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Robyn Webb
Chief Parliamentary Counsel
Dated 21 March 2019



TASMANIA

MACQUARIE POINT DEVELOPMENT CORPORATION ACT 2012

No. 50 of 2012

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MACQUARIE POINT DEVELOPMENT CORPORATION ACT 2012

No. 50 of 2012

An Act to establish a corporation for the purpose of undertaking the remediation of certain land at Macquarie Point, Hobart, in accordance with an Intergovernmental Agreement dated 22 June 2012 entered into by the Commonwealth of Australia and the State of Tasmania, and for the purpose of facilitating, undertaking and managing the redevelopment of that land, and for other purposes

[Royal Assent 11 December 2012]

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

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Part 1 – Preliminary

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Macquarie Point Development Corporation Act 2012*.

2. Commencement

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

3. Interpretation

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

Agency has the same meaning as in the *State Service Act 2000*;

Board means the board of directors of the Corporation established under section 9;

Brooke Street pier means the pier and associated wharf infrastructure located in Sullivans Cove, Hobart, and known as “Brooke Street Pier”;

chief executive officer means the chief executive officer of the Corporation appointed under section 15;

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

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corporate plan means a corporate plan referred to in section 38;

Corporation means the Macquarie Point Development Corporation established by section 5;

director means a person appointed as a director of the Board in accordance with this Act;

employee means a person appointed or employed pursuant to section 19;

financial statements means the financial statements referred to in section 49;

Intergovernmental Agreement means the agreement, dated 22 June 2012, entered into by the Commonwealth of Australia and the State of Tasmania concerning the remediation of the Macquarie Point land and the redevelopment of the Brooke Street pier;

Macquarie Point land means the land at Macquarie Point, Hobart, comprised in Tasmanian folio of the Register Volume 113521 Folio 1 registered under the *Land Titles Act 1980*;

officer means –

- (a) a director; and
- (b) the chief executive officer; and

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- (c) a person who is concerned with, or takes part in, the management of the Corporation;

partner, in relation to a person, means a person with whom the person is in a personal relationship, within the meaning of the *Relationships Act 2003*;

Planning Minister means the Minister to whom the administration of the *Land Use Planning and Approvals Act 1993* is assigned;

planning scheme has the same meaning as in the *Land Use Planning and Approvals Act 1993*;

Register means the register of title to land referred to in section 33 of the *Land Titles Act 1980*;

relative, in relation to a person, means –

- (a) the spouse or partner of the person; and
- (b) a parent or remoter linear ancestor of the person; and
- (c) a child or remoter issue of the person; and
- (d) a brother or sister of the person;

relevant planning scheme means the planning scheme that, under the *Land Use*

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Planning and Approvals Act 1993,
applies from time to time to the site;

relevant planning scheme planning authority
means the planning authority, within the
meaning of the *Land Use Planning and*
Approvals Act 1993, for any part of the
land that comprises the site;

relevant statutory authority means –

- (a) the Corporation within the
meaning of the *Water and*
Sewerage Corporation Act 2012;
and
- (b) any company established under
the *Port Companies Act 1997*;
and
- (c) a person, or body, established
under an Act, that is prescribed
for the purposes of this definition;

site means –

- (a) the Macquarie Point land; and
- (b) any Crown land, in proximity to
the Macquarie Point land, that is
transferred by the Minister to the
Corporation for the purposes of
this Act; and
- (c) any land, in proximity to the
Macquarie Point land, purchased
by the Corporation for the

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purposes of this Act with the
written approval of the Minister;

site master plan means the site master plan
prepared under section 37;

subsidiary has the same meaning as in the
Corporations Act.

- (2) A body corporate is a subsidiary of the Corporation if, were the Corporation and body corporate corporations under the Corporations Act, the body corporate would be a subsidiary of the Corporation under that Act.

4. Material personal interest

- (1) In this Act –

material personal interest in respect of a
director of the Corporation includes –

- (a) a direct or indirect interest; and
- (b) a pecuniary or non-pecuniary interest; and
- (c) the interest of a relative of the director; and
- (d) the interest of an associated entity; and
- (e) an interest in a corporation, within the meaning of the Corporations Act; and

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- (f) the director's employment by a person with a direct or indirect interest in the Corporation; and
 - (g) the holding by the director of an office where there arises or may arise a conflict between his or her duties in that office and his or her duties as a director of the Corporation; and
 - (h) the holding by the director of the office of a member in another statutory authority or in the governing authority of another statutory authority; and
 - (i) any other interest that does, or may, give rise to a conflict of interest.
- (2) A director of the Corporation does not have a material personal interest by reason only of the director also being a State Service employee or State Service officer.
 - (3) A director of the Corporation does not have a material personal interest by reason only of an interest in a contract with the Corporation for a good or service ordinarily supplied by the Corporation and supplied on the same terms as that good or service is ordinarily supplied to other persons in the same situation.
 - (4) In relation to a director, each of the following persons is an associated entity if the director or a

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relative of the director has control over the person:

- (a) a body corporate;
 - (b) a partnership or other unincorporated association of persons;
 - (c) a majority of trustees of a trust.
- (5) For the purposes of determining whether the director has control over a person referred to in subsection (4), the following matters may be taken into account:
- (a) whether the director or his or her relative is a shareholder in, a director or other officer of, or a trustee of, the other person;
 - (b) whether the director or his or her relative is a beneficiary in the trust of which the other person is a trustee;
 - (c) any other matter or relationship that is relevant.
- (6) For the purposes of determining whether the relative of a director has control over a person referred to in subsection (4), the following matters may be taken into account:
- (a) whether the relative or his or her relative is a shareholder in, a director or other officer of or a trustee of that person;

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- (b) whether the relative or his or her relative is a beneficiary in the trust of which that person is a trustee;
- (c) any other matter or relationship that is relevant.

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Part 2 – Macquarie Point Development Corporation

**PART 2 – MACQUARIE POINT DEVELOPMENT
CORPORATION**

***Division 1 – Establishment of Macquarie Point Development
Corporation***

5. Establishment of Macquarie Point Development Corporation

- (1) The Macquarie Point Development Corporation is established.
- (2) The Corporation –
 - (a) is a body corporate with perpetual succession; and
 - (b) has a seal; and
 - (c) may sue and be sued in its corporate name; and
 - (d) is an instrumentality of the Crown.
- (3) The Corporation's seal is to be kept and used as authorised by the Board.
- (4) All courts and persons acting judicially must take judicial notice of the imprint of the Corporation's seal on a document and presume that it was duly sealed by the Corporation.

6. Principal objectives of Corporation

The principal objectives of the Corporation are –

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- (a) to plan, facilitate and manage the remediation of the Macquarie Point land in accordance with the Intergovernmental Agreement; and
 - (b) to plan, facilitate and manage the redevelopment of the site so as to ensure that the site –
 - (i) is redeveloped as a vibrant and active area, with a mix of uses, that connects with and complements adjacent areas within Hobart; and
 - (ii) encourages inner-city living; and
 - (iia) encourages pedestrian and bicycle traffic; and
 - (iib) allows for public transport; and
 - (iic) provides for public open space; and
 - (iii) is redeveloped so as to deliver sustainable social and economic benefits to Hobart; and
 - (iv) is redeveloped in accordance with sound planning, urban design and environmental principles; and
 - (ba) to plan, facilitate and manage temporary and longer-term use of the site; and
 - (c) to the extent practicable, to make a profit from carrying out its functions.

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7. Functions of Corporation

The Corporation has the following functions:

- (a) to plan, undertake, manage, or arrange for, the remediation of the site so that the site can be redeveloped;
- (b) to investigate options for redevelopment of the site and prepare and implement strategies for ensuring the redevelopment of the site;
- (c) to redevelop and maintain, or ensure the redevelopment and maintenance of –
 - (i) public open space on the site; and
 - (ii) a corridor allowing transit through the site by means of public transport and pedestrian and bicycle traffic, so as to enable the connection of the site with areas adjacent to the site; and
 - (iii) such other corridors, to allow transit through the site by means of other forms of transport, as the Corporation or the Minister considers desirable;
- (ca) to encourage and provide, or ensure the encouragement and provision of, appropriate temporary and longer-term use of the site;

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- (d) to consult with the Tasmanian community, and those persons or bodies whom the Corporation considers to have an interest in relation to the redevelopment of the site, in relation to options for the redevelopment of the site;
 - (e) to advise the Minister in relation to the redevelopment of the site and other areas of land;
 - (f) to advise the Minister as to any legislation that may be required to undertake or facilitate the redevelopment of the site;
 - (g) to undertake, manage or facilitate the redevelopment of the site consistent with the Corporation's objectives and any site master plan;
 - (h) to consider and advise the Minister in relation to options for the redevelopment or replacement of the Brooke Street pier;
 - (i) subject to written approval by the Minister –
 - (i) to undertake, manage or facilitate the redevelopment of the Brooke Street pier or its replacement, whether or not in the same location; and
 - (ii) to provide financial assistance to other persons in connection with the redevelopment of the Brooke

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Street pier or its replacement,
whether or not in the same
location;

- (j) any other function of the Corporation
under this or any other Act.

8. Powers of Corporation

- (1) The Corporation has the following powers:

- (a) subject to subsection (3), to acquire, hold, dispose of and otherwise deal with property;
- (b) to enter into contracts;
- (c) to appoint agents and attorneys;
- (d) to engage consultants;
- (e) to do anything necessary or convenient in relation to the performance of its functions.

- (2) The Corporation also has the following powers that may only be exercised by the Corporation with the written approval of the Minister:

- (a) to acquire, conduct, participate in, or dispose of, any business undertaking related to the site or the Brooke Street pier;
- (b) to form, or participate in the formation of, a company;

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- (c) to participate in a trust;
 - (d) to participate in any or all of the following arrangements for the purpose of the sharing of profits:
 - (i) a joint venture;
 - (ii) a partnership;
 - (iii) any other arrangement.
 - (3) The Corporation must not, without the written approval of the Minister –
 - (a) lease or license land held by the Corporation for any term exceeding 5 years; or
 - (b) purchase, gift or sell any estate or interest in land.
 - (4) Subject to subsection (5), the Corporation must not carry out any works on the Macquarie Point land until that land is transferred by the Minister to the Corporation in accordance with section 53.
 - (5) Subsection (4) does not prevent the Corporation from undertaking works on any part of the Macquarie Point land that is leased by the Corporation from the Minister administering the *Crown Lands Act 1976* or from a tenant of that Minister.

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Division 2 – Board of Corporation

9. Board

- (1) The Corporation has a board of directors consisting of –
 - (a) the chairperson of the Board; and
 - (b) the chief executive officer; and
 - (c) not less than 3, and not more than 6, other persons.
- (2) The chairperson and the other directors, other than the chief executive officer, are appointed by the Governor on the recommendation of the Minister.
- (3) In making a recommendation under subsection (2), the Minister is to have regard to –
 - (a) the need for the chairperson, chief executive officer and other directors together to have the necessary knowledge and skills to achieve the principal objectives of the Corporation; and
 - (b) if the Minister has called for expressions of interest for persons to be appointed to the Board, any expressions of interest received; and
 - (c) the desirability of having as directors both men and women.

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- (4) A person may not hold the office of chief executive officer in the Corporation in conjunction with the office of chairperson.
 - (5) Schedule 1 has effect with respect to the directors.
 - (6) Schedule 2 has effect with respect to meetings of the Board.

10. Responsibilities

- (1) The Board is responsible to the Minister for –
 - (a) the performance of the functions of the Corporation; and
 - (b) the achievement of the Corporation's principal objectives; and
 - (c) ensuring that the site is redeveloped in accordance with the site master plan; and
 - (d) ensuring that the business and affairs of the Corporation are managed and conducted –
 - (i) in accordance with the principal objectives of the Corporation; and
 - (ii) in accordance with sound business practice; and
 - (iii) in a manner that is consistent with any directions given by the Minister under section 36; and

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(iv) in a manner consistent with any corporate plan approved by the Minister under section 38.

(2) The Board has the power to do anything necessary or convenient in relation to its responsibilities under this Act.

11. Delegation by Board

The Board may delegate any of its powers or responsibilities, other than this power of delegation.

12. Committees

(1) The Board –

- (a) must establish an audit committee; and
- (b) may establish such other committees as it considers appropriate.

(2) A committee –

- (a) must provide the Board with advice on any matter referred to it by the Board; and
- (b) must perform any functions, and may exercise any powers, delegated to it by the Board.

(3) In addition to its functions under subsection (2), the audit committee must provide the Board with advice on –

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- (a) the internal audit function of the Corporation; and
 - (b) monitoring the Corporation's systems of financial reporting and internal control; and
 - (c) the resources necessary for the performance of the internal audit function of the Corporation.
- (4) Schedule 3 has effect with respect to the members and meetings of a committee.

13. Acting directors

- (1) For the purposes of this section, a director is absent if he or she –
 - (a) is absent from duty; or
 - (b) is otherwise unable to perform the functions of the office of a director.
- (2) The Governor, on the recommendation of the Minister, may appoint a person to act as a director of the Corporation if the chairperson or a director referred to in section 9(1)(c) is absent.
- (3) The Minister must not make a recommendation under subsection (2) unless he or she has ensured that the person recommended has the experience and skills necessary to act as a director of the Corporation.
- (4) The appointment or other employment of a person to act as a director if the chairperson is

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absent is not an appointment to act in the position of chairperson.

- (5) While a person appointed or otherwise employed to act as a director is acting as a director that person is taken to be a director.
- (6) The appointment or other employment of a person to act as a director terminates when the absent chairperson or director resumes the performance of his or her functions as director.

Division 3 – Assistance and facilities

14. Assistance and facilities

- (1) The Corporation may arrange with one or more of the following persons to provide assistance and facilities to it to enable it to perform and exercise its functions and powers:
 - (a) the Secretary of the Department;
 - (b) another Head of a State Service Agency;
 - (c) any other person if the Minister approves it.
- (2) All expenses associated with the use by the Corporation of the assistance and facilities provided under subsection (1) are to be met by the Corporation unless otherwise agreed with –
 - (a) the Secretary of the Department, in relation to assistance and facilities provided by the Secretary of the Department; or

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- (b) another Head of a State Service Agency, in relation to assistance and facilities provided by that Head of Agency; or
- (c) any other person approved by the Minister, in relation to assistance and facilities provided by that person.

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Part 3 – Staff of Corporation

PART 3 – STAFF OF CORPORATION

15. Chief executive officer

- (1) Subject to and in accordance with the *State Service Act 2000*, a chief executive officer of the Corporation is to be appointed.
- (2)

16. Responsibilities of chief executive officer

- (1) The chief executive officer is responsible to the Board for the general administration and management of the Corporation.
- (2) The chief executive officer –
 - (a) must carry out any responsibilities, and may exercise any powers, delegated by the Board; and
 - (b) must perform any functions or carry out any responsibilities imposed by, and may exercise any other powers granted by, this or any other Act.

17. Delegation by chief executive officer

The chief executive officer may delegate any of his or her responsibilities, functions or powers, other than this power of delegation.

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18. Effect of chief executive officer ceasing to be chief executive officer

- (1) If a person holds the position of chief executive officer and the office of director, on the termination of his or her appointment as chief executive officer –
 - (a) his or her appointment as director is revoked; and
 - (b) any appointment of that person as director in a subsidiary of the Corporation is revoked; and
 - (c) any membership of that person of any committee created by the Board or subsidiary ceases.
- (2) Subsection (1) does not affect the eligibility of the person to be reappointed to an office referred to in that subsection.

19. Employees

Subject to and in accordance with the *State Service Act 2000*, persons may be appointed or employed for the purposes of the Corporation.

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20. Power of former director to access records

- (3) The Corporation must allow a former director to exercise his or her powers under this section to inspect and make copies of records.

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- (4) This section does not limit any right of access to the records of the Corporation that a former director has apart from this section.

21. Power of director to access records

- (1) A director may inspect and make copies of the records of the Corporation, including its accounting records, financial statements and interim reports, at any reasonable time.
- (2) A director or officer must not prevent a director from exercising his or her powers under this section to inspect and make copies of records.

Penalty: Fine not exceeding 50 penalty units.

22. Duties of officers and employees

- (1) In this section –

business judgment means any decision to take or not take action in respect of a matter relevant to the business affairs of the Corporation;

former employee means a person who ceased to be an employee within the period of 7 years immediately preceding the relevant time;

former officer means a person who ceased to be an officer within the period of 7 years immediately preceding the relevant time.

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- (2) An officer of the Corporation must perform and exercise the functions and powers of his or her office in the Corporation –
 - (a) in good faith in the best interests of the Corporation; and
 - (b) for a proper purpose.

Penalty: Fine not exceeding 2 000 penalty units or a term of imprisonment not exceeding 5 years, or both.

- (3) An officer of the Corporation must exercise his or her powers and perform his or her functions with the degree of care and diligence that a reasonable person would exercise if he or she –
 - (a) were an officer of a corporation in the circumstances of the Corporation; and
 - (b) occupied the office held by, and had the same responsibilities within the Corporation as, the officer.

Penalty: Fine not exceeding 2 000 penalty units or a term of imprisonment not exceeding 5 years, or both.

- (4) An officer of the Corporation who makes a business judgment is taken to meet the requirements of subsection (3), and his or her equivalent duties at common law and in equity, in respect of the judgment if the officer –

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- (a) makes the judgment in good faith for a proper purpose; and
 - (b) does not have a material personal interest in the subject matter of the judgment; and
 - (c) informs himself or herself about the subject matter of the judgment to the extent he or she reasonably believes to be appropriate; and
 - (d) rationally believes that the judgment is in the best interests of the Corporation.
- (5) For the purposes of subsection (4)(d), the belief of an officer of the Corporation that a business judgment is in the best interests of the Corporation is rational unless the belief is one that no reasonable person in the position of the officer would hold.
- (6) An officer, employee, former officer or former employee of the Corporation must not make improper use, in Tasmania or elsewhere, of information acquired because of his or her office or employment in the Corporation –
 - (a) to gain, directly or indirectly, an advantage for himself or herself or another person; or
 - (b) to cause damage to the Corporation or any of its subsidiaries.

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Penalty: Fine not exceeding 2 000 penalty units or a term of imprisonment not exceeding 5 years, or both.

- (7) An officer or employee must not make improper use, in Tasmania or elsewhere, of his or her position as an officer or employee of the Corporation –
- (a) to gain, directly or indirectly, an advantage for himself or herself or another person; or
 - (b) to cause damage to the Corporation or any of its subsidiaries.

Penalty: Fine not exceeding 2 000 penalty units or a term of imprisonment not exceeding 5 years, or both.

23. Duty to prevent insolvent trading

- (1) A director must prevent the Corporation from incurring a debt if –
 - (a) the Corporation is insolvent at that time or will become insolvent by incurring at that time the debt or debts which include that debt; and
 - (b) at that time there are reasonable grounds for suspecting that the Corporation is insolvent or would become insolvent by incurring the debt or those debts; and

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- (c) the director is aware of those grounds or a reasonable person in the position of director would be aware of those grounds.
- (2) A director is guilty of an offence and liable, on conviction, to a penalty of a fine not exceeding 2 000 penalty units or a term of imprisonment not exceeding 5 years, or both, if he or she contravenes subsection (1) knowingly, intentionally or recklessly and –
 - (a) dishonestly and intending to gain, directly or indirectly, an advantage for himself or herself or another person; or
 - (b) intending to deceive or defraud any person.
- (3) It is a defence for an offence against subsection (2) or for a contravention of subsection (1) in proceedings under section 27 if it is proved –
 - (a) that, at the time the debt was incurred, the director –
 - (i) had reasonable grounds to believe and did believe that a competent and reliable person was responsible for providing the director with adequate information as to whether the Corporation was solvent; and

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- (ii) had reasonable grounds to believe and did believe that the person referred to in subparagraph (i) was fulfilling the responsibility referred to in that subparagraph; and
 - (iii) expected, on the basis of information provided by the person referred to in subparagraph (i), that the Corporation was solvent at that time and would remain solvent even if it incurred the debt and any other debts that it incurred at that time; or
- (b) that, at the time when the debt was incurred, the director had other reasonable grounds to expect, and did expect, that the Corporation was solvent and would remain solvent even if it incurred the debt and any other debts that it incurred at that time; or
- (c) that the director took all reasonable steps to prevent the Corporation from incurring the debt; or
- (d) that the director did not take part at the time in the Corporation's management because of illness or for some other good cause; or

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- (e) that the director informed the Minister, before the debt was incurred, that the Corporation was insolvent or would become insolvent if the debt or the debt and other debts were incurred; or
- (f) that the debt was incurred as the direct result of a direction given under this Act to the director or the Corporation by the Minister.

24. False or misleading information

(1) An officer must not –

- (a) make a statement concerning the affairs of the Corporation or a subsidiary to a director, the Minister or the Auditor-General that the officer knows is false or misleading in a material particular; or
- (b) omit from a statement concerning the affairs of the Corporation or a subsidiary of the Corporation made to a director, the Minister or the Auditor-General anything without which the statement is, to the officer's knowledge, misleading in a material particular.

Penalty: Fine not exceeding 50 penalty units or a term of imprisonment not exceeding 2 years, or both.

(2) A complaint against a person for an offence against subsection (1)(a) or (b) is sufficient if it

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states that the information given was false or misleading to the person's knowledge.

- (3) An officer must not give to a director, the Minister or the Auditor-General a document containing information that the officer knows is false, misleading or incomplete in a material particular without –
- (a) indicating to the recipient that the document is false, misleading or incomplete and the respect in which the document is false, misleading or incomplete; and
 - (b) giving the correct information to the recipient if the officer has, or can reasonably obtain, the correct information.

Penalty: Fine not exceeding 25 penalty units or a term of imprisonment not exceeding one year, or both.

25. Reliance on information or advice

If —

- (a) an officer of the Corporation relies on information, or professional or expert advice, given or prepared by –
 - (i) an employee of the Corporation who the officer believes on reasonable grounds to be reliable

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- and competent in relation to the matters concerned; or
 - (ii) a professional adviser or expert in relation to matters that the officer believes on reasonable grounds to be within the person's professional or expert competence; or
 - (iii) another officer in relation to matters within the officer's authority; or
 - (iv) a committee of officers on which the officer did not serve in relation to matters within the committee's authority; and
- (b) the reliance was made –
- (i) in good faith; and
 - (ii) after making an independent assessment of the information or advice, having regard to the officer's knowledge of the Corporation and the complexity of the structure and operations of the Corporation; and
- (c) the reasonableness of the officer's reliance on the information or advice arises in proceedings brought to determine whether an officer has

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performed a duty under this Act or an equivalent general law duty –

the officer's reliance on the information or advice is taken to be reasonable unless the contrary is proved.

26. Director to disclose material personal interest

- (1) A director who has or may have a material personal interest in a matter that relates to the affairs of the Corporation must give the other directors notice of the interest except where –
- (a) the interest –
 - (i) arises in relation to the director’s remuneration as a director of the Corporation; or
 - (ii) relates to a contract that insures, or would insure, the director against liabilities the director incurs as an officer of the Corporation (but only if the contract does not make the Corporation or a related body the insurer); or
 - (iii) relates to any payment by the Corporation to a related body in respect of an indemnity permitted under section 35; or

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- (iv) is in a contract, or proposed contract, with or for the benefit of, or on behalf of, a related body of the Corporation and arises because the director is a director of the related body; or
 - (v) is a beneficial interest in shares in a public company, within the meaning of the Corporations Act of the Commonwealth, and the total number of shares in which the director has a beneficial interest does not exceed 5% of the total number of shares issued by the company; or
- (b) all of the following conditions are satisfied:
 - (i) the director has already given notice of the nature and extent of the interest and its relationship to the affairs of the Corporation to all directors under this subsection;
 - (ii) if after the time when notice of the nature and extent of the interest and its relationship to the affairs of the Corporation under this subsection was given, a person who was not a director of the Corporation at that time is appointed as a director, that

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notice is given to the new
director;

(iii) the nature or extent of the interest
has not materially increased
above that disclosed in the notice;
or

(c) the director has given a standing notice
of the nature and extent of the interest
under section 28(3) and the notice is still
effective in relation to the interest.

Penalty: Fine not exceeding 500 penalty units.

(2) For the purposes of subsection (1), a body is a
related body in respect of the Corporation if the
body is a subsidiary of the Corporation.

(3) The notice of a director's material personal
interest in a matter that relates to the affairs of
the Corporation must –

(a) include details of –

(i) the nature and extent of the
interest; and

(ii) the relationship of the interest to
the affairs of the Corporation; and

(b) be given at a meeting of the Board as
soon as practicable after the director
becomes aware of his or her interest in
the matter.

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- (4) The details of the notice of a director's material personal interest in a matter that relates to the affairs of the Corporation must be –
 - (a) recorded in the minutes of the meeting at which the notice is given; and
 - (b) provided to the Minister.
- (5) A contravention of subsection (1) by a director does not affect the validity of an act or proceeding of the Board or of any person (including that director) acting pursuant to any direction of the Board.

27. Board may declare material personal interest

- (1) If the Board is of the opinion that a director has a material personal interest in a matter that relates to the affairs of the Corporation, it may pass a resolution declaring –
 - (a) that the director has such an interest; and
 - (b) the nature and extent of the interest; and
 - (c) the relationship of the interest to the affairs of the Corporation.
- (2) If a declaration is made under subsection (1), the director declared to have a material personal interest is taken to have that interest.
- (3) The details of a declaration made under subsection (1) must be provided to the Minister.

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- (4) The making of a declaration under subsection (1) does not preclude the taking of proceedings for an offence against section 26(1) in respect of the failure of the director to give notice of the material personal interest.

28. Standing notice of director's interest

- (1) A director who has an interest, whether direct or indirect, in a matter that relates to the affairs of the Corporation may give the other directors of the Corporation standing notice of the nature and extent of the interest.
- (2) The standing notice may be given at any time and whether or not the matter relates to the affairs of the Corporation at the time the notice is given.
- (3) The standing notice must –
 - (a) include details of the nature and extent of the interest; and
 - (b) be given –
 - (i) at a meeting of the Board, either in writing or orally; or
 - (ii) to the other directors individually in writing.
- (4) Standing notice given to the directors individually –

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- (a) must be tabled at the next meeting of the Board after it has been given; and
 - (b) is given when it has been given to every director.
- (5) The details of the standing notice given at or tabled at a meeting of the Board must be –
 - (a) recorded in the minutes of the meeting; and
 - (b) provided to the Minister.
- (6) A standing notice –
 - (a) takes effect as soon as it is given; and
 - (b) ceases to have effect if a person who was not a director of the Corporation at the time when the notice was given is appointed as a director.
- (7) A standing notice that has ceased to have effect under subsection (6) recommences to have effect if it is given to the new director referred to in that subsection.
- (8) A standing notice ceases to have effect in relation to a particular interest if the nature or extent of the interest materially increases above that disclosed in the notice.

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29. Restriction on director's participation in case of material personal interest

- (1) If a director has a material personal interest in a matter being considered at a meeting of the Board, the director must not, except as allowed by the Board under subsection (4) –
 - (a) be present while the matter is being considered; and
 - (b) vote on the matter.
- (2) If –
 - (a) a director has a material personal interest in a contract that the Corporation has with a person; and
 - (b) either –
 - (i) the director, in compliance with subsection (1), was not present while the Board considered whether to enter into the contract and did not vote on the matter; or
 - (ii) the director was allowed under subsection (4) to be present while the Board considered whether to enter into the contract and to vote on the matter –

the Corporation, by reason of the director holding that interest, cannot avoid the contract and the director is not liable to account to the

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Corporation for any profits derived from that interest.

(3) If –

- (a) a director has a material personal interest in a contract that the Corporation has with a person; and
- (b) the director, in contravention of subsection (1), was present while the Board considered whether to enter into the contract or voted on the matter –

the Corporation, by reason of the director holding that interest, may avoid the contract and the director is liable to account to the Corporation for any profits derived from that interest if the Board so determines by written notice provided to the director.

(4) If a director has a material personal interest in a matter being considered by the Board and the Board, in the absence of the director, passes a resolution that –

- (a) identifies the director, the nature and extent of the interest and its relationship to the affairs of the Corporation; and
- (b) states that the interest should not disqualify the director from being present when the matter is considered by the Board or from voting on the matter –

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the director may be present when the matter is considered by the Board and may vote on the matter.

- (5) Nothing in subsection (4) affects the duty of the Board to provide notice of the material personal interest to the Minister under section 26(4), section 27(3) or section 28(5).

30. Director may be required to divest of material personal interest

If the Minister considers that a material personal interest held by a director is such that holding the interest is not consistent with the proper discharge of his or her duties as director, the Minister may require the director to either divest himself or herself of the interest or resign as director.

31. Civil penalty order

- (1) In this section, court means a court of summary jurisdiction.
- (2) If a person contravenes section 22(2), (3), (6) or (7) or section 23(1), the Corporation or a person authorised in writing by the Minister may apply to the court, within 6 years after the contravention, for an order under subsection (3).
- (3) If the court is satisfied of the matters specified in subsection (4), the court may make one or more of the following orders:

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- (a) an order prohibiting the person from being an officer of the Corporation for the period specified in the order;
 - (b) an order that the person pay to the Minister an amount not exceeding \$200 000.
- (4) Before making an order under subsection (3), the court must be satisfied that –
 - (a) the person has contravened section 22(2), (3), (6) or (7) or section 23(1); and
 - (b) the contravention of that section –
 - (i) materially prejudices the interests of the Corporation; or
 - (ii) materially prejudices the ability of the Corporation to pay its creditors; or
 - (iii) is serious.
- (5) The court must not make an order under subsection (3)(a) if the court is satisfied that the person is a fit and proper person to be an officer of the Corporation despite the contravention.
- (6) The court must not make an order under subsection (3)(b) if the court or any other court has ordered the person to pay punitive damages because of the act or omission constituting the contravention.

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- (7) In proceedings under this section, the court may relieve a person who has contravened section 22(2), (3), (6) or (7) or section 23(1) from the whole or part of a liability to which the person would otherwise be subject, or that might otherwise be imposed on the person, because of the contravention if the court is satisfied that –
 - (a) the person has acted honestly; and
 - (b) having regard to all the circumstances of the case (including, where appropriate, circumstances connected with the person's appointment as an officer), the person ought fairly to be excused for the contravention.
- (8) An application made under subsection (2) is a civil matter and the rules of evidence and procedure that the court applies in hearing and determining civil matters apply in relation to the hearing and determination of the application.
- (9) Proceedings may be commenced and determined under this section whether or not proceedings for an offence against section 22(2), (3), (6) or (7) or section 23(2) have been commenced or determined.
- (10) The Minister may enforce an order made under subsection (3)(b) as if it were a judgment of the court.

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32. Proceedings under this Part prevail

If, in respect of an act or omission, a person could be charged with an offence against this Part and could be found to have breached the Code of Conduct within the meaning of the *State Service Act 2000*, proceedings may only be commenced under this Part.

33. Proceedings for offence

- (1) Proceedings for an offence against this Part may be commenced within 5 years after the commission of the act or omission which constitutes the offence notwithstanding any contrary provision in any other Act.
- (2) Proceedings for an offence against this Part may be instituted and determined in a court of summary jurisdiction.
- (3) Proceedings for an offence against this Part may be instituted by a person authorised in writing by the Minister.
- (4) Proceedings for an offence against section 22(2), (3), (6) or (7) or section 23(2) may be commenced and determined whether or not proceedings under section 31 in respect of the contravention of section 22(2), (3), (6) or (7) or section 23(1) have been commenced or determined.

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34. Compensation and other payments for contravention of this Part

- (1) Sections 22, 23, 24, 25 and 26 have effect in addition to any rule of law relating to the function, power or liability of a person because of the person's office or employment in the Corporation and do not affect the right of any person to institute civil proceedings in relation to a contravention of any of those provisions.
- (2) If a person is found guilty of an offence against section 22(2), (3), (6) or (7) or section 23(2) or an order is made under section 31(3) in respect of a contravention of section 22 or 23, the court making that finding or order may, in addition to any other penalty it may impose or order it may make, order the person to pay to the Corporation or subsidiary of the Corporation –
 - (a) any profit made by the person as a result of the contravention of section 22 or 23; and
 - (b) an amount equal to any loss and damage the Corporation or subsidiary of the Corporation suffered as a result of the contravention of section 22 or 23.
- (3) The Corporation or subsidiary of the Corporation may enforce an order made under subsection (2) as if it were a judgment of the court.

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35. Indemnifying officers

- (1) The Corporation must not exempt a person, whether directly or through an interposed person, from a liability to –
 - (a) the Corporation; or
 - (b) a subsidiary of the Corporation –incurred as an officer.
- (2) A subsidiary of the Corporation must not exempt a person, whether directly or through an interposed person, from a liability to –
 - (a) that subsidiary; or
 - (b) the Corporation; or
 - (c) another subsidiary of the Corporation –incurred as a person who is concerned with, or takes part in, the management of that subsidiary, the Corporation or other subsidiary.
- (3) The Corporation or subsidiary of the Corporation must not indemnify a person, whether by agreement or by making a payment and whether directly or through an interposed person, against any of the following liabilities incurred as an officer of the Corporation:
 - (a) a liability owed to the Corporation, that subsidiary or another subsidiary of the Corporation;

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- (b) a liability to pay compensation under an order made under section 34;
 - (c) a liability that is owed to someone other than the Corporation, that subsidiary or another subsidiary of the Corporation and that did not arise out of conduct in good faith.
- (4) Subsection (3) does not apply to a liability for legal costs.
- (5) The Corporation or subsidiary of the Corporation must not indemnify a person, whether by agreement or by making a payment and whether directly or through an interposed person, against legal costs incurred in defending an action for a liability incurred as an officer of the Corporation if the costs are incurred –
 - (a) in defending or resisting proceedings in which the person is found to have a liability for which he or she could not be indemnified under subsection (3); or
 - (b) defending or resisting proceedings for an offence in which the person is found guilty.
- (6) For the purposes of subsection (5), the outcome of proceedings is the outcome of the proceedings and any appeal in relation to the proceedings.
- (7) An instrument is void so far as it provides for the Corporation to do something that is prohibited by this section.

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- (8) The *Statutory Authorities (Protection from Liability of Members) Act 1993* does not apply in respect of the Corporation or its directors.

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**PART 5 – DIRECTIONS, PLANS, PROPERTY
INSTRUMENTS AND REMEDIATION**

Division 1 – Directions and plans

35A. Statement of ministerial expectations

- (1) The Minister may provide to the Board, not less than 3 months before the start of each financial year, a statement of ministerial expectations in relation to the financial year of the Corporation.
- (2) The Minister is to have regard to the Corporation's objectives and functions in preparing a statement of ministerial expectations.
- (3) The Minister, by notice to the Board, may amend a statement of ministerial expectations in relation to a financial year of the Corporation.
- (4) The Board is to make available for viewing by members of the public, in the manner that the Board thinks fit, a copy of the statement of ministerial expectations last provided by the Minister, as amended, if at all, under subsection (3).
- (5) Subject to subsection (6), the Board must ensure that the business and affairs of the Corporation in relation to a financial year of the Corporation are conducted in a manner that is consistent with the statement of ministerial expectations in relation to the financial year.
- (6) In the event of an inconsistency between a statement of ministerial expectations and another

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requirement under this Act, the other requirement prevails to the extent of the inconsistency.

36. Ministerial directions

- (1) Subject to subsection (2), after consulting with the Board, the Minister, by notice in writing, may give the Board directions in connection with the functions and powers of the Corporation.
- (1A) The directions that may be given under subsection (1) include a direction to the Board to –
 - (a) prepare a report in connection with the functions and powers of the Corporation and provide it to the Minister; and
 - (b) provide to the Minister information in connection with the functions and powers of the Corporation.
- (2) The Minister must not direct the Board to enter into any contract on behalf of the Corporation, or direct the Board to vary, terminate or rescind any contract to which the Corporation is a party.
- (3) The Board must comply with any direction given by the Minister.

37. Site master plan

- (1) After consulting with the Board, the Minister, by notice in writing to the Board, may direct the

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Board to prepare a site master plan in respect of the site.

- (2) The site master plan is to include the following:
 - (a) a framework for the redevelopment of the site in accordance with the principal objectives of the Corporation;
 - (b) the major strategies the Board intends to use to facilitate the redevelopment of the site in accordance with that framework and the principal objectives of the Corporation.
- (3) The Board is to provide a copy of the site master plan to the Minister for approval.
- (4) The Minister may –
 - (a) approve the site master plan; or
 - (b) require the Board to amend the site master plan before approving it.
- (5) The Board may prepare an amendment of the site master plan at any time.
- (6) An amendment of the site master plan may take the form of a replacement site master plan.
- (7) An amendment of the site master plan takes effect when the Minister approves the amendment.
- (8) Except where the Minister otherwise approves, the Corporation must act in accordance with the site master plan for the time being in existence.

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38. Corporate plan

- (1) The Board, by 31 May in each year, is to prepare a corporate plan in respect of the period of 3 years commencing on 1 July in that year.
- (2) The corporate plan is to include the following:
 - (a) the objectives of the corporate plan;
 - (b) the major strategies to be used to progress those objectives;
 - (c) a statement of the Corporation's financial plans.
- (3) The corporate plan must be consistent with any site master plan for the time being in existence.
- (4) The Board is to provide a copy of the proposed corporate plan to the Minister for approval.
- (5) The Minister, may –
 - (a) approve the corporate plan; or
 - (b) require the Board to amend the corporate plan before approving it.
- (6) The Board may prepare an amendment of its corporate plan at any time.
- (7) An amendment of the corporate plan takes effect when the Minister approves the amendment.
- (8) An amendment of the corporate plan may take the form of a replacement corporate plan.

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- (9) Except where the Minister otherwise approves, the Corporation must act in accordance with its corporate plan for the time being in existence.

39. Notification of matters

The Board is to notify the Minister, as soon as practicable, of any matters that, in the opinion of the Board, may –

- (a) prevent or significantly affect the carrying out of any current site master plan approved by the Minister; or
- (b) prevent or significantly affect the achievement of the objectives specified in the current corporate plan; or
- (c) significantly affect the financial viability or operating ability of the Corporation; or
- (d) significantly affect any other policy or program specified in the current corporate plan.

Division 2 – Property instruments and remediation

39A. Corporation is public authority for certain purposes

For the avoidance of doubt, the Corporation is a public authority for the purposes of section 90A and 90AB of the *Conveyancing and Law of Property Act 1884*.

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39B. Corporation or Minister may enter into covenants and agreements affecting site

- (1) The Corporation or the Minister may enter into, with the purchaser or registered proprietor of land that is a part of the site, a positive or negative covenant, or both, relating to the land.
- (2) The Corporation or the Minister may enter into, with the purchaser or registered proprietor of land that is a part of the site, an agreement concerning the use or redevelopment, or both, of the land.
- (3) The Corporation or the Minister, in writing, may direct the Recorder of Titles to record, on the folio of the Register for the land that is the subject of the covenant or agreement, a covenant or agreement entered into under this section by the Corporation, or the Minister, respectively.
- (4) On receiving a direction under subsection (3) in relation to a covenant or agreement, the Recorder of Titles is to record, as he or she considers appropriate, the covenant or agreement on the relevant folio of the Register for the land that is the subject of the covenant or agreement.
- (5) The benefits and burdens of a covenant or agreement entered into under this section run with the land that is the subject of the covenant or agreement, and the covenant or agreement is enforceable between the parties to it and any person deriving title to the land under any such party.

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39C. Amendment or extinguishment of covenant or agreement

- (1) The Corporation or the Minister may enter into, with the registered proprietor of land that is the subject of a covenant (*the earlier covenant*) entered into under section 39B(1) by the Corporation or the Minister, respectively, a covenant to amend or extinguish the earlier covenant.
- (2) The Corporation or the Minister may enter into, with the registered proprietor of land that is the subject of an agreement (*the earlier agreement*) entered into under section 39B(2) by the Corporation or the Minister, respectively, an agreement to amend or extinguish the earlier agreement.
- (3) If a covenant or agreement is –
 - (a) recorded, under section 39B, on a folio of the Register for the land that is the subject of the covenant or agreement; and
 - (b) amended or extinguished in accordance with a covenant or agreement entered into under this section by the Corporation or the Minister –

the Corporation or the Minister, respectively, is to direct, in writing, the Recorder of Titles to alter the folio of the Register for the land, so as to reflect the amendment or extinguishment.

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- (4) On receiving a direction under subsection (3) in relation to an amendment of a covenant or agreement, the Recorder of Titles is to alter, as he or she considers appropriate so as to reflect the amendment, the relevant folio of the Register for the land that is the subject of the covenant or agreement.
 - (5) On receiving a direction under subsection (3) in relation to an extinguishment of a covenant or agreement, the Recorder of Titles is to alter, as he or she considers appropriate so as to reflect the extinguishment, the relevant folio of the Register for the land that is the subject of the covenant or agreement.

39D. Compensation

No compensation is payable by the Corporation or the Crown in respect of any action taken under section 39B or 39C.

39E. Powers under this Act additional to other powers

The powers given by section 39B or 39C in relation to any dealing with land, or in relation to altering or otherwise dealing with the Register, are in addition to any other powers under another Act or any other law of Tasmania to deal with land, or to alter or otherwise deal with the Register.

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39F. Remediation of site

- (1) Redevelopment of a part of the site may not occur until an accredited environmental auditor has certified that the remediation of the part of the site has occurred to a standard that is satisfactory for the purposes of the proposed redevelopment.
- (2) For the purposes of subsection (1), an accredited environmental auditor is a person who is accredited under subsection (3).
- (3) The Director, within the meaning of the *Environmental Management and Pollution Control Act 1994*, may accredit a person as an environmental auditor for the purposes of this section.
- (4) The Director may only accredit a person as an environmental auditor for the purposes of this section if the Director is satisfied that the person has the necessary qualifications and experience to determine whether the remediation of all or part of the site has occurred to a standard that is satisfactory for the purposes of the proposed redevelopment.
- (5) The Director may accredit a person under subsection (3) on the conditions the Director thinks fit and specifies on the instrument of accreditation in relation to the person.
- (6) The Director may revoke the accreditation of a person as an environmental auditor under subsection (3) if the person has failed to comply with a condition of his or her accreditation.

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s. 39G

Division 3 – Planning

39G. Corporation may request Minister to prepare proposed amendments to planning scheme

- (1) The Board, by notice to the Minister, may request the Minister to prepare, in accordance with a draft, of the proposed amendments to the planning scheme, attached to the request –
 - (a) proposed amendments to the relevant planning scheme that are to apply to the area of land that is within the site on the day on which this section commences; or
 - (b) proposed amendments to the relevant planning scheme that are to apply to an area of land that is within the site but was not within the site on the day on which this section commences.
- (2) The Board may only issue –
 - (a) one request under subsection (1) for the purposes of subsection (1)(a); and
 - (b) one request under subsection (1) for the purposes of subsection (1)(b) in relation to each area of land that is within the site but was not within the site on the day on which this section commences.
- (3) If the Board intends to make a request to the Minister under subsection (1), the Board must give to the relevant planning scheme planning authority, and the owners and occupiers of each

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area of land, any part of which adjoins the site, a notice –

- (a) specifying that the Board intends to make a request to the Minister under subsection (1); and
 - (b) including a copy of the draft, of the proposed amendments to the planning scheme, that it intends to attach to the request under subsection (1); and
 - (c) inviting the authority, owner and occupiers to make, under subsection (4), within 21 days, representations in relation to the intended request and the draft referred to in paragraph (b).
- (4) The relevant planning scheme planning authority and those owners and occupiers to whom a notice has been given under subsection (3) may, within 21 days, make representations to the Board in relation to the request, and the copy of the draft, included in the notice in accordance with subsection (3)(b).
- (5) Without limiting the generality of subsection (4), a representation made under that subsection by the relevant planning scheme planning authority may include –
 - (a) a statement that the authority does not support the proposed request or draft; and
 - (b) a statement of the amendments that would need to be made to the request and

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the draft in order for the authority to support them.

- (6) If one or more representations have been made under subsection (4) in relation to a request and a draft of amendments, the Board must, after the last day on which a representation may be made under that subsection –
 - (a) consider the representations; and
 - (b) determine whether or not to amend the proposed request and the draft of the amendments so as to take into account any of the representations.
- (7) If the Board determines under subsection (6)(b) to amend the proposed request and the draft of the amendments so as to take into account a representation made under subsection (4) –
 - (a) the Board may amend the proposed request and the draft of the amendments so as to take into account the representation; and
 - (b) the Board may submit to the Minister under subsection (1) the request, as so amended, and the draft of the amendments, as so amended; and
 - (c) subsection (3) does not apply in relation to the request and the draft of the amendments.
- (8) A request under subsection (1) is to include –

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- (a) a statement as to the consultation that the Board has undertaken in relation to the draft of the proposed amendments to the relevant planning scheme; and
- (b) a statement setting out how the draft of the proposed amendments to the relevant planning scheme –
 - (i) furthers the requirements of the objectives set out in Schedule 1 to the *Land Use Planning and Approvals Act 1993*; and
 - (ii) is consistent with any applicable State Policy within the meaning of the *State Policies and Projects Act 1993*; and
 - (iii) is, as far as practicable, consistent with the Southern Regional Land Use Strategy made under the *Land Use Planning and Approvals Act 1993*.

39H. Preparation of proposed amendments

- (1) The Minister, after receiving a request under section 39G(1) containing a draft of proposed amendments to the relevant planning scheme, must –
 - (a) prepare proposed amendments to the relevant planning scheme in the form of the draft of the proposed amendments to

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- the relevant planning scheme to which the request relates; or
- (b) after consultation with the Board, prepare proposed amendments to the relevant planning scheme in the form of the draft of the proposed amendments to the relevant planning scheme to which the request relates, altered by the Minister as the Minister thinks fit; or
 - (c) require the Board to amend, in accordance with the requirement, the draft of the proposed amendments to the relevant planning scheme to which the request relates and make a new request under section 39G(1) in relation to the proposed amendments as amended in accordance with the requirement; or
 - (d) refuse to prepare proposed amendments to the relevant planning scheme.
- (2) The Minister must consult with the Planning Minister in preparing under subsection (1) proposed amendments to the relevant planning scheme.
- (3) After preparing under subsection (1) proposed amendments to the relevant planning scheme and before complying with subsection (11), the Minister must provide to the relevant planning scheme planning authority a notice –
- (a) containing a copy of the proposed amendments to the relevant planning scheme; and

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- (b) requesting the authority to give to the Minister, within 14 days, a notice under subsection (4) in relation to the proposed amendments; and
 - (c) specifying that, if the authority does not give to the Minister a notice under subsection (4)(a) or (c), the authority may, within 28 days after receiving the notice from the Minister, make representations in relation to the proposed amendments.
- (4) The relevant planning scheme planning authority must, within 14 days after receiving a notice under subsection (3) in relation to the proposed amendments, give to the Minister –
 - (a) a notice specifying that the authority intends to seek representations from the public in relation to the proposed amendments; or
 - (b) a notice specifying that the authority does not intend to seek representations from the public in relation to the proposed amendments; or
 - (c) a notice specifying –
 - (i) why the authority does not support the proposed amendments; and
 - (ii) a statement of the amendments that would need to be made to the

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proposed amendments in order
for the authority to support them.

- (5) If the relevant planning scheme planning authority gives to the Minister a notice under subsection (4)(b), the authority may, within 28 days after receiving the notice from the Minister, make representations to the Minister in relation to the proposed amendments.
- (6) If the relevant planning scheme planning authority gives to the Minister a notice under subsection (4)(a), the planning authority must –
 - (a) within 14 days, cause a consultation notice in accordance with subsection (7) to be published in a newspaper published in, and circulating generally in, the State; and
 - (b) cause a copy of the proposed amendments to be made available for viewing by the public at the offices of the authority and at an electronic address of the authority.
- (7) A consultation notice in relation to proposed amendments is to –
 - (a) invite persons and bodies to make, within 28 days after a date, specified in the notice, that is after the date on which the notice is published under subsection (6), representations, to the relevant planning scheme planning authority, in relation to the proposed amendments; and

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- (b) specify the address of the offices of the authority, and the electronic address of the authority, at which the proposed amendments are available for viewing; and
 - (c) specify the address, and an electronic address, at which any representations under subsection (8) may be lodged.
- (8) A person or body (other than the relevant planning scheme planning authority) may, if a notice has been published under subsection (6)(a) in relation to the proposed amendments, make to the relevant planning scheme planning authority, within 28 days after the notice is published, representations in relation to the proposed amendments by lodging them at an address specified in the notice.
- (9) If the Minister receives a notice under subsection (4)(c) in relation to the proposed amendments –
 - (a) the Minister must provide a copy of the notice to the Board; and
 - (b) the Minister must notify the Board that, if the Board does not take action under subsection (10) in relation to the request to which the proposed amendments relate, the request will be taken to have never been made; and
 - (c) if the Board does not provide to the Minister an amended request and amended draft under subsection (10)

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- within 21 days or a longer period allowed by the Minister, the request under subsection (1) is to be taken to have never been made; and
- (d) if the Board provides to the Minister an amended request and amended draft under subsection (10) –
- (i) the request and draft of the proposed amendments are to be taken to be the first request and draft prepared under section 39G(1); and
 - (ii) the requirements of section 39G are to be taken to have been satisfied in relation to the request and the draft of the proposed amendments; and
 - (iii) subsection (1) applies in relation to the request and the draft of the proposed amendments.
- (10) If the Board receives a notice from the Minister under subsection (9)(b) in relation to a request and the draft of the proposed amendments prepared by the Board under section 39G to which the request relates, the Board may, within 21 days, or a longer period allowed by the Minister, provide to the Minister a copy of the request, and the draft, that the Board has amended in accordance with the statement set out in the notice under subsection (4)(c) in relation to the proposed amendments.

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- (11) After preparing under subsection (1) proposed amendments to the relevant planning scheme and receiving from the relevant planning scheme planning authority a notice under subsection (4) and before approving the amendments under section 39I(1), the Minister must provide a notice specifying that the amendments have been prepared, and a copy of the proposed amendments, to –
- (a) the Board; and
 - (b) each relevant statutory authority; and
 - (c) any Agency that the Minister considers has an interest in the proposed amendments to the relevant planning scheme.
- (12) A notice for the purposes of subsection (11) in relation to proposed amendments is to invite the persons or bodies to whom the notice is provided to make to the Minister, within 28 days, representations in relation to the proposed amendments.
- (13) A person or body to which a notice under subsection (11) has been provided may make to the Minister, within 28 days after the notice is provided, representations in relation to the proposed amendments.
- (14) If a notice has been published under subsection (6)(a) in relation to the proposed amendments, the relevant planning scheme planning authority must, within 21 days after the last day on which a representation may be made

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under subsection (8) in relation to the proposed amendments, provide to the Minister –

- (a) a copy of all representations received by the authority in relation to the proposed amendments; and
 - (b) a copy of the authority's opinion in relation to the representations; and
 - (c) a copy of any representations the authority wishes to make in relation to the proposed amendments.
- (15) The Minister must, within 21 days after either the last day on which a representation may be made under subsection (13) or, in a case to which subsection (14) applies, the day on which the Minister receives copies of representations under subsection (14), whichever is the later day, provide to the Commission –
- (a) a copy of the proposed amendments; and
 - (b) if the Minister is considering approving under section 39I(1) a copy of the proposed amendments in the form of the proposed amendments altered as the Minister thinks fit – a copy of the proposed amendments as so altered; and
 - (c) a copy of all the representations made in relation to the proposed amendments; and
 - (d) a notice requesting the Commission to provide to the Minister a notice under

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subsection (16) in relation to the
proposed amendments, if any, provided
to the Commission under paragraph (b).

(16) The Commission, within 21 days after receiving a notice from the Minister under subsection (15)(d), may, by notice to the Minister –

(a) advise the Minister that, in the opinion of the Commission, the requirements of section 39G(8)(b)(i), (ii) and (iii) have been –

(i) satisfied in relation to the draft of the proposed amendments to the relevant planning scheme; or

(ii) if a copy of the proposed amendments is provided to the Commission under subsection (15)(b) – satisfied in relation to those proposed amendments; or

(b) provide to the Minister the amendments that, in the opinion of the Commission, are required to be made –

(i) to the draft of the proposed amendments to the relevant planning scheme; or

(ii) if a copy of the proposed amendments is provided to the Commission under

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subsection (15)(b) – to those
proposed amendments –

in order for the requirements specified in
section 39G(8)(b)(i), (ii) and (iii) to be
satisfied in relation to the proposed
amendments, and the reasons why the
Commission is of that opinion.

**39I. Approval of proposed amendments to relevant
planning scheme**

- (1) The Minister, after considering all representations made under section 39H(5), (13) or (14)(c) and after altering the proposed amendments in accordance with the amendments, if any, of the Commission provided to the Minister under section 39H(16)(b), may –
- (a) approve proposed amendments to the relevant planning scheme that are to apply to the area of land that is within the site on the day on which section 39G commences; or
 - (b) approve proposed amendments to the relevant planning scheme that are to apply to the area of land that is within the site but was not within the site on the day on which section 39G commences; or
 - (c) refuse to approve proposed amendments to the relevant planning scheme.

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- (2) The proposed amendments to the relevant planning scheme that are approved under subsection (1) are to be –
 - (a) in the form of the proposed amendments to which the notice under section 39H(11) relates; or
 - (b) after consultation with the Board, in the form, of the proposed amendments to which the notice under section 39H(11) relates, altered as the Minister thinks fit.
- (3) As soon as practicable after approving under subsection (1) proposed amendments to the relevant planning scheme, the Minister must provide to the Commission –
 - (a) a copy of the approval; and
 - (b) a copy of the proposed amendments to the relevant planning scheme to which the approval relates; and
 - (c) a statement setting out how the proposed amendments to the relevant planning scheme –
 - (i) further the requirements of the objectives set out in Schedule 1 to the *Land Use Planning and Approvals Act 1993*; and
 - (ii) are consistent with any applicable State Policy within the meaning of the *State Policies and Projects Act 1993*; and

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- (iii) are, as far as practicable, consistent with the Southern Regional Land Use Strategy made under the *Land Use Planning and Approvals Act 1993*; and
- (d) a direction to the Commission to make the proposed amendments to the relevant planning scheme and publish, in the manner that the Commission thinks fit, the statement referred to in paragraph (c).

39J. Commission to amend relevant planning scheme

- (1) Within 14 days, or a longer period approved by the Minister, after the Commission receives under section 39I(3)(d) a direction to make proposed amendments to the relevant planning scheme, the Commission must –
 - (a) prepare amendments to the relevant planning scheme in the form of the proposed amendments to which the direction relates; and
 - (b) make the amendments to the relevant planning scheme.
- (2) If a direction is given to the Commission under section 39I(3)(d) to make proposed amendments to the relevant planning scheme, the Commission may, under subsection (1), make the proposed amendments altered so as to correct an anomaly or minor mistake that it is necessary

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to correct in order for the direction to be effectively implemented.

- (3) Without limiting the generality of subsection (2), the correction of a mistake or anomaly in accordance with that subsection includes the correction of a mistake or anomaly that has arisen by virtue of the relevant planning scheme having been amended in accordance with the direction.
- (4) Within 14 days, or a longer period approved by the Minister, after the Commission receives under section 39I(3)(d) a direction to make proposed amendments to the relevant planning scheme, the Commission must notify the Minister of the making of the amendments under subsection (1).
- (5) The Minister must, as soon as practicable after receiving a notice under subsection (4) –
 - (a) give notice in the *Gazette*, and in a newspaper circulating generally in Tasmania, of the making of the amendments to the relevant planning scheme and the day on which the amendments are to come into effect; and
 - (b) notify the relevant planning scheme planning authority of –
 - (i) the making of the amendments; and
 - (ii) the day on which the amendments come into effect.

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- (6) Amendments to the relevant planning scheme made under subsection (1) come into effect on –
- (a) a day, after the date on which the amendments were made, specified in the notice in the *Gazette* as the day on which they come into effect; or
 - (b) if no day is specified in the notice in the *Gazette* as the day on which they come into effect – 7 days after the day on which the notice appears in the *Gazette*.
- (7) Amendments to the relevant planning scheme that have come into effect under subsection (6) are, despite any provision of the *Land Use Planning and Approvals Act 1993*, to be taken to have been made, to the relevant planning scheme, under that Act.
- (8) Amendments to the relevant planning scheme made under subsection (1) are not a statutory rule for the purposes of the *Subordinate Legislation Act 1992*.

39K. Contents of amendments to relevant planning scheme

- (1) In this section –

draft LPS means a draft LPS to which the *Land Use Planning and Approvals Act 1993* applies;

LPS has the same meaning as in the *Land Use Planning and Approvals Act 1993*;

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site-specific qualification has the same meaning as in Schedule 6 to the *Land Use Planning and Approvals Act 1993*.

- (2) Proposed amendments to the relevant planning scheme, and amendments to the relevant planning scheme made under section 39J(1), may only contain –
 - (a) provisions, regulating the planning of the use or redevelopment of the site and the use or redevelopment of the site, that are to apply under the *Land Use Planning and Approvals Act 1993* and the relevant planning scheme; and
 - (b) any amendments to the relevant planning scheme required in order to give effect to the provisions referred to in paragraph (a); and
 - (c) amendments referred to in section 39J(2).
- (3) A provision that may, in accordance with subsection (2)(a), be included in proposed amendments to the relevant planning scheme, or amendments to the relevant planning scheme made under section 39J(1), may consist of a site-specific qualification.
- (4) If, in accordance with subsection (3), amendments to the relevant planning scheme made under section 39J(1) consist of a site-specific qualification –
 - (a) the site-specific qualification is –

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- (i) if it is, in accordance with this Division, part of the relevant planning scheme immediately before the day on which an LPS comes into force in relation to the site – to be taken to be a provision that, in accordance with clause 8 of Schedule 6 to the *Land Use Planning and Approvals Act 1993*, must be contained in an LPS, but may be amended or revoked in accordance with this Division; or
 - (ii) if it becomes, in accordance with this Division, part of the relevant planning scheme after the day on which an LPS comes into force in relation to the site – to be taken to be a provision in relation to which a declaration has been given under clause 8A of that Schedule, but may be amended or revoked in accordance with this Division; and
 - (b) any other provisions, in relation to the site, of the relevant planning scheme, that consist of a site-specific qualification, are not to be taken to be provisions that, in accordance with clause 8 of that Schedule, must be contained in an LPS in relation to the site.

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- (5) If the Minister has prepared proposed amendments to the relevant planning scheme under section 39H(1) –
 - (a) before a direction has been issued under section 35B(4) of the *Land Use Planning and Approvals Act 1993* in relation to a draft LPS that relates to the site – a direction may not be issued under that section of that Act in relation to a draft LPS that relates to the site; or
 - (b) after a direction has been issued under section 35B(4) of the *Land Use Planning and Approvals Act 1993* in relation to a draft LPS that relates to the site but before an LPS comes into force in relation to the site and amendments – the draft LPS is to be taken for the purposes of that Act not to relate to the site.
- (6) Amendments to the relevant planning scheme made under section 39J(1) –
 - (a) must further the requirements of the objectives set out in Schedule 1 to the *Land Use Planning and Approvals Act 1993*; and
 - (b) must be consistent with any applicable State Policy within the meaning of the *State Policies and Projects Act 1993*; and
 - (c) must be, as far as practicable, consistent with the Southern Regional Land Use Strategy made under the *Land Use Planning and Approvals Act 1993*; and

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- (d) if the relevant planning scheme is the *Sullivans Cove Planning Scheme 1997* –
- (i) must be consistent with the Sullivans Cove Strategic Framework under Part B of that planning scheme; and
 - (ii) must not amend any listings under Schedule 1 – Conservation of Cultural Heritage Values, of that planning scheme.

39L. Minor amendment of relevant planning amendments

- (1) The Minister may prepare a minor amendment to the relevant planning scheme and, by instrument in writing, approve the making of the minor amendment to the relevant planning scheme.
- (2) An amendment is only to be taken to be a minor amendment under subsection (1) if the amendment –
 - (a) is to correct –
 - (i) a clerical mistake, or an accidental omission, in amendments to the relevant planning scheme made under section 39J(1); or
 - (ii) an evident material miscalculation of figures or an evident material mistake in the

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description of any person, thing
or property referred to in
amendments to the relevant
planning scheme made under
section 39J(1); and

- (b) will not cause an increase in detriment to any person; and
 - (c) does not change the use or development that may, or may not, be carried out under the amendments to the relevant planning scheme made under section 39J(1).
- (3) The Minister may only approve under subsection (1) the making of a minor amendment –
- (a) where the approval relates to a minor amendment of amendments to the relevant planning scheme, made under section 39J(1), that apply to the area of land that is within the site on the day on which section 39G commences – if the approval is given within 12 months after those amendments came into effect; or
 - (b) where the approval relates to a minor amendment of amendments to the relevant planning scheme, made under section 39J(1), that apply to an area of land that is within the site but was not within the site on the day on which section 39G commences – if the approval

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is given within 12 months after those amendments came into effect.

- (4) A minor amendment referred to in subsection (1) may only consist of any one or more of the following:
 - (a) an amendment to the amendments to the relevant planning scheme made under section 39J(1);
 - (b) the revocation of one or more of the amendments to the relevant planning scheme made under section 39J(1);
 - (c) the amendment or revocation of the provisions of the planning scheme necessary to give effect to the amendment to, or revocation of, the amendments to the relevant planning scheme made under section 39J(1).
- (5) The Minister must consult with the Planning Minister in preparing a minor amendment under subsection (1).
- (6) Section 39I(3) and section 39J apply in relation to a minor amendment to which an approval under subsection (1) relates as if –
 - (a) a reference in either of those sections to the proposed amendments to the relevant planning scheme were a reference to the minor amendment; and
 - (b) a reference in either of those sections to amendments to the relevant planning

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scheme were a reference to the minor amendment.

- (7) An approval of a minor amendment under subsection (1), or a minor amendment made in accordance with this section, is not a statutory rule for the purposes of the *Subordinate Legislation Act 1992*.

39M. Significant amendments to relevant planning amendments

- (1) The Minister may prepare an amendment to the relevant planning scheme and, by instrument in writing, approve the making of the amendment to the relevant planning scheme.
- (2) An approval under subsection (1) of the making of an amendment may only be made –
- (a) where the approval relates to an amendment of amendments to the relevant planning scheme, made under section 39J(1), that apply to the area of land that is within the site on the day on which section 39G commences – if the approval is given within 12 months after those amendments came into effect; or
 - (b) where the approval relates to an amendment of amendments to the relevant planning scheme, made under section 39J(1), that apply to an area of land that is within the site but was not within the site on the day on which section 39G commences – if the approval

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is given within 12 months after those amendments came into effect.

- (3) An amendment referred to in subsection (1) may only consist of any one or more of the following:
 - (a) an amendment to the amendments to the relevant planning scheme made under section 39J(1);
 - (b) the revocation of one or more of the amendments to the relevant planning scheme made under section 39J(1);
 - (c) the amendment or revocation of the provisions of the relevant planning scheme necessary to give effect to the amendment to, or revocation of, the amendments.
- (4) The Minister must consult with the Planning Minister in preparing an amendment under subsection (1).
- (5) If an approval is given under subsection (1) in relation to an amendment under subsection (1) –
 - (a) a reference in section 39G to a request is to be taken to be a reference to the approval under subsection (1); and
 - (b) a reference in section 39G, section 39H, section 39I or section 39J to proposed amendments to the relevant planning scheme or a draft is to be taken to be a reference to the amendment under subsection (1); and

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(c) a reference in section 39J or section 39K(6) to amendments to the relevant planning scheme is to be taken to be a reference to the amendment under subsection (1).

(6) An approval under subsection (1) is not a statutory rule for the purposes of the *Subordinate Legislation Act 1992*.

39N. Amendment under *Land Use Planning and Approvals Act 1993* of relevant planning amendments

(1) Nothing in this Division is to be taken to permit the amendment under this Act of a provision of a planning scheme that is one of the State Planning Provisions, within the meaning of the *Land Use Planning and Approvals Act 1993*.

(2) An amendment under the *Land Use Planning and Approvals Act 1993* to provisions amended or inserted by the amendments to the relevant planning scheme made after consultation with the Planning Minister, as amended, if at all, under this Division, may only be made with the approval of the Minister.

(3) Subsection (2) ceases to apply in respect of amendments in relation to an area of land at the end of the period of 2 years after proposed amendments to the relevant planning scheme in relation to the area of land are approved under section 39I(1).

PART 6 – FINANCIAL AFFAIRS AND REPORTS

Division 1 – Financial affairs of Corporation

40. Treasurer’s Instructions

- (1) Subject to this section, Treasurer’s Instructions issued under the *Financial Management and Audit Act 1990* apply to the Corporation as if it were an Agency within the meaning of that Act.
- (2) The Treasurer, by notice in writing to the Corporation, may modify the application to the Corporation of the Treasurer’s Instructions referred to in subsection (1).
- (3) If the Treasurer issues a notice under subsection (2) to the Corporation modifying the application to the Corporation of the Treasurer’s Instructions issued under the *Financial Management and Audit Act 1990*, the Treasurer’s Instructions that apply to and in relation to the Corporation under that Act are to be taken to be, for the purposes of this Act and the *Financial Management and Audit Act 1990*, modified in accordance with the notice.

41. Authorised deposit-taking institution accounts

The Corporation may open and operate such authorised deposit-taking institution accounts as it considers necessary.

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Part 6 – Financial Affairs and Reports

42. Funds of Corporation

- (1) The funds of the Corporation consist of –
 - (a) the moneys provided by the Commonwealth to the State pursuant to the Intergovernmental Agreement; and
 - (b) any moneys –
 - (i) provided by the State; and
 - (ii) received by the Corporation in the course of performing its functions and exercising its powers; and
 - (iii) received by the Corporation from any other source.
- (2) The funds of the Corporation are to be applied –
 - (a) in payment of the remuneration of the directors, the chief executive officer and the employees; and
 - (b) in payment or discharge of the expenses, charges and obligations incurred or undertaken by the Corporation in the performance and exercise of its functions and powers.

43. Effect of *Financial Agreement Act 1994*

If the Treasurer, under section 5(1) of the *Financial Agreement Act 1994*, requires the Corporation to do or refrain from doing anything

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for the purpose of implementing the Agreement, within the meaning of that Act, the Corporation must comply with that requirement.

44. Investment

Subject to section 16 of the *Tasmanian Public Finance Corporation Act 1985*, the Corporation may invest any funds held by it and any interest accumulated in respect of those funds in any manner which is consistent with –

- (a) sound commercial practice; and
- (b) any instructions issued by the Minister.

45. Borrowing from Treasurer

- (1) The Treasurer may lend to the Corporation such money as the Treasurer considers appropriate.
- (2) Before making a loan to the Corporation, the Treasurer must consult with the Minister.
- (3) A loan is subject to the conditions determined by the Treasurer.
- (4) An amount lent under subsection (1) and any interest or other charge payable in respect of the loan is a debt repayable into the Consolidated Fund by the Corporation.

46. Capital contribution by Treasurer

- (1) The Treasurer may pay an amount to the Corporation as a contribution to its reserves.

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- (2) An amount paid under subsection (1) is not a borrowing and is not subject to repayment or the payment of interest.

47. Borrowing from person other than Treasurer

- (1) Subject to section 16 of the *Tasmanian Public Finance Corporation Act 1985*, the Corporation may borrow, or otherwise obtain financial accommodation, from a person other than the Treasurer for the purposes of performing its functions and achieving its objectives.
- (2) The Corporation must not borrow or otherwise obtain financial accommodation from another person under subsection (1) without the written approval of the Treasurer.
- (3) The Corporation may use all or part of its assets as security for a borrowing or financial accommodation obtained by it under subsection (1) and for any interest or charges payable in respect of that financial accommodation.
- (4) On the request of the Minister, the Treasurer may guarantee the payment or repayment to a person from which the Corporation borrows or obtains financial accommodation under subsection (1) of any one or more of the following:
 - (a) the amount borrowed or credit obtained;

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- (b) any interest payable in respect of the amount borrowed or financial accommodation;
 - (c) any charges relating to the borrowing or financial accommodation;
 - (d) any expenses of that person incurred in relation to the borrowing or financial accommodation and which are payable by the Corporation.
- (5) A guarantee is subject to the conditions determined by the Treasurer.
- (6) If the Treasurer makes any payment or repayment under a guarantee, an amount equal to the amount so paid or repaid, and any interest or other charge payable by the Corporation in accordance with the conditions to which the guarantee is subject, is a debt repayable by the Corporation into the Consolidated Fund on the conditions and in the manner determined by the Treasurer.
- (7) A creditor may not enforce a guarantee against the Treasurer until the creditor has exercised all his, her or its rights and remedies under all securities held in respect of the payment or repayment guaranteed.

Division 2 – Accounting records and financial statements

48. Accounting records

The Board is to –

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- (a) keep accounting records that correctly record and explain its transactions (including any transactions as trustee) and financial position; and
- (b) keep those records in a manner that –
 - (i) allows true and fair accounts of the Corporation to be prepared from time to time; and
 - (ii) allows the accounts of the Corporation to be conveniently and properly audited or reviewed; and
 - (iii) subject to any contrary direction of the Treasurer, complies with the Australian Accounting Standards; and
 - (iv) complies with any written directions of the Minister; and
- (c) retain those records for a period of not less than 7 years after the completion of the transaction to which they relate or such other period as the Treasurer determines.

49. Financial statements

- (1) The Board is to prepare and forward to the Auditor-General a copy of its financial statements for each financial year in accordance with the *Audit Act 2008*.

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- (2) Financial statements in respect of a financial year are to consist of the following:
- (a) an operating statement for that financial year;
 - (b) a statement of financial position as at the end of that financial year;
 - (c) a statement of the cash flows for that financial year;
 - (d) any other financial information required to be included by a direction given under subsection (4);
 - (e) any statements, reports and notes, other than a directors' report or an auditor's report, attached to, or intended to be read with, the operating statement and the statement of financial position.
- (3) The financial statements are to –
- (a) comply with any direction given under subsection (4); and
 - (b) subject to that direction, comply with the Australian Accounting Standards.
- (4) The Treasurer may give any written directions to the Board in respect of the form of the financial statements.

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Division 3 – Annual report and other information

50. Annual report

- (1) The Board is to prepare in respect of the Corporation an annual report for each financial year.
- (2) The annual report is to include the following:
 - (a) the financial statements of the Corporation for the financial year to which the annual report relates;
 - (b) a copy of the Auditor-General's report, in respect of the financial statements, that is provided under section 19 of the *Audit Act 2008* to the Board;
 - (c) a summary of the corporate plan of the Corporation;
 - (d) a report on the performance of the Corporation;
 - (e) a report on the operations of the Corporation;
 - (f) any information the Minister requires relating to the directors, chief executive officer and employees;
 - (g) the details of any directions given by the Minister under section 36 and any action taken by the Board in respect of those directions;

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- (h) any other information the Minister requires;
 - (i) any other information the Board considers is appropriate or necessary to properly inform the Minister and Parliament as to the performance and progress of the Corporation.
- (3) The Board is to provide the annual report to the Minister by not later than 31 October in each year.
 - (4) Section 36 of the *State Service Act 2000* does not apply in respect of the Board.

51. Tabling of annual report

- (1) The Minister is to lay a copy of the annual report of the Corporation provided under section 50 before each House of Parliament within 4 months after the end of the financial year to which the annual report relates.
- (2) If the Minister is unable to comply with subsection (1) for any reason other than that a House of Parliament is not sitting at the expiration of the period specified in that subsection, the Minister, before the expiration of that period, is to lay before each House of Parliament a statement specifying –
 - (a) the reasons for the failure to comply with that subsection; and

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- (b) an estimate of the day by which a copy of the annual report may be ready to be laid before each House of Parliament.
- (3) If the Minister is unable to lay a copy of the annual report before a House of Parliament within the period specified in subsection (1) or by the day specified in a statement referred to in subsection (2) because either House of Parliament is not sitting at the expiration of that period or on that day, the Minister is to –
 - (a) provide a copy of the annual report to the Clerk of that House of Parliament immediately after the expiration of that period or that day; and
 - (b) lay a copy of the annual report before that House within the next 7 sitting-days of that House.

PART 7 – MISCELLANEOUS

52. Minister may transfer employees to Corporation

- (1) For the purposes of this section –

transferring employee means a person who, immediately before the commencement of this Act, was a State Service officer or State Service employee.

- (2) The Minister, by notice published in the *Gazette*, may specify that, on and after the commencement of this Act or a later day specified in the notice, a particular transferring employee who is specified in the notice is to be taken to have been appointed under the *State Service Act 2000* for the purposes of the Corporation.
- (3) The Minister, by notice published in the *Gazette*, may provide for any matters that are incidental to the transfer of employment of transferring employees to the Corporation.
- (4) A person who is specified in a notice under subsection (2) to be taken to have been appointed under the *State Service Act 2000* for the purposes of the Corporation, is to be taken, on and after the commencement of this Act or the later day, as specified in the notice, to have been appointed under the *State Service Act 2000* for those purposes.
- (5) Nothing in subsection (4) is to be taken to prevent the transfer or termination of the

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appointment or employment of a person, to whom that subsection applies, under the *State Service Act 2000*.

53. Transfer of Crown land

- (1) The Minister, by notice published in the *Gazette*, may transfer Crown land, including all or any part of the Macquarie Point land, specified in the notice to the Corporation if –
 - (a) the Treasurer and the Minister administering the *Crown Lands Act 1976* approve that transfer; and
 - (b) the Corporation has agreed to the transfer.
- (2) A notice under subsection (1) –
 - (a) takes effect on the day it is published in the *Gazette* or a later day specified in the notice; and
 - (b) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.
- (3) On the day on which a notice under subsection (1) takes effect, the Crown land specified in the notice –
 - (a) ceases to be Crown land; and
 - (b) vests in the Corporation –
 - (i) subject only to those estates in the land specified in the notice; or

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- (ii) if the notice does not specify that the land vests subject to an estate, free from all encumbrances.

53A. Transfer to Crown of land or interests of Corporation

- (1) The Minister, by notice published in the *Gazette*, may, with the approval of the Treasurer and the Minister to whom the administration of the *Crown Lands Act 1976* is assigned, transfer, from the Corporation to the Crown, land of the Corporation that is specified in the notice.
- (2) The Minister, by notice published in the *Gazette*, may, with the approval of the Treasurer and the Minister to whom the administration of the *Crown Lands Act 1976* is assigned, transfer to the Crown an interest, in land of the Corporation, specified in the notice, if the interest was an interest transferred to the Corporation from the Crown.
- (3) A notice under subsection (1) or (2) –
 - (a) takes effect on the day on which it is published in the *Gazette* or a later day specified in the notice; and
 - (b) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.
- (4) On the day on which a notice under subsection (1) takes effect, the land of the Corporation specified in the notice –

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- (a) ceases to be land vested in the Corporation; and
 - (b) vests in the Crown –
 - (i) subject only to those estates in the land specified in the notice; or
 - (ii) if the notice does not specify that the land vests subject to an estate, free from all encumbrances.
- (5) On the day on which a notice under subsection (2) takes effect, the interest of the Corporation specified in the notice –
- (a) ceases to be an interest of the Corporation; and
 - (b) vests in the Crown.

54. Transfer of property and obligations

- (1) The Minister, by notice published in the *Gazette*, may transfer any property (other than Crown land), rights and obligations, whether actual, prospective or contingent, of the Crown to the Corporation as specified in that notice if the Corporation has agreed to the transfer.
- (2) On the day on which a notice under subsection (1) takes effect –
 - (a) the property and rights specified in the notice vest in the Corporation; and

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- (b) the obligations specified in the notice become obligations of the Corporation.
- (3) A notice under subsection (1) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

55. State tax not payable

- (1) In this section –

State tax means any of the following, if imposed by any Act or law of Tasmania:

- (a) a fee, including an application fee and registration fee;
 - (b) a tax, including a duty;
 - (c) a charge.
- (2) No State tax is payable in respect of –
 - (a) the transfer of Crown land under section 53; or
 - (b) the transfer of any other property, right or obligation under section 54; or
 - (c) anything the Minister certifies as having been done as a consequence of any such transfer.

56. Regulations

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

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- (2) Regulations may be made so as to apply differently according to such factors as are specified in the regulations.
- (3) The regulations may –
 - (a) provide that a contravention of any of the regulations is an offence; and
 - (b) in respect of such an offence, provide for the imposition of a fine not exceeding 50 penalty units and, in the case of a continuing offence, a further fine not exceeding 10 penalty units for each day during which the offence continues.
- (4) The regulations may authorise any matter to be from time to time determined, applied or regulated by the Board or the chief executive officer.
- (5) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.
- (6) A provision referred to in subsection (5) may take effect on and from the day on which this Act commences or a later day.

57.

58. *See Schedule 4.*

SCHEDULE 1 – DIRECTORS

Section 9(5)

1. Interpretation

In this Schedule –

director includes acting director.

2. Term of office

- (1) A director who is not also the chief executive officer holds office for such term, not exceeding 3 years, as is specified in the instrument of appointment.
- (2) A director who is, or becomes, the chief executive officer holds the office of director only while he or she is the chief executive officer.
- (3) Nothing in subclause (2) prevents a person from being reappointed as a director after his or her previous appointment is terminated by reason of that subclause.

3. Conditions of appointment

- (1) A director is entitled to be paid the remuneration and allowances determined by the Governor.
- (2) A director holds office on such conditions in relation to matters not provided for by this Act as are specified in the instrument of appointment.

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- (3) In subclause (2) –
- matters* includes superannuation.

4. Devotion of whole time to duties

- (1) Where the holder of an office under an Act is required, by or under any Act, to devote the whole of his or her time to the duties of that office, that requirement does not operate to disqualify the holder from holding that office in conjunction with the office of director.
- (2) A director may hold the office of director in conjunction with State Service employment.

5. State Service Act 2000

The *State Service Act 2000* does not apply in relation to a director in his or her capacity as a director.

6. Leave of absence

The Board may grant leave of absence to a director on such conditions as the Board considers appropriate.

7. Resignation

A director may resign by signed notice given to the Minister.

8. Removal of director

- (1) The Minister must recommend to the Governor that a director be removed from office if –
- (a) the director fails to disclose a material personal interest; or
 - (b) the director has been convicted of an offence under this Act; or
 - (c) the director has been convicted of an indictable offence or an offence which, if committed in Tasmania, would be an indictable offence; or
 - (d) the Minister considers that the director is physically or mentally incapable of continuing as a director; or
 - (e) the Minister considers that the director is unable to perform adequately or competently the functions of the director's office; or
 - (f) the director becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration or estate for their benefit; or
 - (g) the director is absent from 3 consecutive meetings of the Board without leave of absence; or

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- (h) the director fails to comply with a requirement under section 30; or
 - (i) the Minister considers it appropriate or necessary to do so for any other reason.
- (2) The Governor may remove a director from office on the recommendation of the Minister under subclause (1).
- (3) The Governor, on the recommendation of the Minister, may remove all directors from office if the Governor is satisfied that the Corporation has wilfully disregarded a direction under section 36.
- (4) If the Governor removes all the directors of the Corporation from office on a recommendation made under subclause (3), the Minister must lay a copy of the reasons for the recommendation before each House of Parliament within 21 sitting-days after the directors are removed from office.

9. Filling of vacancy

- (1) A director vacates office if he or she –
 - (a) dies; or
 - (b) resigns; or
 - (c) is removed from office under clause 8; or
 - (d) has an order made against him or her under section 31(3)(a).

- (2) The Governor, on the recommendation of the Minister, may appoint a person to a vacant office of director for the remainder of the predecessor's term of office if the Governor is satisfied that the person has the experience and skills relevant to the functions of the Corporation.

10. Validation of proceedings, &c.

- (1) An act or proceeding of the Board or of a person acting under any direction of the Board is not invalidated by reason only that at the time when the act or proceeding was done, taken or commenced there was a vacancy in the office of director.
- (2) All acts and proceedings of the Board or of a person acting under a direction of the Board are, despite the subsequent discovery of a defect in the appointment of a director or that any other person was disqualified from acting as, or incapable of being, a director, as valid as if the director had been duly appointed and was qualified to act as, or was capable of being, a director, and as if the Board had been fully constituted.

11. Presumptions

In any proceeding by or against the Corporation or the Board, unless evidence is given to the contrary, proof is not required of –

- (a) the constitution of the Board; or

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(b) the appointment of a director.

SCHEDULE 2 – MEETINGS OF BOARD

Section 9(6)

1. Convening of meetings

- (1) Subject to subclause (2), meetings of the Board are to be held at the times and places determined by the Board.
- (2) The chairperson, after giving each other director reasonable notice of a meeting –
 - (a) may convene a meeting at any time; and
 - (b) must convene a meeting when requested to do so by 2 or more other directors.
- (3) If the chairperson is absent from duty or otherwise unable to perform the duties of the office, a meeting may be convened, after reasonable notice of the meeting has been given of the meeting, by –
 - (a) 2 or more other directors; or
 - (b) a person authorised by the Board to do so.
- (4) For the purposes of subclauses (2) and (3), what constitutes reasonable notice is to be determined by the Board.

2. Presiding at meetings

- (1) The chairperson must preside at all meetings of the Board at which he or she is present.

- (2) If the chairperson is not present at a meeting of the Board, a director chosen by the directors present at the meeting must preside.

3. Quorum and voting at meetings

- (1) At a meeting of the Board, a quorum is constituted by a majority of the total number of directors appointed.
- (2) At a meeting of the Board –
 - (a) the director presiding has a deliberative vote only; and
 - (b) a question is decided –
 - (i) by a majority of votes of the directors present and voting; or
 - (ii) in the negative if there is an equality of votes of the directors present and voting.
- (3) At a meeting of the Board where a director is excluded from being present and taking part in the consideration and decision of the Board in relation to the matter, a quorum for the purposes of considering and making a decision in relation to that matter is constituted by the number of directors specified as constituting a quorum in subclause (1) less the number of directors so excluded.

4. Conduct of meetings

- (1) Subject to this Act, the Board may regulate the calling of, and the conduct of business at, its meetings as it considers appropriate.
- (2) The Board may permit directors to participate in a particular meeting or all meetings by –
 - (a) telephone; or
 - (b) video conference; or
 - (c) any other means of electronic communication approved by the Board.
- (3) A director who participates in a meeting under a permission granted under subclause (2) is taken to be present at the meeting.
- (4) Without limiting subclause (1), the Board may allow a person to attend a meeting for the purpose of advising or informing it on any matter.

5. Resolutions without meetings

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

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- (2) If a resolution is taken to have been passed under subclause (1), each director is to be –
 - (a) advised immediately of the matter; and
 - (b) given a copy of the terms of the resolution.
- (3) For the purposes of subclause (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by one or more directors, is taken to constitute one document.

6. Minutes

The Board must keep minutes of its proceedings.

SCHEDULE 3 – COMMITTEES

Section 12(4)

1. Membership of committees

- (1) A committee consists of such number of persons as the Board determines.
- (2) The chief executive officer of the Corporation may not be a member of its audit committee.
- (3) The chairperson of an audit committee must be a director.

2. Conditions of appointment

- (1) A member of a committee is entitled to be paid such remuneration and allowances as are determined by the Minister.
- (2) A member of a committee holds that office for the term, and on the conditions, determined by the Board.

3. Meetings

- (1) Meetings of a committee are to be held in accordance with any directions given by the Board.
- (2) A committee may obtain assistance, information and advice from any person.
- (3) Except as provided by this Schedule, a committee may regulate the calling of, and the conduct of business at, its meetings.

4. Disclosure of interests

(1) If –

- (a) a member of a committee or the relative of a member of a committee has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the committee; and
- (b) the interest could conflict with the proper performance of the member's duties in relation to consideration of the matter –

the member, as soon as practicable after the relevant facts come to the member's knowledge, must disclose the nature of the interest to a meeting of the committee.

Penalty: Fine not exceeding 10 penalty units or a term of imprisonment not exceeding 3 months, or both.

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

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

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

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- (a) be present during any deliberation of the committee for the purpose of making the determination; or
 - (b) take part in making the determination.
- (4) Subclause (1) does not apply in respect of an interest that arises only because the member of a committee is also a State Service officer or State Service employee.

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SCHEDULE 4

The amendments effected by Section 58 and this Schedule have been incorporated into the authorised version of the State Service Act 2000.

NOTES

The foregoing text of the *Macquarie Point Development Corporation Act 2012* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 17 December 2018 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
<i>Macquarie Point Development Corporation Act 2012</i>	No. 50 of 2012	11.12.2012
<i>Macquarie Point Development Corporation Amendment Act 2015</i>	No. 45 of 2015	27.11.2015
<i>Macquarie Point Development Corporation Amendment Act 2018</i>	No. 35 of 2018	17.12.2018

TABLE OF AMENDMENTS

Provision affected	How affected
Section 3	Amended by No. 45 of 2015, s. 4 and No. 35 of 2018, s. 4
Section 6	Amended by No. 35 of 2018, s. 5
Section 7	Amended by No. 35 of 2018, s. 6
Section 8	Amended by No. 35 of 2018, s. 7
Section 10	Amended by No. 35 of 2018, s. 8
Section 15	Amended by No. 35 of 2018, s. 9
Division 1 of Part 5	Heading inserted by No. 45 of 2015, s. 6
Section 35A	Inserted by No. 35 of 2018, s. 10
Section 36	Amended by No. 35 of 2018, s. 11

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Provision affected	How affected
Section 37	Amended by No. 35 of 2018, s. 12
Section 38	Amended by No. 35 of 2018, s. 13
Section 39	Amended by No. 35 of 2018, s. 14
Section 39A of Part 5	Inserted by No. 45 of 2015, s. 7
Section 39B of Part 5	Inserted by No. 45 of 2015, s. 7
Section 39B	Amended by No. 35 of 2018, s. 15
Section 39C of Part 5	Inserted by No. 45 of 2015, s. 7
Section 39D of Part 5	Inserted by No. 45 of 2015, s. 7
Section 39E of Part 5	Inserted by No. 45 of 2015, s. 7
Section 39F of Part 5	Inserted by No. 45 of 2015, s. 7
Section 39G of Part 5	Inserted by No. 35 of 2018, s. 16
Section 39H of Part 5	Inserted by No. 35 of 2018, s. 16
Section 39I of Part 5	Inserted by No. 35 of 2018, s. 16
Section 39J of Part 5	Inserted by No. 35 of 2018, s. 16
Section 39K of Part 5	Inserted by No. 35 of 2018, s. 16
Section 39L of Part 5	Inserted by No. 35 of 2018, s. 16
Section 39M of Part 5	Inserted by No. 35 of 2018, s. 16
Section 39N of Part 5	Inserted by No. 35 of 2018, s. 16
Section 53	Amended by No. 35 of 2018, s. 17
Section 53A	Inserted by No. 35 of 2018, s. 18
Section 57	Repealed by No. 35 of 2018, s. 19
