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K Woodward  
Chief Parliamentary Counsel  
Dated 4 August 2025



TASMANIA

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## **CROWN LANDS (SHACK SITES) ACT 1997**

**No. 87 of 1997**

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## **CROWN LANDS (SHACK SITES) ACT 1997**

**No. 87 of 1997**

**An Act to provide for determinations to be made in relation to the long-term status and tenure of shack sites on Crown land and for related purposes**

**[Royal Assent 14 January 1998]**

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 *Crown Lands (Shack Sites) Act 1997*.

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**2. Commencement**

This Act commences on the day after the day on which it receives the Royal Assent.

**3. Interpretation**

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

*administrative costs*, in relation to a shack site, means the costs of carrying out an assessment and making a determination for the shack site under Part 2 and of implementing that determination under Part 5, including the costs, if any, of surveying or valuing the shack site or any related infrastructure land;

*appeal period* means the 28 day period specified in section 11(2);

*commencement day* means the day on which this Act commences;

*Commissioner* means the Shack Sites Commissioner appointed under section 8;

*contravention* includes failure to comply;

*conversion period* means the period commencing on the commencement day and ending at midnight on 20 November 2002 or, if a later date is prescribed, at midnight on that later date;

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***Crown land*** means Crown land within the meaning of the *Crown Lands Act 1976*;

***dedicated Crown land*** means Crown land that by virtue of an enactment is under the exclusive or primary control or management of a particular State instrumentality other than the responsible Department in relation to the *Crown Lands Act 1976*;

***Fund*** means the Crown Lands Administration Fund established under Part VIA of the *Crown Lands Act 1976*;

***infrastructure*** includes –

- (a) roads; and
- (b) waste water treatment facilities such as reticulation pipes, rising mains, treatment plant and disposal areas; and
- (c) stormwater facilities; and
- (d) mains power supply;

***Parks Minister*** means the Minister responsible for the administration of the *National Parks and Reserves Management Act 2002*;

***Portfolio Minister***, in relation to any dedicated Crown land, means the Minister responsible for the State instrumentality that has the exclusive or

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primary responsibility for controlling or managing that land;

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

**rehabilitation**, in relation to a shack site, means rehabilitation of the shack site both above and below ground;

**related infrastructure land**, in relation to a shack site, means land required for the purposes of providing access and services to the shack site or providing related infrastructure or for any other purpose, as fixed by survey under section 4(2)(b);

**responsible council**, in relation to a shack site, means the council of the municipal area in which the shack site is situated;

**Secretary** means Secretary of the Department;

**shack** means a dwelling that is erected on land under a lease or licence, from the Crown or a State instrumentality, expressed to be for shack purposes and includes any related lawfully erected structures or dismountable improvements, other than jetties, boatsheds and slipways;

**shack site** means the Crown land on which a shack is erected;

**shack site covenant** means a positive or negative covenant recorded on the folio



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of the Register for land comprising a shack site pursuant to section 33;

***shack site determination*** means a determination of the Secretary made under section 4(1);

***State Coastal Policy*** means a policy of that name prepared and made under Part 2 of the *State Policies and Projects Act 1993*;

***State instrumentality*** means either of the following:

- (a) a Government department within the meaning of the *State Service Act 2000*;
- (b) a State authority within the meaning of the *State Service Act 2000*;

***waste water*** includes sewage and grey water, whether treated or untreated.

- (2) For the purposes of this Act, 2 parcels of land are taken to adjoin each other only if they have a common boundary.

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**PART 2 – DETERMINING FUTURE STATUS OF  
SHACK SITES**

**4. Secretary to make assessment and determination**

- (1) Before the end of the conversion period, the Secretary must carry out an assessment of each shack site to which this Act applies and make one of the following determinations:
  - (a) that the existing lease or licence for the shack site should be replaced with a long-term lease;
  - (b) that the shack on the shack site should be removed and the land revert to the use of the Crown;
  - (c) that the shack site should be sold to the existing lessee or licensee.
- (2) The Secretary may do either or both of the following if the Secretary thinks it necessary or appropriate to do so for the purposes of making the determination:
  - (a) fix by survey which land constitutes the shack site;
  - (b) fix by survey which other land, if any, will be required for the purposes of providing access and services to the shack site or providing related infrastructure or for any other purpose.

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- (3) The Secretary must serve written notice of the determination on –
- (a) the lessee or licensee of the shack site; and
  - (b) each person holding an estate in fee simple, or an equity of redemption, in land adjoining the shack site and each person who is a lessee or licensee of an adjoining shack site; and
  - (c) the responsible council.
- (4) The notice must also explain that there is a right of appeal in respect of the determination and specify the time and procedure for lodging an appeal.
- (5) The notice must clearly identify the shack site and, as far as practicable, any related infrastructure land.

**5. Minister must develop conversion criteria**

- (1) The Minister must issue criteria to be applied by the Secretary in making shack site determinations.
- (2) The criteria so issued may be referred to as conversion criteria.
- (3) In formulating the conversion criteria, the Minister –
  - (a) must have regard to the State Coastal Policy and the objectives of the Resource

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Management and Planning System set out in Schedule 1 to the *Land Use Planning and Approvals Act 1993*; and

- (b) may –
  - (i) have regard to such other policies and to such enactments and other matters as the Minister thinks fit; and
  - (ii) seek and have regard to such advice as the Minister thinks fit.
- (4) If the conversion criteria issued by the Minister have the same content as the model conversion criteria set out in Schedule 2A, the conversion criteria so issued are to be taken for all purposes as having been validly formulated under this section.
- (5) For the purposes of subsection (4), 2 documents may be taken to have the same content despite –
  - (a) the absence, from one document, of a heading, introduction or note appearing in the other document; or
  - (b) any variation between them in punctuation or spelling; or
  - (c) minor variations between them in style or layout.

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**6. Factors relevant to assessment and determination**

- (1) In carrying out an assessment and making a determination under section 4, the Secretary –
- (a) must have regard to the conversion criteria; and
  - (b) must consult with the lessee or licensee of the shack site; and
  - (c) must, if the shack site is on dedicated Crown land, consult with the Portfolio Minister; and
  - (d) must consult with the responsible council; and
  - (e) must consult with the Aboriginal community of Tasmania through the Office of Aboriginal Affairs; and
  - (f) may consult with such of the following as the Secretary considers appropriate in the circumstances:
    - (i) the Recorder of Titles;
    - (ii) the Surveyor-General;
    - (iii) the Director of National Parks and Wildlife; and
  - (g) may have regard to –
    - (i) the State Coastal Policy or any other policy that the Secretary

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considers relevant in the  
circumstances; and

- (ii) any enactments, planning  
schemes or other matters that the  
Secretary considers relevant in  
the circumstances.

- (2) The Secretary must not make a determination under section 4(1)(a) or (c) in respect of a shack site unless the Secretary is satisfied that –

- (a) waste water from the site can be effectively treated or disposed of; and
- (b) the granting of a long-term lease for the shack site, or its sale, will not eliminate or restrict reasonable public access to, and use of, coastal foreshore or lake or river frontage.

**7. Determination to sell or lease suspends operation of certain laws, &c., in relation to shack site**

- (1) When the Secretary makes a determination in relation to a shack site under section 4(1)(a) or (c), the *Land Use Planning and Approvals Act 1993*, Part 3 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* and the State Coastal Policy cease to apply to that shack site and to any related infrastructure land, as identified in the notice under section 4(3), until –
  - (a) for a section 4(1)(a) determination, whichever of the following first occurs:

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- (i) the replacement lease for the shack site is issued;
    - (ii) a folio of the Register for the shack site is created;
    - (iii) the conversion period expires; or
  - (b) for a section 4(1)(c) determination, whichever of the following first occurs:
    - (i) a folio of the Register for the shack site is created;
    - (ii) the conversion period expires.
- (2) This section has effect notwithstanding any other enactment.

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Part 3 – Shack Sites Commissioner

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**PART 3 – SHACK SITES COMMISSIONER**

**8. Appointment of Commissioner**

- (1) The Governor may appoint a person to be the Shack Sites Commissioner for a period not exceeding 3 years and on any terms and conditions the Governor determines.
- (1A) The Governor may extend a person's appointment as Shack Sites Commissioner for one further period not exceeding 3 years.
- (2) A person appointed as the Commissioner may hold that office in conjunction with –
  - (a) State Service employment; or
  - (b) any statutory office.
- (3) A person appointed as the Commissioner may vacate, or be removed from, office in accordance with Schedule 1.
- (4) The Minister may appoint a person to act as Commissioner for a period not exceeding 6 months if there is no Commissioner or the Commissioner is unable to perform the duties of the office of Commissioner because of illness or absence or conflict of interest.

**9. Functions of Commissioner**

- (1) The function of the Commissioner is to hear and determine appeals under Part 4.



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- (2) The Commissioner must also perform any prescribed functions.

**10. Powers of Commissioner**

The Commissioner has the following powers:

- (a) to determine the procedures to be followed in any appeal;
- (b) to do all things necessary or convenient to perform the function of the Commissioner.

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**PART 4 – APPEALS**

**11. Appeal from Secretary’s determination**

- (1) When the Secretary makes a determination in respect of a shack site under section 4(1), any or all of the following parties may appeal against the determination in accordance with this Part:
  - (a) the person who is the lessee or licensee of the shack site;
  - (b) a person who holds an estate in fee simple, or an equity of redemption, in adjoining land or a person who is the lessee or licensee of an adjoining shack site;
  - (c) the responsible council.
- (2) A person’s appeal is to be lodged with the Commissioner within 28 days of the day on which notice of the determination is served on the person.
- (3) The Commissioner may accept a late appeal from a person, other than a council, if satisfied that the appeal was unable to be lodged within the appeal period –
  - (a) by reason of the absence from the State or serious illness of the person; or
  - (b) for any other reasonable cause.
- (4) An appeal lies only in respect of the kind of determination made and not in respect of –

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- (a) any procedure, consideration or other matter relating to that determination; or
  - (b) any associated action taken under section 4(2).
- (5) Except as provided by subsection (1), no appeal lies against a shack site determination.

**12. Appeals to be heard by Commissioner**

- (1) An appeal is to be heard and determined by the Commissioner.
- (2) Schedule 2 has effect in relation to the institution and hearing of an appeal and the related powers of the Commissioner under this Act.

**13. Misleading the Commissioner is an offence**

A person must not give false or misleading evidence or information to the Commissioner.

Penalty: Fine not exceeding 50 penalty units.

**14. Determination of appeal**

- (1) After hearing an appeal, the Commissioner may –
  - (a) uphold the Secretary's determination; or
  - (b) set aside the Secretary's determination and substitute such other determination, as the Secretary had power to make, as the Commissioner thinks fit; or

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- (c) set aside the determination and direct the Secretary to make a fresh assessment and determination taking into account such matters as the Commissioner specifies in the direction.
- (2) The Commissioner must give notice of the outcome of the appeal to the Secretary and, at the same time, to each other party to the appeal.
- (3) A shack site determination does not have effect until –
  - (a) if no appeal is lodged against the determination, the end of the appeal period; or
  - (b) if an appeal is lodged but the determination is upheld, the day on which notice of the outcome of the appeal is given to the Secretary and to each other party to the appeal under subsection (2).
- (4) If, on appeal, a shack site determination of the Secretary is set aside by the Commissioner and another determination is substituted, the substituted determination has effect on the day on which notice of the outcome of the appeal is given to the Secretary and to each other party to the appeal under subsection (2).

**15. Commissioner's determination is final**

- (1) No appeal lies against a determination of the Commissioner under section 14.

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- (2) Subsection (1) is not to be taken as limiting or affecting a person's right of appeal to the Commissioner against a shack site determination made consequent on a direction given to the Secretary under section 14(1)(c).
- (3) A determination of the Commissioner under section 14 is not reviewable by the Minister.

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**PART 5 – IMPLEMENTING DETERMINATIONS**

***Division 1 – Replacement***

**16. Effect of determination to replace lease or licence**

- (1) A shack site determination referred to in section 4(1)(a) authorises the Minister to –
  - (a) cancel the subsisting lease or licence for the shack site; and
  - (b) offer the lessee or licensee, by way of replacement, a lease of the shack site under and subject to the *Crown Lands Act 1976* or, if applicable, the *National Parks and Reserves Management Act 2002* for a period not exceeding 30 years.
- (2) Without limiting the matters that may be made terms or conditions of the replacement lease, such lease may contain provisions generally to the effect of any one or more of the following:
  - (a) that the lessee must carry out specified work or provide specified infrastructure, or both, within a specified time or at specified intervals and that, in default, the Crown may carry out the work or provide the infrastructure at the cost of the lessee;
  - (b) that the lessee must make a capital contribution towards the cost of providing any infrastructure that has been or, in the reasonable opinion of the

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Secretary, will have to be provided by the Crown in relation to the shack site;

- (ba) that the lessee must pay, or make a capital contribution towards, the administrative costs;
- (c) that the lessee must enter into a joint scheme with adjoining lessees or other specified persons;
- (d) that the lessee must seek the approval of specified persons in relation to specified matters within a specified time or at specified intervals;
- (e) that the lessee must, in relation to the shack site, adopt, cease or modify any practice in relation to the treatment or disposal of waste water;
- (f) that the lessee must adopt, cease or modify any practice in relation to the environmental protection of the shack site;
- (g) that the Minister, on behalf of the Crown, may cancel the lease and remove any shack on the shack site, and recover costs from the lessee, in the event that the lessee commits an on-going breach of a condition referred to in paragraph (d), (e) or (f);
- (h) that on the expiry, termination or surrender of the lease, all or any part of

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the private infrastructure on the shack  
site becomes the property of the Crown.

**17. Rental for replacement lease**

Subject to section 17A, the rental for a replacement lease is the rental that is prescribed in the regulations or determined by the application of any rate, formula or other method set out in the regulations.

**17A. Leasing hardship**

- (1) The Minister may determine that the rental for the replacement lease should, for all or part of its term (or remaining term), be such lower rental as the Minister considers reasonable in the circumstances if the Minister is satisfied that paying (or continuing to pay) the rental required under section 17 for that term or that part of that term would cause hardship to the lessee.
- (2) If the Minister makes a determination under subsection (1), the rental for the replacement lease is to be adjusted accordingly.
- (3) The Minister may review a determination under subsection (1) at any time.
- (4) For the purposes of making and reviewing determinations under subsection (1), the Minister may –
  - (a) require any persons claiming or continuing to claim hardship to give the Minister such financial statements and



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- other information relevant to their real estate leasing capacity as the Minister reasonably considers necessary; and
- (b) issue, and apply, such hardship eligibility criteria and leasing payment criteria as the Minister thinks fit.
- (5) The Minister may revoke or amend a determination under subsection (1) if, after reviewing the determination, he or she is satisfied that the financial circumstances of the relevant lessee have altered to such an extent that the lessee is no longer eligible to claim hardship.
- (6) If the Minister revokes or amends a determination under subsection (1), the rental for the replacement lease is to be readjusted accordingly.
- (7) The Minister may delegate to the Secretary any of the Minister's powers under this section other than –
- (a) the power to issue hardship eligibility criteria and leasing payment criteria under subsection (4)(b); and
- (b) this power of delegation.
- (8) A person who is aggrieved by a hardship determination made in respect of that person under this section may apply to the Tasmanian Civil and Administrative Tribunal for a review of that determination.
- (9) For the purposes of subsection (8) –

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***hardship determination*** means –

- (a) the making of a determination under subsection (1); and
- (b) a refusal to make such a determination; and
- (c) the revocation or amendment of such a determination.

**18. Refusal of replacement lease**

- (1) If the lessee or licensee refuses to enter into the replacement lease, the lessee or licensee must remove the shack, together with any other improvements, from the shack site and rehabilitate the shack site within such reasonable period of time not exceeding 36 months and in such manner as the Minister by notice given to the lessee or licensee specifies.
- (2) For the purposes of subsection (1), the lessee or licensee is taken to have refused to enter into the replacement lease if, within 60 days of the day on which notice of the offer of the replacement lease is served, the lessee or licensee –
  - (a) notifies the Minister that he or she does not wish to enter into the replacement lease; or
  - (b) fails to enter into the replacement lease.

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**19. Failure to remove shack and rehabilitate shack site**

In the event that the lessee or licensee fails to comply with section 18(1) –

- (a) the Minister may proceed under section 48 of the *Crown Lands Act 1976*; and
- (b) sections 48(2) and (3) of that Act have corresponding effect; and
- (c) any costs reasonably incurred by the Crown in resuming, rehabilitating and, if necessary, securing the shack site consequent on the failure by the lessee or licensee to comply with section 18(1) are recoverable in a court of competent jurisdiction as a debt due to the Crown; and
- (d) any improvements or chattels remaining on the shack site are forfeited to the Crown.

***Division 2 – Removal***

**20. Effect of determination to remove shack**

A shack site determination referred to in section 4(1)(b) authorises the Minister to –

- (a) cancel the subsisting lease or licence for the shack site; and
- (b) serve a removal notice on the lessee or licensee.

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**21. Requirements of removal notices**

- (1) A removal notice is a directive of the Minister that requires the lessee or licensee named in the notice to remove a shack, together with any other improvements specified in the notice, from the Crown land specified in the notice within the period of time specified in the notice.
- (2) The period of time allowed for the removal of the shack is to be such period as the Minister considers reasonable in the circumstances but is not, in any case, to exceed 36 months.
- (3) The notice may contain specific directives regarding –
  - (a) the method of removal of the shack, or other improvements, from the shack site; and
  - (b) measures to be taken by the lessee or licensee regarding protection or rehabilitation of the shack site.

**22. Assistance to lessee or licensee**

On serving a removal notice the Minister may, in the Minister's absolute discretion, do either or both of the following:

- (a) offer to lease or sell to the lessee or licensee an alternative site on Crown land to which the lessee's or licensee's shack can be relocated;

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- (b) contribute to the lessee's or licensee's costs of removal and relocation, whether to an alternative site on Crown land or elsewhere.

**23. Failure to comply with removal notice**

In the event that the lessee or licensee fails to comply with the removal notice –

- (a) the Minister may proceed under section 48 of the *Crown Lands Act 1976*; and
- (b) sections 48(2) and (3) of that Act have corresponding effect; and
- (c) any costs reasonably incurred by the Crown in resuming, rehabilitating and, if necessary, securing the shack site consequent on the failure by the lessee or licensee to comply with the notice are recoverable in a court of competent jurisdiction as a debt due to the Crown; and
- (d) any improvements or chattels remaining on the shack site are forfeited to the Crown.

**24. Contravening a removal notice is an offence**

- (1) A person who is served with a removal notice must not contravene that notice without reasonable excuse.

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Penalty: Fine not exceeding 100 penalty units and a further fine not exceeding 2.5 penalty units for each day during which the offence continues.

- (2) A court that convicts a person of an offence under subsection (1), in addition to any penalty it imposes under that subsection –
- (a) must order that person to pay to the Crown such amount as the court considers appropriate having regard to any financial assistance that has been paid to that person under section 22; and
  - (b) may order that person to pay to the Crown such amount as the court considers appropriate having regard to any unrecovered costs incurred by the Crown as a result of the contravention of the notice.

***Division 3 – Sale***

**25. Effect of determination to sell shack site**

- (1) A shack site determination referred to in section 4(1)(c) authorises the Minister to –
- (a) cancel the subsisting lease or licence for the shack site; and
  - (b) offer to sell the shack site to the lessee or licensee.

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- (2) The sale price at which the shack site is to be offered to the lessee or licensee is to be made up as follows:
- (a) the land value of the shack site, as assessed by the Valuer-General;
  - (b) the cost of providing any infrastructure that has been or, in the reasonable opinion of the Secretary, will have to be provided by the Crown in relation to the shack site;
  - (c) the administrative costs, or such part of the administrative costs as the Minister determines is reasonable in the circumstances.
- (3) Nothing in section 13 of the *Crown Lands Act 1976* is to be taken as limiting the operation of subsection (2).
- (4) Where a person who is purchasing a shack site pursuant to a determination under section 4(1)(c) is able to complete the purchase in full within 30 days of the day on which the last of any conditions precedent to the purchase is satisfied, the Minister may discount the price of the shack site by an amount equal to 10% of its land value, as assessed by the Valuer-General or, on review, by the Magistrates Court (Administrative Appeals Division).

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**26. Review of assessment of land value**

- (1) A lessee or licensee who does not agree with the Valuer-General's assessment of the land value of the lessee's or licensee's shack site may, within 30 days of being served with notice of the assessment, or such longer period as the Valuer-General may allow, apply to the Valuer-General to review the assessment.
- (2) An application under subsection (1) is not required to be in any particular form but is to –
  - (a) be in writing; and
  - (b) clearly identify the lessee or licensee and the shack site; and
  - (c) be posted to or lodged with the Valuer-General so as to be received within the time allowed under subsection (1); and
  - (d) set out the grounds of disagreement with the assessment; and
  - (e) state what the lessee or licensee considers to be the land value of the shack site; and
  - (f) state a postal address for service of notices.
- (3) The Valuer-General must notify the Secretary of the receipt of the application.
- (4) The Valuer-General may require an applicant or the Secretary to provide any further information



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the Valuer-General considers necessary for the purpose of reviewing the assessment.

- (5) The Valuer-General must, as soon as practicable, consider the application and –
  - (a) approve the original assessment; or
  - (b) having regard to the matters raised by the applicant and any other matters the Valuer-General considers relevant, make a fresh assessment.
- (6) The Valuer-General must, as soon as practicable, serve notice of the outcome of the application to the applicant and to the Secretary.

**27. Reviews of assessment of land value**

A lessee or licensee who, after proceeding under section 26, still does not agree with the Valuer-General's assessment of the land value of the lessee's or licensee's shack site may apply to the Tasmanian Civil and Administrative Tribunal for a review of the assessment.

**28. Purchasing hardship**

- (1) The Minister may allow the lessee or licensee to purchase the shack site over an extended period if the Minister is satisfied that immediate purchase would cause hardship.
- (2) For the purposes of making determinations under subsection (1), the Minister may –

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- (a) require any lessees or licensees who claim hardship to give the Minister such financial statements and other information relevant to their real estate purchasing capacity as the Minister reasonably considers necessary; and
  - (b) issue, and apply, such hardship eligibility criteria and extended payment criteria as the Minister thinks fit.
- (3) The Minister may delegate to the Secretary any of the Minister's powers under this section other than –
  - (a) the power to issue hardship eligibility criteria and extended payment criteria under subsection (2)(b); and
  - (b) this power of delegation.

**29. Failure to purchase**

- (1) If the lessee or licensee does not wish to purchase the shack site, the Minister may, in the Minister's absolute discretion –
  - (a) offer the lessee or licensee a lease of the shack site under and subject to the *Crown Lands Act 1976* for a term not exceeding 10 years at a rental calculated by multiplying the assessed secondary market yield on 10 year Treasury Bonds on the last business day of the months of March, June, September and December of each year as published by the Reserve

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Bank of Australia plus a margin of 2%, rounded to the nearest first decimal place, and the undiscounted sale price of the shack site under section 25(2); or

- (b) serve a removal notice on the lessee or licensee in the same manner as if a determination under section 4(1)(b) had been made in relation to the shack site.
- (2) The provisions of sections 21, 22, 23 and 24 apply to a removal order served under this Division in the same manner as those provisions apply to a removal order served under section 20.

**30. Crown and councils not liable for physical events affecting shacks sold**

- (1) In this section,

*physical event* includes –

- (a) rises in sea, river or lake level; and
- (b) landslip, earth subsidence and movement of dunes; and
- (c) erosion caused by the action of wind or water; and
- (d) changes in water courses; and
- (e) intrusion by any vehicle.

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- (2) No action lies against the Crown or a council for or in respect of the consequences of any physical event that, after the commencement day, may –
  - (a) occur on, or affect, a shack site that is sold under this Act or leased under the *Crown Lands Act 1976* or *National Parks and Reserves Management Act 2002* consequent on a determination under section 4(1) of this Act; or
  - (b) affect a shack on any such shack site.
- (3) No action lies against the Crown or a council for or in respect of the condition of a shack on a shack site that is sold under this Act.
- (4) The Recorder of Titles must, if requested to do so by notice in writing by the Secretary, record the bar to action contained in subsections (2) and (3) on the folio of the Register created for the shack site.

***Division 4 – Shack site titles***

**31. Crown may obtain title for purposes of sale**

- (1) A determination to sell a shack site under this Act authorises the Minister, the Secretary and the Director-General of Lands to do all things necessary or convenient to be done for the purposes of obtaining title to that shack site, whether or not the offer of sale is accepted.
- (2) Without limiting the generality of subsection (1), the Director-General of Lands may submit an

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application to the Recorder of Titles under section 27A of the *Land Titles Act 1980*.

- (3) The sale of the shack site may be made subject to such special stipulations as the Minister determines.

**32. Sale of shack site may be made subject to easements**

- (1) Where the Minister considers that an existing right of public access across a shack site that is to be sold under this Act should be preserved, the Minister may create an easement for the purpose.
- (2) The Minister may also create any other easements that the Minister reasonably considers are necessary for or in relation to the shack site that is to be sold.
- (3) Notwithstanding any enactment, law or equity to the contrary, an easement created under this section runs with the servient land and is enforceable between the parties to it and any person deriving title under any such party.
- (4) An easement created under this section comes into force on the day on which it is registered by the Recorder.

**33. Sale of shack site may be made subject to covenants**

- (1) In this section,

*positive covenant* means an agreement or undertaking given by the owner of land

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to take certain action for the benefit of  
another owner of land.

- (2) The Minister may, pursuant to section 31(3), determine that the sale of a shack site under this Act should be subject to the creation of positive covenants or negative (restrictive) covenants, or both.
- (3) Notwithstanding any enactment, law or equity to the contrary, a shack site covenant runs with the servient land and is enforceable between the parties to it and any person deriving title under any such party.
- (4) A shack site covenant and a variation of a shack site covenant come into force on the day on which they are registered by the Recorder.
- (5) A shack site covenant ceases to be enforceable on the day on which a discharge of the covenant is registered by the Recorder.
- (6) A shack site covenant and a variation or discharge of a shack site covenant may be in such form as the Recorder approves.

**34. Sale of shack site may involve strata plan**

- (1) The Minister may, pursuant to section 31(3), prepare a strata plan for and on behalf of the Crown if the Minister determines that it is necessary or expedient to do so for the purposes of selling any shack sites under this Act.

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- (2) Without limiting the Minister's discretion under subsection (1), the Minister may determine that a strata plan is required for the purpose of affording common access, services or infrastructure for or in relation to a group of shack sites.
  - (3) Subject to subsection (4), a strata plan proposed under this section may be lodged with the Recorder of Titles for registration in the same manner as a strata plan prepared or lodged by a developer under the *Strata Titles Act 1998*.
  - (4) Notwithstanding section 30 of the *Strata Titles Act 1998*, a strata plan lodged by or on behalf of the Minister under this section or an amendment to any such strata plan, if lodged by or on behalf of the Minister, does not have to be submitted to a council and does not require a council's certificate of approval.
  - (5) If satisfied that the requirements for registration have been complied with, the Recorder of Titles must register the plan.

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**PART 6 – MISCELLANEOUS**

35. . . . .

**36. Expenses of administration**

- (1) The costs incurred in administering this Act, including the costs of the Commissioner, are to be met from the Fund.
- (2) The provisions of subsection (1) are in addition to, and not in derogation of, the provisions of section 48B(3) of the *Crown Lands Act 1976*.

**37. Shack site determination process not impeded by other laws**

- (1) Nothing in the *National Parks and Reserves Management Act 2002* (in this section called ***the Parks Act***) or the *Administrative Arrangements Act 1990* prevents the Minister or the Secretary from exercising any power or carrying out any action that, under this Act, the Minister or the Secretary is required or permitted to exercise or carry out in relation to –
  - (a) a shack site that is subject to the Parks Act; or
  - (b) a lease or licence granted under the Parks Act.
- (2) In the event of an inconsistency between a provision of this Act and a provision of the Parks Act, being an inconsistency affecting the



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exercise of a power or the carrying out of an action that the Minister or the Secretary is required or permitted to exercise or carry out during the conversion period for the purposes of this Act, the provision of this Act prevails.

- (3) Notwithstanding subsections (1) and (2), the Minister and the Secretary must consult the Director of National Parks and Wildlife before exercising a power or carrying out an action under this Act in relation to –
- (a) a shack site that is subject to the Parks Act; or
  - (b) a lease or licence granted under the Parks Act.

**38. Service of documents**

- (1) A document may be served on or given to a person under this Act by –
- (a) in the case of an individual –
    - (i) handing it to the person; or
    - (ii) leaving it at, or sending it by post to, the person's postal or residential address or place or address of business or employment last known to the server of the document; or
    - (iii) sending it by way of facsimile transmission to the person's facsimile number; and

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(b) in the case of any other person –

- (i) leaving it at, or sending it by post to, the person's principal or registered office or principal place of business; or
- (ii) sending it by way of facsimile transmission to the person's facsimile number.

(2) A document sent by post is not taken to have been served or given until the time when it would be delivered in the ordinary course of post.

**39. Regulations**

- (1) The Governor may make regulations for the purposes of this Act.
- (2) The regulations may –
  - (a) be of limited or general application; and
  - (b) be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations; and
  - (c) authorise any matter to be from time to time determined, applied or regulated by the Minister.

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40. *See Schedule 3.*

**41. 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 Environment and Land Management; and
- (b) the Department responsible to the Minister for Environment and Land Management in relation to the administration of this Act is the Department of Environment and Land Management.

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**SCHEDULE 1 – VACATION OF, AND REMOVAL  
FROM, OFFICE OF COMMISSIONER**

Section 8

1. A person appointed as Commissioner vacates that office if the person –
  - (a) dies; or
  - (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration or estate for their benefit; or
  - (c) is convicted in Tasmania of any crime or offence punishable by imprisonment for 12 months or longer, or elsewhere of any crime or offence which, if committed in Tasmania, would be punishable for 12 months or longer; or
  - (d) resigns by writing addressed to the Governor and the Governor accepts the resignation; or
  - (e) is removed from office by the Governor.
2. The Governor may remove a person from the office of Commissioner if satisfied that the person –
  - (a) is unable to perform adequately or competently the duties of office; or

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- (b) has neglected to perform those duties; or
- (c) has been guilty of misconduct of a nature which, in the opinion of the Governor, makes the person unsuitable to hold that office.

**SCHEDULE 2 – APPEALS**

**Section 12**

**1. Preliminary procedure**

- (1) An appeal is to be –
  - (a) made on a form provided or approved by the Commissioner; and
  - (b) accompanied by the prescribed fee, if any.
- (2) . . . . .
- (3) On lodgment of the appeal the Commissioner must notify the parties to the appeal, in writing, of the time and place at which the appeal is to be heard.

**2. Hearing of appeal**

- (1) The Commissioner must hear and determine the appeal within 90 days of the day on which it is lodged or within such longer period as the Minister may allow.
- (2) The hearing of the appeal is to be open to the public.
- (3) A party to the appeal may be represented at the hearing of the appeal by another person, whether an Australian legal practitioner or not.
- (4) In hearing the appeal, the Commissioner –

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- (a) must proceed with as little formality and with as much expedition as a proper consideration of the appeal permits; and
- (b) is not bound by the rules of evidence; and
- (c) may inform himself or herself on any relevant matter in such manner as he or she thinks fit.

(5) The Commissioner –

- (a) may adjourn the hearing of the appeal from time to time or place to place as he or she thinks fit; and
- (b) may summons any person to appear and give or produce evidence by causing that person to be served with a summons; and
- (c) may require any person appearing before the Commissioner to produce any document; and
- (d) must keep accurate records in relation to the appeal and a verbatim record of the appeal hearing; and
- (e) may proceed with and determine the appeal notwithstanding the absence of a person who has been summoned to appear.

(6) Subject to this Schedule –

- (a) section 8 and Part 3 of the *Commissions of Inquiry Act 1995* apply to the hearing

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of an appeal by the Commissioner under this Act as if the Commissioner were a Commission established under section 4 of that Act and the matter the subject of the hearing were the matter into which that Commission had been directed to inquire under that Act; and

- (b) the Commissioner may determine his or her own procedure for the purposes of determining and hearing appeals under this Act.



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**SCHEDULE 2A – MODEL CONVERSION CRITERIA**

**Section 5(4)**

**1. Removal**

- (1) Other than in exceptional circumstances, a shack should be removed if –
  - (a) the removal of the shack is necessary for due protection of an Aboriginal site, or a relic as defined under the *Aboriginal Heritage Act 1975*; or
  - (b) the shack is located in an actively mobile dune.
- (2) Other than in exceptional circumstances, a shack should be removed where the continued occupation of the shack, either alone or together with other shacks, would, or would be likely to, give rise to significant –
  - (a) land management costs or land management difficulties for the Crown or any public authority; or
  - (b) environmental degradation.
- (3) Other than in exceptional circumstances, a shack should be removed where the continued occupation of the shack, either alone or together with other shacks, would, or would be likely to, significantly –
  - (a) impair the ability of natural or physical resources on or near the site to meet the

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reasonably foreseeable needs of future generations; or

- (b) harm, or interfere with the due protection of, ecological, geomorphological or geological features of conservation value; or
- (c) harm, or interfere with the due management of, aquatic environments of conservation value; or
- (d) harm, or interfere with the due management of, important coastal wetlands, or impair the potential of such wetlands to be managed for nature conservation and public benefit; or
- (e) compromise the diversity of native flora or fauna or their habitats, including seagrass and seaweed beds, spawning and breeding areas; or
- (f) interfere with the due protection of migratory species and the due protection and recovery of rare, vulnerable or endangered species.

**2. Lease or sale**

- (1) Other than in exceptional circumstances, a shack site should not be sold if the shack site is within any of the following areas:
  - (a) the Tasmanian Wilderness World Heritage Area;

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- (b) the Southwest National Park;
  - (c) the Southwest Conservation Area;
  - (d) Mount William National Park;
  - (e) Waterhouse Conservation Area.
- (2) Where a shack site is not covered by any of the preceding criteria, the preferred course will ordinarily be the sale of the shack site to the existing lessee or licensee, unless factors special to the case make it desirable to issue a lease, for instance because it is considered necessary to impose conditions of the kind referred to in section 16(2).

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**SCHEDULE 3**

*The amendments effected by Section 40 and this Schedule have been incorporated into authorised versions of the following Acts:*

- (a) *Crown Lands Act 1976;*
- (b) *Land Titles Act 1980;*
- (c) *Land Use Planning and Approvals Act 1993.*

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## NOTES

The foregoing text of the *Crown Lands (Shack Sites) Act 1997* 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 July 2025 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
<i>Crown Lands (Shack Sites) Act 1997</i>	No. 87 of 1997	15.1.1998
<i>Crown Lands (Shack Sites) Amendment Act 2002</i>	No. 27 of 2002	15.1.1998 (remaining provisions)
<i>Crown Lands (Shack Sites) Amendment Act 1999</i>	No. 67 of 1999	17.11.1999
<i>State Service (Consequential and Miscellaneous Amendments) Act 2000</i>	No. 86 of 2000	1.5.2001
<i>Valuation of Land Act 2001</i>	No. 102 of 2001	28.6.2002
<i>Magistrates Court (Administrative Appeals Division) (Consequential Amendments) Act 2001</i>	No. 73 of 2001	1.7.2002
<i>Crown Lands (Shack Sites) Amendment Act 2002</i>	No. 27 of 2002	12.7.2002 (ss. 1, 2, 3 and 4(2))
<i>National Parks and Wildlife Separation (Consequential Amendments) Act 2002</i>	No. 64 of 2002	31.12.2002
<i>Crown Lands (Shack Sites) Amendment Act 2004</i>	No. 3 of 2004	9.6.2004
<i>Valuation of Land Amendment Act 2006</i>	No. 39 of 2006	1.1.2007
<i>Legal Profession (Miscellaneous and Consequential Amendments) Act 2007</i>	No. 66 of 2007	31.12.2008
<i>Crown Lands (Shack Sites) Amendment Act 2010</i>	No. 20 of 2010	1.9.2010
<i>Aboriginal Relics (Consequential Amendments) Act 2017</i>	No. 17 of 2017	16.8.2017
<i>Tasmanian Civil and Administrative Tribunal (Additional Jurisdictions) Act 2025</i>	No. 7 of 2025	1.7.2025

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**TABLE OF AMENDMENTS**

Provision affected	How affected
Section 3	Amended by No. 67 of 1999, s. 4, No. 86 of 2000, Sched. 1, No. 27 of 2002, s. 4 Substituted by No. 27 of 2002, s. 4 Amended by No. 64 of 2002, Sched. 1
Section 4	Amended by No. 67 of 1999, s. 5
Section 5	Amended by No. 27 of 2002, s. 5
Section 6	Amended by No. 27 of 2002, s. 6
Section 7	Amended by No. 67 of 1999, s. 6 and No. 3 of 2004, s. 4
Section 8	Amended by No. 67 of 1999, s. 7 and No. 86 of 2000, Sched. 1
Section 16	Amended by No. 67 of 1999, s. 8 and No. 64 of 2002, Sched. 1
Section 17	Substituted by No. 102 of 2001, Sched. 1 Amended by No. 3 of 2004, s. 5, No. 39 of 2006, s. 32 Substituted by No. 20 of 2010, s. 4
Section 17A	Inserted by No. 3 of 2004, s. 6 Amended by No. 7 of 2025, s. 69
Section 25	Amended by No. 67 of 1999, s. 9 and No. 73 of 2001, Sched. 1
Section 27	Substituted by No. 73 of 2001, Sched. 1 Amended by No. 102 of 2001, Sched. 2, No. 102 of 2001, Sched. 1 and No. 7 of 2025, s. 70
Section 28	Amended by No. 3 of 2004, s. 7
Section 30	Amended by No. 64 of 2002, Sched. 1
Section 34	Amended by No. 67 of 1999, s. 10
Section 35	Repealed by No. 67 of 1999, s. 11
Section 37	Amended by No. 64 of 2002, Sched. 1
Schedule 2	Amended by No. 67 of 1999, s. 12 and No. 66 of 2007, Sched. 1
Schedule 2A	Inserted by No. 27 of 2002, s. 7 Amended by No. 17 of 2017, s. 4