



ANNO UNDECIMO

# GEORGII V REGIS.

A.D. 1920.

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## No. 1452.

An Act relating to the Planning and Development of Land for Urban, Suburban, or Rural Purposes, and to make further provision for regulating the use of such land for building, and for other purposes.

*[Assented to, December 9th, 1920.]*

**B**E it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

### PART I.

### PART I.

#### PRELIMINARY.

**1.** This Act may be cited as the "Town Planning and Development Act, 1920." Short title.

**2.** (1) This Act shall come into operation on a day to be fixed by proclamation. Commencement of Act.

(2) Such proclamation may fix different days for the coming into operation of different Parts or provisions of this Act.

**3.** This Act shall not apply to the City of Adelaide until after a proclamation is issued pursuant to a resolution to that effect passed by both Houses of Parliament. Act not to apply to City of Adelaide until proclamation.

**4.** In this Act, unless some other meaning is clearly intended— Interpretation.

"Area of a Council," "Council's area," and any similar expression means a Municipality or a District Council District :

"Building

- “ Building line ” means the line between which and the nearest boundary of any public place or public reserve or other land prescribed in any town planning by-laws or scheme a building shall not be erected :
- “ Building ” includes house, shop, factory, and any other building, work, structure, and erection of any kind :
- “ Council ” means a Municipal or District Council :
- “ Construction,” in the case of any road, street, or right-of-way, includes provision for draining, levelling, paving, kerbing, metalling, channelling, planting, and otherwise making and completing such road, street, or right-of-way :
- “ Land ” or “ lands ” includes lands, tenements, and hereditaments, and any interest therein :
- “ Minister ” means the Minister for Town Planning :
- “ Main road ” includes any boulevard or parkway which—
- (a) connects, or is likely to connect, two or more populous districts, or parts of such districts, or the area of two or more Councils ; or
  - (b) forms the principal means of approach to a city, town, township,
- and also includes any road, street, parkway, or boulevard which in the opinion of the Minister is desirable, or is necessary, for securing adequate means of communication between different parts of any urban, suburban, or rural area :
- “ Owner,” in relation to land, includes every person who jointly or severally ; whether at law or in equity—
- (a) is entitled to the land for any estate of freehold in possession ; or
  - (b) is a person to whom the Crown has lawfully contracted to grant the fee simple of the land ; or
  - (c) is entitled to receive or is in receipt of, or if the lands were let to a tenant would be entitled to receive, the rents and profits thereof, whether as a beneficial owner, trustee, mortgagee in possession, or otherwise :
- “ Plan of subdivision ” means any plan which, in addition to dividing or subdividing any land into allotments or otherwise, shows any new road, street, right of way or reserve over such land or any part thereof ; and “ plan of re-subdivision ” means any other plan dividing or subdividing any land into allotments or otherwise :
- “ Public body ” means any person or body of persons or any body corporate which under any Act carries out any powers or duties for the benefit of the public : “ Plan ”

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## PART I.

“Plan” includes any map, diagram, drawing, section, or detail :

“Right-of-way” includes any public or private right-of-way, footpath, lane, passage, or other thoroughfare, not being a road or street :

“Subdivide,” “Re-subdivide,” and similar expressions mean and refer to—

(a) dividing a parcel of land by sale, conveyance transfer, lease, mortgage, agreement, partition, or other dealing or instrument, or by procuring the issue of a certificate of title under the Real Property Act, 1886, in respect of any portion of any land; or

(b) dividing a parcel of land by building thereon in such a manner that any part thereof becomes obviously adapted for building, or for occupation, separately from the remaining portion of such land,

and the corresponding nouns shall be construed accordingly :

“Town planning” means either city, town, or rural planning and development, or all three.

5. The provisions of this Act are arranged as follows :—

Arrangement of Act.

PART I.—Preliminary.

PART II.—Town Planning Department, and Town Planning Committees.

PART III.—New Towns and Subdivisions—

DIVISION I.—Planning and Development of New Towns and Extensions to Existing Towns :

DIVISION II.—Control of Subdivisions and Re-subdivisions.

PART IV.—Miscellaneous.

## PART II.

## PART II.

## TOWN PLANNING DEPARTMENT AND TOWN PLANNING COMMITTEES.

*Town Planning Department.*

6. (1) There shall be a Town Planning Department of the Public Service for the purpose of this Act, and any matters in connection with Town Planning and Housing generally.

(2) The Permanent Head of the Department shall be the Government Town Planner, who shall be a person skilled in town planning, and shall be appointed by the Governor.

Constitution of Town Planning Department  
Cf. U.K. 9 Ed. 7, c. 44, s. 54 (2).  
Cf. Town Planning Act, 1915 (Nova Scotia), s. 3.  
Cf. T. P. Act, 1917 (Saskatchewan), s. 2.  
Cf. Ceylon, Ordinance No. 19 of 1915, s. 30.

7. (1) The

## PART II.

*Town Planning and Development Act.—1920.*Duties of Govern-  
ment Town Planner.

## 7. (1) The Government Town Planner shall—

- (a) report upon and advise in regard to any matters or disputes arising out of any of the provisions of this Act or out of the administration thereof ; and
- (b) on or before the thirtieth day of September in every year, prepare and present to the Minister a report containing the decisions, recommendations, and other transactions of the Government Town Planner, and the town planning orders made by the Governor, during the twelve months ended on the preceding thirtieth day of June.

(2) The Minister shall cause a copy of every such report to be laid before both Houses of Parliament as soon as practicable after the presentation thereof to him.

(3) The Government Town Planner shall also prepare plans and reports, whenever required by the Minister, for or in connection with—

- (a) any new town or any extension to any existing town, including any garden cities, garden suburbs, industrial or factory areas, and the like ;
- (b) the replanning or improvement of any existing town or part thereof, including the subdivision of any land ;
- (c) the planning or improvement of any public open spaces, reserves, or land set apart for public use or recreation ;
- (d) the planning or improvement of any settlement in rural or semi-rural areas, including land intended for occupation or use by any discharged soldier or sailor ; or
- (e) any matter relating to town planning.

Powers of Govern-  
ment Town Planner.

## 8. The Government Town Planner may—

- (a) issue from time to time memoranda, reports, or bulletins containing information relating to town planning, and other matters under this Act, or incidental thereto ;
- (b) charge and collect such fees for any work or other duty performed by him or by the Town Planning Department under this Act as may be approved by the Minister or as may be prescribed ; and
- (c) exercise such other powers, duties, functions, and authorities as are conferred by this Act.

Provision for  
expenses of  
administration.

9. Except in cases for which other provision is made by or under this Act, the moneys required to meet the expenses of the Town Planning Department, and the other expenses of administering this Act, shall be paid out of moneys provided by Parliament for the purpose of this Act, or for the special purpose for which the expenses in question are incurred.

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## PART II.

*Central Advisory Board of Town Planning.*

**10.** (1) There shall be a Central Advisory Board of Town Planning for the purposes of this Act. Advisory Board of Town Planning.

(2) The Board shall be appointed by the Governor, and shall consist of the following members, namely:—

- i. The Government Town Planner ;
- ii. the Surveyor-General ;
- iii. a civil engineer ;
- iv. an architect ; and
- v. two persons nominated respectively by the Municipal Association of South Australia and the Local Government Association of South Australia at such time and in accordance with such conditions as may be prescribed.

(3) A member of the Board may be appointed for any term not exceeding three years.

(4) On the expiration of his term of office a member shall be eligible for reappointment.

**11.** The Board shall, according as the Minister directs, advise and assist the Government Town Planner in giving effect to the provisions of this Act. Duties of the Board.

**12.** (1) The Governor may appoint any person possessing any professional or technical qualifications necessary for or serviceable in connection with town planning to be an additional member of the Board for the purpose of advising and assisting the Board in respect to any such town planning by-laws or scheme as aforesaid. Special appointment to Board may be made.

(2) Every person so appointed shall, for the purpose of the preparation of such by-laws or scheme, have the same powers and duties as the other members of the Board.

(3) Any person so appointed may, notwithstanding anything hereinbefore contained, be appointed for a term less than three years.

**13.** The Governor may make regulations for the purpose of regulating the calling and conduct of the meetings of the Board and its acts, proceedings, duties, expenses, and affairs generally. Regulations as to Board's acts, proceedings, meetings, and remuneration

*Town Planning Committee.*

**14.** (1) Every Council may at any time, and when directed by the Minister shall, appoint a Town Planning Committee. Appointment of Town Planning Committee.

(2) The

## PART II.

*Town Planning and Development Act.—1920.*

Cf. Town Planning Act, 1915 (Nova Scotia), s. 3 (3).

Cf. Town Planning Act, 1917 (Saskatchewan), s. 13 (1).

Members of Town Planning Committee.

(2) The Town Planning Committee shall consist of the following persons :—

(a) The Mayor or the Chairman of the Council :

(b) As many other members of the Council as the Council thinks fit to appoint.

(3) The Council may add to the Committee two other persons who shall have such professional or technical qualifications necessary for or serviceable in connection with town planning as are prescribed, and shall hold office on the Committee for the prescribed term : Provided that, on the request of the Council, the Minister may, if he is satisfied that there are not two persons possessing the prescribed qualifications and willing to act on such Committee available, authorise the appointment of any two such persons as he thinks fit, notwithstanding that they do not possess the prescribed qualifications.

(4) The Council may supply the Committee with such professional, clerical, and other assistance as may be necessary, and may defray the expenses thereof from its general revenue, or out of moneys raised by rates or by loan as hereinafter provided.

Local Town Planning Administrator.

Cf. Town Planning Act, 1917 (Saskatchewan), s. 4 (1); 1182, 1914 ; s. 134.

**15.** (1) The Council may appoint as the Local Administrator under this Part its engineering officer (if any), or any other person possessing such professional or technical qualifications necessary for or serviceable in connection with town planning as may be prescribed.

(2) The Local Administrator shall hold office during the pleasure of the Council, or for such term and upon such conditions as the Council sees fit to impose.

(3) The Local Administrator shall be the executive officer of the Town Planning Committee, and, with the Committee, shall be responsible for carrying out the provisions of this Act.

(4) The provisions of sections 134 to 140 inclusive of the District Councils Act, 1914, or the corresponding provisions of the Municipal Corporations Act, 1890, as the case may require, shall apply (subject to this Act) in respect of the Local Administrator as if they were herein re-enacted.

(5) The Local Administrator shall receive such remuneration or fees over and above his salary in any other capacity (if any) as may be fixed by the Council.

Duties of Town Planning Committee

**16.** (1) The Town Planning Committee may—

(a) inquire into and report upon any question relating to town planning as the Council may direct ;

(b) call and examine witnesses ; and

(c) exercise such other powers, duties, functions, and authorities as are conferred or imposed by this Act.

(2) All

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(2) All evidence given before the Committee on any such inquiry shall be on oath, affirmation, or declaration, which the Chairman of the Committee is hereby authorised to administer, and shall be taken down in writing and signed by the witness, and countersigned by the Chairman.

(3) Any person who, upon oath, affirmation, or declaration taken or made under this section, wilfully and corruptly gives any false evidence shall be guilty of perjury, and may be imprisoned with or without hard labor for any term not exceeding four years.

Punishment for false evidence.

17. (1) No act or proceeding of the Town Planning Committee shall be invalid in consequence only of the number of members thereof not being complete at the time of such act or proceeding.

Proceedings of Town Planning Committee.

(2) All acts and proceedings of the Town Planning Committee shall, notwithstanding the discovery of any defect in the appointment of any member thereof, be as valid as if such member had been duly appointed and had acted as a member of the Town Planning Committee and as if the Committee had at the time been properly and fully constituted.

(3) A majority of the members for the time being of the Town Planning Committee shall constitute a quorum thereof.

(4) The Mayor or Chairman of the Council shall be the Chairman of the Town Planning Committee.

(5) At any meeting of the Town Planning Committee the Chairman thereof, if present, shall preside. In his absence from any meeting another member, chosen for the purpose by a majority of those present and voting, shall preside, and whilst presiding shall have all the powers of the Chairman.

(6) The Chairman or other member presiding shall have a deliberative vote, and, in the event of equality of votes, shall also have a casting vote.

## PART III.

## PART III.

## NEW TOWNS AND SUBDIVISIONS.

## DIVISION I.—PLANNING AND DEVELOPMENT OF NEW TOWNS, EXTENSIONS TO EXISTING TOWNS, AND RURAL SETTLEMENTS.

## DIVISION I.

18. (1) This Division shall apply to all Crown lands within the meaning of the Crown Lands Act, 1915, and all other lands vested in any authority or person acting on behalf of the Crown.

Government Town Planner to plan new towns, extensions, etc., proposed by the Crown.

(2) Notwithstanding anything contained in any Act, all new towns or townships or extensions to existing cities, towns, or townships (including any rural settlement) proposed to be laid out on any of the lands referred to in subsection (1) hereof shall be planned and laid out by the Government Town Planner on behalf of the Crown.

19. (1) It

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DIVISION I.**

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Duties of Government Town Planner under this Division.

**19.** (1) It shall be the duty of the Government Town Planner under this Division—

- (a) to report to the Minister or the Governor as required upon the site or sites or other proposals in respect to such new towns or townships, or extensions to existing cities, towns, or townships, as aforesaid :
- (b) to prepare plans and proposals therefor in consultation with any authority or person controlling such Crown or other lands, as directed by the Minister :
- (c) to make adequate provision (both as regards present and future requirements) in such plans and proposals for—
  - (i.) securing the best economic and social use of such lands and proper sanitary conditions, amenity and convenience, including suitable provision for traffic, parklands, reserves, sites for public buildings, railways or other means of communication, or for other purposes; and
  - (ii.) promoting the development of such lands or any portion thereof for any rural or urban purpose.

Plans, &c., to be approved by the Minister.

(2) Any plans or proposals under this Division shall be submitted to the Minister for his approval.

Minister may determine disputes.

(3) Should any dispute arise between the Government Town Planner and any such authority or person as aforesaid respecting any plan or proposal under this Division, the Minister shall determine such dispute.

Plans may be embodied in a town planning order.

**20.** The Minister may approve any plans and proposals of the Government Town Planner under this Division with or without amendments, and the Governor may by proclamation embody such plans and proposals as so approved in a town planning order under this Act.

Town Planning Order to be deposited with Registrar-General.

**21.** (1) Upon the making of such proclamation a copy of the town planning order and any plan referred to in such order shall be deposited with the Registrar-General of Deeds in manner prescribed by section 35.

(2) Where at any time subsequent to a plan being deposited under this section, it is proposed by any authority or person to make any alteration to or deviation from such plan, a plan showing every such alteration or deviation shall be submitted to the Minister by such authority or person, and the Minister, after receiving the report of the Government Town Planner thereon, may authorise any such alterations or deviations to be made, subject to a copy of such plan being deposited with the Registrar-General of Deeds in manner hereinafter provided.

(3) Any



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(3) Any authority or person who—

- (a) subdivides, resubdivides, disposes of, or deals with any land in contravention of the provisions of this section ;
- (b) inconsistently with any plan deposited under this section makes any deviation from such plan ; or
- (c) makes any false statement or declaration in connection with any plan referred to in this section,

shall be liable to a penalty not exceeding Two Hundred Pounds.

DIVISION II.—CONTROL OF SUBDIVISIONS AND RESUBDIVISIONS.

DIVISION II.

*New Roads or Streets.*

22. Subject to this Act, the Government Town Planner shall, from a date to be fixed by proclamation, be responsible for the administration of this Division.

Town Planner to administer this Division subject to town planning by-laws or scheme.

23. Notwithstanding the provisions of any other Act, it shall not be lawful—

Lands not to be subdivided except in accordance with this Act.

- (a) for any person to reserve, lay out, or open, or for a Council to accept, any proposed road, street, or right-of-way ; or
- (b) for any person to subdivide any land into allotments or otherwise, or resubdivide any existing allotment or parcel of land for building or other purposes ; or
- (c) for any person to offer for sale, or to sell, or to convey, transfer, or otherwise dispose of any existing allotment or parcel of land

except in accordance with the provisions of this Act.

24. (1) Pending the preparation and approval of any town planning by-laws or scheme the functions of the Surveyor-General, or an authorised person, under sections 153 and 154 of the Municipal Corporations Act, 1890 (as amended by section 18 of the Municipal Corporations Act Amendment Act, 1914), and under the Control of Subdivision of Land Act, 1917, and under sections 472 and 473 of the District Councils Act, 1914, and the functions under the said sections 154 and 473 of the Minister referred to therein, shall, subject to section 28 and the other provisions of this Act, be deemed to be conferred upon and shall be discharged by the Government Town Planner.

Provisions relating to control of subdivisions, roads, &c., conferred upon Government Town Planner.

No. 497 of 1890.

No. 1183 of 1914.

No. 1304 of 1917.

No. 1182 of 1914.

Cf. T. P. Act, 1915 (Nova Scotia), s. 19 (1) and (2).

Cf. T. P. Act, 1917 (Saskatchewan), s. 5.

(2) The sections mentioned in subsection (1) hereof and the other provisions of the Acts so mentioned shall be read so as to give effect to this section.

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DIVISION II.*Town Planning and Development Act.—1920.**Control of New Streets and Subdivisions.*

All plans of subdivisions to be approved by certain authorities.

Cf. 1304, 1917.  
s. 2 (1).

**25.** Notwithstanding the provisions of the Real Property Act, 1886, or any other Act—

- (a) no plan of subdivision of any land situated within the area of any Council, dividing such land into allotments or otherwise, or showing any road, street, right-of-way, or reserve, or intended street, road, right-of-way or reserve, over such land or any part thereof; and
- (b) no plan of subdivision of any land already so divided or part thereof, or showing any road, street, right-of-way, or reserve, or intended street, road, right-of-way or reserve, over such land or any part thereof,

shall be deposited in the Lands Titles Registration Office or in the General Registry Office unless such plan has been certified as approved by the Government Town Planner.

Application to be made for approval of plans.

**26.** No such certificate of approval shall be given except pursuant to an application by the owner of the land, or by a licensed surveyor or other prescribed person acting on behalf of such owner, or some other duly authorised person, made to the Government Town Planner in the prescribed form and accompanied by the plan for which approval is sought, and such particulars as are hereinafter provided for.

Proposed plan to be submitted by the Government Town Planner to the Surveyor-General, Council, or public body.

**27.** The Government Town Planner upon receipt of any such application shall forthwith forward one or more copies of the plan accompanying such application to—

- (a) the Registrar-General of Deeds;
- (b) the Surveyor-General; and
- (c) the Council of the area within which the land is situated; and
- (d) any public body whose powers or functions will in the opinion of the Government Town Planner be affected by the proposed subdivision.

**28.** The Registrar-General of Deeds or the Surveyor-General, or some other person to be authorised by the Minister in that behalf, shall, if he is satisfied—

- (a) that the positions of prescribed permanent marks are shown on such plan as points of reference for the purpose of defining the alignments of any road, street, or right-of-way or building lines, and are fixed at such points as he may decide or as are prescribed; and
- (b) that such plan shows the necessary data, and otherwise is of a character as to enable an accurate survey of the area to be made and incorporated or connected with any other existing survey, according as the Surveyor-General, or such other person as aforesaid may require,

within thirty days of the receipt of such plan forward to the Government Town Planner a certificate to that effect.

**29.** The

Surveyor-General to certify such plan in respect to certain particulars.

Cf. 1182, 1914,  
s. 472 (part).

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**29.** The Council shall forthwith refer any such plan and particulars to the Town Planning Committee and the Local Administrator for report, or, if no such Committee or Administrator has been appointed, then to their surveyor or engineer for report.

Report upon plan and particulars to be made to the Council.

**30.** (1) Within thirty days following the receipt by the Council of such plan and particulars the Town Planning Committee (if any) shall, if required by the Government Town Planner,—

Council to approve plan or state their objections thereto.

- (a) confer with the Government Town Planner or any Council, public body, owner or other person affected by such plan and particulars ; and
- (b) take into consideration any of the matters specified in the Schedule,

and shall report thereon to the Council. If there is no Town Planning Committee, the Council shall carry out the duties prescribed by this subsection.

(2) The Council shall, within the period of thirty days last mentioned, forward the said plan and particulars to the Government Town Planner with a memorandum under the hand of the Mayor or Chairman and the Town or District Clerk, as the case may be, stating whether the Council or the Town Planning Committee (if any) have any objections or recommendations in reference to the plan or particulars and the nature of such objections or recommendations (if any).

**31.** Any public body which receives from the Government Town Planner a copy of such plan or part thereof or such particulars shall within thirty days of the receipt of such plan supply a memorandum to the Government Town Planner stating whether such body has any objections or recommendations in reference to the plan (or part), or the particulars, and the nature of such objections or recommendations (if any).

Public bodies whom plan is forwarded to report thereon.

**32.** The Government Town Planner at any time after the expiration of the latest of the periods of thirty days aforesaid, and

Government Town Planner may certify plan in certain circumstances.

- (a) after consideration of any objections or recommendations made by any Council or public body with respect to such plan or particulars as aforesaid ;
- (b) after receipt of the certificate of the Surveyor-General provided for in section 28 ; and
- (c) after taking into consideration the matters specified in the Schedule,

may approve such plan and certify the same accordingly, notwithstanding that no objections or recommendations with respect thereto have been stated by any such Council, authority or person as aforesaid, or on grounds other than or in addition to those stated in any such objections or recommendations : Provided that the Minister may direct the Government Town Planner to so certify any

any plan containing a certificate or declaration by a licensed surveyor as to the correctness of such plan notwithstanding that the certificate of the Surveyor-General has not been received within the period mentioned in section 28, and notwithstanding that the Council or public body has not forwarded the plan and particulars and a memorandum thereon within the period and in the manner hereinbefore prescribed.

Particulars to be  
shown on plan.  
L.G. Act, 1915  
(Victoria), s. 522 (2).

**33.** Every plan approved under this Division—

(a) shall, to the extent required by the Government Town Planner, show distinctly delineated thereon—

- (i.) all allotments or reserves into which the land is to be subdivided marked with distinct numbers or symbols, and the measurements of each allotment or reserve ;
- (ii.) all roads, streets, or rights-of-way made or laid out on such land or abutting thereon, and their intersections, and the existing or proposed names of such roads or streets ;
- (iii.) the positions, directions, terminations, and widths of all new roads, streets, or rights-of-way proposed to be made or laid out on such land ;
- (iv.) the method of drainage or disposal of surface water proposed for such land and for every such new road, street, or right-of-way and any reserve necessary for such purpose ;
- (v.) all reserves or open spaces of land set apart for the use of purchasers or for any other public purpose ;
- (vi.) the name proposed to be given to such subdivision ; and
- (vii.) such other particulars as may be prescribed ; and

(b) shall set out all such levels and particulars as the regulations require to be stated in order to enable the Government Town Planner or the Council—

- (i.) to fix the level of every new road, street, or right-of-way ;
- (ii.) to ascertain whether or not such land, when it is subdivided in accordance with such plan and is occupied for the purpose for which it is likely to be used when so subdivided and occupied, and whether or not every such new road, street, or right-of-way, can be sufficiently drained into a public drain or existing street, road or some place at or along which all drainage from such land or any such new road, street,

or

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or right-of-way may lawfully be discharged or caused to flow, and whether or not the same will comply with the requirements of the Municipal Corporations Act, 1890, or the District Councils Act, 1914 (whichever Act applies to the land comprised in such plan) and of the Health Act, 1898, and of any town planning by-laws or scheme approved by the Governor under Part II. ;

- (iii.) to ascertain whether every such new road, street, or right-of-way is connected at each end with another road, street, or right-of-way ; and
- (iv.) to ascertain whether there will be on such land any reserve, allotment, or strip of land abutting on or continuous with or along any portion of the length of any road, street, or right-of-way whatsoever (other than a reserve set apart for the use of purchasers, or for any other public purpose).

**34.** In respect to any such plan or application as aforesaid the following provisions shall apply—

Special provisions relating to sewers.  
Cf. L.G. Act, 1915 (Victoria), s. 522 (7)

- I. The plan shall set out all such measurements and angles and other particulars as are required in order to enable the Registrar-General of Deeds to ascertain whether the boundaries of the land agree with existing certificates of title to the land :
- II. The plan shall set out all such levels and particulars as are required in order to enable—
  - (a) the Commissioner of Sewers to ascertain with respect to such areas as may be prescribed—
    - (i.) whether all the allotments can be advantageously and economically sewered ; and
    - (ii.) whether the several new streets, roads, or rights-of-way can be advantageously and economically provided with sewers by the said Commissioner ; and
  - (b) the South Australian Railways Commissioner to ascertain—
    - (i.) in cases where the land comprised in such plan is intersected by, or is bounded, or partly bounded, on any side by, a line of railway, whether a road or street not less than sixty-six feet in width is shown on such plan on both sides of such line of railway, or on the side of such line of railway which is adjacent to such land, as the case may be ; and
    - (ii.) whether

- (ii.) whether in connection with any existing or proposed railway station such provision is made for a site for such station and the appurtenances and approaches thereto as the said Commissioner considers necessary ; and
- (iii.) whether any other requirement deemed necessary by the said Commissioner is adequately provided for.

Certified plan to be deposited with the Registrar-General.

**35.** (1) When the Government Town Planner in the exercise of his functions under this Division has given a certificate of approval of any plan of subdivision, copies thereof in duplicate containing a certificate or declaration by a licensed surveyor as to the correctness of such plan, accompanied by the certificate of the Government Town Planner, shall thereupon be deposited by the owner, or other person concerned, in the Lands Titles Registration Office or in the General Registry Office for Deeds, and such plan shall, subject to the provisions hereinafter contained in this Division, be binding upon all persons who at the time of the deposit thereof, or at any time thereafter, have any interest in any of the land comprised in such plan.

(2) When any plan certified as approved has been so deposited, any road, street, right-of-way or reserve or other open space shown thereon shall, where it is not specified on such plan that such road, street, right-of-way, reserve or open space is to be vested in any other authority, thereby be deemed vested in fee simple by virtue of this Act in the Council of the area within which such road, street, right-of-way, reserve or open space is situated without compensation or payment to the owner or any other person.

*Control of Resubdivision of Allotments.*

Control of resubdivision of allotments vested in Council.

**36.** Where at any time any owner, or any person acting on behalf of any owner, proposes to resubdivide for sale, lease, transfer, or conveyance, or for building or any other purpose one or more existing allotments or parcels of land, such owner or person shall make an application in respect thereof, accompanied by a plan of resubdivision and particulars in duplicate, to the Council within whose area such allotments or parcels of land are situated, except as hereinafter provided.

Plan of resubdivision to be submitted to Council with prescribed particulars.

**37.** (1) Such plan of resubdivision and particulars shall, according as the Council may require, show—

- (a) the existing allotments and parcels of land and those proposed under the resubdivision to be substituted therefor and the measurements of the frontages, and the depths of such existing and proposed allotments or parcels ;
- (b) every existing road, street, or right-of-way abutting or adjacent to such allotments and parcels of land ; and
- (c) such other particulars as are prescribed.

(2) Such plan shall be on such material and shall be accompanied by such particulars as are prescribed.

**38.** The

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DIVISION II.**38.** The Council shall—

(a) refer such plan and particulars to the Town Planning Committee and the Local Administrator for report, or if no such Committee or Administrator has been appointed then to their surveyor or engineer for report, and shall also refer such plan and particulars to the Commissioner of Sewers;

Council to obtain report on plan.

(b) demand and receive from the person making the application such fees as are prescribed.

L.G. Act, 1915.  
Cf. (Victoria), s. 522  
(3).

**39.** Within thirty days of such application the Council may, subject to such alterations or modifications as it may impose, and after taking into consideration the matters specified in the Schedule, certify its approval of such plan under the hand of the Mayor or Chairman, and the Town or District Clerk, as the case may be: Provided that no such plan shall be so certified unless the prescribed requirements of the Commissioner of Sewers have been complied with.

Council may certify its approval of such plan.

**40.** (1) A duplicate of such plan so certified shall thereupon be forwarded by the person making such application to the Registrar-General of Deeds for his information and use in connection with any deed or instrument affecting any land contained in such plan which is produced to him for registration.

Certified plan to be forwarded to Registrar-General of Deeds.

(2) Such plan shall, subject to the provisions hereinafter contained in this Division, be binding upon all persons who at the time when the same was so forwarded, or at any time thereafter, have any interest in any of the land comprised in such plan, except in so far (if at all) as any variation thereof is subsequently authorised by the Council in manner prescribed under this Division.

**41.** (1) Any applicant for approval under section 36 of any plan of resubdivision may appeal to the Minister against any decision of the Council respecting such plan, or against any neglect or delay of the Council to give, within thirty days of such application, a decision in respect thereto.

Applicant may appeal to the Minister against the decision of the Council.

(2) If the Minister after hearing such dispute determines that the plan to which such dispute relates ought to have been approved by the Council, the Minister may approve such plan in the name and on behalf of the Council, and such approval shall have the same effect as if such plan had been actually approved by the Council.

Determination of appeal.

**42.** Where, in the opinion of the Registrar-General of Deeds, any plan which is forwarded to him under section 40 constitutes a plan of subdivision, the Registrar-General shall refer such plan to the Government Town Planner, and such plan shall be dealt with by the Government Town Planner in accordance with the provisions of this Division in the same manner as if it were a plan accompanying an application made under section 26.

Registrar-General may treat plan as a subdivision to be submitted to Government Town Planner.

**43.** (1) Where

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Provision where subdivision of one allotment only desired.

**43.** (1) Where any owner, or any person acting on behalf of any owner, proposes to resubdivide for sale, lease, transfer, or conveyance one existing allotment or parcel of land, he may, in lieu of complying with the provisions of this Division, make an application to the Registrar-General of Deeds in respect thereof, accompanied by a plan of resubdivision and such particulars as the Registrar-General of Deeds may require.

(2) The Registrar-General of Deeds may—

(a) certify his approval of such plan, subject to such alterations or modifications (if any) as he deems necessary, in any case where in his opinion the objects of this division will not in any way be evaded or defeated by the carrying out of such resubdivision pursuant to such approval; or

(b) require the owner or person referred to in subsection (1) hereof to make an application to the Council under section 36.

*General Provisions Relating to Plans of Subdivision and Plans of Resubdivision.*

No plans not approved under this Division to be deposited with the Registrar-General.

**44.** (1) Notwithstanding the provisions of the Real Property Act, 1886, the Registrar-General of Deeds, shall not (except as provided by this Act) accept or deal with any plan of subdivision or resubdivision which is inconsistent with—

(a) any plan already deposited or lodged with the Registrar-General of Deeds; or

(b) any plan approved under this Division by the Government Town Planner in the case of a plan of subdivision, or endorsed with the approval of the Council or of the Minister in the case of a plan of resubdivision.

(2) Any authority or person who—

(a) subdivides, resubdivides, disposes of, or deals with any land in contravention of the provisions of this Division;

(b) inconsistently with any plan approved thereunder makes any deviation from such plan; or

(c) makes any false statement or declaration in connection with any plan or particulars referred to in this Division,

shall be liable to a penalty not exceeding Two Hundred Pounds.

(3) The Government Town Planner, or the Council within whose area the land comprised in the plan is situated, may institute proceedings against any authority or person guilty of any offence against subsection (2) hereof.

Correction of errors.  
Cf. D.C. Act, 1914,  
s. 473 (7), (8), (9).

**45.** (1) The Registrar-General of Deeds shall have power to permit the correction of any errors which have been proved to his satisfaction to have been made in any plan of subdivision or resubdivision which has been or is hereafter deposited or lodged in the Lands Titles Registration Office or the General Registry Office.

(2) In



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(2) In making such corrections the original plan of such part of the land included therein as the Registrar-General of Deeds requires shall not be altered, but the corrections shall be made by means of a new plan, certified to by a licensed surveyor.

(3) Such new plan shall be deposited and attached to the original plan, and shall show the required corrections.

**46.** Notwithstanding the provisions of any Acts relating to the width of any road, street, or right-of-way, the Government Town Planner may require that such width shall be shown on any plan submitted for his approval as follows:—

Widths of roads.  
Cf. T.P. Act, 1917  
(Saskatchewan), s. 5.  
Cf. M.C. Act, 1908  
(N.Z.), s. 168.  
Cf. L.G. Act, 1915.  
(Victoria), s. 476 (2)

- I. The width of every main road shall be not less than sixty-six feet nor more than one hundred and ninety-eight feet;
- II. The width of every secondary road shall be not less than fifty feet nor more than sixty-six feet;
- III. The width of every residential road shall be not less than forty feet nor more than fifty feet; and
- IV. The width of every right-of-way shall be not less than eleven feet nor more than twenty-two feet.

**47.** (1) Where any land is bounded or partly bounded on any side by a strip of land which strip is—

Acquisition of strips of land which obstruct means of communication.

- (a) less than eleven feet in width;
- (b) abuts on or bounds any proposed or existing street, road, right-of-way, reserve, or open space of land; and
- (c) the Council of the area in which such strip is situated is of opinion that such strip obstructs the development of, or interferes with the means of communication or access or the convenience of, the Council's area or any part thereof,

the Council may by resolution declare that such strip ought to be vested in fee simple in the Council.

(2) Where any such resolution has been passed, the Council shall, within one month after the passing of the resolution, serve a notice under the hand of the Mayor or Chairman, and the Town or District Clerk, as the case may be, on the owner of such strip, either personally or by post, in a registered letter addressed to such owner at his last known place of residence.

(3) Such notice shall state that the Council has, in conformity with the provisions of this Act, passed such resolution, and shall state the terms thereof and the date whereon the same was passed.

(4) A copy of such notice shall be published by the Council in the *Government Gazette* not less than one month and not more than two months after the passing of the same.

(5) If

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(5) If the owner of such strip cannot, after diligent inquiry, be found, the requirements of this section as to notice shall be deemed to be sufficiently complied with by the publication of the notice in the *Government Gazette*, as required by subsection (4) hereof.

(6) Upon the publication pursuant to subsection (4) hereof of any notice under this section, any strip of land mentioned therein shall forthwith become vested in fee simple in the Council of the area wherein such strip is situated without compensation or payment to the owner or any other person.

(7) The Council shall thereupon furnish the Registrar-General of Deeds with a copy of the *Government Gazette* containing such notice.

(8) Upon receipt of such copy the Registrar-General of Deeds shall, if the land affected is land under the Real Property Act, 1886, make all such entries as may be necessary or proper to evidence the vesting of the said land in the Council, or, if it is land not under that Act, register in the General Registry Office for Deeds a memorial of the vesting of the said land in the Council.

Persons submitting plans of subdivision to make a declaration that no strips have been left.

48. When a plan of subdivision of any land is submitted to the Government Town Planner or a plan of resubdivision of any land is submitted to a Council under this Division, it shall not be incumbent upon the Government Town Planner or the Council to approve such plan unless the person submitting it, if the Government Town Planner or the Council by notice in writing requires him so to do, has made a declaration that the land comprised in such plan is not bounded or partly bounded, on any side, by a strip of land less than eleven feet in width and under the same ownership as the land, or any part of the land, so comprised.

Disputes under this Division to be settled by the Minister.

49. Where any dispute arising out of any matter under this Division exists between any Councils, public bodies or persons, or any of them, the dispute shall be submitted to the Minister, who shall determine such dispute as he thinks proper.

*Regulations.*

Regulations.

50. The Governor may make regulations for carrying this Division into effect and in particular for determining any requirements for and with respect to—

- I. the procedure to be observed by any owner of land or other person applying for approval of any plan under this Division;
- II. the details to be shown on any such plan with respect to any land or buildings, or the details to be furnished in any particulars or any application under this Division;
- III. any of the matters which under this Division the Government Town Planner or any Council or other authority shall take into consideration in respect of any application for the approval of any plan;
- IV. the

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- iv. the vesting in the Surveyor-General of the care, control, and maintenance of the permanent marks (other than such as are vested in or are under the control of a public body) placed in any road, street, or right-of-way and providing for the preservation of such marks from damage or removal;
- v. the retention in the records of the Council or other authority to which application is made under this Division for the approval of a plan or a copy of such plan, and of the particulars accompanying such plan; and
- vi. provision for the dedication for public use of a proportion of the land to be subdivided or resubdivided in addition to, and apart from, the area of any road, street, or right-of-way within the area affected by such subdivision or resubdivision.

## PART IV.

## MISCELLANEOUS.

## PART IV.

**51.** The Governor may appoint such officers and servants as he thinks proper for any of the purposes of this Act.

Appointment of officers.

**52.** Any sum of money by this Act made payable or recoverable shall be recoverable by summary proceedings before a Special Magistrate or any two Justices.

How moneys recoverable.

**53.** (1) The Government Town Planner, or any person thereunto authorised in writing by the Government Town Planner or by the Minister, may, at all reasonable times, enter upon and inspect any land and any buildings thereon for any of the purposes of this Act, or for the purpose of ascertaining whether the provisions of this Act are being observed and carried out.

Powers of entry and inspection.

Cf. U.K. 9, Ed. 7, c. 44, s. 36.

(2) The powers conferred by subsection (1) hereof upon the persons therein mentioned may, within the area of any Council, or within the area of any responsible authority, be exercised by such Council or responsible authority, or by any person thereunto authorised in writing by such Council or authority.

(3) The owners and occupiers of all lands and buildings shall not obstruct authorities in the exercise of the powers conferred by this section.

(4) Any person who fails to comply with the requirement of subsection (3) hereof, or who in any way interferes with or obstructs any authority or person in the exercise of any power conferred by this section, shall be liable to a penalty not exceeding Twenty-five Pounds.

**54. A**

## PART IV.

*Town Planning and Development Act.—1920.*

Council may pay subscription, or expenses of delegate.

**54.** A Council is hereby authorised to pay—

- (a) an annual subscription or affiliation fee to any society existing for the promotion of town planning; and
- (b) the expenses of not more than two delegates attending any national or state conference relating to town planning.

Regulations.

**55.** (1) In addition to any power by any other section of this Act conferred on the Governor to make regulations as to any matter (which power shall in every case be implied for the purposes of any section in which regulations are referred to, or in which the word "prescribed" is used), the Governor may make any regulations which may be necessary or convenient for carrying out any of the provisions of this Act, or for better effecting the objects of this Act, and in particular for and in respect to—

- (a) the nomination and appointment of members and any officers of Town Planning Committees, including the professional, technical or other qualifications of such members and officers:
- (b) the functions, proceedings and affairs generally of Town Planning Committees, including its methods and expenses of administration.

Penalty.

(2) Any regulation may impose a penalty not exceeding Fifty Pounds for any breach of that or any other regulation.

Summary proceedings for offence.

**56.** All proceedings in respect of offences against this Act, not being indictable offences, shall be disposed of summarily.

Appeal.

**57.** There shall be an appeal in respect of proceedings in respect of offences against this Act.

Special case.

**58.** In the event of an appeal in respect of proceedings in respect of offences against this Act, a special case may be stated.

Act to bind the Crown.

**59.** This Act shall bind the Crown.

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

W. E. G. A. WEIGALL, Governor.

*Town Planning and Development Act.—1920.*

## THE SCHEDULE.

Matters to be taken into consideration in connection with—

(1) *Roads, streets, or rights-of-way (each of which is hereinafter referred to as a "road")—*Cf. L.G. Act, 1915,  
(Victoria), s. 522  
(6) (c).

(a) The situation and planning of the road in relation to public convenience, present, and prospective, and to inter-communication with neighboring localities within or without the area of the Council or other Councils affected.

(b) The method of draining the road necessary in the circumstances, present and prospective, and the disposal of sewage, or drainage or surface waters; and the provision of any reserves for such purposes.

(c) The treatment of junctions or intersections of roads.

Ibid., s. 526.

(d) Whether in the circumstances, present or prospective, the road will or is likely to be—

Cf. Municipal Cor-  
porations Act, 1908  
(N.Z.), s. 173.

(1) a main road;

(2) a secondary road, being a road for general or local traffic;

(3) a residential road, being a road used primarily for access to residences;

(4) a right-of-way; or

(5) a parkway or boulevard, being a road which serves the purpose of either a main or secondary road, and proposing that a portion of the total width to be dedicated shall be used for ornamental or recreational purposes.

(e) Subject to this Act, the widths of such roads, streets, rights-of-way or parkways or boulevards in accordance with the general or particular requirements of the town or city, or any district concerned.

(f) Whether the proposed road is situated within or adjacent to a residential, commercial, industrial, shopping, or other district.

(g) Whether the intended position, direction, width, length, termination, entrance, or levels of the proposed road, street, or right-of-way ought to be varied—

L.G. Act, 1915 (Vic-  
toria), s. 522 (6) (c).

(1) for the purpose of securing easier, more direct or more convenient means of communication with or access to any other road, street, or right-of-way; or

(2) for the purpose of securing better facilities for the disposal of sewage or drainage or surface waters from or passing through the district in which such road, street, or right-of-way is situated.

(h) Provision for planting trees or conserving existing trees in the road, or making any other embellishment thereof.

(i) If any proposed right-of-way will be a road, whether or not a right-of-way should be permitted in the circumstances, present or prospective.

(j) Whether provisions are necessary or desirable in the circumstances aforesaid for any building line or lines.

(k) Dedication of a road on both sides of any existing river, creek, or other watercourse which is adjacent to or passes through any land proposed to be subdivided or resubdivided.

(l) The method of enforcing the observance of any work or undertaking with respect to any road, street, or right-of-way.

(2) *Any*

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*Town Planning and Development Act.—1920.*

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(2) *Any Subdivision or Resubdivision of any land—*

Cf. L.G. Act, 1915  
(Victoria), s. 522 (6).

- (a) The size and shape, or the minimum area, of each proposed allotment or parcel of land, and the curtilages thereof.
- (b) Whether the proposed allotments (or any of them) are sufficiently drained to prevent their inundation by floods or surface waters, and if not whether they are distinctly marked on the plan submitted for approval as being subject to inundation by flood or surface waters.
- (c) The length of clear frontage to any proposed road or street, for each separate proposed allotment or parcel of land.
- (d) The situation and the planning of each separate allotment or parcel of land in relation to public convenience, public health, or amenity, present and prospective.
- (e) The existing and proposed means of access to each separate allotment or parcel of land.
- (f) The method of draining the land necessary in the circumstances, present and prospective, the disposal of the sewage, drainage, or surface waters, and the provision of any reserves for such purposes.
- (g) Whether the proposed subdivision or resubdivision is situated within or adjacent to a district that is or is likely to become a residential, industrial, commercial, or shopping district.
- (h) The area or areas of public garden or recreation space or school or other sites for public use which it is proposed to dedicate and provide in the land to be subdivided or resubdivided.
- (i) Conservation of any natural beauties or amenities of the area proposed to be subdivided.
- (j) The carrying out or enforcing the observance of any work or undertaking with respect to such subdivision or resubdivision.