

TASMANIA

**LAND USE PLANNING AND APPROVALS
AMENDMENT (MAJOR PROJECTS) BILL 2018**

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement

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

3. Principal Act
4. Section 3 amended (Interpretation)
5. Section 12 amended (Existing uses and developments)
6. Section 48AA amended (Enforcement of major project permits)
7. Section 51 amended (Permits)
8. Section 52 amended (What if applicant is not the owner?)
9. Section 54 amended (Additional information)
10. Section 60A amended (Permit for certain works not required)
11. Part 4, Division 2A substituted
 - Division 2A – Major projects*
 - Subdivision 1 – Interpretation of Division 2A*
 - 60B. Interpretation: Division 2A
 - Subdivision 2 – Requests for declaration and major project proposals*
 - 60C. Request for declaration of major project
 - 60D. Effect on permit applications of request for declaration

- 60E. Major project proposal to accompany request for declaration
- 60F. Contents of major project proposal
- 60G. Minister may request proponent to provide amended major project proposal
- 60H. Minister may request information from council
- 60I. Planning authorities to be notified of requests for declaration and given major project proposals

Subdivision 3 – Declaration of major projects

- 60J. When project may be declared to be major project
- 60K. When project ineligible to be declared to be major project
- 60L. Determination guidelines
- 60M. Declaration of major project
- 60N. Requirements for declaration of major project
- 60O. Contents of declaration of major project
- 60P. Notification of declaration of major project
- 60Q. Effect on planning matters of declaration of major project
- 60R. Effect on project-related Acts and relevant regulators of declaration of major project

Subdivision 4 – Revocation of declaration

- 60S. Revocation of declaration
- 60T. Effect of revocation of declaration

Subdivision 5 – Development Assessment Panels

- 60U. Development Assessment Panel to be established for assessment of project
- 60V. Appointment of members of Panel
- 60W. Quorum, procedure and powers of Panel
- 60X. Major project proposal, &c., to be provided to Panel

Subdivision 6 – Reference of major project proposal to relevant regulators

- 60Y. Project to be referred to relevant regulators
- 60Z. Relevant regulators
- 60ZA. Relevant regulator to determine whether to conduct assessment of project
- 60ZB. Participating regulator to advise Panel about revocation and time for consideration
- 60ZC. Assessment requirement notices and notices of no requirements
- 60ZD. Guidelines for assessment requirement notices
- 60ZE. Assessment by EPA Board
- 60ZF. Fees to be paid to EPA Board

Subdivision 7 – Panel may advise no reasonable prospect of major project permit being issued

- 60ZG. Notice of Panel's intention to give no reasonable prospect notice
- 60ZH. Where proponent makes submission about Panel's intention to give no reasonable prospect notice
- 60ZI. Panel may give no reasonable prospect notice
- 60ZJ. Circumstances when no reasonable prospect notice may be given
- 60ZK. Minister to take certain actions after receiving no reasonable prospect notice

Subdivision 8 – Assessment guidelines

- 60ZL. Draft assessment guidelines
- 60ZM. Representations
- 60ZN. Panel to determine assessment guidelines
- 60ZO. Contents of assessment guidelines
- 60ZP. Notice of assessment guidelines to be given
- 60ZQ. Permit to be issued to enable survey, &c., to be conducted

Subdivision 9 – Major project impact statements

- 60ZR. Major project impact statement requirement notice
- 60ZS. Major project impact statement
- 60ZT. Major project impact statement to be provided by proponent
- 60ZU. Participating regulator to advise whether assessment guidelines satisfied
- 60ZV. Panel to seek amended major project impact statement
- 60ZW. Determination of whether major project impact statement suitable for exhibition
- 60ZX. Panel may request further information

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

- 60ZY. Participating regulator's preliminary advice to Panel
- 60ZZ. Contents of participating regulator's preliminary advice
- 60ZZA. Draft assessment report

Subdivision 11 – Exhibition and hearings

- 60ZZB. Notification and exhibition of project
- 60ZZC. Notification and hearings in relation to project
- 60ZZD. Representations in relation to major project
- 60ZZE. Hearings
- 60ZZF. Panel may request further information from proponent

Subdivision 12 – Final advices from participating regulators

- 60ZZG. Participating regulator to provide final advice to Panel
- 60ZZH. Contents of final advice of EPA Board
- 60ZZI. Contents of final advice of Heritage Council
- 60ZZJ. Contents of final advice of pipeline licensee
- 60ZZK. Contents of final advice of relevant regulated entity
- 60ZZL. Contents of final advice of other participating regulators
- 60ZZM. Participating regulator must give reasons for requiring condition or restriction

Subdivision 13 – Major project permits

- 60ZZN. Grant of major project permit and preparation of assessment report
- 60ZZO. When decision about grant of major project permit is to be made

Subdivision 14 – Conditions of major project permits generally

- 60ZZP. Major project permit may be granted subject to conditions or restrictions
- 60ZZQ. Notice and objections in relation to proposed conditions or restrictions
- 60ZZR. Objections, &c., to be forwarded to regulators
- 60ZZS. Notice to be given of certain conditions

Subdivision 15 – In-principle permit commencement conditions

- 60ZZT. In-principle permit commencement conditions
- 60ZZU. Commencement of permit with in-principle permit commencement condition
- 60ZZV. Satisfaction of in-principle permit commencement conditions
- 60ZZW. Permit commencement notice for permit with in-principle permit commencement condition

Subdivision 16 – Other provisions in relation to major project permits

- 60ZZX. Notice of grant of major project permit to be given
- 60ZZY. Fees in relation to major project permits
- 60ZZZ. When major project permit takes effect
- 60ZZZA. When permit lapses

Subdivision 17 – Amendment and cancellation of major project permits

- 60ZZZB. Interpretation of Subdivision
- 60ZZZC. Amendment of major project permit to correct mistake, error or miscalculation

- 60ZZZD. Minor amendment of major project permit
- 60ZZZE. Limitations on ability to make minor amendments to permits
- 60ZZZF. Amendment of permits to ensure consistency with EPN
- 60ZZZG. Significant amendment of major project permits
- 60ZZZH. Cancellation of major project permit
- Subdivision 18 – Miscellaneous*
- 60ZZZI. Fees payable for the purposes of this Division
- 60ZZZJ. Amendment of LPS
- 60ZZZK. Enforcement of compliance with conditions
- 60ZZZL. Restriction on certain applications for permits or amendments to LPS
- 60ZZZM. Application of certain provisions in relation to enforcement
- 60ZZZN. False information
- 12. Section 63 amended (Obstruction of sealed schemes)
- 13. Section 63B amended (Notice of suspected contravention, &c., may be given)
- 14. Section 64 amended (Civil enforcement proceedings)
- 15. Section 65C amended (Enforcement notices)
- 16. Section 65D amended (Requirements of enforcement notices)
- 17. Section 65E amended (Offences and penalties in relation to enforcement notices)
- 18. Section 65I amended (Authorised officers)
- 19. Section 77 amended (Agreement may not breach planning scheme)
- 20. Section 82 amended (Evidentiary provision)
- 21. Section 83 amended (Planning schemes, &c., to be judicially noticed)
- 22. Section 87D inserted
 - 87D. Savings and transitional – *Land Use Planning and Approvals Amendment (Major Projects) Act 2017*
- 23. Schedule 5 amended (Savings and Transitional Provisions – *Land Use Planning and Approvals Amendment (Streamlining of Process) Act 2014*)
- 24. Schedule 7 inserted

**SCHEDULE 7 – SAVINGS AND TRANSITIONAL
PROVISIONS – *LAND USE PLANNING AND
APPROVALS AMENDMENT (MAJOR
PROJECTS) ACT 2017***

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

- 25. Principal Act
- 26. Section 25 amended (Assessment of permissible level 2 activities)
- 27. Section 25A amended (Assessment of applications for permits that are combined with applications for planning scheme amendments)
- 28. Section 27AB repealed
- 29. Section 27AC amended (Directions in relation to permits in respect of EL activities)
- 30. Section 35 amended (Financial assurance to secure compliance with Act)
- 31. Section 42B amended (Interpretation of Division 8)
- 32. Section 42C amended (Offences relating to licences)
- 33. Section 42D amended (Persons to whom licences for existing lawful activities may be granted)
- 34. Section 42G amended (Effect of decision to grant licence in relation to existing authorisations)
- 35. Section 42I amended (Applications for environmental licences)
- 36. Section 42K amended (Grant of licence by Board)
- 37. Section 42M amended (Notifications of grant or refusal of licences or refusal to accept application for licences)
- 38. Section 42N amended (Variation of licence by Director at holder's request)
- 39. Section 42Q amended (Variation by Board of licence)
- 40. Section 42ZB amended (Issue of licence document in relation to licence granted, varied, transferred or renewed)
- 41. Section 42ZJ amended (Appeals by persons who have made representations)
- 42. Section 44 amended (Environment protection notices)

- 43. Section 55A amended (General environmental duty defence)
- 44. Section 92 amended (Powers of authorized officers and council officers)
- 45. Section 98AA amended (Liability for payment of fees)
- 46. Schedule 5 amended (Characteristics to be Considered in Determining Class of Assessment)

PART 4 – CONCLUDING PROVISION

- 47. Repeal of Act

draft Only

draft only

**LAND USE PLANNING AND APPROVALS
AMENDMENT (MAJOR PROJECTS) BILL 2018**

*(Brought in by the Minister for Planning and Local
Government, the Honourable Peter Carl Gutwein)*

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*

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 2018*.

2. Commencement

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

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 3

Part 2 – Land Use Planning and Approvals Act 1993 Amended

**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;

*No. 70 of 1993

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 5

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

- (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”.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 8

Part 2 – Land Use Planning and Approvals Act 1993 Amended

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

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 of this Part, or section 40T(1), for the issue of a permit;

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

assessment report, in relation to a major project, means the assessment report prepared under section 60ZZN(6) in relation to the major project;

declaration of a major project means a declaration of a major project under section 60M(1) or (3) that

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

has not been revoked under section 60S;

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

draft assessment report, in relation to a major project, means the draft assessment report prepared under section 60ZZA 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 under section 13 of the EMPC Act;

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

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

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

in-principle permit commencement condition means a condition of a kind referred to in section 60ZZT(2) or (4);

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 major project impact statement provided to a Panel under section 60ZT(1) or section 60ZV(4);

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

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

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

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 has notified the Commission under section 60ZA(1) that the regulator intends to make a relevant assessment of the major project;

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

permit commencement notice, in relation to a major project permit, means a permit commencement notice issued under section 60ZZW(1) in relation to the permit;

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

project-associated Act means –

- (a) the *Aboriginal Heritage Act 1975*; and

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

- (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, however described, that is or may be issued, granted or given under a project-associated Act, but does not include an environmental licence, within the meaning of the EMPC Act;

proponent, in relation to a project or a major project –

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

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (b) if a project or major project 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 by those persons to be the proponent;

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

relevant regulator, in relation to a major project – see section 60Z;

request for a declaration means a notice given to the Minister under section 60C(1).

Subdivision 2 – Requests for declaration and major project proposals

60C. Request for declaration of major project

- (1) A proponent for a project, by notice in writing to the Minister (a *request for a declaration*), may request that the

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

Minister declare the project to be a major project.

- (2) A proponent may, by notice to the Minister, withdraw a request for a declaration.

60D. Effect on permit applications of request for declaration

- (1) In this section –

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

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 request for a declaration relates – means the day on which the relevant planning authority is notified under section 60I(1) of the request for a declaration; or

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (b) an application for a project-related permit that is made in respect of all or part of the land to which a request for a declaration relates – means the day on which the major project to which the application relates is referred to the decision-maker under section 60Y(a).
- (2) Subsection (3) applies to an application to a planning authority or a decision-maker for an ordinary permit, or a project-related permit, in respect of all or part of the land to which a request for a declaration relates, if the application has been made to, but not determined by, a planning authority, or the decision-maker, respectively, before the relevant time in relation to the application.
- (3) If this subsection applies to an application for an ordinary permit or a project-related permit, the planning authority or the decision-maker must not determine the application unless and until –
 - (a) a declaration is made under section 60M(1)(b) that the project is not a major project; or

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

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- (b) a request for a declaration is withdrawn, or taken to have been withdrawn, under section 60C(2).
 - (4) A determination, of an application for an ordinary permit or a project-related permit to which subsection (3) applies, is void if it is made in contravention of that subsection.
 - (5) If subsection (3) applies to an application for an ordinary permit, or a project-related permit, in relation to a project, the period between –
 - (a) the relevant time; and
 - (b) the day on which the Minister makes a decision under section 60M(1) in relation to the project or a request for a declaration is withdrawn, or taken to be withdrawn, under section 60C(2) –

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

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

60E. Major project proposal to accompany request for declaration

- (1) A proponent of a major project who makes a request for a declaration is to provide to the Minister, at the same time, a major project proposal.
- (2) If the Minister is considering whether to declare a project to be a major project under section 60M(3), he or she, by notice to the proponent of the project, may require the proponent to provide to the Minister a major project proposal for 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.

60F. Contents of major project proposal

- (1) A major project proposal for a project is to contain the following information:
 - (a) the name and contact details of the proponent;
 - (b) details of the proponent's experience and of the proponent's

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

financial capacity to implement the project;

- (c) the name of the project;
- (d) a description of the project, including its key physical components;
- (e) an outline of the proposed location of the project and a general site location plan;
- (f) the anticipated effect, if any, on other areas of land, of the project or infrastructure associated with the project;
- (g) a general description of the physical environment that may be affected by 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 relation to the key issues in respect of the project;

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (j) the proposed timetable for the project;
- (k) how, if at all, the project may make a significant contribution to the economic or social development of the region in which the project is to be situated;
- (l) why the Minister ought to be of the opinion that the project is eligible under section 60J to be declared a major project;
- (m) the amendments, if any, that would be required to be made to an LPS in order for the project to comply with the requirements of the planning scheme that applies in relation to the land on which the project is to be situated, evidence of the merit of such amendments and information as to whether the consent, of any person whose consent to such amendments is required under this Act, has been obtained;
- (n) 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;

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

- (o) details of any feasibility assessment that has been undertaken, in relation to the project, by the proponent;
 - (p) any other information that is prescribed to be required to be provided for the purposes of this section.
- (2) The reference in subsection (1)(f) to the anticipated effect on other areas of the project or infrastructure associated with the project includes –
 - (a) the anticipated effect on areas that are within, and areas that are outside, the regional area in which the project is to be situated; and
 - (b) the anticipated effect on the provision of social infrastructure, and other infrastructure, in those 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

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

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 if it is reasonably necessary to enable the Minister to determine whether or not to declare a project to be 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 request, the proponent's major project proposal, amended so as to incorporate the information specified in the notice.
- (4) If a copy of the major project proposal, 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, the request for a declaration in relation to the project is to be taken to be withdrawn by the proponent under section 60C(2).

60H. Minister may request information from council

- (1) The Minister, by notice to a planning authority, may request the planning

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

authority 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.

- (2) Information may only be requested under subsection (1) if it is reasonably necessary to enable the Minister to determine whether or not to declare a project to be a major project.
- (3) A planning authority to which a request is made under subsection (1) is to take all reasonable steps to provide to the Minister, within the period specified in the request, the information specified in the request.

60I. Planning authorities to be notified of requests for declaration and given major project proposals

- (1) The Minister, within 7 days after a request for a declaration is made to him or her, must –
 - (a) notify of the request each planning authority for the land to which the request relates; and
 - (b) provide, to each planning authority for the land to which the request relates, a copy of the major project proposal that, in

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

accordance with section 60E(1),
accompanied the request.

- (2) The Minister, within 7 days after receiving under section 60E(3) a major project proposal in relation to a project, must –
 - (a) notify each planning authority for the land to which the proposal relates that the Minister is considering whether to declare the project to be a major project under section 60M(3); and
 - (b) provide, to each planning authority for the land to which the proposal relates, a copy of the major project proposal.
- (3) The Minister within 7 days after receiving under section 60G a major project proposal in relation to a project, must provide, to each planning authority for the land to which the proposal relates, a copy of the major project proposal.
- (4) A planning authority that is provided under this section with a major project proposal in relation to a project may, within 14 days, by notice in writing to the Minister, advise the Minister as to –
 - (a) whether the planning authority is of the opinion that the Minister ought not to be of the opinion that

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

the project is eligible under section 60J(2) to be declared to be a major project; and

- (b) the reasons why the planning authority is of that opinion.

Subdivision 3 – Declaration of major projects

60J. When project may be declared to be major project

- (1) Subject to section 60K, 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 significant augmentation or alteration of public infrastructure;
- (d) the project has, or is likely to have, significant, or potentially

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

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 under the project, to be made under 2 or more project-associated Acts or by more than one planning authority.

- (2) Subject to section 60K, a project is eligible to be declared to be a major project under section 60M if, after considering advice provided under section 60I(4) and after consultation with the Commission, the Minister is of the opinion that –

- (a) the project is of such a scale or complexity, or has such characteristics, that a planning authority that, were the project not a major project, would be required to assess under this Act an application for a permit in relation to the project, is unlikely to have the capacity or capability to adequately carry out the assessment or to do so in a timely manner; or

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

- (b) the determination by a planning authority of an application for a permit in relation to the project has been unreasonably delayed.
- (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 planning scheme that applies in relation to the land, but only if the use or development is not inconsistent with a State Policy or any regional land use strategy that applies in relation to the land.

60K. When project ineligible to be declared to be major project

- (1) Despite section 60J, a project is not eligible to be declared to be a major project under section 60M if the project is to consist of, or include, the development of a building, if all of the building is to be developed, or the building is predominantly to be developed, to enable –
 - (a) use by a person, for any period, as residential accommodation, whether as an owner, occupier, tenant, lodger or guest and whether the accommodation

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

consists of a hotel, motel,
apartments or otherwise; or

(b) use for the purposes of offices –

if the height of the building is to be
higher than the acceptable solution for
building height that applies, in relation to
such a building, under the planning
scheme in respect of the land to which
the project relates.

(2) Despite section 60J, 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.

60L. Determination guidelines

(1) The Commission may issue guidelines
(*determination guidelines*) as to the
matters to which the Minister is to have
regard in determining whether to declare
projects to be major projects.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

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- (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 –
 - (i) that the determination guidelines have been made; 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 determination guidelines that are 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

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

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.
- (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).

60M. Declaration of major project

- (1) The Minister, after receiving from a proponent a request for a declaration in relation to a project, must –

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

-
- (a) by notice in the *Gazette*, declare that the project is a major project; or
 - (b) declare that the project is not a major project.
 - (2) The Minister is to make a declaration under subsection (1) in relation to a project –
 - (a) within 28 days from the day on which he or she receives a request for a declaration in relation to the project; or
 - (b) within 14 days from the day on which he or she receives under section 60G(3) a major project proposal in relation to the major project; or
 - (c) within 14 days from the day on which he or she receives further information in relation to the project under section 60H(3) –

whichever is the later.
 - (3) The Minister, of his or her own motion, may, by notice in the *Gazette*, declare a project to be a major project.
 - (4) In determining whether to declare a project to be a major project, the Minister

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

is to have regard to the determination guidelines.

60N. Requirements for declaration of major project

- (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 60J to be declared such a project; and
 - (b) the Minister has considered any advice provided in relation to the project under section 60I(4).
- (2) The Minister may only declare a project to be a major project under section 60M –
 - (a) where all or part of the land on which the project is to be situated is Crown land – with the consent of the Minister responsible for the land on which the project is to be situated; or
 - (b) where 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

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

- (c) where 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 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 to declare the project to be a major project.

60O. Contents of declaration of major project

- (1) A declaration of a major project under section 60M must specify –
- (a) the land on which the major project is to be situated; and

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (b) the uses or developments for the land that are proposed to form part of the major project; and
 - (c) the proponent of the major project; and
 - (d) the grounds on which the Minister declared the project to be a major project.
- (2) A declaration of a major project under section 60M may include 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.
- (3) 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 that 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.
- (4) The Minister may only nominate in a declaration of a major project a planning authority for the purposes of subsection (3) if the planning authority is the planning authority for a municipal area that is within a regional area that is

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

adjacent to the area of land on which the major project is to be situated in whole or in part.

60P. Notification 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 a major project, is to notify, in writing –
 - (a) the proponent of the project; and
 - (b) all planning authorities in the regional area, or regional areas, in which the project is or was to be situated; and
 - (c) if the 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
 - (d) the Commission; and
 - (e) each State Service Agency that the Minister considers may have an interest in relation to a matter to which the project relates; and

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (f) 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
 - (b) any information, in relation to the major project, provided to the Minister under section 60H(3).
- (3) The Minister must ensure that a declaration of a major project is published 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.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

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- (3) Subsection (2) does not apply in relation to a use or development for the purposes of conducting an assessment under or for the purposes of this Division.
- (4) Despite subsection (2), if a condition, referred to in section 60ZZH(1)(e), that is imposed on a major project permit, applies to a use or development, a person may undertake the use or development on land if the use or development is undertaken under and in accordance with a permit, rather than a major project permit.
- (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 project, that has been made to, but not determined by, the planning authority, before a declaration of a major project has been made, is taken to have been withdrawn on the day of the declaration; and
 - (b) the planning authority to which the application was made must, as soon as practicable, refund to the applicant half of any fees that the applicant has paid in respect of the application.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

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

(1) If a declaration of a major project is made –

(a) an application under a project-associated Act, for a project-related permit in relation to land to which the project relates, that –

(i) has been made by or on behalf of the proponent, before a declaration of a major project has been made in relation to the project; but

(ii) has not been determined under that Act before a declaration of a major project has been made in relation to the project –

is taken to have been withdrawn under that Act on the day on which the project is declared to be a major project; 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.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

-
- (2) If a declaration of a major project is made and the Heritage Council is a relevant regulator in relation to the project, the Heritage Council is to cease to take any action in relation to an application for a discretionary permit in relation to the project, except if such action is required under this Act to be taken.
- (3) If a declaration of a major project is made, a relevant regulated entity to which notice of an application in relation to all or part of the major project is given under section 56O(1) of the *Water and Sewerage Industry Act 2008* is to cease to take under that Act any action in relation to the application.
- (4) If a declaration of a major project is made, a pipeline licensee to which notice of an application in relation to all or part of the major project is given under section 70D of the *Gas Pipelines Act 2000* is to cease to take under that Act any action in relation to the application.

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

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

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 –
- (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 Panel has given the Minister a no reasonable prospect notice under section 60ZI(1) in relation to the project; or
 - (c) if the proponent of the project has made under section 60ZG(2) a submission in relation to the project requesting the Minister to revoke the declaration of the project to be a major project; or
 - (d) if the proponent of the project has failed to comply with section 60ZT(1), section 60ZV(4) or section 60ZX(4); or
 - (e) if the proponent of the project has provided to the Minister or the Panel information, in relation to the project, that is false or misleading in any material particular; or

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

-
- (f) 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
- (g) if –
- (i) the Minister is satisfied that, within 2 years after a major project permit in relation to the land was granted, an in-principle permit commencement condition imposed on the permit has not been complied with; and
 - (ii) the major project permit has been cancelled.
- (3) The Minister is to give notice of a revocation of a declaration of a major project under subsection (2) to the persons notified under section 60P(1) of the declaration of the major project.
- (4) 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.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

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 and section 60ZZZK, 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 ceased to apply, if the action or failure was lawful under this Division before this Division ceased to apply, in relation to the project, to the land.

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 in relation to a major project.
- (2) A Development Assessment Panel must be established under subsection (1) in relation to a major project within 28 days

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

after the Commission is given notice under section 60P(1) of the declaration of the project to be a major project.

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 –
 - (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 within any regional areas in which part or all of the project is to take place; and
 - (c) a person who is not a member of the Commission and who, in the opinion of the Commission, has qualifications or experience that are relevant to the assessment of the 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

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

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
 - (b) practical knowledge of, and experience in, the provision of buildings or other infrastructure.
- (4) The Commission is to request the councils within all regional areas in which all or part of a major project is to take place to together nominate, within 21 days after receiving the request, a person for the purposes of subsection (1)(b).
- (5) If the councils have not nominated a person within 21 days after receiving a request to do so, the Commission may appoint a person for the purposes of subsection (1)(b), even though the person has not been nominated by the councils, if the person satisfies the requirements of subsection (3).
- (6) If the Commission is of the opinion that the scale, specialist nature or complexity of a major project makes it desirable to

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

do so, the Commission may appoint to be members of the Panel, in addition to the persons appointed under subsection (1), not more than 2 other persons.

- (7) A person appointed under subsection (6) in relation to a major project is to be a person who has the qualifications and experience that the Commission thinks appropriate to assist in the assessment of the project.
- (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.
- (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) The quorum for a Panel is 3.
- (2) The Commission is to approve procedures, not inconsistent with the

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

procedural requirements of this Division,
for the conduct of proceedings of Panels.

- (3) A Panel is to conduct its proceedings in accordance with the procedures, if any, approved under subsection (2).
- (4) A Panel may determine its own procedures for the conduct of proceedings, which procedures may not be inconsistent with the procedural requirements of this Division and the procedures, if any, approved under subsection (2).
- (5) 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.
- (6) 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.
- (7) 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 State Project, must advise the Commission of the interest.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

- (8) 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 State Project, must revoke under section 60V(8) the appointment of the member of the Panel.

60X. Major project proposal, &c., to be provided to Panel

As soon as practicable after establishing under section 60U(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).

Subdivision 6 – Reference 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)(d) of the declaration –

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (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
 - (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 a major project if, were an application to be made under section 57 or 58 for a permit in relation to a use or development to be carried out for the purposes of the major project, the EPA Board would be required under the *Environmental Management and Pollution Control Act 1994* to carry out, in relation to the major project, an environmental impact assessment.
- (2) For the purposes of this Act, a pipeline licensee is a relevant regulator in relation

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

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 an application to be made to a planning authority for a discretionary 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 the project not declared to be a major project, a copy of an application for a discretionary permit in relation to the project would be required under section 36 of the *Historic Cultural Heritage Act 1995* 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.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

60ZA. Relevant regulator to determine whether to conduct assessment of project

- (1) A relevant regulator to which a major project is referred under section 60Y, must, within 14 days or a longer period allowed by the Minister, notify the Commission that the relevant regulator –
 - (a) intends to make a relevant assessment of the major project; or
 - (b) does not consider that the major project requires a relevant assessment of the project to be made by the relevant regulator.
- (2) A relevant regulator is to be taken to have given notice under subsection (1)(a) that the relevant regulator intends a relevant assessment of a major project to be made, if the relevant regulator has not notified the Commission to the contrary under subsection (1) within 14 days after the major project is referred to the relevant regulator or a longer period allowed by the Minister.
- (3) The Commission is to notify the Panel in relation to a major project of each notice that is given, or taken to be given, under subsection (1) in relation to the major project.

60ZB. Participating regulator to advise Panel about revocation and time for consideration

- (1) A participating regulator must, within 60 days after a major project is referred to the relevant regulator under section 60Y or a longer period allowed by the Minister, give to the Commission and the Panel in relation to the major project a notice –
 - (a) that specifies whether or not the participating regulator requests the Panel to recommend to the Minister that the Minister revoke the declaration of the major project; and
 - (b) that, if the notice specifies that the participating regulator requests the Panel to recommend to the Minister that the Minister revoke the declaration of the major project, specifies the reasons for that request.
- (2) A participating regulator may only specify in a notice under subsection (1) that the participating regulator requests the Panel to recommend to the Minister that the Minister revoke the declaration of the major project if –
 - (a) the participating regulator is of the opinion that there is no

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

reasonable prospect that the participating regulator will not, in the participating regulator's final advice under section 60ZZG(1), direct the Panel to refuse to grant a major project permit in relation to the major project; and

- (b) the participating regulator specifies in the notice the reasons why the participating regulator is likely to so direct the Panel.

(3) If –

- (a) a participating regulator in relation to a project is the EPA Board; and
- (b) the EPA Board requires the assessment of the major project to be treated as if it were a class 2C project under the *Environmental Management and Pollution Control Act 1994* –

the participating regulator must, within 30 days after the major project is referred to the regulator under section 60Y, give to the Panel a notice that the participating regulator will require 90 days, or a longer period allowed by the Minister, in which to provide to the Panel a participating regulator's preliminary advice under

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

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

60ZC. Assessment requirement notices and notices of no requirements

- (1) A participating regulator which has not, under section 60ZB(1), requested the Panel to recommend to the Minister that the Minister revoke the declaration of the major project, must, within 60 days after the major project is referred to the regulator under section 60Y, or a longer period allowed by the Minister, give to the Panel –
 - (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.
- (2) For the purposes of subsection (1)(a), a notice of no assessment requirements in relation to a major project is a notice specifying that the participating regulator does not require any matters to be included in the major project impact statement, or the assessment guidelines, in relation to the major project.
- (3) For the purposes of subsection (1)(b), an assessment requirement notice in relation to a major project is a notice specifying –

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (a) the matters that the participating regulator considers to be matters to which the Panel must have regard in determining –
 - (i) whether to grant a major project permit in relation to the major project; and
 - (ii) the conditions or restrictions (including any in-principle permit commencement conditions), if any, to impose on a major project permit granted in relation to the major project; and
- (b) the conditions or restrictions (including any in-principle permit commencement conditions), if any, that the participating regulator requires to be imposed on a major project permit that may be granted in relation to the major project; and
- (c) the matters, if any, that the participating regulator requires to be addressed in the major project impact statement in relation to the major project; and
- (d) the reasons why the participating regulator has specified matters

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

referred to in paragraph (a), (b) or (c).

(4) A participating regulator may only specify in an assessment requirement notice under subsection (1)(b) in relation to a major project –

(a) a matter referred to in subsection (3)(a) or (c) if the matter would be relevant to the decision of the participating regulator as to the contents of a participating regulator's final advice under section 60ZZG(1) in relation to the major project; or

(b) a condition or restriction referred to in subsection (3)(b) if the participating regulator may, under section 60ZZH, include such a condition or restriction in a participating regulator's final advice under section 60ZZG(1) in relation to the major project.

60ZD. Guidelines for assessment requirement notices

(1) The Commission may issue guidelines for the purpose of assisting participating regulators to determine the contents of an assessment requirement notice under section 60ZC(1)(b).

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (2) A participating regulator to which a major project is referred under section 60Y must take into account the guidelines made under subsection (1) in determining the contents of an assessment requirement notice under section 60ZC(1)(b) in relation to a major project.

60ZE. Assessment by EPA Board

- (1) If the EPA Board notifies the Commission under section 60ZA(1) that the EPA Board intends a relevant assessment of the major project to be made, the EPA Board must carry out an environmental impact assessment of the major project in accordance with Part 5 of the EMPC Act.
- (2) The environmental impact assessment of a major project is to be carried out –
- (a) in accordance with the Environmental Impact Assessment Principles specified in the EMPC Act; and
 - (b) in accordance with this section and Part 5 of that Act.
- (3) 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

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

Act, to providing the proponent with guidance is to be taken to be satisfied if the guidance is provided to the Panel under subsection (4).

- (4) If the EPA Board has notified the Commission under section 60ZA(1) that the EPA Board intends a relevant assessment of a major project to be made, the EPA Board is to provide to the Panel, within 60 days after the major project was referred to the EPA Board under section 60Y, or a longer period allowed by the Minister, the guidance that the EPA Board is required under section 74(4) of the EMPC Act to provide to the proponent.
- (5) The guidance provided to the Panel under subsection (4) in relation to a major project is to be taken to be the matters that the EPA Board specifies in an assessment requirement notice under section 60ZC in relation to the major project.
- (6) If a relevant 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 relevant regulator if the major project, major project proposal or

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

information, respectively, is referred, or provided, to the EPA Director; and

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

60ZF. Fees to be paid to EPA Board

- (1) The proponent of a major project in relation to which an environmental impact assessment is carried out in accordance with section 60ZE 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 in relation to the major project; and
 - (b) the environmental impact assessment had been carried out

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

under and in accordance with the
EMPC Act as if this section did
not apply.

***Subdivision 7 – Panel may advise no reasonable prospect of
major project permit being issued***

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

- (1) The Panel in relation to a major project must, if it intends 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) specifying that the Panel intends to give a no reasonable prospect notice under section 60ZI(1) and 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 notice under this subsection 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 notice under subsection (1) in relation to a major

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

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 specifying any other information the proponent thinks relevant; or
- (b) that the proponent requests the Minister to revoke under section 60S the declaration of the project as a major project; or
- (c) that the proponent intends to provide to the Minister an amended major project proposal in relation to the major project.

60ZH. 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 60ZG(2), the Panel must, within 7 days, provide to each participating regulator –
 - (a) a copy of the submission; and
 - (b) if the submission is a submission referred to in section 60ZG(2)(a),

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

a statement advising the regulator that the regulator may change any notice given by the regulator under section 60ZB(1) or section 60ZC(1) in relation to the major project.

- (2) A participating regulator who is provided under subsection (1) with a copy of the submission may, within 7 days or a longer period allowed by the Minister, give to the Panel a further notice under section 60ZB(1) or section 60ZC(1) in relation to the major project.
- (3) If a submission in relation to a major project is made, in accordance with subsection (2), to the Panel under section 60ZG(2), a notice given under section 60ZB(1) or section 60ZC(1) is to be taken for the purposes of this Division to be the first notice given in relation to the major project by the participating regulator under section 60ZB(1) or section 60ZC(1), as the case may be.

60ZI. Panel may give no reasonable prospect notice

- (1) Subject to section 60ZG, a Panel may give to the Minister notice in writing (*a no reasonable prospect notice*) in relation to a major project.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (2) A Panel may only give to the Minister a no reasonable prospect notice in relation to a major project –
 - (a) after receiving under section 60X a copy of the major project proposal in relation to the major project; and
 - (b) before determining under section 60ZN(1) assessment guidelines in respect of the major project.
- (3) A no reasonable prospect notice in relation to a major project is to specify –
 - (a) that the Panel considers that there is no reasonable prospect that the Panel will issue 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 issue a major project permit in relation to the major project.

60ZJ. Circumstances when no reasonable prospect notice may be given

- (1) Without limiting the generality of section 60ZI(1), a Panel may give a no reasonable prospect notice in relation to a

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

major project if the Panel is of the opinion that the issue of a major project permit –

- (a) would be in contravention of the SPPs, a planning directive or a State Policy; or
 - (b) would not further the objectives specified in Schedule 1; or
 - (c) would be inconsistent with a regional land use strategy that applies in relation to the land to which the project relates.
- (2) Without limiting the generality of section 60ZI(1), a Panel may give a no reasonable prospect notice in relation to a major project if the Panel is of the opinion that –
- (a) a participating regulator has given to the Panel a notice under section 60ZB(1) requesting the Panel to recommend to the Minister that the Minister revoke the declaration of the major project; or
 - (b) a participating regulator has indicated in a notice under section 60ZB(1) that there is no reasonable prospect that the participating regulator will not, in the participating regulator's final

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

advice under section 60ZZG(1),
direct the Panel to refuse to issue
a major project permit in relation
to the major project.

(3) The Panel must not give a no reasonable
prospect notice under section 60ZI(1) in
relation to a major project unless –

(a) the Panel has given to the
proponent a notice under
section 60ZG(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 60ZG(1); or

(ii) 7 days have expired since
each participating
regulator was notified of a
submission under
section 60ZH(1) –

whichever period expires later;
and

(c) the Panel has considered any
submission made to the Panel
under section 60ZG(2) in relation
to the major project and any
further notice given under
section 60ZB(1) or

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

section 60ZC(1) in accordance
with section 60ZH(2); and

- (d) if a submission has been made to the Panel under section 60ZG(2), the submission does not consist of a matter referred to in section 60ZG(2)(b) or (c).
- (4) The Panel must give to the Minister, together with a no reasonable prospect notice under section 60ZI(1) in relation to a major project –
 - (a) a copy of any submission made under section 60ZG(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.

60ZK. Minister to take certain actions after receiving no reasonable prospect notice

- (1) 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 section 60S the declaration of a major project in relation to the major project, consider any submission, and any comments, in

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

relation to the major project, that are given to the Minister under section 60ZJ(4).

- (2) If a proponent has specified in a submission made under section 60ZG(2) a matter referred to in section 60ZG(2)(c) –
- (a) the Minister, within 14 days after receiving under section 60ZJ(4) a copy of the submission, is to issue under section 60G(1) to the proponent a notice requiring the proponent to provide an amended major project proposal in relation to the major project; and
 - (b) section 60E(2) applies in relation to the major project as if the proponent had not previously provided a major project proposal in relation to the major project.

Subdivision 8 – Assessment guidelines

60ZL. Draft assessment guidelines

- (1) The Panel must prepare a draft of the assessment guidelines in respect of a major project as soon as practicable after the Panel, under section 60ZC, receives from each participating regulator an assessment requirement notice or a notice of no assessment requirements.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

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- (2) Section 60ZN(2) and section 60ZO apply in relation to a draft of the assessment guidelines as if the draft were assessment guidelines.
- (3) The Panel must not prepare under subsection (1) a draft of the assessment guidelines in respect of a major project until the Panel has received, in relation to the major project, from each participating regulator, if any, an assessment requirement notice, or a notice of no assessment requirements, under section 60ZC.
- (4) Before preparing under subsection (1) a draft of the assessment guidelines in respect of a major project, the Panel must consult with, and consider any comments provided by –
- (a) the Commission; and
 - (b) the planning authorities for any regional area in which part or all of the project is to be situated; and
 - (c) the State Service Agencies that the Panel believes have an interest in a matter to which the project relates; and
 - (d) the Minister administering the *Crown Lands Act 1976*; and

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (e) if all or part of the land to which the project relates is in Wellington Park – the Wellington Park Management Trust.
- (5) The Panel must, after preparing a draft of the assessment guidelines under subsection (1) –
 - (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 respect of the major project will be available for inspection by the public during normal business hours during the period of 14 days specified in the notice; and
 - (ii) that representations in relation to the draft assessment guidelines may be made to the Panel during the period specified in the notice in accordance with paragraph (a); and

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

- (iii) the address, and an electronic address, to either of which a representation may be made; 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 14 days beginning after the notice is given under paragraph (a).

60ZM. Representations

- (1) A person may, within the period referred to in a notice under section 60ZL(5)(a), make a representation in relation to a draft of the assessment guidelines.
- (2) The Panel must, within 7 days after receiving under subsection (1) a representation that relates to a condition, or restriction, that is included in the draft assessment guidelines in accordance with a participating regulator's assessment requirement notice given to the Panel under section 60ZC, give to the participating regulator a copy of the representation.
- (3) A participating regulator may, within 7 days, or a longer period allowed by the Minister, after receiving a copy of a

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

representation under subsection (2), 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 60ZC.

- (4) A notice under subsection (3) 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 60ZC if the assessment requirement notice, as so altered, would be an assessment requirement notice that the participating regulator may give under section 60ZC.

60ZN. Panel to determine assessment guidelines

- (1) The Panel in relation to a major project must determine the assessment guidelines in respect of the major project.
- (2) In determining the assessment guidelines in respect of a major project that is to be situated on an area of land, the Panel is to have regard to –
- (a) any planning scheme that applies to the land; and
 - (b) if the carrying out of the project is inconsistent with the provisions of a planning scheme that applies to the land – the merit of any

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

changes to an LPS that would be required to be made for the major project to be lawfully carried out; and

- (c) any regional land use strategy, if any, for the regional area in which the land is situated; and
 - (d) the objectives specified in Schedule 1; and
 - (e) any applicable State Policy or planning directive.
- (3) The Panel may only determine the assessment guidelines in respect of a major project if –
- (a) the Panel has complied with section 60ZL in relation to a draft of the assessment guidelines; and
 - (b) the Panel has considered each representation made under section 60ZM(1) in relation to the draft of the assessment guidelines.
- (4) The Panel must make a determination under subsection (1) in relation to the major project before 28 days, or a longer period allowed by the Minister, after the expiry of the period specified in the notice given under section 60ZL(5)(a) in relation to the major project.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

6ZO. Contents of assessment guidelines

- (1) The assessment guidelines in respect of a major project are to contain –
 - (a) the matters to which the Panel must have regard in determining –
 - (i) whether to grant a major project permit in relation to the major project; and
 - (ii) the conditions or restrictions, if any, (including any in-principle permit commencement conditions) to impose on any major project permit that may be granted in relation to the major project; and
 - (b) any draft conditions or restrictions (including any in-principle permit commencement conditions) that the Panel proposes to impose on any such major project permit; and
 - (c) the matters to be addressed in the major project impact statement in relation to the major project, which are to be matters that are

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

reasonably required to enable the
proper assessment of –

- (i) whether a major project permit in relation to the major project ought to be granted; and
 - (ii) the conditions or restrictions, if any, that ought to be imposed on any major project permit that may be granted in relation to the major project.
- (2) Without limiting the generality of subsection (1), the matters, and the draft conditions or restrictions, that may be included in the assessment guidelines include any matters, draft conditions, or restrictions, that the Panel considers are necessary for the purposes of implementing effective and appropriate planning of the use and development of land.
- (3) If a participating regulator has given to the Panel an assessment requirement notice under section 60ZC in relation to the major project specifying matters (including any conditions, or restrictions) that the assessment guidelines in respect of the major project are to include the matters specified in the notice.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (4) Despite subsection (3), if there is an inconsistency between the conditions or restrictions that different participating regulators require, in their assessment requirement notices under section 60ZC, to be imposed on the permit, the assessment guidelines in respect of the major project are to include 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 is to provide to a participating regulator a copy of the assessment guidelines if the participating regulator has given to the Panel an assessment requirement notice under section 60ZC in relation to the major project specifying matters (including any conditions, or restrictions) that are to be included in the assessment guidelines in respect of the major project.
- (6) If a participating regulator has given to the Panel a notice under section 60ZM(3) in relation to an assessment requirement notice under section 60ZC in relation to the major project, the Panel must, subject to subsections (3) and (4), ensure that the assessment guidelines in respect of the major project are altered so as to take into account the assessment requirement

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

notice under section 60ZC as altered in accordance with the notice under section 60ZM(3).

60ZP. Notice of assessment guidelines to be given

- (1) The Panel, as soon as practicable after determining the assessment guidelines in respect of a major project, must publish 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 respect of a major project, must ensure that copies of the assessment guidelines are, until a decision is made under section 60ZZN(1) in relation to the major project to which the guidelines relate, available –

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (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).

60ZQ. Permit to be issued to enable survey, &c., to be conducted

- (1) Subsection (2) applies in relation to a project-related permit if –
 - (a) assessment guidelines are determined under section 60ZN 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 an activity that is not permitted under a project-associated Act except if there is a project-related permit in relation to the activity.
- (2) If this subsection applies in relation to a project-related permit, the person or body to whom an application for such a permit may be made must issue to the proponent, under that Act, a project-

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

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.
- (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) A project-related permit issued in accordance with subsection (2) 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 60ZZN(1)(a) in relation to the major project; or
 - (c) the proponent is notified under section 60ZZN(1)(b) that the Panel has refused to grant a major project permit in relation to the major project –

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

whichever occurs first.

Subdivision 9 – Major project impact statements

60ZR. Major project impact statement requirement notice

- (1) As soon as practicable, and in any case within 7 days, after determining under section 60ZN the assessment guidelines in respect of a major project, the Panel must give to the proponent –
 - (a) a copy of the assessment guidelines; and
 - (b) a major project impact statement requirement notice in relation to the major project.
- (2) A major project impact statement requirement notice for the purposes of subsection (1)(b) in relation to a major project is to specify that the proponent is required to provide to the Panel a major project impact statement in relation to the major project within –
 - (a) the period of 12 months after receiving the assessment guidelines or a longer period allowed by the Minister; or

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

- (b) another period determined by written agreement between the Panel and the proponent.

60ZS. Major project impact statement

- (1) A major project impact statement is a statement that –

- (a) addresses the matters that are set out, in accordance with section 60ZO(1)(c), in the assessment guidelines in respect of the major project, as matters that are required to be addressed in a major project impact statement; and
- (b) includes a planning amendment statement.

- (2) For the purposes of subsection (1), a planning amendment statement is –

- (a) a statement as to whether the proponent is of the opinion that any amendments would be required to be made to an LPS in order for the project to comply with the requirements of the planning scheme that applies in relation to the land on which the major project is to be situated; and

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (b) if the proponent is of the opinion that an amendment to the LPS would be required – any information that is reasonably necessary to identify the nature and scope of such an amendment.
- (3) Despite subsection (1), a major project impact statement may include any statement that the proponent wishes to make on the conditions or restrictions set out in the assessment guidelines in respect of the major project, including how the proponent proposes to meet those conditions or restrictions if they were imposed on a major project permit that may be granted in relation to the project.

60ZT. 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 the assessment guidelines; or
 - (b) another period determined by written agreement between the Panel and the proponent; or

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

(c) the period extended under
subsection (2) –

whichever period last expires.

- (2) The Panel may, by notice to a proponent, extend the period in which the proponent is to 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 major project, must provide a copy of the statement to each participating regulator.

**60ZU. Participating regulator to advise whether
assessment guidelines satisfied**

- (1) In this section –

regulator's assessment matters, in
relation to a participating
regulator, means the matters,
required by the assessment
guidelines to be addressed in a
major project statement, that may
be relevant to the determination
by the participating regulator of
the contents of a participating

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

regulator's final advice in relation
to the project.

- (2) A participating regulator that has been provided under section 60ZT(4) with a copy of a major project impact statement must, within 21 days or a longer period allowed by the Minister, give to the Panel –
 - (a) a notice of assessment guideline compliance in relation to the major project impact statement; or
 - (b) a notice of non-compliance in relation to the major project impact statement.
- (3) A notice of assessment guideline compliance in relation to a major project impact statement is a notice specifying that the regulator is satisfied that the major project impact statement addresses the regulator's assessment matters.
- (4) A notice of non-compliance in relation to the major project impact statement is a notice specifying –
 - (a) that the regulator is of the opinion that the major project impact statement ought to be amended to include certain information so that it addresses the regulator's assessment matters; and

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

- (b) the information that the regulator requires to be included in the major project impact statement so that it addresses the regulator's assessment matters.

60ZV. Panel to seek amended major project impact statement

- (1) The Panel must, within 7 days after receiving under section 60ZU(2) a notice of non-compliance in relation to a major project impact statement, by notice to the proponent, request the proponent to provide to the Panel, within a period specified in the notice under this subsection, the major project impact statement amended so as to contain the information specified in the notice under this subsection.
- (2) The information specified in the notice under subsection (1) is to be the information specified, in accordance with section 60ZU(4)(b), in the notice of non-compliance.
- (3) The Panel may only give a notice to the proponent under subsection (1) within the period of 35 days, or a longer period allowed by the Minister, after the Panel has received from the proponent under section 60ZR(1) a major project impact statement in relation to the major project.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (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, as soon as practicable 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(2) the notice of non-compliance to which the notice under subsection (1) relates; and
 - (b) if the information also relates to another participating regulator's assessment matter, within the meaning of section 60ZU(1), provide to that particular regulator the major project impact statement amended so as to contain the information.
- (6) If a participating regulator has given to the Panel under section 60ZU(2) a notice

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

of non-compliance 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 any participating regulator under subsection (5) –

is not to be counted in the calculation of the period referred to in section 60ZU(2) in relation to the participating regulator to which the information is given.

60ZW. Determination of whether major project impact statement suitable for exhibition

- (1) The Panel must determine –
 - (a) whether a major project impact statement is suitable for public exhibition because the statement addresses the matters that are set out, in accordance with section 60ZO(1)(c), in the assessment guidelines in respect of the major project, as matters that are required to be addressed

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

in a major project impact statement; or

(b) whether a major project impact statement is not suitable for public exhibition because the statement does not address those matters.

(2) If there are one or more participating regulators in relation to a major project, the Panel may only make a determination under subsection (1) in relation to the project –

(a) after receiving under section 60ZU(2) all notices from the participating regulators; or

(b) after the last day on which a participating regulator may give a notice under section 60ZU(2) in relation to a major project –

whichever is the earlier.

(3) The Panel must consider each notice given under section 60ZU(2) by a participating regulator before making a determination under subsection (1) in relation to a major project.

(4) The Panel must, within the period of 7 days after the Panel determines under subsection (1) that a major project impact statement is not suitable for public

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

exhibition, notify the proponent that the major project impact statement is not suitable for public exhibition.

- (5) The Panel may, if it determines under subsection (1) that a major project impact statement is not suitable for public exhibition, notify the proponent that the proponent may submit to the Panel another major project impact statement within a period specified in the notice.
- (6) The Panel may only give a notice under subsection (5) within the period of 12 months after the first major project impact statement in relation to a major project is provided to a participating regulator under section 60ZT(4) or a later period allowed by the Minister in relation to the major project.
- (7) A proponent to whom a notice under subsection (5) has been given may provide to the Panel a major project impact statement within the period specified in the notice and, if a major project impact statement is so provided, the statement is to be taken to have been provided under section 60ZT(1) in substitution for the major project impact statement previously provided under that section.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

60ZX. Panel may request further information

- (1) The Panel may request any of the following persons to provide to the Panel, within the period specified in the request, further information of the kind specified in the request:
 - (a) the proponent of a major project;
 - (b) a planning authority;
 - (c) the Commission;
 - (d) a State Service Agency;
 - (e) a State authority within the meaning of the *State Service Act 2000*;
 - (f) the Wellington Park Management Trust.
- (2) The Panel may only request the proponent to provide further information under subsection (1) within the period of 35 days after the Panel has received from the proponent under section 60ZT(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 –

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

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- (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) A person to whom a request is made 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 request or a later period allowed by the Minister, the information specified in the request.
- (5) The Panel, as soon as practicable after information in relation to the major project is provided to the Panel under subsection (4), 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 60ZZG(1) to give in relation to the major project, give the information to the participating regulator.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

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

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

- (1) A participating regulator, before the end of the relevant period in relation to the participating regulator, must provide to the Panel the participating regulator’s preliminary advice in relation to a major project.
- (2) 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, under section 60ZB(3), notified the Panel that it requires the assessment of the major project to be treated as if it were a class 2C project under the EMPC Act – 90 days, or a longer period allowed by the Minister, after the regulator received under section 60ZT(4) the major project impact statement in relation to the major project; or
 - (b) if paragraph (a) does not apply – 60 days, or a longer period allowed by the Minister, after the regulator received under

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

section 60ZT(4) the major project impact statement in relation to the major project.

- (3) If the Panel has, further to a request by a participating regulator in a notice of non-compliance under section 60ZU(2), requested the proponent under section 60ZV(1) to provide the Panel with an amended major project impact statement in relation to a major project, the period between –

(a) the day on which that request under section 60ZU(2) is made; 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.

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 –

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (a) preliminary refusal advice; and
 - (b) preliminary condition advice, 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 60ZZG(1) to refuse to grant a major project permit in relation to the major project.
- (2) Preliminary refusal advice is –
 - (a) advice as to whether 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 60ZZG(1) to refuse to grant a major project permit in relation to the major project; and
 - (b) if the regulator so intends to direct the Panel, the reasons why.
- (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

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

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

- (b) advice specifying the conditions or restrictions (including any draft in-principle permit commencement conditions) 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 advice, to direct the Panel in the participating regulator's final advice under section 60ZZG(1) to refuse to grant a major project permit in relation to the major project, if the regulator may, under section 60ZZG, so direct the Panel.
- (5) A participating regulator may only include, in the participating regulator's preliminary condition advice, advice as to any conditions or restrictions if the regulator may, under section 60ZZG, include such a condition or restriction in the participating regulator's final advice

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

under section 60ZZG(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 28 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 60ZO(1)(c), in the assessment guidelines in respect of the major project; and
 - (b) a statement specifying the contents of each notice given by a participating regulator to the Panel under section 60ZB(1); and
 - (c) a copy of each notice of no requirement, or assessment requirement notice, given by a

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

participating regulator under
section 60ZC(1) to the Panel; and

- (d) a statement setting out each participating regulator's opinion given in a notice of non-compliance under section 60ZU(2) in relation to the major project; and
 - (e) 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
 - (f) any conditions or restrictions, including any draft in-principle permit commencement conditions, that the Panel proposes to impose on any major project permit that may be granted in relation to the major project; and
 - (g) any draft amendment of an LPS that would be required to be made in order for the major project to comply with the requirements of the planning scheme that applies in relation to the land on which the major project is to be situated.
- (3) If a participating regulator has, under section 60ZC(1), given to the Panel an

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

assessment requirement notice in relation to a project specifying conditions or restrictions that the participating regulator requires to be included in the assessment guidelines in respect of the major project, the assessment report in relation to the major project is to –

- (a) include the conditions or restrictions; or
- (b) if there is an inconsistency between the conditions or restrictions that different participating regulators require, in their assessment requirement notices under section 60ZC(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.

Subdivision 11 – Exhibition and hearings

60ZZB. Notification and exhibition of project

- (1) The Panel must give notice of the public exhibition of a major project.
- (2) The Panel must give notice under subsection (1) within 14 days after

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

preparing under section 60ZZA the draft assessment report in relation to the major project.

- (3) A notice is given for the purposes of subsection (1) in relation to a major project if the notice is –
- (a) given in the *Gazette*; and
 - (b) placed in a newspaper that is published, and circulates generally, in Tasmania; and
 - (c) 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 the land that adjoins land to which the public has access; and
 - (d) specified in a document given to the owners and occupiers of all land adjoining the land to which the major project relates.
- (4) A notice for the purposes of subsection (1), in relation to a major project, in addition to any other matters required by the regulations to be contained in it –
- (a) is to specify a place where a copy of –

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (i) the assessment guidelines in respect of 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 –

will be available for inspection by the public during normal business hours during the period specified in the notice, which is not to be a period that ends less than 42 days after the notice is published; and

- (b) is to specify that representations in relation to the major project may be made to the Panel during the period specified in the notice in accordance with paragraph (a); and
 - (c) is to specify the address, and an electronic address, to either of which a representation may be made.
- (5) After the Panel gives notice in accordance with subsection (1), the Panel, and the planning authority for any land on which part or all of the major project is to take place, must arrange, in

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

the prescribed manner, the public exhibition of –

- (a) the assessment guidelines in respect of 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 –

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

- (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.
- (7) A person must not, within the period specified in the notice for the purposes of subsection (1), obscure or remove a sign that, in accordance with subsection (3)(c), is displayed on the land to which the notice relates.

Penalty: Fine not exceeding 10 penalty units.

- (8) The Commission must place on the Commission's principal website, for the period of the public exhibition –

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (a) notice of the public exhibition of a major project; and
- (b) a copy of –
 - (i) the assessment guidelines in respect of 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.

60ZZC. Notification and hearings in relation to project

- (1) The Panel must give a notice in relation to a major project as soon as practicable after the public exhibition, of the documents, in relation to the major project, referred to in section 60ZZB(5), begins under that section.
- (2) The notice under subsection (1) in relation to a major project is to be given to –
 - (a) all planning authorities in the regional area in which the land is situated; and

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

- (b) all State Service Agencies that have been consulted in respect of the major project under section 60ZL(4); and
 - (c) if all or part of the land is in Wellington Park – the Wellington Park Management Trust.
- (3) The notice under subsection (1) is to –
- (a) advise each person or State Service Agency to which the notice is given of the public exhibition of the documents in relation to a major project; and
 - (b) invite the person or a representative of the State Service Agency to make a representation 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.
- (2) A representation in relation to a major project may relate to any or all of the following matters:
 - (a) the major project;

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (b) any conditions or restrictions that ought to be specified on any major project permit that may be granted in relation to the major project;
 - (c) the draft amendment to an LPS, if any, set out in the draft assessment report in relation to the major project, or any amendment to an LPS that would be required to be made in order for the major project to comply with the requirements of the planning scheme that applies in relation to the land on which the major project is to be situated.
- (3) A representation under subsection (2)(b), in relation to a major project, that is made by a person may relate to any of the following:
- (a) the conditions or restrictions included, in accordance with section 60ZZA(2)(f), in the assessment report in relation to the major project;
 - (b) any other condition or restriction, in relation to a matter to which an LPS may relate, that the person considers ought to be imposed on a major project permit that may

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

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 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 42 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 public exhibition of a major project ends under section 60ZZB –
- (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

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

matter to which the participating regulator is likely to have regard in determining the contents of the participating regulator's final advice under section 60ZZG(1) in relation to the major project.

- (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, as soon as practicable after the public exhibition of the project under section 60ZZB(5) ends.
- (2) A hearing by the Panel may relate to a representation made under section 60ZZD in relation to a project or in relation to 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

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

- (b) the Panel has consulted with the person who made the representation and that person has advised the Panel in writing that he or she does not wish to attend a hearing.
- (4) The Panel, before holding a hearing under this section, is to notify each participating regulator of the intention to hold a hearing.

60ZZF. Panel may request further information from proponent

- (1) A participating regulator may, within the period –
 - (a) beginning on the day after public exhibition in relation to a major project under section 60ZZB(5) closes; and
 - (b) ending on the day 28 days, or a longer period allowed by the Minister, after that day –

advise the Panel that the relevant regulator requires from the proponent further information in relation to the major project.

- (2) A participating regulator may only advise the Panel that the relevant regulator requires further information in relation to

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

the major project from the proponent if the information is relevant to the decision of the relevant regulator as to the contents of the participating regulator's final advice under section 60ZZG(1) in relation to the major project.

- (3) The Panel, within the period –
- (a) beginning on the day after public exhibition under section 60ZZB(5) in relation to a major project closes; and
 - (b) ending on the day 35 days after that day –

may, and if requested to do so by a participating regulator, must, by notice to the proponent of a major project, require the proponent to provide the information specified in the notice to the Panel within the period specified in the notice.

- (4) A proponent to whom a notice has been given under subsection (3) must, within the period specified in the notice or a longer period allowed by the Panel, provide to the Panel the information requested in the notice.
- (5) The Panel, as soon as practicable after being provided with information under subsection (4), must provide the information to each participating regulator.

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

- (6) If a proponent to whom a notice has been given under subsection (3) fails to comply with subsection (4), the Panel may, under section 60ZZN(1)(b), refuse to grant a major project permit in relation to the major project.

Subdivision 12 – Final advices from participating regulators

60ZZG. Participating regulator to provide final advice to Panel

- (1) A participating regulator in relation to a major project must, before the end of 14 days after the last hearing in relation to the project is held or on a later day that is approved by the Minister, give to the Panel a notice (the ***participating regulator's final advice***) in relation to the major project.
- (2) A participating regulator's final advice in relation to a major project is a notice –
- (a) specifying whether 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 –

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (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, (including any in-principle permit commencement conditions) that the participating regulator requires to be imposed on any major project permit that may be granted in relation to the major project.
- (3) If the Panel has, further to a request by a participating regulator under section 60ZZF(1), requested the proponent under section 60ZZF(3) to provide the Panel with further information in relation to a major project, the period between –
 - (a) the day on which that request under section 60ZZF(1) is made; and
 - (b) the day on which the proponent provides under section 60ZZF(4)

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

the information to the satisfaction
of the Panel –

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

60ZZH. Contents of final advice of EPA Board

- (1) The conditions which the EPA Board may include in a participating regulator's final advice under section 60ZZG(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;
 - (b) an in-principle permit commencement condition, including such a condition requiring the person to whom the permit is granted to prepare, and submit to the Board for approval, an environmental management plan, within the meaning of the EMPC Act, for the proposed activity;

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (c) a condition requiring a person to provide a document or information to a person;
 - (d) a condition requiring the person to whom the 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;
 - (e) a condition providing that the activity can be undertaken only for a specified period of time, after which period the proponent may be required to apply for a further permit under this Act;
 - (f) a condition requiring that, if the activity ceases, the site must be rehabilitated in accordance with the Board's requirements;
 - (g) a condition requiring the person to whom the 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 permit applies.
- (2) A participating regulator that is the EPA Board may only specify, in a participating regulator's final advice

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

under section 60ZZG(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.

- (3) A participating regulator that is the EPA Board may only specify, in a participating regulator's final advice under section 60ZZG(1) in relation to a major project, that the EPA Board 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 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

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

or restriction or, if the condition is an in-principle permit commencement condition, require the information specified in the condition to be provided before it would grant such a permit.

60ZZI. 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 60ZZG(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 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 60ZZG(1) in relation to a major project, that the Heritage Council requires a condition or restriction to be imposed on any major project permit that may be granted in relation to the major

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

project, if the Heritage Council is satisfied that, if the project were not a major project, the Heritage Council would –

- (a) 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 or restriction; or
- (b) if the condition is an in-principle permit commencement condition, require the information specified in the condition to be provided before it would grant such a permit.

60ZZJ. 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 60ZZG(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 70D of the *Gas Pipelines Act 2000* in relation to the project, that a planning

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

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 60ZZG(1) in relation to a major project, that the pipeline licensee 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 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 relation to the project,

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

contain the condition or restriction; or

- (ii) would, if the condition is an in-principle permit commencement condition, 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.

60ZZK. 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 60ZZG(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 representation under section 56P of the *Water and Sewerage*

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

Industry Act 2008 in relation to the project, that it objects to the granting of the permit on a specified ground.

- (2) A participating regulator that is a relevant regulated entity may only specify, in a participating regulator's final advice under section 60ZZG(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 representation 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 representation under section 56P of the *Water and Sewerage Industry Act 2008* in relation to the project or, if the condition is an in-principle permit commencement condition, would require the information specified

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

in the condition to be provided before it would include in such a representation a statement that it does not object to the granting of such a permit.

60ZZL. Contents of final advice of other participating regulators

- (1) 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 60ZZG(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 60ZZG(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

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

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
- (b) impose, on a project-related permit granted under a project-associated Act in relation to the project, the condition or restriction or, if the condition is an in-principle permit commencement condition, require the information specified in the condition to be provided before it would grant such a permit.

60ZZM. 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 60ZZG(1) in relation to a major project, the reasons for –
 - (a) requiring a condition or restriction to be imposed on any major project permit that may be

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

granted in relation to the major project; or

- (b) directing the Panel to refuse to grant a major project permit 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 60ZZG(1) in relation to the major project, consider –

- (a) 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 –

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

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (b) any further information provided under section 60ZX(5) to the participating regulator.

Subdivision 13 – Major project permits

60ZZN. Grant of major project permit and preparation of assessment report

- (1) The Panel may, in accordance with this section, 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 is to consider whether the grant of the permit would be consistent with ensuring the effective and appropriate use and development of land.
- (3) In deciding under subsection (1) whether to grant a major project permit in relation to a major project, the Panel must consider any representations made under section 60ZZD(1) in relation to the major project and any matters raised in hearings in relation to the major project.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

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- (4) The Panel may only grant a major project permit in relation to a major project if it is satisfied that –
- (a) the grant of the permit will further the objectives specified in Schedule 1; and
 - (b) the grant of the permit will not be inconsistent with any State Policy; and
 - (c) the assessment guidelines in respect of the project have been satisfied; and
 - (d) the relevant fee required under section 60ZZZI, and any other fee required under any other Act to be paid for the assessment of the project, have been paid; and
 - (e) the Panel has received a participating regulator's final advice under section 60ZZG(1) from each participating regulator and no participating regulator has directed the Panel, in the notice, to refuse to grant a major project permit in relation to the major project.
- (5) The Panel may grant a major project permit in relation to a major project even though the use or development permitted by the permit would not be permitted

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

under a planning scheme that applies to the land to which the permit relates, but only if the Panel is satisfied that the grant of the permit is not inconsistent with a State Policy or the regional land use strategy in relation to the land.

- (6) The Panel must prepare, in relation to a decision under subsection (1) in relation to a project, a report (an ***assessment report***) setting out –
- (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. When decision about grant of major project permit is to be made

- (1) The Panel is to decide whether to grant a major project permit in relation to a major project under section 60ZZN within –
- (a) 60 days after the end of the public exhibition of the major project under section 60ZZB(5); or
 - (b) a longer period, if any, allowed by the Minister.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

- (2) If the Panel has requested the proponent under section 60ZZF(3) to provide the Panel with further information in relation to a major project, the period between –
- (a) the day on which that request is made; and
 - (b) the day on which the proponent provides the information to the satisfaction of the Panel –

is not to be counted in the calculation of the period referred to in subsection (1) in relation to the major project.

Subdivision 14 – Conditions of major project permits generally

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

- (1) Subject to section 60ZZQ, the Panel may impose conditions or restrictions (including in-principle permit commencement conditions) on a major project permit granted under section 60ZZN(1)(a).
- (2) In addition to including 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), include any conditions that, in the

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

opinion of the Panel, are necessary or desirable to ensure the effective and appropriate use and development of land.

- (3) In deciding whether to impose 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; and
 - (c) any notice given under section 60ZZQ(2) in relation to the major project.
- (4) The Panel must, under subsection (1), impose on a major project permit granted under section 60ZZN(1)(a) –
 - (a) any conditions or restrictions (including in-principle permit commencement conditions) that a participating regulator requires in the participating regulator's final advice under section 60ZZG(1) to be imposed on the permit; or
 - (b) if there is an inconsistency between the conditions or restrictions that different

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

participating regulators require in their participating regulator's final advices under section 60ZZG(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 development forming all or part of the project to which the permit relates.
- (7) If a condition referred to in subsection (6) is included, 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.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

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

60ZZQ. Notice and objections in relation to proposed conditions or restrictions

- (1) At least 28 days before granting under section 60ZZN(1)(a) a major project permit on which a condition or restriction is imposed under section 60ZZP, the Panel must provide to the following persons a copy of the conditions or restrictions that it proposes to impose on the major project permit:
- (a) the proponent for the project;
 - (b) the planning authority for the land to which the permit is to relate;
 - (c) the State Service Agencies that the Panel believes have an interest in the project;
 - (d) each participating regulator in relation to the major project to which the permit relates;

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

- (e) if all or part of the land is in Wellington Park – the Wellington Park Management Trust.
- (2) A person may, within 14 days after receiving under subsection (1) a copy of a proposed condition or restriction in respect of a proposed major project permit, set out, by notice to the Panel –
 - (a) any objections that the person may have to the proposed condition or restriction; and
 - (b) any other conditions or restrictions that the person thinks ought to be specified on the proposed major project permit.

60ZZR. Objections, &c., to be forwarded to regulators

- (1) If a person, in a notice under section 60ZZQ(2), objects to a proposed condition or restriction that is required, under section 60ZZP(4), to be imposed on the permit, the Panel must forward a copy of the objection to the participating regulator who required in the participating regulator's final advice under section 60ZZG(1) in relation to the major project the condition or restriction to be imposed or in relation to whose requirement the condition or restriction was imposed under section 60ZZP(4)(b).

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (2) A participating regulator who receives under subsection (1) a copy of an objection may, if it thinks fit, within 14 days after receiving the copy, by notice to the Panel, amend the participating regulator's final advice under section 60ZZG(1).
- (3) If a person, in a notice under section 60ZZQ(2), sets out a proposed condition or restriction, the Panel must forward a copy of the proposed condition or restriction to each participating regulator.
- (4) A participating regulator who receives under subsection (3) a copy of a proposed condition or restriction may, if it thinks fit, within 14 days after receiving the copy, by notice to the Panel, amend the participating regulator's final advice under section 60ZZG(1).
- (5) Section 60ZZQ(1) does not apply in relation to a condition or restriction proposed to be imposed on a major project permit that is, before the condition or restriction is imposed, altered pursuant to an amendment of the participating regulator's final advice in accordance with this section.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

60ZZS. Notice to be given of certain conditions

(1) If –

- (a) a person is granted a major project permit on which is imposed a condition, referred to in section 60ZZP(6), that all reasonable steps must be taken to enter into an agreement; and
- (b) that person is not the owner of the land in respect of which the agreement must be entered into –

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

- (2) The Panel must notify, of the conditions or restrictions, if any, imposed on a permit under section 60ZZP, the persons provided under section 60ZZQ(1) with copies of the conditions or restrictions that the Panel proposes to impose on the permit.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

Subdivision 15 – In-principle permit commencement conditions

60ZZT. In-principle permit commencement conditions

- (1) The conditions that may be imposed on a major project permit under section 60ZZP(1) include, but are not limited to including, an in-principle permit commencement condition.
- (2) An in-principle permit commencement condition is a condition that, within a period, specified in the condition, that is –
 - (a) after the issue of the major project permit; and
 - (b) before a permit commencement notice is issued in relation to the permit –

the Panel is to have approved under section 60ZZV one or more documents that contain the matters specified in the condition as required to be contained in such documents.

- (3) If an in-principle permit commencement condition imposed on a major project permit has not been complied with within the period specified in the condition or a longer period allowed by the Minister –

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

- (a) a permit commencement notice must not be issued in relation to the major project permit; and
 - (b) the major project permit may be cancelled under section 60ZZZH.
- (4) An in-principle permit commencement condition in relation to a major project may include a requirement that documents only be provided to the participating regulator by the proponent under section 60ZZV(1) after the proponent –
 - (a) has provided to a person, or persons, specified in the condition, a draft of the documents; and
 - (b) has consulted with the person or persons in relation to the draft.

60ZZU. Commencement of permit with in-principle permit commencement condition

- (1) Subject to section 60ZZZ, a major project permit on which an in-principle permit commencement condition is imposed –
 - (a) takes effect, subject to section 60ZZZ(3), in so far as it consists of, or is necessary for the effective operation of, the in-

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

principle permit commencement condition, on the day on which the permit is granted or a later day specified, in relation to the in-principle permit commencement condition, on the permit; and

- (b) in so far as it consists of provisions other than the in-principle permit commencement condition or provisions necessary for the effective operation of such a condition, takes effect on the day on which the permit commencement notice in relation to the project is published in the *Gazette* under section 60ZZW(3).

- (2) Without limiting the generality of subsection (1), if an activity –

- (a) is an activity that is required to be carried out in order to comply with an in-principle permit commencement condition imposed on a major project permit; and
- (b) is an activity that is authorised under a provision of the permit to be carried out –

the provision of the permit takes effect to the extent required in order for the in-

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

principle permit commencement
condition to be satisfied.

**60ZZV. Satisfaction of in-principle permit
commencement conditions**

- (1) A proponent in relation to a project may provide to a participating regulator –
 - (a) a document for the purposes of satisfying an in-principle permit commencement condition imposed on a major project permit granted in relation to the major project; or
 - (b) if required to do so by the participating regulator, an amendment of a document referred to in paragraph (a).
- (2) A participating regulator, within 28 days or a longer period allowed by the Minister, after receiving under subsection (1) a document or an amendment of a document, must –
 - (a) provide to the Panel a copy of the document or amendment; and
 - (b) give notice to the Panel as to whether the document, or amendment, is satisfactory or unsatisfactory; and

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (c) if the notice under paragraph (b) specifies that the document or amendment is unsatisfactory – include in the notice the reasons why the participating regulator is of the opinion that the document or amendment is unsatisfactory.
- (3) The Panel, after receiving from a participating regulator a notice under subsection (2) in relation to a document or an amendment of a document, may, by notice to the proponent who provided the document or amendment to the participating regulator, approve or refuse to approve the document or amendment.
- (4) If a participating regulator has advised the Panel in a notice under subsection (2) that a document or amendment of a document is unsatisfactory, the Panel must –
 - (a) refuse to approve under subsection (3) the document or amendment of a document; and
 - (b) include in the notice under subsection (3) –
 - (i) the reasons why the Panel refuses to approve the document or the amendment of a document; and

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

- (ii) a statement that the proponent may provide to the participating regulator under subsection (1) another document or another amendment of a document.

60ZZW. Permit commencement notice for permit with in-principle permit commencement condition

- (1) The Panel may issue a permit commencement notice in relation to a major project permit on which an in-principle permit commencement condition is imposed.
- (2) The Panel may only issue a permit commencement notice in relation to a major project permit if the Panel has issued an approval, or approvals, under section 60ZZV(3) in relation to all the documents that the proponent of the major project is required, by an in-principle permit commencement condition imposed on the major project permit, to provide to a participating regulator.
- (3) The Panel must publish a permit commencement notice in the *Gazette*, and in a newspaper that is published, and circulates generally, in Tasmania.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

Subdivision 16 – Other provisions in relation to major project permits

60ZZX. Notice of grant of major project permit to be given

- (1) If the Panel grants a major project permit under section 60ZZN(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 from 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 60ZZN(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 –

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

-
- (a) the refusal to grant the major project permit; and
 - (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 from 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) each planning authority in respect of the land to which the major project relates;
 - (b) each State Service Agency that was notified under section 60ZL(4)(c) of the major project;
 - (c) if all or part of the land on which the major project is to be situated is within Wellington Park – the Wellington Park Trust;

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (d) each participating regulator in relation to the major project;
 - (e) each person whom made a representation under section 60ZZD 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).
- (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.

60ZZY. Fees in relation to major project permits

- (1) If a major project permit is granted to the proponent of a major project and the EPA Board or Heritage Council is a participating regulator in relation to the major project –

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

-
- (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 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.
- (2) If a major project permit is granted to the proponent of a major project and there is in relation to the major project a participating 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.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

60ZZZ. When major project permit takes effect

- (1) Subject to this section, a major project permit in relation to a major project, that is not a major project permit on which an in-principle permit commencement condition is imposed, takes effect on the day on which it is granted or another later day specified in the permit.
- (2) Despite subsection (1) and section 60ZZU, if the relevant fee under section 60ZZZI, and the fees, if any, payable under section 60ZZY, in relation to a major project permit have not been paid by the day on which, under this section or section 60ZZU, the major project permit takes effect, 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 –

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

- (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 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 council in relation to the land to which the notice under subsection (5) relates.

60ZZZA. When permit lapses

- (1) A major project permit lapses if –
 - (a) after a period of 4 years from –
 - (i) the day on which a major project permit was granted; or

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

(ii) if an in-principle permit commencement condition was imposed on the major permit – the day on which the project commencement notice in relation to the major project to which the major project permit relates is published in the *Gazette* under section 60ZZW(3); or

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

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

(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 2-year extension of the period during which that use or development must be substantially commenced.

Subdivision 17 – Amendment and cancellation of major project permits

60ZZZB. 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 –
 - (i) is not a major project permit on which an in-principle permit commencement condition is imposed and the permit has not taken effect under section 60ZZZ(1); or
 - (ii) is a major project permit on which an in-principle permit commencement condition is imposed and the permit has not taken effect under section 60ZZU(1)(b); or
- (b) the Commission, if the permit –
 - (i) is not a major project permit on which an in-principle permit commencement condition

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

is imposed and the permit has taken effect under section 60ZZZ(1); or

- (ii) is a major project permit on which an in-principle permit commencement condition is imposed and the permit has taken effect under section 60ZZU(1)(b).

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

- (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 major project permit in relation to the major project 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

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

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) each owner or occupier of land to which a major project permit relates; and
- (b) the planning authority for the land; and
- (c) each participating regulator in relation to the major project.

- (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 given in a newspaper that is published, and circulates generally, in Tasmania.

60ZZZD. Minor amendment of major project permit

- (1) Subject to section 60ZZZE, the relevant decision-maker may, on the application of a proponent or an owner or occupier

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

of land to which a major project permit relates, by notice in writing to the applicant, amend a major project permit.

(2) A relevant decision-maker in relation to a major project permit may, on the application of –

(a) a participating regulator in relation to the major project to which the major project permit relates; or

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

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

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

-
- (a) the relevant decision-maker has invited each participating 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 participating regulator objects to the proposed amendment; and
 - (b) the participating regulator has not, within the time required under paragraph (a), advised that the participating regulator objects to the proposed amendment.
- (5) Subsection (4) does not apply in relation to a participating regulator in relation to an amendment that has been requested by the participating regulator 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 give notice in writing, to each person notified under section 60ZZZE(1), of the proposal to amend the permit.
- (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

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

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

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

- (1) The relevant decision-maker may only amend under section 60ZZZD(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 planning authority for the area of land; and

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

-
- (ii) if all or part of the land is in Wellington Park – the Wellington Park Management Trust; and
 - (iii) 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 60ZZD(1) or (2) a major project permit if the amendment –

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (a) will not cause an increase in detriment to any person other than the proponent; and
 - (b) does not change the use or development for which the permit was issued, other than by changing in a minor way the description of the use or development.
- (4) The relevant decision-maker may only amend under section 60ZZZD(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) will further the objectives set out in Schedule 1; and
 - (b) will not be inconsistent with a State Policy; and
 - (c) will not be inconsistent with any regional land use strategy that applies in relation to the land.
- (5) The relevant decision-maker may, if subsection (4) is complied with in relation to a proposed amendment, amend under section 60ZZZD(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 planning scheme that applies to the land.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

60ZZZF. 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.
- (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 a newspaper that is published, and circulates generally, in Tasmania.

60ZZZG. 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, the permit would authorise a use

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

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 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) An owner or occupier of land to which a major project permit relates, by notice to the relevant decision-maker, may request the relevant decision-maker to permit

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

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 60E 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 60ZZG(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
 - (c) consider each opinion provided under subsection (6).
- (6) A participating regulator to whom an invitation has been issued under

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

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 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
- (b) refuse to give permission for subsection (8) to apply in relation to the major project permit.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

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

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (10) If a participating 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 (3) if –
- (a) the altered use or development has been modified in accordance with those requirements; and
 - (b) the proponent has agreed to the modification.

60ZZZH. Cancellation of major project permit

- (1) The relevant decision-maker may, on the application of each owner or occupier of land to which a major project permit relates, by notice in writing to the proponent or owner, as the case may be, cancel the major project permit.
- (2) The relevant decision-maker may, by notice to the holder of a major project permit on which an in-principle permit commencement condition is imposed, cancel the permit if the condition has not been satisfied within 2 years after the permit is granted.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

-
- (3) If the relevant decision-maker, under this section, cancels 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 cancellation to –
- (a) each owner or occupier of land to which the major project permit related; and
 - (b) the planning authority for the land; and
 - (c) each participating regulator in relation to the major project; and
 - (d) the Minister.
- (4) The relevant decision-maker, as soon as practicable after cancelling under this section a major project permit, is to ensure that a notice, specifying that the major project permit has been cancelled, is given in the *Gazette* and in a newspaper that is published, and circulates generally, in Tasmania.

Subdivision 18 – Miscellaneous

60ZZZI. Fees payable for the purposes of this Division

- (1) Regulations for the purposes of this Division may prescribe that fees, as

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

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.

- (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.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

60ZZZJ. Amendment of LPS

- (1) As soon as practicable after a major project permit is granted in relation to a major project, the Commission must, in consultation with the relevant planning authority, amend an LPS that applies to the land on which the project is to be situated, so as to remove any inconsistency between the permit and the LPS.
- (2) Part 3B does not apply to an amendment made under subsection (1).
- (3) If the Commission amends under subsection (1) an LPS that applies to land on which a major project is to be situated –
 - (a) the amendment is to be taken to have come into operation on the date on which the project was declared to be a major project; 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 LPS relates.
- (4) The Commission may amend under subsection (1) an LPS that applies to land on which a major project is to be situated

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

even though the LPS, 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 LPS, as so amended, is of no effect to the extent of the inconsistency.

60ZZZK. 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 project-related permit, issued under that Act, authorising the activity subject to any relevant conditions or restrictions in relation to the project-associated Act.

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 11

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- (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 participating 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 participating 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.
- (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 –

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 11

Part 2 – Land Use Planning and Approvals Act 1993 Amended

- (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) the project-related permit may not be cancelled under that Act.

60ZZZL. Restriction on certain applications for permits or amendments to LPS

Except with the permission of the Commission, a person may not, within 2 calendar years from the date of a decision by a Panel under section 60ZZN(1)(b) to refuse to grant a major project permit in relation to a major project, or from the date of a revocation of a declaration of a major project under section 60S –

- (a) 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; or
- (b) request the planning authority under section 37(1) to prepare a draft amendment of an LPS that is substantially the same as a draft amendment of an LPS prepared in accordance with section 60ZZZJ(1) in relation to the project.

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 12

60ZZZM. 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 –

- (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.

60ZZZN. False information

A proponent in relation to a project must not, under this Division, provide to the Minister, orally or in writing, 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.

12. Section 63 amended (Obstruction of sealed schemes)

Section 63 of the Principal Act is amended as follows:

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 13

Part 2 – Land Use Planning and Approvals Act 1993 Amended

(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 60ZZZD, 60ZZZF, 60ZZZH or 60ZZZG, 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 63B amended (Notice of suspected contravention, &c., may be given)

Section 63B(1) of the Principal Act is amended by omitting “section 60ZB(1) or”.

14. Section 64 amended (Civil enforcement proceedings)

Section 64(1A) of the Principal Act is amended by omitting “section 60ZB(1) or” twice occurring.

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 15

15. Section 65C amended (Enforcement notices)

Section 65C(1) of the Principal Act is amended by omitting “section 60ZB(1),”.

16. 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”.

17. 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”.

18. Section 65I amended (Authorised officers)

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

19. 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”.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 20

Part 2 – Land Use Planning and Approvals Act 1993 Amended

20. 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”.

21. 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”.

22. Section 87D inserted

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

87D. Savings and transitional – *Land Use Planning and Approvals Amendment (Major Projects) Act 2017*

The savings and transitional provisions specified in Schedule 7 have effect.

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 2 – Land Use Planning and Approvals Act 1993 Amended

s. 23

23. 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”.

24. Schedule 7 inserted

After Schedule 6 to the Principal Act, the following Schedule is inserted:

SCHEDULE 7 – SAVINGS AND TRANSITIONAL PROVISIONS – *LAND USE PLANNING AND APPROVALS AMENDMENT (MAJOR PROJECTS) ACT 2017*

Section 87D

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.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 24

Part 2 – Land Use Planning and Approvals Act 1993 Amended

2. Certain instruments cease to have effect

On and from the day on which the *Land Use Planning and Approvals Amendment (Major Projects) Act 2017* commences –

- (a) a notice under section 60D, as in force immediately before that day, is of no effect; and
- (b) a declaration under section 60G, as in force immediately before that day, is of no effect.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 3 – Environmental Management and Pollution Control Act 1994
Amended

s. 25

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

25. Principal Act

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

26. 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

27. 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

*No. 44 of 1994

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 28 Part 3 – Environmental Management and Pollution Control Act 1994
 Amended

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

28. Section 27AB repealed

Section 27AB of the Principal Act is repealed.

29. 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,”;

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 3 – Environmental Management and Pollution Control Act 1994
Amended

s. 30

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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”.

30. 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”.

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

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

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 32 Part 3 – Environmental Management and Pollution Control Act 1994
 Amended

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

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

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

33. 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”.

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

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

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 3 – Environmental Management and Pollution Control Act 1994
Amended

s. 34

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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”.

s. 35

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

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

36. 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.”.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 3 – Environmental Management and Pollution Control Act 1994
Amended

s. 37

37. 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).

38. 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.”.

39. 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

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 40

Part 3 – Environmental Management and Pollution Control Act 1994
Amended

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)”.

40. 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,”.

41. 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*.

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

Part 3 – Environmental Management and Pollution Control Act 1994
Amended

s. 42

42. 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).

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

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

Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of

s. 44 Part 3 – Environmental Management and Pollution Control Act 1994
 Amended

- (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”.

44. 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”.

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

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

46. 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.

*Land Use Planning and Approvals Amendment (Major Projects)
Act 2018
Act No. of*

Part 4 – Concluding Provision

s. 47

PART 4 – CONCLUDING PROVISION

47. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.

draft Only