



TASMANIA

STATE POLICIES AND PROJECTS ACT 1993

No. 65 of 1993

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STATE POLICIES AND PROJECTS ACT 1993

No. 65 of 1993

AN ACT to provide for Tasmanian Sustainable Development Policies, to provide for the integrated assessment of projects of State significance, to provide for State of the Environment Reporting and for related purposes

[Royal Assent 9 November 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

Short title

1—This Act may be cited as the *State Policies and Projects Act 1993*.

Commencement

2—This Act commences on a day to be proclaimed.

Interpretation

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

“**Advisory Council**” means the Sustainable Development Advisory Council established under section 30;

“**agency**” means—

- (a) a department or other agency of government of the State or of the Commonwealth; or
- (b) an authority of the State or of the Commonwealth established for a public purpose; or
- (c) a planning authority; or
- (d) the Municipal Association of Tasmania; or
- (e) any other person undertaking a function for the public benefit;

“**Panel**” means the Land Use Planning Review Panel established under the *Land Use Planning and Approvals Act 1993*;

“**State of the Environment Report**” means a report prepared under section 29;

“**State Policy**” means a Tasmanian Sustainable Development Policy.

(2) Words and expressions used both in this Act and in the *Land Use Planning and Approvals Act 1993* have in this Act, unless the contrary intention appears, the same respective meanings as they have in that Act.

Act to bind Crown

4—This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

PART 2**TASMANIAN SUSTAINABLE DEVELOPMENT POLICIES****Requirements for making of State Policies****5—(1) A State Policy—**

- (a) must seek to further the objectives set out in Schedule 1; and
- (b) may be made only where there is, in the opinion of the Minister, a matter of State significance to be dealt with in the State Policy; and
- (c) must seek to ensure that a consistent and co-ordinated approach is maintained throughout the State with respect to the matters contained in the State Policy; and
- (d) must incorporate the minimum amount of regulation necessary to obtain its objectives.

(2) A State Policy is to be prepared after taking into consideration the matters set out in the submissions referred to in section 6 (3).

Preparation of draft State Policies

6—(1) Where a draft State Policy has been prepared, the Minister must give a written direction to the Advisory Council to prepare a report on the draft State Policy and the Advisory Council must prepare a report in accordance with the direction.

(2) Where the Advisory Council is directed to prepare a report on a draft State Policy, it must, within 14 days of receiving such a direction, notify each agency which in the Advisory Council's opinion has an interest in the draft State Policy that a report on the draft State Policy will be prepared by it.

(3) Where an agency is notified under subsection (2), it may, within 28 days after receipt of the notification or within such longer period as the Advisory Council may allow, give to the Advisory Council submissions setting out its views on any matters that it wishes to have incorporated in the draft State Policy.

Preparation and public exhibition of report on draft State Policy

7—After considering any submissions made under section 6 (3), the Advisory Council must prepare a report on the draft State Policy and—

- (a) cause a copy of the report and the draft State Policy to be placed on public exhibition at its office for a period of 2 months; and
- (b) advertise, as prescribed, the exhibition of the report and the draft State Policy.

Representations in respect of draft State Policies

8—Where a draft State Policy is placed on public exhibition, representations in relation to the draft State Policy may be submitted to the Advisory Council by any person before the expiration of the exhibition period referred to in section 7 (a).

Consideration by Advisory Council of representations

9—(1) As soon as practicable after receipt by it of representations in relation to a draft State Policy, the Advisory Council must consider the representations.

(2) For the purposes of considering representations under subsection (1), the Advisory Council may hold a hearing in relation to each representation.

(3) The Advisory Council may consolidate any of the representations and hold a hearing in relation to the consolidated representations.

Modification of draft State Policies

10—(1) The Advisory Council may, after its consideration under section 9 of the representations in relation to a draft State Policy, modify the draft State Policy.

(2) Where the Advisory Council modifies a draft State Policy and it considers that the provisions of this Part should apply to the modification of the draft State Policy, the provisions of this Part apply to the modification as if it were a draft State Policy.

Making of State Policies by Governor

11—(1) After consideration by the Advisory Council of a draft State Policy (including any modifications made under section 10), the Advisory Council must submit a report on the draft State Policy to the Minister.

(2) The Advisory Council must publish notice of its report to the Minister under subsection (1) in the *Gazette* and must make the report publicly available.

(3) The Minister may, on receipt of a report on a draft State Policy from the Advisory Council, recommend to the Governor the making of a Tasmanian Sustainable Development Policy.

(4) The Governor may make a Tasmanian Sustainable Development Policy in accordance with a recommendation made under subsection (3), and fix a day on which it will come into operation.

(5) Before it comes into operation, a State Policy must be notified in the *Gazette*.

(6) The Minister must cause a State Policy to be laid before each House of Parliament within the first 10 sitting days of the House after it is so notified.

(7) A State Policy is of no effect until it has been approved by both Houses of Parliament.

(8) For the purposes of subsection (7), a House of Parliament is to be taken to have approved a State Policy if a copy of it has been laid on the table of that House and—

(a) it is approved by that House; or

(b) at the expiration of 15 sitting days after it was laid on the table of that House, no notice has been given of a motion to disallow it or, if such notice has been given, the notice has been withdrawn or the motion has been negated; or

(c) if any notice of a motion to disallow it is given during that period of 15 sitting days, the notice is, after the expiration of that period, withdrawn or the motion is negated.

Interim State Policies

12—(1) Where the Governor is satisfied, on the recommendation of the Minister, that it is necessary that a State Policy should come into operation without delay, the Governor may, at the same time as, or at any time after, a draft State Policy is placed on public exhibition at the Advisory Council's office declare, by notice published in the *Gazette*, that the State Policy will come into operation on a temporary basis on a day specified in the notice.

(2) Where a notice has been published under subsection (1), the State Policy comes into operation on the day specified in the notice.

(3) A State Policy that has come into operation under this section ceases to operate—

- (a) if the Governor, by notice published in the *Gazette*, terminates its operation; or
- (b) if either House of Parliament passes a resolution disallowing it; or
- (c) if it is superseded by a State Policy that comes into operation under section 11; or
- (d) in the case of a State Policy that has not already ceased to operate by virtue of paragraph (a), (b) or (c), at the expiration of 12 months from the day on which it came into operation.

(4) The *Rules Publication Act 1953* does not apply to a notice referred to in subsection (1).

Inconsistency between State Policies and planning schemes, &c.

13—(1) Where there is an inconsistency between a provision of a State Policy and a provision of a planning scheme or an interim order in force at the time when the State Policy comes into operation, the provision of the planning scheme or interim order is void to the extent of the inconsistency.

(2) The Minister must advise the Panel and all appropriate agencies of the making of a State Policy within 14 days of its coming into operation.

(3) The Panel must, as soon as practicable after a State Policy comes into operation, amend a planning scheme or an interim order to remove any inconsistency between it and the State Policy.

(4) The *Land Use Planning and Approvals Act 1993* does not apply to an amendment made under subsection (3).

(5) Where the Panel amends a planning scheme or an interim order pursuant to subsection (3)—

- (a) the amendment is deemed to have come into operation on the date on which the State Policy came into operation; and
- (b) the Panel must give notice, as prescribed, of the amendment.

(6) Subsection (1) applies to a planning scheme or an interim order that is made before or after the commencement of this section.

Contraventions, &c., of State Policies

14—(1) A person who contravenes or fails to comply with a provision of a State Policy or a requirement or obligation imposed under a State Policy is guilty of an offence punishable on summary conviction in accordance with subsection (2).

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding 500 penalty units, and a person who is so convicted in respect of a continuing contravention of or failure to comply with a provision of a State Policy or a requirement or obligation imposed under a State Policy—

- (a) is liable, in addition to the fine otherwise applicable to that offence, to a fine for each day during which the contravention or failure to comply continued of not more than 50 penalty units; and
- (b) if the contravention or failure to comply continues after the person is convicted, is guilty of a further offence against subsection (1) and is liable, in addition to the fine otherwise applicable to that further offence, to a fine for each day during which that contravention or failure to comply continued after that conviction of not more than 50 penalty units.

Review of State Policies

15—The Minister must keep State Policies under regular and periodic review for the purpose of ensuring that the objectives set out in Schedule 1 are, having regard to such changing circumstances as may be relevant, achieved to the maximum extent possible.

PART 3

INTEGRATED ASSESSMENT OF PROJECTS OF STATE SIGNIFICANCE

Interpretation: Part 3

16—For the purposes of this Part, a project is eligible to be a project of State significance if it possesses at least 2 of the following attributes:—

- (a) significant capital investment;
- (b) significant contribution to the State's economic development;
- (c) significant consequential economic impacts;
- (d) significant potential contribution to Australia's balance of payments;
- (e) significant impact on the environment;
- (f) complex technical processes and engineering designs;
- (g) significant infrastructure requirements.

Guidelines for projects of State significance

17—(1) The Minister may publish guidelines setting out the development approval process for projects of State significance.

(2) The guidelines must be published in the *Gazette* and in such other manner as the Minister considers will best bring them to the attention of persons having an interest in undertaking major development projects in the State.

(3) The Minister must cause guidelines published in accordance with subsection (2) to be laid on the table of both Houses of Parliament within 5 sitting days of being first published in the *Gazette*.

Declaration of project of State significance

18—(1) If the Minister considers that a project is a project of State significance, the Minister may recommend to the Governor the making of an order declaring the project to be a project of State significance.

(2) The Governor may make an order in accordance with a recommendation made under subsection (1).

(3) An order under subsection (2) must be published in the *Gazette*.

(4) The Minister must cause an order under subsection (2) to be laid before each House of Parliament within the first 10 sitting days of the House after it is so published.

(5) An order under subsection (2) is of no effect until it has been approved by both Houses of Parliament.

(6) For the purposes of subsection (5), a House of Parliament is to be taken to have approved an order under subsection (2) if a copy of it has been laid on the table of that House and—

(a) it is approved by that House; or

(b) at the expiration of 15 sitting days after it was laid on the table of that House, no notice has been given of a motion to disallow it or, if such notice has been given, the notice has been withdrawn or the motion has been negated; or

(c) if any notice of a motion to disallow it is given during that period of 15 sitting days, the notice is, after the expiration of that period, withdrawn or the motion is negated.

Effect of order declaring a project of State significance

19—(1) Where an order under section 18 (2) declaring a project to be a project of State significance is made, the provisions of any Act, planning scheme or interim order—

- (a) requiring the approval, consent or permission of any body in respect of the development to which the order relates; or
- (b) empowering any body to grant or refuse its consent to that development; or
- (c) prohibiting that development; or
- (d) permitting that development only upon specified terms or conditions; or
- (e) regulating or permitting the regulation of that development—

do not apply.

(2) Development, other than development for the purposes of an integrated assessment, may not be undertaken in respect of the project of State significance until an order under section 26 (6) or (8) is made.

Integrated assessment of projects of State significance

20—(1) Where an order under section 18 (2) has been made, the Minister must give a written direction to the Advisory Council to undertake an integrated assessment of the project of State significance, and the Advisory Council must undertake an integrated assessment in accordance with the direction.

(2) A direction under subsection (1) may not be given to the Advisory Council after either House of Parliament has approved, within the meaning of section 18 (6), the order under section 18 (2).

(3) A direction under subsection (1) may require the Advisory Council to comply with any requirement regarding—

- (a) the matters to be addressed in the integrated assessment; or
- (b) the process to be followed in undertaking the integrated assessment; or
- (c) the time within which the integrated assessment must be completed.

(4) Where under any law a project has been advertised or publicly notified, a direction under subsection (1) may require the Advisory Council to dispense with the public exhibition of a draft integrated assessment report.

(5) The integrated assessment by the Advisory Council under subsection (1)—

- (a) must seek to further the objectives set out in Schedule 1; and
- (b) must be undertaken in accordance with State Policies; and
- (c) must take into consideration the matters set out in the representations referred to in section 23.

Referral to relevant agencies

21—(1) Where the Advisory Council is directed to undertake an integrated assessment of a project of State significance, it must, within 14 days of commencing that assessment, notify the council of a municipality in which the project is located and each agency which in the Advisory Council's opinion has an interest in the project that an integrated assessment is being undertaken by it in respect of the project.

(2) Where the council of a municipality or an agency is notified under subsection (1), it may, within 28 days after receipt of the notification or within such longer period as the Advisory Council may allow, give to the Advisory Council submissions setting out its views in relation to the project of State significance.

Preparation and public exhibition of draft integrated assessment report

22—In consultation with the council of the municipality and the agencies notified under section 21 (1), the Advisory Council must, not later than 28 days after it receives submissions under section 21 (2) or such longer period as the Minister may allow, prepare a draft integrated assessment report and—

- (a) cause a copy of the draft report, and any submissions received under section 21 (2), to be placed on public exhibition at its office for a period of at least 28 days; and
- (b) advertise, as prescribed, the exhibition of the draft report.

Representations in respect of draft integrated assessment report

23—Where a draft integrated assessment report is placed on public exhibition, representations in relation to the draft report may be submitted to the Advisory Council by any person before the expiration of the exhibition period referred to in section 22 (a).

Consideration by Advisory Council of representations

24—(1) As soon as practicable after receipt by it of representations in relation to a draft integrated assessment report, the Advisory Council must consider the representations.

(2) For the purposes of considering representations under subsection (1), the Advisory Council may hold a hearing in relation to each representation.

(3) The Advisory Council may consolidate any of the representations and hold a hearing in relation to the consolidated representations.

Modification of draft integrated assessment report

25—(1) The Advisory Council may, after its consideration under section 24 of the representations in relation to a draft integrated assessment report, modify the report.

(2) Where the Advisory Council modifies a draft integrated assessment report and it considers the provisions of this Part should apply to the modification of the report, the provisions of this Part apply to the modification as if it were a draft integrated assessment report.

Recommendation to Minister on project of State significance

26—(1) As soon as practicable after undertaking an integrated assessment of a project of State significance, the Advisory Council must submit a report to the Minister on whether or not the project should proceed, and if so on what conditions.

(2) Where the report of the Advisory Council recommends that a project of State significance should proceed on conditions, it must specify—

- (a) those conditions; and
- (b) the Act pursuant to which, and the licence or other approval in which, each condition would normally have been imposed; and
- (c) the agency responsible for the enforcement of each condition.

(3) The Advisory Council must publish notice of its report to the Minister under subsection (1) in the *Gazette* and must make the report publicly available.

(4) The Minister must make a decision with respect to the report within 28 days of receiving it.

(5) The Minister may recommend to the Governor the making of an order in accordance with the report of the Advisory Council.

(6) The Governor may make an order in accordance with a recommendation made under subsection (5).

(7) Where the Minister does not recommend to the Governor the making of an order in accordance with a report of the Advisory Council, the Minister may recommend to the Governor the making of an order enabling the project of State significance to proceed on conditions, and specifying—

- (a) those conditions; and
- (b) the Act pursuant to which, and the licence or other approval in which, each condition would normally have been imposed; and
- (c) the agency responsible for the enforcement of each condition.

(8) The Governor may make an order in accordance with a recommendation made under subsection (7).

(9) An order under subsection (8) is of no effect until it has been approved by resolution of each House of Parliament.

(10) The Clerk of the House by which a resolution referred to in subsection (9) is passed must publish notice of the resolution in the *Gazette* as soon as possible after it is passed.

Effect of order declaring project of State significance

27—Where an order is made under section 26 (6) or (8)—

- (a) the project of State significance may proceed on the conditions specified in the order; and
- (b) a licence or other approval is deemed to have been issued under the Act specified in the order in relation to each condition, and that Act applies as if such a licence or other approval had been issued on the conditions set out in the order in relation to that Act; and
- (c) the agency specified as the agency responsible for the enforcement of each condition must enforce the condition to the extent of its powers.

Limitation on rights of appeal and other rights

28—(1) Subject to section 27 and notwithstanding the provisions of any other Act—

- (a) a person is not entitled to appeal to a body or other person, court or tribunal; or
- (b) no other action or proceeding may be brought; or
- (c) no writ of *certiorari* or prohibition or other prerogative writ may issue; or
- (d) no declaratory judgment may be given—

in respect of any matter or thing arising out of or relating to the conditions specified in an order made under section 26 (6) or (8).

(2) A person who would, but for subsection (1), have had a right under any other law to require an agency to enforce a condition specified in an order made under section 26 (6) or (8) may take action to require the agency to enforce the condition.

PART 4**STATE OF THE ENVIRONMENT REPORTING****Preparation of State of the Environment Reports**

29—(1) The Advisory Council must, as soon as reasonably practicable after the commencement of this Act and after that commencement at intervals of 5 years, produce a consolidated State of the Environment Report relating to—

- (a) the condition of the environment; and
- (b) trends and changes in the environment; and
- (c) the achievement of resource management objectives; and
- (d) recommendations for future action to be taken in relation to the management of the environment.

(2) The Advisory Council must—

- (a) submit a State of the Environment Report produced by it to the Minister; and
- (b) cause notice to be given, as prescribed, that the State of the Environment Report will be available to the public for inspection and purchase.

(3) The Minister must cause a State of the Environment Report to be laid on the table of each House of Parliament within the first 15 sitting days of the House after the Report is received by the Minister.

PART 5**SUSTAINABLE DEVELOPMENT ADVISORY COUNCIL*****Division 1—Establishment and constitution of Advisory Council*****Establishment of Advisory Council**

30—(1) A Sustainable Development Advisory Council is established.

(2) The Advisory Council is part of the State's resource management and planning system, the objectives of which are set out in Schedule 1.

Constitution of Advisory Council

31—(1) The Advisory Council consists of—

- (a) a chairperson; and
- (b) a person nominated by the Secretary of the Department, who is the deputy chairperson; and
- (c) the Public Land Use Commissioner; and
- (d) the Director of Environmental Control or a person nominated by the Director; and
- (e) the managing director of the Tasmanian Development Authority or a person nominated by the managing director; and
- (f) two persons who possess resource management experience nominated by the Municipal Association of Tasmania; and
- (g) a person who possesses resource management experience nominated by the Minister to represent commerce and industry interests; and
- (h) a person who possesses resource management experience nominated by the Minister to represent conservation interests; and
- (i) a person who possesses resource management experience nominated by the Minister to represent community interests.

(2) The members of the Advisory Council referred to in subsection (1) (a), (b), (f), (g), (h) and (i) are to be appointed by the Governor and where the member referred to in subsection (1) (d) or (e) is a person nominated by the Director of Environmental Control or the managing director of the Tasmanian Development Authority, that member is to be appointed by the Governor.

(3) Schedule 2 has effect.

(4) Schedule 3 has effect.

Division 2—Functions and powers of Advisory Council, &c.

Functions of Advisory Council

32—(1) The functions of the Advisory Council are—

- (a) to report to the Minister on the preparation of draft State Policies; and
- (b) in accordance with directions under section 20 (1), to report to the Minister on projects of State significance; and
- (c) to prepare State of the Environment Reports; and
- (d) to perform such other functions as are imposed on it by or under this or any other Act.

(2) It is the obligation of the Advisory Council to perform its functions in a manner that will further the objectives set out in Schedule 1.

Powers of Advisory Council

33—The Advisory Council may do all things necessary and convenient to be done for or in connection with, or incidental to, the performance of its functions.

Delegation by Advisory Council

34—(1) The Advisory Council may, in writing—

- (a) delegate to any person any of its functions or powers other than this power of delegation; and
- (b) revoke wholly or partly a delegation.

(2) Without limiting subsection (1), the Advisory Council may delegate any of its functions or powers which relate to a particular region of the State to a prescribed body.

(3) A delegation may be made either generally or as otherwise provided by the instrument of delegation.

(4) Notwithstanding any delegation under this section, the Advisory Council may continue to perform or exercise all or any of the functions or powers delegated.

(5) A function or power performed or exercised by a delegate has the same effect as if performed or exercised by the Advisory Council.

Committees

35—The Advisory Council may, by instrument in writing, establish committees of such persons as the Advisory Council considers appropriate for the purpose of assisting it in the performance of its functions and the exercise of its powers.

Division 3—Hearings conducted by Advisory Council

Hearings

- 36**—(1) Where the Advisory Council holds a hearing—
- (a) the procedure at the hearing is, subject to section 37, to be determined by the Advisory Council; and
 - (b) the Advisory Council—
 - (i) may inform itself about any matter in any way it thinks fit; and
 - (ii) may receive oral or written evidence; and
 - (iii) may consult with such persons as it thinks fit; and
 - (iv) is not bound to act in a formal manner; and
 - (v) must observe the rules of natural justice; and
 - (vi) is not bound by the rules of evidence.

(2) Before the Advisory Council begins a hearing it must give reasonable notice of the hearing in at least 2 newspapers published daily and circulating generally in Tasmania, one of which circulates in the region in which the hearing is to be held, stating—

- (a) the subject of the hearing; and
- (b) the time and place at which the hearing is to be held.

Procedure at hearings

37—(1) Subject to this section, a hearing must be held in public.

(2) If—

- (a) a person appearing to give evidence at a hearing objects to doing so in public; and
- (b) the Advisory Council considers—
 - (i) that the evidence is of a confidential nature; and
 - (ii) the interest in confidentiality is greater than the interest in having the evidence taken in public—

the Advisory Council may take the evidence in private.

(3) If the Advisory Council considers—

- (a) that evidence to be given at a hearing is of a confidential nature even though the person appearing to give the evidence has not objected to doing so in public; and
- (b) the interest in confidentiality is greater than the interest in having the evidence taken in public—

the Advisory Council may take the evidence in private.

(4) The Advisory Council may, if it thinks fit, permit or require a person who is to give evidence to the Advisory Council to do so in writing.

(5) The Advisory Council may, at a hearing, take evidence on oath or affirmation.

Written evidence and submission documents to be made public

38—If a person—

- (a) gives written evidence to a hearing; or

(b) makes a written submission to the Advisory Council—
the Advisory Council must, as soon as practicable, make available to the public in any way it thinks fit the particulars of the evidence or the contents of the submission, other than any matter where—

- (c) the person objects to the matter being made public and the Advisory Council considers that evidence of the matter would have been taken in private if it had been given orally at a hearing; or
- (d) the Advisory Council considers that, even though the person does not object to the matter being made public, evidence of the matter would have been taken in private if it had been given orally at a hearing.

Protection of members, &c.

39—(1) A member or delegate of the Advisory Council has, in the performance of the member's or delegate's duties as a member or delegate, the same protection and immunity as a judge of the Supreme Court.

(2) A person summoned to attend or appearing before the Advisory Council as a witness has the same protection as a witness in a proceeding in the Supreme Court.

Power to obtain information and documents

40—(1) If the Advisory Council has reason to believe that a person is capable of giving information or producing a document relevant to a hearing to be, or being, conducted by the Advisory Council, the Advisory Council may give written notice to the person—

- (a) requiring the person to produce the documents specified in the notice, to appear at a hearing to give evidence or to produce the documents specified in the notice and to appear at a hearing to give evidence; or

- (b) requiring the person to give to the Advisory Council, on or before a day specified in the notice—
 - (i) a statement signed by the person or, in the case of a body corporate, on behalf of the body corporate, setting out the information specified in the notice; or
 - (ii) the document specified in the notice.

(2) If a document is produced or given to the Advisory Council under subsection (1), the Advisory Council—

- (a) may take possession of and may make copies of, or take extracts from, the document; and
- (b) may retain possession of the document for such period as is necessary for the purposes of the hearing to which the document relates; and
- (c) during that period, must permit it to be inspected at all reasonable times by persons who would be entitled to inspect it if it were not in the possession of the Advisory Council.

Allowances to persons giving evidence, &c.

41—(1) A person who appears at a hearing pursuant to a notice under section 40 is entitled to be paid such allowances for travelling and other expenses as are prescribed.

(2) If the Advisory Council considers it appropriate, a person who appears at a hearing to give evidence or produce a document (otherwise than pursuant to a notice under section 40) may be paid such allowances for travelling and other expenses as are prescribed.

(3) If the Advisory Council considers it appropriate, a person who gives evidence to, or produces a document at, a hearing may be—

- (a) paid for the performance of work involved in collecting and preparing the evidence or document; or
- (b) reimbursed such expenses, or compensated for such losses, as were reasonably incurred in collecting and preparing the evidence or document—

or both.

(4) In subsection (3), a person includes a Government department, within the meaning of the *Tasmanian State Service Act 1984*, and a State authority, within the meaning of that Act.

(5) Money paid under this section is to be paid by the Advisory Council from money made available to it by Parliament.

Failure to comply with requirement

42—(1) A person who has been given notice under section 40 must not, without reasonable excuse—

- (a) refuse or fail to comply with the notice; or
- (b) when appearing at a hearing pursuant to the notice, refuse or fail—
 - (i) to take an oath or make an affirmation; or
 - (ii) to answer a question that is required by the person presiding at the hearing to be answered.

Penalty: Fine not exceeding 20 penalty units.

(2) A person who has been given notice under section 40 requiring the person to appear at a hearing must not, without reasonable excuse, refuse or fail to attend from day to day unless excused, or released from further attendance, by the person presiding at the hearing.

Penalty: Fine not exceeding 20 penalty units.

(3) It is a reasonable excuse for the purposes of subsection (1) for a person to refuse or fail to answer a question, give information or produce a document that the answer, information or production of the document might tend to incriminate the person or make the person liable to forfeiture or a penalty.

False or misleading evidence or information

43—(1) A person must not—

- (a) give to the Advisory Council information, or documents, that the person knows to be false or misleading in a material particular; or

(b) at a hearing, give evidence, or produce a document, that the person knows to be false or misleading in a material particular.

Penalty: Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 6 months.

(2) Subsection (1) does not apply to a document if, at the time when the person gives it to the Advisory Council or produces it at a hearing, the person informs the Advisory Council that it is false or misleading in a material particular and specifies in which respect it is, to the person's knowledge, false or misleading in a material particular.

PART 6

MISCELLANEOUS

Evidentiary provision

44—Evidence of a State Policy may be given in any court or tribunal or before any person acting judicially by the production of a document purporting to be a copy of the State Policy and purporting to be certified as a true copy by a person authorized, in writing, by the Advisory Council.

State Policies to be judicially noticed

45—A State Policy is a public document of which a court or tribunal or person acting judicially must take judicial notice without formal proof of its contents.

Regulations

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

(2) Without limiting the generality of subsection (1), regulations under this section may—

- (a) make provision for or with respect to—
 - (i) the payment and collection of fees by any person (including a planning authority) in relation to any act, matter or thing done or arising under this Act; and
 - (ii) the remission of, or exemption from liability for, any such fees; and
- (b) be of general or specially limited application; and
- (c) authorize any act, matter or thing in relation to which the regulations may be made to be from time to time determined, applied or regulated by such person as is specified in the regulations, being the Minister, the Advisory Council or another person performing duties under this Act.

Requirement to pay fees

47—The Advisory Council is not required to take any action under this Act, and any submission or representation which is lodged under this Act is not valid, unless any requirements imposed by regulations made under section 46 as to the payment of fees in respect of the taking of that action or the lodging of that submission or representation have been complied with.

Administration of Act

48—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

Sections 5, 15, 20, 30 and 32

**OBJECTIVES OF THE RESOURCE MANAGEMENT AND PLANNING
SYSTEM OF TASMANIA**

1—The objectives of the resource management and planning system of Tasmania are—

- (a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and
- (b) to provide for the fair, orderly and sustainable use and development of air, land and water; and
- (c) to encourage public involvement in resource management and planning; and
- (d) to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c); and
- (e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.

2—In clause 1 (a), “sustainable development” means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural well-being and for their health and safety while—

- (a) sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and
 - (b) safeguarding the life-supporting capacity of air, water, soil and ecosystems; and
 - (c) avoiding, remedying or mitigating any adverse effects of activities on the environment.
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SCHEDULE 2

Section 31

**PROVISIONS WITH RESPECT TO CONSTITUTION AND
MEMBERSHIP OF THE ADVISORY COUNCIL****Interpretation**

1—In this Schedule, “**appointed member**” means a member of the Advisory Council referred to in section 31 (1) (a), (b), (f), (g), (h) and (i) and, where the member referred to in subsection (1) (d) or (e) is a person nominated by the Director of Environmental Control or the managing director of the Tasmanian Development Authority, that member.

Nomination for appointment

2—(1) The Minister may require the body referred to in section 31 (1) (f) to nominate, within a period specified by the Minister (being a period of not less than 28 days), a person for appointment as a member of the Advisory Council.

(2) If the body referred to in paragraph (f) of section 31 (1) fails to comply with subclause (1), the Minister may nominate a person for the purposes of that paragraph.

Change of name, &c., of nominating body

3—(1) If the body referred to in paragraph (f) of section 31 (1) changes its name, the Governor may, by order, amend that paragraph by substituting the body's new name.

(2) If the body referred to in paragraph (f) of section 31 (1) ceases to exist, the Governor, on the recommendation of the Advisory Council, may, by order, amend that paragraph by substituting the name of a body which the Governor is satisfied substantially represents the interests represented by the first-mentioned body.

Period of appointment

4—An appointed member is to be appointed for such term, not exceeding 5 years, as is specified in the member's instrument of appointment and, if otherwise qualified, is eligible for re-appointment from time to time.

Provisions requiring devotion of whole of time to other duties

5—Where, by or under any Act, provision is made requiring the holder of an office to devote the whole of his or her time to the duties of office under that Act, that provision does not operate to disqualify that person from holding that office and also the office of a member of the Advisory Council.

Terms and conditions of appointment

6—(1) Subject to subclause (2), a member of the Advisory Council is entitled to be paid such remuneration and allowances as the Governor may from time to time determine.

(2) A member of the Advisory Council who is employed under the *Tasmanian State Service Act 1984* is not entitled to remuneration under subclause (1), except with the approval of the Minister administering that Act.

(3) A member holds office on such terms and conditions not provided for in this Act as are determined by the Governor.

Disclosure of interests

7—(1) If a member of the Advisory Council has or acquires an interest (whether pecuniary or otherwise) that would conflict with the proper performance of the member's functions in relation to a matter being considered or about to be considered by the Advisory Council, the member must disclose the nature of that interest at a meeting of the Advisory Council.

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

- (a) be present during any deliberation of the Advisory Council with respect to that matter; or
- (b) take part in any decision of the Advisory Council with respect to that matter.

(3) For the purpose of making a determination by the Advisory Council under subclause (2) in relation to a member who has made a disclosure under subclause (1), a member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates must not take part in the making by the Advisory Council of the determination.

Deputies of members

8—(1) The Governor may appoint a deputy of a member of the Advisory Council.

(2) The deputy of a member—

- (a) referred to in section 31 (1) (b) must be nominated by the Secretary of the Department; and
- (b) referred to in section 31 (1) (c) must be nominated by the Public Land Use Commissioner; and
- (c) referred to in section 31 (1) (d) must be nominated by the Director of Environmental Control; and
- (d) referred to in section 31 (1) (e) must be nominated by the managing director of the Tasmanian Development Authority; and
- (e) referred to in paragraph (f), (g), (h) or (i) of section 31 (1) must be a person who possesses resource management experience nominated by the person or body referred to in the relevant paragraph.

(3) If a member of the Advisory Council is unable for any reason to perform the duties of a member, the member's deputy may perform those duties and, when doing so, is deemed to be a member.

(4) A deputy member of the Advisory Council holds office for such term, not exceeding 5 years, and on such conditions, as are specified in his or her instrument of appointment.

Resignation

9—An appointed member may resign by signed notice given to the Governor.

Termination of appointment

10—(1) The Governor may terminate the appointment of an appointed member if the member—

- (a) becomes mentally or physically incapable of performing satisfactorily the duties of office; or
- (b) is convicted in Tasmania, or elsewhere, of an offence punishable by imprisonment for 2 years or longer; or
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his or her creditors or makes an assignment of his or her remuneration or estate for their benefit; or
- (d) fails, without reasonable excuse, to comply with clause 7.

(2) The Governor may remove an appointed member referred to in section 31 (1) (f), (g), (h) or (i) from office if the Governor is satisfied, having regard to the information supplied by the person who, or body which, nominated that member for appointment to the Advisory Council, that the member is no longer qualified to be appointed to the Advisory Council.

(3) An appointed member must not be removed from office otherwise than in accordance with this clause.

Validity of proceedings, &c.

11—(1) An act or proceeding of the Advisory Council or of any person acting pursuant to any direction of the Advisory Council is not invalidated or prejudiced by reason only of the fact that, at the time when the act or proceeding was done, taken or commenced, there was a vacancy in the membership of the Advisory Council.

(2) All acts and proceedings of the Advisory Council or of any person acting pursuant to any direction of the Advisory Council are, notwithstanding the subsequent discovery of any defect in the appointment of any member of the Advisory Council or that any person was disqualified from acting as, or incapable of being, a member of the Advisory Council, as valid as if the member had been duly appointed and was qualified to act as, or capable of being, a member, and as if the Advisory Council had been fully constituted.

(3) Where a member of the Advisory Council does or purports to do, or omits or purports to omit to do, any act or thing in good faith for the purpose of administering or executing this Act, the member is not to be personally subjected to any action, liability, claim or demand in respect of that act or omission.

Presumptions

12—In any proceedings by or against the Advisory Council, unless evidence is given to the contrary, no proof is required of—

- (a) the constitution of the Advisory Council; or
 - (b) any resolution of the Advisory Council; or
 - (c) the appointment of any member of the Advisory Council; or
 - (d) the presence of a quorum at any meeting of the Advisory Council.
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SCHEDULE 3

Section 31

PROVISIONS WITH RESPECT TO MEETINGS OF THE ADVISORY
COUNCIL**Convening of meetings of the Advisory Council**

1—Meetings of the Advisory Council may be convened by the chairperson of the Advisory Council or by any 3 members of the Advisory Council.

Procedure at meetings

2—(1) Six members of the Advisory Council of whom one must be the chairperson or the member referred to in section 31 (1) (b) form a quorum at any duly convened meeting of the Advisory Council.

(2) Any duly convened meeting of the Advisory Council at which a quorum is present is competent to transact any business of the Advisory Council.

(3) Questions arising at a meeting of the Advisory Council are to be determined by a majority of votes of the members of the Advisory Council present and voting and, in the case of an equality of votes, the chairperson of the Advisory Council or, in the absence of the chairperson, the member referred to in section 31 (1) (b) has a casting vote.

General procedure

3—The procedure for the calling of, and for the conduct of business at, meetings of the Advisory Council is, subject to any procedure that is specified in this Act, to be as determined by the Advisory Council.

*[Second reading presentation speech made in:—
House of Assembly on 4 May 1993
Legislative Council on 15 July 1993]*