This PUBLIC BILL *originated in the* LEGISLATIVE ASSEMBLY, *and, having this day passed, is now ready for presentation to the* LEGISLATIVE COUNCIL *for its concurrence.*

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 6 *May,* 1971, A.M.

New South Wales

ANNO VICESIMO

ELIZABETHÆ II REGINÆ

* *

Act No. , 1971.

An Act to make provisions with respect to the suspension of provisions of prescribed town and country planning schemes and the making of interim development orders; for this purpose to amend the Local Government Act, 1919; to validate certain matters; and for purposes connected therewith.

BE

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 :—

1. This Act may be cited as the "Local Government (Amendment) Act, 1971". Short title.

2. The Local Government Act, 1919, is amended— Amendment of Act No. 41, 1919.

(a) (i) by omitting from subsection one of section 342T the definition of "Interim development" and by inserting in lieu thereof the following definition :— Sec. 342T. (Definitions.)

"Interim development" means—

(a) where an interim development order, not being an interim development order referred to in paragraph (b) of this definition, has taken effect, development of land, to which that interim development order relates, after the date upon which that interim development order took effect and before the date upon which the scheme referred to in subsection one of section 342U of this Act and relating to that land is prescribed or before the date on which the Minister notifies in the Gazette that he has decided not to proceed with that scheme, as the case may be; or

(b)

(b) where an interim development order made as required by subsection three of section 342Y, or by subsection (5A) of section 342U, of this Act, has taken effect, development of land, to which that interim development order relates, after the date upon which that interim development order took effect and before the date of the coming into operation of the prescribed scheme which, under subsection eight of section 342U of this Act, causes that interim development order to cease to have effect in relation to that land.

(ii) by omitting from the definition of "Interim development order" in the same subsection the words "or amended";

(iii) by omitting from subsection two of the same section the words "except to the extent to which those provisions apply to any such land by virtue of an interim development order made under subsection two of section 342Y of this Act" and by inserting in lieu thereof the words "but apply to any land to which a notification in force under section 342Y of this Act is expressed to apply";

(b) (i) by inserting in subsection one of section 342U next before the word "regulating" wherever occurring the word "permitting,"; Sec. 342U. (Interim development orders.)

(ii) by inserting next after subsection one of the same section the following new subsection:—

(1A) Where an interim development order is required to be made under subsection three of section 342Y of this Act, the Minister shall

make

make such an order permitting, regulating, restricting or prohibiting, or conferring on the council powers, authorities, duties and functions with respect to permitting, regulating, restricting or prohibiting, interim development on any land as respects which the notification, made under that section and consequent upon which the interim development order is so required to be made, is expressed to have effect.

(iii) by inserting next after subsection five of the same section the following new subsection :—

(5A) Notwithstanding the provisions of subsection five of this section, the Minister shall not rescind an interim development order made as required by subsection three of section 342Y of this Act or by this subsection, unless at the same time he makes another interim development order relating to the land to which the rescinded interim development order related or the ordinance by which the planning scheme, the provisions of which have been suspended under section 342Y of this Act as respects the land to which the interim development order relates, is rescinded under section 342M of this Act.

(iv) by inserting in subsection six of the same section after the word "or" where secondly occurring the words ", except in the case of the rescission of an interim development order made as required by subsection three of section 342Y of this Act, or by subsection (5A) of this section,";

(v)

(v) by inserting next after subsection eight of the same section the following new subsection :—

(8A) Notwithstanding the provisions of subsection eight of this section, the prescribing of a planning scheme does not, unless the planning scheme otherwise provides, cause an interim development order made as required by subsection three of section 342Y of this Act. or by subsection (5A) of this section, to cease to have effect in relation to any land except to the extent that that land is included in a scheme map contained in that planning scheme and is land to which that planning scheme applies.

(c) by omitting from paragraph (a) of subsection (1A) of section 342V the words "the scheme" and by inserting in lieu thereof the words "a scheme, if any,"; Sec. 342V. (Permission for interim development.)

(d) by omitting from paragraph (a) of subsection two of section 342W the words "before a scheme" and by inserting in lieu thereof the words "when a scheme is in course of preparation and before it"; Sec. 342W. (Revocation or modification of permission for interim development.)

(e) by omitting section 342Y and by inserting in lieu thereof the following section :— Subst. sec. 342Y.

342Y. (1) The Minister may, after consideration of a report furnished by the Authority, notify that the provisions of a prescribed scheme, that is specified in the notification, are suspended as respects the whole of the land to which the prescribed scheme applies or as respects such part of that land as may be specified or referred to in the notification. Suspension of provisions of prescribed scheme.

(2)

(2) A notification under subsection one of this section—

(a) has effect according to its tenor and, as on and from the date on which it is published and in relation to the land as respects which it is expressed to have effect, has effect so as to suspend all of the provisions of the prescribed scheme that is specified in the notification; and

(b) remains in force in relation to the land as respects which it is expressed to have effect only until the interim development order, made as required by subsection three of this section as a consequence of the making of that notification, or by subsection (5A) of section 342U of this Act, and relating to that land, ceases to have effect in relation to that land.

(3) The Minister shall, by any notification referred to in subsection one of this section, make an interim development order relating to the land as respects which that notification is expressed to have effect.

(4) Where the provisions of any prescribed scheme are, pursuant to subsection one of this section, suspended after the commencement of the Local Government (Amendment) Act, 1971, then—

(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 three 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

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 the provisions of that scheme and in force as aforesaid shall, subject to anything contained in the provisions of that scheme providing that the 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

(ii) all conditions and restrictions imposed or applied under any approval, permission or consent referred to in subparagraph (i) of this paragraph and which were in force at the date of suspension of the prescribed scheme shall continue in full force and effect; and

(b) the 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.

Validation and savings.

3. (1) An instrument purporting to be a notification made under section 342Y of the Local Government Act, 1919, as that section was in force at any time before the commencement of this Act, and an instrument purporting to be an interim development order made before that commencement in relation to land to which such a notification purported to apply, being in either case an instrument that was invalid but would have been valid had all conditions precedent and

requirements

requirements for the making of the notification or interim development order been complied with, is, and shall be deemed always to have been, valid.

(2) An instrument, being a notification validly made under subsection one of section 342Y of the Local Government Act, 1919, before the commencement of this Act or a purported notification that is validated by subsection one of this section, has, and shall be deemed always to have had, effect so as to suspend all of the provisions of the prescribed scheme that is specified in the instrument as respects the land so specified or referred to in the instrument.

(3) An instrument, being an interim development order validly made before the commencement of this Act or a purported interim development order that is validated by subsection one of this section has, and shall be deemed always to have had, effect as if the amendments made by section two of this Act had been in force at all relevant times and the conditions and requirements referred to in subsection one of this section had been complied with.

(4) The prescribing of a scheme before the commencement of this Act, not being a scheme which amended the scheme map showing land to which a previous prescribed scheme applied, does not have, and shall be deemed never to have had, effect so as to terminate the operation of Division 7 of Part XIIA of the Local Government Act, 1919, as in force at any time before that commencement, or as continued in force after that commencement by the Local Government (Town and Country Planning) Amendment Act, 1962, in relation to the land to which that firstmentioned scheme applies or so as to terminate the operation in relation to any such land of any ordinance made under that Part.

(5) The prescribing before the commencement of this Act of a scheme which amends the scheme map showing land to which a previous prescribed scheme applied has, and shall be deemed always to have had, effect so as to terminate the operation of Division 7 of Part XIIA of the Local Government Act, 1919, and the operation of any ordinance made under that Part, only as regards the land to which that amendment relates.

(6) A person who immediately before the commencement of this Act was lawfully carrying out any development as defined in subsection one of section 342T of the Local Government Act, 1919, is not by reason of the enactment of this section precluded from carrying out or continuing to carry out that development.

(7) Where—

(a) the provisions of Division 7 of Part XIIA of the Local Government Act, 1919, are deemed to have been in force by reason of the validation, by subsection one of this section, of an instrument purporting to be a notification made under section 342Y of that Act;

(b) an approval, permission or consent (whether or not subject to conditions or restrictions) in respect of any land to which that instrument purported to relate purported to be granted under those provisions, or under any ordinance made under that Part, or under any interim development order validated by subsection one of this section; and

(c) that approval, permission or consent would, but for the invalidity of that instrument, have been valid,

that approval, permission or consent is, and shall be deemed always to have been, valid.

(8) The repeal of subsection three (in this subsection referred to as "the repealed subsection") of section 342Y of the Local Government Act, 1919, effected by section two of this Act, does not affect any saving that was effected by the repealed subsection or that would have been effected by the repealed subsection if an instrument, validated by subsection one of this section, had validly suspended the provisions of a prescribed scheme referred to in the repealed subsection.

BY AUTHORITY:
V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971
[10c]

No. , 1971.

A BILL

To make provisions with respect to the suspension of provisions of prescribed town and country planning schemes and the making of interim development orders; for this purpose to amend the Local Government Act, 1919; to validate certain matters; and for purposes connected therewith.

[MR MORTON—4 *May*, 1971.]

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50785 25—A

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 :—

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2. The Local Government Act, 1919, is amended— Amendment of Act No. 41, 1919.

(a) (i) by omitting from subsection one of section 342T the definition of "Interim development" and by inserting in lieu thereof the following definition :— Sec. 342T. (Definitions.)

"Interim development" means—

(a) where an interim development order, not being an interim development order referred to in paragraph (b) of this definition, has taken effect, development of land, to which that interim development order relates, after the date upon which that interim development order took effect and before the date upon which the scheme referred to in subsection one of section 342U of this Act and relating to that land is prescribed or before the date on which the Minister notifies in the Gazette that he has decided not to proceed with that scheme, as the case may be; or

(b)

(b) where an interim development order made as required by subsection three of section 342Y, or by subsection (5A) of section 342U, of this Act, has taken effect, development of land, to which that interim development order relates, after the date upon which that interim development order took effect and before the date of the coming into operation of the prescribed scheme which, under subsection eight of section 342U of this Act, causes that interim development order to cease to have effect in relation to that land.

(ii) by omitting from the definition of "Interim development order" in the same subsection the words "or amended";

(iii) by omitting from subsection two of the same section the words "except to the extent to which those provisions apply to any such land by virtue of an interim development order made under subsection two of section 342Y of this Act" and by inserting in lieu thereof the words "but apply to any land to which a notification in force under section 342Y of this Act is expressed to apply";

(b) (i) by inserting in subsection one of section 342U next before the word "regulating" wherever occurring the word "permitting,"; Sec. 342U. (Interim development orders.)

(ii) by inserting next after subsection one of the same section the following new subsection:—

(1A) Where an interim development order is required to be made under subsection three of section 342Y of this Act, the Minister shall

make

make such an order permitting, regulating, restricting or prohibiting, or conferring on the council powers, authorities, duties and functions with respect to permitting, regulating, restricting or prohibiting, interim development on any land as respects which the notification, made under that section and consequent upon which the interim development order is so required to be made, is expressed to have effect.

(iii) by inserting next after subsection five of the same section the following new subsection :—

(5A) Notwithstanding the provisions of subsection five of this section, the Minister shall not rescind an interim development order made as required by subsection three of section 342Y of this Act or by this subsection, unless at the same time he makes another interim development order relating to the land to which the rescinded interim development order related or the ordinance by which the planning scheme, the provisions of which have been suspended under section 342Y of this Act as respects the land to which the interim development order relates, is rescinded under section 342M of this Act.

(iv) by inserting in subsection six of the same section after the word "or" where secondly occurring the words ", except in the case of the rescission of an interim development order made as required by subsection three of section 342Y of this Act, or by subsection (5A) of this section,";

(v)

(v) by inserting next after subsection eight of the same section the following new subsection :—

(8A) Notwithstanding the provisions of subsection eight of this section, the prescribing of a planning scheme does not, unless the planning scheme otherwise provides, cause an interim development order made as required by subsection three of section 342Y of this Act, or by subsection (5A) of this section, to cease to have effect in relation to any land except to the extent that that land is included in a scheme map contained in that planning scheme and is land to which that planning scheme applies.

(c) by omitting from paragraph (a) of subsection (1A) of section 342V the words "the scheme" and by inserting in lieu thereof the words "a scheme, if any,"; Sec. 342V. (Permission for interim development.)

(d) by omitting from paragraph (a) of subsection two of section 342W the words "before a scheme" and by inserting in lieu thereof the words "when a scheme is in course of preparation and before it"; Sec. 342W. (Revocation or modification of permission for interim development.)

(e) by omitting section 342Y and by inserting in lieu thereof the following section :— Subst. sec. 342Y.

342Y. (1) The Minister may, after consideration of a report furnished by the Authority, notify that the provisions of a prescribed scheme, that is specified in the notification, are suspended as respects the whole of the land to which the prescribed scheme applies or as respects such part of that land as may be specified or referred to in the notification. Suspension of provisions of prescribed scheme.

(2)

(2) A notification under subsection one of this section—

(a) has effect according to its tenor and, as on and from the date on which it is published and in relation to the land as respects which it is expressed to have effect, has effect so as to suspend all of the provisions of the prescribed scheme that is specified in the notification; and

(b) remains in force in relation to the land as respects which it is expressed to have effect only until the interim development order, made as required by subsection three of this section as a consequence of the making of that notification, or by subsection (5A) of section 342U of this Act, and relating to that land, ceases to have effect in relation to that land.

(3) The Minister shall, by any notification referred to in subsection one of this section, make an interim development order relating to the land as respects which that notification is expressed to have effect.

(4) Where the provisions of any prescribed scheme are, pursuant to subsection one of this section, suspended after the commencement of the Local Government (Amendment) Act, 1971, then—

(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 three 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

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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 the provisions of that scheme and in force as aforesaid shall, subject to anything contained in the provisions of that scheme providing that the 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

(ii) all conditions and restrictions imposed or applied under any approval, permission or consent referred to in subparagraph (i) of this paragraph and which were in force at the date of suspension of the prescribed scheme shall continue in full force and effect; and

(b) the 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.

Validation and savings.

3. (1) An instrument purporting to be a notification made under section 342Y of the Local Government Act, 1919, as that section was in force at any time before the commencement of this Act, and an instrument purporting to be an interim development order made before that commencement in relation to land to which such a notification purported to apply, being in either case an instrument that was invalid but would have been valid had all conditions precedent and

requirements

requirements for the making of the notification or interim development order been complied with, is, and shall be deemed always to have been, valid.

(2) An instrument, being a notification validly made under subsection one of section 342Y of the Local Government Act, 1919, before the commencement of this Act or a purported notification that is validated by subsection one of this section, has, and shall be deemed always to have had, effect so as to suspend all of the provisions of the prescribed scheme that is specified in the instrument as respects the land so specified or referred to in the instrument.

(3) An instrument, being an interim order validly made before the commencement of this Act or a purported interim development order that is validated by subsection one of this section has, and shall be deemed always to have had, effect as if the amendments made by section two of this Act had been in force at all relevant times and the conditions and requirements referred to in subsection one of this section had been complied with.

(4) The prescribing of a scheme before the commencement of this Act, not being a scheme which amended the scheme map showing land to which a previous prescribed scheme applied, does not have, and shall be deemed never to have had, effect so as to terminate the operation of Division 7 of Part XIIA of the Local Government Act, 1919, as in force at any time before that commencement, or as continued in force after that commencement by the Local Government (Town and Country Planning) Amendment Act, 1962, in relation to the land to which that firstmentioned scheme applies or so as to terminate the operation in relation to any such land of any ordinance made under that Part.

(5) The prescribing before the commencement of this Act of a scheme which amends the scheme map showing land to which a previous prescribed scheme applied has, and shall be deemed always to have had, effect so as to terminate the operation of Division 7 of Part XIIA of the Local Government Act, 1919, and the operation of any ordinance made under that Part, only as regards the land to which that amendment relates.

(6) A person who immediately before the commencement of this Act was lawfully carrying out any development as defined in subsection one of section 342T of the Local Government Act, 1919, is not by reason of the enactment of this section precluded from carrying out or continuing to carry out that development.

(7) Where—

(a) the provisions of Division 7 of Part XIIA of the Local Government Act, 1919, are deemed to have been in force by reason of the validation, by subsection one of this section, of an instrument purporting to be a notification made under section 342Y of that Act;

(b) an approval, permission or consent (whether or not subject to conditions or restrictions) in respect of any land to which that instrument purported to relate purported to be granted under those provisions, or under any ordinance made under that Part, or under any interim development order validated by subsection one of this section; and

(c) that approval, permission or consent would, but for the invalidity of that instrument, have been valid,

that approval, permission or consent is, and shall be deemed always to have been, valid.

(8) The repeal of subsection three (in this subsection referred to as "the repealed subsection") of section 342Y of the Local Government Act, 1919, effected by section two of this Act, does not affect any saving that was effected by the repealed subsection or that would have been effected by the repealed subsection if an instrument, validated by subsection one of this section, had validly suspended the provisions of a prescribed scheme referred to in the repealed subsection.

BY AUTHORITY:
V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971
[10c]

PROOF

LOCAL GOVERNMENT (AMENDMENT) BILL, 1971

EXPLANATORY NOTE

THE objects of this Bill are—

(a) to amend the provisions of the Local Government Act, 1919, with respect to the suspension of the provisions of prescribed town and country planning schemes and the making of interim development orders;

(b) to validate certain notifications suspending town and country planning schemes and certain interim schemes and certain interim development orders;

(c) to make other provisions of a consequential or ancillary character.

50785 25—

PROOF

No. , 1971.

A BILL

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[MR MORTON—4 *May*, 1971.]

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1. This Act may be cited as the "Local Government (Amendment) Act, 1971". Short title.

2. The Local Government Act, 1919, is amended— Amendment of Act No. 41, 1919.

(a) (i) by omitting from subsection one of section 342T the definition of "Interim development" and by inserting in lieu thereof the following definition:—— Sec. 342T. (Definitions.

"Interim development" means—

(a) where an interim development order, not being an interim development order referred to in paragraph (b) of this definition, has taken effect, development of land, to which that interim development order relates, after the date upon which that interim development order took effect and before the date upon which the scheme referred to in subsection one of section 342U of this Act and relating to that land is prescribed or before the date on which the Minister notifies in the Gazette that he has decided not to proceed with that scheme, as the case may be; or

(b)

(b) where an interim development order made as required by subsection three of section 342Y, or by subsection (5A) of section 342U, of this Act, has taken effect, development of land, to which that interim development order relates, after the date upon which that interim development order took effect and before the date of the coming into operation of the prescribed scheme which, under subsection eight of section 342U of this Act, causes that interim development order to cease to have effect in relation to that land.

(ii) by omitting from the definition of "Interim development order" in the same subsection the words "or amended";

(iii) by omitting from subsection two of the same section the words "except to the extent to which those provisions apply to any such land by virtue of an interim development order made under subsection two of section 342Y of this Act" and by inserting in lieu thereof the words "but apply to any land to which a notification in force under section 342Y of this Act is expressed to apply";

(b) (i) by inserting in subsection one of section 342U next before the word "regulating" wherever occurring the word "permitting,"; Sec. 342U. (Interim development orders.)

(ii) by inserting next after subsection one of the same section the following new subsection:—

(1A) Where an interim development order is required to be made under subsection three of section 342Y of this Act, the Minister shall

make

make such an order permitting, regulating, restricting or prohibiting, or conferring on the council powers, authorities, duties and functions with respect to permitting, regulating, restricting or prohibiting, interim development on any land as respects which the notification, made under that section and consequent upon which the interim development order is so required to be made, is expressed to have effect.

(iii) by inserting next after subsection five of the same section the following new subsection :—

(5A) Notwithstanding the provisions of subsection five of this section, the Minister shall not rescind an interim development order made as required by subsection three of section 342Y of this Act or by this subsection, unless at the same time he makes another interim development order relating to the land to which the rescinded interim development order related or the ordinance by which the planning scheme, the provisions of which have been suspended under section 342Y of this Act as respects the land to which the interim development order relates, is rescinded under section 342M of this Act.

(iv) by inserting in subsection six of the same section after the word "or" where secondly occurring the words ", except in the case of the rescission of an interim development order made as required by subsection three of section 342Y of this Act, or by subsection (5A) of this section,";

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(v) by inserting next after subsection eight of the same section the following new subsection :—

(8A) Notwithstanding the provisions of subsection eight of this section, the prescribing of a planning scheme does not, unless the planning scheme otherwise provides, cause an interim development order made as required by subsection three of section 342Y of this Act, or by subsection (5A) of this section, to cease to have effect in relation to any land except to the extent that that land is included in a scheme map contained in that planning scheme and is land to which that planning scheme applies.

(c) by omitting from paragraph (a) of subsection (1A) of section 342V the words "the scheme" and by inserting in lieu thereof the words "a scheme, if any,"; Sec. 342V. (Permission for interim development.)

(d) by omitting from paragraph (a) of subsection two of section 342W the words "before a scheme" and by inserting in lieu thereof the words "when a scheme is in course of preparation and before it"; Sec. 342W. (Revocation or modification of permission for interim development.)

(e) by omitting section 342Y and by inserting in lieu thereof the following section :— Subst. sec. 342Y.

342Y. (1) The Minister may, after consideration of a report furnished by the Authority, notify that the provisions of a prescribed scheme, that is specified in the notification, are suspended as respects the whole of the land to which the prescribed scheme applies or as respects such part of that land as may be specified or referred to in the notification. Suspension of provisions of prescribed scheme.

(2)

(2) A notification under subsection one of this section—

(a) has effect according to its tenor and, as on and from the date on which it is published and in relation to the land as respects which it is expressed to have effect, has effect so as to suspend all of the provisions of the prescribed scheme that is specified in the notification; and

(b) remains in force in relation to the land as respects which it is expressed to have effect only until the interim development order, made as required by subsection three of this section as a consequence of the making of that notification, or by subsection (5A) of section 342U of this Act, and relating to that land, ceases to have effect in relation to that land.

(3) The Minister shall, by any notification referred to in subsection one of this section, make an interim development order relating to the land as respects which that notification is expressed to have effect.

(4) Where the provisions of any prescribed scheme are, pursuant to subsection one of this section, suspended after the commencement of the Local Government (Amendment) Act, 1971, then—

(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 three 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

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 the provisions of that scheme and in force as aforesaid shall, subject to anything contained in the provisions of that scheme providing that the 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

(ii) all conditions and restrictions imposed or applied under any approval, permission or consent referred to in subparagraph (i) of this paragraph and which were in force at the date of suspension of the prescribed scheme shall continue in full force and effect; and

(b) the 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.

Validation and savings.

3. (1) An instrument purporting to be a notification made under section 342Y of the Local Government Act, 1919, as that section was in force at any time before the commencement of this Act, and an instrument purporting to be an interim development order made before that commencement in relation to land to which such a notification purported to apply, being in either case an instrument that was invalid but would have been valid had all conditions precedent and

requirements

requirements for the making of the notification or interim development order been complied with, is, and shall be deemed always to have been, valid.

(2) An instrument, being a notification validly made under subsection one of section 342Y of the Local Government Act, 1919, before the commencement of this Act or a purported notification that is validated by subsection one of this section, has, and shall be deemed always to have had, effect so as to suspend all of the provisions of the prescribed scheme that is specified in the instrument as respects the land so specified or referred to in the instrument.

(3) An instrument, being an interim order validly made before the commencement of this Act or a purported interim development order that is validated by subsection one of this section has, and shall be deemed always to have had, effect as if the amendments made by section two of this Act had been in force at all relevant times and the conditions and requirements referred to in subsection one of this section had been complied with.

(4) The prescribing of a scheme before the commencement of this Act, not being a scheme which amended the scheme map showing land to which a previous prescribed scheme applied, does not have, and shall be deemed never to have had, effect so as to terminate the operation of Division 7 of Part XIIA of the Local Government Act, 1919, as in force at any time before that commencement, or as continued in force after that commencement by the Local Government (Town and Country Planning) Amendment Act, 1962, in relation to the land to which that firstmentioned scheme applies or so as to terminate the operation in relation to any such land of any ordinance made under that Part.

(5) The prescribing before the commencement of this Act of a scheme which amends the scheme map showing land to which a previous prescribed scheme applied has, and shall be deemed always to have had, effect so as to terminate the operation of Division 7 of Part XIIA of the Local Government Act, 1919, and the operation of any ordinance made under that Part, only as regards the land to which that amendment relates.

(6) A person who immediately before the commencement of this Act was lawfully carrying out any development as defined in subsection one of section 342T of the Local Government Act, 1919, is not by reason of the enactment of this section precluded from carrying out or continuing to carry out that development.

(7) Where—

(a) the provisions of Division 7 of Part XIIA of the Local Government Act, 1919, are deemed to have been in force by reason of the validation, by subsection one of this section, of an instrument purporting to be a notification made under section 342Y of that Act;

(b) an approval, permission or consent (whether or not subject to conditions or restrictions) in respect of any land to which that instrument purported to relate purported to be granted under those provisions, or under any ordinance made under that Part, or under any interim development order validated by subsection one of this section; and

(c) that approval, permission or consent would, but for the invalidity of that instrument, have been valid,

that approval, permission or consent is, and shall be deemed always to have been, valid.

(8) The repeal of subsection three (in this subsection referred to as "the repealed subsection") of section 342Y of the Local Government Act, 1919, effected by section two of this Act, does not affect any saving that was effected by the repealed subsection or that would have been effected by the repealed subsection if an instrument, validated by subsection one of this section, had validly suspended the provisions of a prescribed scheme referred to in the repealed subsection.

BY AUTHORITY:
V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971

25—B

New South Wales

ANNO VICESIMO

ELIZABETHÆ II REGINÆ

* *

Act No. 14, 1971.

An Act to make provisions with respect to the suspension of provisions of prescribed town and country planning schemes and the making of interim development orders; for this purpose to amend the Local Government Act, 1919; to validate certain matters; and for purposes connected therewith. [Assented to, 18th May, 1971.]

BE

85461 4.72 [10c]

Local Government (Amendment).

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:—

Short title.

1. This Act may be cited as the "Local Government (Amendment) Act, 1971".

Amendment of Act No. 41, 1919.

2. The Local Government Act, 1919, is amended—

Sec. 342T. (Definitions.)

(a) (i) by omitting from subsection one of section 342T the definition of "Interim development" and by inserting in lieu thereof the following definition:—

"Interim development" means—

(a) where an interim development order, not being an interim development order referred to in paragraph (b) of this definition, has taken effect, development of land, to which that interim development order relates, after the date upon which that interim development order took effect and before the date upon which the scheme referred to in subsection one of section 342U of this Act and relating to that land is prescribed or before the date on which the Minister notifies in the Gazette that he has decided not to proceed with that scheme, as the case may be; or

(b)

(b) where an interim development order made as required by subsection three of section 342Y, or by subsection (5A) of section 342U, of this Act, has taken effect, development of land, to which that interim development order relates, after the date upon which that interim development order took effect and before the date of the coming into operation of the prescribed scheme which, under subsection eight of section 342U of this Act, causes that interim development order to cease to have effect in relation to that land.

(ii) by omitting from the definition of "Interim development order" in the same subsection the words "or amended";

(iii) by omitting from subsection two of the same section the words "except to the extent to which those provisions apply to any such land by virtue of an interim development order made under subsection two of section 342Y of this Act" and by inserting in lieu thereof the words "but apply to any land to which a notification in force under section 342Y of this Act is expressed to apply";

(b) (i) by inserting in subsection one of section 342U next before the word "regulating" wherever occurring the word "permitting,"; Sec. 342U. (Interim development orders.)

(ii) by inserting next after subsection one of the same section the following new subsection:—

(1A) Where an interim development order is required to be made under subsection three of section 342Y of this Act, the Minister shall

make

make such an order permitting, regulating, restricting or prohibiting, or conferring on the council powers, authorities, duties and functions with respect to permitting, regulating, restricting or prohibiting, interim development on any land as respects which the notification, made under that section and consequent upon which the interim development order is so required to be made, is expressed to have effect.

(iii) by inserting next after subsection five of the same section the following new subsection :—

(5A) Notwithstanding the provisions of subsection five of this section, the Minister shall not rescind an interim development order made as required by subsection three of section 342Y of this Act or by this subsection, unless at the same time he makes another interim development order relating to the land to which the rescinded interim development order related or the ordinance by which the planning scheme, the provisions of which have been suspended under section 342Y of this Act as respects the land to which the interim development order relates, is rescinded under section 342M of this Act.

(iv) by inserting in subsection six of the same section after the word "or" where secondly occurring the words ", except in the case of the rescission of an interim development order made as required by subsection three of section 342Y of this Act, or by subsection (5A) of this section,";

(v)

(v) by inserting next after subsection eight of the same section the following new subsection :—

(8A) Notwithstanding the provisions of subsection eight of this section, the prescribing of a planning scheme does not, unless the planning scheme otherwise provides, cause an interim development order made as required by subsection three of section 342Y of this Act, or by subsection (5A) of this section, to cease to have effect in relation to any land except to the extent that that land is included in a scheme map contained in that planning scheme and is land to which that planning scheme applies.

(c) by omitting from paragraph (a) of subsection (1A) of section 342V the words "the scheme" and by inserting in lieu thereof the words "a scheme, if any,"; Sec. 342V. (Permission for interim development.)

(d) by omitting from paragraph (a) of subsection two of section 342W the words "before a scheme" and by inserting in lieu thereof the words "when a scheme is in course of preparation and before it"; Sec. 342W. (Revocation or modification of permission for interim development.)

(e) by omitting section 342Y and by inserting in lieu thereof the following section :— Subst. sec. 342Y.

342Y. (1) The Minister may, after consideration of a report furnished by the Authority, notify that the provisions of a prescribed scheme, that is specified in the notification, are suspended as respects the whole of the land to which the prescribed scheme applies or as respects such part of that land as may be specified or referred to in the notification. Suspension of provisions of prescribed scheme.

(2)

(2) A notification under subsection one of this section—

(a) has effect according to its tenor and, as on and from the date on which it is published and in relation to the land as respects which it is expressed to have effect, has effect so as to suspend all of the provisions of the prescribed scheme that is specified in the notification; and

(b) remains in force in relation to the land as respects which it is expressed to have effect only until the interim development order, made as required by subsection three of this section as a consequence of the making of that notification, or by subsection (5A) of section 342U of this Act, and relating to that land, ceases to have effect in relation to that land.

(3) The Minister shall, by any notification referred to in subsection one of this section, make an interim development order relating to the land as respects which that notification is expressed to have effect.

(4) Where the provisions of any prescribed scheme are, pursuant to subsection one of this section, suspended after the commencement of the Local Government (Amendment) Act, 1971, then—

(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 three 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

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 the provisions of that scheme and in force as aforesaid shall, subject to anything contained in the provisions of that scheme providing that the 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

(ii) all conditions and restrictions imposed or applied under any approval, permission or consent referred to in subparagraph (i) of this paragraph and which were in force at the date of suspension of the prescribed scheme shall continue in full force and effect; and

(b) the 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.

Validation and savings.

3. (1) An instrument purporting to be a notification made under section 342Y of the Local Government Act, 1919, as that section was in force at any time before the commencement of this Act, and an instrument purporting to be an interim development order made before that commencement in relation to land to which such a notification purported to apply, being in either case an instrument that was invalid but would have been valid had all conditions precedent and

requirements

requirements for the making of the notification or interim development order been complied with, is, and shall be deemed always to have been, valid.

(2) An instrument, being a notification validly made under subsection one of section 342Y of the Local Government Act, 1919, before the commencement of this Act or a purported notification that is validated by subsection one of this section, has, and shall be deemed always to have had, effect so as to suspend all of the provisions of the prescribed scheme that is specified in the instrument as respects the land so specified or referred to in the instrument.

(3) An instrument, being an interim development order validly made before the commencement of this Act or a purported interim development order that is validated by subsection one of this section has, and shall be deemed always to have had, effect as if the amendments made by section two of this Act had been in force at all relevant times and the conditions and requirements referred to in subsection one of this section had been complied with.

(4) The prescribing of a scheme before the commencement of this Act, not being a scheme which amended the scheme map showing land to which a previous prescribed scheme applied, does not have, and shall be deemed never to have had, effect so as to terminate the operation of Division 7 of Part XIIA of the Local Government Act, 1919, as in force at any time before that commencement, or as continued in force after that commencement by the Local Government (Town and Country Planning) Amendment Act, 1962, in relation to the land to which that firstmentioned scheme applies or so as to terminate the operation in relation to any such land of any ordinance made under that Part.

(5) The prescribing before the commencement of this Act of a scheme which amends the scheme map showing land to which a previous prescribed scheme applied has, and shall be deemed always to have had, effect so as to terminate the operation of Division 7 of Part XIIA of the Local Government Act, 1919, and the operation of any ordinance made under that Part, only as regards the land to which that amendment relates.

(6) A person who immediately before the commencement of this Act was lawfully carrying out any development as defined in subsection one of section 342T of the Local Government Act, 1919, is not by reason of the enactment of this section precluded from carrying out or continuing to carry out that development.

(7) Where—

(a) the provisions of Division 7 of Part XIIA of the Local Government Act, 1919, are deemed to have been in force by reason of the validation, by subsection one of this section, of an instrument purporting to be a notification made under section 342Y of that Act;

(b) an approval, permission or consent (whether or not subject to conditions or restrictions) in respect of any land to which that instrument purported to relate purported to be granted under those provisions, or under any ordinance made under that Part, or under any interim development order validated by subsection one of this section; and

(c) that approval, permission or consent would, but for the invalidity of that instrument, have been valid,

that approval, permission or consent is, and shall be deemed always to have been, valid.

(8) The repeal of subsection three (in this subsection referred to as "the repealed subsection") of section 342Y of the Local Government Act, 1919, effected by section two of this Act, does not affect any saving that was effected by the repealed subsection or that would have been effected by the repealed subsection if an instrument, validated by subsection one of this section, had validly suspended the provisions of a prescribed scheme referred to in the repealed subsection.

BY AUTHORITY:
V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1972

I certify that this PUBLIC BILL, *which originated in the* LEGISLATIVE ASSEMBLY, *has finally passed the* LEGISLATIVE COUNCIL *and the* LEGISLATIVE ASSEMBLY *of* NEW SOUTH WALES.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 6 May, 1971.

New South Wales

ANNO VICESIMO

ELIZABETHÆ II REGINÆ

* *

Act No. 14, 1971.

An Act to make provisions with respect to the suspension of provisions of prescribed town and country planning schemes and the making of interim development orders; for this purpose to amend the Local Government Act, 1919; to validate certain matters; and for purposes connected therewith. [Assented to, 18th May, 1971.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

L. A. PUNCH,
Chairman of Committees of the Legislative Assembly

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:—

Short title.

1. This Act may be cited as the "Local Government (Amendment) Act, 1971".

Amendment of Act No. 41, 1919.

2. The Local Government Act, 1919, is amended—

Sec. 342T. (Definitions.)

(a) (i) by omitting from subsection one of section 342T the definition of "Interim development" and by inserting in lieu thereof the following definition:—

"Interim development" means—

(a) where an interim development order, not being an interim development order referred to in paragraph (b) of this definition, has taken effect, development of land, to which that interim development order relates, after the date upon which that interim development order took effect and before the date upon which the scheme referred to in subsection one of section 342U of this Act and relating to that land is prescribed or before the date on which the Minister notifies in the Gazette that he has decided not to proceed with that scheme, as the case may be; or

(b)

(b) where an interim development order made as required by subsection three of section 342Y, or by subsection (5A) of section 342U, of this Act, has taken effect, development of land, to which that interim development order relates, after the date upon which that interim development order took effect and before the date of the coming into operation of the prescribed scheme which, under subsection eight of section 342U of this Act, causes that interim development order to cease to have effect in relation to that land.

(ii) by omitting from the definition of "Interim development order" in the same subsection the words "or amended";

(iii) by omitting from subsection two of the same section the words "except to the extent to which those provisions apply to any such land by virtue of an interim development order made under subsection two of section 342Y of this Act" and by inserting in lieu thereof the words "but apply to any land to which a notification in force under section 342Y of this Act is expressed to apply";

(b) (i) by inserting in subsection one of section 342U next before the word "regulating" wherever occurring the word "permitting,"; Sec. 342U. (Interim development orders.)

(ii) by inserting next after subsection one of the same section the following new subsection:—

(1A) Where an interim development order is required to be made under subsection three of section 342Y of this Act, the Minister shall

make

make such an order permitting, regulating, restricting or prohibiting, or conferring on the council powers, authorities, duties and functions with respect to permitting, regulating, restricting or prohibiting, interim development on any land as respects which the notification, made under that section and consequent upon which the interim development order is so required to be made, is expressed to have effect.

(iii) by inserting next after subsection five of the same section the following new subsection :—

(5A) Notwithstanding the provisions of subsection five of this section, the Minister shall not rescind an interim development order made as required by subsection three of section 342Y of this Act or by this subsection, unless at the same time he makes another interim development order relating to the land to which the rescinded interim development order related or the ordinance by which the planning scheme, the provisions of which have been suspended under section 342Y of this Act as respects the land to which the interim development order relates, is rescinded under section 342M of this Act.

(iv) by inserting in subsection six of the same section after the word "or" where secondly occurring the words ", except in the case of the rescission of an interim development order made as required by subsection three of section 342Y of this Act, or by subsection (5A) of this section,";

(v)

(v) by inserting next after subsection eight of the same section the following new subsection :—

(8A) Notwithstanding the provisions of subsection eight of this section, the prescribing of a planning scheme does not, unless the planning scheme otherwise provides, cause an interim development order made as required by subsection three of section 342Y of this Act, or by subsection (5A) of this section, to cease to have effect in relation to any land except to the extent that that land is included in a scheme map contained in that planning scheme and is land to which that planning scheme applies.

(c) by omitting from paragraph (a) of subsection (1A) of section 342V the words "the scheme" and by inserting in lieu thereof the words "a scheme, if any,"; Sec. 342V. (Permission for interim development.)

(d) by omitting from paragraph (a) of subsection two of section 342W the words "before a scheme" and by inserting in lieu thereof the words "when a scheme is in course of preparation and before it"; Sec. 342W. (Revocation or modification of permission for interim development.)

(e) by omitting section 342Y and by inserting in lieu thereof the following section :— Subst. sec. 342Y.

342Y. (1) The Minister may, after consideration of a report furnished by the Authority, notify that the provisions of a prescribed scheme, that is specified in the notification, are suspended as respects the whole of the land to which the prescribed scheme applies or as respects such part of that land as may be specified or referred to in the notification. Suspension of provisions of prescribed scheme.

(2)

(2) A notification under subsection one of this section—

(a) has effect according to its tenor and, as on and from the date on which it is published and in relation to the land as respects which it is expressed to have effect, has effect so as to suspend all of the provisions of the prescribed scheme that is specified in the notification; and

(b) remains in force in relation to the land as respects which it is expressed to have effect only until the interim development order, made as required by subsection three of this section as a consequence of the making of that notification, or by subsection (5A) of section 342U of this Act, and relating to that land, ceases to have effect in relation to that land.

(3) The Minister shall, by any notification referred to in subsection one of this section, make an interim development order relating to the land as respects which that notification is expressed to have effect.

(4) Where the provisions of any prescribed scheme are, pursuant to subsection one of this section, suspended after the commencement of the Local Government (Amendment) Act, 1971, then—

(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 three 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

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 the provisions of that scheme and in force as aforesaid shall, subject to anything contained in the provisions of that scheme providing that the 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

(ii) all conditions and restrictions imposed or applied under any approval, permission or consent referred to in subparagraph (i) of this paragraph and which were in force at the date of suspension of the prescribed scheme shall continue in full force and effect; and

(b) the 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.

Validation and savings.

3. (1) An instrument purporting to be a notification made under section 342Y of the Local Government Act, 1919, as that section was in force at any time before the commencement of this Act, and an instrument purporting to be an interim development order made before that commencement in relation to land to which such a notification purported to apply, being in either case an instrument that was invalid but would have been valid had all conditions precedent and

requirements

requirements for the making of the notification or interim development order been complied with, is, and shall be deemed always to have been, valid.

(2) An instrument, being a notification validly made under subsection one of section 342Y of the Local Government Act, 1919, before the commencement of this Act or a purported notification that is validated by subsection one of this section, has, and shall be deemed always to have had, effect so as to suspend all of the provisions of the prescribed scheme that is specified in the instrument as respects the land so specified or referred to in the instrument.

(3) An instrument, being an interim development order validly made before the commencement of this Act or a purported interim development order that is validated by subsection one of this section has, and shall be deemed always to have had, effect as if the amendments made by section two of this Act had been in force at all relevant times and the conditions and requirements referred to in subsection one of this section had been complied with.

(4) The prescribing of a scheme before the commencement of this Act, not being a scheme which amended the scheme map showing land to which a previous prescribed scheme applied, does not have, and shall be deemed never to have had, effect so as to terminate the operation of Division 7 of Part XIIA of the Local Government Act, 1919, as in force at any time before that commencement, or as continued in force after that commencement by the Local Government (Town and Country Planning) Amendment Act, 1962, in relation to the land to which that firstmentioned scheme applies or so as to terminate the operation in relation to any such land of any ordinance made under that Part.

(5) The prescribing before the commencement of this Act of a scheme which amends the scheme map showing land to which a previous prescribed scheme applied has, and shall be deemed always to have had, effect so as to terminate the operation of Division 7 of Part XIIA of the Local Government Act, 1919, and the operation of any ordinance made under that Part, only as regards the land to which that amendment relates.

(6) A person who immediately before the commencement of this Act was lawfully carrying out any development as defined in subsection one of section 342T of the Local Government Act, 1919, is not by reason of the enactment of this section precluded from carrying out or continuing to carry out that development.

(7) Where—

(a) the provisions of Division 7 of Part XIIA of the Local Government Act, 1919, are deemed to have been in force by reason of the validation, by subsection one of this section, of an instrument purporting to be a notification made under section 342Y of that Act;

(b) an approval, permission or consent (whether or not subject to conditions or restrictions) in respect of any land to which that instrument purported to relate purported to be granted under those provisions, or under any ordinance made under that Part, or under any interim development order validated by subsection one of this section; and

(c) that approval, permission or consent would, but for the invalidity of that instrument, have been valid,

that approval, permission or consent is, and shall be deemed always to have been, valid.

(8) The repeal of subsection three (in this subsection referred to as "the repealed subsection") of section 342Y of the Local Government Act, 1919, effected by section two of this Act, does not affect any saving that was effected by the repealed subsection or that would have been effected by the repealed subsection if an instrument, validated by subsection one of this section, had validly suspended the provisions of a prescribed scheme referred to in the repealed subsection.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

Government House,
Sydney, 18th May, 1971.