



TASMANIA

**LAND USE PLANNING AND APPROVALS
AMENDMENT ACT (No. 2) 1995**

No. 104 of 1995

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SCHEDULE 1**PROVISIONS AMENDED**



**LAND USE PLANNING AND APPROVALS
AMENDMENT ACT (No. 2) 1995**

No. 104 of 1995

AN ACT to amend the *Land Use Planning and Approvals Act 1993*

[Royal Assent 8 December 1995]

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:—

Short title

1—This Act may be cited as the *Land Use Planning and Approvals Amendment Act (No. 2) 1995*.

Commencement

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

Principal Act

3—In this Act, the *Land Use Planning and Approvals Act 1993** is referred to as the Principal Act.

Section 3 amended (Interpretation)

4—Section 3 (1) of the Principal Act is amended as follows:—

(a) by inserting after the definition of “Advisory Council” the following definition:—

“**agreement**” means an agreement entered into under Part 5;

(b) by omitting the definition of “interim order”;

(c) by inserting in the definition of “owner” after paragraph (e) the following paragraph:—

(f) in the case of Crown land within the meaning of the *Crown Lands Act 1976*, the Crown in right of the State of Tasmania;

(d) by omitting the definition of “person” and substituting the following definition:—

“**person**” includes a department, or other agency of Government of the State or the Commonwealth and an authority of the State or the Commonwealth;

(e) by inserting after the definition of “relevant agency” the following definitions:—

“**representation**”, in relation to a draft planning scheme, a draft amendment of a planning scheme or an application for a permit, includes a statement of facts or reasons in support of or in opposition to the draft scheme, draft amendment or application;

“**special planning order**” means an order in force under section 47;

(f) by omitting the definition of “use” and substituting the following definition:—

“**use**”, in relation to land, includes the manner of utilising land but does not include the undertaking of development;

* No. 70 of 1993. Amended by No. 68 of 1994 and Nos. 6, 18, 30 and 88 of 1995.

Section 9 amended (Constitution of Panel)

5—Section 9 of the Principal Act is amended as follows:—

(a) by omitting paragraph (a) of subsection (1) and substituting the following paragraph:—

(a) a person nominated by the Secretary of the Department, who is the chairperson of the Panel; and

(b) by inserting in subsection (1) (b) “who is the deputy chairperson of the Panel” after “Commissioner”;

(c) by inserting in subsection (2) “(a),” after “(1)”;

(d) by inserting after subsection (2) the following subsection:—

(2A) Subsection (1) (a) does not prevent the Secretary of the Department from nominating himself or herself as a member.

Section 20 amended (What can a planning scheme provide for?)

6—Section 20 of the Principal Act is amended as follows:—

(a) by omitting from subsection (1) (c) “area.” and substituting “area; and”;

(b) by inserting after paragraph (c) of subsection (1) the following paragraph:—

(d) must have regard to the strategic plan of a council referred to in Division 2 of Part 7 of the *Local Government Act 1993* as adopted by the council at the time the planning scheme is prepared.

(c) by omitting from subsection (2) (h) “with a relevant agency” and substituting “under Part 5”;

(d) by inserting after paragraph (h) of subsection (2) the following paragraph:—

(ha) set out provisions relating to the implementation in stages of uses or developments; and

(e) by omitting from subsection (3) (e) “works.” and substituting “works; or”;

(f) by inserting after paragraph (e) of subsection (3) the following paragraph:—

(f) prevent a development, which was lawfully commenced but not completed before the coming into operation of the scheme, from being completed within—

(i) 3 years of that coming into operation;
or

(ii) any lesser or greater period specified in respect of the completion of that development under the terms of a permit granted before the coming into operation of the scheme.

Section 28 amended (Modification or rejection, &c., of draft planning schemes before approval)

7—Section 28 (1) (a) of the Principal Act is amended by inserting “require the planning authority to” before “modify”.

Section 28AA inserted

8—After section 28 of the Principal Act, the following section is inserted:—

Direction to undertake modification of draft planning scheme

28AA—(1) If a draft planning scheme is required to be modified under section 28 (1) (a), the Panel, by notice in writing to the planning authority, must—

(a) direct that it undertake the modification; and

(b) specify the manner in which the scheme is to be modified.

(2) A planning authority must undertake a modification to a draft planning scheme in accordance with a direction of the Panel under subsection (1) and submit the modified scheme to the Panel within 28 days from the receipt of that direction or such longer period as the Panel may allow.

(3) The period referred to in section 29 (2) does not run after a direction to modify the draft scheme has been made until the period referred to in subsection (2) of this section expires.

Section 33 amended (Request for amendment of planning scheme)

9—Section 33 of the Principal Act is amended by inserting after subsection (2) the following subsection:—

(2A) If a request under subsection (1) is in respect of one parcel or several parcels of land covered by the planning scheme and is requested by a person who is not the owner of the land to which the proposed amendment applies, the request must be—

- (a) signed by the owner or owners of the land; or
- (b) accompanied by the written permission of the owner or owners to the making of the request.

Section 36 amended (Certification by Panel of draft amendments prepared by planning authorities)

10—Section 36 of the Principal Act is amended as follows:—

- (a) by inserting in subsection (4) (b) (i) “so that it is so suitable, certify it accordingly” after “amend it”;
- (b) by omitting from subsection (4) (b) (ii) “Panel.” and substituting “Panel; or”;
- (c) by inserting after subparagraph (ii) of subsection (4) (b) the following subparagraph:—
 - (iii) by notice in writing given to the authority, refuse to certify it if it considers that the draft amendment is incapable of revision to enable it to satisfy the requirements of section 32.

Section 38 amended (Public exhibition of draft amendment)

11—Section 38 of the Principal Act is amended by inserting in paragraph (a) (i) “from the date on which notice is given by the Panel” after “within 3 weeks”.

Section 40 amended (Consideration by Panel of draft amendment and relevant representations)

12—Section 40 of the Principal Act is amended by inserting after subsection (2) the following subsections:—

(2A) Despite subsection (2), the Panel may dispense with the holding of a hearing in relation to a representation contained in the report if, after examining each representation—

(a) the Panel is satisfied that all the representations received by the planning authority are in support of the draft amendment; or

(b) the Panel has consulted with a person who made a representation and that person has advised the Panel in writing that he or she does not wish to attend a hearing.

(2B) The Panel must, within 14 days of making a decision to dispense with the holding of a hearing under subsection (2A), give notice in writing to each person who made a representation under section 39 (1) of its decision to dispense with the holding of a hearing.

(2C) The Panel must hold a hearing in respect of a representation if a person who has been notified under subsection (2B) requests the Panel in writing, within 7 days after the date of that notice, that a hearing be held.

Section 41 amended (Modification or rejection of draft amendment before approval)

13—Section 41 (a) of the Principal Act is amended by omitting “modify” and substituting “require the planning authority to modify, or alter to a substantial degree,”.

Sections 41A and 41B inserted

14—After section 41 of the Principal Act, the following sections are inserted:—

Direction to undertake modification or alteration of draft amendment

41A—(1) If a draft amendment is required to be modified, or altered to a substantial degree, under section 41 (a), the Panel, by notice in writing to the planning authority, must—

- (a) direct that it undertake the modification or alteration; and
- (b) specify the manner in which the draft amendment is to be modified or altered.

(2) A planning authority must undertake a modification, or an alteration to a substantial degree, to a draft amendment in accordance with a direction by the Panel under subsection (1) and submit the modified or altered amendment to the Panel within 28 days from the receipt of that direction or such longer period as the Panel may allow.

(3) The period referred to in section 42 (2) does not run after a direction to modify or alter the draft amendment has been made until the period referred to in subsection (2) of this section expires.

Certification of altered draft amendments

41B—(1) If a draft amendment has been altered to a substantial degree in accordance with section 41A, the Panel must, within 28 days of receipt of the altered draft amendment—

- (a) certify the altered draft amendment; and
- (b) by notice in writing to the planning authority, direct that it be publicly exhibited, as prescribed.

(2) Sections 38 to 43 apply to a draft amendment certified under subsection (1).

Part 3, Division 4 substituted and Division 5 inserted

15—Division 4 of Part 3 of the Principal Act is repealed and the following Divisions are substituted:—

Division 4—Provisions relating to existing interim orders**Interpretation of Division 4**

45—In this Division, “existing interim order” means an interim order administered by a planning authority immediately before the commencement of the *Land Use Planning and Approvals Amendment Act (No. 2) 1995*.

Validation of existing interim orders

45A—An existing interim order is valid and effectual and is always taken to have been valid and effectual.

Conversion of existing interim orders into planning scheme

46—(1) An existing interim order—

- (a) is taken to be a planning scheme; and
- (b) may not be initiated by a planning authority under section 34 (1) after 31 December 1997 unless a draft planning scheme covering the area to which the existing interim order which is taken to be a planning scheme relates has been submitted to the Panel for certification before that date; and
- (c) ceases to operate as a planning scheme on 31 December 1998.

(2) Notwithstanding section 22 (1) and any resolution the planning authority has made with respect to the preparation of a draft planning scheme, a planning authority which administers an existing interim order taken to be a planning scheme must, not later than 31 December 1997, submit a draft planning scheme for the whole of its municipal area to the Panel for certification.

(3) Notwithstanding subsections (1) (b) and (2), the Panel, if it receives a request from the planning authority not later than 31 December 1996, may approve—

- (a) the submission to it of a draft planning scheme covering less than the whole of the municipal area; or
- (b) the consolidation of the area covered by the existing interim order taken to be a planning scheme with the area covered by a planning scheme by way of an amendment to that planning scheme.

Division 5—Special planning orders

Making of special planning orders

47—(1) Subject to subsection (2), the Panel, of its own volition or at the request of a planning authority, may make a special planning order providing for any of the matters for which a planning scheme may provide if it considers that—

- (a) there are contradictions in, or inconsistencies between, the provisions of a planning scheme; or
- (b) it is necessary to introduce planning provisions for an area for which a planning scheme is not in force or will cease to operate—

and it is satisfied that the provisions of Division 1 or 2 would result in an unacceptable delay in addressing the matters referred to in paragraph (a) or (b).

(2) The Panel must not exercise its powers under subsection (1) unless it considers that it is in the public interest to do so.

(3) The Panel or a planning authority may prepare a special planning order.

(4) If a special planning order has been prepared by a planning authority, it must submit the special planning order to the Panel, and the Panel must—

- (a) either make or refuse to make the order; and
- (b) notify the planning authority of its decision.

(5) A special planning order must satisfy the requirements of section 32 and may be made in such form and on such terms and conditions as the Panel thinks fit.

- (6) If the Panel makes a special planning order it must—
- (a) cause notice of the making of the order to be published in the *Gazette* and in a daily newspaper published in Tasmania and circulating generally in the area to which the order relates; and
 - (b) nominate a place at which the order may be inspected.

Operation of special planning orders

47A—(1) A special planning order operates from the date specified in the notice published in the *Gazette* under section 47 (6).

(2) A special planning order overrides any existing planning scheme applying to the same area to the extent of any inconsistency.

- (3) A special planning order ceases to operate—
- (a) if the Panel, by notice published in the *Gazette*, revokes the order; or
 - (b) if either House of Parliament passes a resolution disallowing it; or
 - (c) when a planning scheme or amendment to a planning scheme applying to the area the subject of the special planning order comes into operation.

Revocation of special planning orders

47B—(1) The Panel, of its own volition or at the request of a planning authority, may revoke a special planning order.

(2) If the Panel revokes a special planning order it must cause notice of the revocation of the order to be published in the *Gazette* and in a daily newspaper published in Tasmania and circulating generally in the area to which the order relates.

(3) The revocation of a special planning order operates from the date specified in the notice published in the *Gazette* under subsection (2).

Section 51 amended (Permits)

16—Section 51 of the Principal Act is amended as follows:—

(a) by omitting subsection (1) and substituting the following subsections:—

(1) A person must not commence any use or development which, under the provisions of a planning scheme or special planning order, requires a permit unless the planning authority which administers the scheme or order has granted a permit in respect of that use or development and the permit is in effect.

(1A) A person may apply to a planning authority which administers a planning scheme or special planning order for the granting of a permit for a use or development which under that scheme or order requires a permit to be granted in respect of that use or development.

(1B) If an undertaking is in respect of—

- (a) a combination of uses; or
- (b) a combination of developments; or
- (c) a combination of one or more uses and one or more developments—

and under a planning scheme or special planning order any of those uses or developments requires a permit to be granted in respect of them, a person, in one application, may apply to the planning authority for a permit with respect to that undertaking.

(b) by omitting from subsection (3) “(1)” and substituting “(1A) or (1B)”;

(c) by inserting after subsection (3) the following subsection:—

(3A) A permit to which section 57 applies may be subject to such conditions or restrictions as the planning authority may impose.

- (d) by inserting in subsection (4) “to which section 58 applies” after “A permit”.

Section 52 amended (What if applicant not the owner?)

17—Section 52 (1) of the Principal Act is amended as follows:—

- (a) by inserting “and a planning scheme or special planning order does not provide otherwise” after “required”;
- (b) by omitting paragraph (b) and substituting the following paragraph:—
- (b) be accompanied by the written permission of the owner to the making of the application.

Section 53 amended (When does a permit take effect?)

18—Section 53 of the Principal Act is amended as follows:—

- (a) by inserting after subsection (1) the following subsections:—

(1A) If the applicant is the only person with a right of appeal under section 61 in relation to a permit and does not intend to exercise that right, the use or development in respect of which the permit is granted may, subject to subsections (1B) and (4), be commenced before the expiration of the 14 day period specified in subsection (1).

(1B) If the applicant referred to in subsection (1A) proposes to commence the use or development before the expiration of the 14 day period specified in that subsection, the applicant must notify the planning authority in writing of his or her intention to commence that use or development.

(1C) If the applicant notifies the planning authority under subsection (1B), the applicant is taken to have forfeited the right to appeal in relation to the permit.

(b) by inserting after subsection (5) the following subsection:—

(6) If under a permit an agreement is required to be entered into, the permit does not take effect until the day the agreement is executed.

Section 57 amended (Applications for discretionary permits)

19—Section 57 of the Principal Act is amended as follows:—

(a) by inserting after subsection (5) the following subsections:—

(5A) A person may, by notice in writing to a planning authority, withdraw a representation made under subsection (5) at any time before the planning authority grants or refuses to grant a permit under subsection (6).

(5B) If a person withdraws a representation under subsection (5A), that person is taken not to have made a representation under subsection (5).

(b) by inserting in paragraph (b) (i) of subsection (6) “before the expiration of that 60 day period” after “applicant”;

(c) by inserting in paragraph (b) (ii) of subsection (6) “before the expiration of that 42 day period” after “applicant”;

(d) by inserting after subsection (6) the following subsection:—

(6A) A further period agreed to by a planning authority and an applicant under subsection (6) (b) (i) or (ii) may be extended or further extended by agreement, in writing, between the planning authority and applicant at any time before the expiration of the period to be extended and, when so extended, is taken to be the further period referred to in subsection (6).

- (e) by omitting subsections (7) and (8) and substituting the following subsection:—

(7) If a planning authority, on an application for a permit to which this section applies, grants or refuses to grant the permit, it must, within 7 days of granting or refusing to grant the permit, serve notice of its decision—

- (a) on the applicant; and
- (b) if representations have been made in relation to the application in accordance with this section, on all persons who made representations; and
- (c) if objections have, or advice has, been provided in relation to the application in accordance with section 60 (2), on all relevant agencies who made objections or provided advice.

Section 58 amended (Application for other permits)

20—Section 58 of the Principal Act is amended as follows:—

- (a) by inserting in subsection (1) “or restrictions” after “conditions”;
- (b) by inserting in subsection (2) “or restrictions” after “conditions”;
- (c) by inserting in paragraph (a) of subsection (2) “before the expiration of that 60 day period” after “applicant”;
- (d) by inserting in paragraph (b) of subsection (2) “before the expiration of that 42 day period” after “applicant”;
- (e) by inserting after subsection (2) the following subsection:—

(2A) A further period agreed to by a planning authority and an applicant under subsection (2) (a) or (b) may be extended or further extended by agreement, in writing, between the planning authority and applicant at any time before the expiration of the period to be extended and, when so extended, is taken to be the further period referred to in subsection (2).

- (f) by inserting in subsection (3) “or restrictions” after “conditions”;
- (g) by omitting from subsection (3) “applicant.” and substituting “applicant and, if advice has been provided in accordance with section 60 (2A), on all relevant agencies who provided the advice”.

Section 58A inserted

21—After section 58 of the Principal Act, the following section is inserted:—

Permits requiring entering into of agreements

58A—(1) Without limiting section 51 (3A) and despite section 51 (4), a permit granted by a planning authority under section 57 or 58 may include a condition that an agreement is required to be entered into in respect of a use or development.

(2) If a planning authority grants a permit which includes a condition that an agreement is required to be entered into in respect of a use or development, the planning authority must specify in the condition the matters, and the requirements with respect to those matters, to be included in the agreement.

(3) If a person is granted a permit which includes a condition under subsection (1) and that person is not the owner of the land in respect of which the agreement to be entered into relates, the planning authority must, within 7 days of granting the permit, serve notice of its decision on the owner.

Section 59 amended (Failure to determine an application for a permit)

22—Section 59 (3) of the Principal Act is amended by omitting “Where notice under subsection (2) (a) is served on the applicant,” and substituting “If a planning authority fails to determine an application before the expiration of the relevant period referred to in section 57 (6) (b) or 58 (2),”.

Section 60 amended (Representations from relevant agencies)

23—Section 60 of the Principal Act is amended as follows:—

- (a) by omitting from subsection (1) “consult” and substituting “refer the application to”;
- (b) by omitting subsections (2) and (3) and substituting the following subsections:—

(2) A relevant agency to which an application for a permit under section 57 has been referred must provide its objection to the application or its advice as to the conditions or restrictions to which the permit should be subject to the planning authority not later than the expiration of 28 days after the date on which the application was referred to it or such further period as is agreed to by the relevant agency and the authority.

(2A) A relevant agency to which an application for a permit under section 58 has been referred must provide its advice on the conditions or restrictions to which the permit should be subject to the planning authority not later than the expiration of 28 days after the date on which the application was referred to it or such further period as is agreed to by the relevant agency and the authority.

(3) If a relevant agency fails to provide—

- (a) its objection or advice on an application under section 57; or
- (b) its advice on an application under section 58—

within the period referred to in subsection (2) or (2A), the authority may proceed to deal with the application.

Section 61 amended (Appeals against planning decisions)

24—Section 61 of the Principal Act is amended as follows:—

- (a) by omitting subsections (1) and (2);
- (b) by omitting from subsection (4) (b) “(8)” and substituting “(7)”;
- (c) by inserting in subsection (5) “or relevant agency which” after “who”;

- (d) by omitting from subsection (5) (a) “(8)” and substituting “(7)”;
- (e) by inserting after subsection (5) the following subsections:—

(6) An owner notified of the decision of a planning authority under subsection (3) of section 58A may appeal to the Appeal Tribunal against that decision within 14 days after the day on which notice was served under that subsection.

(7) If a planning authority grants a permit, any relevant agency which made an objection or provided advice under section 60 (2) or (2A) may appeal to the Appeal Tribunal against the grant of the permit within 14 days after the day on which notice was served on the relevant agency under section 57 (7) or 58 (3).

Section 62 amended (Determination of appeals)

25—Section 62 (1) of the Principal Act is amended as follows:—

- (a) by omitting paragraph (a);
- (b) by inserting in subparagraph (i) of paragraph (c) “direct the planning authority to” before “grant”;
- (c) by inserting in subparagraph (ii) of paragraph (c) “direct the planning authority to” before “grant”;
- (d) by inserting in subparagraph (ii) of paragraph (c) “the planning authority” after “and direct”;
- (e) by omitting subparagraph (iii) of paragraph (c) and substituting the following subparagraph:—
 - (iii) direct the planning authority not to grant a permit.

Section 63 amended (Obstruction of sealed schemes)

26—Section 63 of the Principal Act is amended as follows:—

- (a) by omitting subsection (1);

- (b) by omitting from subsection (2) (a) “, an interim order or a conditional dispensation” and substituting “or special planning order”;
- (c) by omitting from subsection (2) (b) “, order or dispensation” and substituting “or order”;
- (d) by omitting from subsection (2) (c) “, order or dispensation” and substituting “or order”;
- (e) by omitting from subsection (5) (a) “interim order, conditional dispensation” and substituting “special planning order”;
- (f) by omitting from subsection (6) “interim order” and substituting “special planning order”.

Section 64 amended (Civil enforcement proceedings)

27—Section 64 of the Principal Act is amended as follows:—

- (a) by omitting from subsection (8) “(d)” and substituting “(e)”;
- (b) by omitting from subsection (13) “direct” and substituting “order”;
- (c) by omitting from subsection (14) “A direction under subsection (13)” and substituting “An order under subsection (12) or (13)”;
- (d) by omitting from subsection (14) “direction” and substituting “order”;
- (e) by omitting from subsection (15) “a direction” and substituting “an order”;
- (f) by omitting from subsection (15) “direction” (second and third occurring) and substituting “order”.

Section 70 amended (Interpretation: Part 5)

28—Section 70 of the Principal Act is amended by omitting the definition of “agreement” and substituting the following definition:—

“**infrastructure**” includes services, facilities, works and other uses and developments which provide the basis for meeting economic, social and environmental needs;

Section 72 amended (Form and contents of agreement)

29—Section 72 of the Principal Act is amended by omitting from paragraph (b) of subsection (2) “the” (second occurring) and substituting “a”.

Section 73A inserted

30—After section 73 of the Principal Act, the following section is inserted:—

Payments and contributions for infrastructure

73A—(1) An agreement may include a provision for a payment or other contribution for infrastructure to be made by any party to the agreement.

(2) Without limiting subsection (1), an agreement may make provision—

(a) for a payment or other contribution for infrastructure to be made in stages; or

(b) for works or other development to be undertaken by the owner on behalf of the planning authority or any other party to the agreement.

(3) The matters provided for under section 86 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* may be dealt with in whole or in part under an agreement required—

(a) as a condition of a permit; or

(b) under the provisions of a planning scheme or special planning order.

Section 80 amended (Application to Appeal Tribunal)

31—Section 80 of the Principal Act is amended by omitting from subsection (1) (a) “, an interim order or a permit” and substituting “or special planning order”.

Section 80A inserted

32—After section 80 of the Principal Act, the following section is inserted in Part 5:—

Validation of agreements

80A—An agreement in existence immediately before the commencement of the *Land Use Planning and Approvals Amendment Act (No. 2) 1995* is valid and effectual and is always taken to be valid and effectual.

Schedule 2 amended (Provisions with respect to constitution and membership of the Panel)

33—Schedule 2 to the Principal Act is amended as follows:—

- (a) by inserting in clause 1 “(a),” after “9 (1)”;
- (b) by omitting from clause 8 (3) “If” and substituting “Subject to subclause (3A), if”;
- (c) by inserting after subclause (3) of clause 8 the following subclause:—

(3A) The deputy of a member of the Panel referred to in section 9 (1) (a) or (b) may not perform the duties of chairperson or deputy chairperson of the Panel.

- (d) by inserting in clause 10 (2) “(a),” after “9 (1)”.

Schedule 3 amended (Provisions with respect to meetings of the Panel)

34—Schedule 3 to the Principal Act is amended as follows:—

- (a) by omitting from clause 2 (1) “of whom one must be the chairperson”;
- (b) by omitting from clause 2 (3) “chairperson of the Panel” and substituting “person presiding at the meeting”;
- (c) by inserting after clause 2 the following clause:—

Chairperson

2A—(1) The chairperson of the Panel is to preside at all meetings of the Panel.

(2) If the chairperson of the Panel is not present at a meeting, or part of a meeting, of the Panel, the deputy chairperson of the Panel is to preside at that meeting or that part of the meeting.

(3) If the chairperson or the deputy chairperson of the Panel is not present at a meeting, or part of a meeting, of the Panel, a member elected by the members present is to preside at that meeting or that part of the meeting.

Provisions amended

35—Each provision of the Principal Act listed in column 1 of Schedule 1 is amended by omitting the expression specified in column 2 (wherever it occurs in that provision) and substituting the expression specified in column 3.

Transitional provisions

36—(1) On and after the commencement of this Act, a reference to an interim order in any law is, unless the context or subject matter otherwise indicates or requires, taken to be a reference to a special planning order within the meaning of the *Land Use Planning and Approvals Act 1993*.

(2) On and after the commencement of this Act, the title of an interim order, which is taken to be a planning scheme under section 46 of the Principal Act, is to be read as if the words “Section 46 Planning Scheme” were substituted for the words “Interim Order”.

(3) On and after the commencement of this Act, a dispensation—

- (a) made under Part XVIII of the *Local Government Act 1962* and continued in force as if it had been made under the *Land Use Planning and Approvals Act 1993*; or
- (b) granted under section 47 of the Principal Act before the commencement of this Act; or
- (c) granted after that commencement under subsection (4)—

is taken to be a provision of the relevant interim order which, at that commencement, is taken to be a planning scheme under section 46.

(4) If before the commencement of this Act a planning authority applied to the Panel for approval under section 47 (2) of the Principal Act to grant a dispensation and the planning authority did not grant or refuse to grant the dispensation before that commencement, the dispensation is to continue to be dealt with in accordance with the provisions of section 47 as in force immediately before that commencement.

(5) On and after the commencement of this Act, any condition on the granting of a dispensation granted before that commencement which restricts the period for which a dispensation is in force is of no effect.

(6) On and after the commencement of this Act, if any doubt is raised as to the validity of a dispensation granted before that commencement, the person granted the dispensation or the planning authority may refer the matter to the Tribunal.

(7) The Tribunal is to determine the validity of the dispensation or its terms or conditions as if it were the subject of an appeal under section 64 of the Principal Act.

SCHEDULE 1

Section 35

PROVISIONS AMENDED

COLUMN 1 Provision	COLUMN 2 Omission	COLUMN 3 Substitution
Section 3, definition of "permit"	interim order	special planning order
Section 20 (7)	interim order	special planning order
Section 20 (8)	an interim order	a special planning order
Section 22 (6) (c)	interim order	special planning order
Section 28F (b)	an interim order	a special planning order
Section 48	interim order	special planning order
Section 49 (1)	interim order	special planning order
Section 49 (2)	interim order	special planning order
Section 51 (3)	interim order	special planning order
Section 51 (4)	interim order	special planning order
Section 57 (1)	interim order	special planning order
Section 58 (1)	interim order	special planning order
Section 60 (1)	interim order	special planning order
Section 66 (1) (a) and (c)	interim order	special planning order
Section 67 (1)	interim order	special planning order
Section 67 (2) (b)	an interim order	a special planning order
Section 67 (3)	interim order	special planning order
Section 69 (1)	interim order	special planning order
Section 71 (1)	an interim order	a special planning order
Section 72 (2) (c) (iii)	interim order	special planning order
Section 77	an interim order	a special planning order
Section 82	an interim order	a special planning order
Section 83	interim order	special planning order
Section 83	an interim order	a special planning order

*[Second reading presentation speech made in:—
House of Assembly on 24 October 1995
Legislative Council on 7 November 1995]*