



TASMANIA

**LAND USE PLANNING AND APPROVALS
AMENDMENT (TASMANIAN PLANNING
POLICIES AND MISCELLANEOUS
AMENDMENTS) ACT 2018**

No. 36 of 2018

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An Act to amend the *Land Use Planning and Approvals Act 1993* and the *Tasmanian Planning Commission Act 1997*

[Royal Assent 17 December 2018]

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 (Tasmanian Planning Policies and Miscellaneous Amendments) Act 2018*.

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Part 1 – Preliminary

2. Commencement

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

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

3. Principal Act

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

4. Section 3 amended (Interpretation)

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

- (a) by inserting “or the TPPs” after “draft of the SPPs” in paragraph (a) of the definition of *representation*;
- (b) by inserting “or the TPPs” after “amendment of the SPPs” in paragraph (a) of the definition of *representation*;
- (c) by inserting the following definition after the definition of *State Policy*:

Tasmanian Planning Policies means the Tasmanian Planning Policies made under section 12G(2), as amended from time to time under that section as applied by section 12H(3);

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- (d) by inserting the following definition after the definition of *the State Planning Provisions*:

the TPPs means the Tasmanian
Planning Policies;

5. Section 5A amended (Regional areas and regional land use strategies)

Section 5A of the Principal Act is amended as follows:

- (a) by inserting the following subsection after subsection (3):

(3A) The Minister, having received advice from the Commission, must not declare a regional land use strategy unless he or she is satisfied that it –

- (a) furthers the objectives set out in Schedule 1; and
- (b) is consistent with each State Policy; and
- (c) is consistent with the TPPs.

- (b) by inserting the following subsections after subsection (6):

(7) The Minister must, in reviewing a regional land use strategy under

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subsection (6), consider whether the regional land use strategy –

- (a) furthers the objectives set out in Schedule 1; and
 - (b) is consistent with each State Policy; and
 - (c) is consistent with the TPPs.
- (8) The Minister must review all regional land use strategies as soon as practicable after making the TPPs, or an amendment of the TPPs, so as to determine whether the strategies are consistent with the TPPs, or the amendment, respectively.

6. Section 8 amended (Functions of Commission)

Section 8(ab) of the Principal Act is amended by inserting “, the TPPs” after “SPPs”.

7. Part 2A inserted

After section 12 of the Principal Act, the following Part is inserted:

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PART 2A – TASMANIAN PLANNING POLICIES

12A. Interpretation of Part 2A

In this Part –

exhibition notice, in relation to a draft of the TPPs, means the exhibition notice published under section 12D(1) in relation to the draft;

exhibition period, in relation to a draft of the TPPs, means the period specified, in accordance with section 12D(3)(a), in the exhibition notice as the exhibition period in relation to the draft;

exhibition premises, in relation to a draft of the TPPs, means premises –

- (a) to which the public has access during normal business hours; and
- (b) that are specified, in accordance with section 12D(3)(b)(i), in the exhibition notice in relation to the draft of the TPPs;

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TPP criteria means the matters referred to in section 12B(4).

12B. Contents and purposes of Tasmanian Planning Policies

- (1) The purposes of the TPPs are to set out the aims, or principles, that are to be achieved or applied by –
 - (a) the Tasmanian Planning Scheme;
and
 - (b) the regional land use strategies.
- (2) The TPPs may relate to the following:
 - (a) the sustainable use, development, protection or conservation of land;
 - (b) environmental protection;
 - (c) liveability, health and wellbeing of the community;
 - (d) any other matter that may be included in a planning scheme or a regional land use strategy.
- (3) The TPPs may specify the manner in which the TPPs are to be implemented into the SPPs, LPSs and regional land use strategies.
- (4) The TPPs must –

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- (a) seek to further the objectives set out in Schedule 1; and
- (b) be consistent with any relevant State Policy.

12C. Draft of the TPPs

- (1) The Minister may prepare a draft of the TPPs.
- (2) The Minister must consult with –
 - (a) the Commission; and
 - (b) the planning authorities; and
 - (c) the State Service Agencies, and the State authorities, as the Minister thinks fit –in relation to the intention to prepare a draft of the TPPs and a draft of the TTPs.
- (3) The Minister, by notice to the Commission, may –
 - (a) provide to the Commission a draft of the TPPs; and
 - (b) direct the Commission to undertake public exhibition in relation to the draft of the TPPs.

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12D. Public exhibition of draft of the TPPs

- (1) The Commission, as soon as practicable after receiving a notice under section 12C(3) in relation to a draft of the TPPs, must ensure that an exhibition notice in relation to the draft of the TPPs is published in accordance with this section.
- (2) The exhibition notice is to be published once before, and once within 14 days after, the first day of the exhibition period, in a newspaper that is published, and circulates generally, in Tasmania.
- (3) An exhibition notice is to –
 - (a) specify the period that is to be the exhibition period in relation to the draft of the TPPs; and
 - (b) specify that a copy of the draft of the TPPs is or will be –
 - (i) available for viewing by the public during the exhibition period at premises, that are offices of the Commission, specified in the notice; and
 - (ii) available for viewing and downloading by the public, during the

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- exhibition period, at an
electronic address
specified in the notice;
and
- (c) contain an invitation to all persons and bodies to, within the exhibition period, make to the Commission a representation in relation to the draft of the TPPs by submitting the representation to –
- (i) the premises specified in the notice in accordance with paragraph (b)(i); or
- (ii) an electronic address specified in the notice.
- (4) The exhibition period, in relation to a draft of the TPPs, is to be a period of 60 days, which period –
- (a) begins on the day on which the draft of the TPPs begins to be available for viewing by the public at exhibition premises in accordance with subsection (6)(a); and
- (b) excludes any days on which the exhibition premises are closed during normal business hours.

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- (5) The Commission must, as soon as practicable after receiving notice under section 12C(3) in relation to a draft of the TPPs, give to each planning authority –
- (a) a copy of the draft of the TPPs;
and
 - (b) an invitation to make to the Commission a representation in relation to the draft of the TPPs.
- (6) The Commission must ensure that copies of the draft of the TPPs are, for the exhibition period –
- (a) available for viewing by the public at the exhibition premises;
and
 - (b) available for viewing and downloading by the public at an electronic address specified in the exhibition notice.

12E. Representations

- (1) A person or body may make to the Commission a representation in relation to a draft of the TPPs that is available for viewing by the public at the exhibition premises in accordance with section 12D(6).

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- (2) A representation in relation to a draft of the TPPs –
 - (a) is to be made under subsection (1) within the exhibition period in relation to the draft of the TPPs; and
 - (b) must be made by submitting the representation to the premises, or to the electronic address, that are specified, in accordance with section 12D(3)(b), in the exhibition notice in relation to the draft of the TPPs.
- (3) For the purposes of this Part, any matter, contained in a representation under subsection (1) in relation to a draft of the TPPs, that does not relate to the contents or merits of the draft is not to be taken to be part of the representation.
- (4) The Commission must consider all representations under subsection (1) in relation to a draft of the TPPs.

12F. Report by Commission

- (1) The Commission, as soon as practicable after the end of the exhibition period in relation to a draft of the TPPs –

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- (a) must consider whether it is satisfied that the draft of the TPPs meets the TPP criteria; and
 - (b) is to consider whether there are any matters of a technical nature, or that may be relevant, in relation to the application of the TPPs to –
 - (i) the Tasmanian Planning Scheme; or
 - (ii) each regional land use strategy –if the TPPs were made under section 12G(2) in the terms of the draft of the TPPs; and
 - (c) may, if it thinks fit, hold one or more hearings in relation to the representations received under section 12E.
- (2) The Commission, within 90 days, or a longer period allowed by the Minister, after the end of the exhibition period in relation to a draft of the TPPs, must provide to the Minister a report in relation to the draft of the TPPs.
- (3) The report in relation to a draft of the TPPs is to contain –

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- (a) a summary of the issues raised in the representations in relation to the draft of the TPPs; and
- (b) a statement as to whether the Commission is satisfied that the draft of the TPPs meets the TPP criteria; and
- (c) a statement as to whether there are any matters of a technical nature, or that may be relevant, in relation to the application of the TPPs to –
 - (i) the Tasmanian Planning Scheme; or
 - (ii) each regional land use strategy –if the TPPs were made under section 12G(2) in the terms of the draft of the TPPs.

12G. Making of the TPPs

- (1) The Minister may inform himself or herself, in the manner he or she thinks fit, in relation to a draft of the TPPs.
- (2) The Minister may make, or refuse to make, the Tasmanian Planning Policies in the terms of the draft of the TPPs

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modified, if at all, as the Minister thinks fit.

- (3) If the Minister intends to substantially modify the TPPs from the draft of the TPPs, the Minister must direct the Commission to comply with sections 12D and 12F in relation to the substantially modified TPPs as if the draft was a draft of the TPPs provided to the Commission under section 12C(3).
- (4) The Minister may only make, or refuse to make, the Tasmanian Planning Policies under subsection (2) after considering the report provided to him or her under section 12F(2) in relation to a draft of the TPPs or a substantially modified draft of the TPPs under subsection (3).
- (5) The Minister may not make the Tasmanian Planning Policies unless the Minister is satisfied, on advice from the Tasmanian Planning Commission, that they meet the TPP criteria.
- (6) As soon as practicable after, under subsection (2), making the Tasmanian Planning Policies, the Minister must publish a notice in the *Gazette* –
 - (a) specifying that the Minister has made the Tasmanian Planning Policies; and
 - (b) specifying –

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- (i) a day, after the day on which the notice is published in the *Gazette*, on which the Tasmanian Planning Policies come into effect; or
 - (ii) a period, after the day on which the notice is published in the *Gazette*, at the end of which the Tasmanian Planning Policies come into effect.
- (7) The Tasmanian Planning Policies made under subsection (2) come into effect –
 - (a) on the day specified, in the notice published in the *Gazette* under subsection (6), as the day on which the Tasmanian Planning Policies are to come into effect; or
 - (b) on the day after the end of the period specified, in the notice published in the *Gazette* under subsection (6), as the period at the end of which the Tasmanian Planning Policies are to come into effect.
- (8) As soon as practicable after, under subsection (2), refusing to make the Tasmanian Planning Policies in the form

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of a draft of the TPPs, the Minister must publish a notice in the *Gazette* that the Minister has refused to make the Tasmanian Planning Policies and publish his or her reasons for refusing to make the TPPs.

- (9) As soon as practicable after, under subsection (2), making the Tasmanian Planning Policies, the Minister must publish in a newspaper that is published, and circulates generally, in Tasmania, a notice –
- (a) specifying that the Minister has made the Tasmanian Planning Policies; and
 - (b) specifying –
 - (i) a day on which the Tasmanian Planning Policies come into effect; or
 - (ii) a period, after the day on which the notice is published in the *Gazette*, at the end of which the Tasmanian Planning Policies come into effect; and
 - (c) specifying, if the Tasmanian Planning Policies are in the terms of a draft of the TPPs modified as

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the Minister thinks fit, the reasons why the Minister modified the draft of the TPPs, including the evidence on which the Minister has based his or her reasons.

12H. Amendments of the TPPs

- (1) The Minister may prepare a draft amendment of the TPPs.
- (2) A draft amendment of the TPPs, and an amendment of the Tasmanian Planning Policies, may consist of –
 - (a) an amendment of one or more of the provisions of the TPPs; or
 - (b) the insertion of one or more provisions into the TPPs; or
 - (c) a revocation of one or more of the provisions of the TPPs; or
 - (d) the substitution of one or more of the provisions of the TPPs.
- (3) Except in relation to a draft amendment to which subsection (5) applies, this Part applies in relation to a draft amendment of the TPPs as if –
 - (a) a reference in this Part to a draft of the TPPs or the TPPs were a reference to the draft amendment of the TPPs or to an amendment

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of the TPPs, respectively, except that –

- (i) the reference in section 12D(4) to 60 days is to be taken to be a reference to 42 days; and
 - (ii) the reference in section 12F(2) to 90 days is to be taken to be a reference to 60 days; and
- (b) a reference in this Part to the Tasmanian Planning Policies were a reference to an amendment of the Tasmanian Planning Policies.
- (4) The Minister may determine that a draft amendment of the TPPs is a minor amendment, if –
- (a) the Minister is of the opinion that the public interest will not be prejudiced if the draft amendment of the TPPs is not publically exhibited; and
 - (b) the draft amendment of the TPPs is for one or more of the following purposes:
 - (i) correcting an error in the TPPs;

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- (ii) removing an anomaly in the TPPs;
 - (iii) clarifying or simplifying the TPPs;
 - (iv) amending a provision of the TPPs other than so as to change the intent of a policy expressed in the TPPs;
 - (v) bringing the TPPs into conformity with a State Policy;
 - (vi) a prescribed purpose.
- (5) Section 12G, other than section 12G(4), applies, in relation to a draft amendment of the TPPs that is determined under subsection (4) to be a minor amendment, as if a reference in that section to a draft of the TPPs, or the Tasmanian Planning Policies, were a reference to the draft amendment of the TPPs, and to an amendment of the Tasmanian Planning Policies, respectively.

12I. Minister to review the TPPs

- (1) The Minister is to keep the TPPs under regular and periodic review.

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- (2) The Minister must at the end of every 5-year period after the TPPs are made –
- (a) conduct a review of the TPPs and the implementation of the TPPs; or
 - (b) by notice to the Commission, direct the Commission to conduct a review of the TPPs and the implementation of the TPPs and provide to the Minister a report in relation to the review within the period specified in the notice; or
 - (c) the Minister must table a report on the review conducted under paragraph (a) or provided by the Commission under paragraph (b), in Parliament as soon as practicable.

8. Section 15 amended (SPPs criteria)

Section 15(2) of the Principal Act is amended by inserting after paragraph (c) the following paragraph:

- (ca) is consistent with the TPPs that are in force before the instrument is made; and

9. Section 30BA inserted

After section 30B of the Principal Act, the following section is inserted in Subdivision 2:

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30BA. Minister may determine that SPPs should reflect certain planning directives

The Minister may determine that a planning directive (other than an interim planning directive), to which clause 3(2)(ba) of Schedule 6 applies and that is in force in relation to a municipal area, should be reflected in the SPPs.

10. Section 30H amended (When public exhibition not required)

Section 30H(3)(b) of the Principal Act is amended by inserting after subparagraph (vii) the following subparagraph:

- (viiia) bringing the SPPs into conformity with a planning directive which the Minister has, under section 30BA, determined should be reflected in the SPPs;

11. Section 30T amended (Review of the SPPs)

Section 30T of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “and as soon as practicable after the TPPs, or an amendment of the TPPs, is or are made” after “made”;
- (b) by inserting the following subsection after subsection (1):

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- (1A) The Minister may, at any time, conduct a review of the SPPs.
- (c) by inserting the following subsections after subsection (4):
- (4A) Without limiting the matters to which a review of the SPPs may relate, such a review may consist of a review as to whether the SPPs are consistent with the TPPs.
- (4B) A review of the SPPs that is, in accordance with subsection (1), conducted after the TPPs, or an amendment of the TPPs, is or are made is to consist of a review as to whether the SPPs are consistent with the TPPs, or the amendment of the TPPs, respectively.

12. Section 31 amended (Interpretation of Part)

Section 31 of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of *exhibition premises*:

LPS criteria outstanding issues notice
means a notice prepared under section 35B(4B);

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- (b) by inserting the following paragraph after paragraph (a) in the definition of *relevant exhibition documents*:
 - (ab) an LPS criteria outstanding issues notice in relation to the draft LPS, if a direction under section 35B(4) in relation to the draft LPS includes a statement that the notice forms part of the relevant exhibition documents in relation to the draft LPS; and

13. Section 34 amended (LPS criteria)

Section 34 of the Principal Act is amended as follows:

- (a) by inserting the following paragraph after paragraph (d) in subsection (2):
 - (da) satisfies the relevant criteria in relation to the TPPs; and
- (b) by omitting from subsection (2)(e) “is consistent with” and substituting “as far as practicable, is consistent with”;
- (c) by omitting from subsection (2)(f) “is consistent with” and substituting “has regard to”;
- (d) by inserting the following subsection after subsection (2):

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(2A) A relevant planning instrument satisfies the relevant criteria in relation to the TPPs if –

(a) where the SPPs and the relevant regional land use strategy have not been reviewed under section 30T(1) or section 5A(8) after the TPPs, or an amendment to the TPPs, is or are made – the relevant planning instrument is consistent with the TPPs, as in force before the relevant planning instrument is made; and

(b) whether or not the SPPs and the applicable regional land use strategy have been reviewed under section 30T(1) or section 5A(8) after the TPPs, or an amendment to the TPPs, is or are made – the relevant planning instrument complies with each direction, contained in the TPPs in accordance with section 12B(3), as to the manner in which the TPPs are to be

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implemented into the
LPSs.

**14. Section 35B amended (Directions to exhibit draft
LPSs)**

Section 35B of the Principal Act is amended by
omitting subsections (1), (2), (3) and (4) and
substituting the following subsections:

- (4) The Commission may direct a planning
authority to undertake public exhibition
in respect of a draft LPS that –
 - (a) a planning authority has
submitted to the Commission
under section 35; or
 - (b) the Commission has prepared
under section 35A(3).
- (4A) The Commission may only issue a
direction under subsection (4) –
 - (a) if the Commission is of the
opinion that the draft LPS meets
the LPS criteria; or
 - (b) if the Commission –
 - (i) prepares in relation to the
draft LPS an LPS criteria
outstanding issues notice
under subsection (4B);
and

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- (ii) includes in the direction under subsection (4) a statement that the LPS criteria outstanding issues notice forms part of the relevant exhibition documents in relation to the draft LPS; and
 - (iii) attaches to the direction a copy of the LPS criteria outstanding issues notice.
- (4B) The Commission may prepare in relation to a draft LPS an LPS criteria outstanding issues notice.
- (4C) An LPS criteria outstanding issues notice is a notice, in relation to a draft LPS, setting out the LPS criteria in relation to which the Commission considers that it needs further information in order for the Commission to be of the opinion that the draft LPS meets the LPS criteria.
- (4D) The Commission is to notify the Minister of a direction given under subsection (4).

15. Section 35C amended (Notice of exhibition of draft LPS)

Section 35C of the Principal Act is amended as follows:

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- (a) by inserting in subsection (4)(c) “relevant exhibition documents in relation to the” after “relation to the”;
- (b) by omitting from subsection (5)(a) “the draft LPS begins” and substituting “relevant exhibition documents in relation to the draft LPS begin”.

16. Section 35D amended (Exhibition of draft LPS)

Section 35D of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a) “a copy of” and substituting “the relevant exhibition documents in relation to”;
- (b) by omitting from subsection (1)(b) “copy of the draft LPS is” and substituting “relevant exhibition documents in relation to the draft LPS are”;
- (c) by omitting from subsection (2) “a copy of a draft LPS” and substituting “the relevant exhibition documents in relation to a draft LPS”.

17. Section 35E amended (Representations)

Section 35E of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “a draft LPS that is” and substituting “the

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relevant exhibition documents in relation to a draft LPS (apart from the documents referred to in paragraph (b) of the definition of *relevant exhibition documents* in section 31) that are”;

- (b) by omitting from subsection (2) “a draft LPS” and substituting “the relevant exhibition documents in relation to a draft LPS”;
- (c) by inserting in subsection (3) “the relevant exhibition documents in relation to” after “relation to”;
- (d) by inserting in subsection (4) “the relevant exhibition documents in relation to” after “relation to”;
- (e) by inserting in subsection (5) “the relevant exhibition documents in relation to” after “relation to”.

18. Section 35F amended (Report by planning authority to Commission about exhibition)

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

- (a) by inserting in paragraph (a) “the relevant exhibition documents in relation to” after “section 35E(1) in relation to”;

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- (b) by inserting in paragraph (b) “the relevant exhibition documents in relation to” after “section 35E(1) in relation to”;
- (c) by inserting the following paragraph after paragraph (b):
 - (ba) a statement containing the planning authority’s response to the matters referred to in an LPS criteria outstanding issues notice, if any, in relation to the draft LPS; and

19. Section 35G amended (Planning authority may notify Minister as to whether amendment of SPPs is required)

Section 35G(1)(b) of the Principal Act is amended by inserting “the relevant exhibition documents in relation to” after “to”.

20. Section 35H amended (Hearings)

Section 35H of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “the relevant exhibition documents in relation to” after “representation in relation to”;
- (b) by inserting in subsection (2) “the relevant exhibition documents in relation to” after “representation in relation to”.

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21. Section 40C amended (Direction to prepare draft amendments of LPS)

Section 40C(1)(b) of the Principal Act is amended by inserting “, as far as practicable,” after “is”.

22. Section 40FA inserted

After section 40F of the Principal Act, the following section is inserted in Subdivision 1:

40FA. Notice to certain agencies and State authorities

- (1) A planning authority, before exhibiting a draft amendment of an LPS under section 40H, is to notify –
 - (a) the relevant agencies; and
 - (b) those State Service Agencies, or State authorities, that the planning authority considers may have an interest in the draft amendment of the LPS –

of the date on which the exhibition period in relation to the draft amendment of the LPS is to begin.

- (2) Subsection (1) does not apply in relation to a draft amendment of an LPS to which a notice under section 40I(1) relates.

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23. Section 40J amended (Representations)

Section 40J(1) of the Principal Act is amended by omitting “a draft amendment of an LPS” and substituting “the relevant exhibition documents (apart from the documents referred to in paragraph (b) of the definition of *relevant exhibition documents* in section 31)”.

24. Section 81AA inserted

After section 81 of the Principal Act, the following section is inserted in Division 2:

81AA. Correction of mistakes

- (1) The Commission may correct a decision made by the Commission under this Act if the decision contains –
 - (a) a clerical mistake or an error arising from any accidental slip or omission; or
 - (b) an evident material miscalculation of figures or an evident material mistake in the description of any person, thing or property referred to in the decision.
- (2) Despite subsection (1), a correction of a decision of the Commission may not be made under that subsection in relation to so much of the decision as consists of –

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- (a) a draft LPS, if an LPS in the terms of the draft LPS, or the draft LPS as modified, has come into effect under section 35M; or
 - (b) a draft amendment of an LPS, if an amendment of an LPS in the terms of the draft amendment, or the draft amendment as modified, has come into effect under section 40S; or
 - (c) a draft interim planning scheme under the former provisions, within the meaning of Schedule 6; or
 - (d) a draft amendment of a planning scheme under the former provisions, within the meaning of Schedule 6, if an amendment of the planning scheme in the terms of the draft amendment, or the draft amendment as modified, has come into effect under section 42 of the former provisions.

25. 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*

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***(Tasmanian Planning Policies and
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The savings and transitional provisions
specified in Schedule 7 have effect.

**26. Schedule 6 amended (Savings and Transitional
Provisions – *Land Use Planning and Approvals
Amendment (Tasmanian Planning Scheme) Act
2015*)**

Schedule 6 to the Principal Act is amended as
follows:

- (a) by omitting “the commencement day”
from the definition of *commencement
day* in clause 1 and substituting “that
day”;
- (b) by inserting “or that is made, after that
day, in accordance with clause 3(2)(b)
and is in force” after “day” in the
definition of *planning directive* in clause
1;
- (c) by inserting the following definition after
the definition of *planning instrument* in
clause 1:

planning scheme has the same
meaning as it has in the former
provisions;
- (d) by inserting in clause 3(1)(a) “or
revoked” after “modified”;

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- (e) by omitting paragraph (c) from clause 3(1);
 - (f) by omitting from clause 3(2)(a) “as if Parts 2A and 3 of the former provisions remained in force”;
 - (g) by inserting in clause 3(2)(b) “and accordingly a planning directive, and an interim planning directive, each within the meaning of the former provisions, may be made under Part 2A of the former provisions in relation to the municipal area” after “area”;
 - (h) by inserting the following paragraph after paragraph (b) in clause 3(2):
 - (ba) a planning directive, and an interim planning directive, each within the meaning of the former provisions, that is in force under, and is, after the commencement day, made under, Part 2A of the former provisions as they apply in accordance with paragraph (b), applies in relation to the planning instrument; and
 - (i) by inserting the following subclauses after subclause (2) in clause 3:
 - (3) A planning authority, before exhibiting a draft amendment of a planning instrument under section

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38 of the former provisions, is to notify –

- (a) the relevant agencies; and
- (b) those State Service Agencies, or State authorities, that the planning authority considers may have an interest in the draft amendment of the planning instrument –

of the date on which the amendment of the planning instrument is to be exhibited in accordance with the former provisions.

- (4) Subclause (3) does not apply in relation to a draft amendment of a planning instrument that is not required, under the former provisions, to be exhibited.
- (5) A planning authority must not –
 - (a) under section 35 of the former provisions as applied by this clause, certify a draft amendment of a planning instrument; or

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- (b) under section 41A of the former provisions as applied by this clause, undertake a modification, or an alteration to a substantial degree, of a draft amendment of a planning instrument –

unless the planning authority is satisfied that the draft amendment is consistent with the TPPs, as in force before the relevant planning instrument is certified, modified or altered, respectively.

- (6) The Commission must not –

- (a) under section 42 of the former provisions as applied by this clause, approve a draft amendment of a planning instrument; or

- (b) under section 41 or 41B of the former provisions as applied by this clause –

- (i) modify, or alter to a substantial degree, a draft amendment of a planning instrument; or

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(ii) require a draft amendment of a planning instrument to be modified or altered to a substantial degree; or

(iii) certify an altered draft amendment –

unless the Commission is satisfied that the draft amendment as so approved, modified, altered or certified, is or would be consistent with the TPPs, as in force before the draft amendment of the planning instrument is approved, the modification or alteration is made, or the certification occurs, respectively.

(7) For the purposes of the application of the TPPs in relation to a draft amendment of a planning instrument referred to in subclauses (5) and (6) –

(a) the aims and principles of the TPPs in relation to the Tasmanian Planning Scheme, as referred to in section 12B, are to be taken to be the aims and

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principles of the TPPs in relation to the planning instrument; and

- (b) the TPPs may specify the manner in which the TPPs are to be implemented into a planning instrument referred to in subclauses (5) and (6).
- (j) by omitting from clause 8A(3) “planning scheme” first occurring and substituting “plan, zone or qualifications”;
- (k) by omitting from clause 8A(3) “planning scheme” second occurring and substituting “land”.

27. Schedule 7 inserted

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

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**SCHEDULE 7 – SAVINGS AND TRANSITIONAL
PROVISIONS – *LAND USE PLANNING AND
APPROVALS AMENDMENT (TASMANIAN PLANNING
POLICIES AND MISCELLANEOUS AMENDMENTS)*
*ACT 2018***

Section 87D

**1. Application of section 34(2)(da) to each first
LPS made in respect of a municipal area**

Section 34(2)(da) does not apply, in relation to a municipal area, in relation to the first LPS made in respect of the municipal area, but applies in relation to each amendment or substitution of an LPS in relation to the municipal area.

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**PART 3 – TASMANIAN PLANNING COMMISSION
ACT 1997 AMENDED**

28. Principal Act

In this Part, the *Tasmanian Planning Commission Act 1997** is referred to as the Principal Act.

29. Section 18A inserted

After section 18 of the Principal Act, the following section is inserted in Part 4:

18A. Correction of minor errors

- (1) The Commission may correct a decision made by the Commission under this or any other Act if the decision contains –
 - (a) a clerical mistake or an error arising from any accidental slip or omission; or
 - (b) an evident material miscalculation of figures or an evident material mistake in the description of any person, thing or property referred to in the decision.
- (2) Subsection (1) does not apply in relation to –

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Part 3 – Tasmanian Planning Commission Act 1997 Amended

- (a) a decision to which section 81AA of the *Land Use Planning and Approvals Act 1993* applies; or
- (b) a decision that has taken effect and has altered the rights or obligations of a person, if the effect of the correction of the decision would be to alter the rights or obligations of the person or another person.

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PART 4 – MISCELLANEOUS

30. Repeal of Act

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

*[Second reading presentation speech made in:–
House of Assembly on 22 November 2018
Legislative Council on 29 November 2018]*