ANNO TRICESIMO QUARTO

ELIZABETHAE II REGINAE

A.D. 1985

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No. 71 of 1985

An Act to amend the Planning Act, 1982.

[*Assented to 6 June 1985*]

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 (No. 2), 1985".

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

Commencement.

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

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

Amendment of s. 3—Arrangement of Act.

3. Section 3 of the principal Act is amended by inserting after the item:

DIVISION III—CERTAIN DEVELOPMENT NOT TO BE UNDERTAKEN WITHOUT CONSENT OF GOVERNOR

the item:

DIVISION IIIA—DIVISION OF LAND WITHIN THE HILLS FACE ZONE.

Amendment of s. 4—Interpretation.

4. Section 4 of the principal Act is amended—

(a) by inserting at the end of paragraph *(e)* of the definition of "development" in subsection (1) the passage "(otherwise than by strata plan)";

(b) by striking out paragraph *(f)* of the definition of "development" in subsection (1) and substituting the following paragraph:

(f) where the land is an item of the State heritage or is, or forms part of, a State Heritage Area—the demolition,

conversion, alteration of, or addition to, the item or the State Heritage Area;;

(c) by striking out from subsection (1) the definition of "division" and substituting the following definition:

"division" of an allotment means—

(a) the division, subdivision or re-subdivision of the allotment;

(b) the grant or acceptance of a lease or licence or the making of an agreement for a lease or licence—

(i) by virtue of which a person becomes, or may become, entitled to possession or occupation of part only of an allotment—

(A) that comprises a dwelling and curtilage;

or

(B) on which there is no building that is suitable, and is used, for human occupation;

(ii) the term of which exceeds six years or such longer term as may be prescribed or in respect of which a right or option of renewal or extension exists under which the lease, licence or agreement may operate by virtue of renewal or extension for a total period exceeding six years or such longer period as may be prescribed;

and

(iii) that is not a lease or licence or an agreement for a lease or licence referred to in paragraph *(d)*;

(c) the grant or acceptance of a lease or licence or the making of an agreement for a lease or licence of a class prescribed by regulation;

or

(d) the occupation of part only of an allotment by a person who has entered into a lease, licence or an agreement for a lease or licence referred to in paragraph *(b)* (i) and (ii) or paragraph *(c)* under which he is entitled to occupy that part of the allotment subject to prior planning authorization under this Act,

and the verb "to divide" has a corresponding meaning:;

(d) by inserting after the definition of "rating or taxing authority" in subsection (1) the following definition:

"the repealed Act" means the Planning and Development Act, 1966, repealed by this Act:;

and

(e) by inserting after the definition of "the Senior Judge" in subsection (1) the following definition:

"State Heritage Area" means an area of land designated as a State Heritage Area under the South Australian Heritage Act, 1978:.

Amendment of s. 4a—Concept of change in the use of land.

5. Section 4a of the principal Act is amended by striking out subsection (6) and substituting the following subsection:

(6) In this section—

"relevant planning authority" means—

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

(b) in relation to land within the area of a council—the council or the Commission.

Amendment of s. 6—Application of Act.

6. Section 6 of the principal Act is amended by striking out subsections (2) and (3).

Amendment of s. 7—Extent to which the Crown is bound by this Act.

7. Section 7 of the principal Act is amended—

(a) by striking out subsection (8);

and

(b) by inserting after subsection (9) the following subsection:

(9a) If—

(a) an environmental impact statement has been prepared and published in relation to the proposal or the Commission has recommended that such a statement should be prepared and published;

(b) the Minister has given, or proposes to give, directions in relation to the proposed development under subsection (9);

or

(c) a council has expressed opposition to the proposed development in its report under subsection (4),

the Minister shall, as soon as practicable, cause copies of the report under subsection (6) to be laid before both Houses of Parliament.

Amendment of s. 10—Membership of the Commission.

8. Section 10 of the principal Act is amended—

(a) by striking out paragraph *(b)* of subsection (5) and substituting the following paragraph:

(b) one must be a person with practical knowledge of, and experience in, environmental management, management of natural resources, housing, welfare services, administration, commerce or industry,;

and

(b) by inserting in subsection (12) after the passage "who has a" the passage "personal interest or a".

Amendment of s. 12—Advisory functions of Commission.

9. Section 12 of the principal Act is amended by inserting after paragraph *(a)* the following paragraph:

(ab) may, of its own motion or at the request of the Minister, make recommendations as to regulations that should be made under this Act.

Amendment of s. 13—Delegation of powers and functions.

10. Section 13 of the principal Act is amended—

(a) by inserting in subsection (3) after the word "committee" the passage "or officer";

and

(b) by inserting in subsection (4) after the passage "in which he has a" the passage "personal interest or a".

Amendment of s. 15—Functions and powers of the Advisory Committee.

11. Section 15 of the principal Act is amended by inserting in subsection (3) after the passage "who has a" the passage "personal interest or a".

Amendment of s. 20—The Commissioners.

12. Section 20 of the principal Act is amended by striking out the word "or" between paragraphs *(b)* and *(c)* of subsection (3) and by inserting after paragraph *(c)* of that subsection the following word and paragraph:

or

(d) environmental management, housing or welfare services.

Amendment of s. 22—Personal or pecuniary interest to disqualify member of Tribunal

13. Section 22 of the principal Act is amended by inserting after the word "has" the passage "a personal interest or".

Amendment of s. 25—Constitution of the Tribunal when hearing proceedings.

14. Section 25 of the principal Act is amended by striking out subsection (2) and substituting the following subsection:

(2) Where a commissioner dies, or is for any reason unable to continue with the hearing of proceedings part-heard before the Tribunal—

(a) the Tribunal constituted of the Judge and the remaining commissioner or commissioners may continue and complete the hearing and determination of those proceedings;

or

(b) where the Judge is the only remaining member of the Tribunal he may, if all parties to the proceedings agree, continue and complete the hearing and determination of those proceedings.

Amendment of s. 26—How decisions of the Tribunal to be arrived at.

15. Section 26 of the principal Act is amended by striking out the word "two" and substituting the word "one".

Amendment of s. 27—Conference of parties to proceedings.

16. Section 27 of the principal Act is amended—

(a) by striking out from subsection (1) the passage ", and there remain unresolved differences between the parties";

and

(b) by inserting after subsection (1) the following subsections:

(1a) The chairman of a conference shall assist the parties to resolve matters in dispute between them.

(1b) Where a question of law arises during the course of a conference the chairman may refer the question to a Judge of the Tribunal for determination.

Amendment of s. 30—Joinder of parties and intervention of Minister.

17. Section 30 of the principal Act is amended by inserting after subsection (1) the following subsection:

(1a) An order under subsection (1) may be made on an *ex parte* application.

Amendment of s. 35—General powers of the Tribunal and Land and Valuation Court with respect to appeals.

18. Section 35 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) Where a person appeals, or purports to appeal, under this or any other Act to the Tribunal or appeals, or purports to appeal, against a determination or decision of the Tribunal to the Land and Valuation Court, and it appears to the Tribunal or the Court that—

(a) the appeal, or purported appeal, or the decision, or purported decision, against which the appeal, or purported appeal, has been brought is affected by a failure to comply with a requirement of this Act, or of any other Act or law;

and

(b) to exercise the powers conferred by this subsection would not be unjust or inequitable,

the Tribunal or the Court may excuse the failure by ordering that, subject to such conditions as may be stipulated by the Tribunal or the Court, the requirement concerned be dispensed with to the necessary extent.

Amendment of s. 36—Jurisdiction of the Court.

19. Section 36 of the principal Act is amended—

(a) by inserting after the passage "provision of this Act" in subsection (1) the passage "or has contravened or failed to comply with a provision of the repealed Act,";

(b) by inserting after the passage "this Act" wherever it appears in subsection (3) the passage "or the repealed Act";

and

(c) by striking out subsection (6) and substituting the following subsection:

(6) An interim order—

(a) may be made on an *ex parte* application;

(b) shall be made subject to such conditions as the Court thinks fit;

and

(c) shall not operate after the proceedings in which it is made are finally determined.

Amendment of s. 37—Commencement of proceedings.

20. Section 37 of the principal Act is amended by inserting after the passage "this Act" where it appears in subsections (1) and (2) the passage "or the repealed Act".

Amendment of s. 39—Proceedings for an offence against this Act.

21. Section 39 of the principal Act is amended by inserting after subsection (4) the following subsection:

(5) Where—

(a) proceedings for an offence against this Act relating to land wholly within the area of a council are instituted by the council;

(b) a fine is imposed by a court for the offence;

and

(c) the fine is paid to the clerk of the court,

the clerk shall pay the amount of the fine to the council.

Amendment of s. 41—Amendments to the Development Plan.

22. Section 41 of the principal Act is amended—

(a) by striking out the word "or" between paragraphs *(b)* and *(c)* of subsection (2) and inserting after paragraph *(c)* of that subsection the following word and paragraph:

or

(d) where it relates to a State Heritage Area—by the Minister,;

(b) by striking out from subsection (7) the passage "be published by the Minister" and substituting the passage "be published by the Advisory Committee";

(c) by striking out from paragraphs *(a)* and *(b)* of subsection (9) the passage "proposals contained in";

(d) by striking out from subsection (9) the passage "introduce proposals that are not contained either in the plan, or the written submissions" and substituting the passage "raise any matter that is not relevant to the plan or the written submissions";

(e) by striking out from subsection (10) the passage "to the Advisory Committee" and substituting the passage "to the Minister";

(f) by striking out subsection (11) and substituting the following subsections:

(11) Where—

(a) the supplementary development plan was prepared by the Minister;

or

(b) the supplementary development plan was prepared by a council and the Minister has requested the Advisory Committee to report to him under this subsection,

the Advisory Committee shall report to the Minister on the plan and on the submissions received in response to the advertisement.

(11a) If in the opinion of the Minister—

(a) there is substantial public opposition to the whole or part of a supplementary development plan prepared by a council;

or

(b) following a public hearing, a council has recommended that substantial alterations be made to a supplementary development plan prepared by the council,

the Minister shall request the Advisory Committee to report to him under subsection (11).

(11b) After considering the supplementary development plan, any submissions or recommendations forwarded to him under this section, and the report (if any) of the Advisory Committee, the Minister may—

(a) approve the supplementary development plan;

(b) amend the supplementary development plan—

(i) having regard to recommendations of the Advisory Committee or a council;

or

(ii) as the Minister thinks fit, in order to bring the supplementary development plan into consistency with this Act, to remove obsolete matter, to achieve uniformity of expression, or to correct any error,

and approve the plan as amended;

or

(c) decline to approve the plan.;

(g) by striking out from subsection (12) the passage "subsection (11)" and substituting the passage "subsection (11b)";

(h) by striking out from subsection (13) the passage "introduces or affects principles of development control under which development is permitted or prohibited" and substituting the passage "introduces, removes or amends principles of development control under which development is expressed (by use of the words "permitted" or "prohibited") to be permitted or prohibited";

and

(i) by striking out from subsection (14) the passage "14 days" and substituting the passage "28 days".

Amendment of s. 42—Certain amendments may be made without preparation of supplementary development plan.

23. Section 42 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) The Minister may, by notice published in the *Gazette*, amend the Development Plan by including in the Plan—

(a) a coastal management plan, or part of a coastal management plan, approved by the Governor under the Coast Protection Act, 1972;

and

(b) the scheme, or part of the scheme, for the development of West Lakes set out in the West Lakes Regulations under the West Lakes Development Act, 1969.

24. The following section is inserted after section 42 of the principal Act: Insertion of new s. 42a.

42a (1) The Governor may, be regulation, define terms used in the Development Plan. Definition of terms in the Development Plan.

(2) Where, at the commencement of subsection (1), the Development Control Regulations, 1982, purportedly define a term used in the Development Plan, that term, where used in the context to which the definition purportedly applies, shall be interpreted in accordance with that definition until the definition is amended, replaced or revoked by regulation under subsection (1).

(3) The Governor shall not make a regulation under subsection (1) unless the Chairman of the Advisory Committee has certified that the procedures required by subsection (5) have been complied with in relation to that regulation.

(4) An allegation, in legal proceedings, that the certificate required by subsection (3) was issued on a particular day shall, in the absence of proof to the contrary, be sufficient proof of that fact.

(5) Before regulations are made under this section—

(a) the Advisory Committee must cause to be published in the *Gazette* and a newspaper circulating generally throughout the State an advertisement—

(i) setting out the text of the proposed regulations;

(ii) inviting interested persons to make written submissions to the Committee in relation to the regulations within a period specified in the advertisement (being not less than 14 days from the date of publication of the advertisement);

and

(iii) appointing a place and time for the public hearing referred to in paragraph *(b)*;

(b) at the time and place appointed for that purpose in the advertisement the Advisory Committee, or a sub-committee appointed by the Advisory Committee, must hold a public hearing at which any interested person may speak in favour of, or in opposition to, the proposed regulations;

(c) the Advisory Committee must make recommendations to the Minister in relation to the proposed regulations and shall forward with those recommendations copies of any written submissions made to the Committee in relation to the proposed regulations.

Amendment of s. 43— Interim development control.

25. Section 43 of the principal Act is amended—

(a) by striking out from subsection (1) the passage "the delays attendant upon advertising for, receiving and considering public submissions, he may, at any time after notice that the plan is available for public inspection has been published" and substituting the passage "delay, he may, at the same time as, or at any time after, notice that the plan is available for public inspection is published";

and

(b) by striking out subsection (2) and substituting the following subsections:

(2) Where a notice has been published under subsection (1), the supplementary development plan shall come into operation on the day specified in the notice.

(3) A supplementary development plan that has come into operation under this section ceases to operate—

(a) if the Governor, by notice published in the *Gazette*, terminates the operation of the plan;

(b) if either House of Parliament passes a resolution disallowing the plan;

(c) if the plan is superseded by a supplementary development plan that comes into operation under section 41;

or

(d) if the plan has not earlier ceased to operate under paragraph *(a)*, *(b)* or *(c)*—on the expiration of 12 months from the day on which it came into operation.

Amendment of s. 44— Copies of Development Plan to be available to councils and the public.

26. Section 44 of the principal Act is amended by striking out subsections (1) and (2) and substituting the following subsections:

(1) The Minister shall provide every council with a copy of—

(a) that part of the Development Plan;

and

(b) every authorized supplementary development plan,

that affects the area of the council and the council shall make those plans available for inspection at its public office.

(2) The Commission shall make a copy of the Development Plan and of every authorized supplementary development plan available for inspection at its office.

Amendment of s. 47— Conditions under which development may be undertaken.

27. Section 47 of the principal Act is amended—

(a) by striking out the word "or" between subparagraphs (i) and (ii) of paragraph *(b)* of subsection (2) and inserting after subparagraph (ii) of that paragraph the following word and subparagraph:

or

(iii) the proposed development is the subject of an environmental impact statement prepared pursuant to Division II.;

(b) by striking out subsection (3) and substituting the following subsection:

(3) Where development of a particular kind is expressed, by use of the word "permitted" in the Development Plan, to be permitted absolutely or conditionally in a particular area, zone or locality, then, subject to subsection (4), that development may be undertaken without the consent of a planning authority, but subject to the conditions (if any) under which it is permitted by the Development Plan.;

(c) by inserting in subsection (4) after the passage "item of the State Heritage" the passage "or a State Heritage Area";

(d) by striking out from subsection (5) the passage "prohibited by the principles of development control" and substituting the passage "expressed, by use of the word "prohibited" in the Development Plan, to be prohibited";

(e) by striking out subsection (9) and substituting the following subsection:

(9) In deciding whether to consent to a proposed development under this section, a planning authority—

(a) shall have regard to the provisions of the Development Plan so far as they are relevant to that decision;

and

(b) shall not make a decision that is seriously at variance with those provisions.;

and

(f) by striking out from subsection (10) the passage "is required to refer a proposal for development to the Commission or a prescribed instrumentality or agency of the Crown for its consideration" and substituting the passage "must consider the views of the Commission or a prescribed instrumentality or agency of the Crown in relation to a proposal for development".

Repeal of s. 48 and substitution of new section.

28. Section 48 of the principal Act is repealed and the following section is substituted:

Heritage items.

48. (1) Where an application is made for planning authorization in respect of a development affecting an item of the State Heritage or a State Heritage Area, the planning authority from which the authorization is sought—

(a) shall refer the application to the Minister responsible for the State Heritage;

(b) shall not grant the authorization until it has received and had regard to any representations that the Minister desires to make on the subject;

and

(c) where the planning authority is a council—shall not grant the authorization without the concurrence of the Commission.

(2) If the Minister desires to make representations in relation to the application he shall do so within two months after the application was referred to him under subsection (1) *(a)*.

(3) The Commission shall not make a decision to concur, or refuse its concurrence, in the granting of a proposed authorization by a council unless it has had regard to the representations (if any) of the Minister and the provisions of the Development Plan so far as they are relevant.

Amendment of s. 49—Preparation of environmental impact statement.

29. Section 49 of the principal Act is amended—

(a) by striking out from subsection (2) the passage "two months" and substituting the passage "6 calendar weeks";

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

(2a) The Minister shall give to the proponent copies of all submissions made within the period referred to in subsection (2) and he shall not proceed to accord official recognition to a draft environmental impact statement until the proponent has responded to those submissions to the satisfaction of the Minister.;

(c) by striking out from subsection (3) the passage "any response that the proponent may desire to make to the submissions" and substituting the passage "the proponent's response";

(d) by inserting after the word "preparation" in subsection (5) the passage "and publication";

(e) by inserting after subsection (6) the following subsection:

(6a) Where a proposed development or project to which an officially recognized environmental impact statement relates will, if the development or project proceeds, be situated wholly or partly within the area of a council, the Minister shall give a copy of the statement to the council.;

and

(f) by inserting after subsection (7) the following subsections:

(8) A planning authority may—

(a) when determining what conditions should be attached to its consent to a development in relation to which an environmental impact statement has been prepared attach conditions that must be complied with in the future;

(b) at intervals stipulated by it when granting consent to a development in relation to which an environmental impact statement has been prepared, vary or revoke conditions to which the consent is subject or attach new conditions to the consent.

(9) The variation of a condition, or a new condition attached to a consent, pursuant to subsection (8) *(b)* shall not operate—

(a) until the expiration of two months after the day on which a person who is entitled to appeal against the decision has received notice of it;

or

(b) where an appeal is instituted within that time—

(i) until the appeal is dismissed, struck out or withdrawn;

or

(ii) until the questions raised by the appeal have been finally determined.

30. The following Division is inserted after section 51 of the principal Act: Insertion of new Division IIIA in Part V of the principal Act.

DIVISION IIIA—DIVISION OF LAND WITHIN THE HILLS FACE ZONE

51a. (1) Subject to subsection (2), no application for planning authorization in respect of the division of land within the Hills Face Zone may be made under this Part. Division of land within the Hills Face Zone.

(2) An application for planning authorization in respect of the division of land situated wholly or partly within the Hills Face Zone may be made—

(a) if the number of allotments that would, after the division, be situated wholly or partly within the Hills Face Zone is equal to or less than the number of allotments that were, before the division, situated wholly or partly within the Hills Face Zone;

or

(b) if the Governor, being satisfied that a proposed division of land within the Hills Face Zone is consistent with the principles and objects expressed in the Development Plan and with the public interest, approves, by proclamation, the making of an application for planning authorization for the proposed division.

31. Section 52 of the principal Act is repealed and the following section is substituted: Repeal of s. 52 and substitution of new section.

52. (1) A person who applies for planning authorization and is aggrieved— Aggrieved applicant may appeal.

(a) by a decision of a planning authority (not being the Governor)—

(i) to refuse the application;

or

(ii) to attach conditions to the planning authorization;

or

(b) where the development concerned affects an item of State heritage or a State Heritage Area—by the Commission's refusal to concur in the granting of planning authorization,

may, within 2 months of the day on which he receives notice of the decision, or such longer period as may be allowed by the Tribunal, appeal to the Tribunal against the decision.

(2) Where a planning authority decides to vary a condition or attach a new condition to a consent to a development in relation to which an environmental impact statement has been prepared, the person who enjoys the benefit of the consent may, within 2 months of the day on which he receives notice of the decision, or such longer period as may be allowed by the Tribunal, appeal to the Tribunal against the decision.

(3) An appeal does not lie pursuant to subsection (1) *(b)* in relation to a development of a kind expressed, by use of the word "prohibited" in the Development Plan, to be prohibited in a particular area, zone or locality.

(4) Where a decision by which an appellant is aggrieved was made by a person acting in pursuance of delegated powers, the appeal shall lie against the principal and not the delegate.

(5) An applicant for planning authorization who is aggrieved by the failure—

(a) of a planning authority (not being the Governor) to decide his application within the prescribed time;

or

(b) of the Commission, the Minister or a council to decide, within the prescribed time, whether to concur in the granting of planning authorization,

may apply to the Tribunal for an order requiring the planning or other authority to make its decision within a time fixed by the Tribunal.

(6) In proceedings under subsection (5) the Tribunal may order the planning or other authority to pay the applicant's costs.

(7) An amount ordered to be paid by way of costs under this subsection may be recovered as a debt.

Amendment of s. 53— Third party appeals.

32. Section 53 of the principal Act is amended by striking out subsections (5), (6), (7), (8), (9), (10) and (11) and substituting the following subsections:

(5) The planning authority shall, on deciding an application in relation to which representations have been made under this section—

(a) give notice of the decision and of the date of the decision to the persons who made the representations;

and

(b) give notice to the Tribunal—

(i) of the decision and of the date of the decision;

and

(ii) of the names and addresses of persons who made representations to the planning authority under this section.

(6) The planning authority must give the notice referred to in subsection (5) *(a)* either personally or by post and not later than 7 days after it makes the decision to which the notice relates.

(7) A person who is entitled to be given notice of a decision under subsection (5) and who is aggrieved by the decision may, subject to this section and on payment of a fee of twenty dollars, appeal to the Tribunal against the decision.

(8) An appeal under subsection (7) must be instituted within 21 days after the decision to which the appeal relates was made.

(9) An applicant for planning authorization in relation to which an appeal is instituted under subsection (7) shall—

(a) be notified by the Tribunal of the appeal;

and

(b) shall be a party to the appeal.

(9a) A planning authorization does not operate—

(a) until the time for instituting an appeal under this section against the decision to grant the planning authorization has expired;

or

(b) where an appeal is instituted—

(i) until the appeal is dismissed, struck out or withdrawn;

or

(ii) until the questions raised by the appeal have been finally determined.

(10) Except by leave of the Tribunal, an appeal under subsection (7) shall not be pursued—

(a) where a conference of parties to the appeal is held as required by this Act—beyond the conclusion of the conference;

or

(b) where such a conference is dispensed with by the Tribunal—beyond the time at which the Tribunal decides to dispense with the conference.

(11) An application for leave to continue an appeal under this section must be made within 7 days after—

(a) the conclusion of the conference;

or

(b) the decision of the Tribunal to dispense with a conference,

as the case requires, and if an application is not made within that period, or if leave is not granted, the appeal shall be deemed to have been dismissed.

Amendment of s. 54—Powers of Tribunal when deciding appeal.

33. Section 54 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

(2) The Tribunal shall, when determining an appeal under this Division, have regard to, or take into account, matters that the planning authority was required to have regard to, or take into account, in the first instance.

Amendment of s. 55—Advertisements.

34. Section 55 of the principal Act is amended—

(a) by striking out paragraph *(c)* of subsection (2) and substituting the following paragraph:

(c) an advertisement for the sale or lease of land situated on the land concerned.;

(b) by striking out from paragraph *(b)* of subsection (3) the passage "and liable to a penalty not exceeding five hundred dollars";

(c) by inserting at the end of subsection (3) the following passage:

Penalty: $500.

Default Penalty: $100.;

(d) by striking out from subsection (7) the definition of "the relevant planning authority" and substituting the following definition:

"the relevant planning authority" means—

(a) in relation to an advertisement that is not within the area of any council—the Commission;

and

(b) in relation to an advertisement within the area of a council—the council or the Commission.;

and

(e) by inserting in subsection (8) after the word "confirm" the passage ", vary".

Amendment of s. 57—Law governing proceedings under this Act.

35. Section 57 of the principal Act is amended by inserting after subsection (1) the following subsection:

(1a) The provisions of the Development Plan that are relevant to the consideration of an application for planning approval and to the resolution of issues arising in subsequent proceedings based on that application (whether brought under this Act or not) shall be the provisions of the Development Plan as in force at the time the application was made.

Amendment of s. 62—Preservation of open space.

36. Section 62 of the principal Act is amended by inserting after subsection (5) the following subsection:

(6) The Registrar-General shall, on application by the Minister or the owner of the land, enter a memorial of a proclamation made

under this section on the certificate of title, Crown lease, or other instrument of title to the land.

37. Section 69 of the principal Act is amended— Amendment of s. 69— Application of the Fund.

(a) by inserting after the word "land" in paragraph *(a)* the passage ", or any purpose related to the acquisition and development of land,";

and

(b) by striking out the word "and" between paragraphs *(f)* and *(g)* and inserting after paragraph *(g)* the following word and paragraph:

and

(h) to assist councils in the provision of public recreation facilities.

38. Section 73 of the principal Act is repealed and the following section is substituted: Repeal of s. 73 and substitution of new section.

73. (1) A council shall seek and consider the advice of a person with prescribed qualifications, or a person approved by the Minister for that purpose, in relation to every matter arising under this Act that is declared by regulation to be a matter on which such advice should be sought and considered by the council. Professional advice to be obtained by councils in relation to certain matters.

(2) A person may be approved by the Minister for the purposes of subsection (1) subject to such conditions as the Minister thinks fit and the Minister may withdraw or vary such an approval at any time.

39. Section 74 of the principal Act is amended— Amendment of s. 74— Regulations.

(a) by striking out from subsection (1) of the passage ", on the recommendation of the Commission,";

and

(b) by striking out subsection (4) and substituting the following subsection:

(4) The regulations may prescribe and provide for the payment of fees and may empower a planning authority, or any other person to whom fees are payable, to remit payment of the whole or part of those fees.

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

D. B. DUNSTAN, Governor