

**LOCAL GOVERNMENT (TOWN AND COUNTRY
PLANNING) AMENDMENT ACT.**

Act No. 7, 1962.

An Act to make further provisions with respect to the preparation of town and country planning schemes; to reallocate the powers, authorities, duties and functions of responsible authorities under the County of Cumberland Planning Scheme Ordinance and the Penrith Planning Scheme Ordinance; for these and other purposes to amend the Local Government Act, 1919, and certain other Acts, and those Ordinances; to validate certain matters; and for purposes connected therewith. [Assented to, 21st May, 1962.]

**Elizabeth II,
No. 7, 1962**

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

- 1.** (1) This Act may be cited as the "Local Government (Town and Country Planning) Amendment Act, 1962".
- (2) Short title, commencement and construction.

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No. 7, 1962 (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) This Act shall be read and construed with the Local Government Act, 1919, as amended by subsequent Acts, which Act, as so amended, is in this Act referred to as the Principal Act.

Division
into Parts.

2. This Act is divided into Parts as follows :—

PART I.—PRELIMINARY.

PART II.—AMENDMENTS TO PART VII OF THE LOCAL GOVERNMENT ACT, 1919, AS AMENDED BY SUBSEQUENT ACTS, AND THE LOCAL GOVERNMENT (AMENDMENT) ACT, 1951, AS AMENDED BY SUBSEQUENT ACTS.

PART III.—AMENDMENTS TO PART XIII A OF THE LOCAL GOVERNMENT ACT, 1919, AS AMENDED BY SUBSEQUENT ACTS.

PART IV.—AMENDMENTS TO THE COUNTY OF CUMBERLAND PLANNING SCHEME ORDINANCE AND THE PENRITH PLANNING SCHEME ORDINANCE.

DIVISION 1.—*Amendments to the County of Cumberland Planning Scheme Ordinance.*

DIVISION 2.—*Amendments to the Penrith Planning Scheme Ordinance.*

PART II.

AMENDMENTS TO PART VII OF THE LOCAL GOVERNMENT ACT, 1919, AS AMENDED BY SUBSEQUENT ACTS, AND THE LOCAL GOVERNMENT (AMENDMENT) ACT, 1951, AS AMENDED BY SUBSEQUENT ACTS.

Amendment
of Act No.
41, 1919.
Sec. 132.
(Definition
of ratable
land.)

3. (1) Part VII of the Principal Act is amended by inserting at the end of subsection one of section one hundred and thirty-two the following word and new paragraph :—

; and

(k)

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- (k) land reserved for any purpose under a scheme prescribed under Part XIIA of this Act where such land has been acquired by a responsible authority in accordance with the provisions of the scheme for the purposes of the scheme and is not land held under a lease from the responsible authority for private purposes. No. 7, 1962

(2) The amendment made by this section shall be deemed to have commenced on the twenty-seventh day of June, one thousand nine hundred and fifty-one.

4. The Local Government (Amendment) Act, 1951, as amended by subsequent Acts, is amended— Amendment
of Act No.
18, 1951.

- (a) by omitting section three and by inserting in lieu thereof the following section :— Subst.
sec. 3.

3. In the application of subsection three of section 342K of the Principal Act, as amended by the Local Government (Town and Country Planning) Amendment Act, 1962, to the County of Cumberland Planning Scheme the said subsection shall be deemed to be amended by omitting paragraph (b) and by inserting in lieu thereof the following paragraph :— Maps, plans
and
specifica-
tions.

(b) shall be made available for public inspection without fee at the office of the Cumberland County Council and, in so far as they relate to land within the area of a council being a responsible authority and to land adjoining such area, at the office of that council, during ordinary office hours.

- (b) by omitting section five and by inserting in lieu thereof the following section :— Subst.
sec. 5.

5. The Cumberland County Council may apply its general fund to any of the following purposes :— Town and
Country
Planning
Fund.

- (a) any purpose of a planning scheme of any council of an area wholly or partly included in the County of Cumberland;

(b)

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- No. 7, 1962.** (b) any expenditure incurred by the Cumberland County Council in assisting the council of any area wholly or partly included in the County of Cumberland in the preparation of a planning scheme for such area.

PART III.

**AMENDMENTS TO PART XIIA OF THE LOCAL GOVERNMENT
ACT, 1919, AS AMENDED BY SUBSEQUENT ACTS.**

**Amendment
of Act No.
41, 1919.
Part XIIA—
(Town and
Country
Planning
Schemes.)**

5. (1) Part XIIA of the Principal Act is amended—

**Sec. 342c.
(Prepara-
tion of
schemes.)**

- (a) (i) by omitting subsection two of section 342c and by inserting in lieu thereof the following subsection :—

(2) The council or councils concerned shall within fourteen days after passing the resolution transmit a copy of the resolution to the Minister.

- (ii) by omitting from subsection three of the same section the words “has taken effect” and by inserting in lieu thereof the words “has been passed”;

- (iii) by omitting from subsection four of the same section the words “has taken effect” and by inserting in lieu thereof the words “has been passed”;

**Sec. 342E.
(Appoint-
ment of
planning
committee.)**

- (b) (i) by omitting subsections one and two of section 342E and by inserting in lieu thereof the following subsections :—

(1) Where any resolution referred to in subsection one of section 342c of this Act has been passed or any direction referred to in section

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section 342D of this Act has been given, the No. 7, 1962
council or councils concerned shall as soon as
practicable prepare a scheme in pursuance of
such resolution or direction.

The scheme shall be in the form of a draft ordinance and shall embody such matters and incorporate or refer to such maps, plans, specifications and particulars as the Minister in writing may require in any particular case.

The scheme may adopt wholly or partially or by reference any of the provisions contained in a set of standard or model provisions adopted by the Minister on the recommendation of the Advisory Committee.

(2) The council or councils concerned shall appoint or employ some person who possesses the prescribed qualifications in town planning or country planning to assist in the preparation of the scheme :

Provided that where the Minister, on the recommendation of the Advisory Committee, so approves—

- (a) the council or councils concerned may, if the Cumberland County Council so agrees and the area or areas of the council or councils concerned is or are wholly or partly situated in the County of Cumberland, appoint the Cumberland County Council to assist in the preparation of the scheme;
- (b) having regard to the restricted nature or limited extent of the scheme, the council or councils concerned may appoint or employ an officer or employee of the Crown referred to in subsection three of this section or a servant of the council to assist in the preparation of the scheme,
notwithstanding

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notwithstanding that the Cumberland County Council or such officer, employee or servant does not possess the prescribed qualifications in town planning or country planning.

- (ii) by omitting from subsection five of the same section the words "planning committee" and by inserting in lieu thereof the words "council or councils concerned";

**Subst.
sec. 342F.**

- (c) by omitting section 342F and by inserting in lieu thereof the following section :—

**Notice of
scheme.**

342F. (1) The council or councils concerned shall submit to the Minister the scheme prepared by it or them in accordance with the provisions of this Part.

(2) The Minister may, after considering a report of the Advisory Committee, certify that the scheme so submitted to the Minister is adequate and sufficient and that the proposals contained in the scheme apply proper planning principles to the land to which the scheme relates and appear to the Minister to be suitable for implementation.

(3) Where the Minister has so certified, the council or councils concerned—

- (a) shall give notice as prescribed that the scheme has been prepared and shall in such notice—
- (i) specify the address of the place or places at which copies of the draft ordinance and the maps, plans, specifications and other particulars relating to the scheme may be inspected and the times and dates when they may be inspected;
 - (ii) specify the address of the council, or the addresses of the councils, concerned to which objections against the scheme or any part of it may be forwarded;

(b)

- (b) shall forward particulars and a map or plan No. 7, 1962
indicating in general terms the extent or
nature of the scheme to all Departments
of the Crown in right of the State or of the
Commonwealth, all statutory bodies repre-
senting the Crown and all councils which
appear to it or them to be affected by the
scheme;
- (c) shall arrange for copies of such ordinance
and maps, plans, specifications and other
particulars to be made available for public
inspection without charge at the places and
times and on the dates referred to in
subparagraph (i) of paragraph (a) of this
subsection.

(4) Any person who has an estate or
interest in any land affected by the scheme and any
Department, statutory body or council may object
in the manner prescribed to the council or councils
concerned against the scheme or any part of it and
shall state the grounds of the objection.

(5) Any such objection may only be
made—

- (a) within a period of three months; or
- (b) if the Minister in the prescribed manner so
directs in respect of a varying scheme,
within such period not exceeding three
months but not less than one week as may
be specified in the direction

after the publication of the notice referred to in
paragraph (a) of subsection three of this section (or
where the notice is published more than once, after
the first publication thereof) or within such further
period as the council or councils concerned may,
with the approval of the Minister, allow.

(6) The council or councils concerned
shall consider all objections to the scheme made
under this section and shall decide what recom-
mendations thereon shall be made to the Minister.

Before

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Before deciding what recommendations shall be made to the Minister, the council or councils concerned shall afford each objector an opportunity to appear personally, or by counsel, solicitor or agent, before the council or councils concerned in support of his objection.

Sec. 342G.
(Contents of scheme.)

(d) by omitting paragraph (b) of subsection five of section 342G;

Subst. sec. 342H.

(e) by omitting section 342H and by inserting in lieu thereof the following section :—

Submission of scheme to Minister.

342H. After the council or councils concerned has or have pursuant to section 342F of this Act considered all objections to the scheme and decided what recommendations thereon shall be made to the Minister, the scheme shall be submitted to the Minister and shall be accompanied by the objections (if any) or a copy thereof made to the council or councils concerned pursuant to subsection four of that section, a summary of any submissions made at the hearing of such objections and a statement in writing setting out such recommendations in respect of each objection.

Sec. 342I.
(Reference to Advisory Committee.)

(f) by omitting from section 342I the word “shall” and by inserting in lieu thereof the words “may, if he thinks fit, again”;

Subst. sec. 342J.

(g) by omitting section 342J and by inserting in lieu thereof the following section :—

Consideration of scheme.

342J. (1) The Minister shall examine the scheme submitted to him by the council or councils concerned and shall consider the objections to the scheme made to the council or councils concerned having regard to the recommendations made by the council or councils concerned in respect of each such objection.

(2) (a) The Minister may then decide—

(i) to proceed with the scheme without alteration; or

(ii)

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- (ii) to proceed with the scheme with such alterations as he deems expedient arising out of his consideration of the objections; or
- (iii) not to proceed with the scheme.

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(b) In arriving at his decision, the Minister shall, where a report on the scheme has been furnished to him by the Advisory Committee under section 342I of this Act, have regard to that report.

(3) Where the Minister decides to proceed with the scheme with alterations, and considers that the alterations are so extensive or are otherwise of such a nature as to justify the scheme or any part thereof being referred back to the council or councils concerned to be dealt with in accordance with subsection four of this section, the Minister may refer back the scheme or part accordingly.

(4) Where the Minister so refers back the scheme or any part, the council or councils concerned—

(a) shall give notice as prescribed of the alterations to the scheme proposed by the Minister and shall in such notice—

(i) specify the address of the place or places at which copies of the draft ordinance and the maps, plans, specifications and other particulars relating to the proposed alterations may be inspected and the times and dates when they may be inspected;

(ii) specify the address of the council, or the addresses of the councils, concerned to which objections against the proposed alterations or any of them may be forwarded;

(b) shall forward particulars and a map or plan indicating in general terms the extent or nature of the alterations to the scheme proposed by the Minister to all Departments

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of the Crown in right of the State or of the Commonwealth, all statutory bodies representing the Crown and all councils which appear to it or them to be affected by any of the proposed alterations; and

- (c) shall arrange for copies of all maps, plans, specifications and other particulars relating to the proposed alterations to be made available for public inspection without charge at the places and times and on the dates referred to in subparagraph (i) of paragraph (a) of this subsection.

(5) Any person who has an estate or interest in any land affected by any of the alterations to the scheme proposed by the Minister and any Department, statutory body or council may, within such period as may be specified by the Minister and notified as prescribed (but not less than one month), object in the manner prescribed to the council or councils concerned against the proposed alterations to the scheme and shall state the grounds of the objection.

(6) The council or councils concerned shall consider all objections made under subsection five of this section to the alterations to the scheme proposed by the Minister and shall decide what recommendations thereon shall be made to the Minister. Any such recommendations shall be in writing and shall be forwarded to the Minister within such period as may be notified to the council or councils concerned by the Minister, together with the objections (if any) or a copy thereof made to the council or councils concerned pursuant to subsection five of this section and a summary of any submissions made at the hearing of such objections.

Before deciding what recommendations on such objections shall be made to the Minister, the council or councils concerned shall afford each objector an opportunity to appear personally, or by counsel, solicitor or agent, before the council or councils concerned in support of his objection.

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(7) The Minister shall consider such objections having regard to any recommendations made to him by the council or councils concerned in pursuance of subsection six of this section and shall decide whether the proposed alterations should be made to the scheme and whether wholly or in part, and shall deal with the scheme in one of the ways referred to in paragraph (a) of subsection two of this section. No. 7, 1962

(8) Where a scheme has been altered in pursuance of paragraph (a) of subsection two of this section, a reference in subsections three, four, five, six and seven of this section to "the scheme" shall be construed as a reference to the scheme as so altered.

- (h) (i) by omitting subsection one of section 342k and by inserting in lieu thereof the following subsection :— Sec. 342k.
(Prescribed scheme.)

(1) The Governor, on the recommendation of the Minister that the scheme, or the scheme as altered pursuant to section 342j of this Act, be prescribed, may make an ordinance prescribing the scheme, or the scheme as so altered, as the case may be.

Any such scheme which has been embodied in an ordinance so made is in this Part hereinafter referred to as a "prescribed scheme".

- (ii) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection :—

(3) Copies of the ordinance and all maps, plans, specifications or other particulars referred to therein authenticated as prescribed—

- (a) shall be made available at the Department of Local Government during ordinary office hours for public inspection upon payment of the prescribed fee; and

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(b) shall be made available for public inspection without charge at the office of the responsible authority during ordinary office hours.

Sec. 342N.
(Powers,
etc., of
responsible
authority.)

(i) by inserting at the end of subsection one of section 342N the following words :—

Where the responsible authority so specified is a county council, the powers, authorities, duties and functions conferred and imposed on such county council as a responsible authority under the prescribed scheme shall be deemed to be powers, authorities, duties and functions duly delegated to the county council under section five hundred and sixty-four of this Act on and from the date on which the prescribed scheme comes into force, notwithstanding that a request for such delegation has not been made by a majority in number of the constituent councils, or by any of them, but without prejudice to the power of each constituent council to exercise or discharge so much of any power, authority, duty or function which by law may be exercised or discharged by a council in relation to town and country planning as has not been so deemed to have been delegated to the county council.

Sec. 342R.
(Notices
relaxing
temporary
prohibition
or restric-
tion of
building.)

(j) by omitting from paragraph (f) of section 342R the following words :—

Provided that, where the responsible authority has power under this section to grant an application, it shall not refuse that application unless it is satisfied that other land suitable for the erection of such building as is specified in the application is available on reasonable terms and either—

(i) that the erection of such building would involve danger or injury to health by reason of the lack of roads, drains, sewers, water supply, or any public services and that the
provision

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provision of the necessary services would be premature or likely to involve excessive expenditure of public money; or

(ii) that the erection of the building would be likely seriously to injure the amenity of the locality.

(k) (i) by omitting from the definition of "Interim development" in subsection one of section 342T the words "a resolution of the council or two or more councils acting together to prepare a scheme has taken effect or the date upon which notice of the fact that the Minister has directed the council or two or more councils to act together to prepare a scheme was published in the Gazette," and by inserting in lieu thereof the words "an interim development order has taken effect";

(ii) by inserting in the same subsection after the definition of "Interim development application" the following new definition :—

"Interim development order" means an interim development order made by the Minister under section 342U of this Act and includes an interim development order as altered or amended under that section.

(iii) by inserting in subsection two of the same section after the words "by virtue of" the words "an interim development order made under";

(l) by omitting section 342U and by inserting in lieu thereof the following section :—

342U. (1) Where the council or councils concerned has or have commenced to prepare a scheme under this Part and such scheme, with or without amendment, has not been prescribed, the Minister

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—

Minister may, after consideration of a report by the Advisory Committee, by notification published in the Gazette make an interim development order regulating, restricting, or prohibiting, or conferring on the council powers, authorities, duties and functions with respect to regulating, restricting or prohibiting, interim development on any land which may be included in the scheme pending the coming into operation of the scheme or the varying scheme.

(2) Ordinances may be made suspending either generally or in any particular case or class of cases the operation of any provision of this or any other Act, or of any rule, regulation, by-law, ordinance, proclamation, notification, agreement, covenant or instrument by or under whatever authority made, to the extent to which that provision is inconsistent with any interim development permitted under this Division.

(3) An interim development order may adopt wholly or partially by reference any of the provisions contained in a set of standard or model provisions adopted by the Minister on the recommendation of the Advisory Committee and published in the Gazette.

(4) Interim development of any land to which an interim development order applies shall not be carried out except as may be permitted by or under the authority of the interim development order and subject to such conditions and restrictions as may be imposed by or under the interim development order and to such provisions as may apply by virtue of the interim development order :

Provided that nothing in any interim development order shall prevent the continuance of the use of any land or building for the purposes for which such land or building was lawfully used immediately before the coming into operation of the interim development order.

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(5) The Minister may at any time, after consideration of a report thereon by the Advisory Committee, by notification published in the Gazette, alter or rescind any interim development order. No. 7, 1962

(6) Any notification making, altering or rescinding an interim development order shall take effect from the date of publication of the notification or from a later date to be specified in the order.

(7) A notice in or to the effect of the prescribed form of the making, altering or rescinding of an interim development order, and stating that copies of the interim development order and, where deemed advisable by the Minister, of a map or maps showing the area affected by the order, are available for public inspection at the office of the council of the area concerned and at the Department of Local Government shall be published by the council or councils concerned in two newspapers, of which one shall be a daily newspaper circulating generally throughout the State and one shall be a newspaper circulating in the area. Such notice shall in the case of the making or alteration of an interim development order contain a summary of the order so made or of the alteration, as the case may be.

(8) Where a planning scheme relating to any land affected by an interim development order is prescribed, such order shall so far only as relates to any such land cease to have any further effect.

(9) Where an interim development order is altered or rescinded, or ceases to have effect by reason of the prescribing of a planning scheme—

- (a) any development permitted by or under the authority of the interim development order may, subject to the provisions of the interim development

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development order, be continued and completed as if the alteration or rescission had not been made, or the interim development order had not ceased to have effect; and

- (b) such alteration or rescission, or ceasing to have effect, shall not affect any right, liability, obligation, penalty or legal proceedings accrued, incurred or instituted by virtue of or in relation to or under the interim development order.

Sec. 342v.
(Permission
for interim
develop-
ment.)

- (m) (i) by omitting subsection one of section 342v and by inserting in lieu thereof the following subsections :—

(1) The council shall have and may exercise and discharge all the powers, authorities, duties and functions conferred and imposed on it by an interim development order.

(1A) Subject to the provisions of any interim development order, the council may, where an interim development application is made, grant the application unconditionally or subject to such conditions as it may think proper to impose or, if it appears to the council that such development would—

- (a) be in contravention of the interim development order or of the provisions of the scheme in course of preparation if that scheme had come into operation; or
- (b) be in contravention of town planning or country planning principles; or
- (c) interfere with the amenity of the neighbourhood,

refuse to grant such application.

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(1B) The council shall be deemed to have refused the application unless within two months after the receipt of the application, or within such longer period as may be agreed upon in writing by the council and the applicant, the council gives notice to the applicant—

- (a) stating its decision, and except in the case of an unconditional approval, of the reasons therefor; or
 - (b) that the application has been referred to the Minister for decision in accordance with the provisions of subsection three of this section; or
 - (c) that consideration of the application has been postponed in accordance with the provisions of subsection two of this section.
- (ii) by omitting from paragraph (c) of subsection three of the same section the word “ordinance” and by inserting in lieu thereof the words “interim development order”;

(n) by omitting subsection one of section 342w;

Sec. 342w.
(Revocation or modification of permission for interim development.)

(o) (i) by omitting from paragraph (a) of subsection one of section 342y the words “has taken effect” and by inserting in lieu thereof the words “has been passed by the council”;

Sec. 342y.
(Suspension of provisions of prescribed scheme.)

(ii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsections :—

(2) Where any notification is made under subsection one of this section the Minister shall by the same notification make an interim development

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development order relating to the land to which the notification under subsection one of this section applies. Such an interim development order may be made notwithstanding that the council has not commenced to prepare the varying scheme.

(3) Where the provisions of any prescribed scheme are, pursuant to subsection one of this section, suspended after the commencement of the Local Government (Town and Country Planning) Amendment Act, 1962—

(a) except to the extent to which they may be revoked or modified by or under the authority of the interim development order referred to in subsection two of this section or any subsequent interim development order—

(i) any approval, permission or consent given or granted in accordance with, or in force under, the provisions of the prescribed scheme and in force at the date of the suspension of the prescribed scheme or the provisions of any order, notice or direction made or given under or pursuant to such provisions and in force as aforesaid shall, subject to anything contained in such provisions providing that such approval, permission or consent shall be void or cease to have effect after the expiration of any specified period, continue in full force and effect; and

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(ii) all conditions and restrictions No. 7, 1962
imposed or applied under any
approval, permission or con-
sent referred to in subpara-
graph (i) of this paragraph
and which were in force at the
date of suspension of the
prescribed scheme shall con-
tinue in full force and effect;
and

(b) such suspension shall not affect any
right, liability, obligation, penalty or
legal proceedings accrued, incurred or
instituted by virtue of or in relation
to or under the prescribed scheme the
provisions of which were so suspended.

- (p) (i) by omitting from section 342z the word “ordi- Sec. 342z.
nance” wherever occurring and by inserting (Power to
in lieu thereof the words “order published in apply
the Gazette”; interim
development
provisions to
any land.)
- (ii) by omitting from the same section the words
“has taken effect” and by inserting in lieu
thereof the words “has been passed by the
council”;
- (q) (i) by omitting from paragraph (e) of subsection Sec. 342Ac.
one of section 342Ac the words “has taken (Compensa-
effect” and by inserting in lieu thereof the tion.)
words “has been passed”;
- (ii) by omitting from paragraph (g) of the same
subsection the words “by a council pursuant
to” and by inserting in lieu thereof the words
“an interim development order or by a council
pursuant to an interim development order or”;
- (iii) by inserting in the same paragraph after the
word “rescission” the word “, suspension”;
- (iv) by omitting from paragraph (a) of subsection
two of the same section the words “the reso-
lution of the council has taken effect or the
date

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date of publication in the Gazette of the notice that the Minister has directed the council to prepare a scheme affecting such land, as the case may be," and by inserting in lieu thereof the words "the provisions of this Part relating to interim development apply with respect to such land";

Sec. 342AG.
(Betterment charge.)

- (r) by omitting from subsection two of section 342AG the words "a sum equal to" and by inserting in lieu thereof the words "such sum as the council determines not exceeding";

Sec. 342AH.
(Powers of Minister in case of default by councils.)

- (s) by omitting paragraph (a) of subsection one of section 342AH and by inserting in lieu thereof the following paragraph :—

- (a) where a resolution to prepare a scheme has been passed but the Minister is satisfied that the council or councils concerned have not taken reasonable and effective steps to prepare such scheme; or;

Sec. 342AO.
(Estimates.)

- (t) by omitting section 342AO;

Sec. 342AP.
(Loans.)

- (u) by omitting section 342AP;

Sec. 342AQ.
(Town and Country Planning Fund.)

- (v) by omitting section 342AQ;

Sec. 342AS.
(Certificates of compliance.)

- (w) (i) by omitting from subsection two of section 342AS the words "or a scheme in course of preparation or a resolution applies or a direction to prepare a scheme relates" and by inserting in lieu thereof the words "relates or the provisions of this Part relating to interim development apply";

- (ii) by inserting in paragraph (a) of subsection three of the same section after the words "prescribed scheme" the words "or an interim development order";

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- (iii) by inserting in paragraph (b) of the same subsection after the words "prescribed scheme" the words "or any provisions made by or under this Part relating to interim development"; No. 7, 1962
- (x) by inserting next after section 342AS the following new section :— New sec.
342ASA.

342ASA. (1) A copy or extract of any document, map or plan embodied, incorporated or referred to in an interim development order or a scheme made under this Part shall be admissible in evidence if it— Evidence.

- (a) purports to be a copy of or an extract from the original document, map or plan and purports to be printed by the Government Printer or by the authority of the Government;
- (b) purports to be certified, where the original is intrusted to the responsible authority, under the hand of the proper servant of the responsible authority, or where the original is intrusted to the Minister or the Department of Local Government, under the hand of the Under Secretary of that Department.

For the purposes of this section, a copy or extract of a map or plan may be to the same scale as the original or may be an enlarged or reduced copy.

(2) Where the original of a document, map or plan is intrusted to—

- (a) the responsible authority, the clerk shall furnish such certified copy or extract to any person applying for the same upon payment of such fee as may be fixed in any particular case by the council;
- (b) the Minister or the Department of Local Government, the Under Secretary of that Department shall furnish such certified copy
or

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such case the scheme shall cease to have any force or effect and the council or councils concerned shall, in accordance with the resolution or resolutions passed by it or them under section 342C of this Act, or in accordance with the direction given to it or them by the Minister under section 342D of this Act, as soon as practicable prepare in pursuance of such resolution, resolutions or direction a scheme embodying proper planning principles.

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(4) A scheme in course of preparation at the commencement of this Act in respect of which the notice required by section 342F of the Principal Act, as enacted before such commencement, has not been given at such commencement shall be deemed to have been undertaken under and shall be dealt with and completed by the Governor, the Minister, the Advisory Committee, the council or councils concerned or any officer or person under the provisions of the Principal Act, as amended by this Act, and for this purpose any such scheme prepared by the planning committee may be adopted by the council or councils concerned with or without amendment and shall be deemed to have been prepared by the council or councils concerned in accordance with the provisions of Part XIIA of the Principal Act, as amended by this Act, and the matters embodied in such scheme and the maps, plans and other information incorporated or referred to therein shall be deemed to be those required by the Minister to be so embodied and incorporated in accordance with the provisions of section 342E of the Principal Act, as amended by this Act.

7. (1) Notwithstanding the amendments made by section five of this Act or the provisions of section six of this Act, the provisions of Division 7 of Part XIIA of the Principal Act and of any ordinance made under that Part with respect to the granting or refusal of any approval, consent or permission to carry out interim development which are in force in relation to any land within an area immediately before the commencement of this Act shall continue in force in relation to that land until and except to the extent to which they may be suspended by an interim development order in accordance with subsection three of this section or lapse upon the coming into operation of the scheme, whichever is the sooner.

Savings—
interim
develop-
ment.

(2)

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(2) In any case where—

- (a) under the provisions of subsection one of this section the provisions of Division 7 of Part XIIA of the Principal Act and of any ordinance referred to in that subsection are continued in force in relation to any land within an area; and
- (b) an interim development order is made relating to such land,

any approval, permission or consent granted under the said Division 7 or under any such ordinance, whether before or after the commencement of this Act and whether unconditionally or subject to conditions, shall, if in force immediately before the coming into effect of such interim development order and subject to any provisions contained in such interim development order providing for the avoidance of any such approval, permission or consent, continue in full force and effect; and any conditions attached to such approval, consent or permission by the council or the Minister may be enforced by the council in all respects as if they were conditions attached to an approval, permission or consent which the council was empowered to grant under such interim development order.

In any such case, neither the passing of this Act nor the coming into effect of the interim development order shall affect any right, liability, obligation, penalty or legal proceedings accrued, incurred or instituted by virtue of or in relation to or under the provisions of the said Division 7 or any ordinance referred to in subsection one of this section.

(3) The Minister may, in relation to any land in respect of which the provisions of Division 7 of Part XIIA of the Principal Act and of any ordinance made under that Part are continued in force by subsection one of this section, make an interim development order under section 342U of the Principal Act, as amended by this Act, and, without limiting the generality of the foregoing provisions of this subsection, may—

- (a) by such interim development order suspend such provisions; and

(b)

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- (b) include in any such interim development order provisions for the avoidance of any approval, permission or consent granted under the said Division 7 or any such ordinance. No. 7, 1962

Until any such interim development order is made in relation to any such land, development shall not be carried out in relation to the land except by or under the authority of Division 7 of the said Part XIII A or of any ordinance made under that Part.

8. (1) Notwithstanding the provisions of section five of this Act, any ordinance— Savings—
general.

- (a) prescribing qualifications for the purposes of section 342E of the Principal Act;
- (b) prescribing a scheme under section 342K of the Principal Act,

and in force immediately before the commencement of this Act shall continue in full force and effect and, subject to the Principal Act, as amended by this Act, may be altered or rescinded in accordance with the provisions of the Principal Act, as so amended.

(2) Nothing contained in the amendments made by section five of this Act shall affect the continuity of employment of any person, otherwise than in his capacity as a member of a planning committee, who immediately before the commencement of this Act was appointed or employed by the council or councils concerned under section 342E of the Principal Act to assist in the preparation of a scheme.

PART

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PART IV.

AMENDMENTS TO THE COUNTY OF CUMBERLAND PLANNING
SCHEME ORDINANCE AND THE PENRITH PLANNING
SCHEME ORDINANCE.

DIVISION 1.—*Amendments to the County of Cumberland
Planning Scheme Ordinance.*

Amend-
ments to
the County
of Cumber-
land Plan-
ning Scheme
Ordinance.

9. (1) The County of Cumberland Planning Scheme Ordinance as prescribed by the Local Government (Amendment) Act, 1951, and as amended by the County of Cumberland Planning Scheme (Amendment No. 1) Ordinance proclaimed in Gazette No. 87 of the second day of August, one thousand nine hundred and fifty-seven, and by the Local Government (Amendment) Act, 1959, is amended—

Subst.
cl. 5, 6.

(a) by omitting clauses five and six and by inserting in lieu thereof the following clauses :—

Cumberland
County
Council to
be respon-
sible
authority
for certain
purposes.

5. In respect of the provisions of this Ordinance relating to—

- (a) places of scientific or historic interest;
- (b) certification of plans showing land as being land to which Part II applies;
- (c) controlled access roads;
- (d) application for the fixing of an area for the purposes of the definition of "Country dwelling" in clause 24 of this Ordinance in its application to land zoned as Green Belt Zone;
- (e) any matters in respect of which the Cumberland County Council is expressly charged with any power, authority, duty or function; and
- (f) any power, authority, duty or function conferred or imposed on the responsible authority, other than those enumerated in paragraphs (a) to (e) both inclusive of this clause or in clause 6,

the

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the Cumberland County Council shall be the responsible authority and shall be charged with the functions of carrying into effect and enforcing such provisions. No. 7, 1962

6. (1) The council shall, subject to this Ordinance, be the responsible authority and shall be charged with the functions of carrying into effect and enforcing the provisions of this Ordinance relating to— Councils to be responsible authorities for certain purposes.

- (a) the granting of any consent or permission required by or under this Ordinance (not being a consent or permission which may be given only by a person other than the council) to the development of any land other than lands, buildings or works declared to be places of scientific or historic interest; and
- (b) applications under clause 52 of this Ordinance for the fixing of an area for the purposes of the definition of "Country dwelling" in clause 24 of this Ordinance in its application to land zoned as Rural Area.

(2) The powers, authorities, duties and functions conferred and imposed on the responsible authority by this clause shall apply in respect of each area to the council of the area.

- (b) (i) by omitting from subclause one of clause eleven the words and figures "and by clause 12"; Cl. 11.
(Buildings, &c., not to be erected on reserved land without consent.)
- (ii) by omitting subclauses two and three of the same clause and by inserting in lieu thereof the following subclauses:—

(2) Where it appears to the responsible authority that the purpose for which the land **is**

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— 1

is reserved cannot be carried into effect within a reasonable period, the responsible authority may—

- (a) in relation to land coloured dark green and land coloured light green on the scheme map, with the consent of the Cumberland County Council, or
- (b) in relation to land shown broken white between broken black lines and land shown white between black lines and land shown between triple broken black lines on grey background on the scheme map, with the consent of the statutory body concerned,

approve of the erection on the land of buildings and the carrying out of works and the making of excavations on the land.

(3) In granting any such approval, the responsible authority shall attach thereto such conditions as the Cumberland County Council or the statutory body concerned, as the case may be, may require to be imposed, including, but without limiting the generality of the foregoing, conditions requiring the removal or alteration of the building or works or the reinstatement of the land or the removal of any waste materials or refuse at any time either with or without compensation.

The responsible authority may also attach to any such approval such other conditions as it thinks fit.

Cl. 12.
(Variation
of boundaries of
reserved
land.)

(c) by omitting clause twelve;

(d)

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- (d) by inserting at the end of clause fifteen the following new subclause :—
- No. 7, 1962
Cl. 15.
(Built-up land on proposed routes of roads and railways.)
- (4) A consent under this clause shall not be given except with the concurrence of the Cumberland County Council.
- (e) by omitting from clause seventeen the words “responsible authority” where secondly and thirdly occurring and by inserting in lieu thereof the words “Cumberland County Council”;
- Cl. 17.
(Acquisition of land.)
- (f) by omitting from clause eighteen the words “responsible authority” wherever occurring and by inserting in lieu thereof the words “Cumberland County Council”;
- Cl. 18.
(Transfer of land.)
- (g) by omitting from clause nineteen the words “responsible authority” wherever occurring and by inserting in lieu thereof the words “Cumberland County Council”;
- Cl. 19.
(Schedule of proposals.)
- (h) by omitting from clause twenty the words “responsible authority” wherever occurring and by inserting in lieu thereof the words “Cumberland County Council”;
- Cl. 20.
(Relocation of county roads and railways.)
- (i) by omitting from clause twenty-one the words “responsible authority” wherever occurring and by inserting in lieu thereof the words “Cumberland County Council”;
- Cl. 21.
(Plans of relocation or alteration.)
- (j) by omitting from clause twenty-three the words “responsible authority” and by inserting in lieu thereof the words “Cumberland County Council”;
- Cl. 23.
(Effect of plan.)
- (k) by omitting from the definition of “Country dwelling” in clause twenty-four the words “the Governor by proclamation” and by inserting in lieu thereof the words “the Minister by order published in the Gazette”;
- Cl. 24.
(Interpretation.)

(1)

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Cl. 43.
(Consultation.)

- (1) (i) by inserting in subparagraph (i) of paragraph (c) of subclause one of clause forty-three after the words "residential development" the words "which does not comprise the erection of a building containing more than four flats";
- (ii) by inserting in subparagraph (ii) of the same paragraph after the words "residential development" the words "which does not comprise the erection of a building containing more than four flats";
- (iii) by omitting from the proviso to subclause one of the same clause the words "of land which is within a Rural Area Zone";
- (iv) by omitting subclauses two and three of the same clause and by inserting in lieu thereof the following subclause :—

(2) The responsible authority shall not refuse to grant any application for permission to carry out development made to it under this Ordinance by the Crown or a public utility undertaking or statutory authority nor attach conditions to its consent to any such application except with the concurrence of the Minister.

Cl. 47.
(Restriction of ribbon development.)

- (m) (i) by omitting from paragraph (b) of subclause two of clause forty-seven the words "unless the responsible authority is satisfied" and by inserting in lieu thereof the words "unless the Cumberland County Council certifies to the responsible authority that it is satisfied";
- (ii) by omitting from the same paragraph the words "the responsible authority" where lastly occurring and by inserting in lieu thereof the words "the Cumberland County Council";
- (iii) by inserting in paragraph (a) of subclause three of the same clause after the word "buildings" where firstly occurring the words "or to all buildings other than those mentioned in the proclamation"; (iv)

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(iv) by omitting from subclause five of the same clause the words “and on the council of the area in which the road is situated”; No. 7, 1962
—

(n) (i) by omitting subclause one of clause fifty-two and by inserting in lieu thereof the following subclause : — Cl. 52.
(Country dwellings.)

(1) The Minister may on the application of the responsible authority by order published in the Gazette determine in respect of any land included in a Green Belt Area Zone or a Rural Area Zone the minimum area, not being less than one acre, of an allotment of land on which a dwelling-house may be erected.

(ii) by omitting from subclause two of the same clause the word “proclamation” and by inserting in lieu thereof the word “order”.

(2) (a) Subject to the provisions of paragraphs (b) and (c) of this subsection, the amendments made by subsection one of this section shall not affect any right, liability, obligation, penalty or legal proceedings accrued, incurred or instituted before the commencement of this Act by virtue of or in relation to or under the provisions of the County of Cumberland Planning Scheme Ordinance as enacted immediately before such commencement.

(b) Where—

(i) before the commencement of this Act any consent or permission to carry out development was granted or was deemed to have been granted, either conditionally or unconditionally, by the Cumberland County Council as a responsible authority under the County of Cumberland Planning Scheme Ordinance, or any amendment thereof; and

(ii) by the amendments made by subsection one of this section the council of the area has been substituted for the Cumberland County Council as the responsible

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responsible authority for the case or class of cases in respect of which such consent or permission was granted,

such consent or permission shall be deemed on and from the commencement of this Act to have been granted by the council of the area as responsible authority and any conditions attached to such consent or permission by the Cumberland County Council may be enforced by the council of the area in all respects as if they were conditions attached to a permission or consent granted by the council of the area as responsible authority.

(c) All foreshore building lines and all tree preservation orders fixed or made by the Cumberland County Council under the provisions of the County of Cumberland Planning Scheme Ordinance, or any amendment thereof, and in force at the commencement of this Act shall be deemed on and from such commencement to have been fixed or made by the responsible authority prescribed under that ordinance, or any amendment thereof, and shall continue in full force and effect until altered, abolished or rescinded in the manner provided under the ordinance, or any amendment thereof.

DIVISION 2.—Amendments to the Penrith Planning Scheme Ordinance.

Amendments to the Penrith Planning Scheme Ordinance. **10.** (1) The Penrith Planning Scheme Ordinance, as proclaimed in Gazette No. 38 of the eighteenth day of March, one thousand nine hundred and sixty, is amended—

Cl. 4. (Interpretation.) (a) by inserting at the end of the definition of “County of Cumberland Planning Scheme” in clause four the words “and the Local Government (Town and Country Planning) Amendment Act, 1962”;

Subst. cl. 6. (b) by omitting clause six and by inserting in lieu thereof the following clause :—

Responsible authorities. 6. (1) In respect of the provisions of this Ordinance relating to—

- (a) the acquisition and transfer of land reserved under Division 2 of Part II for county open space, new county roads and widening existing county roads; (b)

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- (b) places of scientific or historic interest; No. 7, 1962
- (c) the relocation or alteration of the route of any county road indicated on the scheme map;
- (d) certification of plans showing land as being land to which Part II applies;
- (e) controlled access roads;
- (f) any matters in respect of which the county council is expressly charged with any power, authority, duty or function; and
- (g) any power, authority, duty or function other than those enumerated in paragraphs (a) to (f) both inclusive of this subclause or in subclause (2) of this clause,

the county council shall be the responsible authority and shall be charged with the functions of carrying into effect and enforcing such provisions.

(2) The council shall, subject to this Ordinance, be the responsible authority and shall be charged with the functions of carrying into effect and enforcing the provisions of this Ordinance relating to—

- (a) the granting of any approval, consent or permission required by or under this Ordinance (not being a consent or permission which may be given only by a person other than the council) to the development of any land other than lands, buildings or works declared to be places of scientific or historic interest; and
- (b) applications under clause 46 for the determination of an area for the purposes of the definition of "Country dwelling" in clause 4 of this Ordinance.

(c)

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Cl.10.
(Buildings,
etc., not to
be erected
on reserved
land
without
consent.)

(c) (i) by omitting from subclause two of clause ten the words “immediately after the appointed day” and by inserting in lieu thereof the words “within a reasonable period”;

(ii) by omitting from the same subclause the words “, with the consent of the council or statutory body concerned,”;

(iii) by inserting at the end of the same subclause the following new paragraph:—

An approval shall not be granted under this subclause—

(a) in relation to land reserved for county open space, except with the consent of the county council; or

(b) in relation to land reserved for special use, except with the consent of the statutory body concerned.

(iv) by inserting at the end of subclause three of the same clause the words “and in the case of an approval in relation to land reserved for county open space or special use, shall attach thereto such conditions as the county council or the statutory body concerned, as the case may be, may require to be imposed”;

Subst. cl. 13.

(d) by omitting clause thirteen and by inserting in lieu thereof the following clause:—

Buildings,
etc., not
to be
erected
on reserved
land with-
out consent.

13. (1) Except as provided by subclauses (2) and (3) of this clause, no person shall—

(a) erect a building or carry out work of a permanent character or make any permanent excavation on land reserved under this Division other than a building or work or excavation required for or incidental to the purpose for which the land is so reserved;

(b)

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- (b) spoil or waste land reserved under this Division so as to destroy or impair its use for the purpose for which it is reserved. **No. 7, 1962**

(2) Where it appears to the responsible authority that the purpose for which the land is reserved cannot be carried into effect within a reasonable period the responsible authority may, with the consent of the county council, approve in connection with such land the erection thereon of buildings and the carrying out of works and the making of excavations thereon.

(3) Any such approval may be subject to such conditions including conditions requiring the removal or alteration of the building or works or the reinstatement of the land or the removal of any waste materials or refuse, at any time either with or without compensation, as the responsible authority thinks fit and shall be subject to such conditions as the county council requires to be imposed.

(4) Nothing in this clause shall apply to any land which immediately before the appointed day was vested in any council, public body or trustees and is held by such council, body or trustees for the purpose for which such land is reserved under this Division.

(5) Nothing in this clause shall operate to prohibit the fencing of any land reserved under this Division.

- (e) by inserting at the end of clause fifteen the following new subclause :—

(4) A consent under this clause shall not be given except with the concurrence of the county council.

Cl. 15.
(Built-up
land on
proposed
routes of
roads.)

(f)

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Cl. 17.
(Restriction on use of land.)
- (f) by inserting at the end of clause seventeen the words “and such consent in relation to land reserved for county open space and new county roads and widening of existing county roads shall not be granted except with the concurrence of the county council”;
- Subst. cl. 39.

Development by the Crown or public utility undertaking.
- (g) by omitting clause thirty-nine and by inserting in lieu thereof the following clause :—
39. The responsible authority shall not refuse to grant any application for permission to carry out development made to it under this Ordinance by the Crown, a public utility undertaking or a statutory authority nor attach conditions to its consent to any such application except with the concurrence of the Minister.
- Cl. 40.
(Consultation.)
- (h) (i) by inserting in paragraph (a) of subclause one of clause forty after the words “residential development” the words “which does not comprise the erection of a building containing more than four flats”;
- (ii) by inserting in paragraph (b) of the same subclause after the words “residential development” the words “which does not comprise the erection of a building containing more than four flats”;
- (iii) by omitting from the same subclause the words “of land which is within Zone No. 1”;
- (iv) by omitting subclause two of the same clause;
- Cl. 61.
(Restriction of ribbon development.)
- (i) (i) by omitting from paragraph (b) of subclause two of clause sixty-one the words “unless the responsible authority is satisfied” and by inserting in lieu thereof the words “unless the county council certifies to the responsible authority that it is satisfied”;
- (ii)

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- (ii) by omitting from the same paragraph the words "the responsible authority" where lastly occurring and by inserting in lieu thereof the words "the county council"; No. 7, 1962
- (iii) by inserting in paragraph (a) of subclause three of the same clause after the word "buildings" where firstly occurring the words "or to all buildings other than those mentioned in the proclamation";
- (iv) by omitting from subclause five of the same clause the words "and on the council of the area in which the road is situated" and by inserting in lieu thereof the words "and on the county council".

(2) (a) Subject to paragraphs (b) and (c) of this subsection, the amendments made by subsection one of this section shall not affect any right, liability, obligation, penalty or legal proceedings accrued, incurred or instituted before the commencement of this Act by virtue of or in relation to or under the Penrith Planning Scheme Ordinance. Savings.

(b) Where—

- (i) before the commencement of this Act any consent or permission to carry out development was granted or was deemed to have been granted, either conditionally or unconditionally, by the Cumberland County Council as responsible authority under the Penrith Planning Scheme Ordinance; and
- (ii) by the amendment of the ordinance made by this Act the Penrith City Council has been substituted for the Cumberland County Council as the responsible authority under the ordinance for the case or class of cases in respect of which such consent or permission was granted,

such consent or permission shall be deemed on and from the commencement of this Act to have been granted by the Penrith City Council as responsible authority and the conditions attached to such consent or permission by the Cumberland County

Mines Inspection (Amendment) Act.

No. 7, 1962 County Council may be enforced by the Penrith City Council
—² in all respects as if they were conditions attached to a permission or consent granted by the Penrith City Council as responsible authority.

(c) All foreshore building lines and all tree preservation orders fixed or made by the Cumberland County Council under the provisions of the Penrith Planning Scheme Ordinance and in force at the commencement of this Act shall be deemed on and from such commencement to have been fixed or made by the responsible authority prescribed under that ordinance, as amended by this Act, and shall continue in full force and effect until altered, abolished or rescinded in the manner provided under the ordinance, as so amended.
