

House of Assembly—No 138

As laid on the table and read a first time, 2 May 2013

South Australia

Housing and Urban Development (Administrative Arrangements) (Urban Renewal) Amendment Bill 2013

A BILL FOR

An Act to amend the *Housing and Urban Development (Administrative Arrangements) Act 1995*; and to make related amendments to 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 *Housing and Urban Development (Administrative Arrangements) (Urban Renewal) Amendment Act 2013*.

2—Commencement

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

3—Amendment provisions

5 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 *Housing and Urban Development (Administrative Arrangements) Act 1995*

4—Amendment of long title

Long title—after "Act" insert:

10 to provide for the planning and redevelopment of specified areas within the State;

5—Amendment of section 1—Short title

Section 1—delete "*Housing and Urban Development (Administrative Arrangements)*" and insert:

15 *Urban Renewal*

6—Amendment of section 3—Interpretation

(1) Section 3(1)—after the definition of *board* insert:

council means a council within the meaning of the *Local Government Act 1999*;

20 (2) Section 3(1)—after the definition of *Minister* insert:

precinct means an area established as a precinct under Part 2B;

(3) Section 3(1)—after the definition of *statutory corporation* insert:

URA means the Urban Renewal Authority continued in existence under this Act.

25 7—Amendment of section 5—Functions

Section 5—before paragraph (a) insert:

(aa) to establish precincts for the purposes of urban renewal or redevelopment, and to promote efficient planning and project facilitation in relation to those precincts;

8—Insertion of Parts 2A and 2B

After Part 2 insert:

Part 2A—Urban Renewal Authority

7A—Urban Renewal Authority

- 5 (1) The Urban Renewal Authority established as a statutory corporation under Part 3 of this Act continues as a statutory corporation constituted by these provisions.
- (2) The URA—
- 10 (a) continues as a body corporate; and
- (b) subject to a limitation imposed by or under an Act, has all the powers of a natural person together with the powers conferred on it by or under this Act or other Acts.
- (3) Part 3, other than section 8, applies to the URA.

7B—Board of management

15 The board of management of the URA will be constituted of 7 persons.

7C—Functions of URA

- (1) The functions of the URA are as follows:
- 20 (a) to initiate, undertake, support and promote residential, commercial and industrial development in the public interest, particularly for urban renewal purposes, including by—
- 25 (i) acquiring, assembling and using land and other assets in strategic locations, including in areas identified for urban renewal; and
- (ii) promoting community understanding of, and support for, urban renewal by working with government agencies, local government, community groups and organisations involved in development, in the development or redevelopment of land; and
- 30 (iii) undertaking preliminary works (including remediation of land) to prepare land for development and other functions such as planning and co-ordination for the purposes of such development;
- 35 (b) to encourage, facilitate and support public and private sector investment and participation in the development of the State, including by performing its functions to facilitate
- 40 development that is attractive to potential investors;

- 5 (c) to acquire, hold, manage, lease and dispose of land, improvements and property, including land and housing formerly held under the *South Australian Housing Trust Act 1995* transferred to the URA, particularly with a view to—
- 10 (i) reducing social disadvantage within the community through urban renewal, including the renewal of public housing by promoting, facilitating or undertaking—
- 15 (A) the creation of a mixture of public and private housing in particular locations; and
- (B) an increase in the supply of affordable housing and community housing; and
- 20 (ii) managing projects involving the development of land and housing, including for urban renewal purposes (on its own behalf or on behalf of other agencies or instrumentalities of the Crown); and
- (iii) managing the orderly development of areas through the management and release of land, including areas of undeveloped or under developed land, as appropriate; and
- 25 (iv) holding land and other property to be made available, as appropriate, for commercial, industrial, residential or other purposes;
- 30 (d) to act as a landlord in relation to public housing and for this purpose the functions of the URA include the functions that are the same as the functions of SAHT in Part 2 Division 1 of the *South Australian Housing Trust Act 1995* (but nothing in this paragraph prevents the URA from delegating any such function to SAHT);
- 35 (e) to carry out the functions formerly carried out by the Land Management Corporation established under the (revoked) *Public Corporations (Land Management Corporation) Regulations 1997*;
- 40 (f) to support the undertaking of development that is consistent with achieving its other functions and the outcomes that apply under this section, including by participating in the scheme established by section 37 of the *Development Act 1993* (to the extent prescribed by regulations under that section);
- (g) to carry out other functions conferred on the URA by the Minister.

- (2) Despite section 21(2), the URA may carry out its functions alone, or in a trust scheme, partnership, joint venture, or any other scheme or arrangement for the sharing of profits established in accordance with this Act.

7D—Specific power of URA

In addition to the powers conferred on the URA under this Act, the URA may, in relation to acting as a landlord in relation to public housing, exercise any power that is the same as a power of SAHT in Part 2 Division 1 of the *South Australian Housing Trust Act 1995* (but nothing in this paragraph prevents the URA from delegating any such power to SAHT).

7E—Application of provisions of *Public Corporations Act 1993* to URA

Sections 8 to 10 and Part 3 of the *Public Corporations Act 1993* apply to the URA.

7F—Associated matters

The URA should, so far as is reasonably practicable, ensure that its activities are—

- (a) co-ordinated with the activities of other public authorities; and
- (b) consistent with the planning of a desirable physical and social environment; and
- (c) conducive to the enhancement of the physical or social development objectives of the Government.

Part 2B—Urban Renewal

7G—Preliminary

In this Part—

Development Assessment Commission means the Development Assessment Commission established under the *Development Act 1993*;

Planning Minister means the Minister to whom the administration of the *Development Act 1993* is committed;

precinct authority, in relation to a precinct, means the precinct authority appointed by the Minister under this Part;

precinct plan means a precinct master plan or precinct implementation plan for a precinct established under this Part.

7H—Establishment of precincts

- 5
- (1) The Minister may, on his or her own initiative or at the request of a council or other person or body, by notice in the Gazette, establish a specified area of land as a precinct if the Minister is satisfied that to do so will facilitate—
- (a) the development of the area for the purposes of urban renewal; or
- (b) the provision of land suitable for commercial, industrial or residential purposes close to public transport; or
- 10 (c) the establishment of new industries; or
- (d) other planning and development outcomes for the renewal or redevelopment of a distinct area that promotes the purposes of the Planning Strategy.
- 15 (2) Before publishing a notice under subsection (1), the Minister must, within a period specified by the Minister—
- (a) consult with and have regard to the views of—
- (i) the Planning Minister; and
- (ii) any council within the area of the proposed precinct; and
- 20 (b) consider the extent to which the establishment of the precinct is consistent with the Planning Strategy.
- (3) The Planning Minister may, during the consultation period, consult with the Development Policy Advisory Committee established under the *Development Act 1993*.
- 25 (4) A notice under subsection (1) must—
- (a) assign a name to the precinct; and
- (b) specify the objectives of the precinct being matters—
- (i) that are of importance to the planning and redevelopment of the precinct; and
- 30 (ii) that must be taken into account in the planning process for the precinct under this Part; and
- (c) appoint the URA, another statutory corporation constituted under this Act, or a council to be the precinct authority for the precinct.
- 35 (5) The Minister may, in relation to the objectives referred to in subsection (4)(b), refer the matter to the Development Assessment Commission for the Development Assessment Commission to provide advice on relevant planning, development and assessment issues in the precinct.

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- (6) In providing advice, the Development Assessment Commission must take into account—
- (a) the character of the precinct and adjacent areas; and
 - (b) the potential social, economic and environmental impacts of the proposed redevelopment of the precinct; and
 - (c) the resilience of the environment to cope with urban renewal within the precinct; and
 - (d) the degree of confidence in the prediction of impacts resulting from the proposed redevelopment of the precinct; and
 - (e) the extent to which undesirable impacts which may occur are likely to be irreversible; and
 - (f) the extent to which impacts, and requirements for monitoring and assessing impacts, will be ongoing; and
 - (g) the presence of other statutory assessment or policy frameworks which provide other procedures or processes to address any issues of concern.
- (7) The Development Assessment Commission must submit to the Minister a report setting out its advice within the time specified by the Minister.
- (8) The Minister must, on the receipt of a report under subsection (7)—
- (a) give a copy of the report to the precinct authority; and
 - (b) ensure that copies of the report are reasonably available for inspection (without charge) and purchase by the public at places determined by the Minister.
- (9) The precinct authority may, and must at the direction of the Minister, establish 1 or more of the following panels in relation to a precinct:
- (a) a design review panel to provide advice to the authority in relation to—
 - (i) design elements (in both public and private areas in the precinct) relating to all aspects of planning and development within the precinct; and
 - (ii) relevant design issues that arise in the planning and development of the precinct; and
 - (iii) practices and procedures that should be adopted in order to promote the use of innovative design solutions to planning and development issues that arise within the precinct (whether due to the nature of the natural or constructed environment within the precinct or for any other reason); and
 - (iv) any other matter relating to design within the precinct;

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- (b) a community reference panel comprising representatives of persons who live in or around the precinct to provide advice to the authority in relation to the views of such persons in relation to the plans for the precinct;
- (c) any other panel considered appropriate (by the precinct authority or the Minister (as the case may be)) to provide advice relating to planning and development within the precinct.
- 10 (10) The precinct authority must comply with any requirements of the Minister in relation to—
- (a) the composition of a panel under this section; and
- (b) the manner in which consultation with the community relating to a precinct should be conducted; and
- 15 (c) the manner in which a panel under this section may assist in such consultation.
- (11) A person authorised in writing by a council within the area of a precinct may attend (but not participate in) any meeting of a panel under this section and may have access to papers provided to members of the panel for the purposes of the meeting.
- 20 (12) If the panel considers that a matter dealt with at a meeting attended by a representative of a council should be treated for any reason as confidential, the panel may advise the council of that opinion, giving the reason for the opinion, and the council must treat the matter as confidential.
- 25 (13) Subject to subsection (14), the Minister may, in accordance with the same procedures that apply to the establishment of a precinct under this section—
- (a) vary; or
- (b) revoke,
- 30 a notice under subsection (1).
- (14) Subsection (13)(a) does not apply with respect to a variation in order to take action which, in the opinion of the Minister, is—
- (a) minor in nature and has no, or no significant, substantive effect; or
- 35 (b) correcting an error.

7I—Precinct plans

- (1) The precinct authority must prepare and maintain a precinct master plan and precinct implementation plans for a precinct established under this Part.

- (2) A precinct master plan should seek to promote the provisions of the Planning Strategy and may—
- (a) set out principles and policies for achieving the objectives specified by the Minister in establishing the precinct; and
 - (b) set out the spatial structure of the precinct and how the precinct is to be integrated with surrounding areas; and
 - (c) make provision with respect to the mix of land uses and scale of development intended for the precinct; and
 - (d) identify—
 - (i) existing critical infrastructure within the precinct; and
 - (ii) relevant infrastructure works required in the precinct for the purposes of urban renewal; and
 - (e) address, adopt or incorporate any other matter specified by the Minister.
- (3) A precinct implementation plan—
- (a) may apply to all or part of a precinct; and
 - (b) must specify the area to which it applies.
- (4) A precinct implementation plan should, in relation to the area to which it applies, seek to promote the provisions of the Planning Strategy and may—
- (a) specify, in particular—
 - (i) design guidelines for development, which may include specific design criteria relating to buildings or classes of buildings; and
 - (ii) detailed plans and maps relating to—
 - (A) roads; and
 - (B) sizes and arrangements of allotments; and
 - (C) building heights and density; and
 - (D) public places; and
 - (iii) an implementation framework, including in relation to infrastructure works; and
 - (b) make provision in relation to any matter which a Development Plan under the *Development Act 1993* may provide for, including specifying classes of development within the area that will be taken to be *complying* development for the purposes of the *Development Act 1993*; and

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- (c) provide for the provision of open space or the making of payments (insofar as it is relevant to development within the precinct) in connection with the requirements imposed under section 50 of the *Development Act 1993*; and
- (d) address, adopt or incorporate any other matter specified by the Minister.
- (5) The precinct authority must, in preparing a precinct plan, have regard to relevant provisions of any Development Plan applying in the area to which the precinct plan relates.
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- (6) A provision of a precinct plan may—
- (a) refer to or incorporate wholly or partially and with or without modification, a standard or other document prepared or published by a prescribed body, either as in force at the time the provision comes into operation or as in force from
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- time to time; and
- (b) be of general or limited application; and
- (c) make different provision according to the persons, things or circumstances to which it is expressed to apply; and
- (d) provide that any matter or thing is to be determined, dispensed with or regulated according to the discretion of the Minister, precinct authority or any other prescribed person or body.
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- (7) A precinct plan is a public document of which a court or tribunal will take judicial notice, without formal proof of its contents.
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- (8) The precinct authority must, in relation to any proposal to create or amend a precinct plan—
- (a) prepare a draft of the proposal; and
- (b) take reasonable steps to consult with—
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- (i) any design review panel, community reference panel or other panel established for the precinct under section 7H(9); and
- (ii) any Government Department or other agency that has a direct interest in the matter; and
- (iii) each council that has a direct interest in the matter,
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- in relation to the proposal; and
- (c) by public advertisement, give notice of the place or places at which copies of the draft are available for inspection (without charge) and purchase and invite interested persons to make written representations on the proposal within a
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- period specified by the precinct authority; and

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- (d) hold a meeting where members of the public may attend and make representations in relation to the proposal, if the Minister considers it necessary or desirable for such a meeting to be held.
- 5 (9) Subsection (8) does not apply to an amendment to a precinct plan—
- (a) in order to make a change of form (without altering the effect of an underlying policy reflected in a precinct plan); or
- (b) in order to take action which, in the opinion of the Minister, is—
- 10 (i) minor in nature and has no, or no significant, substantive effect; or
- (ii) correcting an error.
- (10) The precinct authority must, after complying with the requirements of subsection (8)—
- 15 (a) prepare a report on the matters raised during the consultation period; and
- (b) provide a copy of the report to the Minister and the Planning Minister.
- (11) The Minister and the Planning Minister must take into account the contents of the report received under subsection (10)(b) before taking action under subsection (13)(a) in relation to the precinct plan to which the report relates.
- (12) The Minister may seek the advice of the Development Assessment Commission on a report received under subsection (10)(b) (and, in particular, the Development Assessment Commission may consider and advise on the report in the context of the relevant report prepared by the Development Assessment Commission under section 7H(7)).
- (13) A precinct plan, or an amendment to a precinct plan—
- 20 (a) has no force or effect until—
- (i) in the case of a precinct master plan—adopted by the Governor, on the recommendation of the Minister and the Planning Minister; or
- (ii) in the case of a precinct implementation plan—
- 25 adopted by the Minister; and
- (b) may have effect from the date of publication in the Gazette, or from a later date specified in the precinct plan or amendment (as the case may be).
- (14) The precinct authority must, as soon as is reasonably practicable after the adoption of a precinct plan—
- 30 (a) make appropriate provision for the publication of the precinct plan, including by publication in the Gazette; and
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(b) ensure that copies of the precinct plan are reasonably available for inspection (without charge) and purchase by the public at a place or places determined by the precinct authority; and

5 (c) ensure that public notice is given of any amendment to a precinct plan within a reasonable time after the amendment is adopted or made (as the case may be).

10 (15) The Governor may, on the recommendation of the Minister and the Planning Minister, by notice in the Gazette, revoke a precinct master plan.

(16) The Minister may, by notice in the Gazette, revoke a precinct implementation plan.

**7J—Certain matters to apply for the purposes of the
*Development Act 1993***

15 (1) A relevant authority within the meaning of the *Development Act 1993* must accept that—

20 (a) a proposed development in a precinct is *complying* development under section 35 of the *Development Act 1993* to the extent that the development is certified by the precinct authority as being *complying* development under section 7I(4)(b) of this Act; and

25 (b) a proposed division of land in a precinct satisfies the conditions specified in section 33(1)(c) or (d) of the *Development Act 1993* to the extent that such satisfaction is certified by the precinct authority.

(2) The Minister may, in appointing a precinct authority for a precinct under section 7H(4)(c), if the Minister considers it appropriate to do so, limit the powers of the precinct authority so that the precinct authority may not exercise the power referred to in subsection (1)(b).

30 (3) Any requirement imposed by a council or the Development Assessment Commission under section 50 of the *Development Act 1993* must be consistent with any provision made by the precinct authority under section 7I(4)(c) of this Act.

35 (4) The *Development Act 1993* must be read subject to the operation of this section.

7K—Precinct authority may be authorised to exercise specified powers

40 (1) A precinct authority may, if authorised by the Governor to do so by regulation, exercise, in relation to a matter that is directly relevant to the management, development or enhancement of a precinct established under this Part, a specified statutory power—

(a) to grant an approval, consent, licence or exemption; or

(b) to provide a service or infrastructure; or

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- (c) to impose and recover a rate, levy or charge; or
- (d) prescribed under this paragraph by regulation.
- (2) If an authorisation is given under subsection (1)—
- 5 (a) in the case of a power to grant an approval, consent, licence or exemption—
- (i) the statutory power may be exercised by the precinct authority as if the power had been duly delegated to it by the authority, body or person in whom the power is primarily vested; and
- 10 (ii) the precinct authority must consult with the authority, body or person in relation to the exercise of the power (but is not bound to comply with directions as to the exercise of the power given by that authority, body or person); and
- 15 (b) any statutory provisions governing, or incidental to, the exercise of the power must be observed by the precinct authority as if it were the authority, body or person in whom the power is primarily vested; and
- 20 (c) without limiting paragraph (b), the precinct authority may exercise any other statutory power that is necessary or expedient for, or incidental to, the proper exercise of the statutory power that is authorised to be exercised by the Governor under subsection (1); and
- 25 (d) any statutory provisions for appeal against or review of a decision to exercise, or to refrain from exercising—
- (i) a statutory power that is authorised to be exercised by the Governor under subsection (1); or
- (ii) a statutory power under paragraph (c),
- 30 apply in relation to a decision by the precinct authority in relation to the exercise of the power.
- (3) If a regulation is made under this section, the Minister must as soon as practicable after the publication of the regulation, prepare a report on the matter and cause copies of the report to be laid before both Houses of Parliament.
- 35 (4) A regulation made under subsection (1)(d) cannot come into operation until the time has passed during which the regulation may be disallowed by resolution of either House of Parliament.

**7L—Governor may grant concession or make variation in
relation to taxes etc on land within precinct**

The Governor may, by regulation, with respect to land within a precinct, grant a concession or make a variation in relation to taxes, rates or charges imposed by or under an Act which apply in relation to the land (including so as to modify the provisions of another Act) and any such regulation will have effect according to its terms and despite the provisions of the other Act.

7M—Council by-laws to be consistent with precinct plan

If a by-law made by a council under the *Local Government Act 1999* or the *Local Government Act 1934* relating to a precinct is inconsistent with a precinct plan, the precinct plan prevails to the extent of the inconsistency.

9—Amendment of section 23—Transfer of property etc

Section 23(1)—after paragraph (b) insert:

- (c) on the revocation of a precinct plan under Part 2B, transfer an asset, right or liability of a statutory corporation or an agent or instrumentality of the Crown to a person or body that is not an agent or instrumentality of the Crown, with the agreement of the person or body.

Schedule 1—Related amendments and transitional provision

Part 1—Amendment of *Development Act 1993*

1—Amendment of section 29—Certain amendments may be made without formal procedures

Section 29(3)—after paragraph (c) insert:

or

- (d) in order to give effect to the adoption of, or an amendment to, a precinct plan under the *Urban Renewal Act 1995*, or in order to make such provision as the Minister thinks fit relating to planning or development within a precinct on the revocation of a precinct plan.

2—Amendment of section 34—Determination of relevant authority

Section 34(1)(b)—after subparagraph (x) insert:

or

- 5 (xi) the Minister declares, by notice in writing served personally or
by post on the proponent, that the Development Assessment
Commission should act as the relevant authority in relation to the
proposed development in substitution for the council or the
regional development assessment panel (as the case may be)
because, in the opinion of the Minister to whom the
administration of the *Urban Renewal Act 1995* is committed, the
proposed development may have a significant impact on an
aspect of a precinct within the meaning of the *Urban Renewal*
10 *Act 1995*,

Part 2—Transitional provision

3—Transitional provision

- 15 (1) The Governor may, during the first 12 months after commencement of this clause, by
regulation, exempt a precinct authority from compliance with the requirements of
section 71(8) of the *Urban Renewal Act 1995* (as inserted by this Act) relating to
consultation on or publication of a draft precinct plan.
- (2) Terms used in this clause and also in Part 2B of the *Urban Renewal Act 1995* (as
inserted by this Act) have the same meanings in this clause as they have in Part 2B.