

METROPOLITAN REGION TOWN PLANNING SCHEME.

No. 80 of 1975.

AN ACT to amend the Metropolitan Region Town Planning Scheme Act, 1959-1974.

[Assented to 17th November, 1975.]

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

1. (1) This Act may be cited as the *Metropolitan Region Town Planning Scheme Act Amendment Act, 1975.*

Short title
and citation.

(2) In this Act the Metropolitan Region Town Planning Scheme Act, 1959-1974, is referred to as the principal Act.

Approved for
reprint 26th
February,
1973
and further
amended by
Acts Nos.
103 of 1973
and 12 of
1974.

(3) The principal Act as amended by this Act may be referred to as the Metropolitan Region Town Planning Scheme Act, 1959-1975.

Section 7
amended.

2. Subsection (4) of section 7 of the principal Act is amended by deleting the words "The Schedule" in lines two and three of paragraph (d) and substituting the words "the First Schedule".

Section 23
amended.

3. Subsection (1) of section 23 of the principal Act is amended by adding after the word "the" in line four the word "First".

Section 33
amended.

4. Section 33 of the principal Act is amended by deleting the passage commencing with the word "except" in line eight of subsection (1) and ending with the word "but" in that line, and substituting a passage as follows—

except that—

(a) in the case of a proposed amendment or proposed subsequent Scheme that is approved by the Minister under paragraph (a) of section thirty-one of this Act after the coming into operation of the Metropolitan Region Town Planning Scheme Act Amendment Act, 1975, in the application of a provision set out in column one of the Second Schedule to this Act to the proposed amendment to the Scheme or the proposed subsequent Scheme that provision shall be construed as if it were amended in the manner set out in column two of that Schedule; and

(b) in the application of subsection (2) of section thirty-two of this Act to the proposed amendment the word "twelve" shall be substituted for the word "twenty-one" in line three of that subsection,

but .

5. The principal Act is amended by adding after section 33 a section as follows—

Section 33A
added.

33A. (1) The Scheme, or any amendment to the Scheme made before the coming into operation of the Metropolitan Region Town Planning Scheme Act Amendment Act, 1975 or any act or thing done pursuant to the Scheme or such an amendment to the Scheme shall not be regarded as invalid by reason only of one or more of the following reasons, namely—

Validation.

- (a) that, in the notice of the Scheme or that amendment to the Scheme, as the case may be, the period prescribed for the making of objections was less than the proper period;
- (b) that the Authority did not accept for consideration an objection to the Scheme or that amendment to the Scheme, as the case may be, being an objection that was made within the proper period but was not made within the period prescribed for the making of objections in the notice of the Scheme or that amendment;
- (c) that a form for making objections to the Scheme or any amendment to the Scheme was not prescribed.

(2) In this section—

“notice”, in relation to the Scheme or an amendment to the Scheme, means the notice published pursuant to paragraph (c) of section thirty-one of this Act in respect of the Scheme or that amendment, as the case may be;

“proper period”, in relation to the Scheme or an amendment to the Scheme, means the period of three months from the date the notice of the Scheme or that amendment, as the case may be, was first published in the *Gazette*.

Section 34
amended.

6. Section 34 of the principal Act is amended by adding after the word "the" in line seven the word "First".

Section 35
amended.

7. Subsection (1) of section 35 of the principal Act is amended by adding after the word "the" in line six the word "First".

Section 37A
amended.

8. Section 37A of the principal Act is amended—

- (a) as to subsection (1), by deleting the passage commencing with the word "and" in line seventeen and ending with the word "Governor" in the last line and substituting a passage as follows—

and recommends to the Minister that the land should be so dealt with or used for that purpose and made the subject of an improvement plan (a copy of which shall accompany the recommendation together with such supporting maps and texts as the Minister may require) the Minister shall, if he accepts the recommendation of the Authority, forward the recommendation as soon as practicable after such acceptance to the Governor ;

- (b) as to subsection (2), by deleting the words "the land the subject of the recommendation" in lines four and five and substituting the words "any land included in the improvement plan";

- (c) as to subsection (4)—

(i) by deleting the words "the Improvement Plan" in line three and substituting the words "an improvement plan";

(ii) by deleting the passage "*Gazette.*" at the end of the subsection and substituting the passage "*Gazette.*";
and

(iii) by adding after paragraph (b) the following paragraphs—

(c) in respect of the land included in an improvement plan but not acquired or held by it under this Act, enter into an agreement with any owner of the land relating to—

- (i) the planning, replanning, design, redesign, consolidation, resubdivision, clearing, development, reconstruction or rehabilitation of the land;
- (ii) the construction, repair, rehabilitation or improvement of any buildings, works, services, improvements or facilities on the land;
- (iii) the sale, purchase, exchange, surrender, vesting, allocation or other disposal of the land, the adjustment or alteration of the boundaries of the land, the pooling of the lands of several owners, the adjustment of rights between owners of the land or other persons interested in the land whether by payments of money or transfers or exchanges of land or otherwise, the valuation of the land and the provision of land for any public open space, public work as defined

by the Public Works Act, 1902 or any other public purpose;

(iv) the payment, satisfaction or recovery of costs incurred in implementing the agreement; and

(v) such other acts, matters or things as are or may be necessary to give effect to the improvement plan;

(d) do any act, matter or thing for the purpose of carrying out any agreement entered into pursuant to paragraph (c) of this subsection. ;

(d) by repealing subsection (4a) and substituting the following subsection—

(4a) The validity of any agreement entered into by the Authority before the date of the coming into operation of the Metropolitan Region Town Planning Scheme Act Amendment Act, 1975 pursuant to this section as in force before that date or of any act, matter or thing done pursuant to such an agreement shall not be challenged or called in question in any court by reason only that this section did not at the time that the agreement was entered into confer power on the Authority to enter into such an agreement. ; and

(e) by adding after the word "Authority" in the last line of subsection (5) the words "or any other authority or body or person".

Schedule
amended.

9. The heading to the Schedule to the principal Act is amended by adding before the word "SCHEDULE" the word "FIRST".

10. The principal Act is amended by adding after the Schedule a schedule as follows—

Second
Schedule
added.

SECOND SCHEDULE.

Column one. Provision Amended	Column two. Amendment
Section 31 (c)	Delete the passage commencing with the words "and notifying" in line eighteen and ending with the passage "notice." in the last line and substitute the passage— and notifying all persons who desire to make submissions on any provisions of the Scheme that such submissions may be made to the Authority in writing on the form prescribed by the Authority in the notice. .
Section 31 (d)	Delete the words "Objections to", in line one, and substitute the words "Submissions on".
Section 31 (f)	Delete the paragraph and substitute the following paragraph— (f) (i) The Authority shall consider all submissions that have been duly lodged and where a submission contains an objection to the Scheme the Authority shall not dismiss the objection until the person making the submission or his agent has been given the opportunity of being heard on the objection by the Authority or by a sub-committee of the Authority appointed by it for the purpose and which it is hereby authorised to appoint. (ii) The Authority shall not uphold an objection to the Scheme until it has given every person who has duly lodged a submission supporting the

Column one—*continued.*

Column two—*continued.*

provision to which the objection relates, or his agent, the opportunity of being heard in support of that provision by the Authority or a subcommittee of the Authority.

(iii) Where a submission is made by a group of persons, the group shall appoint one person to represent the group and only he shall be heard under subparagraph (i) or subparagraph (ii) of this paragraph. .

Section 31 (g) Delete the word "objections" in line four, in line five and in line six, and substitute the word "submissions" in each case.

Section 31 (k) Delete the paragraph and substitute the following paragraph—

(k) A person who desires to make any submissions on any modifications so made by the Authority may notify the Minister in writing on the form prescribed by the Authority in any notice of the modification published pursuant to paragraph (i) of this section, and the Minister shall direct the Authority to consider and report on the submission to the Minister in accordance with the procedure set out in paragraphs (f) and (g) of this section. .

Section 32 (1) (b) Delete the words "objections made to it", in line two, and substitute the words "submissions made on the Scheme".