 of, or Part 5 of, the EMPC Act, to an activity is to be taken to be a reference to the project;
- (d) a reference, in Division 1A of Part 3 of the EMPC Act, to section 25 of that Act is to be taken to be a reference to this section;
- (e) a reference, in section 27B of the EMPC Act, to –
 - (i) a person who lodged an application for a permit is to be taken to be a reference to the proponent of the project; and
 - (ii) a notice of intent is to be taken to be a reference to the information provided to the EPA Director under section 60K(2);
- (f) section 27C of the EMPC Act does not apply;

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- (g) a reference, in section 27D of the EMPC Act, to advice under section 27C is to be taken to be a reference to advice under subsection (4);
 - (h) section 27G(4) of the EMPC Act does not apply;
 - (i) a reference, in section 44 of the EMPC Act, to a permit is to be taken to include a reference to a special permit;
 - (j) the reference, in section 74(4) of the EMPC Act, to providing the proponent with guidance is to be taken to be satisfied if the guidance is provided to the Panel under subsection (5).
- (4) If the EPA Director determines under section 60K(3) that the EPA Board is to undertake an environmental impact assessment of a project, then, within 21 days of the day on which the project is referred to the EPA Director under section 60K(1), the EPA Board is to advise the proponent, and the Minister, of the class of assessment that is proposed to be undertaken under section 27A of the EMPC Act.
- (5) The EPA Board is to provide to the Panel the guidance that the EPA Board is

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required under section 74(4) of the EMPC Act to provide to the proponent.

- (6) The Panel must forward to the Director any representations received by the Panel under section 60Q in relation to the project, as soon as practicable after receiving them.
- (7) The Panel must comply with a direction of the Director under section 27G of the EMPC Act.
- (8) On completion of an environmental impact assessment of a project of regional significance, the EPA Board must notify the Panel for the project as to whether the EPA Board –
 - (a) requires any conditions or restrictions to be contained in any special permit that may be granted in relation to the project; or
 - (b) directs the Panel to refuse to grant a special permit in relation to the project.
- (9) The EPA Board must specify in the notice under subsection (8) –
 - (a) any condition or restriction, of a kind specified in section 25(6) of the EMPC Act, that the EPA Board requires to be imposed on

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a special permit granted in relation to the project; and

- (b) the reasons for requiring the condition or restriction or for directing the Panel to refuse to grant a special permit in relation to the project.

(10) The proponent of a project in relation to which an environmental impact assessment is carried out in accordance with this section is liable to pay to the EPA Board, by the date specified in a notice by the Board to the proponent, the relevant fees for the assessment of the project.

(11) The relevant fees for the assessment by the EPA Board of a project are the fees that the proponent would have been liable to pay for the assessment of the project if –

- (a) the proponent had made an application for an ordinary permit in relation to the project; and
- (b) the environmental impact assessment had been carried out under and in accordance with the EMPC Act as if this section did not apply.

60M. Development Assessment Panel to be established for assessment of project

- (1) The Commission must establish a Development Assessment Panel in relation to a project that is declared to be a project of regional significance.
- (2) A Development Assessment Panel must be established under subsection (1) in relation to a project as soon as practicable after the Commission is given notice under section 60G(11) of the declaration of the project to be a project of regional significance.
- (3) The Commission is to establish a Panel in relation to a project by appointing to be members of the Panel –
 - (a) a member of the Commission, or any other person nominated by the Commission, who is to be the chairperson of the Panel; and
 - (b) a person with the appropriate qualifications and experience who is nominated by the councils for the municipalities that are within any regional areas in which part or all of the project is to take place; and
 - (c) a person who, in the opinion of the Commission, has qualifications or experience that

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are relevant to the assessment of the project.

- (4) The person appointed under subsection (3)(a) must not be a person who is appointed to the Commission under section 5(1)(g) or (h) of the *Tasmanian Planning Commission Act 1997*.
- (5) A person has appropriate qualifications and experience for the purposes of subsection (3)(b) if the person has –
- (a) qualifications or experience in land use planning, urban and regional development, commerce or industry; or
 - (b) practical knowledge of, and experience in, the provision of buildings or other infrastructure.
- (6) The Commission is to request the councils within all regional areas in which all or part of a project is to take place to together nominate, within 21 days after receiving the request, a person for the purposes of subsection (3)(b).
- (7) If the councils have not nominated a person within 21 days after receiving a request to do so, the Commission may appoint a person for the purposes of subsection (3)(b), even though the person has not been nominated by the councils,

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if the person satisfies the requirements of subsection (5).

(8) If the Commission is of the opinion that the scale, specialist nature or complexity of a project of regional significance makes it desirable to do so, the Commission may appoint to be members of the Panel, in addition to the persons appointed under subsection (3), not more than 2 other persons.

(9) A person appointed under subsection (8) in relation to a project is to be a person who has the qualifications and experience that the Commission thinks appropriate to assist in the assessment of the project.

(10) The quorum for a Panel is 3.

(11) Subject to this Division, a Panel is to determine its own proceedings.

60N. Panel to determine guidelines for how assessment is to be made

(1) The Panel in relation to a project must determine the assessment guidelines in respect of the project.

(2) The Panel must make a determination under subsection (1) in relation to the project before –

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- (a) 35 days after the declaration of the project under section 60G; or
- (b) 5 clear days after the EPA Board provides to the proponent, in accordance with section 27D of the EMPC Act as applied by section 60L, guidance in relation to the project; or
- (c) the end of a period approved by the Minister –

whichever period expires later.

(3) The assessment guidelines in respect of a project are the matters –

- (a) to be addressed in the project impact statement in relation to the project; and
- (b) to which the Panel must have regard in assessing whether to grant a special permit in relation to the project.

(4) The assessment guidelines in respect of a project are only to include matters to be addressed that are reasonably required to enable the proper assessment of –

- (a) whether a special permit in relation to the project ought to be granted; and

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- (b) if a special permit were to be granted in relation to the project, the conditions or restrictions, if any, to which the permit ought to be subject.
- (5) Before determining the assessment guidelines in respect of a project, the Panel must consult –
- (a) the Commission; and
 - (b) the planning authorities for any regional area in which part or all of the project is to take place; and
 - (c) the State Service Agencies that the Panel believes to have an interest in the project; and
 - (d) if all or part of the land to which the project relates is in Wellington Park, the Wellington Park Management Trust.
- (6) In determining the assessment guidelines in respect of a project that is to be situated on an area of land, the Panel is to have regard to –
- (a) any planning scheme (whether the scheme is an interim planning scheme, a planning scheme declared under section 30N or a planning scheme approved under

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- section 29) that applies to the land; and
- (b) any special planning order that applies to the land; and
 - (c) any regional land use strategy, if any, for the regional area in which the land is situated; and
 - (d) any applicable State policy.
- (7) If the Panel has been notified under section 60K(6) that the EPA Board is to carry out an environmental impact assessment of the project, the Panel may not determine the assessment guidelines in respect of the project until the Panel –
- (a) has received guidance in relation to the project from the EPA Board under section 60L(5); or
 - (b) has been notified by the Board that the Board does not intend to issue such guidance in relation to the project.
- (8) If the EPA Board has, under section 60L(5), provided to the Panel guidance in relation to a use or development forming part of a project –
- (a) the assessment guidelines are to include the guidance provided to the Panel by the EPA Board; and

- (b) the Panel is to provide to the EPA Board a copy of the assessment guidelines in respect of the project.
- (9) As soon as practicable after determining the assessment guidelines in respect of a project, the Panel must give notice of the guidelines in the prescribed manner.

60O. Project impact statements to be provided to Panel

- (1) As soon as practicable, and in any case within 7 days, after determining under section 60N the assessment guidelines in respect of a project, the Panel must give to the proponent –

- (a) a copy of the assessment guidelines; and

- (b) a notice specifying that the proponent is required, within a period specified in the notice, to provide to the Panel a project impact statement in relation to the project.

- (2) A project impact statement is a statement that addresses the matters set out in the assessment guidelines in respect of the project.

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- (3) A proponent of a project must provide to the Panel a project impact statement in relation to the project within the period specified in the notice under subsection (1)(b).
- (4) The Panel may, by notice to a proponent, extend the period in which the proponent is to provide a project impact statement to the Panel.
- (5) If the Panel has been notified under section 60K(6) that the EPA Board is to carry out an environmental impact assessment of a project, the Panel, as soon as practicable, must provide to the EPA Director a copy of a project impact statement provided to the Panel under subsection (3) in relation to the project.

60P. Panel may request information to be provided

- (1) The Panel may request any of the following persons to provide to the Panel, within the period specified in the request, further information of the kind specified in the request:
 - (a) the proponent for a project;
 - (b) a planning authority;
 - (c) the Commission;

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- (d) a State Service Agency;
 - (e) a State authority within the meaning of the *State Service Act 2000*;
 - (f) a Regional Corporation;
 - (g) the Wellington Park Management Trust.
- (2) The Panel may only request the proponent to provide further information under subsection (1) before 28 days after the Panel has received from the proponent under section 60O(3) a project impact statement in relation to the project.
- (3) The Panel may only request a person to provide further information under subsection (1) if the information may assist the Panel to determine –
- (a) whether to grant a special permit in relation to a project; or
 - (b) if the Panel were to grant a special permit in relation to a project, the conditions or restrictions, if any, to which the permit ought to be subject.
- (4) A person to whom a request is made under subsection (1) is to take all reasonable steps to provide to the Panel,

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as soon as practicable but in any case within the period specified in the request, the information specified in the request.

- (5) If the Panel has been notified under section 60K(6) that the EPA Board is to carry out an environmental impact assessment of a project, the Panel, as soon as practicable after information in relation to the project is provided to the Panel under subsection (4), must provide a copy of the information to the EPA Director.

60Q. Notification and exhibition of project

- (1) The Panel must give notice, in the prescribed manner, of the public exhibition of a project of regional significance.
- (2) The Commission must place on the Commission's principal website, for the period of the public exhibition, a notice of the public exhibition of a project of regional significance.
- (3) The Panel must give notice under subsection (1) as soon as practicable after receiving under section 60O(3) a project impact statement in relation to a project, but in any case within 14 days after receiving the statement.

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(4) A notice referred to in subsection (1), in addition to any other matters required by the regulations to be contained in it –

(a) is to name a place where a copy of –

(i) the assessment guidelines in respect of the project; and

(ii) the project impact statement in relation to the project –

will be available for inspection by the public at all reasonable hours during the period for which representations may be made in relation to the project; and

(b) is to specify that representations in relation to the project may be made to the Panel during the period that applies to the project under subsection (7); and

(c) is to specify the address to which a representation may be made.

(5) After the Panel gives notice in accordance with subsection (1), the Panel, and the planning authority for any land on which part or all of the project is to take place, must arrange, in the

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prescribed manner, the public exhibition
of –

- (a) the assessment guidelines in respect of the project; and
- (b) the project impact statement in relation to the project –

at the place, and during the period, specified in the notice.

(6) A person may make a representation to the Panel in relation to the project.

(7) A representation may only be made under subsection (6) during –

(a) the period of 28 days beginning on the date on which notice in relation to the project is given under subsection (1); or

(b) despite paragraph (a), if the EPA Director, before the notice in relation to the project is given under subsection (1), issues in relation to the project a direction under section 27G of the EPA Act that specifies a period, that period; or

(c) despite paragraphs (a) and (b), if the Panel determines, before the notice in relation to the project is given under subsection (1), a

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period, of not more than 42 days,
in which representations may be
made, that period.

- (8) A person must not, within the period specified in the notice under subsection (1), obscure or remove a notice given under subsection (1) that is displayed on the land to which the notice relates.

Penalty: Fine not exceeding 10 penalty
units.

- (9) If a period referred to in this section includes any days on which the offices of the Commission are closed during normal business hours, that period is to be extended by the number of those days.

**60R. Notification and hearings in relation to
project**

- (1) As soon as practicable after the public exhibition, referred to in section 60Q(1), of the documents in relation to a project begins, the Panel must give notice in the prescribed manner.
- (2) The notice under subsection (1) in relation to a project is to be given to –

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- (a) all planning authorities in the regional area in which the land is situated; and
- (b) all State Service Agencies that have been consulted in respect of the project under section 60N(5)(c); and
- (c) the Regional Corporation for the region in which the land is situated; and
- (d) if all or part of the land is in Wellington Park, the Wellington Park Management Trust.

(3) The notice under subsection (1) is to advise each person to whom it is given about the exhibition of the documents in relation to a project and invite the persons to make representations in relation to the project, including representations as to –

- (a) whether a special permit ought to be granted in relation to the project; and
- (b) if a special permit were to be granted in relation to the project, the conditions or restrictions, if any, that ought to be imposed on the permit.

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- (4) The Panel must hold hearings in respect of a project, as soon as practicable after the public exhibition of the project under section 60Q(5) ends.
- (5) Despite subsection (4), the Panel may dispense with the holding of a hearing in relation to a representation in relation to a project if, after examining the representations received –
 - (a) the Panel is satisfied that all the representations are in support of the project; or
 - (b) the Panel has consulted with a person who made the representation and that person has advised the Panel in writing that he or she does not wish to attend a hearing.

60S. When decision about grant of special permit is to be made

- (1) The Panel is to decide whether to grant a special permit in relation to a project under section 60T as soon as practicable after the end of the consultation and hearings, if any, conducted under section 60R in respect of the project.
- (2) In any case, if the Panel has been notified under section 60K(6) that the EPA Board

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is not to undertake an environmental impact assessment of the project, the Panel is to decide whether to grant under section 60T a special permit in relation to the project –

- (a) within the 4 month period after the Panel receives the project impact statement in relation to the project under section 60O(3); or
- (b) within a period specified by the Minister –

whichever is the later.

(3) If the Panel has requested the proponent under section 60P to provide the Panel with further information in relation to a project, the period between the day on which that request is made and the day on which the proponent provides the information to the satisfaction of the Panel is not to be counted in the calculation of the period referred to in subsection (2) in relation to the project.

(4) In any case, if the Panel has been notified under section 60K(6) that the EPA Board is to undertake an environmental impact assessment of the project, the Panel is to decide whether to grant under section 60T a special permit in relation to the project within –

- (a) one month after the Panel receives from the EPA Board a notice in relation to the project under section 60L(8); or
- (b) a longer period specified by the Minister.

60T. Grant of special permit

(1) The Panel may, in accordance with this section –

- (a) grant a special permit in relation to a project of regional significance; or
- (b) refuse to grant a special permit in relation to a project of regional significance.

(2) A special permit may be granted unconditionally or on the conditions or restrictions, specified on the permit, that are imposed on the permit under section 60U.

(3) In deciding under subsection (1) whether to grant a permit in relation to a project, the Panel must consider any representations made under section 60Q in relation to the project.

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- (4) The Panel may only grant a special permit in relation to a project if it is satisfied that –
- (a) the grant of the permit will further the objectives specified in Schedule 1; and
 - (b) the grant of the permit will not contravene any State Policy, planning directive, interim planning scheme or any planning scheme that is made under section 30N; and
 - (c) the assessment guidelines in respect of the project have been satisfied; and
 - (d) the relevant fee required under section 60I(1), and any other fee required under any other Act to be paid for the assessment of the project, have been paid; and
 - (e) the Panel has received under section 60L(8) a notice in relation to the project from the EPA Board and the EPA Board has not directed the Panel to refuse to grant a special permit in relation to the project.
- (5) The Panel may grant a special permit in relation to a project, even though the use or development permitted by the permit

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would not be permitted under a planning scheme (other than an interim planning scheme or a planning scheme that is made under section 30N) that applies to the land to which the permit relates.

- (6) The Panel must give to the proponent, and provide on request to a person, a statement of the reasons for granting, or refusing to grant, a special permit under subsection (1).
- (7) If a special permit is granted to the proponent of a project –
 - (a) the proponent is liable to pay to the EPA Board the fees that the proponent would have been liable to pay under that Act if the special permit had been a permit within the meaning of this Act; and
 - (b) the EMPC Act applies in relation to such fees accordingly.

60U. Special permit may be granted subject to conditions or restrictions

- (1) Subject to section 60V, the Panel may impose on a special permit granted under section 60T(1)(a) conditions or restrictions on the use or development of the land to which the permit relates.

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- (2) The Panel must impose on a special permit granted under section 60T(1)(a) any conditions or restrictions required under section 60L(9) to be imposed on the permit.
- (3) The Panel must not impose on a special permit a condition or restriction that is inconsistent with a condition or restriction required under section 60L(9) to be imposed on the permit.
- (4) The Panel must notify, of the conditions or restrictions, if any, imposed on a permit, the persons notified under section 60V(2) in respect of the project to which the permit relates.
- (5) The conditions that may be imposed on a special permit include, but are not limited to including, a condition that all reasonable steps must be taken to enter into an agreement in respect of a use or development forming all or part of the project to which the permit relates.
- (6) If a condition referred to in subsection (5) is included, the Panel must specify on the special permit the matters, and the requirements in respect of those matters, to be included in the agreement.
- (7) If –
 - (a) a person is granted a special permit on which is imposed a

condition, referred to in subsection (5), that all reasonable steps must be taken to enter into an agreement; and

- (b) that person is not the owner of the land in respect of which the agreement must be entered into –

the Panel must, within 7 days of granting the permit, serve on the owner of the land notice of the Panel's decision to impose the condition.

60V. Process for determining conditions or restrictions to be imposed on special permits

- (1) In deciding under section 60U whether to impose conditions or restrictions on a special permit to be granted in relation to the project, the Panel must consider any representations made under section 60Q in relation to such conditions or restrictions.

- (2) At least 14 days before granting under section 60T(1)(a) a special permit on which a condition or restriction is imposed under section 60U, the Panel must provide to the following persons a copy of the conditions or restrictions that it proposes to impose:

- (a) the proponent;

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- (b) the planning authority for the land to which the permit is to relate;
 - (c) the EPA Board;
 - (d) the Regional Corporation for the region in which the land is situated;
 - (e) if all or part of the land is in Wellington Park, the Wellington Park Management Trust.
- (3) A person notified under subsection (2) may, within 14 days of receiving a copy of a proposed condition or restriction in respect of a proposed special permit, set out, by notice to the Panel –
- (a) any objections the person may have to the proposed condition or restriction; and
 - (b) any other conditions or restrictions that the person thinks ought to be specified on the proposed special permit.
- (4) If a person, in a notice under subsection (3), objects to a proposed condition or restriction that the EPA Board requires, in a notice to the Panel under section 60L(8), to be specified in the permit –

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- (a) the Panel must forward a copy of the objection to the EPA Board; and
- (b) the EPA Board may, if it thinks fit, within 14 days, by notice to the Panel, amend the notice under section 60L(8).

60W. When special permit takes effect

- (1) A special permit takes effect on the day on which it is granted or another later day specified in the permit.
- (2) If any other approvals under this Act or another Act are required for the proposed use or development to which a special permit relates, the special permit does not take effect until all those approvals have been granted.
- (3) If it is a condition of a special permit that all reasonable steps be taken to enter into an agreement, the permit does not take effect until –
 - (a) the day the agreement is executed; or
 - (b) the day the Commission notifies the proponent in writing under subsection (4) that the Commission is satisfied that the

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proponent has taken all reasonable steps to enter into such an agreement.

(4) The Commission may, on the application of a proponent of a project, issue a notice in writing to the proponent stating that the Commission is satisfied that the proponent has taken all reasonable steps to enter into an agreement.

(5) The Commission must give notice of the issue of a notice under subsection (4) in relation to a project to the council for the land to which the notice under subsection (4) relates.

(6) If –

(a) after a period of 4 years from the date on which a special permit was granted; or

(b) where the Commission has granted an extension under subsection (7), after a further period of 2 years –

the principal use or development in respect of which a special permit was granted is not substantially commenced, the permit lapses.

(7) If the principal use or development in respect of which a special permit was granted is not, or is unlikely to be,

substantially commenced before the permit would otherwise lapse under subsection (6)(a), the Commission may grant (once only) a 2-year extension of the period during which that use or development must be substantially commenced.

60X. Amendment, revocation and correction of special permits

(1) The Commission may, on the application of the proponent of a project, by notice in writing to the proponent, amend a condition or restriction imposed on a special permit granted in relation to the project.

(2) The Commission may, on the application of –

(a) the EPA Director; or

(b) the planning authority for the area of land to which the project relates –

by notice in writing to the proponent, amend a condition or restriction imposed on a special permit granted in relation to the project.

(3) The Commission may only amend under subsection (2) a condition or restriction

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imposed on a permit if it has invited the proponent of the project to which the permit relates to show cause why the condition or restriction should not be amended as proposed.

(4) The Commission may only amend under subsections (1) or (2) a condition or restriction imposed on a special permit if, at least 14 days before amending the condition or restriction –

(a) the Commission has invited the EPA Director to advise the Commission within 14 days, or a longer period allowed by the Commission, as to whether the EPA Director objects to the condition or restriction being amended as proposed; and

(b) the EPA Director has not, within the time required under paragraph (a), advised that the Director objects to the condition or restriction being amended as proposed.

(5) Subsection (4) does not apply in relation to an amendment of a condition or restriction imposed on a special permit that has been requested by the EPA Director under subsection (2).

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- (6) The Commission may only amend under subsections (1) or (2) a condition or restriction imposed on a special permit in relation to an area of land if –
- (a) at least 14 days before amending the condition or restriction the Panel has provided a copy of the proposed conditions or restrictions to –
 - (i) the planning authority for the area of land; and
 - (ii) the Regional Corporation for the region in which the land is situated; and
 - (iii) if all or part of the land is in Wellington Park, the Wellington Park Management Trust; and
 - (b) the Commission has considered any objections in relation to the condition or restriction that it has received under subsection (7).
- (7) A person notified under subsection (6) may, within 14 days of receiving the notice, by notice to the Panel, set out the person's objections to the amendment of the condition or restriction.
- (8) The Commission may only amend under subsections (1) or (2) a condition or

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restriction imposed on a special permit if the amendment –

- (a) will not cause an increase in detriment to any person other than the proponent; and
 - (b) does not change the use or development for which the permit was issued, other than by changing in a minor way the description of the use or development.
- (9) The Commission may only amend a condition or restriction imposed on a special permit in relation to an area of land if it is satisfied that the condition or restriction of the permit, as so amended, would not be inconsistent with –
- (a) the objectives set out in Schedule 1; and
 - (b) any interim planning scheme, or planning scheme made under section 30N, that applies to the land; and
 - (c) a planning directive or State policy.
- (10) If the Commission amends a condition or restriction imposed on a special permit in relation to a project, the Commission is to give notice in writing to –

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- (a) each person notified under subsection (4) or (6) of the proposal to amend the condition or restriction; and
 - (b) each person who has made a representation under section 60Q(6) in relation to the conditions or restrictions to be imposed on the special permit.
- (11) The Commission may, on the application of a proponent of a project or the owner of the land to which a special permit relates, by notice in writing to the proponent or owner, as the case may be, revoke a special permit granted in relation to a project.
- (12) The Commission may, by notice in writing to the proponent, correct a special permit if the permit contains –
- (a) a clerical mistake or an error arising from any accidental slip or omission; or
 - (b) an evident material miscalculation of figures or an evident material mistake in the description of any person, thing or property referred to in the permit.
- (13) If the Commission revokes or corrects a special permit in relation to a project

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carried out or to be carried out on an area of land, the Commission must give notice in writing of the revocation or correction to –

- (a) the proponent; and
- (b) the owner of the land; and
- (c) the planning authority for the land.

(14) In this section –

“amend”, in relation to a condition of a special permit, means to amend, vary or revoke a condition of the permit or to add a condition to the permit.

60Y. Amendment of planning schemes, &c.

(1) As soon as practicable after a special permit is granted in relation to a project, the Commission must, in consultation with the relevant planning authority, by notice in the *Gazette*, amend –

- (a) any planning scheme (other than an interim planning scheme, or a planning scheme made under section 30N); or
- (b) any special planning order –

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that applies to the land on which the project is to be situated, so as to remove any inconsistency between the permit and the planning scheme or special planning order.

- (2) Division 2 of Part 3 does not apply to an amendment made under subsection (1).
- (3) If the Commission amends under subsection (1) a planning scheme that applies to land on which a project of regional significance is to be situated –
 - (a) the amendment is to be taken to have come into operation on the date on which the project was declared to be a project of regional significance; and
 - (b) the Commission must give notice, as prescribed in the regulations, of the amendment.

12. Section 63 amended (Obstruction of sealed schemes)

Section 63 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2)(c) “Tribunal.” and substituting “Tribunal; or”;
- (b) by inserting the following paragraph after paragraph (c) in subsection (2):

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(d) constitutes a breach of section 60H(2) or of a condition or restriction imposed under section 60U, as amended, if at all, under section 60X, on a special permit granted in relation to the land.

(c) by inserting in subsection (5)(a) “, special permit” after “permit”.

13. Section 77 amended (Agreement may not breach planning scheme)

Section 77 of the Principal Act is amended by omitting “or a permit” and substituting “, a permit or a special permit”.

14. Section 82 amended (Evidentiary provision)

Section 82 of the Principal Act is amended as follows:

(a) by omitting “order or a permit” and substituting “order, a permit or a special permit”;

(b) by omitting “order or permit” and substituting “order, permit or special permit”.

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**15. Section 83 amended (Planning schemes, &c., to be
judicially noticed)**

Section 83 of the Principal Act is amended by
omitting “order or a permit” and substituting
“order, a permit or a special permit”.

DRAFT