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K Woodward
Deputy Chief Parliamentary Counsel
Dated 13 December 2022



TASMANIA

**LOCAL GOVERNMENT (BUILDING AND
MISCELLANEOUS PROVISIONS) ACT 1993**

No. 96 of 1993

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SCHEDULE 1 –



LOCAL GOVERNMENT (BUILDING AND MISCELLANEOUS PROVISIONS) ACT 1993

No. 96 of 1993

**An Act to provide for matters relating to building and for
miscellaneous matters relating to local government**

[Royal Assent 23 December 1993]

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

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Local Government
(Building and Miscellaneous Provisions) Act
1993*.

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2. Commencement

This Act commences on a day or days to be proclaimed.

3. Interpretation generally

(1) In this Act –

building area means an area of land that, immediately before the commencement of section 5 of and Schedule 1 to the *Building (Consequential Amendments) Act 2003*, was –

- (a) an urban building area; or
- (b) a changing building area; or
- (c) a country building area –

within the meaning of section 43 of this Act as in force immediately before that commencement;

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

council means a council within the meaning of the *Local Government Act 1993*;

councillor means a councillor within the meaning of the *Local Government Act 1993*;

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Director means the Director of Local Government appointed under the *Local Government Act 1993*;

elector means a person entitled to vote under the *Local Government Act 1993*;

erect includes construct and commence, carry on or complete;

expenses in relation to a council includes –

- (a) the salaries and wages of its employees; and
- (b) the compensation, purchase money or rent payable for land; and
- (c) the cost of materials used, and the consideration payable under any contract, in connection with any work, undertaking or duty which the council is empowered or required to undertake under this Act; and
- (d) the reasonable costs and outgoings incurred by the council in enforcing this Act or in suing for, or recovering, any charges or expenses;

general manager means a person appointed as such under the *Local Government Act 1993*;

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highway does not include a highway over water other than bridges and fords;

inhabit in relation to a building means to live, work, sleep, eat or cook in the building;

legal practitioner means an Australian legal practitioner;

municipal area means a municipal area within the meaning of the *Local Government Act 1993*;

private in relation to a way, means not subject to use by the public as of right;

public in relation to a way, means subject to use by the public as of right;

public stormwater system has the same meaning as in the *Urban Drainage Act 2013*;

Recorder of Titles means the person appointed as such under the *Land Titles Act 1980*;

Register has the same meaning as it has in the *Land Titles Act 1980*;

road means –

- (a) any land subject to a right of way for wheeled vehicles; and

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- (b) any land which obviously appears to be regularly used for the passage of wheeled vehicles; and
- (c) any land made ready to be regularly so used, together with any adjoining path;

State highway means a State highway or subsidiary road within the meaning of the *Roads and Jetties Act 1935*;

street means –

- (a) a road with building continuous or nearly continuous on both sides or with the adjoining lands laid out for that purpose; and
- (b) a terrace being a road with such building or land so laid out on only one side; and
- (c) a cul-de-sac being a rectangular, polygonal or rounded space containing a road and with the perimeter so built on or so laid out;

way means –

- (a) any land over which anyone other than the person in possession, his or her family, servants, customers or callers, may of right pass and

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repass with or without animals
and vehicles; and

(b) any land which obviously appears
to be regularly used for the
passage of persons with or
without animals or vehicles; and

(c) any land made ready to be so
regularly used.

(2) If a path would be adjoining but for a nature strip, the path is taken to be adjoining and the nature strip is taken to be part of the road.

(3) A railway or tramway, other than a street tramway, is not a road except where it crosses a road on the same level or, in running along a road, it is not separated from the road by any fence, cattle-guard, hedge, ditch or wall.

4. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

(a) the administration of this Act is assigned
to the Minister for Local Government;
and

(b) the Department responsible to the
Minister for Local Government in
relation to the administration of this Act

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is the Department of Environment and
Land Management.

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Part 2 –

PART 2 –

5 - 79.

PART 3 – SUBDIVISIONS

Division 1 – Interpretation

80. Interpretation of Part 3

(1) In this Part –

acceptable solution means a matter specified in a planning scheme to be an acceptable solution;

alley means a road or path less than 10 metres wide and bounded on one or both sides by land –

(a) on which the buildings are contiguous or continuous; or

(b) which is laid out to be built upon;

block means a piece of land all in one piece of the same owner;

discretionary permit has the same meaning as it has in the *Land Use Planning and Approvals Act 1993*;

final plan means a final plan referred to in section 87;

highway authority means a council or authority responsible for the management of a highway or part of a highway;

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improvement includes landscaping, fencing and the provision of playground equipment, walking paths, car parking areas and toilet facilities;

lot means a block of land created by subdivision of a larger block of which it was part;

minimum lot means the minimum lot for an area as provided by section 109;

movable dwelling unit means movable residential premises to which the *Homes Tasmania Act 2022* applies;

performance criteria means matters specified in a planning scheme to be performance criteria;

permitted development permit means a permit, within the meaning of the *Land Use Planning and Approvals Act 1993*, that is not a discretionary permit;

plan of subdivision means a plan submitted to a council for the purpose of a permit under the *Land Use Planning and Approvals Act 1993* in relation to subdivision of land;

planning scheme has the same meaning as it has in the *Land Use Planning and Approvals Act 1993* and includes a *special planning order* within the meaning of that Act;

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previously approved plan means a plan of subdivision sealed by the relevant council under the *Local Government Act 1962*;

public open space means space for public recreation or public gardens or for similar purposes;

sealed plan means a plan which –

- (a) has been approved and sealed under this Part; and
- (b) has taken effect as provided in section 94;

subdivide means to divide the surface of a block of land by creating estates or interests giving separate rights of occupation otherwise than by –

- (a) a lease of a building or of the land belonging to and contiguous to a building between the occupiers of that building; or
- (b) a lease of air space around or above a building; or
- (c) a lease of a term not exceeding 10 years or for a term not capable of exceeding 10 years; or
- (d) the creation of a lot on a strata scheme or a staged development

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scheme under the *Strata Titles Act 1998*; or

- (e) an order adhering existing parcels of land;

subdivision means –

- (a) the act of subdividing; or
- (b) the block of land subject to an act of subdividing;

sub-minimum lot means a parcel of land that has not the qualities of a minimum lot.

- (2) For the purposes of this Part, land constitutes a block if it is –
 - (a) likely to be used to build on; and
 - (b) unlikely to be used by a farmer, grazier, fruit grower or similar person as the sole source of income.
- (3) For the purpose of determining whether any land constitutes a block for subdivision purposes, a block is –
 - (a) the whole of an existing lot on a plan lodged with the Recorder of Titles or the Registrar of Deeds not later than 12 months after the date of commencement of the *Land Use Planning and Approvals Act 1993*; or
 - (b) the whole of an original Crown grant; or

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- (c) the whole of the land that is identified by description in a folio of the Register kept under the *Land Titles Act 1980*; or
 - (d) the whole of the land that is identified by description in a deed; or
 - (e) a fragmented or subdivided portion of land referred to in this subsection that can be verbally identified for transfer, or retention in the folio of that Register, by description of any other blocks in that folio.
- (4) Land constitutes a block for subdivision purposes even if it is intersected by –
- (a) a highway, railway, tramway or any other way; or
 - (b) any land of the Crown, the Commonwealth or another person.
- (4A) Land does not constitute a block for subdivision purposes if it is a fragmented or subdivided portion of land referred to in subsection (3)(a), (b), (c) or (d) that requires mathematical closure for description in being transferred or retained in the folio of the Register kept under the *Land Titles Act 1980*.
- (5) The erection, use or occupation on a block of a movable dwelling unit does not of itself amount to a subdivision of the block so long as no separate rights of occupation are given to the unit or the part of the block on which it is

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situated other than those arising from an estate at will or a licence revocable at will.

- (6) Subsections (3) and (4) commence 12 months after the commencement of the *Land Use Planning and Approvals Act 1993*.

Division 2 – Plans of subdivision

81. Subdivision

- (1) An owner of land must not subdivide the land except in accordance with –
- (a) a previously approved plan; or
 - (b) a plan of subdivision which has been approved by the granting of a permit under the *Land Use Planning and Approvals Act 1993*.

Penalty: Fine not exceeding 50 penalty units.

- (2) A planning scheme may provide that an application for approval of a subdivision plan is to be made as if it were an application for a discretionary permit or a permitted development permit.
- (3) In proceedings for an offence against this section, instead of imposing a fine, a court may order –
- (a) the forfeiture of the value of the estate disposed of, in the case of giving, selling or letting the estate; or

- (b) the forfeiture of the cost of building done up to the date of the trial, in the case of building.

82. Voluntary submissions of plans

Any owner of land who may subdivide the land otherwise than in accordance with a previously approved plan or an approved plan of subdivision may proceed in accordance with the relevant sections to obtain the benefits of this Part.

83. Approval of plan of subdivision

- (1) Subject to section 116, the council, before it approves a plan of subdivision, may–
 - (a) require the owner to sell to it for a nominal consideration any land shown on the plan as set apart for a public open space or for drainage purposes; or
 - (b) require the owner to mark on the plan in respect of any proposed way, the words “to be acquired by the highway authority”.
- (1A) A planning scheme –
 - (a) may specify that compliance with a requirement specified in this section is an acceptable solution in relation to subdivisions; and

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- (b) may enable a permitted development permit to be issued if such an acceptable solution is complied with in relation to a plan of subdivision.
- (2) If the owner claims a valuable interest in the land over or under the proposed way, the owner is entitled to a fair price as agreed with the council in the conveyance or transfer of the way.
- (3) If there is no agreement as to a fair price, the compensation payable to the owner is to be determined as a disputed claim for compensation under the *Land Acquisition Act 1993*.
- (4) The use of the words “to be acquired by a highway authority” does not prevent a disposition of the land affected but the obligation to convey or transfer the way runs with the land.
- (5) The council may require a final plan of subdivision to note, in respect of a block –
 - (a) that the council cannot or will not –
 - (i)
 - (ii) provide means of drainage for all or some specified kind of effluent from the block; or
 - (iii) permit a septic tank; or
 - (b) that the council may permit –
 - (i) a septic tank; or

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- (ii) a specific form of on site sewerage treatment.
- (6) A notification under subsection (5) is to be treated as if it created an easement for the benefit of the council and may be destroyed wholly or in part by an instrument in the nature of a release of the block by the council.
- (7) The council may require a final plan of subdivision to note, in respect of a block, that the council has been advised by a regulated entity, within the meaning of the *Water and Sewerage Industry Act 2008*, that the entity cannot or will not –
- (a) provide a supply of water to the block; or
 - (b) provide means of sewerage for all or some specified kind of effluent from the block.
- (8) A notification under subsection (7) is to be treated as if it created an easement for the benefit of the regulated entity and may be destroyed wholly or in part by an instrument in the nature of a release of the block by the regulated entity.

84. Council not to approve subdivision

- (1) The council is not to approve a plan of subdivision if –
- (a) any proposed lot has not the qualities of a minimum lot; or

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- (b) it includes any lot or other block of land smaller than is required or permitted by a finally approved planning scheme; or
 - (c) the subdivision includes any road or other works whereby drainage will be concentrated and discharged into any drain or culvert on or under any State highway, unless the Minister administering the *Roads and Jetties Act 1935* has first approved so much of the application as affects the drainage.
- (1A) A planning scheme –
- (a) may specify –
 - (i) an acceptable solution, in relation to subdivisions, that relates to a matter referred to in subsection (1)(a), (b) or (c); and
 - (ii) performance criteria, in relation to subdivisions, that relate to a matter referred to in subsection (1)(a) or (b); and
 - (b) may enable a permitted development permit or a discretionary permit to be issued if such an acceptable solution or performance criteria are complied with in relation to a plan of subdivision.
- (1B) If a planning scheme specifies an acceptable solution, or performance criteria, in relation to subdivisions, that relate to a matter referred to in

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subsection (1), that subsection does not apply in relation to the matter in respect of a development that complies with the acceptable solution.

- (2) For the purposes of subsection (1) or an acceptable solution, the Minister administering the *Roads and Jetties Act 1935*–
- (a) is only bound to approve an application which does not materially increase the total amount of water coming into or under a State highway in any period of time and which provide for its discharge at a point or points accepted or reasonably required by the Minister; and
 - (b) may require as a condition of approval a covenant by the owner–
 - (i) to indemnify the Crown against any claim which may arise from an increase in the water flowing away from or under the State highway, or its rate of flow, by reason of the works approved; or
 - (ii) to pay for any specified works considered by that Minister necessary by reason of the works approved for clearing water from or under the State highway; or
 - (iii) to do both matters specified in subparagraphs (i) and (ii).

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- (3) If the council approves an application contrary to this section, its approval is effective in law and the council –
- (a) is liable to the Crown to do anything which, if this section had been complied with, the owner could have been required to covenant to do; and
 - (b) is not punishable except upon indictment with the consent in writing of the Attorney-General.

85. Refusal of application for subdivision

The council may refuse to approve a plan of subdivision if it is of the opinion –

- (a) that the roads will not suit the public convenience, or will not give satisfactory inter-communication to the inhabitants both of the subdivision and the municipal area in which it is; or
- (b) that the drainage both of roads and of other land will not be satisfactorily carried off and disposed of; or
- (ba) that the land is not suitable for an on-site effluent disposal system for all or specified kinds of effluent from each block; or
- (c) that the site or layout will make unduly expensive the arrangements for supply of

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water and electricity, connection to drains and sewers and the construction or maintenance of streets; or

- (d) that the layout should be altered to include or omit –
- (i) blind roads; or
 - (ii) alleys or rights of way to give access to the rear of lots; or
 - (iii) public open space; or
 - (iv) littoral or riparian reserves of up to 30 metres in from the shore of the sea or the bank of a river, rivulet or lake; or
 - (v) private roads, ways or open spaces; or
 - (vi) where the ground on one side is higher than on the other, wider roads in order to give reasonable access to both sides; or
 - (vii) licences to embank highways under the *Highways Act 1951*; or
 - (viii) provision for widening or deviating ways on or adjoining land comprised in the subdivision; or
 - (ix) provision for the preservation of trees and shrubs; or

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- (e) that adjacent land of the owner, including land in which the owner has any estate or interest, ought to be included in the subdivision; or
- (f) that one or more of the lots is by reason of its shape in relation to its size or its contours unsuitable for building on; or
- (g) that one or more of the lots ought not to be sold because of –
 - (i) easements to which it is subject; or
 - (ii) party-wall easements; or
 - (iii) the state of a party-wall on its boundary.

85A. Acceptable solutions, or performance criteria, for subdivisions

- (1) A planning scheme –
 - (a) may specify an acceptable solution, or performance criteria, in relation to subdivisions, that relate to a matter referred to in section 85; and
 - (b) may enable a permitted development permit or a discretionary permit to be issued in relation to a plan of subdivision if such an acceptable solution, or performance criteria, are complied with in relation to the plan of subdivision.

- (2) If a planning scheme specifies an acceptable solution, or performance criteria, in relation to subdivisions, that relate to a matter referred to in section 85, that section does not apply in relation to the matter in respect of a development that complies with the acceptable solution.

86. Security for payment

- (1) Before approving a plan of subdivision, the council may –
 - (a) require security for payments and the execution of works; and
 - (b) refuse to approve the application until such security is given.

(1A) A planning scheme –

- (a) may specify that compliance with a requirement specified in subsection (1) is an acceptable solution in relation to subdivisions; and
- (b) may enable a permitted development permit to be issued if such an acceptable solution is complied with in relation to a plan of subdivision.

- (2) The payments for which, and the works for the execution of which, security may be required are –

(a - b)

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- (c) if the land is not located within 30 metres of the existing public stormwater system as shown on the map made available under section 12 of the *Urban Drainage Act 2013*, payment for a public stormwater system by, from, or from within, the land as determined by the council so that all lots may have connecting drains and the concentrated natural water may be lawfully disposed of and for the laying of stormwater connections from a place on the boundary of each lot to the public stormwater system in accordance with the by-laws of the council and to the satisfaction of its engineer; and
 - (d) the works required for the discharge of the owner's obligations under section 10 of the *Local Government (Highways) Act 1982* in respect of the highways opened or to be opened on the subdivision; and
 - (e) the making and draining of footways that are not part of a road and of private roads and similar footways serving 3 lots or more; and
 - (f) the filling in of ponds and gullies; and
 - (g) the piping of watercourses.
- (3) The security which may be required is –

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- (a) a bond by the owner of an amount in excess of any possible demand to secure –
- (i) the required payments to be made within 30 days of demand; and
 - (ii) the required works to be executed within the periods referred to in subsection (4); and
- (b) a guarantee guaranteeing all money payable on the bond, including any amount the council’s engineer certifies to have been expended by the council under subsection (6) by –
- (i) an authorised deposit-taking institution; or
 - (ii) a guarantee, money-lending, insurance or trading corporation approved by the council.
- (4) The required works are to be executed –
- (a) within 6 months of the completion of the public stormwater system, in the case of subsection (2)(c); or
 - (b) within the time prescribed under section 11 (2) of the *Local Government (Highways) Act 1982* in the case of subsection (2)(d) or (e); or

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- (c) within 6 months of the sealed plan taking effect, in the case of subsection (2)(f) or (g); or
 - (d) within such further period as the council may allow, in any other case.
- (5) The council and the owner, with the consent of any guarantor, may agree to modify their respective rights so that –
- (a) the owner is to do works that the owner would otherwise have paid for; or
 - (b) the council is to do, and the owner is to pay for, works that the owner would otherwise have done.
- (6) If the owner fails to do works in accordance with a bond, the council may do them and recover its expenses, as certified by its engineer, as if the amount were payable under the bond.

Division 3 – Final plans

87. Final plans and schedule of easements

- (1) On receipt of the council's approval of a plan of subdivision, the owner is to arrange for the preparation of a final plan by a registered surveyor in accordance with –
- (a) the requirements approved by the Recorder of Titles; and

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- (b) any other requirement of a permit issued under the *Land Use Planning and Approvals Act 1993*.
- (2) The owner is to attach a schedule of easements to the final plan which is to be signed –
 - (a) if there are any easements, *profits a prendre* or covenants set out, by any person who is, or persons who between them are, able to create the estates and interests that the purchasers of land comprised in the plan are to acquire; or
 - (b) if there are no easements, *profits a prendre* or covenants set out, by all persons having any registered estate or interest in the land comprised in the plan, or by the legal practitioner acting for those persons.
 - (3) If a schedule of easements is signed by a person as mortgagee, it is taken to include the person's consent to the creation of those estates or interests.
 - (4) The easements, *profits a prendre* and covenants set out in the schedule of easements are taken to be shown on the final plan.

88. Lodgment of final plans

- (1) The owner is to lodge with the council –

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- (a) the final plan, together with the schedule of easements; and
- (b) if the schedule of easements sets out any easements, *profits a prendre* or covenants, a nomination of a legal practitioner to act on behalf of the owner in carrying the final plan through to its taking effect; and
- (c) if any lots on the plan are the result of survey work carried out under the *Land Surveyors Act 1909*, a nomination of a registered surveyor to do what is required to have the plan take effect; and
- (ca) evidence, satisfactory to the council, of the completion of each of the relevant works that are required to be carried out in relation to the proposed subdivision; and
- (cb) evidence, satisfactory to the council, that each of the conditions of a permit, within the meaning of the *Land Use Planning and Approvals Act 1993*, that must be complied with before the final plan in relation to the proposed subdivision may be sealed, have been complied with; and
- (d) the amount of the fees payable to the council and, unless the plan is marked “Priority Final Plan”, the prescribed fees payable to the Recorder of Titles under the *Land Titles Act 1980*.

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- (1A) For the purposes of subsection (1)(ca), each of the following constitutes relevant works:
- (a) works consisting of the provision of a road or footpath in accordance with the *Local Government (Highways) Act 1982*;
 - (b) works consisting of the provision of a connection to water infrastructure in accordance with the *Water and Sewerage Industry Act 2008*;
 - (c) works consisting of the provision of a connection to sewerage infrastructure in accordance with the *Water and Sewerage Industry Act 2008*;
 - (d) works consisting of the provision of a connection to a public stormwater system in accordance with the *Urban Drainage Act 2013*;
 - (e) works consisting of the provision of a connection to an electricity supply in accordance with the *Electricity Supply Industry Act 1995*;
 - (f) works consisting of arrangements for drainage of stormwater under a State road in accordance with the *Roads and Jetties Act 1935*.
- (2) If an owner has lodged a final plan under subsection (1) and the plan has been marked “Priority Final Plan”, that owner, within 5 business days after lodging that plan or within an

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extension of that period allowed by the Recorder of Titles, may lodge with the Recorder of Titles –

- (a) a copy of the final plan, marked “Priority Final Plan”, that has been lodged with the council under subsection (1)(a); and
- (b) a certification, or endorsement, by the owner, an agent of the owner or a legal practitioner acting on behalf of the owner, to the effect that all the copies of documents lodged under this subsection are identical to the original documents lodged with the council under subsection (1) and that the documents lodged with the council under subsection (1) were lodged not more than 5 business days before the documents are lodged under this subsection; and
- (c) a copy of the schedule of easements that has been lodged with the council under subsection (1); and
- (d) the original, or a copy, of the balance plan; and
- (e) the original, or a copy, of the survey notes; and
- (f) the prescribed fee payable under the *Land Titles Act 1980*; and

- (g) any other documents that the Recorder of Titles may require for the purposes of the *Land Titles Act 1980*.
- (3) An owner may change the nomination of a legal practitioner or surveyor by notice in writing to the Recorder of Titles and the council.

89. Approval of final plans by council

- (1AA) The council, within 20 business days after a final plan is lodged with the council under section 88(1) –
 - (a) is to determine whether the final plan complies with this Part; and
 - (b) is to comply with subsection (1), if the council determines that the final plan complies with this Part; and
 - (c) is to comply with subsection (2), if the council determines that the final plan does not comply with this Part; and
 - (d) is to notify in writing the person who lodged the final plan with the council that the final plan does not comply with this Part, if the council determines that the final plan does not comply with this Part.
- (1AB) The council, within 10 business days after a final plan is lodged with the council under section 88(1), may, if it requires further

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information or documents in relation to the final plan, by notice in writing to the person who lodged the plan –

- (a) advise the person that the council requires further information or documents; and
- (b) request the person to provide to the council the further information or documents.

(1AC) If the council gives to a person a notice under subsection (1AB) or this subsection, the council, if it is not satisfied with the information or documents provided by the person pursuant to the notice, is to, within 8 business days, give to the person notice in writing specifying –

- (a) that the council is not satisfied with the information or documents provided; and
- (b) that the person is requested to provide to the council further information or documents.

(1AD) If the council gives to a person a notice under subsection (1AB) or subsection (1AC), the 20-day period referred to in subsection (1AA) does not continue to run, in relation to the final plan lodged with the council, during the period –

- (a) beginning on the day on which the first such notice is given to the person; and

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- (b) ending on the day on which the person provides to the council information or documents, referred to in the notice under subsection (1AB) or subsection (1AC), respectively, that, is, in the opinion of the council, satisfactory.
- (1) If satisfied that a final plan complies with this Part, the council is to –
 - (a) cause its seal to be affixed to the plan; and
 - (b) cause the sealed plan to be lodged in the office of the Recorder of Titles.
- (2) Where the council is not satisfied that a final plan marked “Priority Final Plan” complies with this Part and accordingly declines to fix its seal to the plan, the council, within 5 business days after declining, is to inform the Recorder of Titles accordingly.
- (2A) If –
 - (a) a sealed plan, marked “Priority Final Plan”, that is duly executed and that is identical to the unsealed final plan that was lodged with the Recorder of Titles under section 88(2)(a), is lodged with the Recorder of Titles under subsection (1)(b); and
 - (b) all the other documents that relate to that plan have been lodged with the Recorder

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of Titles as required under section 88(2);
and

- (c) all the relevant documents in relation to the sealed plan have been lodged with the Recorder of Titles; and
- (d) the Recorder of Titles is satisfied that the sealed plan is not required to be amended and that all other information or documents necessary to make a determination under this subsection have been received by the Recorder of Titles and are satisfactory –

the Recorder of Titles, within 15 business days after the requirements of paragraphs (a), (b), (c) and (d) have been satisfied, is to –

- (e) accept the sealed plan; or
 - (f) reject the sealed plan under this paragraph or under subsection (3).
- (2B) For the purposes of subsection (2A), the relevant documents in relation to the sealed plan are the following:
- (a) the original, final, duly executed schedule of easements in relation to the sealed plan, that is identical to the copy of the schedule of easements that was lodged with the Recorder of Titles under section 88(2);

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- (b) the original title documents, satisfactory to the Recorder of Titles, evidencing ownership of the land to which the sealed plan relates;
 - (c) if the original of the balance plan has not already been lodged with the Recorder of Titles – the original, duly executed copy of the balance plan that is identical to the copy of the original of the balance plan lodged with the Recorder of Titles under section 88(2);
 - (d) if the original of the survey notes has not already been lodged with the Recorder of Titles – the original, duly executed copy of the survey notes that is identical to the copy of the original of the survey notes lodged with the Recorder of Titles under section 88(2);
 - (e) all other original, duly executed associated documents or dealings that the Recorder of Titles requires to be provided.
- (2C) If –
- (a) a sealed plan, marked “Priority Final Plan”, that is duly executed and that is identical to the unsealed final plan that was lodged with the Recorder of Titles under section 88(2)(a), is lodged with the Recorder of Titles under subsection (1)(b); and

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- (b) all the other documents that relate to that plan have been lodged with the Recorder of Titles as required under subsections (2A) and (2B); and
- (c) all of the relevant documents in relation to the sealed plan have been lodged with the Recorder of Titles –

the Recorder of Titles, within 13 business days, may –

- (d) under subsection (5), give to the council and the owner notice in writing that the sealed plan is required to be amended; or
 - (e) give to the owner notice in writing specifying that –
 - (i) further information or documents, specified in the notice, are required to be provided to the Recorder of Titles; or
 - (ii) information, or documents (other than the sealed plan), already provided to the Recorder of Titles, is or are to be amended as specified in the notice and, as so amended, provided to the Recorder of Titles.
- (2D) If the Recorder of Titles gives to an owner or a council a notice, under subsection (2C), this subsection or subsection (5), the Recorder of

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Titles, within 8 business days from the day on which he or she receives –

- (a) the sealed plan, as amended in accordance with the notice under subsection (5); or
- (b) further information or documents, or amendments of information or documents, already provided to the Recorder of Titles, in accordance with the notice under subsection (2C) or this subsection –

is to –

- (c) notify under subsection (5) the council and the owner that the plan is required to be amended; or
- (d) give to the owner notice in writing specifying –
 - (i) that further information or documents are required to be provided; or
 - (ii) that the information or documents already provided to the Recorder of Titles are required to be amended as specified in the notice under this subsection and, as so amended, provided to the Recorder of Titles; or

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- (e) notify the owner, or the council, to whom or which notice was given under subsection (2C), this subsection or subsection (5), that the Recorder of Titles is satisfied that the requirements of the notice have been satisfied.
- (2E) The period of 13 business days referred to in subsection (2C) does not continue to run in relation to a sealed plan, and other information or documents relating to a sealed plan, during each period –
- (a) beginning on the day on which a notice under subsection (2C), subsection (2D)(d) or subsection (5) is given to the owner or council in relation to the sealed plan or in relation to documents or information required to accompany the sealed plan; and
 - (b) ending on the day by which, in relation to each amended sealed plan, or information or documents, provided to the Recorder of Titles pursuant to the notice given under subsection (2C), subsection (2D)(d) or subsection (5), one of the following has occurred:
 - (i) the Recorder of Titles has given a notice under subsection (2D) or subsection (5); or
 - (ii) the Recorder of Titles has failed to comply with subsection (2D).

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- (3) The Recorder of Titles is to reject a final plan, marked “Priority Final Plan”, lodged under section 88 if–
- (a) the Recorder of Titles has been informed under subsection (2) that the council has declined to seal the plan; or
 - (b) a year or such extension of that period as the Recorder may allow has expired since the plan marked “Priority Final Plan” was lodged with the Recorder of Titles.
- (4) The Recorder of Titles is to return to the person who lodged a plan rejected under subsection (3) one half of the prescribed fee paid under section 88(2)(f).
- (5) On lodgment of a plan, the Recorder of Titles must notify the council and the owner that the plan requires to be amended as shown on a copy of the plan if satisfied that –
- (a) the owner has not a sufficient title to dispose of all the land comprised in the plan; or
 - (b) the land comprised in the plan omits land of the owner which, as a separate parcel –
 - (i) has not the qualities of a minimum lot; or

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- (ii) if it has those qualities, is in part subject to a mortgage or encumbrance and that either the part so subject or the part not so subject has not the qualities of a minimum lot; or
 - (iii) that the land omitted comprises 2 parcels or more that may, without the approval of any plan by the council, lawfully be sold separately so as to create a block which would not have the qualities of a minimum lot; or
 - (c) the execution of the plan is inconsistent with the proper administration of the *Land Titles Act 1980* or this Part; or
 - (d) the plan fails to assure to purchasers what the council intended them to have.
- (6) If a plan lodged with the Recorder of Titles comprises any land that is not under the *Land Titles Act 1980* the Recorder of Titles is to –
- (a) bring it under that Act; and
 - (b) for that purpose, is to as far as possible proceed as if an application to bring that land under the provisions of the *Land Titles Act 1980* had been made under section 11 of that Act with all necessary consents by a person competent to make an application for that purpose.

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- (7) If a parcel that is comprised in a plan is in one part subject to one encumbrance and in another part subject to another encumbrance, the Recorder of Titles must not accept the plan until one part has been freed from encumbrances and when the plan takes effect any encumbrance on the other part extends to the whole parcel.

90. Determination of applicability of provisions

If an instrument is lodged for registration under the *Land Titles Act 1980* and the Recorder of Titles is not sure whether a final plan should first have been lodged to authorize the dealing to be effected by the instrument, the Recorder may require the person lodging the instrument to produce a certificate of the council that the dealing is not in contravention of this Division.

91. Corrections to final plans

- (1) The Recorder of Titles may correct any clerical, unimportant or unsubstantial error or supply any omission in a final plan unless the council or the owner objects.
- (2) Before making a correction, the Recorder of Titles is to give notice in writing to the council and the owner.
- (3) The council or owner may object to the making of any correction within 7 days of receiving a notice under subsection (2).

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92. Amendments to final plans

- (1) If the Recorder of Titles under section 89(5) requires an amendment to a final plan, the council –
 - (a) if it considers that the amendment should not be approved, is to withdraw the plan and return it to the owner; or
 - (b) in any other case, notify the Recorder and the owner that it does not oppose the amendment.
- (2) If an owner is notified under subsection (1) that the council does not oppose an amendment, the owner may–
 - (a) agree to the amendment; or
 - (b) request the council to withdraw the plan and the council is to comply with that request; or
 - (c) require the Recorder of Titles to specify in writing the grounds for the refusal to accept the plan without amendment and thereupon section 144 of the *Land Titles Act 1980* applies as if the grounds of refusal were given under subsection (1) of that section.
- (3) If the owner agrees to an amendment under subsection (2), the owner is to notify the council and the Recorder of Titles accordingly.

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- (4) If an amendment is required, the council and the owner may put forward other proposals and the Recorder of Titles may amend or vary the requirement, or withdraw it and substitute another.
- (5) The Recorder may notify the owner and the council that the plan is affected and is to return the plan to the council if the Recorder of Titles requires –
 - (a) an amendment under section 89(5) and the owner fails for 3 months to take any action under subsection (2), (3) or (4); or
 - (b) data by the registered surveyor who prepared the plan to enable the plan to be checked mathematically and for boundary evidence and they are not so produced within 3 months of the Recorder's requisition.
- (6) Instead of amending a document, the person required to amend it may, and if required by the Recorder of Titles must, substitute for it a new document in the amended form.

93. Cancellation of final plans

- (1) The council is to cancel its seal on a final plan if –
 - (a) the plan is withdrawn from the Recorder of Titles; or

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- (b) the plan is rejected by the Recorder of Titles.
- (2) The council is to return a plan cancelled under subsection (1) to the owner.

Division 4 – Sealed plans

94. Taking effect of sealed plan

- (1) A final plan takes effect as a sealed plan when the Recorder of Titles signs and dates a memorandum on the plan that the plan is accepted –
- (a) without requiring any amendment; or
 - (b) as a result of further discussion; or
 - (c) upon an order of the Supreme Court; or
 - (d) upon the making of an amendment agreed to by the owner and the council.
- (2) When a plan takes effect, the Recorder of Titles is to, within 21 days –
- (a) bring under the provisions of the *Land Titles Act 1980* any land comprised in the plan that is not under it; and
 - (b) deliver free to the owner, the surveyor and the council, one copy of the sealed plan as accepted; and

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- (c) create any folios the Recorder considers necessary.
- (3) Each copy of the sealed plan is to show the memorandum of acceptance.
- (4) When a plan that shows easements or other rights over or for the benefit of land which is not under the provisions of the *Land Titles Act 1980* takes effect, the Recorder of Titles is to cause any entries to be made in the index kept under the *Registration of Deeds Act 1935* the Recorder considers sufficient to give notice of the existence of those rights to persons searching title in the Registry.
- (5) When a plan has taken effect a person must not –
 - (a) obstruct the exercise by the owner or occupier of land of a right shown on the plan; or
 - (b) contravene a restriction on the use of land shown on the plan.

Penalty: Fine not exceeding 10 penalty units.

- (6) It is not a defence in proceedings under subsection (5) to prove that the right or restriction was not created or has been extinguished but the court may adjourn the proceedings to enable the plan to be amended.
- (7) If an act complained of would be lawful under the plan as amended, the court is not to impose any penalty but may award costs to the council.

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95. Dedication of land

- (1) Any land which is shown on a sealed plan as a road, street, alley, lane, court, terrace, footpath or other kind of way is taken to be dedicated to, and accepted by, the public unless called “private” on the plan.
- (2) Subject to any enactment or by-law relating to the construction, opening and repair of ways on subdivisions and in respect of any way taken to be dedicated to and accepted by the public under subsection (1) and not a highway immediately before the sealed plan was sealed, the owner may –
 - (a) continue in occupation of the land subject to the way to the exclusion of the public until possession is given to a purchaser of a block comprised in the sealed plan and adjoining the way or including any part of it; and
 - (b) notwithstanding the rights of the public or of any purchaser of a block comprised in the sealed plan and adjoining the way –
 - (i) enter on the land subject to the way with or without engineers, surveyors, workers, machines, horses and vehicles and make the way in such manner as the owner thinks proper; and

- (ii) enter in the same manner and repair the way as and when the owner thinks fit; and
- (iii) exclude the public from all or any part of the way for the purpose of making or repair.

96. Dedication as highway

- (1) If a sealed plan shows provision for widening or deviating a way on, or adjoining, land comprised in the plan, an obligation runs with that land to dedicate it as a highway if required to do so by the highway authority.
- (2) If the highway authority requires a dedication under subsection (1), it must tender an amount in compensation.
- (3) If the owner does not accept the amount tendered, the owner must dedicate the land and is entitled to compensation as agreed between the owner and the highway authority.
- (4) If there is no agreement under subsection (3), the compensation payable to the owner is to be determined as if it were a disputed claim for compensation under the *Land Acquisition Act 1993*.
- (5) Compensation payable to the owner under subsection (4) is to be determined as at the date on which the plan was sealed.

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97. Acquisition of way by council

- (1) The owner of a subdivision is to convey or transfer a way shown on a sealed plan as “to be acquired by the highway authority” to the highway authority in fee simple when required in writing to do so by the highway authority.
- (2) If there is no agreement as to a fair price, the compensation payable to the owner is to be determined as a disputed claim for compensation under the *Land Acquisition Act 1993*.

98. Surrender of reserves to Crown

Any land comprised in a sealed plan which is described as a reserve is taken to be –

- (a) surrendered to, and accepted by, the Crown; and
- (b) subject to the *Crown Lands Act 1976* as if reserved to the Crown under section 8 of that Act for any purpose –
 - (i) agreed to between the authority sealing the plan and the Crown; and
 - (ii) specified in Column 3 of Schedule 5 to that Act.

99. Easements

- (1) When a sealed plan takes effect –

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- (a) the easements to be created in favour of the Crown or of any public or local authority constituted by or under any Act or appurtenant to a highway vest accordingly, except in the case of an easement to be appurtenant to a highway which vests upon the creation of the highway; and
- (b) the other easements and the *profits a prendre* and covenants to be created come into being and continue as if created by the most effectual instruments made between proper parties and are not affected by –
- (i) the unity of seisin of the lands having the burden and benefit of the easement or *profit a prendre*; or
 - (ii) identity of the parties to the covenant –
- except that during such unity or identity they are in abeyance, to revive by force of this Part when it is broken or destroyed; and
- (c) the Recorder of Titles may notify the existence of the easement, *profit a prendre* or covenant on the folio in respect of land –
- (i) benefited by any easement or *profit a prendre*; or

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- (ii) burdened by any easement, *profit a prendre* or covenant.

- (2) An easement that would have been set out in the schedule of easements to a sealed plan is not to be implied from anything appearing in the plan or in a copy of the plan incorporated in another instrument.

- (3) If the schedule of easements to a sealed plan contains easements, *profits a prendre* and covenants which did not exist before the plan took effect and which affects land not comprised in the plan –
 - (a) the schedule is to be signed by the persons who between them are able to create them; and
 - (b) when the sealed plan takes effect those easements, *profits a prendre* and covenants are taken to have been created or made in the most effective manner by those persons.

- (4) Any drainage easement shown on a sealed plan for the benefit of a lot is taken to terminate at an outlet approved by the council.

100. Action for partition

- (1) In any action for partition, the court –

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- (a) is not to order a partition which the parties could not make themselves under this Part; and
 - (b) may cause all necessary steps to be taken for the approval of a plan of subdivision for the purposes of a judgment or order for partition.
- (2) A judgment or an order for partition is not invalid by reason only of non-compliance with this section.

101. Recovery of land

- (1) If the registered proprietor named in a qualified title under the *Land Titles Act 1980*, suffers judgment for the recovery of the land by a person with a better title and in consequence a lot ceases to have the qualities of a minimum lot, the council may purchase or take the land recoverable or recovered under the judgment and re-establish the title of the registered proprietor as provided in subsection (2).
- (2) The council is to –
 - (a) purchase or take the estate of the successful plaintiff and any other estate or interest required by the Recorder of Titles to be gotten in before the Recorder cancels the caution recorded on the qualified title; and

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- (b) lodge with the Recorder all muniments of title to the estate and interest so purchased or taken by it together with a request under its common seal that the Recorder re-establish the title of the registered proprietor.
- (3) The Recorder of Titles, if satisfied that the requests have been complied with, is to cancel the caution on the qualified title.
- (4) The council's costs and expenses of, and incidental to, the acquisition and the other matters referred to in subsection (2) are a charge on the whole of the lot concerned.

102. Non-application of provisions to certain sales

The provisions of this Division do not apply to a subdivision of land only by sale and conveyance, transfer or release to the Crown, the Commonwealth or a statutory authority if acquisition by compulsory process is an alternative means of obtaining the land sold.

Division 5 – Amendments of sealed plans

103. Amendment of sealed plans

- (1) When a plan has taken effect, it may be amended by the council –
 - (a) of its own motion –

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- (i) to do anything that the council could do under any other power subject to any conditions precedent to the exercise of the power relied on; or
 - (ii) to bring the plan into conformity with any change in the rights and duties of land owners made under a statutory power; or
 - (b) on the application of any person having an interest in land subject to the plan.
- (2) If a council acts on its own motion, it is to serve a notice in writing to all persons appearing by the registers under the *Land Titles Act 1980* and the *Registration of Deeds Act 1935* to have an estate or interest at law affected by the proposed amendment.
- (3) A person is to –
- (a) make an application under subsection (1) by petition; and
 - (b) serve a copy of the petition on all persons appearing by the registers under the *Land Titles Act 1980* and the *Registration of Deeds Act 1935* to have an estate or interest at law affected by the proposed amendment.
- (4) Any person affected by the proposed amendment may ask to be heard in support or opposition.

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- (5) If a notice is not given or a petition is not served as required by this section, subsequent proceedings are not void.

104. Hearing in respect of amendment of plans

- (1) At the end of 28 days after the last notice is served or the last petition is served as required by section 103(2) or (3), the council –
- (a) may, if no person has asked to be heard in opposition, cause the amendment to be made; or
 - (b) if a person has asked to be heard, is to appoint a day for hearing any petitioner and those persons who have asked to be heard.
- (2) A hearing is to be by the council or a council committee who may –
- (a) hear persons who have asked to be heard after the period referred to in subsection (1); and
 - (b) obtain the assistance of legal practitioners, architects, engineers and surveyors.
- (3) On the conclusion of the hearing, the council may –
- (a) cause the amendment to be made with or without modification; and

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- (b) require as a condition of so doing that any person who benefits the amendment is to make compensation in money or land to a person who is injured by it.
- (4) The council may, with the consent of all persons concerned, act as provided in subsection (3).
- (5) The Recorder of Titles may call in and cancel or correct any certificate of title affected by amendments.

105. Compensation in respect of amendments

- (1) Subject to subsection (2), a person adversely affected by an amendment is entitled to compensation by the council if –
 - (a) having asked to be heard under section 103(4), the person gave the council notice of the claim at or before the hearing; or
 - (b) within 60 days of having been served a notice or petition under section 103(2) or (3), the person gave the council notice of the claim; or
 - (c) not having been given notice or served a petition, the person gave the council notice of the claim within 60 days of learning that he or she was affected by the amendment.

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- (2) If compensation is payable under subsection (1), the council may recover against the petitioner and any person heard or asking to be heard in support of the amendment to the extent to which they benefited by the amendment.

105A. Amendments to sealed plans sealed under *Local Government Act 1962*

Sections 103 and 104 apply to sealed plans that have taken effect under section 464 of the *Local Government Act 1962* as if they were sealed plans made under this Act.

105B. Validation of amendments to certain sealed plans

Amendments made in accordance with sections 103 and 104 to plans sealed under the *Local Government Act 1962* are valid and effectual only to the extent that the amendments were made in accordance with the powers conferred on a council under those sections in respect of plans sealed under this Act.

Division 6 – Miscellaneous provisions relating to plans

106. Lack of frontage of highway

- (1) If –
- (a) land proposed to be subdivided is separated from a highway by land of the highway authority; and

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- (b) the highway authority declares under seal that its land is to become part of the highway –

land which would, when the highway authority's land had become part of the highway, have a frontage on the highway is taken to have the same frontage as it would then have.

- (2) An objection may not be made that a way in the proposed subdivision does not communicate with the highway because the highway authority's land intervenes.
- (3) The highway authority, when the way is opened, is to provide the necessary communication with the highway.
- (4) For the purposes of this Part –
- (a) a highway over water is a highway; and
- (b) a road in respect of a lot shown in a plan to which this Part applies is a road if the lot has a frontage to the shore of the sea or to a navigable river or lake and cannot be reached from a city or town by a highway.
- (5) For the purposes of subsection (4), land which has an easement in fee of unrestricted passage over land of the Crown to the shore of the sea is taken to have a frontage to the shore of the same width as the easement.

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107. Access orders

- (1) Where a block is to be created under this Part, the council may, before or when notifying its approval of the plan of subdivision, notify the owner that it proposes to make an order under this section as indicated in the notification before it seals the final plan.
- (2) If the council considers that work of a substantial nature is needed to provide access for vehicles from a highway onto the block, it may refuse to seal the final plan under which the block is created until the owner has carried out the work specified in the order within the specified period or given the council security for carrying out that work if called upon by it to do so.
- (3) If the owner fails to carry out the work within a reasonable time when called upon, the council may enter and do the work and enforce the security to recover its expenses as certified by its engineer.
- (4) If the work ordered by the council includes the construction of a carriage-way serving more blocks than one –
 - (a) the council may direct the owner to carry out part of the work on the soil of a highway; and
 - (b) the owners of all blocks having a right of way over any portion of the carriage-way are to keep in good repair, properly drained and clean and tidy –

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- (i) the carriage-way; and
 - (ii) any land subject to similar rights as the carriage-way and not part of a highway.
- (5) If the council is of the opinion that the owners are in default of compliance with subsection (4)(b), the general manager may give notice to the owners of the blocks served by the carriage-way specifying –
 - (a) how the default is to be remedied; and
 - (b) requiring them to remedy the default accordingly within the period specified in the notice.
- (6) If the owners served with a notice fail to comply within the specified period, the council may remedy their default and apportion the cost among those owners or their successors in title in such proportions as it considers appropriate.
- (7) The amount apportioned under subsection (6) is to be paid to the council within 30 days of the demand and is recoverable from the person liable or his or her successor in title in any court of competent jurisdiction.
- (8) An amount apportioned under subsection (6) together with any interest payable is a charge on the block in respect of which it was apportioned from the day of apportionment.

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108. Road widening

- (1) If a council does not approve a plan for a subdivision because of any matter referred to in section 85, a council, in respect of an existing highway, may obtain –
 - (a) a dedication of land for widening or diverting; or
 - (b) a licence to embank.
- (2) Subject to subsection (4), when the sealed plan takes effect the owner is entitled to compensation as if the dedication or licence were an estate in land that had been acquired by compulsory process under the *Land Acquisition Act 1993*.
- (3) The land dedicated or subject to the licence is to be valued as at the date of lodgment of the plan of subdivision.
- (4) Compensation is not payable for the dedication of land which lies within 9 metres of the middle line of the highway of a parcel into which the land is subdivided and on which no building stands.
- (5) If the highway varies in width because in parts land has already been acquired or dedications made for the purpose of widening it, its middle line is to be determined as if no such acquisitions or dedications have been made.

Division 7 – Minimum and sub-minimum lots

109. Minimum lots

- (1) Unless the relevant planning scheme provides otherwise, the minimum lot is to have—
- (a - b)
 - (c) in an urban building area—
 - (i) an area of not less than 550 square metres; and
 - (ii) a frontage to a road of not less than 18 metres; and
 - (iii) such boundaries that within them can be drawn a circle having a diameter of not less than 18 metres, and its centre not more than 18 metres from a road; or
 - (d) in a country building area—
 - (i) an area of not less than 1 000 square metres; and
 - (ii) a frontage of 6 metres upon a road; or
 - (e) in a changing building area—
 - (i) an area of not less than 550 square metres; and

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- (ii) a frontage of 6 metres upon a road; and
 - (iii) such boundaries that within them can be drawn a circle having a diameter of not less than 18 metres; or
 - (f) in any building area, reasonable vehicular access from the carriage-way of a road to a boundary; or
 - (g) in an urban building area and in a changing building area, a site that is able, in the opinion of the council, to be efficiently and lawfully drained into the sea, or into a river, creek, rivulet, lake, swamp, marsh or pond or into a public channel, sewer or drain; and
 - (h) if subject to inundations, an area free from such inundations complying with the appropriate one of paragraph (c), (d) or (e).
- (2) In applying subsections (1) and (3) to a lot which has a frontage on more than one road, not being an alley –
- (a) if the 2 frontages do not meet, the appropriate provisions apply in respect of one such frontage; and
 - (b) if the 2 frontages meet –

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- (i) in an urban building area, a country building area and a changing building area, that nominated by the owner is to be treated as the frontage and the other disregarded; and
 - (ii)
 - (iii) in an urban building area, each frontage is to be not less than 20 metres.
- (3) Unless the relevant planning scheme provides otherwise, a lot has the qualities of a minimum lot–
- (a) if being within a zone in an urban building area prescribed by by-law for the erection of shops it–
 - (i) has an area of 270 square metres; and
 - (ii) has a frontage to a street of not less than 9 metres; and
 - (iii) complies with subsection (1)(f), (g) and (h); or
 - (b) if being in an urban building area it–
 - (i) has a frontage to a road of not less than 6 metres; and
 - (ii) has the centre of the circle mentioned in subsection (1)(c)

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- distant from that road not more than 18 metres; and
 - (iii) complies in all other respects with subsection (1); and
 - (iv) is approved by the council as equivalent to a minimum lot; or
- (c) if being within the boundaries of the city of Hobart, it is approved by the council as equivalent to a minimum lot and–
- (i) has an area of not less than 370 square metres and has a frontage of not less than 12 metres on a road; and
 - (ii) is one of not more than 2 lots each having an area of not less than 370 square metres and a frontage on a road of not less than 11 metres and created by subdivision of a block of land existing as such on 27 June 1940; and
 - (iii) in either case, complies with subsection (1)(f), (g) and (h); or
- (d) in the city of Launceston if–
- (i - ii)
 - (iii) being in an urban building area, it comprises an area of not less than

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460 square metres and has a frontage on such a street of at least 15 metres and a depth of at least 27 metres and there is within the lot an open space within which can be described a circle having a diameter of 15 metres, or, being on the corner of 2 such streets, has a frontage on each of not less than 16 metres; or

- (e) if, being in an urban or changing building area, it—
 - (i) has not the frontage or dimensions, or both, as required in subsection (1) but has the area therein required or being occupied by a dwelling has an area of not less than 370 square metres and a frontage of not less than 9 metres; and
 - (ii) it complies in all other respects with subsection (1) and is approved by the Commission given at the request of the council, as equivalent to a minimum lot; or
- (f) if, being in a country building area, it—

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- (i) has not the requisite area but only an area not less than 460 square metres; and
 - (ii) it complies in all other respects with subsection (1) and is approved by the Commission given at the request of the council, as equivalent to a minimum lot; or
- (g) if, being in any building area and not otherwise having the qualities of a minimum lot, provision has been made in a planning scheme approved for its existence or creation as a lot; or
- (h) if, being in any building area and having all the qualities of a minimum lot except in respect of frontage it–
 - (i) has a frontage to a road of not less than 3·6 metres, over which frontage no other land has a right of way as its sole or principal means of access; and
 - (ii) is approved by the Commission given at the request of the council, as equivalent to a minimum lot; or
- (i) if, being in any building area and having all the qualities of a minimum lot except in respect of frontage it–

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- (i) has access to a road by a right of way at least 3·6 metres wide over land not required as the sole or principal means of access to any other land and not required to give the lot, if any, of which it is part the qualities of a minimum lot; and
 - (ii) is approved by the Commission given at the request of the council, as equivalent to a minimum lot; or
- (j) if, being in any building area and lying behind a block fronting a road and being in all respects a minimum lot if that block were a road it–
- (i) has a private road at least 3·6 metres wide to the public road, which private road is not required as the sole or principal means of access to any other land; and
 - (ii) is approved by the Commission given at the request of the council, as equivalent to a minimum lot; or
- (k) if, being on land occupied under the *Mineral Resources Development Act 1995*, the Governor has declared that it is necessary or convenient for mining

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purposes that it should be equivalent to a minimum lot.

- (4) A minimum lot existing by virtue of subsection (3)(a) is to be used only as a place of business.
- (5) Approval required for a minimum lot to exist by virtue of subsection (3) may be conditional on use as a place of business.
- (6) If land under subsection (4) may be used only as a place of business the restriction on its use –
 - (a) is to be set out above the council’s seal on the final plan of the subdivision; and
 - (b) is enforceable by the council as if –
 - (i) the council were owner of all the other lands in the municipal area and the tenants were natural persons holding of the council for life; and
 - (ii) the restriction were created by a covenant made between the council and the owner creating the lot so restricted and running with the land in equity.
- (7) For the purpose of this section *a place of business* means any place in which the business of selling, buying, hiring, exchanging, letting, repairing, making or providing any goods or services is carried on.

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(8) Notwithstanding this section, a planning scheme may make provision for the dimensions and qualities of a minimum lot.

(9) In this section –

changing building area is an area of land that immediately before the commencement of section 5 of and Schedule 1 to the *Building (Consequential Amendments) Act 2003* was a changing building area within the meaning of section 43 of this Act as in force immediately before that commencement;

country building area is an area of land that immediately before the commencement of section 5 of and Schedule 1 to the *Building (Consequential Amendments) Act 2003* was a country building area within the meaning of section 43 of this Act as in force immediately before that commencement;

urban building area is an area of land that immediately before the commencement of section 5 of and Schedule 1 to the *Building (Consequential Amendments) Act 2003* was an urban building area within the meaning of section 43 of this Act as in force immediately before that commencement.

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110. Adhesion orders

- (1) Except as provided in subsection (2), the council may make an adhesion order if a block –
 - (a) has the qualities of a minimum lot; and
 - (b) comprises 2 parcels or more that may, without the approval of any plan by the council, lawfully be sold separately so as to create a block which –
 - (i) would not have the qualities of a minimum lot; and
 - (ii) is, or in the opinion of the council is likely to be, built on or bought for building.
- (2) Subsection (1) does not apply to a block the parcels in which –
 - (a) are the sites and grounds of buildings designed for separate occupation; or
 - (b) have at any time been owned separately by persons who did not then own adjoining land.
- (3) If an owner of a block referred to in subsection (1) seeks approval for building on that block which could be refused because a parcel in that block was owned by another person, the council after notifying the owner, may make an adhesion order if the approval is given.

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- (4) An adhesion order is an order of the council that the parcels comprised in the block subject to the order are not to be dealt with so that they come into the possession of different persons for an estate of freehold at law or in equity or for a term at law or in equity of 3 years or more.
- (5) An adhesion order made under subsection (1) or (3) is to be –
- (a) served by the council on all persons appearing from the records in the Registry of Deeds or the Land Titles Office to have a legal estate in, or power of sale over, the land subject to the order; and
 - (b) registered –
 - (i) under the *Land Titles Act 1980*; or
 - (ii) in the Registry of Deeds as if it were a judgment.
- (6) A contravention of subsection (5)(a) may give rise to an action for damages but does not alter the effect of the order.
- (7) If an adhesion order is made under subsection (1) or (3), the Recorder of Titles is to –
- (a) bring under the provisions of the *Land Titles Act 1980* that part of the land subject to the order that is not under that Act; and

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- (b) for that purpose is to as far as possible proceed as if an application to bring that land under that Act had been made under section 11 of that Act with all necessary consents by a person competent to make an application for that purpose; and
 - (c) register one folio of the Register for all the land and record the adhesion order on the folio; and
 - (d) call in and cancel certificates of title to parts of the land.
- (8) Until land has been brought under *Land Titles Act 1980*, the registration of an adhesion order in the Registry of Deeds operates to deprive of all effect any subsequent agreement or assurance except as provided in subsection (10).
- (9) In creating a folio of the Register which is supported by a plan of any land, the Recorder of Titles is not to indicate on that plan the boundaries of the parcels which the land formerly comprised.
- (10) An adhesion order does not affect rights under an instrument registered before the adhesion order, even though by the exercise of a power of sale or right of purchase, or otherwise, the lands subject to the order may be separated in ownership.
- (11) The council may discharge or modify any adhesion order by an order registered under the *Land Titles Act 1980*.

111. Subdivision of sub-minimum lots

- (1) If an owner wishes to subdivide off land within a building area –
 - (a) one or more sub-minimum lots which are to be sold or given to one or more adjoining owners without leaving a sub-minimum lot; or
 - (b) one or more sub-minimum lots which are to be sold or given to one or more adjoining owners leaving a sub-minimum lot to be retained by the owner as part of the adjoining land; or
 - (c) one or more minimum lots leaving a sub-minimum lot to be retained as part of the adjoining land –

so that each sub-minimum lot and the land to which it is to be added will together form a minimum lot, the owner is to submit to the council a plan of the resulting minimum lot delineating the boundaries of the sub-minimum lot and the adjoining land to which the sub-minimum lot is to be added.

- (2) If 2 or more owners wish to subdivide off their land sub-minimum lots which upon sale or gift to the same purchaser or donee would together give that purchaser or donee a minimum lot, they are to submit to the council a plan of the minimum lot to result from those sales or gifts, delineating the boundaries of the sub-minimum lots which together form the minimum lot.

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- (3) A plan under subsection (1) or (2) may include a subdivision, but if it does not, the provisions of Division 2 apply as nearly as possible to the plan as if it were a plan of subdivision.
- (4) For the purposes of subsection (1), if adjoining land to be added to comprises –
- (a) the whole of the land; or
 - (b) the untransferred balance of land in a Crown grant or folio of the Register under the *Land Titles Act 1980*; or
 - (c) is a lot on a previously approved plan –
- that part of the plan which comprises that adjoining land may be compiled from plans lodged in the office of the Recorder of Titles or registered in the Registry of Deeds.
- (5) Subsection (4) does not prevent the Recorder of Titles from requiring further survey information relating to that adjoining land the Recorder thinks necessary for the proper administration of the *Land Titles Act 1980* before notifying under section 113(2) that the plan is available as mentioned in that section.

112. Purposes for which plan approved

If the council approves a plan submitted under section 111 –

- (a) the plan is to be dealt with, and has effect, as provided in Division 2; and

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- (b) the council is to state on the plan one of the following purposes for which the plan is approved:
 - (i) if the plan is submitted under section 111(1)(a) or (b) for the purpose of enabling the approved lot to form a single parcel;
 - (ii) if the plan is submitted under section 111(2), for the purpose of enabling a purchaser or donee to acquire all the sub-minimum lots which together form the minimum lot shown on the plan;
 - (iii) if the plan is submitted under section 111(1)(c), under both section 111(1) and (3) or under both section 111(2) and (3), firstly for the purpose of enabling the portions of the approved lot to form a single parcel or for enabling a purchaser or donee to acquire all the sub-minimum lots which together are to form the minimum lot, and secondly for the purpose of giving effect to the subdivision under Division 2.

113. Bringing land under *Land Titles Act 1980*

- (1) If a plan of subdivision approved by the council and lodged in the office of the Recorder of Titles includes any adjoining land to be added that is

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not under the provisions of the *Land Titles Act 1980*, the Recorder is not to take any further action upon the plan until applications to bring the land under those provisions have been made under section 11 of that Act.

- (2) If a plan of subdivision is fit for acceptance and the Recorder of Titles is in a position to bring under the provisions of the *Land Titles Act 1980* all the land comprised in the plan that is not already under the provisions of that Act, the Recorder is to notify the council and the owner that the plan is available for the purposes for which it is approved.
- (3) If a plan is approved for the purpose of section 111(1)(c) –
 - (a) the Recorder of Titles is not to accept the plan until either the sub-minimum lot or the adjoining land is free from mortgages or encumbrances; and
 - (b) on acceptance of the plan, a mortgage or encumbrance on the one extends to the other.
- (4) If all the transfers necessary to achieve the purposes for which a plan is approved are not lodged within 3 years after the date of the notification under subsection (2) –
 - (a) the plan is void; and
 - (b) the Recorder of Titles is to cancel the plan and return it to the council; and

- (c) the council is to cancel its seal on the plan.

114. Achievement of purposes

- (1) After notification has been given under section 113(2), the purposes for which the plan is approved are to be achieved in the following manner only:
 - (a) any assurance that may be necessary to achieve those purposes is to be lodged with the Recorder of Titles so that a period of not more than one week elapses between the dates of lodgment of the first and last assurances;
 - (b) the Recorder of Titles must refuse to register any assurance that is lodged otherwise than in accordance with paragraph (a);
 - (c) an assurance is to be a memorandum of transfer as if the land assured were under the provisions of the *Land Titles Act 1980* even though the land may not be under those provisions;
 - (d) on registration, the assurance is as valid as if it had been executed and lodged after the land assured had been brought under the provisions of the *Land Titles Act 1980*;

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- (e) subject to subsections (2) and (3), if all the transfers necessary to achieve all the purposes for which the plan is to be approved have been lodged and are in order for registration, the Recorder of Titles is to –
 - (i) accept the plan; and
 - (ii) bring under the provisions of the *Land Titles Act 1980* all the lands comprised in the plan that are not already under those provisions; and
 - (iii) register the transfers; and
 - (iv) create the folios of the Register for minimum lots that are necessary to achieve the purposes for which the plan was approved.
- (2) If a plan is approved for the purposes of adding one block to another or others –
 - (a) a transfer of the one to the owner of the other or others is not in order for registration until not more than one of the blocks that are to be added together to form one whole is subject to a mortgage or encumbrance; and
 - (b) on the registration of the transfer, a mortgage or encumbrance on one block extends to the other or others.

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- (3) If the Recorder of Titles accepts a plan under subsection (1)(e) –
- (a) a transfer of a sub-minimum lot that is required to be registered by that subsection may not be withdrawn from registration; and
 - (b) blocks that are to be added to one another to achieve the purposes for which the plan was approved are not to be dealt with as separate parcels except in accordance with a plan of subdivision (other than the plan approved under section 111) approved by the council.
- (4) If the Recorder of Titles creates a folio of the Register under subsection (1)(e), the Recorder is not to indicate on the folio boundaries that previously divided the sub-minimum lots and other lands comprised in the folio.

115. Exemption

- (1) The council may exempt a subdivision from the operation of this Part –
- (a) if it is satisfied that all sub-minimum lots to be subdivided are intended to be added to adjoining lands which are used for grazing, pastoral, agricultural, horticultural or similar purposes; or
 - (b) if, in the opinion of the council, it is unlikely that a sub-minimum lot created

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by the subdivision would be purchased as the site for a dwelling.

- (2) If the council exempts a subdivision under subsection (1), it is to certify the exemption on the plan prepared for the purpose of carrying out the subdivision.

Division 8 – Public open space

116. Limitation on requirement for public open space

- (1) If the council –
- (a) requires an owner to increase the area for public open space so that the value of the total area approved for open space in the final plan exceeds the value of the area provided for open space in the plan of subdivision; or
 - (b) having failed to approve a plan for subdivision on a ground that the layout should be altered to include or omit public open space, subsequently approves a fresh plan in which the value of the total area of land reserved for public open space exceeds the value of all such land in the original plan –

and the value of the area reserved for open space in the plan also exceeds the value of one-twentieth of the whole area comprised in the plan of subdivision, the council must purchase the excess as provided in this section.

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- (2) The purchase price of the excess is a sum bearing the same ratio to the value of the total area approved in the final plan as the excess bears to that area.
- (3) If the owner and the council are unable to agree on the purchase price within 30 days of its demand, it is to be determined as if it were a disputed claim for compensation under the *Land Acquisition Act 1993*.
- (4) The purchase price is due –
 - (a) after the final plan takes effect as provided; and
 - (b) upon demand by the owner accompanied by a conveyance of transfer executed by the owner of the total area mentioned in subsection (1).
- (5) The purchase price bears interest at 5% a year from the day 2 months after that on which it is agreed upon or determined until payment.
- (6) Land is to be valued as at the date of lodgment of the plan of subdivision.
- (7) The council is required to purchase only so much of the excess land as is required for public open spaces on the basis that the excess is divided between the public open spaces and littoral or riparian reserves in the same proportion as the total area is divided between them.

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- (8) The council is to pay a purchase price as if it were purchasing the whole excess and is entitled to be reimbursed by the Treasurer the difference between the purchase price paid by it and so much of the purchase price as is attributable to the land purchased.
- (9) If an amount is not agreed, the amount is to be determined as if it were a disputed claim for compensation under the *Land Acquisition Act 1993*.

117. Payment instead of increasing public open space

- (1) Instead of requiring an owner to increase the area for public open space, the council, before approving a plan of subdivision may require security for the payment of an amount calculated under subsection (2).
- (1A) A planning scheme –
 - (a) may specify that compliance with a requirement specified in subsection (1) is an acceptable solution in relation to subdivisions; and
 - (b) may enable a permitted development permit to be issued if such an acceptable solution is complied with in relation to a plan of subdivision.
- (2) The amount required to be paid is an amount not exceeding an amount which bears the same ratio to the value of the whole area comprised in the

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plan as one-twentieth of that area less any area provided for public open space in the final plan and any area created by the final plan of the littoral or riparian reserve bears to that whole area.

- (3) If the owner and the council do not agree on the amount to be secured, it is to be determined as a disputed claim for compensation under the *Land Acquisition Act 1993*.
- (4) The security that may be required is –
 - (a) a bond by the owner of an amount in excess of any possible demand to secure payment of the amount within 90 days after the demand is made after the final plan has taken effect; and
 - (b) a guarantee by an authorised deposit-taking institution, a guarantee, money-lending, insurance or trading corporation approved by the council guaranteeing all money payable on the bond.
- (5) The council is to receive an amount payable under this section on trust for the acquisition or improvement of land for public open space for the benefit of inhabitants of the municipal area.
- (6) Any amount held, before the commencement of this section, by the council on trust for the acquisition of land for public open space is to be held on trust for the acquisition or improvement of land for public open space and applied in accordance with any prescribed requirements.

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- (7) In respect of any amount paid to the council pursuant to section 473B of the *Local Government Act 1962* before the commencement of this section –
- (a) that amount was lawfully received by the council for the purposes of that section; and
 - (b) no action or legal proceedings may be continued or instituted against any person in respect of the receipt or holding by a council of that amount.

Division 9 – Miscellaneous matters

118. Council schemes

- (1) Before the council disposes of lands in circumstances in which, if the disposition were that of a private person the plan would require approval under this Part, it is to prepare a plan of subdivision that it would approve if it were a private person's plan.
- (2) If a final plan based on a plan of subdivision may be approved by the council if lodged by a private person, the council is to prepare such a final plan and seal it.
- (3) The provisions of Division 2 apply to a plan sealed in accordance with subsection (2) as nearly as possible as if it were the plan of a private person.

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- (4) A plan sealed under this section is taken to have been approved and sealed under Division 2.

119.

120. Savings of contracts

- (1) Nothing in this Part renders any contract for the disposal of land or instrument of, or affecting, title illegal or void.
- (2) Every contract for the legal subdivision of land which requires the approval of the council under this Part is taken to have been made subject to the giving of that approval.

121. Application to the Crown

- (1) This Part binds the Crown as provided in this section.
- (2) Land may not be disposed of by or on behalf of the Crown unless, if the disposition were that of a private person –
- (a) it would not require an approval of a plan under this Part; or
 - (b) if it does require such an approval, it is in accordance with a plan which ought reasonably to be approved.

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- (3) Any town land under section 5 of the *Crown Lands Act 1976* may not be disposed of unless the Director-General of Lands is of opinion –
- (a) that the disposition is in accordance with a plan that if it were the subdivision of a private person it ought reasonably to be approved under this Part; or
 - (b) that in the case of a disposition in accordance with a plan prepared before the commencement of this Part, so much of the land in it has already been disposed of that it is unreasonable to alter the plan.

122. Part prevails

The provisions of this Part prevail over the provisions of this or any other Act or any regulation, rule or by-law made under any Act relating to subdivisions.

123. Transitional matters arising under the *Land Use Planning and Approvals Amendment (Streamlining of Process) Act 2014*

- (1) In this section –

amending Act means the *Land Use Planning and Approvals Amendment (Streamlining of Process) Act 2014*;

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commencement day means the day on which the amendments to this Act made by the amending Act come into force.

- (2) The amendments to this Act made by the amending Act apply in relation to an application for approval of a plan of subdivision that is made before the commencement day but that has not been determined by the issue of, or a refusal to issue, a discretionary permit or a permitted development permit.

124. Transitional matters arising under *Building and Construction (Regulatory Reform Amendments) Act (No. 2) 2020*

- (1) In this section –

amending Act means the *Building and Construction (Regulatory Reform Amendments) Act (No. 2) 2020*.

- (2) The amendments to this Act made by the amending Act do not apply, and this Act, as in force immediately before the day on which those amendments commence, applies, in relation to a council, in relation to a final plan lodged with the council under section 88(1) before that day.
- (3) The amendments to this Act made by the amending Act do not apply, and this Act, as in force immediately before the day on which those amendments commence, applies, in relation to the Recorder of Titles, in relation to a final plan

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lodged with the Recorder of Titles under
section 88(2) before that day.

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Part 7 – Long Service Leave and Employees Assurance Scheme

**PART 7 – LONG SERVICE LEAVE AND EMPLOYEES
ASSURANCE SCHEME**

Division 1 – Long Service Leave

225. Interpretation of Division

In this Part, *employee* means any person employed in any capacity by a council.

226. Non-application of Part

- (1) Subject to subsection (2), this Part does not apply to employees employed by the Hobart City Council and the Launceston City Council.
- (2) The Minister, by order and at the request of the Hobart City Council or the Launceston City Council, may declare that this Part applies to employees employed by the Hobart City Council or the Launceston City Council.

227. Entitlement to long service leave

- (1) An employee who completes at least 10 years' of continuous employment as an employee of one or more councils is entitled to be granted a period of long service leave calculated in accordance with this Part.
- (2) A period of long service leave is a period of –

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- (a) 90 days for the first 15 years of employment completed before 1 July 1969; and
 - (b) 90 days for each 10 years of employment completed after that date.
- (3) Any period of long service leave granted to an employee consists of the appropriate number of consecutive days, inclusive of any Saturdays, Sundays or public holidays occurring during the period.
- (4) If an employee becomes entitled to long service leave under this section, the council by notice in writing, may direct the employee to commence the leave within 6 months after the date of the notice.
- (5) If the employee fails or refuses to comply with the notice under subsection (4), the employee is taken to have forfeited all rights and privileges under this section up to the date of the notice.

228. Length of employment

- (1) For the purposes of this Part, the length of employment is to be calculated from the commencement of continuous service as an employee of one or more councils, and includes
 -
 - (a) any period of employment in a temporary capacity on probation; and

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- (b) any period of absence on leave, with or without pay; and
 - (c) any period of absence on leave for the purpose of serving as a member of any of Australia's defence forces.
- (2) If any employee is granted a period of long service leave, whether with or without pay, for any period of or exceeding 90 days, that period is not included as part of the period of employment for the purpose of calculating the long service leave, but that leave is not to be taken as breaking the continuity of employment.
- (3) If an employee has held any permanent office in another council, and has accepted an office or position in a council directly from the other office, the length of employment is to be calculated from the date on which the employee was permanently appointed to the other office.
- (4) Any long service leave granted to an employee referred to in subsection (3) while in the employment of the first-mentioned council is taken to have been granted under this section.

229. Salary in advance

Any employee who is granted a period of long service leave may be paid salary or wages in advance for a period equivalent to that period.

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230. Retirement

- (1) If an employee, after completing at least 10 years' continuous employment –
- (a) retires from employment because of sickness or old age; or
 - (b) is compulsorily retired because –
 - (i) of age; or
 - (ii) the position has been abolished; or
 - (iii) his or her services have become unnecessary –

the employee is entitled to long service leave bearing the same proportion to 90 days as the period of employment since the last completed period of employment entitling him or her to 90 days' bears to 10 years of the employment.

- (2) If a person, after taking leave of absence under subsection (1), again becomes an employee, the person is taken –
- (a) to have completed 10 years of employment on the day before the person again becomes an employee; and
 - (b) to have taken all leave to which the person is entitled under this Part.

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231. Allowance

(1) If an employee who is entitled to leave of absence –

(a) dies; or

(b) retires from employment because of sickness or old age; or

(c) is compulsorily retired from employment because –

(i) of age; or

(ii) the position has been abolished;
or

(iii) his or her services have become unnecessary –

without having taken any of the long service leave to which the person is entitled, the employee, or his or her personal representative, is entitled to an allowance calculated in accordance with subsection (2).

(2) The allowance payable under this section is an allowance equal to the salary that would be payable for the period of long service leave to which the employee is entitled immediately before retirement or death.

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232. Preservation of other rights

- (1) Any period of long service leave to which an employee is entitled is in addition to any recreation leave or sick leave to which the employee may be entitled under any other enactment.
- (2) Recreation leave is not, except with the permission of the council, to be granted to an employee under any other enactment in respect of the calendar year in which any period of long service leave granted to that employee under section 227 commences.
- (3) If recreation leave has been granted to any employee in the calendar year in which any period of long service leave granted to that employee under section 227 commences, that recreation leave, unless the council otherwise directs, is to be regarded as part of the period of long service leave granted to the employee under that section.
- (4) The period during which an employee is absent on long service leave –
 - (a) is to be included as part of the employee's period of employment; and
 - (b) subject to subsection (1), is to be taken into account for the purposes of –
 - (i) determining the salary payable on return to duty; and

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- (ii) any recreation leave or sick leave to which the employee is entitled under any other enactment.

233. Paid employment on leave prohibited

- (1) An employee, without the consent of the council, must not while absent on long service leave –
 - (a) engage in any business or undertaking, whether as principal or agent; or
 - (b) engage in the private practice of any profession; or
 - (c) accept, or engage in, any paid employment.
- (2) If any employee contravenes subsection (1), the council, by notice in writing may –
 - (a) direct the employee to return to duty, within the period specified in the notice; and
 - (b) require the employee, within the period specified in the notice, to refund such part of any salary or wages paid in advance under section 229 not exceeding the salary or wages for a period equivalent to the then unexpired portion of the long service leave as specified in the notice.

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- (3) Any sum which is required to be refunded by any employee in accordance with subsection (2) is a debt due to the council.
- (4) If any employee is recalled to duty in pursuance of subsection (2), the employee is taken to have forfeited all rights and privileges under section 227 up to the date upon which the employee returns to duty.
- (5) The provisions of this section do not prejudice or affect any punishment or penalty which may be imposed on any employee under any other enactment.

234. Apportionment of expense between councils

- (1) If the council pays any salary, wages or allowances under this Part, it may recover from any other council in whose employment an employee has served a part of the salary, wages or allowances that is proportionate to the period of employment in that other council in relation to the total period of employment which constitutes the employee's qualification to receive the payment.
- (2) If an employee becomes entitled to a period of long service leave and has not taken it, the obligation of another council is to be calculated as if the salary, wages or allowance had been paid at the rate at which they would have been paid if the employee had taken the leave as soon as he or she became entitled to it.

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Division 2 –

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PART 8 – MISCELLANEOUS MATTERS

Division 1 – Preservation orders

241. Preservation orders

- (1) A council, on the recommendation of the National Trust of Australia (Tasmania) may by order –
 - (a) prohibit the demolition of a building that is by itself or with others of historical or architectural interest or of special beauty; and
 - (b) prohibit the alteration of or adding to the building except as the council may approve; and
 - (c) require the owner to keep the building in good and tenantable repair.
- (2) A preservation order under this section may –
 - (a) extend to the grounds of the building; and
 - (b) prohibit the destruction of specified vegetation and the alteration of the appearance of the grounds.
- (3) A person must not execute or cause to be executed any works for the demolition or alteration of the building or for an addition to the building in contravention of a preservation order.

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

- (4) A person must not execute or cause to be executed any works authorized by a preservation order for the alteration of, or addition to, the building to which the order relates otherwise than as approved by the council in the order.

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

- (5) In proceedings for an offence under this section, it is a defence to prove that –
- (a) the works were urgently required in the interests of safety or health, or for the preservation of the building; and
 - (b) the notice in writing of the need for the works was given to the council as soon as reasonably practicable.
- (6) In determining the amount of any penalty to be imposed on a person convicted of an offence, the court is to have regard to any financial benefit that has accrued or appears likely to accrue to the person in consequence of the commission of the offence.

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242. Compensation and subsidy

- (1) An owner in respect of whose building a preservation order is made –
 - (a) is entitled to –
 - (i) compensation for any expenditure made worthless by the order in accordance with the *Land Acquisition Act 1993*; and
 - (ii) if the cost of maintenance to comply with the order is excessive in relation to the annual value of the building, to a subsidy from the council; and
 - (b) in the case of financial hardship, may apply to a magistrate, by way of complaint against the council, for an order that the council purchase the building and any of its appurtenances –
 - (i) at an agreed price; or
 - (ii) in default of agreement, at a price determined under the *Land Acquisition Act 1993* as if the lack of agreement were a disputed claim.
- (2) A subsidy is to be –
 - (a) an amount agreed between the owner and the council or, in default of agreement, as

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determined by a magistrate on the complaint of the owner; and

- (b) payable yearly for a specified term; and
- (c) negotiable or determinable afresh at the end of each term or if there has been a material change of circumstances causing undue hardship to the owner.

243. Preservation order is enforceable

A preservation order –

- (a) operates as a covenant between the owner and the council that the owner, executors, administrators and assigns will comply with the order; and
- (b) runs with the land in equity; and
- (c) is enforceable by the council as if it were owner of all other lands in the municipal area and the tenants were natural persons holding of the council for life.

244. Registering preservation order

- (1) If a preservation order is made in relation to land under the *Land Titles Act 1980*, the council may cause a sealed copy of the order and a certificate of the general manager identifying the volume and folio of the Register relating to that land to be lodged in the office of the Recorder of Titles.

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- (2) On receipt of a sealed copy and certificate under subsection (1) the Recorder of Titles is to –
 - (a) register the preservation order by entering a memorial on the folio of the Register identified by the certificate; and
 - (b) endorse the memorial on the folio of the Register, under the *Land Titles Act 1980*, for the land.
- (3) If a preservation order is made in relation to land not under the *Land Titles Act 1980*, the council may register it in the Registry of Deeds by lodging a memorial under the *Registration of Deeds Act 1935*.
- (4) A memorial lodged under subsection (3) is to –
 - (a) contain a copy of the preservation order; and
 - (b) specify the name and address of the owner of the land affected, the name of the district or place where the land is situated and the registration number of the last dealing with the land registered in the Registry of Deeds; and
 - (c) be signed by a legal practitioner on behalf of the council; and
 - (d) be certified as “correct for the purposes of the *Registration of Deeds Act 1935*” by that legal practitioner.

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245. Variation or revocation

If the council varies or revokes a preservation order the order affecting the variation or revocation may be dealt with as provided in section 244 and the Recorder of Titles is to –

- (a) register the variation in the same manner as the original order; or
- (b) give effect to the revocation by cancelling the memorial of the original order and of any variation.

Division 2 – Advertising hoardings

246. Advertising hoardings

- (1) A person must not, within a municipal area, erect, put up, place or use or permit to be erected, put up, placed or used, any hoarding or similar structure for advertising purposes without a licence from the council.

Penalty: Fine not exceeding 10 penalty units.

- (2) An application for a licence is to be –
 - (a) in writing; and
 - (b) lodged with the council.
- (3) The council may issue a licence to any person authorizing the person to erect, put up, place or use an advertising hoarding or similar structure in any place specified in the licence.

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- (4) The council may refuse to issue a licence for an advertising hoarding or similar structure if, in the opinion of the council –
 - (a) the hoarding or similar structure may become dangerous, unsightly or unsuitable to the locality in which it is erected; or
 - (b) it is not desirable to issue the licence in respect of the place where the hoarding or structure is erected.
- (5) A licence may be subject to conditions as to the maintenance of the hoarding or similar structure.

247. Removal of advertising hoardings

- (1) The council, by notice in writing, may order the owner of any advertising hoarding or similar structure which has been erected or maintained in contravention of this section, to remove it by a specified date, at least 14 days after receipt of the notice.
- (2) The owner is taken to have received the notice if the notice is posted on or attached to the hoarding or similar structure within 7 days of the date of the notice.
- (3) An owner must comply with a notice.

Penalty: Fine not exceeding 10 penalty units.

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- (4) A council may enter upon the land on which the hoarding or structure is erected and may destroy it or take the material for its use if –
 - (a) the hoarding or similar structure has been erected, put up or placed in contravention of section 246; or
 - (b) an owner to whom a notice has been given has failed within 14 days to obey it.
- (5) The cost of any removal and destruction may be added to the amount of any penalty imposed under this section.

Division 3 –

248.

Division 4 –

249 - 251.

Division 5 – Irrigation undertakings

251A. Irrigation undertakings

A provision of the *Local Government Act 1993* relating to a construction rate applies to an irrigation district established by a council under Part 9 of the *Water Management Act 1999*.

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Part 9 – Amendments to other Acts in relation to Building Provisions

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**PART 9 – AMENDMENTS TO OTHER ACTS IN
RELATION TO BUILDING PROVISIONS**

252. *See Schedule 1.*

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SCHEDULE 1 – CONSEQUENTIAL AMENDMENTS

Section 252

*The amendments effected by this Schedule have
been incorporated into the authorised versions
of the appropriate Acts.*

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NOTES

The foregoing text of the *Local Government (Building and Miscellaneous Provisions) Act 1993* 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 1 December 2022 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
<i>Local Government (Building and Miscellaneous Provisions) Act 1993</i>	No. 96 of 1993	17.1.1994
<i>Statute Law Revision Act 1994</i>	No. 68 of 1994	25.11.1994
<i>Local Government Amendment (Rates and Charges) Act 1995</i>	No. 8 of 1995	23.5.1995
<i>Environmental Management and Pollution Control Act 1994</i>	No. 44 of 1994	25.1.1996
<i>Local Government (Building and Miscellaneous Provisions) Amendment Act 1995</i>	No. 90 of 1995	14.2.1996 (s. 6)
<i>Coroners (Consequential and Miscellaneous Amendments) Act 1995</i>	No. 74 of 1995	31.12.1996
<i>Financial Institutions (Miscellaneous Amendments) Act 1996</i>	No. 62 of 1996	1.1.1997
<i>Local Government (Building and Miscellaneous Provisions) Amendment Act 1997</i>	No. 19 of 1997	28.6.1997
<i>Northern Regional Water (Arrangements) Act 1997</i>	No. 17 of 1997	1.7.1997
<i>Marine (Consequential Amendments) Act 1997</i>	No. 16 of 1997	30.7.1997
<i>Resource Planning and Development Commission Act 1997</i>	No. 85 of 1997	1.1.1998
<i>Public Health Act 1997</i>	No. 86 of 1997	1.2.1998
<i>Strata Titles Act 1998</i>	No. 17 of 1998	5.6.1998
<i>Local Government (Building and Miscellaneous Provisions) Amendment Act 1998</i>	No. 9 of 1998	31.7.1998
<i>Aboriginal Lands Amendment (Wybalenna) Act 1999</i>	No. 8 of 1999	16.4.1999

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Act	Number and year	Date of commencement
<i>Water Management Act 1999</i>	No. 45 of 1999	1.1.2000
<i>Financial Sector Reform (Tasmania) (Miscellaneous Amendments) Act 1999</i>	No. 74 of 1999	1.1.2000
<i>Strata Titles (Miscellaneous Amendments) Act 2000</i>	No. 10 of 2000	28.4.2000
<i>Legislation Publication Act 1996</i>	No. 17 of 1996	5.12.2000
<i>State Service (Consequential and Miscellaneous Amendments) Act 2000</i>	No. 86 of 2000	1.5.2001
<i>Regional Forest Agreement (Land Classification) Consequential Amendments Act 2000</i>	No. 55 of 2000	31.12.2001 (s. 4 and Sched. 2)
<i>Burial and Cremation Act 2002</i>	No. 4 of 2002	1.7.2002
<i>Magistrates Court (Administrative Appeals Division) (Consequential Amendments) Act 2001</i>	No. 73 of 2001	1.7.2002
<i>Statute Law Revision Act 2003</i>	No. 9 of 2003	16.4.2003
<i>Mineral Resources Development Amendment (New Landslip Zoning Arrangements) Act 2003</i>	No. 24 of 2003	4.6.2003
<i>Building Act 2000</i>	No. 100 of 2000	1.7.2004
<i>Building (Consequential Amendments) Act 2003</i>	No. 26 of 2003	1.7.2004
<i>Local Government (Building and Miscellaneous Provisions) Amendment Act 2007</i>	No. 27 of 2007	1.8.2007
<i>Legal Profession (Miscellaneous and Consequential Amendments) Act 2007</i>	No. 66 of 2007	31.12.2008
<i>Water and Sewerage Industry (Consequential and Transitional) Act 2008</i>	No. 52 of 2008	1.7.2009
<i>Water and Sewerage Legislation (Miscellaneous Amendments) Act 2009</i>	No. 24 of 2009	1.7.2009
<i>Resource Planning and Development Commission Legislation (Miscellaneous Amendments) Act 2009</i>	No. 28 of 2009	1.9.2009
<i>Urban Drainage Act 2013</i>	No. 71 of 2013	19.12.2013
<i>Land Use Planning and Approvals Amendment (Streamlining of Process) Act 2014</i>	No. 24 of 2014	1.1.2015
<i>Building and Construction (Regulatory Reform Amendments) Act (No. 2)</i>	No. 31 of 2020	30.11.2020

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Act	Number and year	Date of commencement
2020 <i>Land (Miscellaneous Amendments) Act</i>	No. 23 of 2021	1.1.2022
2021 <i>Homes Tasmania (Consequential Amendments) Act 2022</i>	No. 26 of 2022	1.12.2022

TABLE OF AMENDMENTS

Provision affected	How affected
Section 3	Amended by No. 85 of 1997, No. 85 of 1997, Sched. 4, No. 26 of 2003, Sched. 1, No. 66 of 2007, Sched. 1, No. 28 of 2009, s. 32 and No. 71 of 2013, Sched. 2
Part 2	Repealed by No. 100 of 2000, s. 282
Division 1 of Part 2	Repealed by No. 100 of 2000, s. 282
Section 5	Amended by No. 44 of 1994, s. 106 Repealed by No. 100 of 2000, s. 282
Section 6	Amended by No. 24 of 2003, Sched. 1 Repealed by No. 100 of 2000, s. 282
Section 7	Repealed by No. 100 of 2000, s. 282
Division 2 of Part 2	Repealed by No. 100 of 2000, s. 282
Section 8	Amended by No. 90 of 1995, s. 4 Repealed by No. 100 of 2000, s. 282
Section 9	Repealed by No. 100 of 2000, s. 282
Section 10	Repealed by No. 100 of 2000, s. 282
Section 11	Repealed by No. 100 of 2000, s. 282
Section 12	Repealed by No. 100 of 2000, s. 282
Section 13	Amended by No. 86 of 2000, Sched. 1 Repealed by No. 100 of 2000, s. 282
Section 14	Amended by No. 86 of 2000, Sched. 1 Repealed by No. 100 of 2000, s. 282
Division 3 of Part 2	Repealed by No. 100 of 2000, s. 282
Section 15	Repealed by No. 100 of 2000, s. 282
Section 16	Repealed by No. 100 of 2000, s. 282
Section 17	Repealed by No. 100 of 2000, s. 282
Section 18	Repealed by No. 100 of 2000, s. 282
Section 19	Repealed by No. 100 of 2000, s. 282
Section 20	Repealed by No. 100 of 2000, s. 282
Section 21	Repealed by No. 100 of 2000, s. 282
Section 22	Repealed by No. 100 of 2000, s. 282
Section 23	Repealed by No. 100 of 2000, s. 282
Division 4 of Part 2	Repealed by No. 100 of 2000, s. 282

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Provision affected	How affected
2	
Section 24	Repealed by No. 100 of 2000, s. 282
Section 25	Repealed by No. 100 of 2000, s. 282
Section 26	Repealed by No. 100 of 2000, s. 282
Section 27	Repealed by No. 100 of 2000, s. 282
Section 28	Repealed by No. 100 of 2000, s. 282
Division 5 of Part 2	Repealed by No. 100 of 2000, s. 282
2	
Section 29	Repealed by No. 100 of 2000, s. 282
Section 30	Repealed by No. 100 of 2000, s. 282
Section 31	Repealed by No. 100 of 2000, s. 282
Section 32	Repealed by No. 100 of 2000, s. 282
Section 33	Repealed by No. 100 of 2000, s. 282
Section 34	Repealed by No. 100 of 2000, s. 282
Section 35	Repealed by No. 100 of 2000, s. 282
Section 35A	Inserted by No. 9 of 1998, s. 4
Division 6 of Part 2	Repealed by No. 100 of 2000, s. 282
2	
Section 36	Amended by No. 17 of 1996 Repealed by No. 100 of 2000, s. 282 and No. 24 of 2003, Sched. 1
Section 37	Repealed by No. 100 of 2000, s. 282 Amended by No. 24 of 2003, Sched. 1
Section 38	Amended by No. 68 of 1994, s. 3 and Sched. 1 Repealed by No. 100 of 2000, s. 282 and No. 24 of 2003, Sched. 1
Section 39	Repealed by No. 100 of 2000, s. 282 Substituted by No. 24 of 2003, Sched. 1
Section 40	Repealed by No. 100 of 2000, s. 282 and No. 24 of 2003, Sched. 1
Section 41	Repealed by No. 100 of 2000, s. 282
Section 42	Repealed by No. 100 of 2000, s. 282
Section 43	Repealed by No. 100 of 2000, s. 282
Division 7 of Part 2	Repealed by No. 100 of 2000, s. 282
2	
Section 44	Amended by No. 90 of 1995, s. 5 Repealed by No. 100 of 2000, s. 282
Section 45	Repealed by No. 100 of 2000, s. 282
Section 46	Repealed by No. 100 of 2000, s. 282
Section 47	Repealed by No. 100 of 2000, s. 282
Section 48	Repealed by No. 100 of 2000, s. 282
Section 49	Repealed by No. 100 of 2000, s. 282
Section 50	Repealed by No. 100 of 2000, s. 282
Section 51	Amended by No. 90 of 1995, s. 6 Subsection (3) substituted by No. 90 of 1995, s. 6 Repealed by No. 100 of 2000, s. 282

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Section 52	Repealed by No. 100 of 2000, s. 282
Section 53	Repealed by No. 100 of 2000, s. 282
Section 54	Repealed by No. 100 of 2000, s. 282
Division 8 of Part 2	Repealed by No. 100 of 2000, s. 282
Section 55	Repealed by No. 100 of 2000, s. 282
Section 56	Repealed by No. 100 of 2000, s. 282
Section 57	Repealed by No. 100 of 2000, s. 282
Section 58	Repealed by No. 100 of 2000, s. 282
Section 59	Repealed by No. 100 of 2000, s. 282
Section 60	Repealed by No. 100 of 2000, s. 282
Section 61	Repealed by No. 100 of 2000, s. 282
Section 62	Repealed by No. 100 of 2000, s. 282
Section 63	Repealed by No. 100 of 2000, s. 282
Division 9 of Part 2	Repealed by No. 100 of 2000, s. 282
Section 64	Repealed by No. 100 of 2000, s. 282
Section 65	Repealed by No. 16 of 1997, Sched. 1 and No. 100 of 2000, s. 282
Section 66	Repealed by No. 100 of 2000, s. 282
Division 10 of Part 2	Repealed by No. 100 of 2000, s. 282
Section 67	Amended by No. 90 of 1995, s. 7 Repealed by No. 100 of 2000, s. 282
Section 68	Repealed by No. 100 of 2000, s. 282
Section 69	Repealed by No. 100 of 2000, s. 282
Section 70	Amended by No. 90 of 1995, s. 8 Repealed by No. 100 of 2000, s. 282
Section 71	Repealed by No. 100 of 2000, s. 282
Section 72	Repealed by No. 100 of 2000, s. 282
Section 73	Repealed by No. 100 of 2000, s. 282
Section 74	Amended by No. 86 of 2000, Sched. 1 Repealed by No. 100 of 2000, s. 282
Section 75	Repealed by No. 100 of 2000, s. 282
Section 76	Amended by No. 10 of 2000, s. 17 Repealed by No. 100 of 2000, s. 282
Section 77	Repealed by No. 100 of 2000, s. 282
Section 78	Repealed by No. 100 of 2000, s. 282
Section 79	Repealed by No. 100 of 2000, s. 282
Section 80	Amended by No. 19 of 1997, s. 4, No. 10 of 2000, s. 18, No. 24 of 2014, s. 50 and No. 26 of 2022, s. 30
Section 81	Amended by No. 24 of 2014, s. 51
Section 83	Amended by No. 52 of 2008, Sched. 1, No. 24 of 2009, s. 12 and No. 24 of 2014, s. 52
Section 84	Amended by No. 24 of 2014, s. 53
Section 85	Amended by No. 44 of 1994, s. 106
Section 85A	Inserted by No. 24 of 2014, s. 54

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Section 86	Amended by No. 62 of 1996, s. 3 and Sched. 1, No. 74 of 1999, Sched. 2, No. 52 of 2008, Sched. 1, No. 71 of 2013, Sched. 2 and No. 24 of 2014, s. 55
Section 88	Amended by No. 31 of 2020, s. 15
Section 89	Amended by No. 90 of 1995, s. 9 and No. 31 of 2020, s. 16
Section 92	Amended by No. 9 of 2003, Sched. 1
Section 94	Amended by No. 31 of 2020, s. 17
Section 98	Amended by No. 55 of 2000, Sched. 2
Section 104	Amended by No. 66 of 2007, Sched. 1
Section 105A	Inserted by No. 27 of 2007, s. 4
Section 105B	Inserted by No. 27 of 2007, s. 4
Section 108	Amended by No. 26 of 2003, Sched. 1
Section 109	Amended by No. 85 of 1997, Sched. 4, No. 9 of 2003, Sched. 1, No. 26 of 2003, Sched. 1 and No. 24 of 2014, s. 56
Section 117	Amended by No. 90 of 1995, s. 10, No. 62 of 1996, s. 3 and Sched. 1, No. 74 of 1999, Sched. 2 and No. 24 of 2014, s. 57
Section 119	Repealed by No. 17 of 1998, Sched. 3
Section 123	Repealed by No. 4 of 2002, s. 58 Inserted by No. 24 of 2014, s. 58
Section 124	Substituted by No. 8 of 1999, s. 9 Repealed by No. 4 of 2002, s. 58 Inserted by No. 31 of 2020, s. 18
Part 4	Repealed by No. 4 of 2002, s. 58
Division 1 of Part 4	Repealed by No. 4 of 2002, s. 58
Section 125	Repealed by No. 4 of 2002, s. 58
Section 126	Repealed by No. 4 of 2002, s. 58
Section 127	Repealed by No. 4 of 2002, s. 58
Section 128	Repealed by No. 4 of 2002, s. 58
Section 129	Repealed by No. 4 of 2002, s. 58
Section 130	Repealed by No. 4 of 2002, s. 58
Section 131	Repealed by No. 4 of 2002, s. 58
Section 132	Repealed by No. 4 of 2002, s. 58
Section 133	Repealed by No. 4 of 2002, s. 58
Section 134	Repealed by No. 4 of 2002, s. 58
Section 135	Repealed by No. 4 of 2002, s. 58
Division 2 of Part 4	Repealed by No. 4 of 2002, s. 58
Section 136	Repealed by No. 4 of 2002, s. 58
Section 137	Repealed by No. 4 of 2002, s. 58
Section 138	Repealed by No. 4 of 2002, s. 58
Division 3 of Part 4	Repealed by No. 4 of 2002, s. 58
Section 139	Repealed by No. 4 of 2002, s. 58
Section 140	Repealed by No. 4 of 2002, s. 58

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Section 141	Repealed by No. 4 of 2002, s. 58
Section 142	Repealed by No. 4 of 2002, s. 58
Section 143	Repealed by No. 4 of 2002, s. 58
Division 4 of Part 4	Repealed by No. 4 of 2002, s. 58
Section 144	Repealed by No. 4 of 2002, s. 58
Section 145	Repealed by No. 4 of 2002, s. 58
Section 146	Repealed by No. 4 of 2002, s. 58
Division 5 of Part 4	Repealed by No. 4 of 2002, s. 58
Section 147	Repealed by No. 4 of 2002, s. 58
Section 148	Repealed by No. 4 of 2002, s. 58
Section 149	Repealed by No. 4 of 2002, s. 58
Section 150	Repealed by No. 4 of 2002, s. 58
Section 151	Repealed by No. 4 of 2002, s. 58
Section 152	Repealed by No. 4 of 2002, s. 58
Section 153	Repealed by No. 4 of 2002, s. 58
Section 154	Repealed by No. 4 of 2002, s. 58
Section 155	Repealed by No. 4 of 2002, s. 58
Section 156	Repealed by No. 4 of 2002, s. 58
Division 6 of Part 4	Repealed by No. 4 of 2002, s. 58
Section 157	Repealed by No. 4 of 2002, s. 58
Section 158	Repealed by No. 4 of 2002, s. 58
Division 7 of Part 4	Repealed by No. 4 of 2002, s. 58
Section 159	Repealed by No. 4 of 2002, s. 58
Section 160	Repealed by No. 4 of 2002, s. 58
Part 5	Repealed by No. 9 of 1998, s. 5
Division 1 of Part 5	Repealed by No. 9 of 1998, s. 5
Section 161	Repealed by No. 9 of 1998, s. 5
Section 162	Repealed by No. 16 of 1997, Sched. 1 and No. 9 of 1998, s. 5
Division 2 of Part 5	Repealed by No. 9 of 1998, s. 5
Section 163	Repealed by No. 9 of 1998, s. 5
Section 164	Repealed by No. 9 of 1998, s. 5
Section 165	Repealed by No. 9 of 1998, s. 5
Section 166	Repealed by No. 9 of 1998, s. 5
Division 3 of Part 5	Repealed by No. 9 of 1998, s. 5
Section 167	Repealed by No. 44 of 1994, s. 106 and No. 9 of 1998, s. 5
Section 168	Repealed by No. 44 of 1994, s. 106 and No. 9 of 1998, s. 5
Section 169	Repealed by No. 44 of 1994, s. 106 and No. 9 of 1998, s. 5
Section 170	Repealed by No. 44 of 1994, s. 106 and No. 9 of 1998, s. 5
Section 171	Repealed by No. 44 of 1994, s. 106 and No. 9 of 1998, s. 5

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Division 4 of Part 5	Repealed by No. 9 of 1998, s. 5
Section 172	Repealed by No. 9 of 1998, s. 5
Section 173	Repealed by No. 44 of 1994, s. 106 and No. 9 of 1998, s. 5
Section 174	Repealed by No. 44 of 1994, s. 106 and No. 9 of 1998, s. 5
Section 175	Repealed by No. 44 of 1994, s. 106 and No. 9 of 1998, s. 5
Division 5 of Part 5	Repealed by No. 9 of 1998, s. 5
Section 176	Repealed by No. 9 of 1998, s. 5
Section 177	Repealed by No. 9 of 1998, s. 5
Section 178	Repealed by No. 9 of 1998, s. 5
Section 179	Repealed by No. 9 of 1998, s. 5
Division 6 of Part 5	Repealed by No. 9 of 1998, s. 5
Section 180	Repealed by No. 9 of 1998, s. 5
Section 181	Repealed by No. 9 of 1998, s. 5
Division 7 of Part 5	Repealed by No. 9 of 1998, s. 5
Section 182	Repealed by No. 9 of 1998, s. 5
Section 183	Repealed by No. 44 of 1994, s. 106 and No. 9 of 1998, s. 5
Section 184	Repealed by No. 44 of 1994, s. 106 and No. 9 of 1998, s. 5
Division 8 of Part 5	Repealed by No. 9 of 1998, s. 5
Section 185	Repealed by No. 9 of 1998, s. 5
Section 186	Repealed by No. 9 of 1998, s. 5
Section 187	Repealed by No. 9 of 1998, s. 5
Section 188	Repealed by No. 9 of 1998, s. 5
Section 189	Repealed by No. 9 of 1998, s. 5
Section 190	Repealed by No. 9 of 1998, s. 5
Section 191	Repealed by No. 9 of 1998, s. 5
Section 192	Repealed by No. 9 of 1998, s. 5
Section 193	Repealed by No. 9 of 1998, s. 5
Section 194	Repealed by No. 9 of 1998, s. 5
Division 9 of Part 5	Repealed by No. 9 of 1998, s. 5
Section 195	Repealed by No. 9 of 1998, s. 5
Section 196	Repealed by No. 9 of 1998, s. 5
Section 197	Amended by No. 74 of 1995, sched. 1 Repealed by No. 86 of 1997, s. 197 and No. 9 of 1998, s. 5
Part 6	Repealed by No. 52 of 2008, Sched. 1
Division 1 of Part 6	Repealed by No. 52 of 2008, Sched. 1
Section 198	Subsection (2) substituted by No. 45 of 1999, Sched. 6 Amended by No. 45 of 1999, Sched. 6 Repealed by No. 52 of 2008, Sched. 1
Section 199	Repealed by No. 52 of 2008, Sched. 1
Section 200	Repealed by No. 45 of 1999, Sched. 6 and No. 52 of 2008,

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	Sched. 1
Section 201	Amended by No. 45 of 1999, Sched. 6 Repealed by No. 52 of 2008, Sched. 1
Section 202	Substituted by No. 45 of 1999, Sched. 6 Repealed by No. 52 of 2008, Sched. 1
Section 203	Amended by No. 45 of 1999, Sched. 6 Repealed by No. 52 of 2008, Sched. 1
Division 2 of Part 6	Repealed by No. 8 of 1995, s. 24 and No. 52 of 2008, Sched. 1
Section 204	Repealed by No. 8 of 1995, s. 24 and No. 52 of 2008, Sched. 1
Section 205	Repealed by No. 8 of 1995, s. 24 and No. 52 of 2008, Sched. 1
Section 206	Repealed by No. 8 of 1995, s. 24 and No. 52 of 2008, Sched. 1
Section 207	Repealed by No. 8 of 1995, s. 24 and No. 52 of 2008, Sched. 1
Division 3 of Part 6	Repealed by No. 52 of 2008, Sched. 1
Section 208	Repealed by No. 52 of 2008, Sched. 1
Section 209	Repealed by No. 52 of 2008, Sched. 1
Section 210	Repealed by No. 52 of 2008, Sched. 1
Section 211	Amended by No. 73 of 2001, Sched. 1 Subsection (3) substituted by No. 73 of 2001, Sched. 1 Amended by No. 73 of 2001, Sched. 1 Repealed by No. 52 of 2008, Sched. 1
Section 212	Repealed by No. 52 of 2008, Sched. 1
Section 213	Repealed by No. 52 of 2008, Sched. 1
Section 214	Repealed by No. 52 of 2008, Sched. 1
Division 4 of Part 6	Repealed by No. 52 of 2008, Sched. 1
Section 215	Repealed by No. 52 of 2008, Sched. 1
Section 216	Repealed by No. 52 of 2008, Sched. 1
Section 217	Repealed by No. 17 of 1997, s. 18 and No. 52 of 2008, Sched. 1
Section 218	Repealed by No. 52 of 2008, Sched. 1
Section 219	Amended by No. 45 of 1999, Sched. 6 Repealed by No. 52 of 2008, Sched. 1
Section 220	Repealed by No. 52 of 2008, Sched. 1
Section 221	Repealed by No. 52 of 2008, Sched. 1
Section 222	Repealed by No. 52 of 2008, Sched. 1
Section 223	Repealed by No. 52 of 2008, Sched. 1
Section 224	Repealed by No. 17 of 1997, s. 18 and No. 52 of 2008, Sched. 1
Division 2 of Part 7	Repealed by No. 90 of 1995, s. 11
Section 235	Repealed by No. 90 of 1995, s. 11

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Section 236	Repealed by No. 90 of 1995, s. 11
Section 237	Repealed by No. 90 of 1995, s. 11
Section 238	Repealed by No. 90 of 1995, s. 11
Section 239	Repealed by No. 90 of 1995, s. 11
Section 240	Repealed by No. 90 of 1995, s. 11
Section 244	Amended by No. 23 of 2021, s. 151
Division 3 of Part 8	Heading amended by No. 52 of 2008, Sched. 1 Repealed by No. 71 of 2013, Sched. 2
Section 248	Amended by No. 52 of 2008, Sched. 1 Repealed by No. 71 of 2013, Sched. 2
Division 4 of Part 8	Heading amended by No. 52 of 2008, Sched. 1 Repealed by No. 71 of 2013, Sched. 2
Section 249	Amended by No. 16 of 1997, Sched. 1 Repealed by No. 71 of 2013, Sched. 2
Section 250	Amended by No. 16 of 1997, Sched. 1 Repealed by No. 52 of 2008, Sched. 1 and No. 71 of 2013, Sched. 2
Section 251	Amended by No. 52 of 2008, Sched. 1 Repealed by No. 71 of 2013, Sched. 2
Section 251A of Part 8	Inserted by No. 52 of 2008, Sched. 1
