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Land Use Planning and Approvals Regulations 2014

Version current from 29 August 2018 to date (accessed 18 October 2018 at 12:22)



Land Use Planning and Approvals Regulations 2014

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the Land Use Planning and Approvals Act 1993 .

16 December 2014

C. WARNER

Governor

By Her Excellency's Command,

PETER GUTWEIN

Minister for Planning and Local Government

PART 1 - Preliminary

1. Short title

These regulations may be cited as the Land Use Planning and Approvals Regulations 2014 .

2. Commencement

These regulations take effect on 22 December 2014.

3. Interpretation

In these regulations –

Act means the Land Use Planning and Approvals Act 1993 .

PART 2 - Notices and Advertisements

4. Advertisement of exhibition of draft planning scheme

(1) For the purposes of section 25(1)(a)(ii) of the Act, the exhibition of the draft planning scheme is to be advertised on at least 2 separate occasions, in a daily newspaper circulating generally in the area covered by the draft planning scheme, with at least one of those occasions to be on a Saturday.

(2) An advertisement under subregulation (1) is to –

(a) specify where and when copies of the draft planning scheme may be inspected; and

(b) specify that representations in relation to that draft planning scheme may be submitted in accordance with section 26(1) of the Act; and

(c) explain how those representations may be made.

(3) An advertisement under subregulation (1) may include any other details determined by the planning authority.

5. Notice of approval of draft planning scheme

(1) For the purposes of section 29(3)(d) of the Act, notice of the Commission's approval is to be –

(a) advertised in a daily newspaper circulating generally in the area covered by the draft planning scheme to which the approval relates; and

(b) displayed at the planning authority's office.

(2) A notice under subregulation (1) –

(a) is to specify the date on which the planning scheme comes into operation; and

(b) may include any other details determined by the planning authority.

6. Notice of modification to planning scheme subsequent to grant of dispensation

(1) For the purposes of section 30X(6)(c) of the Act, if the Commission has, under section 30X(4) of the Act, modified a planning scheme for the purpose of ensuring that a use, or development, to which a permit granted or confirmed under section 30Y(1) of the Act relates, is consistent with the planning scheme, notice of the modification is to be –

(a) given to the owner of the land to which the permit relates; and

(b) given to the planning authority in respect of the land; and

(c) advertised in a daily newspaper circulating generally in the area to which the planning scheme relates; and

(d) displayed at the office of the Commission for at least 14 days.

(2) A notice under subregulation (1) is to specify –

(a) the date on which the modification takes effect; and

(b) that the modification relates to a dispensation granted under the Act; and

(c) when and where copies of the modification to the planning scheme may be inspected by members of the public.

(3) A notice under subregulation (1) may include any other details determined by the Commission.

7. Advertisement of exhibition of draft amendment, &c.

(1) In this regulation –

draft amendment means a draft amendment to a planning scheme under section 38(1)(b) , or an altered draft amendment under section 41B(1)(b) , of the Act.

(2) The exhibition of a draft amendment is to be advertised on at least 2 separate occasions, in a daily newspaper circulating generally in the area covered by the draft amendment, with at least one of those occasions to be on a Saturday.

(3) An advertisement under subregulation (2) is to –

- (a) specify where and when copies of the draft amendment may be inspected; and
- (b) describe the content of the draft amendment and the location of the affected area; and
- (c) specify that representations in relation to the draft amendment may be submitted in accordance with section 39(1) of the Act; and
- (d) explain how those representations may be made.

(4) An advertisement under subregulation (2) may include any other details determined by the planning authority.

(5) In addition to advertising a draft amendment under subregulation (2) , if the draft amendment only relates to an individual parcel of land, the planning authority is to give notice of the exhibition of the draft amendment to –

- (a) the owner of that parcel of land; and
- (b) the owners and occupiers of land sharing a common boundary with that parcel of land.

8. Notice of approval of draft amendment

(1) For the purposes of section 42(3)(d) of the Act, notice of the Commission's approval is to be –

- (a) advertised in a daily newspaper circulating generally in the area covered by the draft amendment; and
- (b) displayed at the planning authority's office.

(2) A notice under subregulation (1) is to –

- (a) specify the content of the planning scheme amendment and the location of the affected area; and
- (b) specify the date on which the amendment comes into operation.

(3) A notice under subregulation (1) may include any other details determined by the planning authority.

9. Notice of application for permit

(1) For the purposes of section 57(3) of the Act, notice by a planning authority of an application for a permit is to be –

- (a) advertised in a daily newspaper circulating generally in the area relevant to the application; and
- (b) displayed at the planning authority's office; and
- (c) given to the owners and occupiers of all properties adjoining the land that is the subject of the application; and
- (d) displayed on the land that is the subject of the application –
 - (i) in a size not less than A4; and
 - (ii) as near as possible to each public boundary.

(2) Paragraphs (c) and (d) of subregulation (1) are taken to have been complied with if notice has been served in accordance with section 14 of the Major Infrastructure Development Approvals Act 1999 on each owner of land within a proposed corridor as if the land within the proposed corridor were land that was the subject of an application for a permit referred to in section 57 of the Act.

(3) A notice under subregulation (1) is to –

(a) specify the content of the development proposal specified in the application and the location of the affected area; and

(b) advise that representations in relation to the application may be made in accordance with section 57(5) of the Act; and

(c) explain how those representations may be made.

(4) A notice under subregulation (1) may include any other details determined by the planning authority.

10. Notice of modification of planning scheme

(1) For the purposes of section 14(5) of the Act, notice by the Commission of the modification of a planning scheme under section 14(2) of the Act is to be –

(a) advertised in a daily newspaper circulating generally in the area to which the planning scheme relates; and

(b) displayed at the offices of the Commission.

(2) The notice under subregulation (1) is to specify –

(a) when and where copies of the modification of the planning scheme may be examined; and

(b) the date on which the modification comes into operation.

(3) The notice under subregulation (1) may include any other details determined by the Commission.

PART 3 - Fees and Agencies

11. Fee for initiating amendment of planning scheme

- (1) The fee for initiating the amendment of a planning scheme under section 34(1) of the Act is 200 fee units for each amendment or each group of related amendments.
- (2) The fee is payable to the Commission.
- (3) The fee is payable by –
 - (a) the person making a request under section 33 of the Act, if the planning authority is initiating the amendment in response to that request; or
 - (b) in any other case, the planning authority initiating the amendment.
- (4) If the Commission is of the opinion that paying the fee referred to in subregulation (1) may cause a person financial hardship, the Commission may –
 - (a) exempt the person from liability for the fee; or
 - (b) remit the fee.

11A. Limit on fee for application for permit for change of certain uses related to visitor accommodation

[Regulation 11A Inserted by S.R. 2017, No. 41, Applied:05 Jul 2017]

- (1) This regulation applies in relation to –
 - (a) an application for a permit in relation to a use, if –
 - (i) the application is made under an interim planning scheme; and
 - (ii) the use is referred to, in the interim planning scheme, as Visitor Accommodation; and
 - (iii) *[Regulation 11A Subregulation (1) amended by S.R. 2018, No. 52, Applied:29 Aug 2018]* the use is to occur in an existing habitable building; and
 - (iv) *[Regulation 11A Subregulation (1) amended by S.R. 2018, No. 52, Applied:29 Aug 2018]* the use is to occur on land that is not within the Battery Point Heritage Precinct as shown in the *Hobart Interim Planning Scheme 2015*; and
 - (v) *[Regulation 11A Subregulation (1) amended by S.R. 2018, No. 52, Applied:29 Aug 2018]* the use is to occur on land that is designated under the interim planning scheme to be within the General Residential Zone, the Inner Residential Zone, the Low Density Residential Zone, the Rural Living Zone, the Environmental Living Zone or the Village Zone; and
 - (vi) *[Regulation 11A Subregulation (1) amended by S.R. 2018, No. 52, Applied:29 Aug 2018]* all requirements, of the planning directive entitled Planning Directive No. 6 – Exemption and Standards for Visitor Accommodation in Planning Schemes, that are required to be met before a permit to which section 58 of the Act applies may be granted in relation to the use, have been met in relation to the use; and
 - (vii) *[Regulation 11A Subregulation (1) amended by S.R. 2018, No. 52, Applied:29 Aug 2018]* all requirements, of the interim planning scheme, that are required to be met before a permit to which section 58 of the Act applies may be granted in relation to the use, have been met in relation to the use; and
 - (b) an application for a permit in relation to a use, if –
 - (i) *[Regulation 11A Subregulation (1) amended by S.R. 2018, No. 52, Applied:29 Aug 2018]* the application is made under the *Sullivans Cove Planning Scheme 1997*; and
 - (ii) the use is referred to, in the scheme, as Bed and Breakfast Establishment or as Visitor Accommodation; and

(iii) [Regulation 11A Subregulation (1) amended by S.R. 2018, No. 52, Applied:29 Aug 2018] the use is to occur in an existing habitable building; and

(iv) [Regulation 11A Subregulation (1) amended by S.R. 2018, No. 52, Applied:29 Aug 2018]

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(v) [Regulation 11A Subregulation (1) amended by S.R. 2018, No. 52, Applied:29 Aug 2018] the use is to occur on land that is designated under the scheme to be within the Activity Area 1.0 Inner City Residential (Wapping); and

(vi) [Regulation 11A Subregulation (1) amended by S.R. 2018, No. 52, Applied:29 Aug 2018] all requirements, of the planning directive entitled Planning Directive No. 6 – Exemption and Standards for Visitor Accommodation in Planning Schemes, that are required to be met before a permit to which section 58 of the Act applies may be granted in relation to the use, have been met in relation to the use; and

(vii) [Regulation 11A Subregulation (1) amended by S.R. 2018, No. 52, Applied:29 Aug 2018] all requirements, of the planning scheme, that are required to be met before a permit to which section 58 of the Act applies may be granted in relation to the use, have been met in relation to the use.

(2) A person is exempt from the liability to pay to a planning authority, and a planning authority is not authorised to collect, so much of an amount, of a fee for an application to which this regulation applies, that is more than \$250.

12. Fee for application for dispensation

(1) The fee for an application under section 30Q(1) of the Act for dispensation from a local provision of an interim planning scheme is 200 fee units.

(2) The fee is payable to the Commission.

(3) If the Commission is of the opinion that paying the fee referred to in subregulation (1) may cause a person financial hardship, the Commission may –

(a) exempt the person from liability for the fee; or

(b) remit the fee.

13. Relevant agencies

(1) The following are declared to be relevant agencies for the purposes of sections 20(2)(f) , 61(5) and 69(1) of the Act:

(a) any Agency within the meaning of the State Service Act 2000 ;

(b) any Department of the Commonwealth Government;

(c) the Marine and Safety Authority established under section 4 of the Marine and Safety Authority Act 1997 .

(2) A planning authority is declared to be a relevant agency in respect of a planning scheme (the **relevant planning scheme**) for the purposes of section 20(2)(f) of the Act if the planning authority administers a planning scheme for an area adjoining the area to which the relevant planning scheme relates.

PART 4 - Projects of Regional Significance

14. Notice of guidelines

- (1) For the purposes of section 60N(9) of the Act, notice of the assessment guidelines for a project is to be given by placing a notice in a newspaper circulating generally in the area in which the project is to take place.
- (2) A notice under subregulation (1) is to specify where copies of the assessment guidelines may be inspected by members of the public.
- (3) A notice under subregulation (1) may also include any other matter that the Panel thinks fit.

15. Notice of public exhibition of project of regional significance

- (1) For the purposes of section 60Q(1) of the Act, notice of the public exhibition of a project of regional significance is to be given by –
 - (a) placing a notice in a newspaper circulating generally in the area in which the project is to take place; and
 - (b) displaying, on the land to which the project relates, a notice –
 - (i) in a size not less than A4; and
 - (ii) as near as possible to each public boundary.
- (2) The notice for the purposes of subregulation (1) in relation to a project is to contain, in addition to the matters it is required to contain by section 60Q(4) of the Act, the following matters:
 - (a) the name of the proponent of the project;
 - (b) a description of the project;
 - (c) details of the proposed location of the project.
- (3) A notice under subregulation (1) may also include any other matter that the Panel thinks fit.

16. Public exhibition of assessment guidelines and project impact statement

For the purposes of section 60Q(5) of the Act, the assessment guidelines and project impact statement in relation to a project of regional significance are to be publicly exhibited –

- (a) at the offices of the Commission; and
- (b) at a website address of the Commission; and
- (c) at the office of each of the planning authorities notified of the project under section 60G(11)(b) of the Act.

17. Notice after public exhibition begins

For the purposes of section 60R(1) of the Act, the manner in which notice is to be given, after the public exhibition of the documents in relation to a project begins, is to be in writing.

18. Notice of amendment to planning scheme pursuant to special permit being granted

- (1) For the purposes of section 60Y(3)(b) of the Act, the notice of the amendment of a planning scheme is to be placed in a newspaper circulating generally in the area to which the planning scheme relates.
- (2) The notice for the purposes of subregulation (1) is to specify –
 - (a) the amendment of a planning scheme to which the notice relates; and
 - (b) the area to which the planning scheme relates.
- (3) The notice under subregulation (1) may contain any other details the Commission thinks fit.

19. Relevant fee for projects of regional significance

(1) For the purposes of section 60I of the Act, the relevant fee in relation to a project that the Panel estimates is likely to cost less than \$20 000 000 to construct is –

- (a) the amount equal to 0.2% of that estimated cost; or
- (b) \$20 000 –

whichever is the greater amount.

(2) For the purposes of section 60I of the Act, the relevant fee in relation to a project that the Panel estimates is likely to cost \$20 000 000 or more, but less than \$400 000 000, to construct is –

- (a) the amount equal to 0.13% of that estimated cost; or
- (b) \$40 000 –

whichever is the greater amount.

(3) For the purposes of section 60I of the Act, the relevant fee in relation to a project that the Panel estimates is likely to cost \$400 000 000 or more to construct is –

- (a) the amount equal to 0.1% of that estimated cost; or
- (b) \$520 000 –

whichever is the greater amount.

PART 5 - Dispensations

20. Matters to be taken into account in deciding permit application where dispensation sought

(1) In this regulation –

regulated entity has the same meaning as in the Water and Sewerage Industry Act 2008 ;

sewerage infrastructure has the same meaning as in the Water and Sewerage Industry Act 2008 ;

water and sewerage advice, in relation to a use or development, means advice by a regulated entity as to whether the entity –

(a) objects, on specified grounds, to the grant of a permit in relation to the use or development;
or

(b) does not object to the grant of a permit in relation to the use or development; or

(c) does not object to the grant of a permit in relation to the use or development if the permit is subject to conditions specified by the regulated entity.

(2) A planning authority that is of the opinion that a use, or development, in relation to which an application for a permit is made under section 30R(1) of the Act, may have an adverse effect in relation to a regulated entity must request the regulated entity to provide to the planning authority water and sewerage advice in relation to the proposed permit.

(3) For the purposes of section 30T(4)(b) of the Act, if a planning authority is of the opinion that a use, or development, in relation to which an application for a permit is made under section 30R(1) of the Act, may have an adverse effect in relation to a regulated entity, the planning authority must take into consideration any water and sewerage advice, received by the planning authority from the regulated entity, in relation to the use or development.

(4) For the purposes of this regulation, a use or development may have an adverse effect in relation to a regulated entity if the use or development may –

(a) increase the demand for water supplied by the regulated entity; or

(b) increase the amount of sewage or toxins that is to be removed by, or discharged into, the regulated entity's sewerage infrastructure; or

(c) damage or interfere with the regulated entity's works; or

(d) adversely affect the regulated entity's operations.

PART 6 - Enforcement

21. Infringement offences and penalties

[Regulation 21 Inserted by S.R. 2015, No. 14, Applied:20 Apr 2015]

(1) For the purposes of section 65A of the Act, an offence against a provision, of the Act, that is specified in Column 2 of Schedule 1 is an infringement offence.

(2) For the purposes of section 65A of the Act, the penalty payable under an infringement notice issued in respect of an infringement offence specified in Column 2 of Schedule 1 is –

(a) if the infringement notice is issued to an individual, the penalty specified in Column 3 of Schedule 1 for that offence; and

(b) if the infringement notice is issued to a body corporate, the penalty specified in Column 4 of Schedule 1 for that offence.

22. Form of warrant

[Regulation 22 Inserted by S.R. 2015, No. 14, Applied:20 Apr 2015] For the purposes of section 65K(8)(a) of the Act, the form set out in Schedule 2 is prescribed.

SCHEDULE 1 - Infringement Offences and Penalties

[Schedule 1 Inserted by S.R. 2015, No. 14, Applied:20 Apr 2015]

Regulation 21

Column 1	Column 2	Column 3	Column 4
Item	Infringement offence	Infringement penalty - individual (penalty units)	Infringement penalty – body corporate (penalty units)
1.	Section 57(4A)	2	2
2.	Section 60Q(8)	2	2
3.	Section 63(3)	15	75
4.	Section 80P(1)	15	15
5.	Section 80P(2)	15	15
6.	Section 80P(3)	15	15

SCHEDULE 2 - Notice of Execution of Warrant

[Schedule 2 Inserted by S.R. 2015, No. 14, Applied:20 Apr 2015]

Regulation 22

Land Use Planning and Approvals Regulations 2014
Section 65K(8)(a)

NOTICE OF EXECUTED WARRANT

To: The occupier or owner of the land situated at

.....
.....
(address of land)

I,, being an authorised
(full name of authorised officer)

Officer under section 65I of the Land Use Planning and Approvals Act 1993 , advise you that I executed a search warrant, issued, in relation to that land, at in Tasmania atam/pm

By, and seized and
(full name of magistrate who issued the warrant)
removed, in pursuance of the search warrant, the following objects:

.
.

Dated 20

Authorised officer

Displayed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 19 December 2014

These regulations are administered in the Department of Justice.