

TASMANIA

LAND USE PLANNING AND APPROVALS AMENDMENT (MAJOR PROJECTS) BILL 2020

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**LAND USE PLANNING AND APPROVALS
AMENDMENT (MAJOR PROJECTS) BILL 2020**

*(Brought in by the Minister for Planning, the Honourable
Roger Charles Jaensch)*

A BILL FOR

An Act to amend the *Land Use Planning and Approvals Act 1993* and, consequential on those amendments, the *Environmental Management and Pollution Control Act 1994* and the *Historic Cultural Heritage Act 1995*

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

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Land Use Planning and Approvals Amendment (Major Projects) Act 2020*.

2. Commencement

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

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**PART 2 – LAND USE PLANNING AND APPROVALS
ACT 1993 AMENDED**

3. Principal Act

In this Part, 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 inserting the following definition after the definition of *Executive Commissioner*:

general manager, in relation to a council, means a person who is appointed under section 61 of the *Local Government Act 1993* to be the general manager of the council;

- (b) by inserting the following definitions after the definition of *LPS criteria*:

major project has the meaning it has in section 60B;

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major project permit means a major project permit granted under section 60ZZM;

- (c) by omitting “special permit” from paragraph (c) of the definition of *representation* and substituting “major project permit”;
- (d) by omitting the definition of *special permit*.

5. Section 12 amended (Existing uses and developments)

Section 12(2)(a) of the Principal Act is amended by omitting “special permit” and substituting “major project permit”.

6. Section 48AA amended (Enforcement of major project permits)

Section 48AA of the Principal Act is amended by omitting “special permit” and substituting “major project permit”.

7. Section 51 amended (Permits)

Section 51(1) of the Principal Act is amended by inserting “or a major project permit has been granted in respect of that use or development and the permit is in effect” after “effect”.

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8. Section 52 amended (What if applicant is not the owner?)

Section 52 of the Principal Act is amended by omitting subsection (1C).

9. Section 54 amended (Additional information)

Section 54(1) of the Principal Act is amended by omitting “section 43A” and substituting “section 40T”.

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

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

- (a) by omitting from subsection (1) “special permit” and substituting “major project permit”;
- (b) by omitting from subsection (2) “special permit” and substituting “major project permit”.

11. Part 4, Division 2A substituted

Division 2A of Part 4 of the Principal Act is repealed and the following Division is substituted:

Division 2A – Major projects
Subdivision 1 – Interpretation of Division 2A

60B. Interpretation: Division 2A

- (1) In this Division, unless the contrary intention appears –

amend, in relation to a major project permit, means to amend, vary or revoke a provision of the permit or to add a provision to the permit;

application for an ordinary permit means an application made under Division 2, or section 40T(1), for a permit;

assessment guidelines, in relation to a major project, means the assessment guidelines determined under section 60ZM(1) in relation to the major project;

assessment report, in relation to a major project, means the assessment report prepared under section 60ZZN in relation to the major project;

assessment requirement notice, in relation to a major project, means an assessment requirement notice

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given under section 60ZA(1)(b)
in relation to the major project;

bilateral agreement project means a
project –

- (a) that is reasonably likely to
require approval from the
Commonwealth
Government under the
*Environment Protection
and Biodiversity
Conservation Act 1999* of
the Commonwealth; and
- (b) in relation to which the
proponent is likely to seek
to have a bilateral
agreement, within the
meaning of that Act,
apply;

declaration of a major project means
a declaration of a major project
under section 60M(1) that has not
been revoked under
section 60S(2);

determination guidelines means
determination guidelines, issued
by the Commission under
section 60J(1), that have not been
revoked under section 60J(5);

draft assessment report, in relation to
a major project, means the draft

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assessment report prepared under
section 60ZZA(1) in relation to
the major project;

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

EPA Board means the Board of the
Environment Protection
Authority established by section
13 of the EMPC Act;

EPA Director means the Director,
Environment Protection
Authority, appointed under
section 18 of the EMPC Act;

Heritage Council means the
Tasmanian Heritage Council
established by section 5 of the
*Historic Cultural Heritage Act
1995*;

major project means a project to
which a declaration of a major
project relates;

major project impact statement, in
relation to a major project,
means –

- (a) except if paragraph (b)
applies, a major project
impact statement
provided, in relation to

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the major project, to a
Panel under
section 60ZS(1); or

- (b) if a major project impact statement in relation to the major project is provided to the Panel under section 60ZV(4), that major project impact statement;

major project proposal, in relation to a proposed major project, means –

- (a) except if paragraph (b) or (c) applies, a major project proposal that, under section 60E(1), accompanies a proposal for a declaration in relation to the proposed major project or that is provided to the Minister under section 60E(3); or
- (b) except if paragraph (c) applies, if an amended major project proposal in relation to the project is provided under section 60G(3) – that major project proposal; or

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- (c) if there is an amended major project proposal in relation to the project, being a proposal to which section 60ZH(4) relates – that major project proposal;

notice recommending revocation, in relation to a major project, means a notice recommending revocation that is given under section 60ZA(1)(c) in relation to the major project;

Panel, in relation to a major project, means the Development Assessment Panel established under section 60U(1) in relation to the major project;

participating regulator, in relation to a major project, means a relevant regulator who is, under section 60ZB, a participating regulator in relation to the project;

participating regulator's final advice, in relation to a participating regulator, means the advice given under section 60ZZF(1), in relation to a major project, by the participating regulator;

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pipeline licensee has the same meaning as in the *Gas Pipelines Act 2000*;

project-associated Act means –

- (a) the *Aboriginal Heritage Act 1975*; and
- (b) the *Environmental Management and Pollution Control Act 1994*; and
- (c) the *Historic Cultural Heritage Act 1995*; and
- (d) the *Nature Conservation Act 2002*; and
- (e) the *Threatened Species Protection Act 1995*; and
- (f) any regulations under an Act referred to in this definition;

project-related permit means a permit, authority, licence, certificate, determination or permission, or other authorisation, however described (other than an environmental licence, within the meaning of the EMPC Act) that, further to an application under a project-associated Act, is or may

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be issued, granted or given under
a project-associated Act;

proponent, in relation to –

- (a) a project, or a major project, that consists of one or more uses or developments to be undertaken by the one person – means the person from time to time proposing the project; or
- (b) a project, or a major project, that consists of 2 or more uses or developments that are proposed to be undertaken by different persons – means the person proposing the project or major project as a whole or, if there is more than one such person, a person who is nominated under subsection (2) to be the proponent in relation to the project for the purposes of this Act;

proposal for a declaration means –

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(a) a proposal made to the Minister under section 60C(1); or

(b) a proposal made by the Minister under section 60C(2);

relevant planning authority, in relation to a project or a major project, means –

(a) a planning authority for a municipal area in which all or part of the project or major project is to be situated; and

(b) after the declaration of a major project, if all or part of the project or major project is not to be situated in a municipal area – the planning authority nominated under section 60O(5) in relation to the major project;

relevant planning scheme, in relation to a project or major project, means a planning scheme that applies in relation to all or part of the land on which the project or major project is situated or is to be situated;

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relevant regulated entity has the same meaning as in the *Water and Sewerage Industry Act 2008*;

relevant regulator, in relation to a major project, means a person or entity that is a relevant regulator in relation to the major project under section 60Z;

State-owned company means a company which is incorporated under the Corporations Act and which is controlled by –

- (a) the State; or
- (b) a State authority; or
- (c) another company which is itself controlled by the State or a State authority;

Tasmanian Government Business means –

- (a) a Government Business Enterprise within the meaning of the *Government Business Enterprises Act 1995*; and
- (b) a State authority; and
- (c) a State-owned company; and

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(d) the Corporation, within the meaning of the *Water and Sewerage Corporation Act 2012*.

- (2) If a project or major project is to consist of 2 or more uses or developments that are proposed to be undertaken by different persons, those persons may, by notice to the Minister, nominate a person to be the proponent of the project, or major project, for the purposes of this Act.

***Subdivision 2 – Proposals for major project declarations
and major project proposals***

60C. Proposal that project be declared major project

(1) A –

- (a) proponent of a project; or
- (b) planning authority in relation to a relevant planning scheme –

may, by notice in writing to the Minister, make a proposal that a project be declared to be a major project.

- (2) The Minister may, in writing, make a proposal that a project be declared to be a major project.

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-
- (3) A proposal that a project be declared to be a major project is to –
 - (a) specify the area of land to which the project is to relate; and
 - (b) include a general description of the nature of the project.
 - (4) A proponent or a planning authority may, by notice to the Minister, withdraw a proposal made under subsection (1) by the proponent or planning authority, respectively.
 - (5) The Minister may, in writing, withdraw a proposal made by the Minister under subsection (2).

60D. Effect, of proposal for a declaration, on permit applications, referrals and project-associated Acts

- (1) In this section –

applicable use or development means a use or development that is part of a project to which a proposal for a declaration relates;

decision-maker, in relation to an application under a project-associated Act for a project-related permit, means the person

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to whom the application is made
under that Act;

referral means any of the following:

- (a) the giving to the Heritage Council, under section 36(2) of the *Historic Cultural Heritage Act 1995*, of a copy of a permit application, within the meaning of that Act, if the permit application relates to an applicable use or development;
- (b) the referral, to the EPA Board under Part 3 of the EMPC Act, of an application for a permit under this Act, if the application relates to an applicable use or development;
- (c) the giving under section 56O(1) of the *Water and Sewerage Industry Act 2008* of notice of an application that relates to an applicable use or development;
- (d) the giving to a pipeline licensee under section

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70D of the *Gas Pipelines Act 2000* of notice of an application that relates to an applicable use or development;

referred entity means –

- (a) the EPA Board; and
- (b) the Heritage Council; and
- (c) a pipeline licensee; and
- (d) a relevant regulated entity;

relevant time, in relation to –

- (a) an application for an ordinary permit that is made in respect of all or part of the land to which a proposal for a declaration in relation to a project relates – means the day on which the relevant planning authority –
 - (i) makes under section 60C(1) the proposal for a declaration in relation to the project; or

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(ii) is notified under section 60I(1) of the proposal for a declaration in relation to the project; or

(iii) is requested in a notice under section 60H(1) to provide information in relation to the project –

whichever day is earlier;
or

(b) an application under a project-associated Act for a project-related permit that is made in respect of all or part of the land to which a proposal for a declaration relates, means the day on which the major project to which the application relates is referred to the relevant regulator under section 60Y(a); or

(c) a referral, means the day on which the relevant planning authority –

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- (i) makes under section 60C(1) the proposal for a declaration in relation to the project to which the referral relates; or
- (ii) is notified under section 60I(1) of the proposal for a declaration in relation to the project to which the referral relates; or
- (iii) is requested in a notice under section 60H(1) to provide information in relation to the project to which the referral relates –

whichever day is earlier.

- (2) Subsection (3) applies to an application for an ordinary permit or an application under a project-associated Act for a project-related permit (other than such an application to which section 60ZT(2)

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applies), if the application relates to all or part of the land to which a proposal for a declaration relates and the application has been –

- (a) made to a planning authority, or the decision-maker, respectively, before the relevant time in relation to the application but has not been determined by the planning authority, or the decision-maker, respectively, before the relevant time; or
 - (b) made after the relevant time and before a declaration is made under section 60M or the proposal for a declaration is withdrawn, or taken to be withdrawn, under section 60C(4) or (5).
- (3) If this subsection applies to an application for an ordinary permit or an application under a project-associated Act for a project-related permit –
- (a) the planning authority, or the decision-maker, to which the application is made must not determine the application; and
 - (b) the planning authority, or the decision-maker, to which the application is made must not

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make a referral in relation to the application; and

- (c) any referred entity to which a referral in relation to the application has been made must cease to take any action that, but for the section, the referred entity would be required to take because of the referral –

unless and until –

- (d) a declaration is made under section 60M(1)(b) that the project is not to be a major project; or
- (e) the proposal for a declaration is withdrawn, or taken to have been withdrawn, under section 60C(4) or (5).

(4) A determination, of –

- (a) an application for an ordinary permit to which subsection (3) applies; or
- (b) an application under a project-associated Act for a project-related permit to which subsection (3) applies –

is void if it is made in contravention of that subsection.

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(5) If subsection (3) applies to an application for an ordinary permit, or an application under a project-associated Act for a project-related permit, in relation to a project, the period between –

(a) the relevant time; and

(b) the day on which –

(i) the Minister makes a declaration under section 60M(1) in relation to the project; or

(ii) a proposal for a declaration is withdrawn, or taken to be withdrawn, under section 60C(4) or (5) –

is not to be taken into account in any calculation, in relation to the application or a referral in relation to the project, for the purposes of this Act, or a project-associated Act, of a period of time –

(c) beginning on the day on which the application was lodged with the planning authority or the decision-maker; or

(d) beginning as a consequence of an action (including a referral in relation to the project) taken because the application for an

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ordinary permit, or an application under a project-associated Act for a project-related permit, has been made.

60E. Major project proposal required

- (1) A proponent of a project who makes under section 60C(1) a proposal for a declaration in relation to the project is to provide to the Minister, at the same time, a major project proposal in relation to the project.
- (2) If a planning authority or the Minister makes under section 60C(1) or (2) a proposal for a declaration in relation to a project, the Minister, by notice to the proponent of the project, may require the proponent to provide to the Minister a major project proposal in relation to the project within the period specified in the notice.
- (3) A proponent in relation to a project to whom a notice is given under subsection (2) is, within the period specified in the notice or a longer period allowed by the Minister, to take all reasonable steps to provide a major project proposal to the Minister.
- (4) If a proponent in relation to a project fails to comply with subsection (3), an application for a permit in relation to a

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use or development to which the project relates may not, except with the approval of the Minister, be made by any person within the 2-year period after the day on which the notice under subsection (2) is given to the proponent, if the use or development –

- (a) is the same as, or substantially similar to, a use or development to which the project relates or related; and
- (b) would be carried out on all or part of the area of land to which the project relates or related.

60F. Contents of major project proposal

(1) A major project proposal in relation to a project is to contain the following information:

- (a) the name and contact details of the proponent of the project;
- (b) details of the proponent's experience and of the proponent's financial capacity to implement the project;
- (c) the name of the project;
- (d) a general description of the project, including –

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- (i) the activities that are proposed to be carried out as part of the project after the construction phase of the project is completed; and
 - (ii) the proposed uses or developments that are proposed to occur in relation to the project;
- (e) a map, or description, indicating the location of the proposed land on which the project is to be situated and, subject to subsection (2), a plan indicating generally areas on that land on which uses or developments in relation to the project are proposed to occur;
- (f) a general description of the physical features of –
 - (i) the areas of land on which the project is to be situated; and
 - (ii) the areas of land, in the vicinity of the areas of land on which the project is to be situated, that it is anticipated may be affected by the project;

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- (g) the anticipated effect, if any, on other areas of land that are in the vicinity of the areas of land on which the project is to be situated, of the project or infrastructure associated with the project;
- (h) the key environmental, health, economic, social and heritage effects of the project that the proponent has identified and, if the effects may be detrimental, the measures that the proponent proposes to take to mitigate those effects;
- (i) the surveys, and studies, proposed or being undertaken in respect of the project;
- (j) the proposed timetable for the completion of the construction phase of the project;
- (k) whether the project is a bilateral agreement project;
- (l) a statement as to why the Minister ought to be of the opinion that the project is eligible under section 60K to be declared a major project;
- (m) an assessment of the extent to which the project complies with

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the requirements of the relevant planning scheme and a statement as to the amendments, if any, that would be required to be made to an LPS in order for the project to so comply;

- (n) information as to the consents referred to in section 60N(2) that have been obtained;
 - (o) details of any consultation, with persons who may have an interest in whether the project is implemented, that has occurred or is proposed to occur;
 - (p) details of any feasibility assessment that has been undertaken, in relation to the project, by the proponent;
 - (q) any other information that is prescribed to be required to be provided for the purposes of this section.
- (2) If a project to which a declaration of a major project is to relate includes transport infrastructure, water or sewerage infrastructure, energy infrastructure or communications infrastructure, the plan, referred to in subsection (1)(e), is to be a plan setting out generally the types of infrastructure

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and the areas within any part of which such infrastructure may be situated.

(3) The reference in subsection (1)(g) to the anticipated effect, on other areas of land, of the project or infrastructure associated with the project, includes –

(a) the anticipated effect on areas that are within, as well as areas that are outside, the regional area in which the project is to be situated; and

(b) the anticipated effect on the provision of physical, social and other infrastructure in those other areas.

60G. Minister may request proponent to provide amended major project proposal

(1) The Minister, by notice to a proponent of a project, may request the proponent to provide to the Minister, within the period specified in the notice, the proponent's major project proposal, as provided to the Minister under section 60E, amended so as to incorporate the information specified in the notice as being required to be so incorporated.

(2) Information may only be requested under subsection (1) to be incorporated in a major project proposal –

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- (a) before the Minister makes a declaration of a major project under section 60M(1); and
 - (b) if it is reasonably necessary to enable the Minister to determine whether or not to make a declaration of a major project.
 - (3) A proponent to whom a notice is given under subsection (1) is to take all reasonable steps to provide to the Minister, within the period specified in the notice, the proponent's major project proposal, amended so as to incorporate the information specified in the notice.
 - (4) If –
 - (a) a copy of the major project proposal in relation to a proposed major project, amended so as to incorporate the information specified in a notice under subsection (1), is not provided to the Minister within the period specified in the notice; and
 - (b) the proposal for a declaration in relation to the project was made by the proponent under section 60C(1) –

the proposal is taken to be withdrawn by the proponent under section 60C(4).

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(5) Subsection (6) applies in relation to a major project proposal if –

- (a) a copy of the major project proposal in relation to a proposed major project, amended so as to incorporate the information specified in a notice under subsection (1), is not provided to the Minister within the period specified in the notice; and
- (b) the proposal for a declaration in relation to the project was made by the Minister or a planning authority under section 60C(1) or (2).

(6) If this subsection applies in relation to a major project proposal –

- (a) the proposal is taken to be withdrawn by the Minister under section 60C(5); and
- (b) an application for a permit in relation to a use or development may not, except with the approval of the Minister, be made by any person within the 2-year period after the day on which the notice under subsection (1) was issued, if the use or development –
 - (i) is the same as, or substantially similar to, a

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use or development to
which the project relates
or related; and

- (ii) would be carried out on
all or part of the area of
land to which the project
relates or related.

**60H. Minister may request information from
planning authority or State Service Agency**

- (1) The Minister, by notice to a planning
authority or State Service Agency, may
request the planning authority or State
Service Agency to provide to the
Minister, within the period specified in
the notice, the information, specified in
the notice, that is in the possession of the
planning authority or State Service
Agency.
- (2) Information may only be requested under
subsection (1) –
 - (a) before the Minister makes a
declaration of a major project
under section 60M(1); and
 - (b) if it is reasonably necessary to
enable the Minister to determine
whether or not to make a
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- (3) A planning authority, or the Secretary of a State Service Agency, to which a notice is given under subsection (1) is to take all reasonable steps to provide to the Minister, within the period specified in the notice, the information specified in the notice.
- (4) Without limiting the generality of subsection (1), the information that may be requested under that subsection includes information as to any further approvals, permissions, licences, or authorities, however described, that, in addition to a project-related permit, may be required to be obtained by the proponent under an Act in order for the project, or activities for the purposes of the project, to be lawfully implemented or conducted.

60L. Persons to be notified of proposal for declaration and given major project proposals

- (1) The Minister, within 7 days after a proposal for a declaration is made, must notify of the proposal for a declaration –
 - (a) the proponent, if the proponent did not make under section 60C(1) the proposal for a declaration; and

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- (b) each owner of all or part of the land to which the proposal for a declaration relates, if the owner is not the proponent of the project to which the proposal relates; and
 - (c) the owners, and the occupiers, of land adjoining the land on which the project is to be situated; and
 - (d) the relevant planning authority in relation to the project to which the proposal relates, if the planning authority did not make under section 60C(1) the proposal for a declaration; and
 - (e) each planning authority that is not a relevant planning authority in relation to the project to which the proposal relates but that is the planning authority for a municipal area that is in the regional area, or regional areas, in which the project is to be situated; and
 - (f) each State Service Agency that the Minister considers may have an interest in the proposal for a declaration; and
 - (g) the Commission.
- (2) If the Minister is satisfied that the Minister will not be issuing a notice, or

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another notice, under section 60G(1) in relation to a project, the Minister must provide a copy, of the major project proposal, in relation to the project, that is last provided to the Minister under section 60E(1), section 60E(3) or section 60G(3), to –

- (a) each owner of all or part of the land to which the proposal for a declaration relates, if the owner is not the proponent of the project to which the proposal relates; and
 - (b) the owners, and the occupiers, of land adjoining the land on which the project is to be situated; and
 - (c) each planning authority in relation to a relevant planning scheme; and
 - (d) each State Service Agency that the Minister considers may have an interest in the proposal.
- (3) A planning authority or a State Service Agency that is provided under this section with a major project proposal in relation to a project may, within 28 days, by notice in writing to the Minister, advise the Minister as to –
- (a) whether the planning authority or State Service Agency considers that the Minister ought not be of

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the opinion that the project is eligible to be declared to be a major project; and

- (b) the reasons why the planning authority or State Service Agency is of that opinion.

- (4) A person who –

- (a) is an owner or occupier of land to which the proposal for a declaration relates or an owner, or occupier, of land adjoining the land on which a project to which such a declaration relates is to be situated; and

- (b) is provided under this section with a major project proposal in relation to the project –

may, within 28 days, by notice in writing to the Minister, advise the Minister why he or she does not wish the project to be declared to be a major project.

- (5) If the Minister is satisfied that the Minister will not be issuing a notice, or another notice, under section 60G(1) in relation to a project, the Minister must notify the proponent that the Minister is not intending that the major project proposal, in relation to the project, that is last provided to the Minister under section 60E(1), section 60E(3) or

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section 60G(3) is to be required to be further altered.

- (6) A proponent of a project, to which a proposal for a declaration relates, who did not make the proposal for a declaration, may, by notice in writing to the Minister given within 28 days after being notified under subsection (5), advise the Minister why the proponent does not wish the project to be declared to be a major project.

Subdivision 3 – Declaration of major projects

60J. Determination guidelines

- (1) The Commission may issue guidelines, (***determination guidelines***), applicable to all projects, as to the matters to which the Minister is to have regard in determining whether to declare projects to be major projects.
- (2) Determination guidelines may only be issued under subsection (1) if they are not inconsistent with this Act.
- (3) The Commission, as soon as practicable after issuing determination guidelines –
- (a) must publish in the *Gazette*, and in a newspaper that is published, and circulates generally, in Tasmania, a notice specifying –

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- (i) that the determination guidelines have been issued; and
 - (ii) that copies of the guidelines may be viewed at a place specified in the notice and viewed and downloaded at the electronic address of the Commission specified in the notice; and
 - (b) must ensure that copies of the determination guidelines, while in force, are available –
 - (i) for viewing by members of the public at the place specified in the notice; and
 - (ii) for viewing and downloading at an electronic address of the Commission specified in the notice.
 - (4) Determination guidelines issued under subsection (1) are of no effect until the notice in relation to the guidelines is published in the *Gazette* under subsection (3).
 - (5) The Commission may revoke the determination guidelines.

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- (6) The Commission, as soon as practicable after revoking the determination guidelines, must publish in the *Gazette*, and in a newspaper that is published, and circulates generally, in Tasmania, a notice specifying that the determination guidelines have been revoked.
- (7) The revocation of determination guidelines under subsection (5) is of no effect until the notice of the revocation of the guidelines is published in the *Gazette* under subsection (6).

60K. When project is eligible to be declared to be major project

- (1) Subject to section 60L, a project is eligible to be declared to be a major project under section 60M if, in the opinion of the Minister, the project has 2 or more of the following attributes:
 - (a) the project will make a significant financial or social contribution to a region or the State;
 - (b) the project is of strategic planning significance to a region or the State;
 - (c) the project will significantly affect the provision of public infrastructure, including, but not limited to, by requiring

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significant augmentation or
alteration of public infrastructure;

- (d) the project has, or is likely to have, significant, or potentially significant, environmental, economic or social effects;
- (e) the approval or implementation of the project will require assessments of the project, or of a use, development or activity that is to be carried out as part of the project, to be made under 2 or more project-associated Acts or by more than one planning authority;
- (f) the characteristics of the project make it unsuitable for a planning authority to determine.

(2) For the purposes of subsection (1)(f), the Minister may only be of the opinion that the characteristics of the project make it unsuitable for a planning authority to determine the project if, after –

- (a) considering advice provided under section 60I(3); and
- (b) consulting the Commission –

the Minister is of the opinion that the project is of such a scale or complexity, or has such characteristics, that, if the

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planning authority were required to assess under this Act an application for a permit in relation to the project, the planning authority would be unlikely to have the capacity or capability to carry out the assessment adequately or to do so in a timely manner.

- (3) A project that is to be situated on an area of land may be declared to be a major project even though a use or development that is proposed to form part of the project is prohibited under a relevant planning scheme.

60L. When project is ineligible to be declared to be major project

- (1) Despite section 60K, a project is not eligible to be declared to be a major project under section 60M if the project –
- (a) would not further the objectives specified in Schedule 1; or
 - (b) would be in contravention of a State Policy; or
 - (c) would be in contravention of the TPPs; or
 - (d) would be inconsistent with a regional land use strategy that applies to the land on which the project is to be situated.

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- (2) Despite section 60K, a project is not eligible to be declared to be a major project under section 60M if the project –
 - (a) relates to a matter, or includes a use or development, referred to in section 11(3); or
 - (b) relates to a matter, or includes a use or development, that is an EL activity within the meaning of the EMPC Act.

60M. Declaration of major project

- (1) The Minister, after a proposal for a declaration is made in relation to a project, must, by notice in the *Gazette* –
 - (a) declare the project to be a major project; or
 - (b) declare that the project is not to be a major project.
- (2) The Minister is to make a declaration under subsection (1) in relation to a project –
 - (a) within the 28-day period from the day on which he or she receives under section 60E(1) or (3) or section 60G(3) a major project proposal in relation to the major project; or

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- (b) within the 14-day period from the end of the 28-day period in which a person may provide advice under section 60I in relation to a proposal for a declaration in relation to the project; or
- (c) within the 14-day period from the latest day on which he or she receives further information in relation to the project under section 60H(3) –

whichever period ends last.

- (3) In determining whether to declare a project to be a major project, the Minister is to have regard to the determination guidelines, if any.

60N. Circumstances in which declaration of major project may be made

- (1) The Minister may only declare a project to be a major project under section 60M if –
 - (a) the Minister considers the project to be eligible under section 60K to be declared such a project; and
 - (b) the Minister has considered any advice provided in relation to the project under section 60I.

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(2) The Minister may only declare a project to be a major project under section 60M –

- (a) if all or part of the land on which the project is to be situated is Crown land, within the meaning of the *Crown Lands Act 1976* – with the consent of the Minister to whom the administration of that Act is assigned; or
- (b) if all or part of the land on which the project is to be situated is land owned by a council – with the consent of the general manager in relation to the council; or
- (c) if all or part of the land on which the project is to be situated is in Wellington Park – with the consent of the Wellington Park Management Trust.

(3) The Minister may only declare a project to be a major project under section 60M if –

- (a) where all or part of the land on which the project is to be situated is land of which the proponent is not the owner – the owner, or owners, of the land; and
- (b) where all or part of the land on which the project is to be situated

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is land that is not owned by a council but is occupied or administered by a council – the council –

have been given notice in writing of the proposal for a declaration in relation to the major project.

60O. Contents of declaration of major project

- (1) A declaration of a major project must include –
 - (a) a map, or description, indicating the location of the land on which the project is to be situated; and
 - (b) subject to subsection (2), a plan indicating generally areas, on the land on which the project is to be situated, on which proposed uses or developments in relation to the project are to occur; and
 - (c) a description of the project, including the activities that are proposed to be carried out as part of the project when the construction phase of the project is completed; and
 - (d) the name of the proponent of the major project; and

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- (e) the attributes of the project specified in section 60K(1), which, in the opinion of the Minister, are such that the project is eligible to be declared to be a major project.
- (2) If a project to which a declaration of a major project is to relate includes transport infrastructure, water or sewerage infrastructure, energy infrastructure or communications infrastructure, the plan, referred to in subsection (1)(b), is to be a plan setting out generally the types of infrastructure and the areas within any part of which such infrastructure may be situated.
- (3) The Minister, in a declaration of a major project, may –
- (a) include a statement specifying the particular qualifications or experience that the Minister considers at least one member of the Panel in relation to the major project ought to have; and
 - (b) require the Commission to, under section 60V(6), appoint to the Panel in relation to the major project a member who has those qualifications or that experience.

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- (4) The Minister may include in a declaration of a major project any use or development that is necessary for the implementation of the major project, whether or not the use or development is to be undertaken by or on behalf of the proponent named in the declaration or by and on behalf of another person.
- (5) The Minister may, in a declaration of a major project in relation to a major project that is to take place on an area of land all or part of which is not within any municipal area, specify that a planning authority nominated in the declaration is to be the planning authority in relation to the major project.
- (6) The Minister may only specify in a declaration of a major project a planning authority for the purposes of subsection (5) if the planning authority is the planning authority for a municipal area that is within a regional area that is adjacent to the area of land on which the major project is to be situated in whole or in part.
- (7) If the Minister specifies in a declaration of a major project, in accordance with subsection (5), that a planning authority is the planning authority for a municipal area, the planning authority is, for the purposes of this Division, a relevant

planning authority in relation to the major project.

60P. Notice to be given of declaration of major project

- (1) The Minister, within 7 days after a declaration of a major project is made in relation to a project, or within 7 days after a declaration is made under section 60M(1)(b) that a project is not to be a major project, is to notify, in writing –
- (a) the proponent of the project; and
 - (b) if the proponent is not the owner of all the land on which the project is or was to be situated – the owners of the parts of the land that the proponent does not own; and
 - (c) the owners, and the occupiers, of land adjoining the land on which the project is or was to be situated; and
 - (d) the relevant planning authority in relation to the project; and
 - (e) each planning authority that is not a relevant planning authority in relation to the project but that is the planning authority for a

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municipal area that is in the regional area, or regional areas, in which the project is or was to be situated; and

- (f) if the project is or was to be situated on an area of land that is not within any municipal area – all planning authorities for an area of land in a regional area that is adjacent to the area of land in which the project is or was to be situated; and
 - (g) the Commission; and
 - (h) each State Service Agency, or Tasmanian Government Business, that the Minister considers may have an interest in relation to a matter to which the project relates; and
 - (i) if the land on which the project is or was to be situated is situated in Wellington Park – the Wellington Park Management Trust.
- (2) The Minister is to provide to the Commission, together with a notice under subsection (1) in relation to a declaration of a major project –
- (a) the major project proposal; and

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- (b) any information, in relation to the major project, provided to the Minister under section 60H(3).
- (3) The Minister must ensure that a notice specifying –
 - (a) that a declaration of a major project has been made; and
 - (b) an electronic address, and an address of the Commission, where a copy of the declaration may be viewed –

is published in the *Gazette* and in a newspaper that is published, and circulates generally, in Tasmania.

60Q. Effect on planning matters of declaration of major project

- (1) Divisions 2 and 4 of Part 3B do not apply in relation to a use or development that forms part of a major project.
- (2) A person must not undertake on land a use or development that forms part of a major project on the land, except under and in accordance with a major project permit in relation to the project.
- (3) Subsection (2) does not apply in relation to an activity if the activity is carried out in accordance with a project-related

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permit, or a notice, issued under section 60ZT(2), (5) or (7).

- (4) Subsection (2) does not apply in relation to a use or development for the purposes of the Panel, or a relevant regulator, conducting an assessment under or for the purposes of this Division, and any such assessment is not to be taken to be in contravention of any provision of this Act or a planning scheme.
- (5) If a declaration of a major project is made –
 - (a) an application for an ordinary permit, in relation to a use or development forming all or part of the major project, that has been made to, but not determined by, the planning authority, is taken to have been withdrawn on the day on which the declaration is made; 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.

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60R. Effect on project-associated Acts, and relevant regulators, of declaration of major project

- (1) If a declaration of a major project is made on a day –
 - (a) an application under a project-associated Act, for a project-related permit in relation to land to which the project relates, that has been made by or on behalf of the proponent but that has not been determined under that Act is taken to have been withdrawn under that Act on that day; and
 - (b) each relevant regulator to which an application referred to in paragraph (a) has been made must, as soon as practicable, refund to the applicant half of any fees that the applicant has paid in respect of the application.
- (2) If a declaration of a major project is made, any referral, within the meaning of section 60D, to a relevant referral entity, within the meaning of that section, is to be taken to be void and of no effect.

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Subdivision 4 – Revocation of declaration

60S. 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 major project 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 major project in respect of all or part of an area of land, if permitted or required under subsection (3) or (5) to revoke the declaration.
- (3) The Minister may revoke under subsection (2) a declaration of a major project in respect of all or part of an area of land –
 - (a) in accordance with a request under subsection (1), if there is no major project permit in relation to the land; or
 - (b) if the proponent of the project has failed to comply with section 60ZS(1), section 60ZV(4) or section 60ZX(1); or
 - (c) if the proponent of the project has provided to the Minister or the

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Panel information, in relation to the project, that is false or misleading in any material particular; or

- (d) 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 and there is no major project permit in relation to the land or the part; or
 - (e) subject to subsection (4), if the Panel has given the Minister a no reasonable prospect notice under section 60ZI(1) in relation to the project.
- (4) If the Minister has received a no reasonable prospect notice under section 60ZI(1) in relation to a major project, the Minister must, before revoking under subsection (2), on the grounds specified in subsection (3)(e), the declaration of a major project in relation to the major project, consider any submission, and any comments, in relation to the major project, that are given to the Minister under section 60ZI(7).
- (5) The Minister must revoke under subsection (2) a declaration of a major

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project in respect of all or part of an area of land if –

- (a) the Panel has given to the Minister under section 60ZG(4) a copy of a notice under section 60ZG(3)(a) in relation to the major project; or
 - (b) section 60ZH(3) applies in relation to the declaration; or
 - (c) the Panel has refused to grant a major project permit in relation to all of the area of land or the part of the area of land, respectively; or
 - (d) the major project permit in relation to all of the area of land or the part of the area of land, respectively, has been cancelled.
- (6) The Minister is to give notice of a revocation of a declaration of a major project under subsection (2) to the Panel and the persons notified under section 60P(1) of the declaration of the major project.
- (7) The Minister is to ensure that a notice of the revocation of a declaration of a major project under subsection (2) is placed in a newspaper that is published, and circulates generally, in Tasmania.

60T. Effect of revocation of declaration

If a declaration of a major project is revoked under section 60S(2) in relation to all or part of an area of land –

- (a) this Division, apart from this section, section 60ZZZD and section 60ZZZE, ceases to apply, in respect of the project that was a major project, 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, apart from this section, section 60ZZZD and section 60ZZZE, ceased to apply, if the action or failure was lawful under this Division at the time the action or failure occurred; and
- (c) an application for a permit in relation to a use or development may not, except with the approval of the Minister, be made by any person within the 2-year period after the revocation, if the use or development –
 - (i) is the same as, or substantially similar to, a use or development to

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which the project related;
and

- (ii) would be carried out on all or part of the area of land to which the project related.

Subdivision 5 – Development Assessment Panels

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

- (1) The Commission must establish a Development Assessment Panel (*the Panel*) in relation to a major project.
- (2) A Development Assessment Panel must be established under subsection (1) in relation to a major project within 42 days, or a longer period allowed by the Minister, after the Commission is given a notice under section 60P(1) in relation to the major project.
- (3) The Executive Commissioner referred to in section 5(1)(a) of the *Tasmanian Planning Commission Act 1997*, during the period after the Commission is given notice under section 60P(1) in relation to the major project and before the Panel is established under subsection (1) in relation to the major project –

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- (a) is to be taken, for the purposes of this Division, to be the Panel; and
 - (b) may perform and exercise the functions and powers of the Panel.
- (4) A function or power performed or exercised under subsection (3) by the Executive Commissioner referred to in that subsection is to be taken to have been performed or exercised by the Panel.
- (5) As soon as practicable after establishing under subsection (1) a Panel in relation to a major project, the Commission must provide to the Panel –
- (a) the major project proposal in relation to the major project; and
 - (b) the information, if any, in relation to the major project –

provided to the Commission under section 60P(2).

60V. Appointment of members of Panel

- (1) The Commission is to establish under section 60U a Panel in relation to a major project by appointing to be members of the Panel –

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- (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 appropriate qualifications and experience, who is nominated by the councils for the municipal areas that are likely to be affected by the major project if it proceeds; and
 - (c) a person who is not a member of the Commission and who, in the opinion of the Commission, has qualifications and experience that are relevant to the assessment of the major project.
- (2) The person appointed under subsection (1)(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*.
- (3) A person has appropriate qualifications and experience for the purposes of subsection (1)(b) if the person has –
- (a) qualifications or experience in land use planning, urban and regional development, commerce or industry; or

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- (b) practical knowledge of, and experience in, the provision of buildings or other infrastructure.
 - (4) The Commission is to request the councils for municipal areas that are likely to be affected by the major project if it proceeds to together nominate, within 28 days after receiving the request, a person for the purposes of subsection (1)(b).
 - (5) If the councils have not nominated a person within 28 days after receiving under subsection (4) a request to do so, the Commission may appoint a person for the purposes of subsection (1)(b), even though the person has not been nominated by the councils, if the person satisfies the requirements of subsection (3).
 - (6) The Commission, in accordance with subsection (7), may appoint to be members of the Panel, in addition to the persons appointed under subsection (1), not more than 2 other persons.
 - (7) The Commission –
 - (a) may appoint a person under subsection (6) to be a member of a Panel in relation to a major project if –

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- (i) the Commission is of the opinion that the scale, specialist nature or complexity of the major project makes it desirable to appoint to be a member of the Panel a person with particular qualifications or experience that the Commission thinks appropriate to assist in the assessment of the project; and
 - (ii) the Commission is of the opinion that the person has those qualifications or that experience; and
 - (b) must appoint a person under subsection (6) to be a member of a Panel in relation to a major project if the Commission is required to do so by a statement included, under section 60O(3), in the declaration of a major project in relation to the major project.
- (8) The Commission may at any time revoke the appointment of a member of a Panel and appoint under subsection (1) another person in the place of the member.

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- (9) A member of a Panel is entitled to be paid the remuneration that the Minister determines.
- (10) Despite subsection (9), a member of a Panel who is a State Service employee or State Service officer is not entitled to remuneration under that subsection except with the approval of the Minister administering the *State Service Act 2000*.

60W. Quorum, procedure and powers of Panel

- (1) Subject to the procedures approved by the Commission under subsection (3), the quorum for a decision of the Panel is 3.
- (2) The Panel may delegate to a person a function or power of the Panel, other than this power of delegation or a function or power that is prescribed.
- (3) The Commission is to approve procedures, not inconsistent with the procedural requirements of this Division, for the conduct of proceedings of Panels.
- (4) A Panel is to conduct its proceedings in accordance with the procedures, if any, approved under subsection (3).
- (5) A Panel may determine its own procedures for the conduct of proceedings, which procedures may not be inconsistent with the procedural

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requirements of this Division and the procedures, if any, approved under subsection (3).

- (6) Part 3 of the *Tasmanian Planning Commission Act 1997* applies to, and in relation to, a Panel as if a reference in that Part to the Commission were a reference to the Panel.
- (7) In the event of an inconsistency between a provision of this Division and a provision of Part 3 of the *Tasmanian Planning Commission Act 1997*, the provision of this Division applies to the extent of the inconsistency.

60X. Declaration of interests

- (1) A member of a Panel, as soon as practicable after he or she becomes aware that he or she has an interest (including a pecuniary interest) in relation to a major project, must advise the Commission of the interest.
- (2) The Commission, as soon as practicable after becoming aware that a member of a Panel has an interest (including a pecuniary interest) in relation to a major project –
 - (a) must determine whether the member has, or may be perceived

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to have, a conflict of interest in relation to the major project; and

- (b) if the Commission determines that the member has, or may reasonably be perceived to have, a conflict of interest in relation to the major project, must revoke under section 60V(8) the appointment of the member of the Panel.

Subdivision 6 – Referral of major project proposal to relevant regulators

60Y. Project to be referred to relevant regulators

If a declaration of a major project is made, the Commission must, within 7 days of being notified under section 60P(1)(g) of the declaration –

- (a) refer the major project to each relevant regulator in relation to the project; and
- (b) provide to each relevant regulator in relation to the major project –
 - (i) the major project proposal in relation to the major project; and

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- (ii) the information, if any, in relation to the major project –

provided to the Commission under section 60P(2).

60Z. Relevant regulators

- (1) For the purposes of this Act, the EPA Board is a relevant regulator in relation to each major project.
- (2) For the purposes of this Act, a pipeline licensee is a relevant regulator in relation to a major project if all or part of the project relates to land that is wholly or partly within a pipeline planning corridor, within the meaning of the *Gas Pipelines Act 2000*.
- (3) For the purposes of this Act, a relevant regulated entity is a relevant regulator in relation to a major project if, were this Division not to apply and an application were to be made to a planning authority for a permit in relation to all or part of the project, section 56O(1) of the *Water and Sewerage Industry Act 2008* would apply in relation to the application.
- (4) For the purposes of this Act, the Heritage Council is a relevant regulator in relation to a major project if, were a development or use that forms part of the major

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project not to form part of the major project, a copy of a permit application, within the meaning of section 32 of the *Historic Cultural Heritage Act 1995* in relation to the development or use would be required under section 36 of that Act to be given to the Heritage Council.

- (5) For the purposes of this Act, a person is a relevant regulator in relation to a major project if, were the major project not declared to be a major project, a project-related permit would be required to be issued by the person under a project-associated Act in order for an activity in relation to the project to be lawfully carried out under that Act.

60ZA. Relevant regulator to give notice of assessment, no assessment, or recommending revocation

- (1) A relevant regulator in relation to a major project must give, to the Panel and the Commission, before the end of the relevant period in relation to the major project –
- (a) a notice of no assessment requirements in relation to the major project; or
 - (b) an assessment requirement notice in relation to the major project; or

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- (c) a notice recommending revocation.
- (2) A relevant regulator is only to give a notice under subsection (1) after considering the major project proposal, and any further information, in relation to the major project, that is provided to the relevant regulator under section 60Y.
- (3) For the purposes of subsection (1), the relevant period in relation to a major project is –
 - (a) if the major project is not a bilateral agreement project – 28 days after the major project is referred to the regulator under section 60Y or a longer period allowed by the Minister; or
 - (b) if the major project is a bilateral agreement project – 63 days after the major project is referred to the regulator under section 60Y or a longer period allowed by the Minister.
- (4) For the purposes of this Act, a ***notice of no assessment requirements*** in relation to a major project is a notice specifying that the relevant regulator giving the notice does not require any matters to be included in the assessment guidelines, in relation to the major project, as matters

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which the major project impact statement is required to address.

- (5) A relevant regulator that is the EPA Board may not give to the Panel and the Commission a notice of no assessment requirements in relation to a project if the project is a bilateral agreement project.
- (6) For the purposes of this Act, an **assessment requirement notice** in relation to a major project is a notice specifying –
 - (a) the matters that the relevant regulator requires to be contained in the assessment guidelines in relation to the project, as matters which the major project impact statement is required to address; and
 - (b) the reasons why the relevant regulator has specified in the notice the matters referred to in paragraph (a).
- (7) A relevant regulator may only specify, in an assessment requirement notice under subsection (1)(b) in relation to a major project, a matter referred to in subsection (6)(a) if the matter would be relevant to the decision of the relevant regulator as to the contents of the participating regulator's final advice that

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it would give under section 60ZZF(1) in relation to the major project.

(8) For the purposes of this Act, a ***notice recommending revocation*** is a notice that specifies –

(a) that the relevant regulator requests the Panel to recommend to the Minister that the Minister revoke the declaration of the major project; and

(b) the reasons for that request.

(9) A relevant regulator may only give a notice recommending revocation under subsection (1)(c) if –

(a) the relevant regulator is of the opinion that there is no reasonable prospect that the relevant regulator will not, in the participating regulator's final advice of the relevant regulator under section 60ZZF(1), direct the Panel to refuse to grant a major project permit in relation to the major project; and

(b) the relevant regulator specifies in the notice recommending revocation the reasons why the relevant regulator is likely to so direct the Panel.

60ZB. Participating regulators

A relevant regulator becomes a participating regulator in relation to a major project if the regulator gives –

- (a) an assessment requirement notice under section 60ZA(1)(b) in relation to the major project; or
- (b) a notice recommending revocation under section 60ZA(1)(c) in relation to the major project.

60ZC. Special provisions relating to where EPA Board is relevant regulator

- (1) If a participating regulator in relation to a project is the EPA Board and the project is a bilateral agreement project, the participating regulator may, within 30 days after the major project is referred to the regulator under section 60Y, give to the Panel an extension notice.
- (2) An extension notice is a notice specifying that the participating regulator will require 91 days, or a longer period allowed by the Minister, in which to provide to the Panel the participating regulator's preliminary advice under section 60ZY(1) in relation to the major project.

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(3) If a participating regulator in relation to a major project is the EPA Board –

(a) a major project, major project proposal or information is only to be taken under section 60Y to be referred, or provided, to the participating regulator if the major project, major project proposal or information, respectively, is referred, or provided, to the EPA Director; and

(b) the decision of that participating regulator under section 60ZA(1) is to be made by the EPA Director but is to be taken to have been made by the participating regulator.

(4) If the EPA Board has given to the Panel –

(a) an assessment requirement notice under section 60ZA(1)(b); or

(b) a notice recommending revocation under section 60ZA(1)(c) –

in relation to a major project, the EPA Board must carry out an environmental impact assessment of the major project in accordance with Part 5 of the EMPC Act,

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as modified in its application to a major project by this section.

- (5) For the purposes of an environmental impact assessment of a major project in accordance with this section, 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 (6).
- (6) If the EPA Board has given –
 - (a) an assessment requirement notice under section 60ZA(1)(b); or
 - (b) a notice recommending revocation under section 60ZA(1)(c) –

in relation to a major project, the EPA Board must, within 63 days after the project was referred to the EPA Board under section 60Y, or a longer period allowed by the Minister, provide to the Panel the guidance that the EPA Board is required under section 74(4) of the EMPC Act to provide to the proponent.
- (7) If the EPA Board has given an assessment requirement notice under section 60ZA(1)(b) in relation to a major project, the notice is taken to be guidance that the EPA Board has provided to the

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proponent for the purposes of section 74(4) of the EMPC Act.

- (8) Part 5 of the EMPC Act is modified in its application to a major project as follows:
- (a) section 74(3) of the EMPC Act does not apply in relation to the major project;
 - (b) the requirements specified in section 74(6), (7) and (8) of the EMPC Act are to be taken, in relation to the major project, to be satisfied when the requirements, that apply in relation to the major project and that are imposed on the EPA Board or the Panel by this Division, have been satisfied.

60ZD. Relevant regulator may seek information from Panel

- (1) A relevant regulator, within 21 days after a major project is referred to the regulator under section 60Y, may, by notice to the Panel, request the Panel to provide to the regulator the information specified in the notice.
- (2) The Panel, within 7 days of receiving a notice under subsection (1) in relation to a major project, must, by notice to the proponent of the project, request the proponent of the project to provide to the

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Panel, within the period specified in the notice, the information specified in the notice to the proponent.

- (3) The information specified in a notice under subsection (2) in relation to a major project is to be the information specified in a notice given to the Panel under subsection (1) in relation to the major project.
- (4) A proponent to whom a notice is given under subsection (2) must provide to the Panel, within the period specified in the notice or a longer period allowed by the Panel, the information specified in the notice.
- (5) The Panel, within 7 days after information is provided to the Panel under subsection (4), must provide the information to the relevant regulator who made the request under subsection (1) in relation to which the information was provided to the Panel.
- (6) A relevant regulator, within 21 days after receiving information (the *first information*) provided under subsection (5), may –
 - (a) notify the Panel that the information is not sufficient; and
 - (b) make under subsection (1) a further request for information

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and, if such a further request is made, the reference in that subsection to the day on which the project was referred to the regulator is to be taken to be a reference to the day on which the first information was provided under subsection (5).

(7) If a relevant regulator has requested information under subsection (1), the period between –

- (a) the making of the request; and
- (b) the provision of information to the regulator under subsection (5) –

is not to be taken into account, in relation to the relevant regulator, in the calculation of the period referred to in section 60ZA(1).

Subdivision 7 – No reasonable prospect notices

60ZE. Notice of Panel's intention to give no reasonable prospect notice

- (1) The Panel in relation to a major project must, if it is intending to give to the Minister a no reasonable prospect notice under section 60ZI(1), give to the proponent of the major project a notice (a ***warning notice***) –

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- (a) specifying –
 - (i) that the Panel intends to give a no reasonable prospect notice under section 60ZI(1); and
 - (ii) the reasons why it intends to give the notice; and
 - (b) inviting the proponent to make, within 14 days after the day on which the warning notice is given, a written submission to the Panel in relation to the Panel's intention to give a no reasonable prospect notice under section 60ZI(1) in relation to the project.
- (2) A proponent who receives a warning notice under subsection (1) in relation to a major project may, within 14 days, make a submission to the Panel –
- (a) as to the opinion of the proponent in relation to the reasons specified in accordance with subsection (1)(a) in relation to the major project; and
 - (b) specifying any other information that the proponent thinks relevant.

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60ZF. Where proponent makes submission about Panel's intention to give no reasonable prospect notice

- (1) If a submission in relation to a major project is made to the Panel under section 60ZE(2), the Panel –
 - (a) must, within 7 days, provide to each participating regulator a copy of the submission; and
 - (b) except if subsection (3) applies, must, within 7 days, provide to each participating regulator a statement informing the regulator that the regulator may give to the Panel a notice under section 60ZA(1) in substitution for the notice previously given by the regulator under section 60ZA(1) in relation to the major project.
- (2) A participating regulator, within 28 days, or a longer period allowed by the Minister, after receiving a statement under subsection (1)(b), may give to the Panel a notice under section 60ZA(1) in substitution for the notice previously given by the regulator under section 60ZA(1) in relation to the major project.

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(3) If, in accordance with subsection (2), a notice is given to the Panel under section 60ZA(1) in substitution for the notice previously given by the regulator under section 60ZA(1) in relation to the major project –

- (a) the first notice given in relation to the major project by the participating regulator under section 60ZA(1) is of no effect; and
- (b) the notice given under section 60ZA(1) in accordance with subsection (2) is to be taken for the purposes of this Division to be the notice given in relation to the major project by the participating regulator under section 60ZA(1); and
- (c) no further statement may be given under section 60ZA(1) in substitution for the notice previously given by the regulator.

60ZG. Proponent may revoke or amend major project proposal in response to notice of intention

- (1) If a warning notice in relation to a major project has been given to a proponent under section 60ZE(1), the Panel must

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give to the proponent, at the relevant time, a notice advising the proponent –

- (a) as to whether the Panel still intends to give a no reasonable prospect notice in relation to the major project; and
 - (b) that the proponent may give to the Panel a notice under subsection (3).
- (2) For the purposes of subsection (1), the relevant time is –
 - (a) if the proponent has made a submission under section 60ZE(2) in relation to a major project – 14 days after the end of the period in which, under section 60ZF(2), a participating regulator may give to the Panel a notice under section 60ZA(1) in relation to the major project; or
 - (b) if the proponent has not made a submission under section 60ZE(2) in relation to a major project – 7 days after the last day on which the proponent could have made a submission under that section.
- (3) A proponent to whom a notice in relation to a major project is given under

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subsection (1) may, within 14 days, give to the Panel –

- (a) a notice requesting the Panel to notify the Minister that the declaration of a major project in relation to the major project is to be revoked under section 60S; or
 - (b) a notice stating that the proponent intends to provide to the Minister an amended major project proposal in relation to the major project.
- (4) If a proponent gives to the Panel a notice under subsection (3), the Panel must provide to the Minister a copy of the notice within 7 days.

60ZH. Where proponent proposes amendment of major project proposal in response to notice of intention

- (1) The Minister, within 14 days after receiving under section 60ZG(4) a copy of a notice given by a proponent to the Panel under section 60ZG(3)(b), is to give to the proponent a notice requiring the proponent to provide an amended major project proposal in relation to the major project within the period specified in the notice or a longer period allowed by the Minister.

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- (2) A proponent who receives a notice under subsection (1) must, within the period specified in the notice or a longer period allowed by the Minister, provide to the Minister an amended major project proposal.
- (3) If –
 - (a) a proponent provides to the Minister an amended major project proposal under subsection (2); and
 - (b) the Minister is not satisfied that the major project to which the amended major project proposal ostensibly relates is substantially the same as the major project to which the declaration of a major project relates –

the Minister must revoke under section 60S the declaration of a major project.
- (4) If a proponent provides to the Minister an amended major project proposal under subsection (2) and subsection (3) does not apply to the amended major project proposal –
 - (a) the Minister is to provide to the Panel the amended major project proposal provided to the Minister

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in accordance with the notice;
and

- (b) this Division applies in relation to the amended major project proposal as if the Commission had just been notified under section 60P(1)(g) of the declaration of a major project and the proponent had not previously provided a major project proposal in relation to the major project.

60ZI. Panel may give no reasonable prospect notice

- (1) Subject to section 60ZE and this section, a Panel may give to the Minister a notice in writing (*a no reasonable prospect notice*) in relation to a major project.
- (2) A Panel may, under subsection (1), only give to the Minister a no reasonable prospect notice in relation to a major project –
 - (a) after receiving under section 60U(5) a copy of the major project proposal in relation to the major project; and
 - (b) before determining under section 60ZM(1) the assessment guidelines in relation to the major project; and

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- (c) within 21 days after giving to the proponent of the major project a warning notice under section 60ZG(1).
- (3) A no reasonable prospect notice under subsection (1) in relation to a major project is to specify –
 - (a) that the Panel considers that there is no reasonable prospect that the Panel will grant a major project permit in relation to the major project; and
 - (b) the reasons why the Panel considers that there is no reasonable prospect that the Panel will grant a major project permit in relation to the major project.
- (4) Without limiting the generality of subsection (1), a Panel may give a no reasonable prospect notice under subsection (1) in relation to a major project if the Panel is of the opinion that the grant of a major project permit –
 - (a) would not be consistent with the effective and appropriate use and development of land; or
 - (b) would not further the objectives specified in Schedule 1; or

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- (c) would be in contravention of a State Policy; or
 - (d) would be in contravention of the TPPs; or
 - (e) would be inconsistent with a regional land use strategy that applies in relation to the land to which the project relates.
- (5) Without limiting the generality of subsection (1), a Panel may give a no reasonable prospect notice under subsection (1) in relation to a major project if a participating regulator has given to the Panel a notice recommending revocation under section 60ZA(1).
- (6) The Panel must not give a no reasonable prospect notice under subsection (1) in relation to a major project unless –
- (a) the Panel has given to the proponent a notice under section 60ZE(1) in relation to the major project; and
 - (b) at least –
 - (i) 14 days have expired since the Panel gave to the proponent the notice under section 60ZE(1); or

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- (ii) 28 days have expired since each participating regulator was provided under section 60ZF(1) with a copy of a submission section 60ZE(2) –

whichever period expires later;
and

- (c) the Panel has considered –

- (i) any submission made to the Panel under section 60ZE(2) in relation to the proposal to give a no reasonable prospect notice in relation to the major project; and

- (ii) any notice given under section 60ZA(1) in accordance with section 60ZF(2); and

- (d) the Panel has given the proponent a warning notice under section 60ZG(1) and has not, within 14 days after giving the notice, received a notice from the proponent under section 60ZG(3).

- (7) The Panel must give to the Minister, together with a no reasonable prospect

notice under subsection (1) in relation to a major project –

- (a) a copy of any submission made under section 60ZE(2) in relation to the proposal to give a no reasonable prospect notice under section 60ZI(1); and
- (b) any comments that the Panel thinks are appropriate in relation to the submission.

Subdivision 8 – Assessment guidelines

60ZJ. Comments to be sought in relation to draft assessment guidelines

- (1) The Commission, within 7 days after receiving under section 60P(2) the major project proposal in relation to a major project, must request the following persons to provide to the Panel, within 14 days after the request is made, their comments as to what should be specified in the assessment guidelines to be matters to be addressed in the major project impact statement in relation to the major project:
 - (a) if the proponent is not the owner of all of the land on which the major project is to be situated – the owners of the parts of the land that the proponent does not own;

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- (b) the owners, and the occupiers, of land adjoining the land on which the major project is to be situated;
- (c) the relevant planning authority in relation to the major project;
- (d) each planning authority that is not a relevant planning authority in relation to the major project but that is the planning authority for a municipal area that is in the regional area, or regional areas, in which the major project is to be situated;
- (e) the State Service Agencies, and the Tasmanian Government Businesses, that the Panel considers may have an interest in a matter to which the major project relates;
- (f) if all or part of the land to which the major project relates is Crown land within the meaning of the *Crown Lands Act 1976* – the Minister to whom the administration of that Act is assigned;
- (g) if all or part of the land to which the major project relates is in Wellington Park – the Wellington Park Management Trust.

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- (2) A person, within 14 days after being requested to do so under subsection (1), may provide to the Commission comments as to what should be contained in the assessment guidelines in relation to a major project.
- (3) The Commission, as soon as practicable after comments are provided to the Commission under subsection (2), must provide the comments to the Panel.
- (4) The Panel, before completing under section 60ZK(1) the preparation of the draft assessment guidelines in relation to a major project, must consider all comments provided to the Panel under subsection (3) in relation to the major project.

60ZK. Draft assessment guidelines

- (1) The Panel must prepare a draft of the assessment guidelines in relation to a major project as soon as practicable but in any case within the relevant period in relation to the major project.
- (2) For the purposes of this section, the relevant period in relation to a major project is –
 - (a) if the major project is a bilateral agreement project, the period –

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- (i) beginning on the day by which each participating regulator has given the Panel a notice under section 60ZA(1), or is required under that section to have given the Panel such a notice, whichever is the later day; and
 - (ii) ending 63 days, or a longer period allowed by the Minister, after that day; or
- (b) if the major project is not a bilateral agreement project, the period –
- (i) beginning on the day on which the Panel receives from each participating regulator a notice under section 60ZA(1) or on the day by which a participating regulator or is required under that section to have given the Panel such a notice, whichever day occurs first; and
 - (ii) ending 14 days, or a longer period allowed by

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the Minister, after that
day.

- (3) Section 60ZM (apart from subsections (1), (2), (8) and (9)) applies in relation to a draft of the assessment guidelines as if the draft were assessment guidelines.
- (4) The Panel in relation to a major project must consider the major project proposal in relation to the major project before determining the draft assessment guidelines in relation to a major project.
- (5) Despite subsection (1), if the Panel issues a notice under section 60ZE(1) in relation to a major project before the end of the relevant period in relation to a major project, any period that –
 - (a) begins on the day on which the notice is given; and
 - (b) ends on the last day on which the Panel may, in accordance with section 60ZI(2)(c), give a no reasonable prospect notice in relation to the major project under section 60ZI –

is not to be taken into account in the calculation of the relevant period.

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60ZL. Public exhibition of draft assessment guidelines relating to bilateral agreement project

- (1) This section only applies in relation to a draft of the assessment guidelines prepared under section 60ZK(1) in relation to a major project that is a bilateral agreement project.
- (2) The Panel must, after preparing a draft of the assessment guidelines under section 60ZK(1) in relation to a major project –
 - (a) give notice, in a newspaper that is published, and circulates generally, in Tasmania, specifying –
 - (i) a place where a copy of the draft assessment guidelines in relation to the major project will be available for inspection by the public during normal business hours during the period of 28 days specified in the notice; and
 - (ii) that representations in relation to the draft assessment guidelines may be made to the Panel

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during the period
specified in the notice in
accordance with
paragraph (b); and

(iii) the address, and an
electronic address, at
which a representation
may be lodged; and

(b) publically exhibit the draft of the
assessment guidelines, together
with a copy of the major project
proposal in relation to the major
project, for a period of 28 days
beginning after the notice is given
under paragraph (a); and

(c) provide a copy of the draft of the
assessment guidelines to the
proponent, each of the persons or
bodies referred to in
section 60ZK(1) and each
participating regulator in relation
to the project.

(3) A person, within the period referred to in
a notice under subsection (2)(a), may
make a representation in relation to a
draft of the assessment guidelines by
lodging the representation at an address,
or an electronic address, specified in the
notice.

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- (4) The Panel, within 7 days after the end of the period referred to in a notice under subsection (2)(a), may give, to each participating regulator that gave to the Panel under section 60ZA(1)(b) an assessment requirement notice, each representation that relates to a matter that is, in accordance with that participating regulator's assessment requirement notice, included in the draft assessment guidelines.
- (5) A participating regulator, within 21 days, or a longer period allowed by the Minister, after receiving a copy of a representation under subsection (4), may give to the Panel a notice specifying an alteration, as set out in the notice, to the participating regulator's assessment requirement notice given to the Panel under section 60ZA(1).
- (6) A notice under subsection (5) may only specify an alteration, as set out in the notice, to the participating regulator's assessment requirement notice given to the Panel under section 60ZA(1)(b), if the participating regulator's assessment requirement notice, as so altered, would be a participating regulator's assessment requirement notice that the participating regulator may give under section 60ZA(1)(b).

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60ZM. Panel to determine assessment guidelines

- (1) The Panel in relation to a major project must determine the assessment guidelines in relation to the major project.
- (2) The Panel may only determine the assessment guidelines in relation to a major project if –
 - (a) the Panel has complied with section 60ZK in relation to a draft of the assessment guidelines; and
 - (b) where the major project is a bilateral agreement project – the Panel has complied with section 60ZL and has considered each representation made under section 60ZL(3) in relation to the draft of the assessment guidelines.
- (3) The assessment guidelines in relation to a major project are a document that specifies the matters to be addressed in the major project impact statement in relation to the major project.
- (4) The matters to be specified in the assessment guidelines as matters required to be addressed in the major project impact statement in relation to a major project are to be –

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- (a) relevant land use planning matters; and
 - (b) any matters that the relevant regulator required in an assessment requirement notice under section 60ZA(1)(b) to be addressed in the major project impact statement in relation to the major project.
- (5) For the purposes of subsection (4)(a), the relevant land use planning matters are –
 - (a) the matters that the Panel considers are reasonably required to enable the proper assessment of whether the use and development of the land for the purposes of the major project would be an effective and appropriate use and development of the land; and
 - (b) if regulations for the purposes of this section specify matters to be included in relation to a class of major projects and the major project is within that class, the matters specified, in relation to that class, in the regulations.
- (6) In determining, for the purposes of subsection (4)(a), the relevant land use

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planning matters, the Panel is to have regard to –

- (a) any relevant planning scheme;
and
 - (b) if the carrying out of the project is inconsistent with the provisions of a relevant planning scheme – the merit of any changes to a planning scheme (other than to the SPPs) that would be required to be made for the major project to be lawfully carried out; and
 - (c) the regional land use strategy, if any, for the regional area in which the land is situated.
- (7) The relevant land use planning matters referred to in subsection (4)(a) must –
- (a) seek to further the objectives specified in Schedule 1; and
 - (b) be consistent with each applicable State Policy; and
 - (c) be consistent with each applicable provision of the TPPs.
- (8) The Panel is to provide to a participating regulator a copy of the assessment guidelines if the relevant regulator has given to the Panel an assessment requirement notice under

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section 60ZA(1)(b) in relation to the major project.

- (9) If a participating regulator has given to the Panel a notice under section 60ZL(5) in relation to an assessment requirement notice given by the regulator under section 60ZA(1)(b) in relation to the major project, the Panel must ensure that the draft assessment guidelines in relation to the major project are altered so that the assessment guidelines, when determined under subsection (1), take into account the assessment requirement notice as altered in accordance with the notice under section 60ZL(5).

60ZN. Period in which assessment guidelines to be determined

- (1) The Panel must determine under section 60ZM(1) the assessment guidelines in relation to a major project before the end of the relevant period in relation to the major project.
- (2) For the purposes of this section, the relevant period in relation to a major project is –
- (a) if the major project is a bilateral agreement project, the period –
- (i) beginning on the day on which the period specified

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- in the notice given under section 60ZL(2)(a) in relation to the major project expires; and
- (ii) ending before 42 days, or a longer period allowed by the Minister, after that day; or
- (b) if the major project is not a bilateral agreement project, the period –
- (i) beginning on the last day on which a relevant regulator gives to the Panel a notice under section 60ZA(1) or the last day by which such a notice ought to have been given by a participating regulator, whichever day is the later day; and
- (ii) ending 14 days, or a longer period allowed by the Minister, after that day.
- (3) Despite subsection (1), if the Panel issues a warning notice under section 60ZE(1) in relation to a major project before the end of the relevant period in relation to a major project, any period that –

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- (a) begins on the day on which the warning notice is given; and
- (b) ends on the last day on which the Panel may, in accordance with section 60ZI(2)(c), give a no reasonable prospect notice in relation to the major project under section 60ZI –

is not to be taken into account in the calculation of the relevant period.

60ZO. Notice of assessment guidelines to be given

- (1) The Panel, as soon as practicable after determining the assessment guidelines in relation to a major project, must publish in the *Gazette* and in a newspaper that is published, and circulates generally, in Tasmania, a notice specifying –
 - (a) that the assessment guidelines have been determined; and
 - (b) that copies of the assessment guidelines may be viewed at a place specified in the notice and viewed and downloaded at an electronic address of the Commission specified in the notice.
- (2) The Panel, as soon as practicable after determining the assessment guidelines in

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relation to a major project, must ensure that copies of the assessment guidelines are, until a decision is made under section 60ZZM(1) in relation to the major project, available –

- (a) for viewing by members of the public at the place specified in the notice under subsection (1); and
- (b) for viewing and downloading at an electronic address of the Commission specified in the notice under subsection (1).

60ZP. Notification to be given that assessment guidelines made

As soon as practicable, and in any case within 7 days, after determining under section 60ZM the assessment guidelines in relation to a major project, the Panel must give a copy of the assessment guidelines to –

- (a) if the proponent is not the owner of all of the land on which the major project is to be situated – the owners of the parts of the land that the proponent does not own; and
- (b) the owners, and the occupiers, of land adjoining the land on which

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the major project is to be situated;
and

- (c) each person who has made a representation under section 60ZL(3) in relation to the draft of the assessment guidelines; and
- (d) the relevant planning authority in relation to the major project; and
- (e) each planning authority that is not a relevant planning authority in relation to the major project but that is the planning authority for a municipal area that is in the regional area, or regional areas, in which the major project is to be situated; and
- (f) if the major project is to be situated on an area of land that is not within any municipal area – all planning authorities for an area of land in a regional area that is adjacent to the area of land in which the major project is to be situated; and
- (g) each State Service Agency, or Tasmanian Government Business, that the Minister considers may have an interest in

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relation to a matter to which the major project relates; and

- (h) each participating regulator in relation to the major project; and
- (i) if the land on which the major project is or was to be situated is Crown land, within the meaning of the *Crown Lands Act 1976* – the Minister to whom the administration of that Act is assigned; and
- (j) if the land on which the major project is or was to be situated is situated in Wellington Park – the Wellington Park Management Trust.

Subdivision 9 – Major project impact statements

60ZQ. Proponent to be required to prepare major project impact statement

As soon as practicable, and in any case within 7 days, after determining under section 60ZM(1) the assessment guidelines in relation to a major project, the Panel must –

- (a) give to the proponent a copy of the assessment guidelines; and

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- (b) notify the proponent that the proponent is required to provide to the Panel a major project impact statement in relation to the major project within –
 - (i) the period of 12 months after receiving the copy of the assessment guidelines or a longer period allowed by the Minister; or
 - (ii) another period determined by written agreement between the Panel and the proponent; or
 - (iii) a period extended under section 60ZS(2).

60ZR. Contents of major project impact statement

A major project impact statement is a statement that addresses the matters that are set out, in accordance with section 60ZN(3), in the assessment guidelines in relation to the major project, as matters that are required to be addressed in a major project impact statement.

60ZS. Major project impact statement to be provided by proponent

- (1) A proponent of a major project must provide to the Panel a major project impact statement in relation to the major project before the end of –
 - (a) the period of 12 months from the day on which the proponent receives under section 60ZQ(a) a copy of the assessment guidelines; or
 - (b) another period determined by written agreement between the Panel and the proponent; or
 - (c) the period extended under subsection (2) –whichever period last expires.
- (2) The Panel, by notice to a proponent, may extend the period in which the proponent must provide a major project impact statement to the Panel.
- (3) The Panel must notify the Minister if a proponent has failed to comply with subsection (1).
- (4) The Panel, as soon as practicable, and in any case not more than 7 days after receiving under subsection (1) a major project impact statement in relation to a

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major project, must provide a copy of the statement to each participating regulator.

60ZT. Certain permissions may be given to enable preparation of major project impact statement

- (1) Subsection (2) only applies in relation to a major project if assessment guidelines are determined under section 60ZM(1) in relation to the major project.
- (2) If, in order to prepare a major project impact statement in relation to the major project, it is reasonably necessary for the proponent to engage in an activity that is not permitted under a project-associated Act except if there is a project-related permit in relation to the activity, the person or body to whom an application for such a permit may be made under that Act must issue to the proponent, under that Act, a project-related permit authorising the carrying out of the activity as if –
 - (a) the proponent had made under that Act a valid application for the permit; and
 - (b) the permit may, under that Act, be issued, in respect of the activity, to the proponent.

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- (3) A project-related permit may be issued in accordance with subsection (2) on the restrictions or conditions that may be imposed on the permit under the relevant project-associated Act.
- (4) Subsection (5) applies in relation to an activity, on land to which the major project relates, that is not permitted under a planning scheme except if there is a permit in relation to the activity, if –
- (a) assessment guidelines are determined under section 60ZM(1) in relation to a major project; and
 - (b) in order to prepare a major project impact statement in relation to the major project, it is reasonably necessary for the proponent to engage in the activity on the land.
- (5) If this subsection applies in relation to an activity, the Panel may, by notice to the proponent of a major project, authorise, on the conditions or restrictions the Panel thinks fit and specifies in the notice, all or part of the activity to be carried out on the part of the land, specified in the notice, that is land to which the major project relates.

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- (6) If the Panel issues under subsection (5) a notice in relation to an activity –
- (a) the Panel must give to the relevant planning authority a copy of the notice; and
 - (b) the carrying out of the activity in accordance with the notice is taken to be authorised under this Act and a relevant planning scheme; and
 - (c) the carrying out of the activity in accordance with the notice is not, despite any provision of this Act or a planning scheme, to be taken to be in contravention of section 63.
- (7) The Minister, in writing, may grant to a proponent, under this subsection, an authority, for the proponent, and persons acting on behalf of the proponent, to do either or both of the following:
- (a) to enter public land, within the meaning of section 4 of the *Public Land (Administration and Forests) Act 1991*;
 - (b) to carry out on public land, or other land to which the major project relates, activities, including testing, that are reasonably required to be carried

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out by or on behalf of the proponent for the purposes of enabling the proponent to prepare or amend a major project impact statement in relation to the major project.

- (8) An authority under subsection (7) is subject to the terms and conditions specified on the authority.
- (9) If the land to which an authority under subsection (7) relates is not vested in the Crown, the Minister, before granting the authority, is to notify the person or body in whom or which the land is vested.
- (10) Despite any other Act, including this Act, the proponent to whom an authority is granted under subsection (7) and persons acting on behalf of the proponent may, under and in accordance with the authority –
 - (a) enter and remain on the land to which the authority relates, together with any vehicles, machinery and equipment necessary for carrying out activities referred to in subsection (7), for the purpose of carrying out such activities; and
 - (b) carry out on that land activities referred to in subsection (7).

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- (11) A project-related permit issued in accordance with subsection (2), or a notice or authority issued under subsection (5) or subsection (7), in respect of an activity in relation to a major project ceases to be in force on the day on which –
- (a) the declaration of a major project in relation to the major project is revoked under section 60S; or
 - (b) a major project permit is granted under section 60ZZM(1)(a) in relation to the major project; or
 - (c) the proponent is notified under section 60ZZM(1)(b) that the Panel has refused to grant a major project permit in relation to the major project –
- whichever occurs first.

60ZU. Participating regulator may require further information to be provided by Panel

- (1) A participating regulator that has been provided under section 60ZS(4) with a copy of a major project impact statement may, within 21 days or a longer period allowed by the Minister, give to the Panel a notice requesting the Panel to require the proponent to provide to the Panel a major project impact statement

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that has been amended so as to contain the information specified in the notice.

- (2) The information specified in a notice under subsection (1) from a participating regulator is to be information the participating regulator considers to be necessary to enable the regulator to determine the contents of the participating regulator's final advice in relation to the project.

60ZV. Panel to seek amended major project impact statement

- (1) The Panel, within 7 days after receiving under section 60ZU(1) a notice from a participating regulator in relation to a major project impact statement, must, by notice to the proponent, request the proponent to provide to the Panel, within a period specified in the notice to the proponent, the major project impact statement amended so as to contain the information specified in the notice to the proponent.
- (2) The information specified in the notice under subsection (1) is to be the information specified in the notice received under section 60ZU(1).
- (3) The Panel may only give a notice to the proponent under subsection (1) within the period of 42 days, or a longer period

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allowed by the Minister, after the Panel has received from the proponent under section 60ZS a major project impact statement in relation to the major project.

- (4) A proponent to whom a notice is given under subsection (1) is to take all reasonable steps to provide to the Panel, as soon as practicable but in any case within the period specified in the notice, the major project impact statement amended so as to contain the information specified in the notice.
- (5) The Panel, within 7 days after a major project impact statement, amended so as to contain the information specified in the notice under subsection (1), is provided to the Panel under subsection (4), must –
 - (a) provide the major project impact statement, as so amended, to the participating regulator who gave under section 60ZU(1) the notice to which the notice under subsection (1) relates; and
 - (b) if the information also relates to a matter that may be relevant to another participating regulator, provide to that particular regulator the major project impact statement as so amended.

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(6) If a participating regulator has given to the Panel a notice under section 60ZU(1) in relation to a major project impact statement, the period between –

(a) the day on which that notice is given; and

(b) the day on which the major project impact statement, amended so as to contain the information specified in the notice under subsection (1), is provided to a participating regulator under subsection (5) –

is not to be counted in the calculation of the period referred to in section 60ZU(1) in relation to the participating regulator to which the information is given.

60ZW. Panel may request further information

(1) The Panel, in writing, 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 of a major project;

(b) a planning authority;

(c) a State Service Agency;

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- (d) a Tasmanian Government Business;
 - (e) the Wellington Park Management Trust.
- (2) The Panel may only request the proponent to provide further information under subsection (1) within the period of 42 days after the Panel has received from the proponent under section 60ZS(1) a major project impact statement in relation to the major 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 major project permit in relation to a major project; or
 - (b) if the Panel were to grant a major project permit in relation to a major project, the conditions or restrictions, if any, to which the permit is to be subject.
- (4) If the further information that may be provided further to a request made under subsection (1) may relate to a matter to which a participating regulator is likely to have regard in determining what participating regulator's final advice under section 60ZZF(1) to give in

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relation to the major project, the Panel must notify the participating regulator of the request and of the day on which the request was made.

60ZX. Provision to Panel of further information

- (1) A person to whom a request is made under section 60ZW(1) is to take all reasonable steps to provide to the Panel, as soon as practicable but in any case within the period specified in the request or a later period allowed by the Minister, the information specified in the request.
- (2) The Panel, as soon as practicable after information in relation to the major project is provided to the Panel under subsection (1), must, if the information relates to a matter to which a participating regulator is likely to have regard in determining what participating regulator's final advice under section 60ZZF(1) to give in relation to the major project, give the information to the participating regulator.

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***Subdivision 10 – Participating regulator’s preliminary
advice and draft assessment reports***

**60ZY. Participating regulator’s preliminary advice
to Panel**

- (1) A participating regulator must provide to the Panel, before the end of the relevant period in relation to the participating regulator, the participating regulator’s preliminary advice in relation to a major project.
- (2) A participating regulator in relation to a major project must, in determining what to include in the participating regulator’s preliminary advice in relation to a major project, consider –
 - (a) the assessment guidelines in relation to the major project; and
 - (b) the major project impact statement in relation to the project.
- (3) For the purposes of subsection (1), the relevant period in relation to a participating regulator is –
 - (a) if the participating regulator is the EPA Board and the EPA Board has given to the Panel an extension notice under section 60ZC(1) – 91 days, or a

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longer period allowed by the Minister, after the regulator received under section 60ZS(4) the major project impact statement in relation to the major project; or

- (b) if paragraph (a) does not apply – 42 days, or a longer period allowed by the Minister, after the regulator received under section 60ZS(4) the major project impact statement in relation to the major project.
- (4) If the Panel has, further to a request by a participating regulator under section 60ZU(1), requested the proponent under section 60ZV(1) to provide to the Panel an amended major project impact statement in relation to a major project, the period between –
 - (a) the day on which the request is made under section 60ZU(1); and
 - (b) the day on which the Panel provides that amended major project impact statement to the participating regulator under section 60ZV(5) –

is not to be counted in the calculation of the relevant period under subsection (1) in relation to the participating regulator.

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(5) If the Panel has, under section 60ZW(1), requested a person to provide the Panel with further information that relates to a matter to which a participating regulator is likely to have regard in determining what participating regulator's final advice under section 60ZZF(1) to give in relation to the major project, the period between –

(a) the day on which the request is made under section 60ZW(1); and

(b) the day on which the Panel gives that information to the participating regulator under section 60ZX(2) –

is not to be counted in the calculation of the relevant period under subsection (1) in relation to the participating regulator.

60ZZ. Contents of participating regulator's preliminary advice

(1) For the purposes of section 60ZY(1), the participating regulator's preliminary advice in relation to a major project is a document containing –

(a) preliminary refusal advice from the participating regulator; or

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- (b) preliminary condition advice from the participating regulator, if the participating regulator does not, at the time of giving the preliminary advice, intend to direct the Panel in the participating regulator's final advice under section 60ZZF(1) to refuse to grant a major project permit in relation to the major project.
- (2) Preliminary refusal advice is –
- (a) advice that the participating regulator, at the time of giving the preliminary advice, intends to direct the Panel in the participating regulator's final advice under section 60ZZF(1) to refuse to grant a major project permit in relation to the major project; and
- (b) the reasons why the regulator so intends to direct the Panel.
- (3) Preliminary condition advice is –
- (a) advice that the participating regulator does not, at the time of giving the participating regulator's preliminary advice, require conditions or restrictions to be imposed on any major

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project permit that may be granted in relation to the major project; or

- (b) advice specifying the conditions or restrictions that the participating regulator, at the time of giving the participating regulator's preliminary advice, requires to be imposed on any major project permit that may be granted in relation to the major project.
- (4) A participating regulator may only specify in the participating regulator's preliminary refusal advice that the regulator intends, at the time of giving the preliminary refusal advice, to direct the Panel in the participating regulator's final advice under section 60ZZF(1) to refuse to grant a major project permit in relation to the major project, if such a direction could, in accordance with Subdivision 12, be included in the participating regulator's final advice under section 60ZZF(1) in relation to the major project.
- (5) A participating regulator may only include, in the participating regulator's preliminary condition advice, advice as to any conditions or restrictions such a condition or restriction could, in accordance with Subdivision 12, be

included in the participating regulator's final advice under section 60ZZF(1) in relation to the major project.

60ZZA. Draft assessment report

- (1) The Panel must prepare a draft assessment report in relation to a major project within 14 days, or a longer period allowed by the Minister, after last receiving from a participating regulator under section 60ZY(1) a participating regulator's preliminary advice in relation to the major project.
- (2) A draft assessment report in relation to a major project must include –
 - (a) a statement setting out the Panel's opinion as to the extent to which the major project impact statement in relation to the major project addresses the matters that are set out, in accordance with section 60ZM(4), in the assessment guidelines in relation to the major project; and
 - (b) a statement setting out any other information in relation to the major project that is provided to the Panel by a proponent under this Division; and

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- (c) any conditions or restrictions that the Panel proposes to impose on any major project permit that may be granted in relation to the major project.

Subdivision 11 – Exhibition and hearings

60ZZB. Notification and exhibition of project

- (1) The Panel must give the relevant notice of the public exhibition of a major project.
- (2) The Panel must give the relevant notice of the public exhibition of a major project within 14 days after preparing under section 60ZZA(1) the draft assessment report in relation to the major project.
- (3) The Panel is taken to have given the relevant notice of the public exhibition of a major project if a notice for the purposes of this subsection is –
 - (a) placed in a newspaper that is published, and circulates generally, in Tasmania; and
 - (b) set out on a sign that is not less than A4 size and is displayed, on the land to which the major project relates, as near as practicable to each boundary of

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the land that adjoins land to which the public has access; and

- (c) specified in a document given to the owners and occupiers of all land adjoining the land to which the major project relates; and
 - (d) where the proponent is not the owner of all of the land to which the major project relates – specified in a document given to each owner of the land.
- (4) A notice for the purposes of subsection (3) in relation to a major project –
- (a) is to specify the exhibition period in relation to the major project; and
 - (b) is to specify a place where a copy of –
 - (i) the assessment guidelines in relation to the major project; and
 - (ii) the major project impact statement in relation to the major project; and
 - (iii) the draft assessment report in relation to the major project –

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will be available for inspection by the public during normal business hours during the exhibition period; and

- (c) is to specify that the copies referred to in paragraph (b) will also be available for viewing at the website address of the Commission that is specified in the notice, being the Commission's principal website; and
 - (d) is to specify that representations in relation to the major project may be made to the Panel during the exhibition period; and
 - (e) is to specify the address, and an electronic address, at which a representation may be lodged; and
 - (f) is to contain the prescribed information, if any.
- (5) The exhibition period specified in accordance with subsection (4)(a) in a notice for the purposes of subsection (3) is to be a period that –
- (a) begins on the day on which the notice is published in a newspaper in accordance with subsection (3)(a); and

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- (b) ends on a day that is not less than 28 days after the notice is so published.
 - (6) After the Panel gives the relevant notice of the public exhibition of a major project, the Panel, and the planning authority for any land on which part or all of the major project is to take place, must ensure that there are available, at the place, and during the exhibition period, specified in the notice for the purposes of subsection (3) –
 - (a) the assessment guidelines in relation to the major project; and
 - (b) the major project impact statement in relation to the major project; and
 - (c) the draft assessment report in relation to the major project.
 - (7) If a period referred to in this section includes any days on which the offices of the Commission are closed during its normal business hours, that period is to be extended by the number of those days.
 - (8) A person must not, within the exhibition period specified in the notice for the purposes of subsection (3), obscure or remove a sign that, in accordance with subsection (3)(b), is displayed on the land to which the notice relates.

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Penalty: Fine not exceeding 10 penalty units.

(9) The Commission, as soon as practicable after the exhibition period in relation to a major project begins, must place on the Commission's principal website –

(a) a copy of the information contained in the notice for the purposes of subsection (3) in relation to the major project; and

(b) a copy of –

(i) the assessment guidelines in relation to the major project; and

(ii) the major project impact statement in relation to the major project; and

(iii) the draft assessment report in relation to the major project –

and keep those copies on the website until the end of the exhibition period.

60ZZC. Notification in relation to project

(1) The Panel, within 14 days after preparing under section 60ZZA(1) the draft assessment report in relation to the major

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project, must give a notice in relation to the major project to –

- (a) the proponent of the major project; and
- (b) if the proponent is not the owner of all of the land on which the major project is to be situated – the owners of the parts of the land that the proponent does not own; and
- (c) the owners, and the occupiers, of land adjoining the land on which the major project is to be situated; and
- (d) each participating regulator in relation to the major project; and
- (e) each person who has made a representation under section 60ZL(3) in relation to the draft of the assessment guidelines; and
- (f) the relevant planning authority in relation to the major project; and
- (g) each planning authority that is not a relevant planning authority in relation to the major project but that is the planning authority for a municipal area that is in the regional area, or regional areas, in

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which the major project is to be situated; and

- (h) if the major project is to be situated on an area of land that is not within any municipal areas – all planning authorities in a regional area that is adjacent to the area of land; and
- (i) all State Service Agencies and Tasmanian Government Businesses that have been consulted in respect of the major project under section 60ZK(1); and
- (j) if all or part of the land is in Wellington Park – the Wellington Park Management Trust.

(2) The notice under subsection (1) in relation to a major project is to –

- (a) contain the information, in relation to the major project, that is specified in relation to the major project in the notice referred to in section 60ZZB(4); and
- (b) invite the person to whom the notice is given to make a representation in relation to the major project.

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- (3) The Panel must, within 14 days after preparing under section 60ZZA(1) the draft assessment report in relation to the major project, give to the proponent a copy of the draft assessment report in relation to the major project.

60ZZD. Representations in relation to major project

- (1) A person may make a representation to the Panel in relation to a major project to which a notice under section 60ZZB(1) relates by lodging the representation at the address, or electronic address, specified in the notice.
- (2) A representation under subsection (1) by a person in relation to a major project may relate to any or all of the following matters:
 - (a) the major project;
 - (b) any conditions or restrictions that the person considers ought to be specified on any major project permit that may be granted in relation to the major project;
 - (c) any amendment to a planning scheme (other than to the SPPs) that the person considers may be required, or is proposed, to be made in order for the major project to comply with the

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requirements of a relevant
planning scheme;

- (d) any matter included, in
accordance with
section 60ZZA(2), in the draft
assessment report.

- (3) A representation under subsection (1)
that is made by a person in relation to a
matter referred to in subsection (2)(b)
may relate to any of the following in
relation to a major project:

- (a) the conditions or restrictions
included, in accordance with
section 60ZZA(2)(c), in the draft
assessment report in relation to
the major project;

- (b) any other condition or restriction,
in relation to a matter to which an
amendment to a planning scheme
(other than to the SPPs) may
relate, that the person considers
ought to be imposed on a major
project permit that may be
granted in relation to the major
project;

- (c) any other conditions or
restrictions, in relation to matters
to which a project-associated Act
relates, that the person considers
ought to be imposed on any major

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project permit that may be granted in relation to the major project.

- (4) A representation may only be made under subsection (1) during –
 - (a) the period of 28 days beginning on the date on which notice in relation to the major project is given under section 60ZZB(1); or
 - (b) a longer period determined by the Panel.
- (5) The Panel must, as soon as practicable after the public exhibition of a major project under section 60ZZB(6) ends –
 - (a) forward to the proponent each representation made under subsection (1) in relation to the major project; and
 - (b) forward to each participating regulator a representation, made under subsection (1) in relation to the major project, that relates to a matter to which the participating regulator is likely to have regard in determining the contents of the participating regulator's final advice under section 60ZZF(1) in relation to the major project.

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

60ZZE. Hearings

- (1) The Panel must hold hearings in respect of a major project within 28 days, or a longer period allowed by the Minister, after the public exhibition of the major project under section 60ZZB(6) ends.
- (2) A hearing by the Panel may relate to –
- (a) a representation made under section 60ZZD(1) in relation to a project; or
 - (b) the project generally.
- (3) Despite subsection (1), the Panel may dispense with the holding of a hearing in relation to a representation in relation to a major project if, after examining the representations received –
- (a) the Panel is satisfied that all the representations are in support of the major project; or
 - (b) the Panel has consulted with the person who made the representation and that person has

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advised the Panel in writing that he or she does not wish to attend a hearing.

(4) The Panel, before holding a hearing under this section in relation to a major project, is to notify –

- (a) each person who has made a representation under section 60ZZD(1) in relation to the major project; and
- (b) each participating regulator in relation to the major project; and
- (c) each person or body, other than the Commission, that was notified under section 60P(1) of the major project proposal –

of the intention to hold a hearing and of the date, time and place at which the hearing is to be held.

Subdivision 12 – Final advices from participating regulators

60ZZF. Participating regulator to provide final advice to Panel

- (1) A participating regulator in relation to a major project must give to the Panel a notice (the *participating regulator's final advice*) in relation to the major

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project before the end of the 42-day period, or a longer period allowed by the Minister, after the last hearing in relation to the project is held under section 60ZZE.

- (2) A participating regulator's final advice in relation to a major project is a notice –
- (a) specifying that the regulator directs the Panel to refuse to grant a major project permit in relation to the major project; or
 - (b) specifying that the regulator does not direct the Panel to refuse to grant a major project permit in relation to the major project and either –
 - (i) that the regulator does not require any conditions or restrictions to be imposed on any major project permit that may be granted in relation to the major project; or
 - (ii) the conditions or restrictions, that the participating regulator requires to be imposed on any major project permit that may be granted in

relation to the major
project.

60ZZG. Contents of final advice of EPA Board

- (1) A participating regulator that is the EPA Board may only specify, in a participating regulator's final advice under section 60ZZF(1) in relation to a major project, that the EPA Board directs the Panel to refuse to grant a major project permit in relation to the major project if the EPA Board is satisfied that the EPA Board would, if the project were not a major project, direct, under section 25(5) of the EMPC Act, a planning authority to refuse to grant a discretionary permit in relation to the project.
- (2) The conditions which the EPA Board may include in a participating regulator's final advice under section 60ZZF(1) include, but are not limited to including, any or all of the following:
 - (a) a condition requiring the person to whom the major project permit is granted to apply for a further permit in the event of a proposed change in the activity which might result in environmental harm, within the meaning of the EMPC Act;

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- (b) a condition requiring a person to provide a document or information to a person;
 - (c) a condition requiring the person to whom the major project permit is granted to undertake regular monitoring of the environmental effects of the activity and to report the results of that monitoring to the Board on a regular basis;
 - (d) a condition providing that the activity can be undertaken only for a specified period of time;
 - (e) a condition requiring that, if the activity ceases, the site must be rehabilitated in accordance with the Board's requirements;
 - (f) a condition requiring the person to whom the major project permit is granted to undertake such measures as the Board may specify to limit the environmental effects of traffic movements to and from the land to which the major project permit applies.
- (3) A participating regulator that is the EPA Board may only specify, in a participating regulator's final advice under section 60ZZF(1) in relation to a

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major project, that the EPA Board directs a condition or restriction to be imposed on any major project permit that may be granted in relation to the major project if the EPA Board is satisfied that, if the project were not a major project –

- (a) the EPA Board would not direct, under section 25(5) of the EMPC Act, a planning authority to refuse to grant a discretionary permit in relation to the project; and
- (b) the EPA Board would, under section 25(5) of the EMPC Act, require a permit, granted under this Act in relation to the major project, to contain the condition or restriction.

60ZZH. Contents of final advice of Heritage Council

- (1) A participating regulator that is the Heritage Council may only specify, in a participating regulator's final advice under section 60ZZF(1) in relation to a major project, that the Heritage Council directs the Panel to refuse to grant a major project permit in relation to the major project, if the Heritage Council is satisfied that, if the project were not a major project, the Heritage Council would notify the planning authority

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under section 39(6) of the *Historic Cultural Heritage Act 1995* that a discretionary permit in relation to the project should be refused.

- (2) A participating regulator that is the Heritage Council may only specify, in a participating regulator's final advice under section 60ZZF(1) in relation to a major project, that the Heritage Council requires a condition to be imposed on any major project permit that may be granted in relation to the major project, if the Heritage Council is satisfied that, if the project were not a major project, the Heritage Council would consent, under section 39(6) of the *Historic Cultural Heritage Act 1995*, to a discretionary permit being granted in relation to the project, subject to the condition.

60ZZI. Contents of final advice of pipeline licensee

- (1) A participating regulator that is a pipeline licensee may only specify, in a participating regulator's final advice under section 60ZZF(1) in relation to a major project, that the pipeline licensee directs the Panel to refuse to grant a major project permit in relation to the major project, if the pipeline licensee is satisfied that the pipeline licensee would, if the project were not a major project, recommend, in its advice under section

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70D of the *Gas Pipelines Act 2000* in relation to the project, that a planning authority should refuse to grant a discretionary permit in relation to the project.

- (2) A participating regulator that is a pipeline licensee may only specify, in a participating regulator's final advice under section 60ZZF(1) in relation to a major project, that the pipeline licensee requires a condition to be imposed on any major project permit that may be granted in relation to the major project, if the pipeline licensee is satisfied that, if the project were not a major project –
 - (a) the pipeline licensee would not recommend, in its advice under section 70D of the *Gas Pipelines Act 2000* in relation to the project, that a planning authority should refuse to grant a discretionary permit in relation to the project; and
 - (b) the pipeline licensee –
 - (i) would, in its advice under section 70D of the *Gas Pipelines Act 2000* in relation to the project, recommend that a permit, granted under this Act in

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relation to the project,
contain the condition; or

- (ii) would require the information specified in the condition to be provided before it would include, in its advice under section 70D of the *Gas Pipelines Act 2000* in relation to the project, a recommendation that such a permit may be granted, whether subject to conditions or otherwise.

60ZZJ. Contents of final advice of relevant regulated entity

- (1) A participating regulator that is a relevant regulated entity may only specify, in a participating regulator's final advice under section 60ZZF(1) in relation to a major project, that the relevant regulated entity directs the Panel to refuse to grant a major project permit in relation to the major project, if the relevant regulated entity is satisfied that it would, if the project were not a major project, specify, in a submission under section 56P of the *Water and Sewerage Industry Act 2008* in relation to the project, that it objects to the granting of the permit on a specified ground.

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(2) A participating regulator that is a relevant regulated entity may only specify, in a participating regulator's final advice under section 60ZZF(1) in relation to a major project, that the relevant regulated entity requires a condition or restriction to be imposed on any major project permit that may be granted in relation to the major project, if the relevant regulated entity is satisfied that, if the project were not a major project –

(a) the relevant regulated entity would not specify, in a submission under section 56P of the *Water and Sewerage Industry Act 2008* in relation to the project, that the entity objects to the granting of a permit on a specified ground; and

(b) the relevant regulated entity would specify the condition in a submission under section 56P of the *Water and Sewerage Industry Act 2008* in relation to the project.

60ZZK. Contents of final advice of other participating regulators

(1) A participating regulator (other than the EPA Board, the Heritage Council, a

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relevant regulated entity or a pipeline licensee) may only specify, in a participating regulator's final advice under section 60ZZF(1) in relation to a major project, that the regulator directs the Panel to refuse to grant a major project permit in relation to the major project if the participating regulator is satisfied that the regulator would, if the project were not a major project, refuse to grant, under the project-associated Act, a project-related permit in relation to the project.

- (2) A participating regulator (other than the EPA Board, the Heritage Council, a relevant regulated entity or a pipeline licensee) may only specify, in a participating regulator's final advice under section 60ZZF(1) in relation to a major project, that the regulator requires a condition or restriction to be imposed on any major project permit that may be granted in relation to the major project, if the regulator would, if the project were not a major project –

- (a) grant, under the project-associated Act in relation to which the regulator is the relevant regulator under section 60Z, a project-related permit in relation to the project; and

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- (b) impose, on a project-related permit granted under a project-associated Act in relation to the project, the condition or restriction.

60ZZL. Participating regulator must give reasons for requiring condition or restriction

- (1) A participating regulator must specify, in the participating regulator's final advice under section 60ZZF(1) in relation to a major project, the reasons for –
 - (a) directing the Panel to refuse to grant a major project permit in relation to the major project; or
 - (b) requiring a condition or restriction to be imposed on any major project permit that may be granted in relation to the major project.
- (2) A participating regulator in relation to a major project must, before giving to the Panel a participating regulator's final advice under section 60ZZF(1) in relation to the major project, consider any matters, raised in representations or hearings in relation to the major project, that are, in the opinion of the participating regulator, relevant to the regulator's consideration of whether –

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- (a) to direct the Panel, in a notice under section 60ZZF(1), to refuse to grant a major project permit in relation to the major project; or
- (b) to require conditions or restrictions to be imposed on any major project permit that may be granted in relation to the major project.

Subdivision 13 – Major project permits

60ZZM. Grant of major project permit

- (1) The Panel must, before the period ending 90 days after the last day of the exhibition period specified in a notice for the purposes of section 60ZZB(3) in relation to a major project, or a longer period allowed by the Minister, by notice to the proponent of a major project –
 - (a) grant a major project permit in relation to the major project; or
 - (b) refuse to grant a major project permit in relation to the major project.
- (2) In deciding under subsection (1) whether to grant a major project permit in relation to a major project, the Panel must –

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- (a) have regard to the matters specified in section 60ZM(6); and
 - (b) consider any representations made under section 60ZZD(1) in relation to the major project; and
 - (c) consider any matters raised in hearings in relation to the major project; and
 - (d) consider all participating regulator's final advices.
- (3) The Panel may only grant under subsection (1) a major project permit in relation to a major project if it is satisfied that the major project is an effective and appropriate use and development of the land to which the major project relates.
- (4) The Panel may only grant under subsection (1) a major project permit in relation to a major project if it is satisfied that –
- (a) the assessment guidelines in relation to the project have been satisfied; and
 - (b) the project would be consistent with furthering the objectives specified in Schedule 1; and

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- (c) the project would not be in contravention of a State Policy; and
 - (d) the project would not be in contravention of the TPPs; and
 - (e) the project would not be inconsistent with a regional land use strategy that applies to the land on which the project is to be situated; and
 - (f) the relevant fee required under section 60ZZZB, and any other fee required under any other Act to be paid for the assessment of the project, have been paid; and
 - (g) the Panel has received a participating regulator's final advice under section 60ZZF(1) from each participating regulator and no participating regulator has directed the Panel, in the last such notice given by the regulator in relation to the major project, to refuse to grant a major project permit in relation to the major project.
- (5) The Panel may grant under subsection (1) a major project permit in relation to a major project even though the use or development permitted by the

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permit would not be permitted under a relevant planning scheme, but only if the Panel is satisfied that the grant of the permit –

- (a) would be consistent with furthering the objectives specified in Schedule 1; and
 - (b) would not be in contravention of a State Policy; and
 - (c) would not be in contravention of the TPPs; and
 - (d) would not be inconsistent with a regional land use strategy that applies to the land on which the project is to be situated.
- (6) The Panel must refuse to grant under subsection (1) a major project permit if the Panel has received a participating regulator's final advice under section 60ZZF(1) that directs the Panel to refuse to grant a major project permit in relation to the major project.

60ZZN. Assessment report to be prepared

The Panel must, after making a decision under section 60ZZM(1) in relation to a major project, prepare a report (an *assessment report*) in relation to the major project, setting out –

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- (a) the reasons for the decision; and
- (b) if the decision is to grant a major project permit in relation to the project on conditions or restrictions, those conditions or restrictions and the reasons for imposing them on the permit.

60ZZO. Effect of refusal to grant permit

If the Panel refuses under section 60ZZM(1)(b) to grant a major project permit, an application for a permit in relation to a use or development may not, except with the approval of the Minister, be made by any person within the 2-year period after the day on which notice of the refusal is given under section 60ZZQ(2), if the use or development –

- (a) is the same as, or substantially similar to, a use or development to which the project relates or related; and
- (b) would be carried out on all or part of the area of land to which the project relates or related.

**60ZZP. Major project permit may be granted
subject to conditions or restrictions**

- (1) The Panel may impose conditions or restrictions on a major project permit granted under section 60ZZM(1)(a).
- (2) In addition to imposing under subsection (1) any conditions or restrictions on a major project permit that are required under subsection (4) to be imposed on a major project permit, the Panel may, subject to subsection (5), impose under subsection (1) any conditions or restrictions that, in the opinion of the Panel, are necessary or desirable for the effective and appropriate use and development of land.
- (3) In deciding whether to impose under subsection (1) conditions or restrictions on a major project permit to be granted in relation to the major project, the Panel must consider –
 - (a) any representations made under section 60ZZD(1) in relation to such conditions or restrictions; and
 - (b) any matters raised in hearings in relation to the major project.
- (4) The Panel must, under subsection (1), impose on a major project permit granted under section 60ZZM(1)(a) –

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- (a) any conditions or restrictions that a participating regulator requires in the participating regulator's final advice under section 60ZZF(1) to be imposed on the permit; or
 - (b) if there is an inconsistency between the conditions or restrictions that different participating regulators require in their participating regulator's final advices under section 60ZZF(1) to be imposed on the permit – the conditions or restrictions that the Panel determines, following consultation with those participating regulators, best achieve the purposes for which those conditions or restrictions were so required.
- (5) The Panel must not impose on a major project permit a condition or restriction that is inconsistent with a condition or restriction that the Panel must, under subsection (4), impose.
- (6) The conditions that may be imposed on a major project 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

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development forming all or part of the project to which the permit relates.

(7) If a condition referred to in subsection (6) is imposed on a major project permit, the Panel must specify on the major project permit the matters, and the requirements in respect of those matters, to be included in the agreement.

(8) If –

(a) a person is granted a major project permit on which is imposed a condition, referred to in subsection (6), that all reasonable steps must be taken to enter into an agreement; and

(b) that person is not the owner of all 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.

(9) If a condition or restriction is imposed on a major project permit, the Panel must designate on the permit the relevant regulator, or relevant regulators, that is or are responsible for the enforcement of the condition or restriction.

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60ZZQ. Notice of grant of, or refusal to grant, major project permit to be given

- (1) If the Panel grants a major project permit under section 60ZZM(1)(a), the Panel must give notice, in the *Gazette* and in a newspaper that is published, and circulates generally, in Tasmania, of –
 - (a) the grant of the major project permit; and
 - (b) the place where a copy of the major project permit, and the assessment report in relation to the project, may be viewed; and
 - (c) the electronic address of the Commission's principal website at which a copy of the major project permit, and the assessment report in relation to the project, are available for viewing or downloading.
- (2) If the Panel, under section 60ZZM(1)(b), refuses to grant a major project permit in relation to the major project, the Panel must give notice, in the *Gazette* and in a newspaper that is published, and circulates generally, in Tasmania, of –
 - (a) the refusal to grant the major project permit; and

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- (b) the place where a copy of the assessment report in relation to the project may be obtained; and
 - (c) the electronic address of the Commission's principal website at which a copy of the assessment report in relation to the project is available for viewing or downloading.
 - (3) The Panel must give to the proponent of a major project a copy of the major project permit and the assessment report in relation to the project.
 - (4) The Panel must give to the following persons or bodies a copy of a notice under subsection (1) or (2):
 - (a) if the proponent is not the owner of all of the land on which the major project is to be situated – the owners of the parts of the land that the proponent does not own;
 - (b) the owners, and the occupiers, of land adjoining the land on which the major project is to be situated;
 - (c) each person who made, in relation to the major project, a representation under section 60ZL(3) or section 60ZZD(1);

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- (d) the relevant planning authority in relation to the major project;
 - (e) all planning authorities for municipal areas in the regional area, or regional areas, in which the major project is to be situated;
 - (f) if the major project is to be situated on an area of land that is not within any municipal area – all planning authorities in a regional area that is adjacent to the area of land;
 - (g) the Commission;
 - (h) each State Service Agency, or Tasmanian Government Business, that was notified under section 60ZK(1)(e) of the major project;
 - (i) if all or part of the land on which the major project is to be situated is within Wellington Park – the Wellington Park Trust;
 - (j) each participating regulator in relation to the major project.
- (5) The Panel must give to a person, at the person's request, a copy of a notice under subsection (1) or (2).

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- (6) The Panel must ensure that a copy of the major project permit and of the assessment report in relation to the project –
- (a) are available for viewing at a place specified in a notice published in a newspaper under this section; and
 - (b) are available for viewing or downloading at the electronic address of the Commission's principal website.

60ZZR. Fees in relation to major projects

- (1) The proponent of a major project in relation to which an environmental impact assessment is carried out in accordance with section 60ZC 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 major project.
- (2) The relevant fees for the assessment by the EPA Board of a major project are the fees that the proponent would have been liable to pay for the assessment of the major project if –
- (a) the proponent had made an application for an ordinary permit

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in relation to the major 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.
- (3) The proponent of a major project is liable to pay to a relevant regulator in relation to the major project, other than the EPA Board or Heritage Council, the fee, calculated by multiplying the number of fee units per hour that is prescribed by the number of hours that that the relevant regulator spends performing a function or exercising a power in relation to the major project, before a determination is made under section 60ZZM to grant, or refuse to grant, a major project permit in relation to the major project.
- (4) If a major project permit is granted to the proponent of a major project and the EPA Board or Heritage Council is a relevant regulator in relation to the major project –
 - (a) the proponent is liable to pay to the EPA Board, or the Heritage Council, respectively, the fees that the proponent would have been liable to pay under the EMPC Act, or the *Historic*

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Cultural Heritage Act 1995, respectively, if the major project permit had been a permit within the meaning of this Act; and

- (b) the EMPC Act, or the *Historic Cultural Heritage Act 1995*, respectively, applies in relation to such fees accordingly.
- (5) If a major project permit is granted to the proponent of a major project and there is in relation to the major project a relevant regulator in relation to a project-associated Act (other than the EMPC Act, or the *Historic Cultural Heritage Act 1995*) –
- (a) the proponent is liable to pay to the Director, within the meaning of that Act, the fees that the proponent would have been liable to pay if the major project permit had been a project-related permit granted under that Act; and
 - (b) the project-associated Act applies in relation to such fees accordingly.

60ZZS. When major project permit takes effect

- (1) Subject to this section, a major project permit takes effect on the day on which it

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is granted or another later day specified in the permit.

- (2) Despite subsection (1), if the relevant fee under section 60ZZZB, and the fees, if any, payable under section 60ZZR, in relation to a major project permit have not been paid by the day on which the major project permit takes effect under this section, the major project permit does not take effect before the day by which all of the fees have been paid.
- (3) If any other approvals (however described) under this Act or another Act are required for the proposed use or development to which a major project permit relates, the major project permit does not take effect until all those approvals have been granted.
- (4) If it is a condition of a major project permit that all reasonable steps be taken to enter into an agreement, the permit does not take effect until –
 - (a) the day on which the agreement is executed; or
 - (b) the day on which the Commission notifies the proponent in writing under subsection (5) that the Commission is satisfied that the proponent has taken all

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reasonable steps to enter into
such an agreement.

- (5) 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.
- (6) The Commission must give notice of the issue of a notice under subsection (5) in relation to a major project to the planning authority in relation to the land to which the notice under subsection (5) relates.

60ZZT. When permit lapses

- (1) A major project permit lapses –
 - (a) after a period of 5 years from the day on which a major project permit was granted; or
 - (b) where the Commission has granted an extension under subsection (2) – after a further period of 2 years –

if the principal use or development in respect of which a major project permit was granted is not substantially commenced.

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- (2) If the principal use or development in respect of which a major project permit was granted is not, or is unlikely to be, substantially commenced before the permit would otherwise lapse under subsection (1)(a), the Commission may grant (once only) a 3-year extension of the period during which that use or development must be substantially commenced.

Subdivision 14 – Amendment and cancellation of major project permits

60ZZU. Interpretation of Subdivision

In this Subdivision –

relevant decision-maker, in relation to a major project permit, means –

- (a) the Panel in relation to the major project, if the permit has not taken effect under section 60ZZS; or
- (b) the Commission, if the permit has taken effect under section 60ZZS.

60ZZV. Amendment of major project permit to correct mistake, error or miscalculation

- (1) The relevant decision-maker may, by notice in writing to each owner and each occupier of land to which a major project

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permit relates, amend the major project permit so as to correct –

- (a) a clerical mistake, or an error arising from any accidental slip or omission, contained in the major project permit; or
 - (b) an evident material miscalculation of figures contained in the major project permit; or
 - (c) an evident material mistake in the description in the major project permit of any person, thing or property.
- (2) If the relevant decision-maker, under subsection (1), amends a major project permit in relation to a major project carried out or to be carried out on an area of land, the relevant decision-maker must give notice in writing of the amendment to –
- (a) the proponent, if the proponent is not the owner of all of the land on which the major project is to be situated; and
 - (b) each owner and each occupier of land to which the major project permit relates; and

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- (c) the relevant planning authority in relation to the major project; and
 - (d) each relevant regulator in relation to the major project; and
 - (e) the Commission.
- (3) The relevant decision-maker, as soon as practicable after amending under subsection (1) a major project permit, is to ensure that a notice, specifying that the amendment has been made and the nature of the amendment, is published in the *Gazette* and in a newspaper that is published, and circulates generally, in Tasmania.

60ZZW. Minor amendment of major project permit

- (1) Subject to section 60ZZX, the relevant decision-maker may, on the application of a proponent of a major project, or an owner or occupier of land, to which a major project permit relates, by notice in writing to the applicant, amend the major project permit.
- (2) A relevant decision-maker in relation to a major project permit may, on the application of –
 - (a) a relevant regulator in relation to the major project to which the major project permit relates; or

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

amend the major project permit by notice in writing to the proponent, if any, and each owner or occupier of land to which the major project permit relates.

- (3) The relevant decision-maker may only amend under subsection (2) a major project permit if it has invited the proponent, if any, and each owner or occupier of land to which a major project permit relates, to show cause why the major project permit should not be amended as proposed.

- (4) The relevant decision-maker may only amend under subsection (1) or (2) a major project permit if, at least 14 days before amending the major project permit –

- (a) the relevant decision-maker has invited each relevant regulator, in relation to the major project to which the major project permit relates, to advise the relevant decision-maker within 14 days, or a longer period allowed by the relevant decision-maker, as to whether the relevant regulator objects to the proposed amendment; and

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- (b) the relevant regulator has not, within the time required under paragraph (a), advised that the relevant regulator objects to the proposed amendment.
- (5) Subsection (4) does not apply in relation to a relevant regulator in relation to an amendment that the relevant regulator has applied for under subsection (2)(a).
- (6) If the relevant decision-maker amends a major project permit under subsection (1) or (2), the relevant decision-maker is to make a reasonable attempt to notify of the making of the amendment to notify in writing, each person to whom a copy of the proposed amendment has been provided under section 60ZZX(1)(a).
- (7) The relevant decision-maker, as soon as practicable after amending under subsection (2) a major project permit in relation to a major project, is to make a reasonable attempt to, in writing, notify of the making of the amendment each person who made a representation under section 60ZZD(1), in relation to the project, that is a representation that is relevant to the amendment.
- (8) The relevant decision-maker, as soon as practicable after amending under subsection (1) or (2) a major project permit, is to ensure that a notice,

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specifying that the amendment has been made and setting out the effect of the amendment, is published in the *Gazette* and in a newspaper that is published, and circulates generally, in Tasmania.

60ZZX. Limitations on ability to make minor amendments to permits

- (1) The relevant decision-maker may only amend under section 60ZZW(1) or (2) a major project permit in relation to an area of land if –
 - (a) at least 14 days before amending the permit, the relevant decision-maker has made a reasonable attempt to provide a copy of the proposed amendment to –
 - (i) the relevant planning authority in relation to the major project; and
 - (ii) the State Service Agencies, and Tasmanian Government Businesses, that the relevant decision-maker believes have an interest in the project; and
 - (iii) if all or part of the land is in Wellington Park – the Wellington Park Management Trust; and

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- (iv) each person who made a representation under section 60ZZD(1) in relation to the major project that is a representation that is relevant to the proposed amendment; and
 - (b) the relevant decision-maker has considered any objections in relation to the proposed amendment that it has received under subsection (2).
- (2) A person to whom a copy of the proposed amendment of a major project permit has been provided under subsection (1) may, within 14 days of receiving the notice, by notice to the relevant decision-maker, set out the person's objections to the proposed amendment.
- (3) The relevant decision-maker may only amend under section 60ZZW(1) or (2) a major project 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

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changing in a minor way the description of the use or development.

- (4) The relevant decision-maker may only amend under section 60ZZW(1) or (2) a major project permit in relation to an area of land, if it is satisfied that the permit, as so amended –
- (a) would further the objectives specified in Schedule 1; and
 - (b) would not be in contravention of a State Policy; and
 - (c) would not be in contravention of the TPPs; and
 - (d) would not be inconsistent with a regional land use strategy that applies to the land on which the project is to be situated.
- (5) The relevant decision-maker may, if subsection (4) is complied with in relation to a proposed amendment, amend under section 60ZZW(1) or (2) the major project permit in relation to an area of land even though the permit, as so amended, would be inconsistent with a relevant planning scheme.

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60ZZY. Amendment of permits to ensure consistency with EPN

- (1) The relevant decision-maker may, by notice in writing to each owner or occupier of land to which a major project permit relates, amend a condition or restriction imposed on the major project permit, if the amendment is necessary to ensure that the major project permit is consistent with an environment protection notice or an environmental licence.
- (2) The relevant decision-maker, as soon as practicable after amending under subsection (1) a condition or restriction imposed on a major project permit, is to ensure that a notice, specifying that the amendment has been made and setting out the effect of the amendment, is published in the *Gazette* and in a newspaper that is published, and circulates generally, in Tasmania.

60ZZZ. Significant amendment of major project permits

- (1) For the purposes of this section, an amendment of a major project permit is a significant amendment of a major project permit if –
 - (a) were the permit amended in accordance with the amendment,

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the permit would authorise a use or development (the ***altered use or development***) that is in addition to, or in substitution for, or is of a scale or nature that is different from, the uses and developments to which the major project permit relates; but

- (b) the major project to which the major project permit, as so amended, would relate would be substantially the same major project as the major project to which the permit related before the amendment.
- (2) A significant amendment may not be made to a major project permit under this section unless –
- (a) the relevant decision-maker has, in accordance with a request under subsection (3), permitted subsection (8) to apply in relation to the major project permit; and
 - (b) this Division has, in accordance with subsection (8), applied in relation to the altered use or development to which the request relates.
- (3) A proponent of a major project, or an owner or occupier of land to which a

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major project permit relates, by notice to the relevant decision-maker, may request the relevant decision-maker to permit subsection (8) to apply in relation to a significant amendment of the major project permit.

- (4) A request under subsection (3) is to contain, in relation to an altered use or development, the matters specified in section 60F as required to be included in a major project proposal.
- (5) If a request under subsection (3) relates to a matter in relation to which a participating regulator would have been likely to have had regard in giving the participating regulator's final advice under section 60ZZF(1) in relation to the relevant major project, the relevant decision-maker must –
 - (a) forward the request to the participating regulator; and
 - (b) invite the participating regulator to provide to the relevant decision-maker, within 14 days after the request is forwarded to the regulator or a longer period allowed by the Minister, the advice of the regulator in relation to the request; and

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- (c) consider each opinion provided under subsection (6).
- (6) A participating regulator to whom an invitation has been issued under subsection (5) may, within 14 days or a longer period allowed by the Minister, provide to the relevant decision-maker the participating regulator's advice in relation to the request to which the invitation relates, including whether the regulator requires the relevant decision-maker –
- (a) to refuse to give permission under subsection (7) in relation to the major project permit; or
 - (b) to give permission under subsection (7) in relation to the major project permit only if the altered use or development is modified in accordance with the requirements of the regulator that are set out in the advice.
- (7) The relevant decision-maker may, by notice to a proponent, or an owner or occupier of land, who has made a request under subsection (3) in relation to a major project permit –
- (a) give permission for subsection (8) to apply in relation to the major project permit; or

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- (b) refuse to give permission for subsection (8) to apply in relation to the major project permit.
- (8) If the relevant decision-maker, pursuant to a request under subsection (3), gives a permission under subsection (7) in relation to a major project permit, this Division applies in relation to the altered use or development to which the request relates as if –
 - (a) that altered use or development constituted the major project for the purposes of this Division; and
 - (b) the request were a major project proposal in relation to the major project; and
 - (c) the major project had just been declared under section 60M to be a major project; and
 - (d) references in this Division to a major project permit were a reference to an amendment of the major project permit that authorises the altered use or development.
- (9) The relevant decision-maker may only give a permission under subsection (7) if the relevant decision-maker has not received advice under subsection (6) that a relevant regulator requires the relevant

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decision-maker to refuse to give permission under subsection (7) in relation to the major project permit.

- (10) If a relevant regulator has, in an advice provided under subsection (6), required that the relevant decision-maker give permission under subsection (7) in relation to the major project permit only if the altered use or development is modified in accordance with the requirements of the regulator that are set out in the advice, the relevant decision-maker may only give permission under subsection (7) if –
- (a) the altered use or development has been modified in accordance with those requirements; and
 - (b) the proponent has agreed to the modification.

60ZZZA. Cancellation of major project permit

- (1) A person who is –
- (a) the proponent of a major project to which a major project permit relates; or
 - (b) an owner of all or part of the land to which a major project permit relates; or

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- (c) an occupier of all or part of the land to which a major project permit relates –

may apply, to the relevant decision-maker in relation to a major project permit, to cancel the permit.

- (2) If a relevant decision-maker receives under subsection (1) an application for the cancellation of a major project permit –

- (a) the relevant decision-maker must notify each person, referred to in that subsection, other than the person who made the application, that the person may, within 14 days, give to the relevant decision-maker the person's opinion as to whether the major project permit ought to be cancelled; and

- (b) a person who is given a notice under paragraph (a) may, within 14 days after receiving the notice, give to the relevant decision-maker in writing the person's opinion as to whether the major project permit ought to be cancelled.

- (3) A relevant decision-maker that receives under subsection (1) an application for

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the cancellation of a major project permit may, after considering the opinions of persons given to the relevant decision-maker under subsection (2)(b), by instrument in writing, cancel the major project permit.

- (4) The relevant decision-maker, as soon as practicable after cancelling under this section a major project permit, is to ensure that there is published –
- (a) in the *Gazette*; and
 - (b) in a newspaper that is published, and circulates generally, in Tasmania –

a notice, specifying that the major project permit is cancelled from a day specified in the notice.

- (5) The day specified in a notice under subsection (4) as the day from which a major project permit is cancelled is to be a day after the day on which the notice is published in accordance with that subsection.
- (6) If the relevant decision-maker cancels under subsection (1) a major project permit in relation to a major project carried out, or to be carried out, on an area of land, the relevant decision-maker is to take reasonable steps to give notice in writing of the cancellation, and the

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date from which the permit is cancelled,
to –

- (a) the proponent of the project, and each owner or occupier of the land, to which the major project permit related; and
- (b) the owners, and the occupiers, of land adjoining the land to which the major project permit related; and
- (c) each person who made, in relation to the major project, a representation under section 60ZL(3) or section 60ZZD; and
- (d) the relevant planning authority in relation to the major project; and
- (e) all planning authorities for municipal areas in the regional area, or regional areas, in which the major project is or was to be situated; and
- (f) if the major project is or was to be situated on an area of land that is not within any municipal area – all planning authorities in a regional area that is adjacent to the area of land; and
- (g) the Commission; and

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- (h) each State Service Agency, or Tasmanian Government Business, that was notified under section 60ZK(1)(e) of the major project; and
 - (i) if all or part of the land on which the major project is or was to be situated is within Wellington Park – the Wellington Park Trust; and
 - (j) each participating regulator in relation to the major project.
- (7) The cancellation of a major project permit under this section takes effect on the day specified in the notice published in the *Gazette* under subsection (4) as the day from which the permit is cancelled.

Subdivision 15 – Miscellaneous

60ZZZB. Fees payable for the purposes of this Division

- (1) Regulations for the purposes of this Division may prescribe that fees, as specified or calculated in accordance with those regulations, are payable in relation to the occurrence of an event referred to in a provision, or provisions, of this Act that is or are specified, in relation to the fee, in those regulations.

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(2) Regulations for the purposes of this Division may prescribe –

- (a) a maximum and a minimum amount of a relevant fee; or
- (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.

(3) If a fee is prescribed in regulations for the purposes of this Division in relation to a provision of this Act, the fee is due and payable by the proponent in relation to a project within 30 days, or another period that may be specified in the regulations, after the occurrence of an event, specified in the provision, to which the fee relates.

60ZZZC. Amendment of planning scheme

- (1) As soon as practicable after a major project permit is granted in relation to a major project or is amended, the Commission must, in consultation with the relevant planning authority, amend a planning scheme (other than the SPPs) that applies to the land on which the major project is to be situated, so as to

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remove any inconsistency between the permit and the planning scheme.

- (2) Part 3B 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 major project is to be situated –
 - (a) the amendment –
 - (i) is, except if subparagraph (ii) applies, to be taken to have come into operation on the day on which the project was declared to be a major project; or
 - (ii) if made after the major project permit is amended, is to be taken to have come into operation on the day on which the major project permit was amended; and
 - (b) the Commission must give notice of the amendment in the *Gazette* and in a newspaper published in Tasmania and circulating generally in the area to which the planning scheme relates.

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- (4) The Commission may amend under subsection (1) a planning scheme that applies to land on which a major project is to be situated even though the planning scheme, as amended, would be inconsistent with a management plan under the *Wellington Park Act 1993* in relation to the land and a provision of such a management plan that is inconsistent with the planning scheme, as so amended, is of no effect to the extent of the inconsistency.

60ZZZD. Enforcement of compliance with conditions

- (1) If –
- (a) a major project permit is in force in relation to a major project; and
 - (b) an activity is carried out in relation to the major project that, if the major project were not a major project, would be an activity in relation to which a project-related permit would be required under a project-associated Act; and
 - (c) the major project permit authorises the carrying out of the activity –

the major project permit is, for the purposes of that Act, to be taken to be a

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project-related permit, issued under that Act, authorising the activity subject to any relevant conditions or restrictions in relation to the project-associated Act.

- (2) For the purposes of subsection (1), a condition or restriction is a relevant condition or restriction in relation to a project-associated Act if –
 - (a) the condition or restriction is imposed under section 60ZZP(4) on the major project permit pursuant to a requirement of a relevant regulator who is a person who has functions under that Act; or
 - (b) the condition or restriction is imposed under section 60ZZP(4) on the major project permit pursuant to the application of section 60ZZP(4)(b) to a condition or restriction proposed by a relevant regulator who is a person who has functions under that Act.
- (3) Nothing in subsection (1) is to be taken to have the effect that a major project permit to which that subsection applies ceases to be a major project permit for the purposes of this Act.

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- (4) If a major project permit is to be taken under subsection (1) to be a project-related permit issued under a project-associated Act –
 - (a) the project-related permit remains, despite any provision of that Act, in force until the major project permit ceases to be in effect under this Act; and
 - (b) subject to paragraph (c), the relevant regulator in relation to a condition or restriction that is imposed under section 60ZZP(4) on the major project permit pursuant to a requirement of the relevant regulator has the responsibility for enforcing, under the relevant project-related Act, compliance with that condition or restriction, as a condition or restriction imposed on the project-related permit; and
 - (c) the project-related permit may not be cancelled under that Act.
- (5) Subsection (1) does not apply in relation to the following project-related Acts:
 - (a) the EMPC Act;
 - (b) the *Historic Cultural Heritage Act 1995* EPA Board;

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(c) the *Water and Sewerage Industry Act 2008*;

(d) the *Gas Pipelines Act 2000*.

60ZZZE. Restriction on certain applications for permits or amendments to planning schemes

Except with the permission of the Commission, a person may not, within 2 calendar years from –

(a) the date of a decision by a Panel under section 60ZZM(1)(b) to refuse to grant a major project permit in relation to a major project; or

(b) the date of a revocation of a declaration of a major project under section 60S –

apply to a planning authority to grant a permit in relation to a project that is the same as, or substantially the same as, the major project.

60ZZZF. Application of certain provisions in relation to enforcement

Sections 65F and 65G apply in relation to a major project permit as if a reference in those sections –

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- (a) to an authorised officer were a reference to a person authorised by the Commission; and
- (b) to a permit were a reference to a major project permit; and
- (c) to a planning authority were a reference to the Commission.

60ZZZG. False information

A proponent in relation to a project must not, under this Division, provide orally or in writing, to the Minister, the Panel or a relevant regulator, any statement, document, or representation, in relation to the project, that the person knows to be false or misleading in any material particular.

Penalty: Fine not exceeding 50 penalty units.

60ZZZH. Notice or document under Division may be given electronically

A notice or document that is required to be given by a person or body (*the sender*) to another person or body (*the receiver*) under this Division may, with the approval of the receiver, be given by the sender to the receiver by an electronic

means, and to an electronic address,
nominated by the receiver.

12. Section 63 amended (Obstruction of sealed schemes)

Section 63 of the Principal Act is amended as follows:

- (a) by omitting paragraph (d) from subsection (2) and substituting the following paragraph:
 - (d) constitutes a breach of section 60Q(2) or of a condition or restriction imposed under section 60ZZP, as amended or corrected, if at all, under section 60ZZW, 60ZZY or 60ZZZ, on a major project permit granted in relation to the land.
- (b) by omitting from subsection (5B) “special permit” and substituting “major project permit”.

13. Section 65D amended (Requirements of enforcement notices)

Section 65D(2)(e) of the Principal Act is amended by omitting “special permit” and substituting “major project permit”.

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14. Section 65E amended (Offences and penalties in relation to enforcement notices)

Section 65E(4) of the Principal Act is amended by omitting “special permit” and substituting “major project permit”.

15. Section 65I amended (Authorised officers)

Section 65I of the Principal Act is amended by omitting subsection (1).

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

Section 77 of the Principal Act is amended by omitting “special permit” and substituting “major project permit”.

17. Section 82 amended (Evidentiary provision)

Section 82(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (c) “special permit” and substituting “major project permit”;
- (b) by omitting “special permit” second occurring and substituting “major project permit”.

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

Section 83 of the Principal Act is amended by omitting “special permit” and substituting “major project permit”.

19. Section 87E inserted

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

87E. Savings and transitional – *Land Use Planning and Approvals Amendment (Major Projects) Act 2020*

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

20. Schedule 5 amended (Savings and Transitional Provisions – *Land Use Planning and Approvals Amendment (Streamlining of Process) Act 2014*)

Clause 3 of Schedule 5 to the Principal Act is amended as follows:

- (a) by omitting from subclause (2)(b) “section 43A” and substituting “section 40T”;
- (b) by omitting from subclause (8) “section 43A” and substituting “section 40T”.

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21. Schedule 8 inserted

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

**SCHEDULE 8 – SAVINGS AND TRANSITIONAL
PROVISIONS – LAND USE PLANNING AND
APPROVALS AMENDMENT (MAJOR PROJECTS) ACT
2020**

Section 87E

1. References to LPS in Division 2A of Part 4

Until an LPS comes into force in relation to a municipal area, a reference in Division 2A of Part 4 to an LPS is to be taken, in relation to the municipal area, to be a reference to the planning scheme in relation to the area.

2. Projects of regional significance

(1) In this clause –

amending Act means the *Land Use Planning and Approvals Amendment (Major Projects) Act 2020*;

amendment day means the day on which Division 2A of Part 4 of this Act is inserted into this Act by the amending Act;

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former provisions means Division 2A of Part 4 of this Act as in force immediately before the amendment day;

project of regional significance means a project to which a notice under section 60G of the former provisions related immediately before the amendment day.

- (2) If, before the amendment day, assessment guidelines in relation to a project of regional significance have not been determined, under section 60N of the former provisions, in relation to a project of regional significance –
- (a) the project is to be taken to be a project in relation to which a declaration of a major project has been made, on that day, under section 60M of this Act as in force after that day; and
 - (b) the statement of intent, referred to in section 60F of the former provisions, in relation to the project of regional significance is taken to be a major project proposal given to the Minister under section 60E of this Act as in force after that day.

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(3) If, before the amendment day, assessment guidelines in relation to a project of regional significance have been determined, under section 60N of the former provisions, in relation to the project –

(a) the former provisions, and any definition specified in section 3 of this Act as in force immediately before that day, continue in force in relation to the project as if they had not been repealed by the amending Act; and

(b) any notice or declaration, under Division 2A of Part 3 of the former provisions, that related before the amendment day to the project of regional significance continues to apply in relation to the project.

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**PART 3 – ENVIRONMENTAL MANAGEMENT AND
POLLUTION CONTROL ACT 1994 AMENDED**

22. Principal Act

In this Part, the *Environmental Management and Pollution Control Act 1994** is referred to as the Principal Act.

23. Section 25 amended (Assessment of permissible level 2 activities)

Section 25(1)(a) of the Principal Act is amended by inserting after subparagraph (i) the following subparagraph:

- (ia) an application for a permit to which section 60D of the *Land Use Planning and Approvals Act 1993* applies; or

24. Section 25A amended (Assessment of applications for permits that are combined with applications for planning scheme amendments)

Section 25A of the Principal Act is amended by inserting after subsection (1A) the following subsection:

- (1AB) This section does not apply in relation to an application for a permit to which

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section 60D of the *Land Use Planning and Approvals Act 1993* applies.

25. Section 27AB repealed

Section 27AB of the Principal Act is repealed.

26. Section 27AC amended (Directions in relation to permits in respect of EL activities)

Section 27AC of the Principal Act is amended as follows:

- (a) by omitting the definition of *Panel* from subsection (1);
- (b) by omitting “, or special permit,” from the definition of *permit* in subsection (1);
- (c) by omitting from subsection (2)(b) “Commission; or” and substituting “Commission –”;
- (d) by omitting paragraph (c) from subsection (2);
- (e) by omitting from subsection (3) “or a Panel”;
- (f) by omitting from subsection (3) “, the Commission, or the Panel,” and substituting “or the Commission,”;

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- (g) by omitting from subsection (4) “, the Commission or a Panel” and substituting “or the Commission”;
 - (h) by omitting from subsection (4) “, the Commission, or the Panel” and substituting “or the Commission”;
 - (i) by omitting from subsection (5) “, the Commission or a Panel” and substituting “or the Commission”;
 - (j) by omitting from subsection (5) “section 25, 25A or 27AB” and substituting “section 25 or 25A”;
 - (k) by omitting from subsection (5) “, Commission, or Panel” and substituting “or Commission”.

27. Section 35 amended (Financial assurance to secure compliance with Act)

Section 35(1)(e) of the Principal Act is amended by omitting “special permit granted under section 60T of that Act” and substituting “major project permit”.

28. Section 42B amended (Interpretation of Division 8)

Section 42B of the Principal Act is amended as follows:

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- (a) by omitting “or a special permit” from paragraph (a) of the definition of *existing authorisation*;
- (b) by omitting the definition of *special permit*.

29. Section 42C amended (Offences relating to licences)

Section 42C(3)(b)(i) of the Principal Act is amended by omitting “, or special permit,”.

30. Section 42D amended (Persons to whom licences for existing lawful activities may be granted)

Section 42D of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(b)(ii) “or a special permit”;
- (b) by omitting from subsection (1)(c)(iii) “, or special permit,”;
- (c) by omitting from subsection (2) “or a special permit”.

31. Section 42G amended (Effect of decision to grant licence in relation to existing authorisations)

Section 42G of the Principal Act is amended as follows:

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- (a) by omitting from subsection (1) “or a special permit,”;
 - (b) by omitting from subsection (1)(a) “or special permit”;
 - (c) by omitting from subsection (2) “or special permit” first occurring;
 - (d) by omitting paragraph (a) from subsection (2) and substituting the following paragraph:
 - (b) a condition or restriction, imposed on the permit by virtue of a direction under section 25(5) of this Act, as in force before the day on which this section commences, is void on and from the day on which an environmental licence is issued in relation to the activity; and
 - (e) by omitting from subsection (2)(c)(i) “or special permit”;
 - (f) by omitting from subsection (2)(c)(ii) “or special permit”;
 - (g) by omitting from subsection (2)(d) “or special permit”;
 - (h) by omitting from subsection (2)(e) “or special permit”.

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32. Section 42I amended (Applications for environmental licences)

Section 42I(7) of the Principal Act is amended by omitting paragraph (a).

33. Section 42K amended (Grant of licence by Board)

Section 42K of the Principal Act is amended as follows:

- (a) by omitting paragraph (a) from the definition of *relevant project* in subsection (1) and substituting the following paragraph:
 - (b) is a project, in relation to an EL activity, in relation to which a notice of intent is lodged under section 27B; and
- (b) by omitting from subsection (2)(a) “, section 42I(2) or section 27AB(3)(c)” and substituting “or section 42I(2)”;
- (c) by omitting from subsection (3) “, or section 60M of the *Land Use Planning and Approvals Act 1993*, as the case may be,”.

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34. Section 42M amended (Notifications of grant or refusal of licences or refusal to accept application for licences)

Section 42M(2) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “section 25, 25A, 27AA or 27AB” and substituting “section 25, 25A or 27AA”;
- (b) by omitting paragraph (b);
- (c) by omitting from paragraph (d) “granted; and” and substituting “granted.”;
- (d) by omitting paragraph (e).

35. Section 42N amended (Variation of licence by Director at holder’s request)

Section 42N(2) of the Principal Act is amended by omitting “, or a special permit.”.

36. Section 42Q amended (Variation by Board of licence)

Section 42Q of the Principal Act is amended as follows:

- (a) by omitting “, or under section 60L of the *Land Use Planning and Approvals Act 1993*,” from paragraph (a) of the

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definition of *relevant assessment* in
subsection (1);

- (b) by omitting “is referred to the Board under section 27AB(3)(c) or” from paragraph (b) of the definition of *relevant project* in subsection (1);
- (c) by omitting from subsection (2)(a) “, section 27AB(3)(c)”.

37. Section 42ZB amended (Issue of licence document in relation to licence granted, varied, transferred or renewed)

Section 42ZB(4) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “or special permit”;
- (b) by omitting from paragraph (b) “or special permit”;
- (c) by omitting “, or special permit,”.

38. Section 42ZJ amended (Appeals by persons who have made representations)

Section 42ZJ(1) of the Principal Act is amended by omitting paragraph (b) from the definition of *relevant representation*.

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39. Section 44 amended (Environment protection notices)

Section 44 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1)(d) “or major project permit” after “permit”;
- (b) by inserting in subsection (2)(d) “or major project permit” after “permit”;
- (c) by inserting in subsection (7) “, or major project permit,” after “a permit”;
- (d) by inserting in subsection (7) “or major project permit” after “the permit”;
- (e) by inserting in subsection (9) “or major project permits” after “to permits”;
- (f) by inserting in subsection (9) “or major project permits” after “those permits”;
- (g) by inserting “or major project permit” after “the permit” in the definition of *vary the conditions or restrictions of a permit* in subsection (10).

40. Section 55A amended (General environmental duty defence)

Section 55A(1) of the Principal Act is amended as follows:

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- (a) by omitting from paragraph (a) “special permit” and substituting “major project permit”;
- (b) by omitting from paragraph (b)(i) “special permit” and substituting “major project permit”.

41. Section 92 amended (Powers of authorized officers and council officers)

Section 92(1)(j) of the Principal Act is amended by omitting “special permit” and substituting “major project permit”.

42. Section 98AA amended (Liability for payment of fees)

Section 98AA(1)(ba) of the Principal Act is amended by omitting “or 27AB”.

43. Schedule 5 amended (Characteristics to be Considered in Determining Class of Assessment)

Schedule 5 to the Principal Act is amended by omitting paragraph (a) from item 3.

**PART 4 – HISTORIC CULTURAL HERITAGE ACT
1995 AMENDED**

44. Principal Act

In this Part, the *Historic Cultural Heritage Act 1995** is referred to as the Principal Act.

45. Section 35 amended (Heritage works require heritage approval)

Section 35(2) of the Principal Act is amended as follows:

- (a) by inserting in paragraph (a)(ii) “, major project permit” after “a discretionary permit”;
- (b) by inserting in paragraph (a)(ii) “, major project permit” after “that discretionary permit”;
- (c) by inserting in paragraph (b) “, major project permit” after “discretionary permit”.

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Part 5 – Concluding Provision

PART 5 – CONCLUDING PROVISION

46. Repeal of Act

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

consultation draft