

BILL NO. 19 OF 2022

A BILL

FOR AN ACT TO AMEND THE TOWN PLANNING ACT 1946

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the Town Planning (Revised Budget Amendment) Act 2022.

(2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

(3) In this Act, the Town Planning Act 1946 is referred to as the “Principal Act”.

Section 5 amended

2. Section 5(2) of the Principal Act is amended by deleting paragraph (d).

Section 19 amended

3. Section 19 of the Principal Act is amended by deleting subsection (2) and substituting the following—

“(2) As soon as a scheme has been provisionally approved by the Director, the local authority shall, in the manner prescribed by regulations, publicly notify the scheme.”.

Section 20 amended

4. Section 20 of the Principal Act is amended by—

- (a) after “local authority”, inserting “and the Director”; and
- (b) deleting “, at any time within 3 months after the first public notification of the scheme as required by this section” and substituting “in the manner prescribed by regulations”.

Sections 21 and 22 deleted

5. The Principal Act is amended by deleting sections 21 and 22.

Section 23 amended

6. Section 23 of the Principal Act is amended after “dismiss the objection” by inserting “in the manner prescribed by regulations”.

Section 23A inserted

7. The Principal Act is amended after section 23 by inserting the following new section—

“Appeal

23A.—(1) Every owner or occupier of land within the area covered by a scheme may, by notice in writing to the permanent secretary responsible for town planning, appeal the determination of the objection by the Director.

(2) The notice of appeal must be submitted to the permanent secretary responsible for town planning and the determination of the appeal by the permanent secretary responsible for town planning must be conveyed to the owner or occupier of land in the manner prescribed by regulations.”.

Section 24 amended

8. Section 24 of the Act is amended by—

- (a) in subsection (1)—
 - (i) after “objections”, inserting “or appeals”;
 - (ii) after “requirements of the Director”, inserting “or the determination of the permanent secretary responsible for town planning pursuant to section 23A”; and
 - (iii) after “approve the scheme”, inserting “in the manner prescribed by regulations”; and

- (b) deleting subsection (3) and substituting the following—

“(3) The approved scheme and a copy of all maps, plans and other particulars comprised therein shall be exhibited in the manner prescribed by regulations.”.

Section 26 amended

9. Section 26(2) of the Principal Act is amended by deleting “one month” and substituting “21 days”.

Section 26A inserted

10. The Principal Act is amended after section 26 by inserting the following new section—

“Modification or alteration of an approved scheme

26A. Notwithstanding section 26, the permanent secretary responsible for town planning may, in consultation with the Director, declare by notification in the Gazette the modification or alteration of the provisions of an approved scheme provided that the permanent secretary responsible for town planning is satisfied with the conditions prescribed by regulations.”.

Section 27 amended

11. Section 27(4) of the Principal Act is amended by deleting “same manner as is provided in sections 21, 22 and 23” and substituting “manner prescribed by regulations”.

March 2022

TOWN PLANNING (REVISED BUDGET AMENDMENT) BILL 2022

EXPLANATORY NOTE

(This note is not part of the Bill and is intended only to indicate its general effect)

1.0 BACKGROUND

- 1.1 The Town Planning Act 1946 (**‘Act’**) provides for, *inter alia*, the process for the preparation and approval of a town planning scheme (**‘scheme’**). A scheme governs the planning and development of cities and town areas.
- 1.2 Under the Act, once a scheme has been provisionally approved by the Director of Town and Country Planning (**‘Director’**), the scheme has to be published with 3 months given for any objections to the scheme.
- 1.3 Developments over the years however have changed the way towns and cities function. So an approved scheme area may have significantly changed from the original approved scheme area. For example, an approved scheme area that was for residential purposes now has commercial activities such as shops, offices and other commercial-related activities.
- 1.4 Moreover, since the beginning of the COVID-19 pandemic, a number of Fijians who have lost their jobs had sought other avenues of earning a livelihood and have been operating businesses from their homes (**‘home-based businesses’**). These home-based businesses are required to apply for a modification or alteration of an approved scheme under the Act which is a timely, cumbersome and costly process, adversely affecting these home-based businesses.
- 1.5 Therefore, the Bill seeks to amend the Act to streamline the process for the approval of a scheme and also to give authority to the permanent secretary responsible for town planning (**‘Permanent Secretary’**) to declare the modification or alteration of an approved scheme upon certain conditions that will be prescribed by regulations for the purpose of providing ease of doing business for developers, investors and those operating home-based businesses.

2.0 CLAUSES

- 2.1 Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the amending legislation will come into force on a date or dates appointed by the Minister by notice in the Gazette.
- 2.2 Clause 2 of the Bill amends section 5(2) of the Act by deleting the provision on the appeal of a decision of the Director.
- 2.3 Clause 3 of the Bill amends section 19(2) of the Act to streamline the process for a local authority to publically notify a scheme that is provisionally approved by the Director.
- 2.4 Clause 4 of the Bill amends section 20 of the Act to change the objection period from 3 months to a timeframe that will be prescribed by regulations.
- 2.5 Clause 5 of the Bill amends the Act by deleting sections 21 and 22 of the Act.
- 2.6 Clause 6 of the Bill amends section 23 of the Act to provide that the Director can make a determination on an objection in the manner prescribed by regulations.
- 2.7 Clause 7 of the Bill amends the Act by inserting a new section 23A to provide for appeals on determinations made by the Director on objections to provisionally approved schemes.
- 2.8 Clause 8 of the Bill amends section 24 of the Act to include that the process for the decision on the final approval of a scheme by the Director is to be in the manner prescribed by regulations.
- 2.9 Clause 9 of the Bill amends section 26 of the Act to reduce the time for objection to a scheme from 30 days to 21 days after the first public notification of the alteration or addition to the scheme.
- 2.10 Clause 10 of the Bill amends the Act by inserting a new section 26A to provide for the declaration of the modification or alteration of an approved scheme by the Permanent Secretary provided that the Permanent Secretary is satisfied with the conditions prescribed by regulations.
- 2.11 Clause 11 of the Bill amends section 27 of the Act by deleting references to sections 21, 22 and 23 in relation to objections to the provisional approval of a scheme in the Act.

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3.0 MINISTERIAL RESPONSIBILITY

3.1 The Act comes under the responsibility of the Minister responsible for town planning.

A. SAYED-KHAIYUM
Attorney-General