



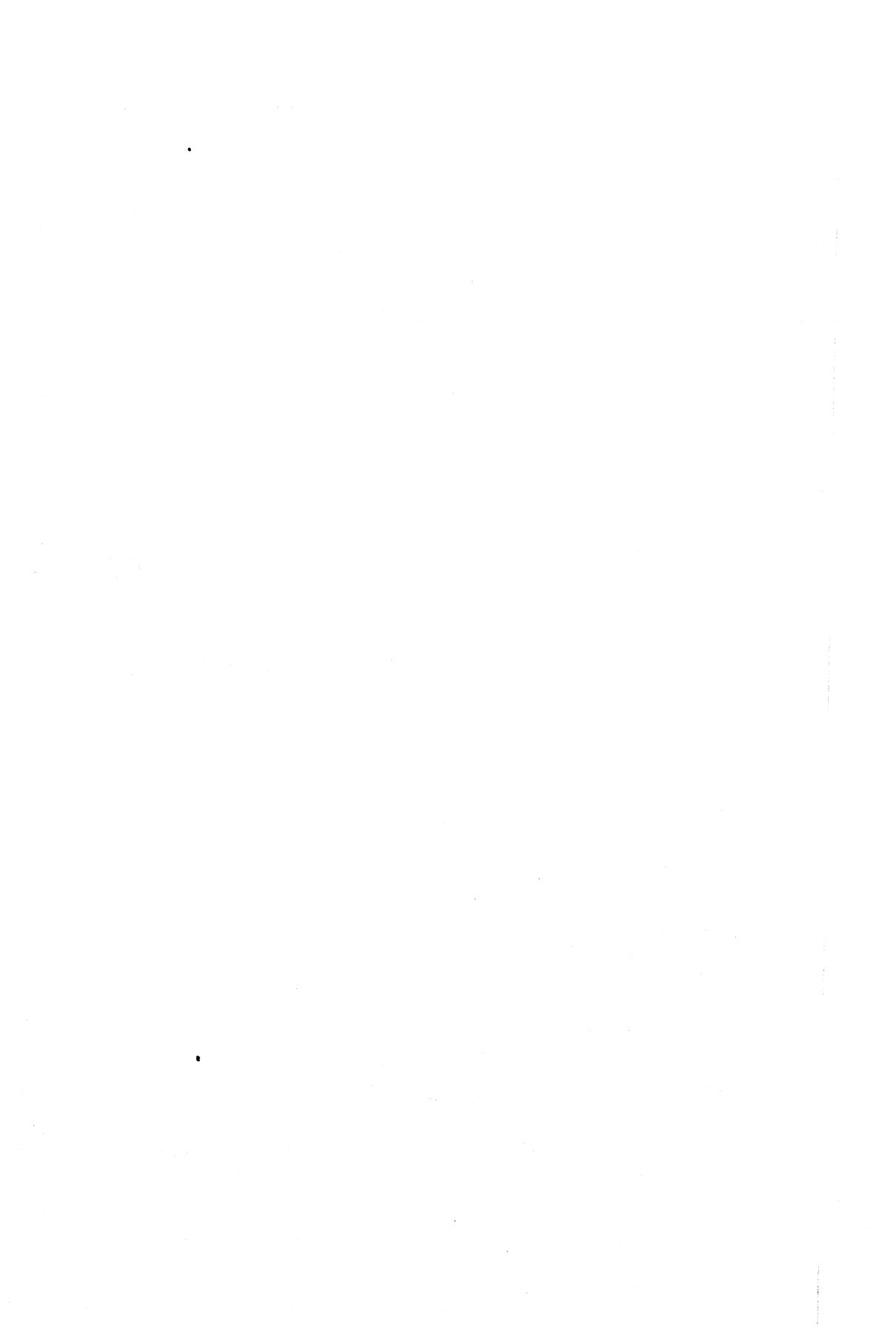
TASMANIA

**LOCAL GOVERNMENT AMENDMENT (PLANNING AND
DEVELOPMENT) ACT 1990**

No. 50 of 1990

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**LOCAL GOVERNMENT AMENDMENT (PLANNING AND
DEVELOPMENT) ACT 1990**

No. 50 of 1990

AN ACT to amend the *Local Government Act 1962*

[Royal Assent 16 January 1991]

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 *Local Government Amendment (Planning and Development) Act 1990*.

Commencement

2—This Act commences on the day on which it receives the Royal Assent.

Principal Act

3—In this Act, the *Local Government Act 1962** is referred to as the Principal Act.

Section 721A inserted

4—After section 721 of the Principal Act, the following section is inserted in Division 2 of Part XVIII:—

Interpretation

721A—In this Division, unless the contrary intention appears—

“**Appeal Board**” means the Planning Appeal Board established by section 733G;

“**Chairman**” means the person for the time being holding, or acting in, the office of Chairman of the Appeal Board;

“**compulsory conference**” means a conference of the kind referred to in section 733D (3);

“**Deputy Chairman**” means a person for the time being holding, or acting in, an office of Deputy Chairman of the Appeal Board;

“**development**”, in relation to any land subject to a planning scheme or interim order under this Division, means—

(a) the carrying out of building, engineering, mining or other operations in, on, over or under the land; or

(b) the demolition, in whole or in part, of any building or other works on the land; or

(c) the making of any material change in the use of the land or any buildings or works thereon; or

(d) the carrying out of any procedure or the doing of any other thing that, by virtue of any provision in a planning scheme or interim order, is deemed to be development for the purposes of that planning scheme or interim order;

“**interim order**” means an interim order in force under section 734;

“**member**” means a person for the time being holding, or acting in, an office of member of the Appeal Board;

* No. 67 of 1962. For this Act, as amended to 1st February 1989, see the continuing Reprint of Statutes.

“**planning appeal**” means an appeal under section 733C;

“**planning approval**” means any permit, approval or consent required by a planning scheme or interim order to be issued or given by a corporation in respect of the development of any land;

“**planning scheme**” means a planning scheme in force under section 730;

“**State authority**” means a body or authority, whether incorporated or not, that is established or constituted under an Act or under the Royal prerogative, being a body or authority which, or of which the governing authority, wholly or partly comprises a person or persons appointed by the Governor, a Minister or another State authority.

Section 722 substituted

5—Section 722 of the Principal Act is repealed and the following section is substituted:—

Application of Division 2 of Part XVIII

722—(1) This Division applies to all parts of the State except such parts of the State as may from time to time be specified by proclamation and so applies notwithstanding that any development is, or has been, undertaken on land that is, or has been, Crown land or vested in a State authority.

(2) Nothing in subsection (1) shall be construed as rendering the Crown bound by this Division.

Section 733A repealed

6—Section 733A of the Principal Act is repealed.

Section 733B amended (Notice of applications for planning approval)

7—Section 733B of the Principal Act is amended by inserting after subsection (7) the following subsection:—

(7A) A grant of a planning approval may be subject to such conditions or restrictions as the corporation may impose with respect to any matter specified in the relevant planning scheme or interim order.

Section 733E amended (Effect of appeal provisions on certain planning schemes)

8—Section 733E of the Principal Act is amended by omitting “733A,”.

Section 733F amended (Preservation of rights of appeal in certain cases)

9—Section 733F of the Principal Act is amended by omitting “733A” and substituting “733B”.

Section 734 amended (Regulation of building, &c., pending approval of scheme)

10—(1) Section 734 (2) of the Principal Act is amended by omitting paragraph (b) and substituting the following paragraph:—

(b) apply in writing to the Commissioner for the Commissioner’s approval for the municipality to grant a dispensation from any provision of an interim order made by the municipality and, in accordance with any such approval but not otherwise, grant a dispensation from a provision of an interim order on such conditions and in such cases as it thinks proper.

(2) Section 734 of the Principal Act is amended by inserting after subsection (2) the following subsections:—

(2AA) An approval by the Commissioner under subsection (2) (b) may be granted on such terms and conditions as the Commissioner thinks fit.

(2AB) A dispensation from an interim order granted under subsection (2) (b) is not a planning approval.

(2AC) A municipality shall not allow development of any land subject to a dispensation under subsection (2) (b) otherwise than in accordance with a planning approval in respect of that development as provided by section 733B.

(3) Section 734 of the Principal Act is amended by omitting subsection (2A) and substituting the following subsection:—

(2A) An interim order shall be made by resolution of the municipality and shall not be effective unless—

- (a) it is approved, in writing, by the Commissioner; and
- (b) its making, together with that approval, has been publicly notified by the municipality, and the municipality has deposited in the municipal office for public inspection a copy of all maps, plans and other particulars relating to the order which shall, where necessary, be supplied by the Commissioner to the municipality.

Section 847 substituted

11—Section 847 of the Principal Act is repealed and the following section is substituted:—

Obstruction of sealed schemes

847—(1) In this section, “**development**” has the same meaning as in Division 2 of Part XVIII.

(2) A person who carries out work or who does any other act that—

- (a) is contrary to a planning scheme, an interim order under Part XVIII or any other scheme sealed under this Act; or
- (b) impedes or obstructs the execution of any such scheme or order; or
- (c) constitutes a breach of a condition or restriction of a planning approval imposed by a corporation pursuant to any such scheme, order or a determination of the Planning Appeal Board under section 733C; or
- (d) constitutes development of any land otherwise than in accordance with a planning approval or any such determination relating to that land—

is guilty of an offence and is liable on summary conviction to a fine not exceeding 100 penalty units and a daily fine not exceeding 10 penalty units.

(3) Where a person is convicted of an offence against subsection (2)—

- (a) the court may, in addition to any fine imposed under that subsection, order that that person pay to the corporation the reasonable cost incurred by the corporation in carrying out any work so as to ensure that the development of the land is in accordance with the relevant planning scheme, interim order, planning approval or determination; and
- (b) payment of the amount so ordered to be paid may be enforced in the manner provided by section 78 of the *Justices Act 1959* as if the person convicted had been adjudged to pay that amount in a conviction or order made by justices.

(4) The application of subsection (2) extends in relation to a planning approval or a condition or restriction attaching to a planning approval under a planning scheme or interim order where the scheme or order was in force immediately before the commencement of the *Local Government Amendment (Planning and Development) Act 1990* and notwithstanding that the planning approval or the condition or restriction, if any, was imposed before that time.

(5) Nothing in subsection (4) shall be construed as rendering unlawful any development that was completed pursuant to a planning approval in force before that commencement.