



ANNO VICESIMO SEPTIMO

**ELIZABETHAE II REGINAE**

A.D. 1978

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**No. 37 of 1978**

An Act to amend the Planning and Development Act, 1966, as amended.

[Assented to 6th April, 1978]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

1. (1) This Act may be cited as the "Planning and Development Act Amendment Act, 1978".

(2) The Planning and Development Act, 1966, as amended by all other amendments in force before the commencement of this Act, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Planning and Development Act, 1966-1978".

Enactment of s. 36c of principal Act—

2. The following section is enacted and inserted in the principal Act after section 36b thereof:—

Prohibition on certain dealings in relation to shops.

36c. (1) In this section—

"Planning Authority" means—

(a) the Authority;

or

(b) any Council:

"shop" means—

(a) any premises used or intended to be used for the sale by retail of any goods;

or

(b) any premises used or intended to be used for the supply of prepared food for consumption on or off those premises,

but does not include a hotel, motor repair station, petrol filling station, bank, timber yard, a place or premises for the sale of motor vehicles or vehicles, plant or equipment for use in industry, or primary production:

“Zoning Regulations” means any planning regulations made pursuant to this Part, that provide for the creation of use zones.

(2) This section applies to land within the Metropolitan Planning Area that lies within a use zone created under Zoning Regulations not being a District Business Zone, District Shopping Zone, Local Shopping Zone, the Noarlunga Centre Zone or any other use zone or use zone of a class or kind prescribed by regulation under Part IX of this Act.

(3) Notwithstanding anything in this Act contained, but subject to this section, a Planning Authority shall not have power to deal with and shall be deemed never to have had power to deal with an application under the relevant Zoning Regulations for its consent to a use of land, to which this section applies, comprising or including a use as a shop—

(a) where that land is of an area greater than two thousand square metres;

or

(b) where that land is situated within one hundred metres of the boundary of any allotment the use of which comprises or includes a use as a shop,

being an application received by it on or after the sixteenth day of March, 1978, and on or before the thirty-first day of December, 1979, and any such purported dealing shall be and be deemed always to have been void and of no effect.

(4) Where a Planning Authority, pursuant to this section, has no power to deal with an application, the Planning Authority shall forthwith forward to the Minister the relevant application and supporting material together with its report thereon on the proposed use of land.

(5) After consideration of the application, supporting material and report the Minister may, by notice to the Planning Authority, authorize the Planning Authority to deal with the application, if he is satisfied that the proposed use of land—

(a) conforms with the purposes, aims and objectives of the authorized development plan and the Zoning Regulations relating to that land;

(b) is not likely to generate a significant amount of traffic;

(c) is not likely to result in the need for any expenditure on transport or traffic works or facilities within or without the locality;

and

(d) is not likely to have a detrimental effect on the development of, or result in a diminution of the use by the public of, shops or community facilities within—

(i) a District Business Zone, District Shopping Zone, Local Shopping Zone, the Noarlunga Centre Zone or any other use zone or use zone of a class or kind prescribed by regulation under Part IX of this Act;

or

(ii) any other area prescribed by regulation under Part IX of this Act.

(6) Where a notice under subsection (5) of this section has been given to a Planning Authority in relation to an application, the Planning Authority may deal with that application in all respects as if this section had not been enacted.

(7) Where, within a period of three months next following the day on which he received the application, supporting material and report referred to in subsection (5) of this section the Minister has not given the notice referred to in that subsection to the Planning Authority, the person who made the relevant application may appeal to the board.

(8) On appeal, to which the Minister shall be a party, the board shall—

(a) if it considers that there exist grounds on which the Minister could have been satisfied as to the matters referred to in paragraphs (a), (b), (c) and (d) of subsection (5) of this section, direct the Minister to give the notice referred to in subsection (5) of this section and the Minister shall comply with that direction;

and

(b) in any other case, dismiss the appeal.

(9) Section 27 of this Act, other than subsection (6) thereof, shall apply to and in relation to an appeal under this section as if that appeal were an appeal referred to in section 26 of this Act.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

K. SEAMAN, Governor