

**Legislative Council—No 32**

As introduced and read a first time, 21 June 2006

South Australia

**Development (Development Plans) Amendment  
Bill 2006**

A BILL FOR

An Act to amend the *Development Act 1993* and to make related amendments to the *Local Government Act 1999* and the *Parliamentary Committees Act 1991*.

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## The Parliament of South Australia enacts as follows:

### Part 1—Preliminary

#### 1—Short title

This Act may be cited as the *Development (Development Plans) Amendment Act 2006*.

#### 2—Commencement

- 5 This Act will come into operation on a day to be fixed by proclamation.

#### 3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

### Part 2—Amendment of *Development Act 1993*

10 **4—Amendment of section 4—Interpretation**

Section 4(1), definition of *Major Developments Panel*—delete the definition

#### 5—Insertion of section 10A

After section 10 insert:

15 **10A—Special provision relating to constitution of Development Assessment Commission**

- 20 (1) When the Minister makes a declaration under section 46, the Minister may (but need not) appoint 1 or 2 persons to the Development Assessment Commission to act as additional members for the purposes of dealing with any matter relating to the declaration that involves the Development Assessment Commission under Part 4 Division 2 Subdivision 1.
- (2) A person appointed under subsection (1) will be selected from a list of persons established by the Minister for the purposes of this section.
- 25 (3) A person will hold office under this section on terms and conditions determined by the Minister and, on the expiration of a term of office, is eligible for reappointment.

- 5
- (4) The Minister should, in establishing a list under this section, seek to obtain a wide range of expertise relevant to the consideration of major developments or projects within the State.
- (5) The Minister must consult with the Minister for the River Murray with a view to including on the list 1 or more persons who, in the opinion of the Minister for the River Murray, have extensive knowledge of, or experience in dealing with, issues that are relevant to the protection or management of the River Murray.
- 10
- (6) If it appears that a development or project may have a significant impact on any aspect of—
- (a) the River Murray within the meaning of the *River Murray Act 2003*—the Minister must make an appointment under subsection (1) and the person so appointed, or at least 1 person so appointed, must be a person approved by the Minister for the River Murray;
- 15
- (b) the Adelaide Dolphin Sanctuary—the Minister must make an appointment under subsection (1) and the person so appointed, or at least 1 person so appointed, must be a person approved by the Minister for the Adelaide Dolphin Sanctuary.
- 20

#### **6—Amendment of section 11—Functions of the Development Assessment Commission**

- (1) Section 11(1)(b) and (c)—delete paragraphs (b) and (c)
- (2) Section 11—after subsection (1) insert:

- 25
- (1a) The Development Assessment Commission may, as it thinks fit, provide advice and reports to the Minister on trends, issues and other matters that have become apparent or arisen through its assessment of applications under this Act.

#### **7—Amendment of section 21—Annual report**

- 30
- Section 21(1)—delete "30 September" and substitute:
- 31 October

#### **8—Amendment of section 22—The Planning Strategy**

- (1) Section 22—After subsection (3a) insert:
- 35
- (3b) The Minister must ensure that the various parts of the Planning Strategy are reviewed at least once in every 5 years.
- (3c) Different parts may be reviewed at different times but any review must include—
- (a) an assessment of relevant trends in the strategies of the Government; and

- (b) an assessment of the consistency between the part or parts under review and other major policy documents and strategies of the Government that are relevant to the material under review (as determined by the Minister),

(and may include other matters as the Minister thinks fit).

- (2) Section 22(6)—delete "30 September" and substitute:

31 October

- (3) Section 22—after subsection (7) insert:

- (7a) The report required under subsection (6) may be incorporated into (and presented as part of) the annual report of the Minister under section 21.

### **9—Amendment of section 23—Development Plans**

Section 23—after subsection (3) insert:

- (3a) A Development Plan may, in setting out objectives or principles under subsection (3)(a), describe the characteristics and other aspects of the natural or constructed environment that are desired within the community in order to provide clear directions with respect to development in the relevant area.

### **10—Amendment of section 24—Council or Minister may amend a Development Plan**

- (1) Section 24(1)(a)(iv)—delete subparagraph (iv) and substitute:

- (iv) where the Minister considers that the council has demonstrated undue delay in the preparation, consideration or finalisation of a Development Plan Amendment in accordance with the provisions of this subdivision and that the amendment should proceed after taking into account the significance of the amendment and the provisions of the Planning Strategy—by the Minister;

- (2) Section 24(1)(a)(iva)—delete subparagraph (iva) and substitute:

(iva) where—

- (A) a Development Plan Amendment prepared by the council has lapsed under section 25; or
- (B) the council has, after commencing the processes associated with making an amendment set out in section 25, subsequently decided not to proceed with the amendment after all; or
- (C) the council has, after being required by the Minister to take or complete any step associated with the finalisation of an amendment (including an amendment that has been divided under section 25(15)(f)), failed to take that step within a time specified by the Minister,

by the Minister;

(3) Section 24(1)(a)(v)—delete subparagraph (v) and substitute:

(v) where—

(A) the council has failed to comply with a requirement of section 30 relating to the preparation or completion of a report under that section; or

(B) the Minister considers that the council has, in connection with the preparation of a report under section 30, acted unreasonably in not agreeing with the Minister on the steps that the council will take to amend any relevant Development Plan under this subdivision, or that the council has failed to comply with the terms of any relevant agreement with the Minister, or requirement prescribed by the regulations, under that section,

by the Minister;

(4) Section 24(1)(b)(ii)—after "by the relevant councils" insert:

at the request or

(5) Section 24(1)(b)(ii)—delete "section 25" and substitute:

this subdivision

(6) Section 24(1)—after paragraph (d) insert:

(da) where the amendment—

(i) relates to the format of a Development Plan, or to the headings, terms, names, numbers or other forms of identifying or classifying material used in a Development Plan; or

(ii) relates to a set of objectives or principles that have been developed by the Minister with a view to providing or enhancing consistency in the policies, or specific classes of policies, that are to apply under this Act and that have been identified for the purposes of this provision by the Minister by notice in the Gazette,

by the Minister (including an amendment that may only relate to 1 Development Plan in a particular circumstance); or

(7) Section 24(1)—after paragraph (g) insert:

(ga) where the Minister who is responsible for the administration of the Mining Acts has requested the Minister to take action under this Act to address a matter or matters relating to planning or development that may arise in connection with an area that may be subject to, or affected by, operations carried out under a Mining Act; or

(8) Section 24—after subsection (1) insert:

(1a) Two or more councils may act jointly in preparing amendments to 1 or more Development Plans under subsection (1)(a)(i) or (b)(ii) and, in such a case, 1 set of amendments, and 1 DPA, may relate to all of the relevant Development Plans (and this subdivision will apply with any necessary modifications).

(1b) The Minister must not act under subsection (1)(a)(v) unless the Minister has, by notice in writing to the relevant council, given the council at least 6 weeks to make submissions in relation to the matter, and considered any submission received from the council within the period specified by the Minister.

### **11—Amendment of section 25—Amendments by a council**

(1) Section 25(2)—after "the Planning Strategy" insert:

(and may consult with the Advisory Committee with respect to any other matter that should, in the opinion of the Minister, be referred to the Advisory Committee for advice)

(2) Section 25(3) to (11) (inclusive)—delete subsection (3) to (11) and substitute:

(3) If or when agreement is reached, and the council decides to proceed, the council must prepare a proposal, to be called a "Development Plan Amendment" (or *DPA*), that complies with the following requirements:

(a) the DPA must be based on the outcome of investigations initiated by the council in accordance with the terms of the Statement of Intent and such other investigations (if any) as the council thinks fit;

(b) the DPA must include an assessment of the extent to which the proposed amendment—

(i) accords with the Planning Strategy; and

(ii) accords with the Statement of Intent; and

(iii) accords with other parts of the Development Plan; and

(iv) complements the policies in the Development Plans for adjoining areas; and

(v) satisfies the matters prescribed in the regulations;

(c) the DPA must include—

(i) an explanation of the intent of the proposed amendment, the relationship between that intent and the policy of the Statement of Intent, and a summary of the major policy changes (if any) that are proposed; and

(ii) a summary of the conclusions drawn from the investigations and assessments referred to above; and

(iii) a draft of the amendment, or a draft of the relevant section of the Development Plan as amended (with the amendments shown in a distinctive manner);

(d) the DPA must include an assessment of the extent to which the proposed amendment accords with relevant infrastructure planning (with respect to both physical and social infrastructure) identified by the council through strategic planning or other processes undertaken by the council under this Act or the *Local Government Act 1999* or identified by a Minister, or any other relevant government agency, in accordance with any scheme set out in the regulations, in connection with the preparation of the DPA under this Act;

(e) the DPA must include any other matter prescribed by the regulations.

(4) A DPA may only be prepared after the council has considered the advice of a person with prescribed qualifications.

(5) Despite a preceding subsection, a council cannot, except as authorised by the Minister, propose an amendment to a part of a Development Plan that has been declared by the Minister by notice in the Gazette as being part of a set of standard policy modules for the purposes of this Act.

(6) When the council has prepared a DPA in accordance with the preceding subsections, the DPA will be dealt with in accordance with process A, B or C, as described below, depending on an agreement reached between the council and the Minister as part of the Statement of Intent, or at some later time if so determined or agreed by the Minister.

(7) Process A is as follows:

(a) the council must first refer the DPA to any government Department or agency that has a direct interest in the matter, and any other body specified in the Statement of Intent, for comment within the period prescribed by the regulations;

(b) the Minister will then consider the matter and any comment from a Department, agency or other body to which the DPA has been referred, although if a response is not received by the council within the period that applies under paragraph (a), the council and the Minister may assume that the particular Department, agency or other body does not desire to provide any comment;

(c) the Minister may then give his or her approval to the release of the DPA or, after consultation with the council—



- 5
- (i) require an alteration to the DPA (and in such a case the council must comply with the requirement); or
- (ii) determine that the DPA be divided into parts (with or without alterations) and that each part be dealt with separately (and in such a case the determination will have effect according to its terms and each part will then be taken to be a separate DPA for the purposes of this Act);
- 10 (d) the council must then release the DPA for public consultation, in accordance with the regulations, over a period of at least 8 weeks.
- (8) Process B is as follows:
- 15 (a) if required by the Minister, the council must first refer the DPA to the Minister for consideration and the Minister may, after consultation with the council—
- (i) require an alteration to the DPA (and in such a case the council must comply with the requirement); or
- 20 (ii) determine that the DPA be divided into parts (with or without alterations) and that each part be dealt with separately (and in such a case the determination will have effect according to its terms and each part will then be taken to be a separate DPA for the purposes of this Act);
- 25 (b) subject to complying with paragraph (a) (if relevant), the council must—
- (i) refer the DPA to any government Department or agency that has a direct interest in the matter, and any other body specified in the Statement of Intent, for comment within a period of 8 weeks (and if a response is not received by the council within this period then the council and the Minister may assume that the particular Department, agency or body does not desire to provide any comment); and
- 30 (ii) release the DPA for public consultation, in accordance with the regulations, over a period that is at least concurrent with the period that applies under subparagraph (i).
- (9) Process C is as follows:
- 40 (a) the council must refer the DPA to any government Department or agency that has a direct interest in the matter, and any other body specified in the Statement of Intent, for comment within a period of 4 weeks (and if a response is not received by the council within this period then the council and the Minister may assume that the particular Department, agency or body does not desire to provide any comment);
- 45

(b) the council must release the DPA for public consultation, in accordance with the regulations, over a period that is at least concurrent with the period that applies under paragraph (a);

(c) the council must, at the time that the DPA is released for public consultation, give—

(i) an owner or occupier of any land that is directly within the ambit of operation of the proposed amendment; and

(ii) an owner or occupier of each piece of adjacent land to land that is directly within the ambit of operation of the proposed amendment,

a written notice in accordance with the regulations.

(10) A council must not release a DPA for public consultation unless or until the chief executive officer of the council has, on behalf of the council, issued a certificate in the prescribed form relating to the extent to which the proposed amendment—

(a) accords with the Planning Strategy; and

(b) accords with the Statement of Intent; and

(c) accords with other parts of the Development Plan; and

(d) complements the policies in the Development Plans for adjoining areas; and

(e) satisfies the matters prescribed in the regulations.

(11) In addition to any requirement prescribed by the regulations, a council must, for the purposes of undertaking the public consultation required above—

(a) allow interested persons to make representations in writing to the council in relation to the matter over the period that applies for the purposes of the public consultation; and

(b) hold within its area at least 1 meeting where members of the public may attend and make representations in relation to the matter (although if no written representation under paragraph (a) indicates an interest to be heard, a meeting need not be held and, in a case where section 24(1a) applies, only 1 meeting need be held in the area of 1 relevant council); and

(c) appoint a committee (which may, but need not, include members of the council) to consider any representations made under paragraph (a) or (b) and to provide advice to the council in relation to these representations.

(3) Section 25(12)—delete "Plan Amendment Report" and substitute:

DPA

- (4) Section 25(13)(a)—after "during the consultation period" insert:  
    , on the reasons for any failure to comply with any time set for any step under those subsections,
- (5) Section 25(13)(a)—after "proposed amendment" insert:  
5                    (but these alterations cannot have effect until approved by the Minister under subsection (15))
- (6) Section 25(15)—delete "The Minister must, on the receipt of a report under subsection (13)(a), seek the advice of the Advisory Committee" and substitute:  
    On the receipt of a report under subsection (13)(a)
- 10 (7) Section 25(15)(a)—delete paragraph (a) and substitute:  
    (a) the Minister must seek the advice of the Advisory Committee if the Minister is of the opinion that the proposed amendment would not be in accordance with the Planning Strategy (and may seek the advice of the Advisory Committee with respect to any other matter that should, in the opinion of the Minister, be referred to the Advisory Committee for advice); and
- 15
- (8) Section 25(15)(b)—before "if the owner of the land" insert:  
    the Minister must seek the advice of the Advisory Committee
- (9) Section 25(19)—delete "Plan Amendment Report" wherever occurring and substitute in each case:  
20                    DPA
- (10) Section 25(20)—after "by the Minister" insert:  
    (and if no period is so specified, is a period determined in accordance with the regulations)
- 25 (11) Section 25—after subsection (21) insert:  
    (21a) Despite a preceding subsection, if, in relation to a particular DPA—  
        (a) any relevant period applying under subsection (19) has expired; and  
        (b) at least 5 years have elapsed since agreement was reached on the Statement of Intent under subsection (1),  
30                    the DPA will lapse by force of this subsection at the end of a period prescribed by the regulations unless the Minister, by notice in the Gazette, exempts the DPA from the operation of this subsection.
- 35                    (21b) An exemption under subsection (21a) may include a condition that will result in the DPA lapsing in any event if the terms of the condition are not met.

(12) Section 25—after subsection (22) insert:

(23) If a DPA or amendment is divided under this section, the Minister may, after consultation with the relevant council, modify the Statement of Intent to set new timelines or to make such other modifications as appear to the Minister to be reasonable in view of the division.

## **12—Amendment of section 26—Amendments by the Minister**

(1) Section 26(1) to (5) (inclusive)—delete subsections (1) to (5) and substitute:

(1) If the Minister is considering an amendment to a Development Plan, the Minister must first prepare a proposal, to be called a "Development Plan Amendment" (or *DPA*), that complies with the following requirements:

- (a) the DPA must be based on investigations initiated by the Minister for the purposes of this section;
- (b) the DPA must include an assessment of the extent to which the proposed amendment—
  - (i) accords with the Planning Strategy; and
  - (ii) accords with other parts of the Development Plan; and
  - (iii) complements the policies in Development Plans for adjoining areas; and
  - (iv) satisfies the requirements prescribed by the regulations;
- (c) the DPA must include—
  - (i) an explanation of the proposed amendment and a summary of the major policy changes (if any) that are proposed; and
  - (ii) a summary of the conclusions drawn from the investigations and assessments referred to above; and
  - (iii) a draft of the amendment, or a draft of the relevant section of the Development Plan as amended (with the amendments shown in a distinctive manner);
- (d) the DPA must include an assessment of the extent to which the proposed amendment accords with relevant infrastructure planning (with respect to both physical and social infrastructure) identified by the Minister for the purpose of this section;
- (e) the DPA must include any other matter prescribed by the regulations.

(2) The DPA may incorporate any material prepared by a council in relation to an amendment that was proposed under section 25.

- 5
- (3) A DPA may only be prepared after the Minister has considered the advice of a person with prescribed qualifications.
- (4) When the Minister has prepared a DPA in accordance with the preceding subsections, the DPA will be dealt with in accordance with process A, B or C, as described below, depending on the determination of the Minister.
- (5) Process A is as follows:
- 10
- (a) the Minister will first refer the DPA to any government Department or agency that, in the opinion of the Minister, has a direct interest in the matter (and any other body as the Minister thinks fit) for comment within the period prescribed by the regulations;
- 15
- (b) the Minister will then consider the matter and any comment from a government Department, agency or other body to which the DPA has been referred, although if a response is not received by the Minister within the period that applies under paragraph (a), the Minister may assume that the particular Department, agency or other body does not desire to provide any comment;
- 20
- (c) the Minister may then determine whether or not to alter the DPA;
- (d) the Minister will then—
- 25
- (i) refer the DPA to any council that, in the opinion of the Minister, has a direct interest in the matter for comment within a period of 8 weeks; and
- (ii) release the DPA for public consultation, in accordance with the regulations, over a period that is at least concurrent with the period that applies under subparagraph (i).
- 30
- (5a) Process B is as follows:
- (a) the Minister will refer the DPA to any government Department or agency, and any council, that, in the opinion of the Minister, has a direct interest in the matter (and any other body as the Minister thinks fit) for comment within a period of 8 weeks (and if a response is not received by the Minister within this period then the Minister may assume that the particular Department, agency, council or other body does not desire to provide any comment);
- 35
- (b) the Minister will release the DPA for public consultation, in accordance with the regulations, over a period that is at least concurrent with the period that applies under paragraph (a).
- 40

(5b) Process C is as follows:

- 5 (a) the Minister will refer the DPA to any government Department or agency, and any council, that, in the opinion of the Minister, has a direct interest in the matter (and any other body as the Minister thinks fit) for comment within a period of 4 weeks (and if a response is not received by the Minister within this period then the Minister may assume that the particular Department, agency, council or other body does not desire to provide any comment);
- 10 (b) the Minister will release the DPA for public consultation, in accordance with the regulations, over a period that is at least concurrent with the period that applies under paragraph (a);
- (c) the Minister will, at the time that the DPA is released for public consultation, give—
- 15 (i) an owner or occupier of any land that is directly within the ambit of operation of the proposed amendment; and
- (ii) an owner or occupier of each piece of adjacent land to land that is directly within the ambit of operation of the proposed amendment,
- 20

a written notice in accordance with the regulations.

(5c) In addition to any requirement prescribed by the regulations, the Minister must, for the purposes of undertaking the public consultation required above—

- 25 (a) allow interested persons to make representations in writing to the Minister in relation to the matter over the period that applies for the purposes of public consultation; and
- (b) ensure that at least 1 meeting is held where members of the public may attend and make representations in relation to the matter (although if no written representation under paragraph (a) indicates an interest to be heard, a meeting need not be held); and
- 30
- (c) arrange for a committee of the Advisory Committee (which may, but need not, include members of the Advisory Committee) to consider any representations made under paragraph (a) or (b) and to provide advice to the Minister in relation to those representations.
- 35

(5d) The Minister may seek the advice of the Advisory Committee—

- 40 (a) on any proposed alterations to the amendment; and
- (b) on any other issue that should, in the opinion of the Minister, be referred to the Advisory Committee.

(2) Section 26(6)—delete "Plan Amendment Report" and substitute:

DPA

- (3) Section 26(6)—delete "under subsection (4)"
- (4) Section 26(6)(b)—delete "that applies under subsection (4)(b)" and substitute:  
provided for public consultation under this section
- (5) Section 26(7)—delete subsection (7) and substitute:
- 5                   (7) The Minister must seek the advice of the Advisory Committee on  
any submissions made under subsection (6).
- (6) Section 26(11)(a)—delete "(iva)" and substitute:  
(iv), (iva) or (v)
- (7) Section 26(11)(b)—delete "Plan Amendment Report" and substitute:
- 10                   DPA
- (8) Section 26(11)(c)—delete "Plan Amendment Report" and substitute:  
DPA
- (9) Section 26(11)(c)—after "Planning Strategy" insert:  
, or that the DPA remains valid and effective for the purposes of the  
15                   consideration of the amendment under this Act
- (10) Section 26(11)(d)—delete "Plan Amendment Report" wherever occurring and  
substitute in each case:  
DPA
- (11) Section 26(11)(d)—delete "under section 25 rather than under this section" and  
20                   substitute:  
by the council
- (12) Section 26(11)(e)—delete "Plan Amendment Report" wherever occurring and  
substitute in each case:  
DPA
- 25                   (13) Section 26(11)(e)—delete "under section 25" and substitute:  
under this Act

### **13—Amendment of section 27—Parliamentary scrutiny**

- (1) Section 27—after subsection (1) insert:
- 30                   (2) An amendment under section 25 must be accompanied by a report  
from the Minister that sets out—
- (a) the timelines that were agreed between the Minister and the  
council for the taking of each step in the process under this  
subdivision, and any relevant timeline prescribed by the  
regulations; and
- 35                   (b) the actual time taken for each such step; and
- (c) a report on the reasons for any delays (prepared after taking  
into account any matter furnished as part of the council's  
report under section 25(13)); and

(d) if Process C was adopted under section 25—the reasons for doing so; and

(e) any other comment or material considered relevant by the Minister.

5 (2) Section 27(4)—delete "If" and substitute:

Subject to subsection (4a), if

(3) Section 27—after subsection (4) insert:

10 (4a) If the period of 28 days referred to in subsection (4) would, but for this subsection, expire in a particular case sometime between the day on which the House of Assembly is dissolved for the purposes of a general election and the day on which the Environment, Resources and Development Committee is reconstituted at the beginning of the first session of the new Parliament after that election (both days inclusive), the period applying for the purposes of subsection (4) will be extended by force of this subsection so as to expire 28 days from the day on which the Environment, Resources and Development Committee is so reconstituted.

#### **14—Amendment of section 28—Interim development control**

(1) Section 28(1)—delete "the Governor" wherever occurring and substitute, in each case:

20 the Minister

(2) Section 28(1)—delete "Plan Amendment Report" and substitute:

DPA

(3) Section 28(4)(a)—delete "the Governor" and substitute:

the Minister

#### **15—Amendment of section 29—Certain amendments may be made without formal procedures**

(1) Section 29(2)—after paragraph (b) insert:

or

30 (c) in order to provide consistency between the Development Plan and any provision made by the regulations (including to provide information in the Development Plan that relates to the content or effect of any regulation).

(2) Section 29(3)—after paragraph (b) insert:

or

35 (c) in order to remove from the plan—

(i) a State heritage place or a local heritage place (as listed on the plan); or

(ii) any other place listed on the plan (if relevant to local heritage),



where the building or other item that gave rise to the relevant listing has been demolished, destroyed or removed.

(3) Section 29—after subsection (4) insert:

(5) The Minister may, by notice in the Gazette, amalgamate 2 or more Development Plans, and then make such consequential amendments as the Minister thinks fit to those Development Plans, so long as the Minister does not, in acting under this subsection, alter the effect of an underlying policy reflected in the Development Plans.

## **16—Substitution of Part 3 Division 2 Subdivision 3**

Part 3 Division 2 Subdivision 3—delete Subdivision 3 and substitute:

### **Subdivision 3—Strategic Directions Reports**

#### **30—Strategic Directions Reports**

- (1) A council must, from time to time, in accordance with the requirements of this section, prepare a report under this section (a *Strategic Directions Report*) that—
- (a) addresses the strategic planning issues within the area of the council, with particular reference to—
    - (i) the Planning Strategy; and
    - (ii) any other policy or document prescribed by the regulations; and
  - (b) addresses appropriate amendments to any Development Plan that applies within the area of the council; and
  - (c) sets out the council's priorities for—
    - (i) achieving orderly and efficient development through the implementation of planning policies; and
    - (ii) the integration of transport and land-use planning within its area; and
    - (iii) implementing any relevant targets set out in the Planning Strategy; and
    - (iv) infrastructure planning (with respect to both physical and social infrastructure), taking into account any advice provided by a Minister, or any other relevant government agency, in accordance with a scheme set out in the regulations, and any of the council's proposals with respect to infrastructure; and
    - (v) other projects or initiatives considered to be relevant by the council; and
  - (d) contains such other material as may be—

(i) prescribed by the regulations; or

(ii) required by the Minister.

(2) A council must prepare and complete a report under this section—

(a) within 12 months after an alteration is made to the Planning Strategy, or within such longer period as the Minister may allow, if—

(i) the Minister declares, by notice in the Gazette, that the alteration is considered to be a significant alteration that should trigger a review of Development Plans, or specified Development Plans, under this section in relation to issues specified by the Minister; and

(ii) the Development Plan that applies in relation to its area (or a part of its area) falls within the ambit of the declaration; and

(b) in any event, within 5 years after the completion of the last report under this section.

(3) A council must, in connection with the preparation of a report under this section—

(a) by public advertisement, invite interested persons to make written submissions to the council within 2 months of the date of the advertisement or such longer period as may be allowed by the advertisement; and

(b) consult with any prescribed authority or body in the manner specified by the regulations.

(4) A council must, in connection with the operation of subsection (3), prepare and make available the documentation prescribed by the regulations.

(5) A council must give a person who makes a written response to an invitation under subsection (3)(a) an opportunity to appear personally or by representative before the council or a council committee and to be heard on those submissions.

(6) A council must, in preparing a report under this section—

(a) reach agreement with the Minister on a Statement of Intent with respect to any proposed amendments to a Development Plan that applies within the area of the council; and

(b) if relevant, prepare a DPA that is suitable for consideration under section 25(3).

(7) A council must furnish a report under this section to the Minister.

- 5
- (8) The council must then, in accordance with any reasonable request of the Minister, enter into an agreement with the Minister on the steps that the council will take as a result of the matters contained in the report (and the report will not be taken to have been completed unless or until such an agreement is reached with the Minister).
- 10
- (9) The Minister may, at the request of a council, exempt a council—
- (a) from a requirement to prepare a particular report under this section; or
  - (b) from a particular requirement with respect to a report under this section,
- if the Minister is satisfied—
- 15 (c) that the council has addressed, or has determined to address, any relevant issues through its strategic management plans under the *Local Government Act 1999* and that, in the circumstances, it is reasonable to rely on those plans, and the procedures associated with those plans, to achieve the objects of this section; or
  - 20 (d) that the council has taken other steps to ensure that its strategies and planning instruments, and especially the Development Plan or Plans that apply within the area of the council, are up-to-date; or
  - (e) that there is some other good reason to grant the exemption.
- (10) The Minister may grant an exemption under subsection (9) subject to such conditions as the Minister thinks fit.
- 25
- (11) If an exemption is granted under subsection (9), the Minister must include a report with respect to the matter in the Minister's annual report on the administration of this Act (including a statement as to the grounds for the granting of the exemption).
- 30
- (12) A council must make copies of a report prepared under this section available for inspection (without charge) by the public at the principal office of the council.
- 35
- (13) If a report proposes amendments to a Development Plan that applies within the area of the council, the council must ensure that it releases a DPA for public consultation under section 25 within the period prescribed by the regulations.
- 40
- (14) A Minister identified by the regulations for the purposes of this provision must, at the request of a council made in accordance with the regulations, furnish to the council within the prescribed period a statement of the nature and extent of any infrastructure that, according to the Minister's assessment, should be taken into account in connection with the preparation of a report under this section.

(15) Two or more councils may act under this section jointly (and, in such a case, this section will apply with any necessary modifications and 1 or more of the councils may act on behalf of, and with the agreement of, the other council or councils in undertaking any process or procedure under this section).

(16) A failure of a council to comply with this section cannot be taken to affect the validity of a Development Plan that applies in relation to the area (or a part of the area) of the council.

### **17—Insertion of section 31A**

After section 31 insert:

#### **31A—Investigations**

(1) If the Minister has reason to believe that a council has failed to efficiently or effectively discharge—

(a) its responsibilities under Subdivision 2 with respect to the amendment (or possible amendment) of a Development Plan in a significant respect or to a significant degree; or

(b) its responsibilities under Subdivision 3 with respect to the preparation, completion or implementation of a Strategic Directions Report in a significant respect or to a significant degree,

then the Minister may appoint an investigator or investigators to carry out an investigation and to report on the matter.

(2) The Minister must, before making an appointment under subsection (1), give the council an opportunity to explain its actions, and to make submissions (including, if relevant, an indication of undertakings that the council is willing to give in order to take remedial action), to the Minister within a period (being at least 28 days) specified by the Minister.

(3) If the Minister decides to proceed under subsection (1), the Minister must consult with the President of the LGA with respect to the person or persons to be appointed to carry out the investigation.

(4) An investigator may, for the purposes of an investigation—

(a) require a member or employee of the council to answer, orally or in writing, questions put by the investigator to the best of his or her knowledge, information and belief;

(b) require a person to whom questions are put under paragraph (a) to verify the answers to those questions by declaration;

(c) require a person to produce for examination by the investigator books, papers or other records relevant to the subject matter of the investigation;

- (d) retain books, papers or other records produced under paragraph (c) for such reasonable period as the investigator thinks fit and make copies of any of them or of any of their contents.
- 5 (5) Subject to subsection (8), a person who refuses or fails to comply with a requirement under subsection (4) is guilty of an offence.  
Maximum penalty: \$20 000.
- 10 (6) Subject to subsection (8), a person is not excused from answering a question or from producing books, papers or other records under this section on the ground that to do so might tend to incriminate the person or make the person liable to a penalty.
- 15 (7) However, if compliance by a natural person with a requirement to answer a question or to produce a book, paper or other record might tend to incriminate the person or make the person liable to a penalty—
- (a) in the case of a person who is required to produce a book, paper or record, the book, paper or record (as distinct from the contents of the book, paper or record); or
- 20 (b) in any other case, the answer given in compliance with the requirement,
- is not admissible in evidence against the person in proceedings for an offence or for the imposition of a penalty (other than proceedings in respect of the making of a false or misleading statement).
- 25 (8) A person is not obliged to provide information under this section that is privileged on the ground of legal professional privilege.
- (9) At the conclusion of an investigation, the investigator or investigators must present a written report to the Minister on the results of the investigation.
- 30 (10) The report may, if the investigator or investigators think fit, include recommendations to the Minister on what action (if any) should be taken in the circumstances.
- (11) The Minister must supply the council with a copy of a report presented under subsection (9).
- 35 (12) The Minister may, on the basis of a report presented under subsection (9)—
- (a) make recommendations to the council; or
- (b) if the Minister considers that the council has failed to efficiently or effectively discharge—
- 40 (i) its responsibilities under Subdivision 2 with respect to the amendment (or possible amendment) of a Development Plan in a significant respect or to a significant degree; or

- (ii) its responsibilities under Subdivision 3 with respect to the preparation, completion or implementation of a Strategic Directions Report in a significant respect or to a significant degree,

5 give directions to the council to take specified action with a view to rectifying the matter or to preventing a recurrence of any failure.

- (13) The Minister must, before taking action under subsection (12), give the council an opportunity to make submissions to the Minister on the report on which the action is based within a period (being at least 28 days) specified by the Minister.

- (14) If—

- (a) the Minister makes a recommendation to the council under subsection (12)(a); and

- (b) the Minister subsequently considers that the council has not, within a reasonable period, taken appropriate action in view of the recommendation,

the Minister may, after consultation with the council, give directions to it.

- (15) The council must comply with a direction under subsection (12) or (14).

- (16) No action in defamation lies in respect of the contents of a report under this section.

- (17) Nothing in this section limits or affects—

- (a) the ability of the Minister to take action under another section of this Act; or

- (b) the operation of Chapter 13 Part 3 of the *Local Government Act 1999*.

### **18—Amendment of section 45A—Investigation of development assessment performance**

- (1) Section 45A(2)—delete subsection (2) and substitute:

- (2) The Minister must, before making an appointment under subsection (1), give the relevant authority an opportunity to explain its actions, and to make submissions (including, if relevant, an indication of undertakings that the relevant authority is willing to give in order to take remedial action), to the Minister within a period (being at least 28 days) specified by the Minister.

- (2a) If the Minister decides to proceed under subsection (1) in relation to a council, the Minister must consult with the President of the LGA with respect to the person or persons to be appointed to carry out the investigation.

(2) Section 45A(4), penalty provision—delete "\$10 000" and substitute:  
\$20 000

(3) Section 45A(12)—delete subsection (12) and substitute:

5           (12) The Minister must, before taking action under subsection (11), give the relevant authority an opportunity to make submissions to the Minister on the report on which the action is based within a period (being at least 28 days) specified by the Minister.

### **19—Amendment of section 46—Declaration by Minister**

(1) Section 46—after subsection (1) insert:

10           (1a) A development or project may be considered to be of major environmental, social or economic importance due to the fact that the cumulative effect of the development or project, when considered in conjunction with any other development, project or activity already being undertaken or carried on, or proposed to be undertaken or

15           carried on, at or within the vicinity of the relevant site, gives rise to issues of major environmental, social or economic importance.

          (1b) If the Minister considers that a development or project is not in itself of major environmental, social or economic importance but is directly related to a development or project of such importance that

20           is within the ambit of a declaration under subsection (1), the Minister may, by notice in the Gazette, declare that this section applies, or applies to the extent specified in the notice, to the related development or project as well (and in such a case the related

25           development or project will be taken to be a major development or project for the purposes of this section).

(2) Section 46(4)—delete "subsection (1)" and substitute:  
this section

(3) Section 46(5)—delete "subsection (1)" and substitute:  
this section

30           (4) Section 46(5)(e)—delete "Major Developments Panel" and substitute:  
Development Assessment Commission

(5) Section 46(7)—delete "Major Developments Panel" wherever occurring and substitute in each case:  
Development Assessment Commission

35           (6) Section 46(8)—delete subsection (8)

(7) Section 46(9)—delete "Major Developments Panel" and substitute:  
Development Assessment Commission

(8) Section 46(10)—delete "Major Developments Panel" and substitute:  
Development Assessment Commission

- (9) Section 46(11)—delete "Major Developments Panel" wherever occurring and substitute in each case:

Development Assessment Commission

- (10) Section 46(12)—delete "Major Developments Panel" and substitute:

Development Assessment Commission

- (11) Section 46(13)(b)(i)—delete "Major Developments Panel's" and substitute:

Development Assessment Commission's

- (12) Section 46(13)(b)(ii)—delete "Major Developments Panel" and substitute:

Development Assessment Commission

- (13) Section 46(14)—delete "Major Developments Panel" and substitute:

Development Assessment Commission

- (14) Section 46(15)—delete "Major Developments Panel" and substitute:

Development Assessment Commission

## **20—Repeal of section 46A**

Section 46A—delete the section

## **21—Amendment of section 46B—EIS process—Specific provisions**

Section 46B(3)—delete "Major Developments Panel" and substitute:

Development Assessment Commission

## **22—Amendment of section 46C—PER process—Specific provisions**

Section 46C(3)—delete "Major Developments Panel" and substitute:

Development Assessment Commission

## **23—Amendment of section 46D—DR process—Specific provisions**

Section 46D(3)—delete "Major Developments Panel" and substitute:

Development Assessment Commission

## **24—Amendment of section 48—Governor to give decision on development**

- (1) Section 48(7)(b)—after subparagraph (ii) insert:

or

- (iii) in relation to a matter that is relevant to the variation of a development authorisation under this section,

- (2) Section 48—after subsection (7) insert:

- (7a) The Governor may, on the application of a person who has the benefit of the development authorisation under this section, by notice in the Gazette, vary a development authorisation that has been given under this section.



- (3) Section 48(8)—after "under this section to" insert:  
the Minister or

**25—Amendment of section 48E—Protection from proceedings**

Section 48E(a)—delete "Major Developments Panel" and substitute:  
Development Assessment Commission

**26—Amendment of section 49—Crown development and public infrastructure**

- (1) Section 49(3)—delete "subsection (2)" and substitute:  
subsection (4a)
- (2) Section 49(16a)(c)—delete "Major Developments Panel" and substitute:  
Development Assessment Commission

**27—Amendment of section 49A—Electricity infrastructure development**

- (1) Section 49A(3)—delete "subsection (1)" and substitute:  
subsection (4a)
- (2) Section 49A(5)—delete "subsection (1)" and substitute:  
subsection (4a)
- (3) Section 49A(20)(c)—delete "Major Developments Panel" and substitute:  
Development Assessment Commission

**28—Amendment of section 52A—Avoidance of duplication of procedures etc**

- (1) Section 52A(2)—delete "the Major Developments Panel,"
- (2) Section 52A(3)—delete subsection (3)
- (3) Section 52A(9), definition of *the authority*—delete "the Major Developments Panel,"

**29—Amendment of section 75—Applications for mining tenements to be referred in certain cases to the Minister**

- (1) Section 75(4)(a)—delete "Major Developments Panel" and substitute:  
Development Assessment Commission
- (2) Section 75(4a)(a)—delete "Major Developments Panel" and substitute:  
Development Assessment Commission

**30—Insertion of section 101A**

After section 101 insert:

**101A—Councils to establish strategic planning and development policy committees**

- (1) A council must establish a strategic planning and development policy committee.

- (2) The functions of the committee are:
- (a) to provide advice to the council in relation to the extent to which the council's strategic planning and development policies accord with the Planning Strategy; and
  - (b) to assist the council in undertaking strategic planning and monitoring directed at achieving—
    - (i) orderly and efficient development within the area of the council; and
    - (ii) high levels of integration of transport and land-use planning; and
    - (iii) relevant targets set out in the Planning Strategy within the area of the council; and
    - (iv) other outcomes of a prescribed kind (if any); and
  - (c) to provide advice to the council (or to act as its delegate) in relation to strategic planning and development policy issues when the council is preparing—
    - (i) a Strategic Directions Report; or
    - (ii) a Development Plan Amendment proposal; and
  - (d) other functions (other than functions relating to development assessment or compliance) assigned to the committee by the council.
- (3) The *Local Government Act 1999* will apply in relation to a committee established under this section as if it were a committee established under that Act.
- (4) The Minister may exempt a council from the requirement to establish a committee under this section if satisfied that the functions of a committee established by the council under the *Local Government Act 1999* include the functions set out in subsection (2).
- (5) The Minister may, after giving the council a reasonable opportunity to make submissions in relation to the matter, revoke an exemption under subsection (4).

## **Schedule 1—Related amendments and transitional provisions**

### **Part 1—Amendment of *Local Government Act 1999***

#### **1—Amendment of section 90—Meetings to be held in public except in special circumstances**

Section 90(3)(m)—delete "Plan Amendment Report" and substitute:

Development Plan Amendment proposal

## 2—Amendment of section 122—Strategic management plans

Section 122(2)—delete subsection (2) and substitute:

(2) Strategic management plans—

(a) should—

5 (i) address the strategic planning issues within the area of the council, with particular reference to (and in a manner consistent with) the Planning Strategy; and

(ii) set out the council's priorities for the implementation of planning policies,

10 (although these matters may be satisfied by referring to the council's most recent *Strategic Directions Report* under section 30 of the *Development Act 1993*); and

15 (b) should (as far as practicable) be consistent with the Development Plan or Plans for the council's area, other than where the council proposes to amend the Plan or Plans in accordance with the procedures set out in the *Development Act 1993* and the council obtains an agreement with the Minister to whom the administration of the *Development Act 1993* is committed relating to the implementation of a program to undertake any relevant amendment or amendments; and

20 (c) should (as far as practicable) be consistent with any relevant statutory policy or plan (not referred to above).

## Part 2—Amendment of *Parliamentary Committees Act 1991*

### 25 3—Amendment of section 15L—Functions of Committee

Section 15L(1)(b)(iv)(A)—delete "Plan Amendment Report" and substitute:

Development Plan Amendment

## Part 3—Transitional provisions

### 4—Interpretation

30 In this Part—

*principal Act* means the *Development Act 1993*.

## 5—Plan Amendment Reports

- 5 (1) If a council has, before the commencement of this clause, reached an agreement with the Minister on a Statement of Intent with respect to an amendment to a Development Plan, or taken steps to prepare a Plan Amendment Report on the basis of such a Statement of Intent, then, subject to subclause (2), the council may continue with the process as set out in section 25 of the principal Act (as in force immediately before the commencement of this clause) as if this Act had not been enacted until the relevant amendment is approved (with or without alteration) or otherwise dealt with by the Minister under section 25(15) of the principal Act, subject to the qualification that the relevant Plan Amendment Report may be referred to as a Development Plan Amendment.
- 10
- (2) A council and the Minister may agree on a Statement of Intent that is to supersede a Statement of Intent agreed between the council and Minister before the commencement of this clause (and in such a case the process will continue under section 25 of the principal Act as amended by this Act).
- 15
- (3) A Plan Amendment Report which, before the commencement of this clause—
- (a) was prepared on the basis of a Statement of Intent that does not specify any relevant periods for the purposes of section 25(19) of the principal Act; and
- (b) was released for public consultation at least 5 years before that commencement; but
- 20
- (c) has not been approved by the Minister under section 25 of the principal Act within 6 months after that commencement,
- will, at the expiration of 6 months after that commencement, lapse by force of this subclause unless the Minister, by notice in the Gazette, exempts the Plan Amendment Report from the operation of this subclause.
- 25
- (4) A notice under subclause (3) may relate to a particular Plan Amendment Report or to all Plan Amendment Reports within a particular class.
- (5) A period prescribed by regulations made for the purposes of subsection (20) of section 25 of the principal Act (as amended by this Act) may extend to (and operate in relation to) a Plan Amendment Report prepared before the commencement of this clause.
- 30
- (6) A Plan Amendment Report which, before the commencement of this clause, has been initiated by the Minister under section 26(1) of the principal Act (as in force immediately before that commencement) may continue to be subject to the provisions of the principal Act as if this Act had not been enacted until the relevant amendment is approved (with or without alteration) or otherwise dealt with by the Minister under section 26(8) of the principal Act, subject to the qualification that the relevant Plan Amendment Report may be referred to as a Development Plan Amendment.
- 35

- (7) The Development Plan Amendment entitled "City of Onkaparinga—Coromandel Valley Desired Character (Stage 2) Plan Amendment" approved by the Minister under section 25(15) of the principal Act by notice in the *Gazette* on 23 February 2006 is again referred by force of this subclause to the Environment, Resources and Development Committee of the Parliament under section 27(1) of the principal Act (and section 27 of the principal Act will then apply again in relation to the amendment as if the amendment had been referred by the Minister on the commencement of this subclause under subsection (1) of that section).

## **6—Strategic Directions Reports**

- (1) For the purposes of section 30(2)(b) of the principal Act (as enacted by this Act), a report received by the Minister under section 30 of the principal Act before the commencement of this clause will be taken to be a completed report.
- (2) Subject to any determination or direction of the Minister under this subclause, any process or procedure commenced under section 30 of the principal Act before the commencement of this clause may be continued and applied for the purposes of section 30 of the principal Act as enacted after the commencement of this clause.

## **7—Major Developments Panel**

If, in relation to a declaration under section 46 of the principal Act made before the commencement of this clause—

- (a) the Major Developments Panel has not, before that commencement, proceeded to the stage of publishing a notice under section 48(8)(b) of the principal Act (as in force immediately before that commencement), the Development Assessment Commission will assume the role of the Major Developments Panel and proceed to deal with the matter under the principal Act as amended by this Act (and for this purpose the Development Assessment Commission may adopt any decision or document made or prepared by the Major Developments Panel in relation to the matter);
- (b) the Major Developments Panel has, before that commencement, proceeded to the stage of publishing a notice under section 48(8)(b) of the principal Act (as in force immediately before that commencement), the Major Developments Panel will continue in existence and continue to deal with the matter under the principal Act as if this Act had not been enacted.

## **8—Other provisions**

- (1) The Governor may, by regulation, make additional provisions of a saving or transitional nature consequent on the enactment of this Act.
- (2) A provision of a regulation made under subclause (1) may, if the regulation so provides, take effect from the commencement of this Act or from a later day.
- (3) To the extent to which a provision takes effect under subclause (2) from a day earlier than the day of the regulation's publication in the *Gazette*, the provision does not operate to the disadvantage of a person by—
- (a) decreasing the person's rights; or
- (b) imposing liabilities on the person.

- (4) The *Acts Interpretation Act 1915* will, except to the extent of any inconsistency with the provisions of this Schedule (or regulations made under this Schedule), apply to any amendment effected by this Act.