



ANNO TRICESIMO TERTIO

ELIZABETHAE II REGINAE

A.D. 1984

No. 10 of 1984

An Act to amend the Planning Act, 1982.

[Assented to 3 May 1984]

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

- Short title.** 1. (1) This Act may be cited as the "Planning Act Amendment Act, 1984".
- (2) The Planning Act, 1982, is in this Act referred to as "the principal Act".
- Commencement.** 2. (1) Subject to subsection (2), this Act shall come into operation on the day on which it receives the Governor's assent.
- (2) Section 7 (a) and 7 (b) shall come into operation on a day to be fixed by proclamation.
- Insertion of new s. 4a.** 3. The following section is inserted after section 4 of the principal Act:
- Concept of change in the use of land.** 4a. (1) For the purpose of determining whether a change in the use of land has occurred—
- (a) the commencement of a particular use of the land shall, subject to paragraph (b), be regarded as a change in the use of the land if—
- (i) the use supersedes a previous use of the land;
- (ii) the commencement of the use follows upon a period of non-use;
- or
- (iii) the use is additional to a previously established use of the land which continues notwithstanding the commencement of the new use;
- (b) the revival of a use after a period of discontinuance shall be regarded as a change in use if and only if—

(i) the period intervening between the discontinuance and revival of the use exceeds two years;

(ii) during the whole or a part of the period intervening between its discontinuance and revival, the use was superseded by some other use;

or

(iii) the relevant planning authority has made a declaration under subsection (2) and that declaration remains unrevoked.

(2) Where—

(a) a particular use of land has been discontinued for a period of six months or more immediately preceding the day on which the relevant planning authority proposes to make a declaration under this subsection;

and

(b) the revival of that use would in the opinion of the relevant planning authority have an adverse effect upon the proper development of the locality in which the land is situated,

the relevant planning authority may, by notice in writing served on the owner and the occupier of the land, declare that a revival of the use will be treated, for the purposes of this Act, as a form of development.

(3) The owner or occupier may, within one month after service of a notice under subsection (2), or such extended period as may be allowed by the Tribunal, appeal to the Tribunal against the declaration.

(4) Upon an appeal under subsection (3), the Tribunal may confirm or revoke the declaration.

(5) For the purposes of this section, a particular use of land shall be disregarded if the extent of the use is trifling or insignificant.

(6) In this section—

“relevant planning authority” means—

(a) in relation to land within the area of a council—the council;

(b) in relation to land that is not within the area of any council—the Commission.

4. Section 43 of the principal Act is amended by striking out subsection (3). Amendment of s. 43—
Interim development control.

5. Section 46 of the principal Act is amended—

(a) by striking out from subsections (1) and (2) the passage “Ten thousand dollars” and substituting, in each case, the passage “Ten thousand dollars or the prescribed sum whichever is greater”;

and

Amendment of s. 46—
Offences of undertaking development contrary to this Division.

(b) by inserting after subsection (2) the following subsection:

(3) In this section—

“the prescribed sum” means the sum calculated at the rate of one thousand dollars for the day on which the offence is first committed and for each subsequent day on which it continues before the offender is convicted.

Amendment of
s. 51—
Consent of
Governor
required for
certain forms of
development.

6. Section 51 of the principal Act is amended—

(a) by striking out from subsection (5) the passage “Ten thousand dollars” and substituting the passage “Ten thousand dollars or the prescribed sum whichever is greater”;

and

(b) by inserting after subsection (5) the following subsection:

(6) In subsection (5)—

“the prescribed sum” means the sum calculated at the rate of one thousand dollars for the day on which the offence is first committed and for each subsequent day on which it continues before the offender is convicted.

Amendment of
s. 56—
Saving provision.

7. Section 56 of the principal Act is amended—

(a) by inserting in subsection (1) after the passage “Notwithstanding any other provision of this Act” the passage “but subject to subsection (2a)”;

(b) by inserting after subsection (2) the following subsection:

(2a) The operation of subsection (1) (a) is suspended until the first day of November, 1984.;

and

(c) by striking out subsections (3), (4), (5), (6) and (7).

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

D. B. DUNSTAN, Governor