

House of Assembly

As passed all stages and awaiting assent.

This is an unofficial copy and is subject to correction.

South Australia

Statutes Amendment (Planning, Development and Infrastructure) Bill 2017

A BILL FOR

An Act to provide for the implementation of the *Planning, Development and Infrastructure Act 2016* by the amendment of certain legislation and the enactment of transitional provisions; and for other purposes.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

Part 2—Amendment of *Planning, Development and Infrastructure Act 2016*

- 4 Amendment of section 58—Preparation of state planning policies
- 5 Amendment of section 59—Design quality policy
- 6 Amendment of section 60—Integrated planning policy
- 7 Amendment of section 63—Special legislative schemes
- 8 Amendment of section 73—Preparation and amendment
- 9 Amendment of section 78—Early commencement
- 10 Insertion of Schedule 8

Schedule 8—Transitional provisions

Part 1—Preliminary

- 1 Interpretation
- 2 Saving of operation

Part 2—Definitions and change of use

- 3 Definitions
- 4 Change of use of land

Part 3—Commission and preliminary structural reforms

Division 1—Commission

- 5 Establishment of Commission
- 6 Commission authorised to assume functions under the repealed Act

Division 2—Regions

- 7 Regions

Division 3—Preserving existing authorisations and rights

- 8 Preserving existing authorisations and rights

Part 4—Planning instruments

- 9 Planning and Design Code
- 10 Local heritage
- 11 Significant trees

Part 5—Relevant authorities

- 12 General transitional scheme for panels
- 13 Regional assessment panels
- 14 Assessment managers
- 15 References
- 16 Accredited professionals
- 17 Removal etc of private certifier

Part 6—Existing applications

- 18 Continuation of processes
- 19 Appeals
- 20 Major development or projects
- 21 Crown and infrastructure development
- 22 Building work

Part 7—Development Plans relevant to assessments under this Act

- 23 Application of Part
- 24 Complying development
- 25 Non-complying development
- 26 Merit development

Part 8—Building activity and use

- 27 Classification and occupation of buildings
- 28 Swimming pool safety
- 29 Fire safety

Part 9—Infrastructure frameworks

Division 1—Pilot schemes may be authorised

- 30 General schemes

Division 2—Operation of schemes during transitional period

- 31 Operation of schemes during transitional period

Part 10—Land management agreements

- 32 Land management agreements

Part 11—Funds

- 33 Funds

Part 12—Proceedings to gain a commercial competitive advantage

- 34 Proceedings to gain a commercial competitive advantage

Part 13—Authorised officers

- 35 Authorised officers

Part 14—Advisory committees

- 36 Advisory committees

Part 15—Other matters

- 37 Proclamation of open space
- 38 Metropolitan Adelaide
- 39 References to applications and approvals
- 40 Conditions
- 41 General saving provision
- 42 General provisions apply
- 43 Regulations

Part 3—Amendment of *Adelaide Oval Redevelopment and Management Act 2011*

- 11 Amendment of section 3—Interpretation
- 12 Amendment of section 7—Licence to Minister
- 13 Amendment of section 10—Development assessment
- 14 Amendment of section 11—Interaction with other Acts

Part 4—Amendment of *Adelaide Park Lands Act 2005*

- 15 Amendment of section 3—Interpretation

Part 5—Amendment of *Aquaculture Act 2001*

- 16 Amendment of section 7—Interaction with other Acts
- 17 Amendment of section 12—Procedures for making policies

Part 6—Amendment of *City of Adelaide Act 1998*

- 18 Amendment of section 30—Strategic plans

Part 7—Amendment of *Commissioner for Kangaroo Island Act 2014*

- 19 Amendment of section 3—Interpretation

Part 8—Amendment of *Community Titles Act 1996*

- 20 Amendment of section 3—Interpretation
- 21 Amendment of section 14—Application
- 22 Amendment of section 30—Scheme description
- 23 Amendment of section 47—Development contracts
- 24 Amendment of section 52—Application for amendment
- 25 Amendment of section 54—Amendment of plan
- 26 Amendment of section 58—Amendment of plan pursuant to development contract

Part 9—Amendment of *Criminal Law Consolidation Act 1935*

- 27 Amendment of section 5—Interpretation
- 28 Amendment of section 145—Interpretation
- 29 Amendment of section 237—Definitions

Part 10—Amendment of *Environment Protection Act 1993*

- 30 Amendment of section 3—Interpretation
- 31 Amendment of section 27—Nature and contents of environment protection policies
- 32 Amendment of section 35—Requirement for works approval
- 33 Amendment of section 39—Notice and submissions in respect of applications for environmental authorisations
- 34 Amendment of section 42—Time limit for determination of applications
- 35 Amendment of section 47—Criteria for grant and conditions of environmental authorisations
- 36 Amendment of section 57—Criteria for decisions of Authority in relation to development authorisations
- 37 Amendment of section 64—Certain matters to be referred to Water Resources Minister
- 38 Amendment of section 103D—Causing site contamination
- 39 Amendment of section 109—Public register
- 40 Amendment of Schedule 1—Prescribed activities of environmental significance

Part 11—Amendment of *Fire and Emergency Services Act 2005*

- 41 Amendment of section 37—Rectification where safeguards inadequate
- 42 Amendment of section 38—Closure orders
- 43 Amendment of section 71—State Bushfire Coordination Committee

Part 12—Amendment of *Fisheries Management Act 2007*

- 44 Amendment of section 43—General nature and content of management plans

Part 13—Amendment of *Freedom of Information Act 1991*

- 45 Amendment of section 4—Interpretation

Part 14—Amendment of *Highways Act 1926*

- 46 Amendment of section 20—General powers of Commissioner

Part 15—Amendment of *Liquor Licensing Act 1997*

- 47 Amendment of section 106—Complaint about noise etc emanating from licensed premises

Part 16—Amendment of *Local Government Act 1999*

- 48 Amendment of section 90—Meetings to be held in public except in exceptional circumstances
- 49 Amendment of section 122—Strategic management plans
- 50 Amendment of section 219—Power to assign a name, or change the name, of a road or public place
- 51 Amendment of section 245A—Council may require bond or other security in certain circumstances
- 52 Amendment of Schedule 8—Provisions relating to specific land

Part 17—Amendment of *Local Nuisance and Litter Control Act 2016*

- 53 Amendment of Schedule 1—Meaning of local nuisance (section 17)

Part 18—Amendment of *Marine Parks Act 2007*

- 54 Amendment of section 10—Establishment of marine parks
- 55 Amendment of section 13—General nature and content of management plans

Part 19—Amendment of *National Parks and Wildlife Act 1972*

- 56 Amendment of section 38—Management plans

Part 20—Amendment of *Native Vegetation Act 1991*

- 57 Amendment of section 4—Application of Act
- 58 Amendment of section 14—Functions of Council
- 59 Amendment of section 29—Provisions relating to consent

Part 21—Amendment of *Natural Resources Management Act 2004*

- 60 Amendment of section 3—Interpretation
- 61 Amendment of section 29—Functions of boards
- 62 Amendment of section 75—Regional NRM plans
- 63 Amendment of section 76—Preparation of water allocation plans
- 64 Amendment of section 129—Activities not requiring a permit
- 65 Amendment of Schedule 1—Provisions relating to regional NRM boards and NRM groups

Part 22—Amendment of *Ombudsman Act 1972*

66 Amendment of section 3—Interpretation

Part 23—Amendment of *Real Property Act 1886*

67 Amendment of section 90B—Variation and extinguishment of easements

68 Amendment of section 154B—Effect of priority notices

69 Amendment of section 223LA—Interpretation

70 Amendment of section 223LD—Application for division

Part 24—Amendment of *River Murray Act 2003*

71 Amendment of section 5—Interaction with other Acts

72 Amendment of section 42—Regulations

Part 25—Amendment of *Roads (Opening and Closing) Act 1991*

73 Amendment of section 3—Interpretation

74 Substitution of section 6A

6A Special powers to open or close roads in cases involving major developments

75 Amendment of section 16—Criteria in relation to road process orders

76 Amendment of section 33—Acquisition of additional land under Land Acquisition Act

77 Substitution of section 34A

34A Interpretation

78 Amendment of section 34B—Road process proposal may be included in a major development proposal

79 Amendment of section 34C—Minister may give effect to road process proposal

80 Amendment of section 34D—Dealings in land after commencement of process under this Part

81 Amendment of section 34E—Modification or exclusion of certain parts of Act

82 Amendment of section 42—Interaction with *Real Property Act 1886* and planning legislation**Part 26—Amendment of *Strata Titles Act 1988***

83 Amendment of section 3—Interpretation

84 Amendment of section 12—Application for amendment

Part 27—Amendment of *Valuation of Land Act 1971*

85 Amendment of section 22B—Heritage land

The Parliament of South Australia enacts as follows:**Part 1—Preliminary****1—Short title**

This Act may be cited as the *Statutes Amendment (Planning, Development and Infrastructure) Act 2017*.

2—Commencement

- (1) This Act will come into operation on a day to be fixed by proclamation.
- (2) Section 7(5) of the *Acts Interpretation Act 1915* does not apply to this Act.

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 *Planning, Development and Infrastructure Act 2016*

4—Amendment of section 58—Preparation of state planning policies

- (1) Section 58(1)—after "state planning policies" insert:
on behalf of the Minister
- (2) Section 58(3)(b)—delete "the Commission" and substitute:
the Minister
- (3) Section 58(3)(c)—delete "the Commission" and substitute:
the Minister

5—Amendment of section 59—Design quality policy

Section 59(1)—delete "The Commission" and substitute:
The Minister

6—Amendment of section 60—Integrated planning policy

Section 60—delete "The Commission" and substitute:
The Minister

7—Amendment of section 63—Special legislative schemes

- (1) Section 63(1)—delete "The Commission must, after seeking the advice of the Minister" and substitute:
The Minister must
- (2) Section 63(1)(c)—delete "the Commission" and substitute:
the Minister
- (3) Section 63(2)—delete "The Commission may, after seeking the advice of the Minister" and substitute:
The Minister may
- (4) Section 63(3)—delete "The Commission" and substitute:
The Minister
- (5) Section 63(4)(a)—delete paragraph (a)

8—Amendment of section 73—Preparation and amendment

- (1) Section 73(1)—before paragraph (a) insert:
 - (aa) in relation to a state planning policy—the Commission acting at the request of the Minister; or

(2) Section 73(2)—before paragraph (a) insert:

- (aa) in relation to a state planning policy—the Commission acting at the request of the Minister; or

9—Amendment of section 78—Early commencement

Section 78(1)(b)—before "the Planning and Design Code" insert:

an amendment to

10—Insertion of Schedule 8

After Schedule 7 insert:

Schedule 8—Transitional provisions

Part 1—Preliminary

1—Interpretation

In this Schedule—

designated day means a day appointed by proclamation as the designated day for the purposes of the provision in which the term is used;

Development Plan means a Development Plan under the repealed Act;

DPA means a Development Plan Amendment under section 25 of the repealed Act;

earlier Act means—

- (a) the *Planning Act 1982*; and
- (b) the *City of Adelaide Development Control Act 1976*; and
- (c) the *Building Act 1971*; and
- (d) the *Planning and Development Act 1966*; and
- (e) the *Town Planning Act 1929*.

2—Saving of operation

- (1) To the extent that a provision of the repealed Act that has been repealed under this Act remains relevant to the operation of this Schedule, the provision may be taken to continue to operate for the purposes of this Schedule despite its repeal.
- (2) However, a provision to which subclause (1) applies will operate subject to this Schedule insofar as this Schedule modifies or otherwise affects the operation of the provision.

Part 2—Definitions and change of use

3—Definitions

- (1) The definition of *development authorisation* in section 3(1) of this Act will be taken to include a development authorisation under the repealed Act or an approval or authorisation under an earlier Act (and a reference in this Act to a development authorisation under this Act will be taken to include a reference to an approval or authorisation under the repealed Act or an earlier Act).
- (2) The definition of *Planning Rules* in section 3(1) of this Act will be taken to include a reference to the provisions of a Development Plan that may still be in force at the relevant time.

4—Change of use of land

- (1) A period of non-use under section 4(1)(b) of this Act extends to a period commenced before the designated day.
- (2) An increase in the intensity of the use of land referred to in section 4(1)(d) of this Act relates to an increase that commences on or after the designated day.
- (3) For the purposes of the revival of a use of land after a period of discontinuance, the period of 12 months referred to in section 4(2)(a) of this Act will be taken to be extended to a period of 2 years in relation to a period of discontinuance that commenced before the designated day.
- (4) A declaration in force under section 6(2)(c) of the repealed Act immediately before the designated day will have effect for the purposes of section 4(2) of this Act and, in connection with this provision, section 6(3) of the repealed Act will continue to apply as if—
 - (a) a reference to the Development Assessment Commission included a reference to the State Planning Commission; and
 - (b) a reference to a relevant Development Plan included a reference to the Planning and Design Code.
- (5) Section 6(4) and (5) of the repealed Act continue to apply to a notice issued under section 6(3) of that Act before the designated day.
- (6) Section 4(3) of this Act extends to a period of discontinuance of use commenced before the designated day.
- (7) For the purposes of section 4(4) (but subject to subclauses (8) and (9)), any period of cessation of an activity occurring before the designated day will be disregarded (and in the case of such a cessation of an activity the relevant period for the purposes of section 4(4)(b) will be taken to run, and will be calculated, from the designated day).

- (8) Subject to subclause (9), section 4(4) and (5) of this Act will apply as if it formed a part of the repealed Act, and before the designated day under a preceding subclause and before being brought into operation by proclamation under this Act, if the Governor, by proclamation under this subclause, declares that section 4(4) and (5) will apply in relation to an area identified in the proclamation.
- (9) In connection with subclause (8)—
- (a) the Governor may make a series of proclamations between the commencement of that subclause and the designated day under a preceding subclause; and
 - (b) if the Governor makes a proclamation in relation to an identified area, section 4(4) and (5) will apply in relation to that area (and any regulation made under section 4(5) will also apply); and
 - (c) section 4(4) will not extend to a period of cessation of an activity in an identified area occurring before the day on which the Governor makes the relevant proclamation under that subclause (but in the case of such a cessation of an activity the relevant period for the purposes of section 4(4)(b) will be taken to run, and will be calculated, from the day on which the proclamation is made); and
 - (d) a reference in section 4(4)(b)(ii) of this Act to the Planning and Design Code will be taken to include a reference to a Development Plan that applies in relation to an identified area.

Part 3—Commission and preliminary structural reforms

Division 1—Commission

5—Establishment of Commission

- (1) Subject to subclause (2), the following provisions of this Act will come into operation on 1 April 2017:
- (a) sections 12 to 14 (inclusive);
 - (b) sections 17 to 34 (inclusive);
 - (c) section 233;
 - (d) section 236;
 - (e) section 245;
 - (f) Schedule 1;
 - (g) clauses 1(1)(a), (2) and (3) and 2 of Schedule 3.

- (2) The Governor may, by proclamation made before 1 April 2017, fix a different day (being before or after 1 April 2017) for the commencement of the provisions referred to in subclause (1) (and then the day so fixed by proclamation will apply instead of the day under subclause (1)).
- (3) The functions of the Commission under the following provisions of this Act will commence on the day on which the Commission is established under subclause (1) or (2):
 - (a) section 16;
 - (b) sections 42 to 47 (inclusive);
 - (c) Part 13;
 - (d) any other provision specified by a proclamation made for the purposes of this subclause.
- (4) In connection with subclause (3)—
 - (a) a provision to which that subclause applies will commence on the day on which the Commission is established under subclause (1) or (2); and
 - (b) the Commission has a period of 6 months within which to establish the first Community Engagement Charter under section 44; and
 - (c) in the case of a provision specified in a proclamation under subclause (3)(d), the provision will, if the proclamation so provides, apply as if it formed part of the repealed Act; and
 - (d) without limiting any other provision of this Schedule, the regulations may make provision of a saving or transitional nature on account of the commencement of any provision to which subclause (3) applies.
- (5) The commencement and operation of Part 13 Division 1 Subdivision 3 will be determined and have effect subject to the operation of section 245 and Part 9 of this Schedule.
- (6) For the purposes of section 245, this Act will be taken to have commenced on the date on which the Commission is established under subclause (1) or (2).

6—Commission authorised to assume functions under the repealed Act

- (1) On and after the designated day, the State Planning Commission will assume the functions, powers and duties of a designated entity under the repealed Act (including the repealed Act as it applies subject to the operation of this Schedule).
- (2) On the designated day—
 - (a) a designated entity is dissolved by force of this subclause; and

- (b) a person holding office as a member of a designated entity will cease to hold that office (and no right of action arises and no compensation is payable in respect of the appointment to that office coming to an end).
- (3) On and after the designated day, a reference in any Act, statutory instrument or other instrument or document to a designated entity will, unless the context otherwise requires, be taken to be a reference to the State Planning Commission.
- (4) Any proceedings before, or being conducted by, a designated entity immediately before the designated day will, subject to any directions of the State Planning Commission, be transferred to the Commission where they may proceed as if they had been commenced before, or by, the Commission.
- (5) The State Planning Commission may—
 - (a) adopt any findings or determinations of a designated entity that may be relevant to the proceedings of the Commission; and
 - (b) adopt or make any decision (including a decision in the nature of a determination), direction or order in relation to any proceedings before, or being conducted by, a designated entity before the designated day; and
 - (c) receive in evidence any transcript of evidence in proceedings before, or being conducted by, a designated entity before the designated day and draw any conclusions of fact from that evidence that appear proper; and
 - (d) take other steps to promote or ensure the smoothest possible transition on account of the transfer of functions, powers and duties under this clause.
- (6) The State Planning Commission must delegate any functions or powers as a relevant authority with respect to determining whether or not to grant development plan consent under the repealed Act that the Commission acquires by operation of this clause—
 - (a) to 1 or more committees established by the Commission; or
 - (b) to a person for the time being occupying a particular office or position.
- (7) In this clause—

designated entity means—

 - (a) the Development Assessment Commission under the repealed Act; and
 - (b) the Building Rules Assessment Commission under the repealed Act; and
 - (c) the Development Policy Advisory Committee under the repealed Act.

Division 2—Regions

7—Regions

- (1) If a planning region is created by proclamation under section 5(1)(a) of this Act—
 - (a) a regional plan under section 64 need not be prepared and adopted in accordance with the requirements of this Act until the expiration of—
 - (i) 24 months from the day on which the planning region is constituted; or
 - (ii) if the proclamation constituting the planning region provides for a longer period—that longer period; and
 - (b) until a regional plan is so prepared and adopted, a regional plan prepared or adopted for the purposes of the repealed Act and identified by the State Planning Commission for the purposes of this provision will apply in relation to the area constituting the planning region as if it were a regional plan under this Act (without the need to be consistent with the requirements of section 64).
- (2) To avoid doubt, a plan applying under subclause (1)(b) may be amended as a designated instrument under Part 5 Division 2 Subdivision 5 of this Act.

Division 3—Preserving existing authorisations and rights

8—Preserving existing authorisations and rights

- (1) Subject to this clause, section 7(5) of this Act does not apply in relation to a proposed development in an environment and food production area that involves a division of land that would create 1 or more additional allotments—
 - (a) if—
 - (i) a development authorisation for the division of the land was granted under section 33(1)(c) or (d) of the repealed Act before the designated day; and
 - (ii) that development authorisation has not lapsed under subclause (2); or
 - (b) if—
 - (i) the division of the land was granted a development plan consent under section 33(1)(a) of the repealed Act before the designated day; and

- (ii) the development authorisation for the division of the land required under section 33(1)(c) or (d) of the repealed Act is granted before the expiration of the designated transitional period; and
 - (iii) the development authorisation under subparagraph (ii) has not lapsed under subclause (2).
- (2) A development authorisation for the division of land referred to in subclause (1)(a)(ii) or (b)(iii) will lapse at the expiration of the designated transitional period unless an application for the division of the land under and in accordance with the development authorisation has been lodged with the Registrar-General under Part 19AB of the *Real Property Act 1886* before that expiration.
- (3) Subclause (1) does not apply in relation to land that is within a character preservation area that is taken to be an environment and food production area under section 7(4).
- (4) In this clause—
- designated transitional period* means the period of 2 years commencing on the designated day.

Part 4—Planning instruments

9—Planning and Design Code

- (1) The Planning and Design Code is not required to provide for all of the matters referred to in section 66(2) until 1 July 2020.
- (2) Until 1 July 2020, a Development Plan under the repealed Act (as in force at a relevant time) will have effect for the purposes of this Act as if it formed part of the Planning and Design Code (subject to the operation of this clause).
- (3) If the Minister considers that a Development Plan should be amended, including by the removal or alteration of material in the Development Plan—
- (a) because of provision made by the Planning and Design Code; or
 - (b) because of an inconsistency between the Development Plan and the Planning and Design Code,
- the Minister may make the amendment in such manner as the Minister thinks fit.
- (4) The Minister must give notice of an amendment under subclause (3) in such manner as the Minister thinks fit.
- (5) An amendment under subclause (3) will have effect from a day stated in the notice of the amendment (and will have effect for the purposes of this Act, and for the purposes of the repealed Act as if it had been made under that Act (and without the need to take any other step under that Act)).

- (6) In addition (and without limiting subclause (3)), until 1 July 2020, a Development Plan may continue to be amended under Part 3 Division 2 Subdivision 2 of the repealed Act but subject to the following qualifications:
- (a) a council must not commence the process under section 25 of the repealed Act without the approval of the Minister;
 - (b) sections 25, 26 and 28 of the repealed Act will apply subject to any modifications made by the regulations for the purposes of this subclause;
 - (c) without limiting paragraph (b), the Minister may require that a DPA under the repealed Act that is under consideration under section 25 of the repealed Act on the designated day be divided into 2 or more parts so that those parts will be dealt with separately under the repealed Act and, in so doing, may direct that 1 or more parts not proceed any further (and any such direction will have effect accordingly);
 - (d) sections 27 and 29 of the repealed Act will continue to apply.
- (7) Without limiting a preceding subclause, the Minister may, by notice in the Gazette, revoke a Development Plan if or when the Minister considers that the Development Plan is no longer required or appropriate for the purposes of this Act (and, if relevant, for the purposes of the repealed Act).
- (8) A reference in any other Act (other than the repealed Act), regulation, rule or by-law to a Development Plan will, unless the context otherwise requires, be taken to include a reference to the Planning and Design Code.

10—Local heritage

- (1) On the designated day, a place designated as a place of local heritage value under the repealed Act immediately before the designated day will be taken to be designated as a place of local heritage value by the Planning and Design Code.
- (2) The Minister may, by notice in the Gazette, amend the Planning and Design Code in order to include a place of local heritage value in the Planning and Design Code by virtue of the operation of subclause (1).
- (3) Subclauses (1) and (2) do not limit the ability to make a later amendment to the Planning and Design Code in relation to a place to which subclause (1) applies.
- (4) Section 202(1)(a) does not apply to or in relation to the designation of a place as a place of local heritage value under this Act by operation of subclause (1) or on account of the inclusion of a place of local heritage value in the Planning and Design Code under subclause (2).

11—Significant trees

- (1) On the designated day, a significant tree by virtue of the operation of a Development Plan under the repealed Act immediately before the designated day will be taken to be a significant tree under the Planning and Design Code.
- (2) The Minister may, by notice in the Gazette, amend the Planning and Design Code in order to include a tree, or a stand of trees, in the Planning and Design Code by virtue of the operation of subclause (1).
- (3) Subclauses (1) and (2) do not limit the ability to make a later amendment to the Planning and Design Code in relation to a tree to which subclause (1) applies.

Part 5—Relevant authorities

12—General transitional scheme for panels

- (1) On and after the designated day, a reference in the repealed Act to a council's development assessment panel will, subject to subclause (3), be taken to be a reference to an assessment panel appointed by the council under this Act.
- (2) In connection with the operation of subclause (1), on and after the designated day—
 - (a) section 83 of this Act, insofar as it applies to a council as a designated authority, will apply for the purposes of the repealed Act as if it formed part of the repealed Act; and
 - (b) section 56A of the repealed Act will not apply so as to require a council to establish a council development assessment panel but—
 - (i) a council otherwise required to establish such a panel under that section will be required to establish 1 or more assessment panels under paragraph (a) instead; and
 - (ii) the functions of the assessment panel established under this clause will be to act as a delegate of the council for the purposes of the repealed Act.
- (3) If a council does not appoint an assessment panel envisaged by subclause (1), the Minister may, after consultation with the Commission, constitute a local assessment panel under this subclause.
- (4) If the Minister acts under subclause (3)—
 - (a) section 84 of this Act, insofar as it applies to a local assessment panel, other than section 84(1)(d), will apply for the purposes of the repealed Act as if it formed part of the repealed Act; and

- (b) the local assessment panel will act as a delegate of the council as a relevant authority under the repealed Act as if it had received a delegation from the council to the extent determined by the Minister; and
 - (c) a reference in the repealed Act to a council's development assessment panel (insofar as it relates to the council) will be taken to be a reference to the local assessment panel.
- (5) In connection with the operation of the preceding subclauses, section 85 of this Act will extend to a matter that an assessment panel under this clause must assess under the repealed Act.
- (6) Without limiting any provision made under Schedule 5, the regulations under this Act may make provision with respect to the practices or procedures of assessment panels acting under this clause for the purposes of the repealed Act.
- (7) An assessment panel acting under this clause may—
 - (a) adopt any findings or determinations of a council development assessment panel under the repealed Act that may be relevant to an application made before the relevant day under the repealed Act; and
 - (b) adopt or make any decision (including a decision in the nature of a determination), direction or order in relation to an application made before the relevant day under the repealed Act; and
 - (c) deal with any matter that is subject to a reserved decision under the repealed Act before the relevant day; and
 - (d) deal with any requirement or grant any variation imposed or proposed in connection with an application made before the relevant day under the repealed Act; and
 - (e) deal with any requirement or grant any variation imposed or proposed in connection with an application made before the relevant day under the repealed Act.

- (8) In this clause—

relevant day, in relation to an assessment panel, means the day on which the assessment panel is appointed or constituted under this clause.

13—Regional assessment panels

- (1) On and after the designated day, the Minister may constitute a regional assessment panel under this Act—
 - (a) as the successor of a regional development assessment panel constituted under the repealed Act; or
 - (b) in response to a request by 2 or more councils to constitute a regional assessment panel in relation to their combined areas.

- (2) If the Minister acts under subclause (1)—
- (a) section 84 of this Act, insofar as it relates to regional assessment panels, other than section 84(1)(c)(ii), will apply for the purposes of the repealed Act as if it formed part of the repealed Act; and
 - (b) a reference in the repealed Act to a regional development assessment panel will be taken to be a reference to the regional assessment panel under this clause.
- (3) In connection with the operation of the preceding subclauses, section 85 of this Act will extend to a matter that a regional assessment panel under this clause must assess under the repealed Act.
- (4) Without limiting any provision made under Schedule 5, the regulations under this Act may make provision with respect to the practices or procedures of regional assessment panels acting under this clause for the purposes of the repealed Act.
- (5) A regional assessment panel acting under this clause may—
- (a) adopt any findings or determinations of a council development assessment panel or a regional development assessment panel under the repealed Act that may be relevant to an application made before the relevant day under the repealed Act; and
 - (b) adopt or make any decision (including a decision in the nature of a determination), direction or order in relation to an application made before the relevant day under the repealed Act; and
 - (c) deal with any matter that is subject to a reserved decision under the repealed Act before the relevant day; and
 - (d) deal with any requirement or grant any variation imposed or proposed in connection with an application made before the relevant day under the repealed Act; and
 - (e) deal with any requirement or grant any variation imposed or proposed in connection with an application made before the relevant day under the repealed Act.
- (6) In this clause—
- relevant day***, in relation to a regional assessment panel, means the day on which the regional assessment panel is constituted under this clause.

14—Assessment managers

- (1) Each assessment panel acting under this Part must have an assessment manager appointed under section 87 of this Act (and insofar as that section is relevant to the operations of an assessment panel, the section will be taken to apply, on and from the designated day, for the purposes of the repealed Act as if it formed part of that Act).
- (2) An assessment manager may, from the designated day, act as a delegate of a council or other relevant authority for the purposes of the repealed Act (including for the purposes of section 34(23)(b) of the repealed Act).

15—References

- (1) On and after the designated day, a reference in any Act, statutory instrument or other instrument or document to a relevant entity under the repealed Act will, unless the context otherwise requires, be taken to be a reference to a relevant authority under this Act (including, if relevant, an assessment panel that has been constituted under this Part).
- (2) For the purposes of subclause (1)—
 - (a) the Governor may appoint different designated days in relation to different relevant entities under the repealed Act; and
 - (b) in view of the operation of paragraph (a), may make 2 or more proclamations in relation to different relevant entities under the repealed Act at such times as the Governor thinks fit.
- (3) In this clause—

relevant entity means—

 - (a) a council development assessment panel under the repealed Act; or
 - (b) a relevant authority under the repealed Act.

16—Accredited professionals

The requirement to be an accredited professional under Part 6 Division 1, 2 or 3 of this Act does not apply until the designated day.

17—Removal etc of private certifier

Section 96 of the repealed Act continues to apply to and in relation to an engagement entered into before the designated day despite the repeal of that section by this Act.

Part 6—Existing applications

18—Continuation of processes

- (1) Except as otherwise provided by this Schedule, an application made to a relevant authority under section 39 of the repealed Act that has not been finally determined before the designated day may be continued and completed under the provisions of the repealed Act, except that the relevant authority for the purposes of the application will be, from the designated day, a relevant authority under this Act determined in accordance with a scheme prescribed by the regulations.
- (2) A relevant authority under this Act acting under subclause (1) may—
 - (a) adopt any findings or determinations of a relevant authority under the repealed Act that may be relevant to an application to which that subclause applies; and
 - (b) adopt or make any decision (including a decision in the nature of a determination), direction or order in relation to an application to which that subclause applies; and
 - (c) deal with any matter that is subject to a reserved decision under the repealed Act before the designated day; and
 - (d) deal with any requirement or grant any variation imposed or proposed in connection with an application to which that subclause applies; and
 - (e) take any other step or make any other determination authorised by the regulations, or that is reasonably necessary to promote or ensure a smooth transition on account of the transfer of functions, powers or duties under this clause.
- (3) Nothing in subclause (1) or (2) limits or affects the operation of Part 5 of this Schedule to the extent that an assessment panel under this Act is already acting under the repealed Act by virtue of the operation of the provisions of that Part.
- (4) A notice of a decision on an application to which this clause applies will be in the form that applies under section 126 of this Act rather than the form that applies under section 40 of the repealed Act.
- (5) Despite subclauses (1) and (2), section 127 of this Act will apply in relation to an application to which this clause applies rather than section 42 of the repealed Act.
- (6) A decision on an application to which this clause applies will, once given under the preceding subclauses, be taken to be a decision given under this Act (and this Act will apply in relation to the relevant development authorisation subject to any provision made by this Schedule).
- (7) To avoid doubt, section 125 of this Act, insofar as it provides for a deemed consent notice or a deemed planning consent, does not apply in relation to an application to which this clause applies.

19—Appeals

To avoid doubt, a right of appeal under sections 38 and 86(1)(b) of the repealed Act may be exercised in relation to an application made to a relevant authority under section 39 of the repealed Act that has not been finally determined before the designated day even if the process under section 38 of the repealed Act had not been commenced (or completed) before the designated day.

20—Major development or projects

- (1) The repealed Act will continue to apply to and in relation to a proposed development or project that is the subject of a declaration under section 46 of the repealed Act before the designated day (and that has not been the subject of a decision of the Governor under section 48 of the repealed Act before the designated day) except that section 48 of the repealed Act will, on and after the designated day, apply as if a reference to the Governor were a reference to the Minister.
- (2) A decision of the Minister in relation to a development or project under subclause (1) that is made on or after the designated day will have effect as if it were a decision of the Minister under section 115 of this Act.

21—Crown and infrastructure development

- (1) Except as otherwise provided by this Schedule, an application lodged under section 49 or 49A of the repealed Act that has not been finally determined before the designated day may be continued and completed under the provisions of the repealed Act.
- (2) A decision on an application to which this clause applies will, once given under subclause (1), be taken to be a decision given under this Act (and this Act will apply in relation to the relevant development authorisation subject to any provision made by this Schedule).
- (3) Section 131(29) of this Act does not apply to or in relation to a regulation made under section 131(28)(b) of this Act if the Governor, at the time the regulation is made, declares that the Governor is satisfied that the regulation is the same as, or substantially the same as, the regulation applying under section 49(19)(b) of the repealed Act immediately before the regulation under the repealed Act is revoked and substituted by the regulation under this Act.

22—Building work

- (1) Subject to subclause (2), section 139 of this Act will extend to a development approval given before the designated day.
- (2) Subclause (1) does not apply if a notice relating to the relevant building work has been served on the owner of the affected site under section 60 of the repealed Act before the designated day.

- (3) In a case applying under subclause (2), section 60 of the repealed Act will continue to apply in such a case until the matter has been finally determined under the repealed Act.
- (4) Section 140 of this Act will extend to building work in relation to which a development approval has been given before the designated day.
- (5) To avoid doubt, nothing in this Act affects the operation of a notice given under section 61 of the repealed Act before the designated day or any right under section 62, 63 or 64 of the repealed Act insofar as those sections relate to any action commenced or completed before the relevant day.

Part 7—Development Plans relevant to assessments under this Act

23—Application of Part

This Part applies to and in relation to an application for planning consent made under this Act after the designated day if the provisions of a Development Plan are still relevant to the assessment of that application.

24—Complying development

If proposed development that is the subject of an application to which this Part applies is of a kind described as *complying* development under the Development Plan, the development will be taken to be classified as *deemed-to-satisfy development* under this Act.

25—Non-complying development

- (1) If proposed development that is the subject of an application to which this Part applies is of a kind described as *non-complying* development under the Development Plan—
 - (a) the development will be taken to be classified as *restricted development*; but
 - (b) unless the proposed development is within the ambit of section 94(1) (other than paragraph (d) of section 94(1))—the relevant authority in relation to the development will be taken to be the assessment panel appointed by the council in respect of the area where the development is to be undertaken.
- (2) In a case where an assessment panel is a relevant authority by virtue of the operation of subclause (1)(b)—
 - (a) the assessment panel must comply with the practice direction published under section 109(1)(a) and the requirement of section 109(2)(a); and

- (b) any reference in section 110 to the State Planning Commission will be taken to include a reference to the assessment panel; and
 - (c) the assessment panel must comply with any other practice direction published by the Commission in relation to the operation of this clause.
- (3) This clause does not apply to or in relation to any proposed development that is classified or declared to be *impact assessed development* under Part 7 Division 2 Subdivision 4 of this Act.
 - (4) This clause expires on 1 July 2020.
 - (5) An application being considered by an assessment panel under this clause on 1 July 2020 may be continued and completed by the State Planning Commission as a relevant authority on and after that date.
 - (6) The State Planning Commission acting under subclause (5) may—
 - (a) adopt any findings or determinations of an assessment panel that may be relevant to an application to which that subclause applies; and
 - (b) adopt or make any decision (including a decision in the nature of a determination), direction or order in relation to an application to which that subclause applies; and
 - (c) deal with any matter that is subject to a reserved decision before 1 July 2020; and
 - (d) deal with any requirement or grant any variation imposed or proposed in connection with an application to which that subclause applies; and
 - (e) take any other step or make any other determination authorised by the regulations, or that is reasonably necessary to promote or ensure a smooth transition on account of the transfer of functions, powers or duties under this clause.

26—Merit development

If proposed development that is the subject of an application to which this Part applies is *merit* development under the Development Plan, the development will be taken to be development to be assessed on its merit under this Act.

Part 8—Building activity and use

27—Classification and occupation of buildings

Part 11 Division 4 of this Act does not apply to or in relation to a building owned or occupied by the Crown (or an agency or instrumentality of the Crown), or to any building work carried out by the Crown (or by an agency, instrumentality, officer or employee of the Crown), before the designated day.

28—Swimming pool safety

- (1) On the designated day—
 - (a) section 71AA of the repealed Act is repealed by force of this section; and
 - (b) section 156 of this Act will commence applying in relation to any swimming pool.
- (2) On and from the designated day, to the extent that—
 - (a) development under the repealed Act includes the construction or installation of, or other work associated with, a swimming pool or any swimming pool safety features; and
 - (b) such development is still assessed under the repealed Act, section 156 of this Act will, in applying under subclause (1)(b), be taken to form part of the repealed Act.

29—Fire safety

Section 157 of this Act does not apply to or in relation to a building owned or occupied by the Crown (or an agency or instrumentality of the Crown) immediately before the designated day (unless or until the building is no longer so owned or occupied).

Part 9—Infrastructure frameworks

Division 1—Pilot schemes may be authorised

30—General schemes

- (1) This clause applies despite section 245(6).
- (2) The Minister may, by notice in the Gazette, declare that a scheme described in the notice may be initiated under Part 13 Division 1 Subdivision 3 (although that Subdivision is not in operation at the time of the declaration).
- (3) The Minister may only make declaration under subclause (2) in relation to a scheme if—
 - (a) the Minister is acting at the request of a person or body interested in the provision or delivery of infrastructure; and
 - (b) the Minister considers that the scheme is suitable to act as a pilot scheme for the purposes of Part 13 Division 1 Subdivision 3.
- (4) The Minister may, by further notice in the Gazette, vary a notice under subclause (2) in order to reflect changes to a scheme described in a notice (provided that the essential nature of the scheme is not changed).
- (5) A declaration under subclause (2) has effect by force of this clause (and Part 13 Division 1 Subdivision 3 will operate for the purposes of the relevant scheme).

- (6) If a declaration is made under subclause (2)—
- (a) the Minister must, within 6 sitting days after the declaration is made—
 - (i) prepare a report on the making of the declaration, including in the report an outline of the scheme; and
 - (ii) cause copies of the report to be laid before both Houses of Parliament; and
 - (b) the Commission must, in preparing its report for the purposes of section 245(4), include a specific section in the report that relates to the scheme undertaken as a result of the declaration.

Division 2—Operation of schemes during transitional period

31—Operation of schemes during transitional period

- (1) This clause applies in relation to—
- (a) a scheme in relation to the provision of infrastructure initiated under Part 13 Division 1 of this Act; or
 - (b) a scheme initiated under Division 1 of this Part.
- (2) This clause applies during the designated transitional period.
- (3) To avoid doubt, during the designated transitional period, a reference in Part 13 of this Act to changes to the Planning and Design Code will be taken to include a reference to changes in a Development Plan under the repealed Act.
- (4) In this clause—
- designated transitional period* means the period commencing on the commencement of this clause and expiring on 1 July 2020.

Part 10—Land management agreements

32—Land management agreements

- (1) A council must, in relation to any land management agreement to which the council is a party in force under Part 5 of the repealed Act immediately before the designated day, furnish a copy of that agreement to the Minister within the period of 3 months after the designated day.
- (2) An agreement in force under Part 5 of the repealed Act immediately before the designated day will be taken to be an agreement under the corresponding provision of this Act (and will have the same force and effect as it had immediately before the designated day).

Part 11—Funds

33—Funds

- (1) A carparking fund in existence under section 50A of the repealed Act immediately before the designated day will continue as a fund under section 197 of this Act.
- (2) In connection with the operation of subclause (1)—
 - (a) it is unnecessary for the fund to form part of a scheme established under section 197 of this Act; and
 - (b) insofar as may be relevant, any provision made by a Development Plan under the repealed Act can continue to apply in relation to the fund.
- (3) An urban trees fund in existence under section 50B of the repealed Act immediately before the designated day will continue as an urban trees fund under section 200 of this Act (and will apply in relation to the area for which it was established).

Part 12—Proceedings to gain a commercial competitive advantage

34—Proceedings to gain a commercial competitive advantage

A reference in section 207 of this Act to the Planning and Design Code, or to the amendment of the Planning and Design Code, will be taken to include a reference to a Development Plan under the repealed Act, or to the amendment of a Development Plan under the repealed Act (whether the amendment is effected under the repealed Act or this Act).

Part 13—Authorised officers

35—Authorised officers

A person who, immediately before the designated day, held an appointment as an authorised officer under the repealed Act will be taken to have been appointed as an authorised officer under section 210 of this Act (and will hold that office subject to the other provisions of this Act on the conditions that applied in relation to the authorised officer immediately before the designated day).

Part 14—Advisory committees

36—Advisory committees

A committee established under section 244 will be dissolved by force of this clause on 30 June 2019 (and no further committees need be established under that section after that date).

Part 15—Other matters

37—Proclamation of open space

A proclamation made under section 62 of the *Planning Act 1982* (or made under section 61 of the *Planning and Development Act 1966* or section 29 of the *Town Planning Act 1929*) will continue in force and effect as if the *Planning Act 1982* had not been repealed (and that Act will be taken to continue to apply in relation to any such proclamation).

38—Metropolitan Adelaide

On and after the designated day, a reference in any Act or statutory instrument to Metropolitan Adelaide within the meaning of the *Development Act 1993* will, unless the context otherwise requires, be taken to be a reference to Metropolitan Adelaide as defined by that Act immediately before the designated day.

39—References to applications and approvals

- (1) On and after the designated day, a reference in any Act, statutory instrument or other document or instrument to an application under the repealed Act, or to any assessment, decision, permission, consent, approval, authorisation or certificate under the repealed Act, will, unless the context otherwise requires, be taken to include a reference to an application under this Act, or to any assessment, decision, permission, consent, approval, authorisation or certificate under this Act or an earlier Act (as the case requires).
- (2) Without limiting subclause (1), on and after the designated day—
 - (a) a reference in any Act, statutory instrument or other document or instrument to development plan consent (or provisional development plan consent) under the repealed Act will, unless the context otherwise requires, be taken to include a reference to planning consent under this Act or a corresponding consent or approval under an earlier Act (other than the *Building Act 1971*); and
 - (b) a reference in any Act, statutory instrument or other document or instrument to building rules consent (or provisional building rules consent) under the repealed Act will, unless the context otherwise requires, be taken to include a reference to building consent under this Act or a corresponding approval under the *Building Act 1971*.
- (3) On and after the designated day, a reference in any Act, statutory instrument or other document to a certificate under section 138 of this Act will, unless the context otherwise requires, be taken to include a reference to a certificate under section 51 of the *Development Act 1993* (and vice versa).

40—Conditions

A condition attached to, or applying in relation to, a decision under the repealed Act or an earlier Act will remain in force as if granted under this Act (and will be binding and enforceable as if granted under this Act and may be varied or revoked in accordance with the provisions of this Act).

41—General saving provision

Subject to the specific provisions of this Schedule (and to any regulations made under this Schedule), the repeal of a provision of the repealed Act (or the repeal of a provision of an earlier Act) does not affect any rights that accrued under the provision so repealed, the validity of any decision or authorisation made or granted under the provision so repealed, or any notice or order given or made under the provision so repealed.

42—General provisions apply

The *Acts Interpretation Act 1915* will, except to the extent of any inconsistency with the provisions of this Schedule (or any other provision of this Act or regulations made under this Act), apply to the repeal of any provision of the repealed Act (or to the repeal of any provision of an earlier Act).

43—Regulations

- (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 made by a regulation under subclause (1) may, if the regulations so provide, 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 publication of the regulation 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.

Part 3—Amendment of *Adelaide Oval Redevelopment and Management Act 2011*

11—Amendment of section 3—Interpretation

Section 3, definition of *development*—delete the definition and substitute:

development means development within the meaning of the *Planning, Development and Infrastructure Act 2016*;

12—Amendment of section 7—Licence to Minister

Section 7—delete "Development Assessment Commission" wherever occurring and substitute in each case:

State Planning Commission

13—Amendment of section 10—Development assessment

- (1) Section 10(1)—delete "The Development Plan that relates to the area of the Council" and substitute:

The Planning and Design Code under the *Planning, Development and Infrastructure Act 2016*

- (2) Section 10(2)—delete "Development Plan" and substitute:

Planning and Design Code

- (3) Section 10(3)—delete "*complying* development under section 35 of the *Development Act 1993* and Category 1 development under section 38 of that Act" and substitute:

deemed-to-satisfy development under the *Planning, Development and Infrastructure Act 2016*

- (4) Section 10(4)—delete subsection (4) and substitute:

- (4) The State Planning Commission will be taken to be the relevant authority under the *Planning, Development and Infrastructure Act 2016* in relation to any proposed development within the ambit of subsection (3).

14—Amendment of section 11—Interaction with other Acts

- (1) Section 11(2)—delete "*Development Act 1993*" and substitute:

Planning, Development and Infrastructure Act 2016

- (2) Section 11(4)—delete "section 14 of the *Development Act 1993*, the Development Assessment Commission" and substitute:

section 17(4) of the *Planning, Development and Infrastructure Act 2016*

Part 4—Amendment of *Adelaide Park Lands Act 2005*

15—Amendment of section 3—Interpretation

Section 3(2)—delete "*Development Act 1993*" and substitute:

Planning, Development and Infrastructure Act 2016

Part 5—Amendment of *Aquaculture Act 2001*

16—Amendment of section 7—Interaction with other Acts

Section 7(2)—delete "*Development Act 1993*" and substitute:

Planning, Development and Infrastructure Act 2016

17—Amendment of section 12—Procedures for making policies

Section 12(3)(c)(i)—delete subparagraph (i) and substitute:

- (i) any relevant state planning policy or regional plan, and the Planning and Design Code, under the *Planning, Development and Infrastructure Act 2016*; and

Part 6—Amendment of *City of Adelaide Act 1998*

18—Amendment of section 30—Strategic plans

Section 30(2)(c)—delete paragraph (c) and substitute:

- (c) to ensure consistency with any relevant state planning policy, the regional plan for Greater Adelaide (insofar as it is relevant to the City of Adelaide), and the Planning and Design Code, under the *Planning, Development and Infrastructure Act 2016*; and

Part 7—Amendment of *Commissioner for Kangaroo Island Act 2014*

19—Amendment of section 3—Interpretation

- (1) Section 3, definition of *responsible Minister*, (c)—delete paragraph (c) and substitute:

- (c) if the authority is an assessment panel appointed or constituted under Part 6 Division 2 of the *Planning, Development and Infrastructure Act 2016*—the Minister responsible for the administration of that Act; or

- (2) Section 3, definition of *State authority*, (d)—delete paragraph (d) and substitute:

- (d) an assessment panel appointed or constituted under Part 6 Division 2 of the *Planning, Development and Infrastructure Act 2016*; or

Part 8—Amendment of *Community Titles Act 1996*

20—Amendment of section 3—Interpretation

- (1) Section 3(1), definition of *holder* of a statutory encumbrance, (a)—delete paragraph (a) and substitute:

- (a) in relation to an agreement under Part 14 of the *Planning, Development and Infrastructure Act 2016*—the Minister, council or greenway authority that entered into the agreement; or

- (2) Section 3(1), definition of *relevant development authority*—delete "*Development Act 1993*" and substitute:

Planning, Development and Infrastructure Act 2016

- (3) Section 3(1), definition of *statutory encumbrance*, (b)—delete paragraph (b) and substitute:
- (b) an agreement under Part 14 of the *Planning, Development and Infrastructure Act 2016* (including an agreement under Part 5 of the *Development Act 1993* that is taken to be an agreement under that Part of the *Planning, Development and Infrastructure Act 2016*);
- (4) Section 3(11)(b)(i)—delete "*Development Act 1993*" and substitute:
- Planning, Development and Infrastructure Act 2016*
- (5) Section 3(12)—delete "*Development Act 1993*" and substitute:
- Planning, Development and Infrastructure Act 2016*

21—Amendment of section 14—Application

- (1) Section 14(5a)—delete "Development Assessment Commission required by section 51 of the *Development Act 1993*" and substitute:
- State Planning Commission required by section 138 of the *Planning, Development and Infrastructure Act 2016*
- (2) Section 14(6)—delete "Development Assessment Commission under section 51 of the *Development Act 1993*" and substitute:
- State Planning Commission under section 138 of the *Planning, Development and Infrastructure Act 2016*

22—Amendment of section 30—Scheme description

- Section 30(1)(h)—delete "*Development Act 1993*" and substitute:
- Planning, Development and Infrastructure Act 2016*

23—Amendment of section 47—Development contracts

- Section 47(2)(d)—delete "*Development Act 1993*" and substitute:
- Planning, Development and Infrastructure Act 2016*

24—Amendment of section 52—Application for amendment

- (1) Section 52(5a)—delete "Development Assessment Commission required by section 51 of the *Development Act 1993*" and substitute:
- State Planning Commission required by section 138 of the *Planning, Development and Infrastructure Act 2016*
- (2) Section 52(6)—delete "Development Assessment Commission under section 51 of the *Development Act 1993*" and substitute:
- State Planning Commission under section 138 of the *Planning, Development and Infrastructure Act 2016*

25—Amendment of section 54—Amendment of plan

Section 54(3)(c)—delete paragraph (c) and substitute:

- (c) the certificate from the State Planning Commission under section 138 of the *Planning, Development and Infrastructure Act 2016*;

26—Amendment of section 58—Amendment of plan pursuant to development contract

- (1) Section 58(4a)—delete "Development Assessment Commission required by section 51 of the *Development Act 1993*" and substitute:

State Planning Commission required by section 138 of the *Planning, Development and Infrastructure Act 2016*

- (2) Section 58(4b)—delete "Development Assessment Commission under section 51 of the *Development Act 1993*" and substitute:

State Planning Commission under section 138 of the *Planning, Development and Infrastructure Act 2016*

Part 9—Amendment of *Criminal Law Consolidation Act 1935*

27—Amendment of section 5—Interpretation

- (1) Section 5(1), definition of *local government body*—delete the definition and substitute:

local government body means a council or other body constituted under the *Local Government Act 1999*;

- (2) Section 5(1)—after the definition of *place of divine worship* insert:

planning assessment panel means an assessment panel appointed or constituted under Part 6 Division 2 of the *Planning, Development and Infrastructure Act 2016*;

28—Amendment of section 145—Interpretation

Section 145(1), definition of *public agency*—after paragraph (f) insert:

- (g) a planning assessment panel;

29—Amendment of section 237—Definitions

- (1) Section 237, definition of *public officer*—after paragraph (h) insert:

(ha) a member of a planning assessment panel or an officer or employee of a planning assessment panel; or

- (2) Section 237, definition of *public officer*, (i)—delete "or a local government body" and substitute:

, a local government body or a planning assessment panel

Part 10—Amendment of *Environment Protection Act 1993*

30—Amendment of section 3—Interpretation

- (1) Section 3(1), after the definition of *pollute* insert:

pre-school means a place primarily used for the care or instruction of children of less than primary school age not resident at the site, and includes a nursery, kindergarten or child-care centre;

- (2) Section 3(1), definition of *sensitive use*, (b)—delete "within the meaning of the *Development Act 1993*"

31—Amendment of section 27—Nature and contents of environment protection policies

Section 27(2)(a)(ii)—delete "*Development Act 1993*" and substitute:

Planning, Development and Infrastructure Act 2016

32—Amendment of section 35—Requirement for works approval

Section 35(2)(b)—delete "*Development Act 1993*" and substitute:

Planning, Development and Infrastructure Act 2016

33—Amendment of section 39—Notice and submissions in respect of applications for environmental authorisations

Section 39(1b)(b)—delete "*Development Act 1993*" and substitute:

Planning, Development and Infrastructure Act 2016

34—Amendment of section 42—Time limit for determination of applications

Section 42(2)—delete "*Development Act 1993*" wherever occurring and substitute in each case:

Planning, Development and Infrastructure Act 2016

35—Amendment of section 47—Criteria for grant and conditions of environmental authorisations

- (1) Section 47(1)(f)—delete "public environmental report, development report,"

- (2) Section 47(1)(f)—delete "*Development Act 1993*" and substitute:

Planning, Development and Infrastructure Act 2016

- (3) Section 47(2)(a)(ii) and (iii)—delete subparagraphs (ii) and (iii) and substitute:

(ii) a development authorisation under Part 7 or 8 of the *Planning, Development and Infrastructure Act 2016*—

- (A) authorising a development for the purposes of a prescribed activity of environmental significance on each application in respect of that development referred to the Authority in accordance with that Part; or

- (B) authorising a development or project for the purposes of a prescribed activity of environmental significance; and
- (4) Section 47(2a)—delete "*Development Act 1993*" wherever occurring and substitute in each case:

Planning, Development and Infrastructure Act 2016

36—Amendment of section 57—Criteria for decisions of Authority in relation to development authorisations

Section 57—delete "*Development Act 1993*" and substitute:

Planning, Development and Infrastructure Act 2016

37—Amendment of section 64—Certain matters to be referred to Water Resources Minister

Section 64(1b)—delete "*Development Act 1993*" and substitute:

Planning, Development and Infrastructure Act 2016

38—Amendment of section 103D—Causing site contamination

Section 103D(4)—delete "*Development Act 1993*" and substitute:

Planning, Development and Infrastructure Act 2016

39—Amendment of section 109—Public register

Section 109(3)(a), (c) and (d)—delete "*Development Act 1993*" wherever occurring and substitute in each case:

Planning, Development and Infrastructure Act 2016

40—Amendment of Schedule 1—Prescribed activities of environmental significance

- (1) Schedule 1, Part A, clause 4(2)(a) and (b)—delete "relevant Development Plan under the *Development Act 1993*" wherever occurring and substitute in each case:

Planning and Design Code under the *Planning, Development and Infrastructure Act 2016*

- (2) Schedule 1, Part A, clause 4(2)(c)—after "Metropolitan Adelaide as defined in the *Development Act 1993*" insert:

(being Metropolitan Adelaide as applying under Schedule 8 of the *Planning, Development and Infrastructure Act 2016*)

- (3) Schedule 1, Part A, clause 7(2)(e)—delete paragraph (e) and substitute:

(e) any activity associated with a railway that is excluded from the ambit of the definition of development (within the meaning of the *Planning, Development and Infrastructure Act 2016*) under regulations made under that Act; or

Part 11—Amendment of *Fire and Emergency Services Act 2005*

41—Amendment of section 37—Rectification where safeguards inadequate

- (1) Section 37(4)—delete "section 71(18) of the *Development Act 1993*" and substitute:
section 157(16) of the *Planning, Development and Infrastructure Act 2016*
- (2) Section 37(5)—delete "*Development Act 1993*" and substitute:
Planning, Development and Infrastructure Act 2016

42—Amendment of section 38—Closure orders

Section 38(6)—delete "section 71(18) of the *Development Act 1993*" and substitute:
section 157(16) of the *Planning, Development and Infrastructure Act 2016*

43—Amendment of section 71—State Bushfire Coordination Committee

Section 71(2)(b)(ix)—delete "*Development Act 1993*" and substitute:
Planning, Development and Infrastructure Act 2016

Part 12—Amendment of *Fisheries Management Act 2007*

44—Amendment of section 43—General nature and content of management plans

- Section 43(1)(f)(ii)—delete subparagraph (ii) and substitute:
- (ii) the provisions of any relevant state planning policy or regional plan, and the Planning and Design Code, under the *Planning, Development and Infrastructure Act 2016*; and

Part 13—Amendment of *Freedom of Information Act 1991*

45—Amendment of section 4—Interpretation

- Section 4(1), definition of **agency**, (fa)—delete paragraph (fa) and substitute:
- (fa) an assessment panel appointed or constituted under Part 6 Division 2 of the *Planning, Development and Infrastructure Act 2016*; or

Part 14—Amendment of *Highways Act 1926*

46—Amendment of section 20—General powers of Commissioner

- (1) Section 20(5)—delete "*Development Act 1993*" and substitute:
Planning, Development and Infrastructure Act 2016

(2) Section 20(6)(a)—delete paragraph (a) and substitute:

- (a) in the case that involves development in relation to a State heritage place in the circumstances contemplated by paragraph (e) of the definition of *development* under the *Planning, Development and Infrastructure Act 2016* (on the basis that the *Planning, Development and Infrastructure Act 2016* will only apply insofar as is relevant to the State heritage place); or

Part 15—Amendment of *Liquor Licensing Act 1997*

47—Amendment of section 106—Complaint about noise etc emanating from licensed premises

Section 106(6)(b)(iv)—delete "Development Plan under the *Development Act 1993*" and substitute:

provision of the Planning and Design Code under the *Planning, Development and Infrastructure Act 2016*

Part 16—Amendment of *Local Government Act 1999*

48—Amendment of section 90—Meetings to be held in public except in exceptional circumstances

Section 90(3)(m)—delete paragraph (m) and substitute:

- (m) information relating to a proposal to prepare or amend a designated instrument under Part 5 Division 2 of the *Planning, Development and Infrastructure Act 2016* before the draft instrument or amendment is released for public consultation under that Act;

49—Amendment of section 122—Strategic management plans

(1) Section 122(2)(a)—delete paragraph (a) and substitute:

- (a) should—
 - (i) address the strategic planning issues within the area of the council, with particular reference to (and in a manner consistent with) any relevant state planning policy or regional plan under the *Planning, Development and Infrastructure Act 2016*; and
 - (ii) set out the council's priorities for the implementation of planning policies; and

(2) Section 122(2)(b)—delete paragraph (b) and substitute:

- (b) should (as far as practicable) be consistent with the Planning and Design Code under the *Planning, Development and Infrastructure Act 2016*, other than where the council is proposing amendments to the Planning and Design Code and the Minister to whom the administration of that Act is committed has agreed to the implementation of a program to review and amend the relevant provisions of the Code; and

50—Amendment of section 219—Power to assign a name, or change the name, of a road or public place

Section 219(8)—delete "*Development Act 1993*" and substitute:

Planning, Development and Infrastructure Act 2016

51—Amendment of section 245A—Council may require bond or other security in certain circumstances

Section 245A(1)(a)—delete "*Development Act 1993*" and substitute:

Planning, Development and Infrastructure Act 2016

52—Amendment of Schedule 8—Provisions relating to specific land

Schedule 8, clause 7(3)—delete "Section 32 of the *Development Act 1993*" and substitute:

Section 101 of the *Planning, Development and Infrastructure Act 2016*

Part 17—Amendment of *Local Nuisance and Litter Control Act 2016*

53—Amendment of Schedule 1—Meaning of local nuisance (section 17)

Schedule 1, clause 1(c)—delete "*Development Act 1993*" and substitute:

Planning, Development and Infrastructure Act 2016

Part 18—Amendment of *Marine Parks Act 2007*

54—Amendment of section 10—Establishment of marine parks

Section 10(5)(b)—delete "*Development Act 1993*" and substitute:

Planning, Development and Infrastructure Act 2016

55—Amendment of section 13—General nature and content of management plans

Section 13(2)(b)—delete paragraph (b) and substitute:

- (b) any relevant state planning policy or regional plan, and the Planning and Design Code, under the *Planning, Development and Infrastructure Act 2016*; and

Part 19—Amendment of *National Parks and Wildlife Act 1972*

56—Amendment of section 38—Management plans

Section 38(2a)(a) and (b)—delete paragraphs (a) and (b) and substitute:

- (a) after consultation with the State Planning Commission; and
- (b) having regard to any relevant state planning policy or regional plan, and the Planning and Design Code, under the *Planning, Development and Infrastructure Act 2016*; and

Part 20—Amendment of *Native Vegetation Act 1991*

57—Amendment of section 4—Application of Act

Section 4(2)(a)—delete "a Development Plan or Development Plans under the *Development Act 1993*" and substitute:

the Planning and Design Code under the *Planning, Development and Infrastructure Act 2016*

58—Amendment of section 14—Functions of Council

Section 14(1)(da)—delete "*Development Act 1993*" and substitute:

Planning, Development and Infrastructure Act 2016

59—Amendment of section 29—Provisions relating to consent

Section 29(17)—delete "*Development Act 1993*" and substitute:

Planning, Development and Infrastructure Act 2016

Part 21—Amendment of *Natural Resources Management Act 2004*

60—Amendment of section 3—Interpretation

(1) Section 3(1), definition of *floodplain*, (b)—delete paragraph (b) and substitute:

(b) by the Planning and Design Code under the *Planning, Development and Infrastructure Act 2016*;

(2) Section 3(1), definition of *lake*, (b)(ii)—delete subparagraph (ii) and substitute:

(ii) by the Planning and Design Code under the *Planning, Development and Infrastructure Act 2016*;

(3) Section 3(1), definition of *wetland*, (b)—delete paragraph (b) and substitute:

(b) by the Planning and Design Code under the *Planning, Development and Infrastructure Act 2016*;

(4) Section 3(8)—delete "Development Plan" and substitute:

the Planning and Design Code under the *Planning, Development and Infrastructure Act 2016*

61—Amendment of section 29—Functions of boards

Section 29(1)(ea)—delete paragraph (ea) and substitute:

(ea) to undertake an active role in ensuring, insofar as is reasonably practicable, that the board's regional NRM plan and the Planning and Design Code under the *Planning, Development and Infrastructure Act 2016* form a coherent set of policies and, in so doing, when an amendment to that Code that is relevant to the activities of the board is under consideration under that Act, to work with the entity or entities engaged in undertaking the amendment under that Act; and

62—Amendment of section 75—Regional NRM plans

- (1) Section 75(3)(f)—delete paragraph (f) and substitute:
 - (f) identify any policies reflected in—
 - (i) any relevant state planning policy or regional plan; and
 - (ii) the Planning and Design Code,
under the *Planning, Development and Infrastructure Act 2016* that should, in the opinion of the board, be reviewed under that Act in order to promote the objects of this Act or to improve the relationship between the policies in those instruments and the policies reflected in the board's plan; and
- (2) Section 75(5)(b)—delete paragraph (b) and substitute:
 - (b) the Planning and Design Code under the *Planning, Development and Infrastructure Act 2016* (subject to any proposal to amend that Code); and

63—Amendment of section 76—Preparation of water allocation plans

Section 76(4)(h)(ii)—delete subparagraph (ii) and substitute:

- (ii) identify any policies reflected in any relevant state planning policy or regional plan, or the Planning and Design Code, under the *Planning, Development and Infrastructure Act 2016* that should, in the opinion of the board, be reviewed under that Act in order to promote the objects of this Act or to improve the relationship between the policies in those instruments and the policies reflected in the water allocation plan; and

64—Amendment of section 129—Activities not requiring a permit

- (1) Section 129(1)(e)—delete "*Development Act 1993*" and substitute:
Planning, Development and Infrastructure Act 2016
- (2) Section 129(3)(a)—delete "section 37 of the *Development Act 1993*" and substitute:
section 122 of the *Planning, Development and Infrastructure Act 2016*

65—Amendment of Schedule 1—Provisions relating to regional NRM boards and NRM groups

Schedule 1, clause 3(6)(1)—delete paragraph (1) and substitute:

- (1) information relating to a proposal to prepare or amend a designated instrument under Part 5 Division 2 of the *Planning, Development and Infrastructure Act 2016* before the draft instrument or amendment is released for public consultation under that Act or before a draft plan relating to the amendment is released for public consultation under this Act.

Part 22—Amendment of *Ombudsman Act 1972*

66—Amendment of section 3—Interpretation

Section 3(1), definition of *agency to which this Act applies*, (ca)—delete paragraph (ca) and substitute:

- (ca) an assessment panel appointed or constituted under Part 6 Division 2 of the *Planning, Development and Infrastructure Act 2016*; or

Part 23—Amendment of *Real Property Act 1886*

67—Amendment of section 90B—Variation and extinguishment of easements

Section 90B(9)—before paragraph (a) insert:

- (aa) the issue of a certificate by the State Planning Commission under section 138 of the *Planning, Development and Infrastructure Act 2016*; or

68—Amendment of section 154B—Effect of priority notices

Section 154B(2)(m)—delete paragraph (m) and substitute:

- (m) an agreement, or the rescission or amendment of an agreement, under Part 14 of the *Planning, Development and Infrastructure Act 2016* (including an agreement under Part 5 of the *Development Act 1993* that is taken to be an agreement under that Part of the *Planning, Development and Infrastructure Act 2016*);

69—Amendment of section 223LA—Interpretation

- (1) Section 223LA(1), definition of *the Development Assessment Commission* or *the Commission*—delete the definition
- (2) Section 223LA(1), definition of *holder*, (a)—delete paragraph (a) and substitute:
 - (a) in relation to an agreement under Part 14 of the *Planning, Development and Infrastructure Act 2016*—the Minister, council or greenway authority that entered into the agreement; or
- (3) Section 223LA(1)—after the definition of *service easement* insert:

State Planning Commission means the State Planning Commission established under the *Planning, Development and Infrastructure Act 2016*;
- (4) Section 223LA(1), definition of *statutory encumbrance*, (c)—delete paragraph (c) and substitute:
 - (c) an agreement under Part 14 of the *Planning, Development and Infrastructure Act 2016* (including an agreement under Part 5 of the *Development Act 1993* that is taken to be an agreement under that Part of the *Planning, Development and Infrastructure Act 2016*);

70—Amendment of section 223LD—Application for division

Section 223LD(5a)—delete "Development Assessment Commission required by section 51 of the *Development Act 1993*" and substitute:

State Planning Commission required by section 138 of the *Planning, Development and Infrastructure Act 2016*

Part 24—Amendment of *River Murray Act 2003*

71—Amendment of section 5—Interaction with other Acts

Section 5(2)(e)—delete paragraph (e) and substitute:

(e) *Planning, Development and Infrastructure Act 2016*;

72—Amendment of section 42—Regulations

Section 42(4)—after paragraph (b) insert:

(c) any activity undertaken under an approval granted under the *Planning, Development and Infrastructure Act 2016* if the application for the approval of the relevant development was referred to the Minister responsible for the administration of this Act under section 122 of the *Planning, Development and Infrastructure Act 2016* before the approval was granted.

Part 25—Amendment of *Roads (Opening and Closing) Act 1991*

73—Amendment of section 3—Interpretation

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

Planning Minister means the Minister for the time being administering the *Planning, Development and Infrastructure Act 2016*;

(2) Section 3(1), definition of *relevant authority*—delete the definition and substitute:

relevant authority, in relation to a road process or proposed road process, means—

- (a) where the road process is part of or directly associated with a development or proposed development under the *Planning, Development and Infrastructure Act 2016* that requires development approval from the State Planning Commission—the State Planning Commission; or
- (b) where the road process is part of or directly associated with a development or proposed development under the *Planning, Development and Infrastructure Act 2016* that requires development approval from the Minister for the time being administering that Act—the Planning Minister; or
- (c) in any other case—the council;

74—Substitution of section 6A

Section 6A—delete the section and substitute:

6A—Special powers to open or close roads in cases involving major developments

- (1) A road to which this section applies may be opened or closed by the Planning Minister in accordance with Part 7A.
- (2) This section applies to a road or a proposed road that is directly associated with development—
 - (a) that is classified as impact assessed development (other than restricted development) under Part 7 Division 2 of the *Planning, Development and Infrastructure Act 2016*; or
 - (b) subject to a Ministerial direction under section 130(25) or 131(25) of the *Planning, Development and Infrastructure Act 2016*.

75—Amendment of section 16—Criteria in relation to road process orders

Section 16(b)—delete "*Development Act 1993*" and substitute:

Planning, Development and Infrastructure Act 2016

76—Amendment of section 33—Acquisition of additional land under Land Acquisition Act

Section 33(2)—delete "a Development Plan under the *Development Act 1993*" and substitute:

the Planning and Design Code under the *Planning, Development and Infrastructure Act 2016*

77—Substitution of section 34A

Section 34A—delete the section and substitute:

34A—Interpretation

In this Part—

EIS means an environmental impact statement under the *Planning, Development and Infrastructure Act 2016*.

78—Amendment of section 34B—Road process proposal may be included in a major development proposal

- (1) Section 34B(1)—delete ", PER or DR"
- (2) Section 34B(2)—delete ", PER or DR includes" and substitute:
includes
- (3) Section 34B(2)—delete ", PER or DR (as the case may be) is made available for public inspection under the *Development Act 1993*" and substitute:
is made available for public inspection under the *Planning, Development and Infrastructure Act 2016*

- (4) Section 34B(2)(b)—delete paragraph (b)
- (5) Section 34B(2)(c)—delete ", PER or DR under the *Development Act 1993*" and substitute:

under the *Planning, Development and Infrastructure Act 2016*

- (6) Section 34B(2)(d)—delete "*Development Act 1993*" and substitute:

Planning, Development and Infrastructure Act 2016

- (7) Section 34B(2)(e)—delete "*Development Act 1993*" and substitute:

Planning, Development and Infrastructure Act 2016

79—Amendment of section 34C—Minister may give effect to road process proposal

- (1) Section 34C(1)—delete subsection (1) and substitute:
- (1) The Planning Minister may, on the basis of information set out in an Assessment Report under the *Planning, Development and Infrastructure Act 2016*, in conjunction with giving a development authorisation under section 115 of the *Planning, Development and Infrastructure Act 2016* in relation to the relevant development, by notice in the Gazette, make an order that a road be opened or closed.
- (2) Section 34C(2)—delete "The Governor" and substitute:
- The Planning Minister
- (3) Section 34C(2)(a)(ii)—delete "the Governor or"
- (4) Section 34C(2)(b)—delete "the Governor" and substitute:
- the Planning Minister
- (5) Section 34C(3)—delete "The Governor" and substitute:
- The Planning Minister

80—Amendment of section 34D—Dealings in land after commencement of process under this Part

- (1) Section 34D—delete ", PER or DR includes" and substitute:
- includes
- (2) Section 34D(a)—delete ", PER or DR is made available for public inspection under the *Development Act 1993*" and substitute:
- is made available for public inspection under the *Planning, Development and Infrastructure Act 2016*

81—Amendment of section 34E—Modification or exclusion of certain parts of Act

- Section 34E(1)(b)—delete paragraph (b) and substitute:
- (b) sections 17 and 18—on the basis that the Planning Minister, as the relevant authority, can make an order under either section at any time (and not necessarily as part of the original order).

82—Amendment of section 42—Interaction with *Real Property Act 1886* and planning legislation

Section 42(2)—delete "*Development Act 1993*" and substitute:

Planning, Development and Infrastructure Act 2016

Part 26—Amendment of *Strata Titles Act 1988*

83—Amendment of section 3—Interpretation

- (1) Section 3(1), definition of *the Commission*—delete the definition
- (2) Section 3(1), definition of *holder* of a statutory encumbrance, (a)—delete paragraph (a) and substitute:
 - (a) in relation to an agreement under Part 14 of the *Planning, Development and Infrastructure Act 2016*—the Minister, council or greenway authority that entered into the agreement; or
- (3) Section 3(1), definition of *statutory encumbrance*, (a)—delete paragraph (a) and substitute:
 - (a) an agreement under Part 14 of the *Planning, Development and Infrastructure Act 2016* (including an agreement under Part 5 of the *Development Act 1993* that is taken to be an agreement under that Part of the *Planning, Development and Infrastructure Act 2016*);

84—Amendment of section 12—Application for amendment

- (1) Section 12(3b)—delete "Development Assessment Commission required by section 51 of the *Development Act 1993*" and substitute:

State Planning Commission required by section 138 of the Planning, Development and Infrastructure Act 2016
- (2) Section 12(3c)—delete "Development Assessment Commission under section 51 of the *Development Act 1993*" and substitute:

State Planning Commission under section 138 of the Planning, Development and Infrastructure Act 2016

Part 27—Amendment of *Valuation of Land Act 1971*

85—Amendment of section 22B—Heritage land

Section 22B(6)(b)—delete "by a Development Plan under the *Development Act 1993*" and substitute:

under the *Planning, Development and Infrastructure Act 2016*