

South Australia

**Development (Protection of Solar Collectors)
Amendment Bill 2004**

A BILL FOR

An Act to amend the *Development Act 1993*.

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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 (Protection of Solar Collectors) Amendment Act 2004*.

5 2—Commencement

This Act will come into operation 2 months after assent.

3—Amendment provisions

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

10 Part 2—Amendment of *Development Act 1993*

4—Insertion of section 54C

After section 54B insert:

54C—Protection of solar collectors

- (1) A person must not—
 - 15 (a) undertake development involving the construction of a building if the building would, when constructed, adversely affect the operation of an existing solar collector located on a building on adjacent land by reducing the access of direct sunlight to the solar collector; or

- (b) permit a tree on land owned by the person to adversely affect the operation of an existing solar collector located on a building on adjacent land by reducing the access of direct sunlight to the solar collector.
- 5 (2) However—
- (a) subsection (1)(a) does not apply if the development is to be undertaken pursuant to a development authorisation granted on the basis of an application made before the relevant solar collector (or an earlier solar collector that has since been
- 10 replaced) was placed or installed on the building (and if the development involved 2 or more applications for 2 or more consents before the granting of a final development approval then the first application for consent will be the one taken into account for the purposes of this paragraph); and
- 15 (b) subsection (1)(b) does not apply if the relevant tree is a significant tree and a relevant authority has refused to grant a development approval in order to allow the tree to be removed or cut back; and
- (c) subsection (1) does not apply—
- 20 (i) if the owner of the adjacent land consents to the construction of the building or to the size of the tree (as the case may be); or
- (ii) in any other circumstances prescribed by the regulations.
- 25 (3) A person who is applying for a development authorisation in respect of the proposed construction of a building must declare—
- (a) that the building would not, when constructed, be in breach of subsection (1)(a); or
- 30 (b) that the owner of adjacent land consents to the construction of the building under subsection (2)(c)(i); or
- (c) that subsection (1) of this section does not apply on the basis of circumstances prescribed by regulation under subsection (2)(c)(ii).
- 35 (4) A relevant authority may (without further inquiry) rely on a declaration under subsection (3) in connection with granting a development authorisation under this Act unless the relevant authority knows, or has reason to believe, that the declaration is false or misleading in a material particular.
- 40 (5) No fee is payable under section 39 in relation to an application made by a person in order to remove or cut back a part of a significant tree in order to comply with subsection (1)(b).
- (6) For the purposes of this section, an adverse effect on a solar collector will be disregarded if it is trifling or insignificant.

(7) In this section—

solar collector means a device comprising 1 or more solar panels designed to provide power or to heat water (or both).

5—Amendment of section 103—False or misleading information

5 Section 103—after "furnishing information" insert:

or making a declaration

Schedule 1—Transitional provisions

1—Interpretation

In this Schedule—

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

2—Transitional provision

The amendments effected to the principal Act by this Act do not affect, or apply in relation to—

- 15
- (a) an application for the construction of a building made under Part 4 of the principal Act before the commencement of this Act; or
 - (b) the construction of a building that is within the scope of an application made, or an approval granted, under Part 4 of the principal Act before the commencement of this Act; or
 - 20 (c) a tree that is adversely affecting the operation of a solar collector (as defined by section 54C of the principal Act as enacted by this Act) before the commencement of this Act.