



ANNO TRICESIMO TERTIO

# ELIZABETHAE II REGINAE

A.D. 1984

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No. 11 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:

1. (1) This Act may be cited as the "Planning Act Amendment Act (No. 2), 1984". Short title.

(2) The Planning Act, 1982, is in this Act referred to as "the principal Act".

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

3. The following section is inserted in Division I of Part V of the principal Act after section 48: Insertion of new s. 48a.

48a. (1) In this section—

"the Minister" means the Minister of the Crown who for the time being has the administration of the Clean Air Act, 1984;

"primary impact level development" means a development for the purposes of establishing an industry, operation or process declared by the regulations or the principles of development control to have an air pollution potential of a primary level of impact:

"secondary impact level development" means a development for the purposes of establishing an industry, operation or process declared by the regulations or the principles of development control to have an air pollution potential of a secondary level of impact.

(2) The planning authority to which an application is made for a planning authorization in respect of a primary impact level development—

(a) shall refer the application to the Minister;

Development with an air pollution potential.

and

(b) shall not determine the application until it has received directions from the Minister in relation to the application.

(3) Where an application for a planning authorization is referred to the Minister under subsection (2), the Minister may direct the planning authority—

(a) to refuse the application;

or

(b) not to grant the planning authorization except upon certain specified conditions,

and the planning authority shall comply with any such direction.

(4) No appeal shall lie against—

(a) a refusal given by a planning authority pursuant to a direction of the Minister;

or

(b) a condition attached to a planning authorization by a planning authority pursuant to a direction of the Minister.

(5) Where a planning authority refuses an application pursuant to a direction of the Minister, or grants a planning authorization subject to conditions imposed pursuant to a direction of the Minister, the planning authority shall notify the applicant that the application was refused, or the conditions were imposed, pursuant to a direction of the Minister and that no appeal lies against that refusal or those conditions.

(6) The planning authority to which an application is made for a planning authorization in respect of a secondary impact level development—

(a) shall refer the application to the Minister;

and

(b) shall not determine the application until it has received and taken into account any representations the Minister desires to make in relation to the application.

Amendment of  
s. 74—  
Regulations.

4. Section 74 of the principal Act is amended by inserting after subsection (4) the following subsection:

(5) A regulation made under this section may—

(a) declare any industry, operation or process, the air pollution from which, in the opinion of the Governor, causes a threat to human health or has a serious adverse impact on the environment, to have an air pollution potential of a primary level of impact;

or

(b) declare any industry, operation or process, the air pollution from which, in the opinion of the Governor, constitutes

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a nuisance to surrounding occupiers of land, to have an air pollution potential of a secondary level of impact.

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

D. B. DUNSTAN, Governor