

## CLAUSE NOTES

### LAND USE PLANNING AND APPROVALS AMENDMENT BILL (No. 2) 2012

#### PART I PRELIMINARY

##### Clause 1 Short Title

This clause provides for the short title when citing the Act for legal purposes.

##### Clause 2 Commencement

This clause provides for the commencement of the Act on a day.

##### Clause 3 Principal Act

This clause provides for the *Land Use Planning and Approvals Act 1993* (the Act) to be referred to as the Principal Act.

##### Clause 4 Section 30F amended (Declaration of interim planning scheme) [Clause Notes 4 & 5 swapped to reflect clause order of Bill]

This clause removes subsection (6) of section 30F which has been replaced by new section 30FA – (Permit applications not resolved before interim planning scheme in operation).

##### Clause 5 Section 30FA inserted (Permit applications not resolved before interim planning scheme in operation)

This clause provides for any valid applications under the Act lodged with [but not determined by] a planning authority before an interim planning scheme comes into effect, to be assessed against the planning scheme in force immediately before the interim planning scheme came into effect. Part 4, Division 2 (Development Control) of the Act applies to the application lodged with the planning authority.

A valid application is set out under the Act as one that contains all the relevant information required by a planning scheme applying to the land that is subject of the application, including the payment of necessary fees to the planning authority.

This clause also provides 'existing use and development' status to uses and developments approved under the former planning scheme, in the event those uses and developments are prohibited under an interim planning scheme.

Without such protection a building accidentally destroyed by fire could not be rebuilt nor could any works on the land be restored.

In considering any planning appeal against a decision of a planning authority, the Resource Management and Planning Appeal Tribunal must determine the appeal under the provisions of the former planning scheme.

This clause also reinforces that the permit under a section 43A application terminates, once the interim planning scheme comes into effect and that the transitional arrangements are not retrospective.

**Clause 6 Repeal of Act [added – previously missing]**

This clause provides for the repeal of this amending Act following the inclusion of all provisions into the Principal Act.