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ELIZABETHAE II REGINAE

A.D. 1982

No. 62 of 1982

An Act to amend the Building Act, 1970-1982, the City of Adelaide Development Control Act, 1976-1981, the Coast Protection Act, 1972-1978, the Geographical Names Act, 1969, the Highways Act, 1926-1982, the Land and Business Agents Act, 1973-1982, the Local Government Act, 1934-1982, the North Haven Development Act, 1972-1979, the Planning Act, 1982, the Real Property Act, 1886-1982, the Roads (Opening and Closing) Act, 1932-1978, the South Australian Heritage Act, 1978-1980, the Tea Tree Gully (Golden Grove) Development Act, 1978-1981, and the West Lakes Development Act, 1969-1970; and to repeal the Red Cliff Land Vesting Act, 1973.

[Assented to 1 July 1982]

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

1. This Act may be cited as the "Statutes Amendment (Planning) Act, 1982". Short title.
2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.
3. (1) The Building Act, 1970-1982, is amended as indicated in the first part of the schedule to this Act and, as so amended, may be cited as the "Building Act, 1970-1982". Amendment of certain Acts.
 - (2) The City of Adelaide Development Control Act, 1976-1981, is amended as indicated in the second part of the schedule to this Act and, as so amended, may be cited as the "City of Adelaide Development Control Act, 1976-1982".
 - (3) The Coast Protection Act, 1972-1978, is amended as indicated in the third part of the schedule to this Act and, as so amended, may be cited as the "Coast Protection Act, 1972-1982".
 - (4) The Geographical Names Act, 1969, is amended as indicated in the fourth part of the schedule to this Act and, as so amended, may be cited as the "Geographical Names Act, 1969-1982".
 - (5) The Highways Act, 1926-1982, is amended as indicated in the fifth part of the schedule to this Act and, as so amended, may be cited as the "Highways Act, 1926-1982".

(6) The Land and Business Agents Act, 1973-1982, is amended as indicated in the sixth part of the schedule to this Act and, as so amended, may be cited as the "Land and Business Agents Act, 1973-1982".

(7) The Local Government Act, 1934-1982, is amended as indicated in the seventh part of the schedule to this Act and, as so amended, may be cited as the "Local Government Act, 1934-1982".

(8) The North Haven Development Act, 1972-1979, is amended as indicated in the eighth part of the schedule to this Act and, as so amended, may be cited as the "North Haven Development Act, 1972-1982".

(9) The Planning Act, 1982, is amended as indicated in the ninth part of the schedule to this Act and, as so amended, may be cited as the "Planning Act, 1982".

(10) The Real Property Act, 1886-1982, is amended as indicated in the tenth part of the schedule to this Act and, as so amended, may be cited as the "Real Property Act, 1886-1982".

(11) The Roads (Opening and Closing) Act, 1932-1978, is amended as indicated in the eleventh part of the schedule to this Act and, as so amended, may be cited as the "Roads (Opening and Closing) Act, 1932-1982".

(12) The South Australian Heritage Act, 1978-1980, is amended as indicated in the twelfth part of the schedule to this Act and, as so amended, may be cited as the "South Australian Heritage Act, 1978-1982".

(13) The Tea Tree Gully (Golden Grove) Development Act, 1978-1981, is amended as indicated in the thirteenth part of the schedule to this Act and, as so amended, may be cited as the "Tea Tree Gully (Golden Grove) Development Act, 1978-1982".

(14) The West Lakes Development Act, 1969-1970, is amended in the fourteenth part of the schedule to this Act and, as so amended, may be cited as the "West Lakes Development Act, 1969-1982".

Repeal of
Red Cliff
Land Vesting
Act.

4. The Red Cliff Land Vesting Act, 1973, is repealed.

THE SCHEDULE

PART I

AMENDMENT OF THE BUILDING ACT, 1970-1982

Provision Affected	How Affected
Section 60	By striking out subsections (2) and (3) and substituting the following subsection: (2) Where any such by-law is inconsistent or incompatible with a provision of the Development Plan in force under Part IV of the Planning Act, 1982, the provision of the Development Plan shall prevail to the extent of the inconsistency or incompatibility.

PART II

AMENDMENT OF THE CITY OF ADELAIDE DEVELOPMENT CONTROL ACT, 1976-1981

Provision Affected	How Affected
Section 3	By striking out the item: PART VII—TRANSITIONAL PROVISIONS.
Section 6	By striking out the section and substituting the following section: Non-application of Planning Act. 6. (1) The Planning Act, 1982, does not apply in relation to land within the municipality. (2) Notwithstanding subsection (1) of this section, the development controls imposed in relation to the municipality under this Act may be depicted or represented on the Development Plan constituted under the Planning Act, 1982.
PART VII	By striking out this Part (including the heading).
The Schedule	By striking out the schedule.

PART III

AMENDMENT OF THE COAST PROTECTION ACT, 1972-1978

Provision Affected	How Affected
Section 4	By striking out the definition of "the Planning Appeal Board" and substituting the following definition: "the Planning Appeal Tribunal" means the Planning Appeal Tribunal constituted under the Planning Act, 1982:.
Section 8	(a) By striking out paragraph (a) of subsection (1) and substituting the following paragraph: (a) one shall be the chairman of the South Australian Planning Commission;; (b) By striking out subsection (2) and substituting the following subsection: (2) The chairman of the South Australian Planning Commission shall be the Chairman of the Board.
Section 28	(a) By striking out from subsection (1) the passage "Planning Appeal Board" and substituting the passage "Planning Appeal Tribunal"; (b) By striking out from subsection (2) the passage "Planning Appeal Board" and substituting the passage "Planning Appeal Tribunal".
Section 37	By striking out from paragraph (b) of subsection (2) the passage "Planning Appeal Board" and substituting the passage "Planning Appeal Tribunal".

PART IV

AMENDMENT OF THE GEOGRAPHICAL NAMES ACT, 1969

Provision Affected	How Affected
Section 2	By striking out the definition of "the metropolitan area" and substituting the following definition: "the metropolitan area" means Metropolitan Adelaide as defined in the Development Plan constituted under the Planning Act, 1982:.

- Section 3 By striking out paragraph (e) of subsection (2) and substituting the following paragraph:
 (e) one shall be the chairman of the South Australian Planning Commission or a person nominated by him;.

PART V

AMENDMENT OF THE HIGHWAYS ACT, 1926-1982

- | Provision Affected | How Affected |
|--------------------|--|
| Section 20a | By striking out the passage "Planning and Development Act, 1966-1967" and substituting the passage "Planning Act, 1982". |

PART VI

AMENDMENT OF THE LAND AND BUSINESS AGENTS ACT, 1973-1982

- | Provision Affected | How Affected |
|--------------------|--|
| Section 86 | By striking out subsection (1) and substituting the following subsection:
(1) In this Part—
"subdivided land" means any one or more vacant allotments of land shown on a plan of division of land, which plan has been—
(a) approved pursuant to statute;
and
(b) deposited in the Lands Titles Registration Office, or the General Registry Office at Adelaide,
but does not include allotments intended wholly or mainly for use for agricultural, pastoral, horticultural or viticultural purposes. |

PART VII

AMENDMENT OF THE LOCAL GOVERNMENT ACT, 1934-1982

- | Provision Affected | How Affected |
|--------------------|--|
| Section 153 | By striking out paragraph (b) of subsection (1) and substituting the following paragraph:
(b) delegate to any such committee such of the powers and duties of the council under this Act, the Planning Act, 1982, or the Real Property Act, 1886-1982, as the council thinks fit. |
| Section 214 | By striking out from subsection (5) the definition of "zone" and substituting the following definition:
"zone" means a zone established by regulation under the Building Act, 1970-1982, or defined as a zone, precinct or locality by the Development Plan constituted under the Planning Act, 1982. |
| Section 301 | By striking out paragraph (iv) of subsection (1) and substituting the following paragraph:
(iv) All streets and roads vested in the council pursuant to statute. |
| Section 307 | By striking out the passage "the Town Planning Act, 1929, the Planning and Development Act, 1966-1967 and the Roads (Opening and Closing) Act, 1932, as amended" and substituting the passage "any other Act". |
| Section 382d | (a) By striking out from subsection (1) the definition of "approved scheme" and substituting the following definition:
"approved scheme" means a scheme for the development of land approved for the purposes of this Act by the South Australian Planning Commission;
(b) By striking out from subsection (2) the passage "State Planning Authority" and substituting the passage "South Australian Planning Commission". |

PART VIII

AMENDMENT OF THE NORTH HAVEN DEVELOPMENT ACT, 1972-1979

Provision Affected	How Affected
Section 3	(a) By striking out from subsection (1) the definition of "the Planning Regulations"; (b) By inserting after subsection (3) the following subsection: (4) After the commencement of the Planning Act, 1982, a reference in the Indenture to Planning Regulations shall be construed as a reference to the corresponding provisions of the Development Plan constituted under that Act.
Section 12	By striking out this section.
Section 13	By striking out this section.
Section 14	(a) By striking out the passage "Planning and Development Act, 1966-1967, as amended" and substituting the passage "Real Property Act, 1886-1982"; (b) By striking out from paragraph (b) the passage "pursuant to section 52 of that Act".
Section 18	(a) By striking out from subsection (1) the passage "in the Planning and Development Act, 1966-1967, as amended, the Local Government Act, 1934, as amended or"; (b) By striking out from subsection (1) the passage "the provisions of the Planning and Development Act, 1966-1967, as amended, or".

PART IX

AMENDMENT OF THE PLANNING ACT, 1982

Provision Affected	How Affected
Section 5	By inserting after subsection (3) the following subsections: (4) The State Planning Authority is dissolved, and its powers, functions, duties and obligations in relation to matters referred to in subsection (2), or under any other Act or law, shall be exercisable by, or shall attach to, the South Australian Planning Commission. (5) A reference in any Act, regulation, rule or by-law to the Metropolitan Planning Area as constituted under the repealed Act shall be read and construed as a reference to Metropolitan Adelaide as defined in the Development Plan.

PART X

AMENDMENT OF THE REAL PROPERTY ACT, 1886-1982

Provision Affected	How Affected
Section 223md	(a) By striking out from subsection (2) the passage "approved by him" and substituting the passage "approved by it"; (b) By striking out from subsection (4a) the word "he" wherever it occurs and substituting, in each case, the word "it".
Section 241	By inserting after the passage "except a strata plan as defined in section 223m of this Act" the passage "or a plan of division under Part XIXAB".

PART XI

AMENDMENT OF THE ROADS (OPENING AND CLOSING) ACT, 1932-1978

Provision Affected	How Affected
Section 11	By striking out the passage "Director of Planning" and substituting the passage "South Australian Planning Commission".

PART XII

AMENDMENT OF THE SOUTH AUSTRALIAN HERITAGE ACT, 1978-1980

Provision Affected	How Affected
Section 3	By striking out the item: PART V—AMENDMENT OF THE PLANNING AND DEVELOPMENT ACT and the item: PART VI—AMENDMENT OF THE CITY OF ADELAIDE DEVELOPMENT CONTROL ACT.

- Section 16c By striking out the passage "Part VAA of the Planning and Development Act, 1966-1980," wherever it occurs in subsections (1) and (2) and substituting, in each case, the passage "section 48 of the Planning Act, 1982".
- Parts V and VI By striking out these Parts (including their headings).

PART XIII

AMENDMENT OF THE TEA TREE GULLY (GOLDEN GROVE) DEVELOPMENT ACT, 1978-1981

- | Provision Affected | How Affected |
|---------------------------|---|
| Section 6 | By striking out paragraphs (a) and (b) of subsection (4) and substituting the following paragraph:
(a) land held by or on behalf of the Crown; |
| Section 14 | By striking out this section and substituting the following section:

<div style="display: flex; align-items: flex-start;"> <div style="flex: 1;"> <p>Limitation on exercise of powers by South Australian Planning Commission and the Council.</p> </div> <div style="flex: 2;"> <p>14. Except as may be authorized by the Minister, neither the South Australian Planning Commission nor the Council may exercise any power or function under Part IV or V of the Planning Act, 1982, in relation to the Development Area.</p> </div> </div> |
| Section 16 | By striking out the passage "an authorized Development Plan declared by proclamation under the Planning and Development Act, 1967-1977" and substituting the passage "a supplementary development plan declared to be an authorized supplementary development plan for the purposes of Part IV of the Planning Act, 1982". |
| Sections 18, 19 and 20 .. | By striking out these sections and substituting the following section:

<div style="display: flex; align-items: flex-start;"> <div style="flex: 1;"> <p>Application of Planning Act, etc., to a Scheme Area.</p> </div> <div style="flex: 2;"> <p>18. (1) The provisions of the Planning Act, 1982, and of Part XIXAB of the Real Property Act, 1886-1982, (and of any related regulations, rules or statutory instruments) shall apply in relation to a Scheme Area subject to such exclusions and modifications as are prescribed by regulation.</p> <p>(2) Any powers or functions under the provisions referred to in subsection (1) that would, if it were not for this Act, be exercisable in relation to a Scheme Area by the South Australian Planning Commission or the Council shall be exercisable by the Committee.</p> </div> </div> |
| Section 28 | (a) By striking out from paragraph (b) of subsection (2) the passage "plan of subdivision or plan of re-subdivision" and substituting the passage "plan of division";

(b) By striking out from paragraph (c) of subsection (2) the passage "plans of subdivision or re-subdivision" and substituting the passage "plans of division". |

PART XIV

AMENDMENT OF THE WEST LAKES DEVELOPMENT ACT, 1969-1970

- | Provision Affected | How Affected |
|--------------------|---|
| Section 10 | By striking out from paragraph (a) of subsection (1) the passage "Planning and Development Act, 1966-1967, as amended" and substituting the passage "Real Property Act, 1886-1982". |
| Section 15 | By striking out from subsection (17) the passage "Planning and Development Act, 1966-1967, as amended, no approval for a plan of subdivision or plan of re-subdivision relating to land within West Lakes shall be refused under that Act" and substituting the passage "Planning Act, 1982, or the Real Property Act, 1886-1982, no consent or approval for the division of land within West Lakes shall be refused under either of those Acts". |
| Section 15a | By striking out the passage "the Planning and Development Act, 1966-1967, as amended, the Local Government Act, 1934-1936, as amended, or in any other law," and substituting the passage "any other Act or law". |
| Section 16 | By striking out subsection (3) and substituting the following subsection:
(3) This Act and the regulations under this Act shall have effect notwithstanding any inconsistency with the Planning Act, 1982, or Part XIXAB of the Real Property Act, 1886-1982. |

Section 16a By striking out this section and substituting the following section:

Right of appeal.

16a. (1) An applicant for consent, permission or approval under the West Lakes Regulations contained in the Fifth Schedule to the Indenture who is aggrieved by a decision to refuse consent, permission or approval or to grant consent, permission or approval subject to conditions may appeal to the Planning Appeal Tribunal against the decision and the Tribunal shall have jurisdiction to hear and determine every such appeal as if it were an appeal under the Planning Act, 1982.

(2) The provisions of the Planning Act, 1982, and the rules under that Act shall govern the practice and procedure of the Tribunal upon an appeal under this section.

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

D. B. DUNSTAN, Governor