

CHAPTER 154

PLANNING AND DEVELOPMENT ACT

AN ACT FOR THE ADMINISTRATION OF TOWN AND COUNTRY PLANNING IN SOLOMON ISLANDS, THE MAKING OF LOCAL PLANNING SCHEMES, THE CONTROL AND DEVELOPMENT OF LAND AND FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO.

[18th January 1980]

PART I

PRELIMINARY

Short title

1. This Act may be cited as the Planning and Development Act.

Interpretation

2. In this Act, unless the context otherwise requires-

"advertisement" means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of and employed wholly or in part for the purposes of advertisement, announcement or direction and without prejudice to the foregoing provisions of this definition includes any hoarding or similar structure used or adapted for use of the display of advertisements, and references to the display of advertisements shall be construed accordingly;

"agriculture" has the meaning ascribed to it by the Agriculture and Livestock Act;
Cap. 35

"amend" means amend, add to, alter or modify otherwise either in whole or in part and "amendment" has a corresponding meaning;

"Area Council" means an Area Council constituted by a Provincial Ordinance under the Provincial Government Act by a Provincial Assembly;
Cap. 118

"Board" in respect of a Province or Honiara means the Planning and Development Board for that Province or for Honiara established under section 5;

"building" includes any structure or erection on any part of a building as so defined, but does not include plant or machinery comprised in a building;

"building or works" includes waste materials, refuse and other matters deposited on land and references to the erection or construction of buildings or works shall be construed accordingly;

"building operations" includes rebuilding operations, structural alterations of or additions to buildings and other operations normally undertaken by a person carrying on business as a builder including siteworks preliminary or incidental to the erection of buildings;

"City Clerk" means the City Clerk mentioned in section 42 of the Honiara City Act 1999;

"class 1 development" has the meaning given in section 14(2);

"class 2 development" means a development in an area to which a Local Planning Scheme applies that is identified as a class 2 development in the Local Planning Scheme;

"class 3 development" means:

- (a) in an area to which a Local Planning Scheme applies – a development that is identified as a class 3 development in the Local Planning Scheme; or
- (b) in an area to which no Local Planning Scheme applies – any development other than a class 1 development;

“class 4 development” means a development in an area to which a Local Planning Scheme applies that is identified as a class 4 development in the Local Planning Scheme;

"development" has the meaning assigned to it by section 14, and "develop" has a corresponding meaning;

"Director of Physical Planning" means the person in charge of planning matters within the Ministry responsible for the administration of this Act;

"engineering operations" includes the formation or laying out of means of access to highways;

"erection" in relation to buildings includes extension, alterations and re-erection;

"fence" includes any hoarding or paling, bank or wall;

"fishing" has the meaning assigned to it by the Fisheries Act;
Cap. 38

"forestry" means the felling, cutting and replanting of trees in accordance with the provisions of the Forest Resources and Timber Utilisation Act;
Cap. 40

"functions" includes powers, duties and discretions;

"highway authority" has the same meaning as in section 2 of the Traffic Act;
Cap. 131

"Honiara" means the area the boundaries of which are delineated on plan 1981 deposited in the office of the Surveyor-General;

“Honiara City Council” means the Honiara City Council established by section 4 of the *Honiara City Act 1999*;

"land" includes land covered with water and also includes incorporeal as well as corporeal hereditaments of every tenure or description, including a building as defined by this section, and any interest therein, and also an undivided share of land;

"livestock" means animals kept or dealt in for use or profit;

"Local Planning Scheme" means a Local Planning Scheme approved under section 11;

"Minister" means the member of the Cabinet from time to time charged with responsibility for planning;

"outline permission" means a planning permission granted subject to the submission of a further application in respect of those matters reserved in the permission;

“Planning Appeals Tribunal” means the Tribunal established under section 28A;

"Province" has the same meaning as in section 3 of the Provincial Government Act;
Cap 118

"Provincial Assembly" means a Provincial Assembly established under the Provincial Government Act;

“Provincial Plan” means a Provincial Plan approved under section 5A;

“registered land” means land registered under the *Land and Titles Act* (Cap. 133);

"reserved matters" in relation to an outline permission or an application for such permission, means any matters in respect of which details have not been given in the application and which concern the sitting, design or external appearance of the building to which the permission or the application relates, or the means of access to the building;

"road" means a public road as defined in the Roads Act and includes a public right of way created under section 185 of the Land and Titles Act;
Cap 129, Cap 133.

"statutory undertakers" means persons authorised by any Act of Parliament to carry on any railway, light railway, tramway, road transport, air transport, water transport, canal, inland navigation, pier, or any undertaking for the supply of electricity, gas hydraulic power or water and "statutory undertaking" has a corresponding meaning;

"subdivision" in relation to land means-

(a) the division of a lot or parcel of land for sale, conveyance, transfer, lease, sublease, mortgage, agreement, partition or other dealing, or by procuring the issue of a separate instrument of title in respect of any portion of land or by parting with the possession of any part thereof, or by depositing a plan of subdivision with the Registrar of Titles, and "subdivide" has a corresponding meaning;

(b) the consolidation of two or more lots or parcels of land;

"use" in relation to land, does not include the use of land by the carrying out of any building or other operations thereon.

"zone" in relation to a local planning scheme, means a classification applied to land to control the types of land uses and developments that may be carried out on that land.

PART II

ADMINISTRATION AND POLICY

General provisions as to planning policy

3.-(1) The object of this Act is to ensure that registered land in Solomon Islands is developed and used in accordance with properly considered policies that are formulated on adequate information and are directed to promote the welfare of the inhabitants of Solomon Islands and others who resort thereto; and, accordingly, the functions conferred on any public body by this Act shall, in accordance with this Act, be exercised in such manner as it considers most suitable for attaining that end.

(2) The promotion of the welfare of people includes the preservation or creation of an environment proper for their needs.

(3) So far as the development of registered land is concerned the object of this Act is also to ensure that to give effect to the principles enunciated in subsection (1) there is a proper integration and coordination in the development of registered land in Solomon Islands.

(4) For the purpose of best promoting the objects of this Act a public body exercising any function conferred on it by this Act in relation to any matter shall be under a duty to take all reasonable steps to seek and obtain all the information necessary to enable that function to be properly exercised after a proper evaluation of the likely effect of the exercise of that function.

Duties of Minister

4. Without prejudice to the generality of section 3, it shall be the duty of the Minister to secure consistency and continuity in the framing and execution of a comprehensive policy for the preservation of amenities and the orderly development of registered land throughout Solomon Islands in accordance with Local Planning Schemes for parts of Solomon Islands prepared in accordance with the provisions of Part III.

Planning and Development Boards

5.-(1) There shall be a Planning and Development Board in each Province and in Honiara.

(2) Each Board shall in its respective Province or, as the case may be, in Honiara carry out the duties imposed and the functions conferred on it by this Act.

(3) The Minister may from time to time give to a Board general or special directions about the exercise of any of its functions or the performance of any of its duties under this Act and the Board shall comply with such directions.

(4) Each Board shall be constituted in accordance with and be subject to the Schedule to this Act.

(5) A Board may appoint authorised officers to exercise powers or perform functions of the Board under the direction of the Board.

(6) At any time during which a Board has not been appointed, the powers and functions of the Board may be exercised and performed by:

- (a) in the case of a Province, the Provincial Executive; or
- (b) in the case of Honiara, the Honiara City Council.

5A Provincial Plans

(1) A Board for a province may approve a Provincial Plan for the development of land in the province.

(2) The Provincial Plan must include the following matters:

- (a) the location and extent of registered land and customary land in the province;
- (b) an outline of the existing and proposed uses of land in the province, including the location of existing and proposed:
 - (i) roads and other transport infrastructure;
 - (ii) community settlements, schools and clinics;
 - (iii) industrial infrastructure;
 - (iv) areas for agriculture, forestry and mining activities;
- (c) the long-term strategy for development in the province;
- (d) in relation to a provincial plan for Guadalcanal Province, the relationships and links between existing and proposed land uses in the province and Honiara;
- (e) any other matter relevant to the development of the province that the Board considers relevant or the Minister directs the Board to include in the Plan.

(3) Before approving the Provincial Plan, the Board must:

- (a) consult the Provincial Executive of the province; and
- (b) publish a notice in the a newspaper circulating in the province inviting the public to make submissions to the Board about the content of the Plan:
 - (i) in writing, within a specified time; or
 - (ii) orally, at a public meeting of the Board held at a specified time and place at least one week after the publication of the notice; and
- (c) consider any submissions made by the Provincial Executive or a member of the public.

(4) As soon as practicable after approving the Provincial Plan, the Board must publish a notice in the *Gazette* stating:

- (a) that the Plan has been approved; and
- (b) where copies of the plan can be inspected.

- (5) The Provincial Plan takes effect on the date the notice is published in the *Gazette*.
- (6) The Board may review and modify the Provincial Plan from time to time.
- (7) Subsections (3), (4) and (5) apply to any modifications made to the Plan as a result of a review.

PART III

LOCAL PLANNING SCHEMES

Purposes, form etc, of Local Planning Scheme

6.-(1) The purposes of a Local Planning Scheme shall be-

- (a) to assist in securing orderly development in the interests of the health, amenity, convenience and general welfare of the community; and
- (b) to indicate the general principles upon which development in the area will be promoted and controlled; and
- (c) to assist in the selection of, or to define sites for particular purposes, whether by the carrying out of development thereon or otherwise; and
- (d) to protect features or areas of social, historical, scenic or architectural importance; and
- (e) to safeguard routes for highways, pipelines and other services; and
- (f) to indicate the stages by which development should be carried out; and
- (g) to address any social, environmental or economic issues identified in a study carried out under section 8, including any risks to land uses and developments caused by climate change;
- (h) to reach a general consensus amongst residents of the area covered by the Local Planning Scheme and other stakeholders on appropriate land use and development policies through a participatory process.

(2) Subject to any regulations about the form and content of Local Planning Schemes, a Local Planning Scheme must-

- (a) include maps and descriptions to illustrate the proposals included in the Local Planning Scheme with the degree of particularity that is appropriate to the area covered by the Local Planning Scheme; and
- (b) specify the population of the area covered by the Local Planning Scheme; and
- (c) indicate the zones to be applied to the area covered by the Local Planning Scheme, which may include the proposed permissible building and population densities for each zone; and
- (d) state the overall objective of the Local Planning Scheme and the objective of each of the zones in the Scheme; and
- (e) display and describe the existing and proposed land uses, including the location of existing and proposed:
 - (i) roads and other transport infrastructure;
 - (ii) settlements, schools and clinics;
 - (iii) industrial infrastructure;
 - (iv) areas for agriculture, forestry and mining activities; and
- (f) for each zone in the Local Planning Scheme, classify types of development as a class 1, 2, 3 or 4 development; and
- (g) describe how the Local Planning Scheme gives effect to any Provincial Plan in place.

(3) Subject as aforesaid, any Local Planning Scheme may in particular allocate or define the sites of and access to proposed roads, public and other buildings and works, air-fields, parks, pleasure grounds, nature reserves and other open spaces, or allocate areas for use for residential, agricultural, industrial, commercial, tourist or other purposes of any class specified therein.

(4) Without prejudice to the generality of subsections (2) and (3), provision may be made in a Local Planning Scheme for matters relating to inter alia-

- (a) (i) the distance between buildings and boundaries, and between buildings and the centre of any road;
- (ii) in respect of building sites, the proportion or amount of land that may be covered by any buildings;
- (iii) the minimum size of building sites;
- (iv) the height of buildings;
- (v) the floor area of buildings;
- (vi) the extent of land to be laid out and exclusively reserved for the parking of vehicles;
- (b) sites to be reserved for development for public purposes (including new roads);
- (c) the stopping up of any existing road or roads;
- (d) the population density in any area;
- (e) sites to be allocated for public open spaces.

Areas for which Local Planning Scheme may be prepared

7.

A Local Planning Scheme may be prepared for any area of registered land.

Study before preparing Local Planning Scheme

8.-(1) For the purpose of preparing a Local Planning Scheme for an area, a Board must first institute a study to examine the matters that may affect the development of the area or the planning of its development.

(2) Without limiting subsection (1), the following matters must be examined in the study-

- (a) the principal physical, environmental, social and economic characteristics of the area (including the principal purposes for which land is used and the factors that may affect how the land can be used) and, so far as they may be expected to affect the area, the principal physical, environmental, social and economic characteristics of any neighbouring areas;
- (b) the size, composition and distribution of the population of the area (whether resident or otherwise), and of neighbouring areas;
- (c) the communications, transport system and traffic of the area and, so far as they may be expected to affect the area, the communications, transport system and traffic of any neighbouring areas;
- (ca) the information and data available in relation to the impact of climate change and natural hazards on the area;
- (d) any considerations not mentioned in any of the preceding paragraphs which may be expected to affect any matters included therein;
- (e) such other matters as the Minister may prescribe generally or as he may in a particular case direct;

(f) any future land use needs or changes projected in any of the matters mentioned in any of the preceding paragraphs and the effect which those changes are likely to have on the development of the area or on the planning of such development.

Preparation of Local Planning Schemes

9.-(1) As soon as may be practicable after the completion of the study referred to in section 8, the Board shall submit for the approval of the Minister a Local Planning Scheme for the whole of the area or any part thereof together with a report of the study.

(2) The Board shall in the course of preparing a Local Planning Scheme regularly consult with the Provincial Assembly or Town Council and Area Council or Councils within whose boundaries any of the area included in the Local Planning Scheme is situated, and in addition may consult with such other persons or bodies as it thinks fit.

Publicity for Local Planning Schemes

10.-(1) When preparing a Local Planning Scheme, and before finally determining its content for submission to the Minister, the Board shall take such steps as may in its opinion ensure-

(a) that adequate publicity is given in the area to which the Local Planning Scheme will relate to the report of the study under section 8 and to the matters which the Board proposes to include in the Local Planning scheme;

(b) that all persons who may be expected to wish to make representations to the Board with respect to those matters which it proposes to include in the Local Planning scheme are made aware that they are entitled to an opportunity to make such representations; and

(c) that those persons are given an adequate opportunity of making representations to the Board.

(2) A Local Planning Scheme submitted by the Board to the Minister for his approval shall be accompanied by a statement containing particulars of-

(a) the steps which the Board has taken to comply with subsection (1); and

(b) the Board's consultations with, and consideration of the views of, other persons with respect to those matters;

(c) the resolution of the Provincial Assembly within whose boundaries the area included in the Local Planning Scheme is situated showing the Assembly conclusion on the proposed Local Planning Scheme of the Board.

Submission and approval of Local Planning Schemes

11.-(1) When the Board has prepared a draft Local Planning Scheme notice thereof shall be published in the Gazette and in one newspaper published in Solomon Islands stating the place or places where copies of such scheme may be inspected by the public.

(2) If any objection or representation with respect to any such Local Planning Scheme is made in writing to the Minister within one month of the publication of the notice referred to in subsection (1), the Minister shall take into consideration the objection or representation.

(3) If as the result of any objection or representation considered in connection with a Local Planning Scheme the Minister is of opinion that a Provincial Assembly, Town Council, Area Council or any other Board or person ought to be consulted before he decides to approve the Local Planning Scheme either with or without modifications, the Minister shall consult that Provincial Assembly, Town Council, Area Council, Board or person, but he shall not be obliged to consult any other Board or person, or to afford any opportunity for further objections or representations.

(4) Notice of the approval of a Local Planning Scheme by the Minister shall be published in the Gazette and in at least one local newspaper circulating in Solomon Islands, and copies of the Local Planning Scheme in the form in which it has been approved by the Minister shall be made available for inspection by the public at such place or places as may be specified in the notice.

(5) A Local Planning Scheme shall become operative on the date on which notice of its approval by the Minister is published in the Gazette or on such later date as the Minister may by Order determine.

Review of Local Planning Schemes

12.-(1) At least once in every five years after the date on which a Local Planning Scheme is approved by the Minister, the Board shall carry out a fresh study of that area covered by the Local Planning Scheme and submit to the Minister a report of the study together with proposals for such amendments to the Local Planning Scheme as the Board considers desirable having regard to the said study.

(2) Without prejudice to subsection (1), the Board may at any time submit to the Minister proposals for such amendments to a Local Planning Scheme as appear to be necessary.

(3) The provisions of sections 8, 9, 10 and 11 shall, subject to any necessary modifications, apply in relation to amendments to a Local Planning Scheme made in accordance with subsections (1) and (2) as they apply in relation to the preparation and approval of a Local Planning Scheme under sections 9, 10 and 11.

PART IV

CONTROL OF DEVELOPMENT OF LAND

Application of this Part

13

This Part applies to all registered land.

Provision for development

14.-(1) Subject to the provisions of this section and to the provisions of this Act, the permission of the Board shall be required under this Part for any development other than a class 1 development.

(2) In this Act, except where the context otherwise requires, the expression "development" means the subdivision of land, the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land, except any of the following (a "**class 1 development**") -

(a) the carrying out of works for the maintenance, improvement or other alteration of any building, if the works effect only the interior of the building or do not materially affect the external appearance of the building;

(b) the carrying out of any works by a highway authority required for the maintenance or improvement of a road if the works are carried out on land within the boundaries of the road;

(c) the carrying out by any Government Department, Provincial Assembly, Town Council, Area Council or statutory undertaker of any works for the purpose of inspecting, repairing or renewing; any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose;

(d) the use of any buildings or other land within the curtilage of a dwelling-house for any purpose incidental to the enjoyment of the dwelling-house as such;

(e) the use of any land for the purposes of agriculture, livestock keeping, fishing and forestry unless a Local Planning Scheme provides otherwise;

(f) any use or development of land identified in a Local Planning Scheme or prescribed by regulation as a class 1 development.

(3) The Minister may make regulations declaring any type of intensive or large-scale agricultural use of land to be development for the purpose of this Part.

(4) Without prejudice to the provisions of any regulations made under the provisions of this or any other Act relating to the control of advertisements, the use for the display of advertisements of any external part of a building that is not

normally used for the purpose shall be treated for the purposes of this section as involving a material change in the use of that part of the building.

Applications for permission

15.-(1) An application for permission to develop land shall be made to the Board by submitting the prescribed number of copies of the Form of Application issued by the Board.

(2) The person submitting such application shall-

(a) include on the application form all particulars required to be supplied thereby; and

(b) supply such further particulars as may be prescribed by regulations made by the Minister; and

(c) supply the prescribed number of copies of a plan sufficient to identify the land to which the application relates; and

(d) supply the prescribed number of copies of such other plans and drawings as may be necessary to describe the proposed development; and

(e) if the person is not the registered owner of the land, include a letter from each registered owner authorising the development; and

(f) include any additional information that is reasonably necessary to enable the Board to assess the application in relation to the matters listed in section 16(1).

(3) The Board may by a direction in writing addressed to the applicant require such further information as may be specified in the direction to be given to it in respect of an application for permission made to it under subsection (1) to enable it to determine that application.

(4) Where an applicant so desires, on application, expressed to be an outline application, may be made under this section for permission for the erection of a building subject to the subsequent grant of permission by the Board with respect to any reserved matters:

Provided that the grant of permission by the Board shall be required in respect of these matters reserved in the permission before any development is commenced.

(5) A person may not apply for permission to develop land if the proposed development is a class 4 development.

Requirement to publicise application

15A (1) As soon as practicable after the Board receives an application for permission to develop land, the Board must publicise the application as required by the regulations.

(2) The Board must not decide the application under section 16 until 28 days after all the requirements to publicise the application have been met.

(3) The Board's decision on the application is not invalidated only because it failed to meet all the requirements to publicise the application if:

(a) the Board substantively complied with the requirements to publicise the application; and

(b) the Board believed in good faith that all the requirements to publicise the application had been met.

Powers of Board to deal with applications

16. (1) Subject to subsection (5), the Board must consider the following matters before deciding an application for permission to develop land:

(a) whether the proposed development is consistent with any relevant Provincial Plan, Local Planning Scheme or other applicable development strategy of the national or provincial government;

(b) whether granting permission for the development would be consistent with the regulations and any directions given by the Minister under section 5;

- (c) whether the proposed development is consistent with any applicable law;
- (d) any submissions received from anyone other than the applicant in relation to the application;
- (e) whether the land is susceptible, or likely to become susceptible, to any hazards to health or safety, including landslip, soil instability, soil erosion, flooding, storm surge, tsunamis, fire, pollution and contamination, and whether the application outlines measures to adequately respond to those hazards;
- (f) whether the proposed development is appropriate in relation to the following:
 - (i) the existing condition and use of the land;
 - (ii) the existing condition and use of adjoining land;
 - (iii) the impact of the development on anything of heritage, architectural or scientific value;
 - (iv) traffic safety, including the proposed points of entry and exit into passing traffic and the estimated speed of passing traffic;
 - (v) any easements attached to the land;
- (g) whether the proposed development will be supported by adequate infrastructure and services, and, if it will be necessary to make changes to existing infrastructure and services, whether this will disadvantage existing users;
- (h) whether the proposal for the development makes adequate provision, if appropriate, for landscaping;
- (i) the effect of the proposed development on the health, safety and social wellbeing of the general public;
- (j) the environmental impact of the proposed development, including:
 - (i) the likely emission of pollutants from the proposed development;
 - (ii) the energy required to support the development and whether it will be generated from renewable sources;
 - (iii) the impact of the development on flora and fauna.

(2) In assessing the proposed development in relation to the matters mentioned in subsection (1), the Board must consider the design, location, size and appearance of the proposed development.

(3) Subject to subsection (5), having considered the application, the Board may:

- (a) grant permission for the proposed development; or
- (b) refuse to grant permission for the proposed development.

(4) A permission to develop land is subject to the following conditions:

- (a) any conditions prescribed by the regulations;
- (b) the conditions of any development consent issued under Part III of the *Environment Act 1998* for the development;
- (c) any additional conditions the Board considers appropriate and specifies in the permission, including conditions:
 - (i) regulating the development of other land under the control of the applicant, or requiring work to be carried out on such land, if it is necessary or desirable to do so for the purposes of the development authorised by the permission; or
 - (ii) limiting the period of the permission and requiring the removal of buildings or equipment and the rehabilitation of the land before the expiry of the period.

(5) The Board must not consider an application, or grant permission, for:

- (a) a class 4 development; or
- (b) a development that is a prescribed development under Part III of the *Environment Act 1998*, unless the application is accompanied by a copy of the development consent or exemption from the requirement to obtain development consent issued under that Act.

(6) The Board may delegate its power under subsection (3) to determine an application for a class 2 development to:

- (a) for a class 2 development within Honiara City – the City Clerk (or his or her nominee); or
- (b) for any other class 2 development – the Provincial Secretary of the province in which the proposed development will take place (or his or her nominee).

- (7) A person who determines an application under subsection (6) must submit a written report detailing the outcome of the application, including any conditions imposed on the development, to be tabled at the next meeting of the Board.

Period within which permission shall be carried out

17.-(1)

A permission granted under section 16 lapses if the development has not been substantially completed to the satisfaction of the Board within the following period after the permission is granted:

- (a) for a class 2 development – 12 months;
- (b) for a class 3 development – 3 years.

(1A) For subsection (1), the Board must determine whether a development is substantially completed on reasonable grounds.

(1B) However, the Board may extend a permission for a period not exceeding the original period of the permission if the holder of the permission applies for the extension at least 28 days before the expiry of the permission.

(2) An outline permission granted upon an application made pursuant to section 15 shall lapse at the expiration of six months from the grant thereof, or, where permission has been granted following an appeal, from the date of determination of such appeal, unless, in the case of any reserved matter, application for permission is made to the Board:

Provided that the Board may, on application, extend such outline permission by a period of not more than six months at each application.

Register of applications

18.-(1) The Board shall keep, in such manner as the Minister may prescribe, a register containing such information with respect to applications for permission as may be prescribed, and the register shall include information as to the manner in which such applications have been dealt with.

(2) The register shall be available for inspection by the public at all reasonable hours on payment of the prescribed fee (if any).

Appeals

19.-(1) Where an application is made under this Part to the Board for permission to develop land, and such permission is refused or is granted subject to conditions, the applicant may, if aggrieved by the decision of the Board by notice served on it within twenty-eight days from the receipt of notification of its decision, appeal to the Planning Appeals Tribunal.

(2) The Planning Appeals Tribunal shall not entertain any appeal-

(a) submitted after the expiry of the time allowed for appeal; or

(b) where it appears to the Tribunal that the application in respect of which permission is refused could not have been granted by the Board or could not have been granted by the Board otherwise than subject to the conditions imposed by it, having regard to the provisions of this Act and any regulations made or directions issued by the Minister under this Act.

(3) Where an appeal is brought under this section from a decision of the Board the Planning Appeals Tribunal, having applied the requirements of section 16 in relation to the decision, may allow or dismiss the appeal or may reverse or vary any part of the decision of the Board whether or not the appeal relates to that part, and may deal with the application as if it had been made to the Tribunal in the first instance.

(4) Unless within three months from the date of receipt of an application, or such extended period as may at any time be agreed in writing between the applicant and the Board, the Board gives notice to the applicant of its decision on any application for permission to develop land made to it under this Part the provisions of subsection (1) shall apply in relation to that application as if the permission to which it relates had been refused by the Board and as if notification

of its decision had been received by the applicant at the expiration of the period of three months or the extended period agreed as aforesaid, as the case may be.

(5) The decision of the Planning Appeals Tribunal on any appeal made under this section shall be final and conclusive and shall not be questioned in any proceedings whatsoever.

Supplementary provisions as to grant of permission

20.-(1) The power to grant permission to develop land under this Part shall include power to grant permission for the retention on land of any buildings or works constructed or carried out thereon before the date of the application, or for the continuance of any use of land instituted before that date (whether without permission granted under this Part or in accordance with permission so granted for a limited period only), and references in this Part to permission to develop land or to carry out any development of land, and to applications for such permission, shall be construed accordingly.

(2) Any such permission as is mentioned in subsection (1) may be granted so as to take effect from the date on which the buildings or works were constructed or carried out, or the use was instituted, or from the expiration of the said period, as the case may be.

(3) Where permission is granted under this Part for the erection of a building, the grant of permission may specify the purposes for which the building may be used; and if no purpose is so specified, the permission shall be construed as including permission to use the building for the purpose for which it was designed.

(4) Where permission to develop land is granted under this Part, then, except as may be otherwise provided by the permission, the grant of permission shall continue for the benefit of the land and of all persons for the time being interested therein, but without prejudice to the provisions of this Part with respect to the revocation and modification of permission granted thereunder.

(5) Where permission to develop land is granted under this Part for a limited period only, nothing in this Part shall be construed as requiring permission to be obtained thereunder for the resumption, at the expiration of that period, of the use of the land for the purpose for which it was normally used before the permission was granted.

(6) In determining for the purposes of subsection (5) the purposes for which land was normally used before the grant of permission, no account shall be taken of any use of the land begun in contravention of the provisions of this Part.

Modification of permission on application

20A (1) A person who has been granted permission to develop land under section 16 may apply to the Board for a modification of the permission, provided that the proposed modification would not:

- (a) change the use of the land; or
- (b) increase the floor space of any building approved under the original permission by more than 50%.

(2) The Board may only approve the application if the development, as modified, continues to meet the requirements of this Act.

Revocation and modification of permission on Board's initiative

21.-(1) Subject to the provisions of this section, if it appears to the Board that it is expedient, having regard to the Local Planning Scheme and to any other material considerations, that any permission to develop land granted on an application made in that behalf under this Part should be revoked or modified, it may in writing revoke or modify the permission to such extent as appears to be necessary:

(2) The Board must give written notice of the revocation or modification to the occupier of the land and any other person who has an interest in the land or permission.

(3) The power conferred by this section to revoke or modify permission to develop land may be exercised-

- (a) where the permission relates to the carrying out of building or other operations, at any time before those operations have been completed;

(b) where the permission relates to a change of the use of any land, at any time before the change has taken place:

Provided that the revocation or modification of permission for the carrying out of building or other operations as has been previously carried out.

(4) Where permission to develop land is revoked or modified under this section, any person having an interest in the land who has incurred expenditure in carrying out work that has been rendered abortive by the revocation or modification, or who has otherwise sustained loss or damage that is directly attributable to the revocation or modification, may submit a claim to the Board within six months of receiving written notice of the revocation or modification, and the Board shall award to that person compensation in respect of that expenditure, loss or damage in accordance with the following provisions of this section.

(5) No compensation shall be payable under subsection (3) in respect of loss or damage consisting of the depreciation in value of any interest in the land by virtue of the revocation or modification.

(6) Any expenditure incurred in the preparation of plans for the purposes of any work or upon other similar matters preparatory thereto shall be deemed to be included in the expenditure incurred in carrying out that work, but except as aforesaid no compensation shall be paid under this section in respect of any work carried out before the grant of the permission that is revoked or modified, or in respect of any other loss or damage (not being loss or damage consisting of the depreciation in value of an interest in land) arising out of anything done or omitted to be done before the grant of that permission.

(7) Where, by virtue of the provisions of this section, compensation is payable in respect of expenditure incurred in carrying out any work on any land, then if the Government of Solomon Islands or a Provincial Assembly or Town Council purchases any interest in that land any compensation payable in respect of the acquisition of that interest shall be reduced by an amount equal to the value of the works in respect of which compensation has been paid under this section.

Enforcement of planning control

22.-(1) If it appears to the Board that any development of land has been carried out without the grant of permission required in that behalf under this Part, or that any conditions subject to which such permission was granted in respect of any development have not been complied with, then the Board may within four years of such development being carried out, or, in case of non-compliance with a condition, within four years after the date of the alleged failure to comply with such condition, if the Board considers it necessary so to do having regard to the provisions of the Local Planning Scheme and to any other material considerations, serve on the owner and occupier of the land a notice under this section.

(2) Any notice served under this section (hereinafter called an "enforcement notice") shall specify the development that is alleged to have been carried out without the grant of such permission as aforesaid or, as the case may be, the matters in respect of which it is alleged that any such conditions as aforesaid have not been complied with, and may require such steps as may be specified in the notice to be taken within such period after the notice takes effect as may be specified therein for restoring the land to its condition before the development took place, or for securing compliance with the conditions, as the case may be; and in particular any such notice may, for the purpose aforesaid, require the demolition or alteration of any buildings or works, the discontinuance of any use of land, or the carrying out on land of any building or other operations.

(3) Except as otherwise provided in subsection (4) or section 23, an enforcement notice shall take effect at the expiration of such period (not being less than twenty-eight days after the service thereof) as may be specified therein.

(4) When, within the period mentioned in subsection (3), an application is made to the Board under this Part for permission-

(a) for the retention on the land of any buildings or works to which the enforcement notice relates; or

(b) for the continuance of any use of the land to which the enforcement notice relates,

the operation of the enforcement notice shall be suspended pending the determination of the application and any appeal made thereafter in accordance with section 19 and if the permission applied for is granted on that application or any appeal arising therefrom, the enforcement notice shall not take effect.

(5) The Board must serve an enforcement notice as required by the regulations.

Appeal against enforcement notice

23.-(1) If any person on whom an enforcement notice is served under this section is aggrieved by the enforcement notice, he may, at any time within the period mentioned in section 22 (3), appeal against the enforcement notice to the Magistrate's Court having jurisdiction in the area within which the land to which the notice relates is situated; and on any such appeal the court-

(a) if satisfied that permission was granted under this Part for the development to which the enforcement notice relates, or that no such permission was required for the said development, or, as the case may be, that the conditions subject to which such permission was granted have been complied with, shall quash the enforcement notice to which the appeal relates;

(b) if not so satisfied, but satisfied that the requirements of the notice exceed what is necessary for restoring the land to its condition before development took place, or for securing compliance with the conditions, as the case may be, shall vary the notice accordingly; or

(c) in any other case shall dismiss the appeal.

(2) When, within the period mentioned in section 22(3), an appeal is made to the court under this section by a person on whom the enforcement notice was served, the operation of the enforcement notice shall be suspended pending the determination or withdrawal of the appeal.

(3) Where the enforcement notice is varied or the appeal is dismissed then, subject to paragraph (a) of subsection (1), the court may direct that the enforcement notice shall not come into force until such date (not being later than twenty-eight days from the determination of the appeal) as it thinks fit.

Supplementary provisions as to enforcement

24.-(1) If within the period specified in an enforcement notice, or within such extended period as the Board after application made by the person on whom the notice has been served may allow in writing, any steps required by the enforcement notice to be taken (other than the discontinuance of any use of land) have not been taken, the Board may enter on the land and take those steps and may recover as a simple contract debt in any court of competent jurisdiction from the person who is then the owner of the land any expenses reasonably incurred by the Board in that behalf; and if that person, having been entitled to appeal to the court under section 23, failed to make such an appeal he shall not be entitled in proceedings under this subsection to dispute validity of the action taken by the Board upon any ground that could have raised in such an appeal.

(2) Any expenses incurred by the owner or occupier of any land for the purpose of complying with an enforcement notice served under section 22, in respect of any development, and any sums paid by the owner of any land under subsection (1) of this section in respect of the expenses of the Board in taking steps required to be taken by such an enforcement notice, shall be deemed to be incurred or paid for the use and at the request of the person by whom the development was carried out.

(3) Where, by virtue of an enforcement notice, any use of land is required to be discontinued, or any conditions are required to be complied with in respect of any use of land or in respect of the carrying out of any operations thereon, any person who, without the grant of permission in that behalf under this Part, uses the land or causes or permits the land to be used, or carries out or causes or permits to be carried out those operations, in contravention of the enforcement notice, shall be guilty of an offence and liable to a fine not exceeding 5000 penalty units and, in the case of a continuing offence, to a further fine not exceeding 500 penalty units for every day after the first day during which the use is so continued.

(4) Nothing in this Part shall be construed as requiring permission to be obtained thereunder for the use of any land for the purpose for which it could lawfully have been used under this Part if the development in respect of which an enforcement notice is served under section 22 had not been carried out.

(5) The Board shall keep, and make available for inspection by the public, a register containing such information with respect to enforcement notices served by the Board as may be prescribed by the Minister.

Penalties for failure to comply with certain enforcement notices

25.-(1) Subject to this section, where an enforcement notice has been served under section 22 on the person who was, when the notice was served on him, the owner of the land to which the enforcement notice relates and within the period specified in the enforcement notice, or within such extended period as the Minister may allow, any steps required by the enforcement notice to be taken (other than the discontinuance of any use of land) have not been taken by the said owner, he shall be liable to a fine not exceeding 50,000 penalty units and, in the case of a continuing offence, to a further fine not exceeding 1000 penalty units for every day after the first day during which the requirements of the enforcement notice (other than the discontinuance of any use of land) remain unfulfilled.

(2) If a person against whom proceedings are brought under this section (hereinafter referred to as the "original defendant") has at some time before the end of the period specified in the enforcement notice for compliance with the notice (or of such extended period as the Minister may allow) ceased to be the owner of the land, he shall, upon information duly laid by him and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have the person who then became the owner of the land brought before the Court in the proceedings.

(3) If, after it has been proven that any steps required by the enforcement notice have not been taken as aforesaid, the original defendant proves that the failure to take the required steps was attributable in whole or in part to the default of the said other person, that other person may be convicted of the offence.

(4) If the original defendant further proves that he took all reasonable steps to secure compliance with the enforcement notice, then he shall be acquitted of the offence.

Discharge of enforcement notices

26.-(1) Compliance with an enforcement notice, whether as respects-

(a) the demolition or alteration of any buildings or works; or

(b) the discontinuance of any use of land; or

(c) any other requirements in the enforcement notice,

shall not discharge the enforcement notice.

(2) Without restricting the generality of subsection (1), where any development is carried out on land by way of reinstating or restoring buildings or works that have been demolished or altered in compliance with an enforcement notice, the enforcement notice shall, notwithstanding that its terms may not be apt for the purpose, be deemed to apply in relation to the buildings or works as reinstated or restored as it applied in relation to the buildings or works before they were demolished or altered and subsections (1) and (2) of section 24 shall apply accordingly.

(3) Without affecting the operation of section 25 a person who carries out any development on land by way of reinstating or restoring buildings or works that have been demolished or altered in compliance with an enforcement notice shall be liable to a fine not exceeding 500 penalty units for each day the development continues.

Tree preservation orders

27.-(1) If it appears to the Board that it is expedient in the interests of amenity to make provision for the preservation of any tree, trees or woodlands in any area, it may for that purpose make an order (in this Act referred to as a "tree preservation order") with respect to any such tree, trees, groups of trees or woodlands as may be specified in the order; and, in particular, provision may be made by any such order-

(a) for prohibiting (subject to any exemptions for which provision may be made by the order) the cutting down, topping, lopping or wilful destruction of trees except with the consent of the Board which may be given subject to conditions;

(b) for securing the replanting, in such manner as may be prescribed by or under the order, of any tree or trees that is or are felled in the course of operation permitted by or under the order; and

(c) for applying in relation to any consent under the order, and to applications therefor, any of the provisions of this Part relating to permission to develop land, and to applications for any such permission, subject to such adaptations and modifications as may be specified in the order.

(3) Provision may be made by regulations under this Act with respect to the form of tree preservation orders, and the procedure to be followed in connection with the making and approval of such orders, and such regulations shall, in particular, make provision for securing-

(a) that notice shall be given to the owners and occupiers of land affected by any such order;

(c) that copies of the order when it comes into operation shall be served on the owners and occupiers of the land to which it relates.

(5) Without limiting the other exemptions for which provision may be made by a tree preservation order, no such order shall apply to the cutting down, topping or lopping of trees that are dying or dead or have become dangerous or the cutting down, topping or lopping of any trees in compliance with any obligation imposed by or under any Act, or topping or lopping of parts of trees that overhang a property boundary (unless such topping or lopping would kill the tree) or so far as may be necessary for the prevention or abatement of a nuisance.

(6) If any person contravenes the provisions of a tree preservation order, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding 50,000 penalty units.

(7) The owner or occupier of land on which a tree that is subject to a tree preservation order is located may appeal to the Planning Appeals Tribunal against the making of the order, and section 19 applies to the appeal as if it were an appeal in relation to a development.

(8) The owner or occupier of land on which a tree that is subject to a tree preservation order is located may apply to the Board for revocation of the order under section 16, as if the application for revocation were an application for permission for a class 3 development.

Nuisance orders

28.-(1) The Board may make an order (a “nuisance order”) requiring the owner or occupier of land to remove or mitigate a hazard or nuisance, or potential hazard or nuisance, on the land.

(1A) Without limiting subsection (1), the Board may make a nuisance order in relation to any of the following:

- (a) excessive noise;
- (b) pollution;
- (c) pests;
- (d) rubbish disposal;
- (e) antisocial behaviour;
- (f) the maintenance of land or buildings.

(2) In relation to any nuisance order, the provisions of sections 22(3), 23(1), (2) and (3), 24(1) and (2) and 25 shall, subject to such exceptions and modifications as may be prescribed by regulations under this Act, apply as those provisions apply in relation to an enforcement notice served under section 22.

28A Planning Appeals Tribunal

(1) The Planning Appeals Tribunal is established.

(2) The Tribunal consists of the following permanent members:

- (a) a legal practitioner of at least 10 years standing, appointed by the Minister, who is the chairperson of the Tribunal;
- (b) the Director of Physical Planning, who is the Secretary to the Tribunal.

(3) In addition, for the hearing of a particular appeal, the Tribunal consists of the following temporary members:

- (a) for an appeal relating to a development or matter within Honiara City – the City Clerk; or
- (b) for an appeal relating to any other development or matter – the Provincial Secretary of the province in which the development (or proposed development) is located;

- (c) up to 2 other members with expertise relevant to the appeal appointed by Gazette notice by the Director of Physical Planning.
- (4) The permanent and temporary members of the Tribunal are entitled to the remuneration prescribed by the regulations.
- (5) Subject to this Act, the Tribunal may determine its own procedures and rules.

PART IVA

EXISTING USE RIGHTS

Existing permission to develop land

- 28B** (1) This section applies in relation to a permission to develop land granted under section 16 that is in force immediately before the approval or commencement of a Local Planning Scheme (an “*existing permission*”).
- (2) The approval or commencement does not affect or alter the validity of the existing permission.
- (3) If the Local Planning Scheme defines the development as a class 4 development, any application to modify the existing permission is taken to be an application for permission for a class 4 development.
- (4) However, the application to modify the existing permission is taken to be an application for permission for a class 3 development if the proposed modification will not result in:
- (a) a significant intensification or alteration of the development, in the opinion of the Board; or
 - (b) an increase in the floor space of any building approved under the existing permission by more than 50%.

28C Existing developments not requiring permission

- (1) In this section:
- “amendment date”* means the date the *Town and Country Planning (Amendment) Act 2016* commences.
- (2) This section applies to a development:
- (a) on land to which Part IV did not apply immediately before the amendment date; and
 - (b) that had commenced but not been completed immediately before the amendment date.
- (3) Part IV does not apply to the development if the development is substantially completed to the satisfaction of the Board within the following period after the amendment date:
- (a) for a class 2 development – 12 months;
 - (b) for a class 3 development – 3 years.
- (4) For subsection (3), the Board must determine whether a development is substantially completed on reasonable grounds.

PART V

MISCELLANEOUS AND SUPPLEMENTAL

Exclusion of compensation

29. Except as provided in sections 21 and 30 no compensation shall be payable by the Government of Solomon Islands or the Board in consequence of any decision, order or action given, made or taken by them or either of them under or in pursuance of the provisions of this Act.

Powers of entry

30.-(1) Any person duly authorised in writing by the Board may, at any reasonable time, enter upon any land for the purpose of making a study of it, or estimating its value in connection with-

(a) the preparation, approval, making or amendment of a Local Planning Scheme relating to that land, including the carrying out of any study preparatory thereto;

(b) any application made under Part IV, or under any order or regulations made under this Act, for any permission, consent or determination to be given or effected in relation to that or any other land;

(c) any proposal by the Board to serve or make any notice or order under Part IV or under any such order or regulations as aforesaid;

(d) any claim for compensation payable by the Board under this Act.

(2) A person authorised under this section to enter upon any land shall, if so required, produce evidence of his authority before so entering, and shall not demand admission as of right to any land that is clearly occupied unless twenty-four hours notice of the intended entry has been given to the occupier.

(3) Any person who wilfully obstructs a person acting in the exercise of his powers under this section shall be liable to a fine not exceeding 1000 penalty units.

(4) Any person who, in compliance with the provisions of this section is admitted into a factory, workshop or work-place and who discloses to any person any information obtained by him therein as to any manufacturing process or trade secret, shall, unless the disclosure is made in the course of performing his duty in connection with the survey or estimate for which he was authorised to enter the premises, be liable to a fine not exceeding 50,000 penalty units or to imprisonment for a term not exceeding three months.

(5) Where any land is damaged in the exercise of a power of entry under this section, compensation in respect of that damage may be recovered from the Board by any person interested in the land.

(6) Any power conferred by this section to survey land shall be construed as including power to search and bore for the purpose of ascertaining the nature of the subsoil.

(7) A person shall not carry out any works authorised by subsection (6) unless notice of his intention so to do has been included in the notice required by subsection (2).

Service of notices

31.-(1) Subject to the provisions of this section, any notice or other document required or authorised to be served or given under this Act, or under any regulation, order, direction, or instrument in writing made under this Act, may be served or given either-

(a) by delivering it to the person on whom it is to be served or to whom it is to be given; or

(b) by leaving it at the usual or last known place of abode of that person, or, in a case in which an address for service has been furnished by that person, at that address; or

(c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode, or, in a case in which an address for service has been furnished by that person, at that address; or

(d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office, or sending it in a prepaid registered letter addressed to the secretary or clerk of the company or body at that office.

(2) Where the notice or document is required or authorised to be served on any person as having an interest in premises, and the name of that person cannot be ascertained after reasonable inquiry, or where the notice or document is required or authorised to be served on any person as an occupier of premises, the notice shall be deemed to be duly served if-

(a) being addressed to him either by name or by the description of "the owner" or "the occupier", as the case may be, of the premises (describing them) it is delivered or sent in the manner prescribed by paragraphs *(a)*, *(b)* or *(c)* of subsection (1); or

(b) being addressed as aforesaid and marked in such manner that is plainly identifiable as a communication of importance it is sent in a prepaid registered letter to the premises and is not returned to the authority sending it, or is delivered to some responsible person on those premises or is affixed conspicuously to some object on those premises.

(3) Where the notice or other document is required to be served on or given to all persons having interests in, or being occupiers of, premises comprised in any land, and it appears that any part of that land is unoccupied, the notice shall be deemed to be duly served on all persons having interests in, and on any occupiers of, premises comprised in that part of the land (other than a person who has furnished an address for the service of the notice on him) if it is addressed to "the owners and any occupiers" of that part of the land (describing it), and is affixed conspicuously to some object on the land.

(4) Any notice or document to be served on the Board shall be served either by sending it in a prepaid registered letter addressed to the Chairman of the Board or by delivering it to the Chairman personally at his office.

Powers to require information

32. The Board may, for the purpose of enabling it to make any order or serve any notice or other document that it is by this Act authorised or required to make or serve, require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises, to state in writing the nature of his interest therein and the name and address of any other person known to him as having an interest therein, whether as freeholder, mortgagee, lessee or otherwise; and any person who, having been so required to give any information fails to give that information, or knowingly makes any mis-statement in respect thereof, shall be liable to a fine not exceeding 1000 penalty units.

Regulations and orders

33.-(1) The Minister may make such regulations as appear to him to be necessary or expedient for carrying the objects and provisions of this Act into effect and in particular (without prejudice to the foregoing) such regulations may-

(a) specify the form and content of Local Planning Schemes;

(b) provide for the granting of permission (either unconditionally or subject to such conditions or limitations as may be specified) for development as specified in the regulations or for the development of any class so specified;

(ba) prescribe types of development as class 1 development, either generally or in relation to a specific area of land;

(c) regulate the manner in which applications for permission to develop land are to be made to, and be dealt with by the Planning Appeals Tribunal, or the Board;

(d) prescribe the form of application for permission to develop land, and the information and documents to be submitted in connection therewith;

(e) provide for the advertisement of applications for permission to develop land where such development may cause a nuisance to the occupiers of adjoining land;

(f) prescribe the procedure in regard to objections, representations and appeals;

(g) prescribe the form and contents of any notice, order or other document authorised or required by this Act to be made, issued or served;

(h) prescribe the manner in which the Board shall record applications for planning permission, the decisions thereon and enforcement notices served by the Board;

(i) prescribe the line, width, level, construction, access to and egress from, building line and general dimensions and character of roads, whether new or existing;

(j) provide for controlling the subdivision of land;

(k) provide for the pooling and redistribution of plots of land, or for the readjustment of the boundaries, areas, shapes and positions of any plots of land;

(l) provide for restricting or regulating the dimensions, appearance and position of advertisements that may be displayed, the sites on which such advertisements may be displayed, and the manner in which they are to be affixed to land;

(m) prescribe such special procedures as may be necessary for the application of section 35;

(n) prescribe fees; and

(o) make provision for any purpose for which regulations are authorised or required to be made under this Act.

Application to land regulated by special enactments

34. For the avoidance of doubt it is hereby declared that the provisions of this Act, and any restrictions or powers thereby imposed or conferred in relation to land, shall apply and may be exercised in relation to any land notwithstanding that provision is made by any Act, by-law, order, rule or regulation in force at the passing of this Act, for authorising or regulating any development of the land.

Unfinished buildings

35.-(1) Subject to this section, where any works for the erection or alteration of a building have been begun but not completed before the application of Part IV to any land, then if any permission required under any Act, by-law, order, rule or regulation for the carrying out of these works had been duly granted, permission shall, by virtue of this section, be deemed to have been granted under Part IV in respect of the completion of these works.

(2) The permission deemed to have been granted by virtue of this section shall be deemed to have been so granted subject to any conditions imposed by the permission granted under any Act, by-law, order, rule or regulation and shall include permission to use the building when erected or altered for the purpose for which the building, or the building as altered, is designed.

Crown to be bound

36. This Act shall bind the Crown.

SCHEDULE *(Section 5(4))*

Appointment of Chairman and members

1.-

(1) In this Schedule, "appointing authority" means:

- (i) in the case of the Board for a Province, the Provincial Assembly of the Province; or
- (ii) in the case of the Board for Honiara, the Honiara City Council.

(1A) Each Board consists of:

(a) a Chairman, who is:

- (i) in the case of the Board for a Province, the Provincial Secretary of the Province; or
- (ii) in the case of the Board for Honiara, the City Clerk; and

(b) the person in charge of planning matters for the appointing authority; and

(c) at least 4 but not more than 6 other members appointed by the Minister acting in accordance with the advice of the appointing authority, including:

- (i) an employee of the Solomon Islands Water Authority established by section 5 of the *Solomon Islands Water Authority Act* (Cap. 130); and
- (ii) an employee of the Solomon Islands Electricity Authority established by section 3 of the *Electricity Act* (Cap. 128); and
- (iii) an officer of the Ministry responsible for the environment; and
- (iv) an officer of the Ministry responsible for infrastructure.

(2) If, in the case of a particular Province, it is not possible to appoint a person mentioned in subclause (1A)(c), the Minister must appoint a person with expertise in the relevant field.

(3) The names of the Chairman and the members of the Board as first constituted and every change in the membership of the Board shall be published in the Gazette.

(4) If the composition of a Board does not meet the requirements of subclause (1A) on the commencement of the *Town and Country Planning (Amendment) Act 2016*, the Minister must revoke and appoint new members as necessary to ensure the composition of the Board meets the requirements of subsection (1A) within 12 months after the commencement of that Act.

Secretary to Board

2. (1) The appointing authority must appoint a person to be the Secretary to the Board who holds a tertiary qualification in town or urban or physical planning, or urban design.

(2) The Secretary is not a member of the Board.

Revocation of appointments

3.-(1) The Minister acting in accordance with the advice of the appointing authority may at any time revoke the appointment of the Chairman and of any member of the Board.

(2) The Minister shall revoke the appointment of the Chairman and of any other member if the member-

(a) becomes insolvent;

(b) is declared by a court of competent jurisdiction to be of unsound mind;

(c) is convicted of a criminal offence involving dishonesty or is sentenced to imprisonment without the option of a fine;

(d) is absent from three consecutive meetings of the Board without the permission of the Board;

(e) resigns by letter addressed to the Minister.

Meetings

4.-(1) The Board shall meet at such times and at such places as the Chairman shall consider to be necessary for the transaction of business.

(2) The quorum for any meeting of the Board shall be five members.

(3) The Chairman shall preside at meetings but if he is absent or unable to act the other members present at the meeting shall elect one of their number to act as Chairman.

(4) The decisions of the Board shall be by a majority of votes of members present and in addition to an original vote the Chairman shall have a second or casting vote in any case in which the voting is equal.

(5) Minutes of each meeting shall be kept by the Secretary and shall be confirmed by the Board at a later meeting.

(6) The Secretary shall before a meeting of the Board send to the Minister the agenda for that meeting, copies of supporting papers and the minutes of the previous meeting.

(7) The Board may invite any technical adviser to the Government, any public officer, any employee of the Provincial Assembly and any planning consultant to attend its meetings as an adviser and such adviser may take part in the discussions of the Board but shall not be entitled to vote.

(8) The Board shall, subject to this Schedule, have power to regulate its own proceedings.

Authentication of decisions

5. The decisions of the Board must be authenticated:

- (a) by the signature of the Chairman or, if the act or decision was made at a meeting at which an acting Chairman presided, the acting Chairman; and
- (b) only after the minutes recording the decision have been confirmed by the Board.

Validity of proceedings

6. The validity of any proceedings of the Board shall not be affected by any vacancy among the members or by any defect in the appointment of a member.

Interest of members in applications

7. The Chairman or any other member of the Board who has an interest in any application to the Board shall as soon as the Board considers the application disclose the nature of his interest and then such member may take part in the consideration of the application but shall not vote in the decision of the Board on the application.

Personal liability of members

8. No personal liability shall attach to the Chairman or any other member of the Board for anything done in good faith under this Act as a member of the Board and any damages or costs which may be recovered against such member for anything done as aforesaid shall be paid out of the funds of the appointing authority.

Allowances

9. The Chairman and members of a Board may be re-imbursed reasonable travelling and accommodation expenses necessarily incurred in attending meetings of the Board and may be paid such sitting allowance as the Minister, after consultation with all appointing authorities, may by notice in the Gazette prescribe.

Expenses

10. The expenses of, and any compensation awarded, by the Board shall be paid out of the funds of the appointing authority.

THE TOWN AND COUNTRY PLANNING (TREE PRESERVATION) (HONIARA) REGULATIONS

(Sections 27 (3) and 33)

1. These Regulations may be cited as the Town and Country Planning (Tree Preservation) (Honiara) Regulations,

2. In these Regulations, except where the context otherwise requires-

"the Board" means the Planning and Development Board for Honiara established under section 5 of the Act;

"development" has the meaning assigned to it by section 14(2) of the Act;

"operation" (subject to subsection (2) of section 14 of the Act) includes tree felling for development purposes; timber. firewood or other purpose whatsoever, or any unauthorised destruction of trees;

"order" means a Tree Preservation Order made under section 27 of the Act;

"tree" means any woody plant exceeding 5 metres in height, or as otherwise defined in the Order;

"tree felling" means felling, cutting, topping, lopping, tapping, burning, poisoning, removing of bark, or otherwise damaging or destroying any tree or part of a tree.

3. No person shall fell any tree in respect of any operation in Honiara except in accordance with the provisions of the Act, and any regulation made thereunder.

4. Applications to the Board for permission to fell any tree shall be made in accordance with section 15 of the Act and shall be in the form set out in Schedule 1 to these Regulations and include such fee as the Board may from time to time determine.

5. The Board shall consider such application within twenty-eight days of receiving it and in accordance with section 16 of the Act, communicate its decision to the applicant in the form set out in Schedules 2 or 3 to these Regulations, as the case may be, within a further fourteen days.

6. An applicant aggrieved by the decision of the Board may appeal to the Minister in accordance with section 19 of the Act in the form set out in Schedule 4 to these Regulations, and the Minister shall consider such appeal and communicate his decision within a reasonable time.

7. In accordance with section 27 of the Act, where it appears to the Board expedient in the interest of amenity to make particular provision for any tree, trees or woodland it may make an Order in respect to any such tree, trees or woodland as may be specified in the Order.

8. No person shall fell any tree in respect of which an order is in force except in compliance with that order and these Regulations.

9. Notice of an order shall be given to the owners and occupiers of land affected by such an order, in the manner specified in regulation 10.

10. Where the modes of service of notice set out in section 31 of the Act, appear to the Board to be impracticable in the particular circumstances, service may be made in any of the following ways-

(a) radio service message; or

(b) publication in any newspaper in circulation in the particular area; or

(c) by affixing the notice on any prominent tree on the land affected by the order

as the Board may consider to be adequate or most effective for the purpose of bringing them to the attention of all persons affected thereby.

11. Any owner or occupier aggrieved by an order, may make objections and representations to the Board, which shall-

(a) be in writing;

(b) make clear by a plan or otherwise the trees in respect of which the objection is made;

(c) state clearly reasons for the objection; and

(d) cause it to be received by the Board within twenty-eight days from the date of service of the notice.

12.-(1) The Board, shall within twenty-eight days of receipt, consider such objections or representations, and may require the person-

(a) to furnish, in writing such other particulars as it may require; or

(b) to appeal before it.

(2) The decision of the Board shall be communicated to the person making the objection within fourteen days thereafter.

13. If no objections or representations are made to the Board within the time allowed by regulation 12, or if all such objections and representations are withdrawn or have been duly considered by the Board, the Board shall issue a certificate to this effect and the Minister on being satisfied that the Board has conformed with paragraph (b) of subsection (3) of section 27 of the Act, confirm the order.

14. When the Minister has confirmed the order, a copy shall be served on the owners or occupiers in the manner set out in section 31 of the Act or in regulation 10.

15. An owner or occupier of land affected by an order may, at any time apply to the Board in the manner set in regulation 4 in the form set out in Schedule 1 to these Regulations for permission to fell or to carry out any operation.

16. Where an application for consent or permission to fell a tree or carry out any operation is made to the Board under regulations 14 or 15; the Board may,

(a) refuse consent; or

(b) give consent subject to conditions (including replanting and direction for care and maintenance); or

(c) give unconditional consent:

Provided that the Board shall give unconditional consent to fell any tree which in the opinion of a Forestry Officer is dangerous to life or property subject to the provisions of subsection (5) of section 27 of the Act.

17.-(1) Where it is proposed to fell a tree because the tree is dying, dead or dangerous, a certificate from the Forestry Officer to this effect shall be produced to the Board at least 14 days before the proposed action, and the Board shall give its permission.

(2) Where the Forestry Officer certifies that there is immediate substantial danger of injury to persons or property, such dying, dead or dangerous tree may be cut immediately by responsible Council officer(s) and a report to this effect shall be made to the Board within 14 days of such felling.

18. Where an application for consent is made in respect of woodland, the Board may give unconditional consent for any specified operations which accord with principles of good forestry, unless, in its opinion it is necessary to refuse consent, or give consent subject to such conditions as are in the interest of amenity, or science, in order to maintain:-

(a) the special character of the woodland; or

(b) the woodland character of the area.

19. Where the Board grants consent to fell any tree, part, or group of trees or woodland otherwise than-

(a) for thinning in accordance with good forestry practice; or

(b) to allow development to be carried out in accordance with permission to develop land under Part IV of the Act,

the Board shall give the owners or occupiers of such land directions in writing setting out the manner in which the land is to be replanted, including any requirements recommended by a Forestry Officer, and any additional requirements in respect of

(i) species;

(ii) number of trees per hectare;

(iii) fencing and upkeep of fences;

(iv) preparation of ground, draining, brushing, lopping and topping;

(v) mode of planting, watering and shading; and

(vi) precautions against fire and vandalism.

20.-(a) When the Board has given permission to lop, top or otherwise remove any part of any tree; or

(b) such action is taken in compliance with any powers conferred on any person by any Act or regulations.

such lopping, topping or other removal of part of any tree shall be performed by properly trained employees or agents of the Honiara Town Council, so as to preserve the tree and prevent it becoming diseased or dangerous.

21. Any person who contravenes any provision of these Regulations shall be guilty of an offence and shall be liable to the penalties set out in sections 25(1) and 27(6) of the Act.

SCHEDULE 1

(Regulation 4)

APPLICATION TO FELL, LOP, TRIM (ETC*) TREE(S)

(*Delete)

FOR OFFICIAL USE ONLY

Number:

Date Received:

Date Submitted to Board:

Date Applicant Advised:

TO: The Secretary
Honiara Town and Country Planning Board,
P.O. Box 324,
HONIARA.

I/We of lot number in hereby apply for permission to fell, lop, trim (delete as appropriate) the tree(s) outlined in red on the attached plan, for the following reason(s):

Should permission be granted I, hereby grant permission for an officer of the Honiara Town Council to enter my land and carry out the necessary works, and to pay the standard charge.

Signed:

Date:

Name:

Address:

Telephone:

PLEASE NOTE

1. A Site Plan (scale 1:500) MUST accompany this form showing clearly where the tree(s) is (are) on the lot, as well as their species. The Site Plan must also include sufficient information to enable officers of the Honiara Town and Country Planning Board and Honiara Town Council to inspect the trees.
2. Any application made on the basis that the tree(s) are too old, damaged, or rotten inside and therefore constitute a danger MUST be accompanied by a signed statement from the Forestry Division of the Ministry of Natural Resources.

SCHEDULE 2

(Regulation 5)

PERMISSION TO FELL, LOP, TRIM (ETC) TREE(S)

Name: Date:

Address:

Dear

Your application (.....) received on was considered by the Honiara Town and Country Planning Board on, permission was granted subject to the following conditions:

Please contact at the Honiara Town Council to make the necessary arrangements.

Yours faithfully

Secretary

Honiara Town and Country Planning Board

SCHEDULE 3

(Regulation 5)

REFUSAL TO FELL, CUT, LOP, TRIM(ETC) TREE(S)

Name: Date:

Address:

Dear

Your application (.....) received on was considered by the Honiara Town and Country Planning Board on, and when it was decided that you could not proceed because:

Should you ignore this decision by the Board you will face prosecution at Honiara Magistrates' Court and may be liable on conviction to a fine up to \$500 under section 27(6) of the Town and Country Planning Act.

However, should you be aggrieved by the decision of the Board you may complete the attached Notice of Appeal and forward it through the Honiara Town and Country Planning Board, to the Minister responsible for Town and Country Planning matters within 14 days of your receipt of this notice.

Your sincerely,

Secretary

Honiara Town and Country Planning Board

SCHEDULE 4

(Regulation 6)

APPEAL TO MINISTER

TO: The Secretary
Honiara Town and Country Planning Board,
P.O. Box 324,
HONIARA.

I/We of lot in hereby wish to appeal to the Minister responsible for Town and Country Planning matters, regarding the Board's refusal of to the following development:

My reasons for this appeal are set out below:

Yours faithfully,

THE HONIARA AND COUNTRY PLANNING REGULATIONS

(Section 33)

1. These Regulations may be cited as the Honiara Town and Country Planning Regulations.

2. In these Regulations-

"approved zoning plan" means the plan prepared by the Board and approved by the Minister;

"area" means the area known as Honiara to which Part IV of the Town and Country Planning Act has been applied by the Town and Country Planning Act (Part IV) Order;

"zone" means one of the zones into which the town of Honiara has been divided as shown in the approved zoning plan.

3. Applications for development in any zone shall be made to the Secretary to the Board in the form issued by the Board together with the fee as prescribed in the Schedule to these Regulations.

4. In considering the application the Board shall for the purpose of section 16(1) of the Act have regard to the approved zoning plan.

5. For the purpose of these Regulations Plan 1676A deposited with the Chief Physical Planner shall be the approved zoning plan until such time as the Minister approves the Honiara local planning scheme.

SCHEDULE

(Regulation 3)

New building construction \$100.00

Extension to existing building 30.00

Any other site inspection 20.00
