

Legislative Council—No 33

As introduced and read a first time, 7 September 2022

South Australia

**Planning, Development and Infrastructure (Use of
Vacant Land) Amendment Bill 2022**

A BILL FOR

An Act to amend the *Planning, Development and Infrastructure Act 2016*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

5 This Act may be cited as the *Planning, Development and Infrastructure (Use of Vacant Land) Amendment Act 2022*.

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

2—Insertion of section 243A

After section 243 insert:

10 **243A—Compulsory lease over certain land if not developed**

- 15 (1) If a designated entity is satisfied that—
- 15 (a) the owner of prescribed land is unwilling or unable to undertake development on, or make use of, the land—
 - 15 (i) to the extent considered sufficient by the designated authority; and
 - 20 (ii) within a period considered appropriate by the designated authority; and
 - 20 (b) it is appropriate that the prescribed land be used for a public purpose; and
 - 20 (c) the designated entity has taken reasonable steps to negotiate the acquisition of an interest in the prescribed land on reasonable terms so that the land may be used for a public purpose (but no agreement has been reached),

25 the designated entity may, by notice in the Gazette, declare that the designated entity holds a lease over the prescribed land (a *statutory lease*).

- (2) A declaration under subsection (1)—
- (a) must specify—

- (i) the public purpose or purposes for which the land is to be used under the statutory lease; and
- (ii) that the land may only be used for that purpose or those purposes (as the case requires); and
- 5 (b) must (to the extent necessary) make provision in relation to the indemnification of the owner of the prescribed land by the designated entity in relation to liability of the designated entity as occupier of the land; and
- 10 (c) must not provide for the payment of rent by the designated entity under the lease (but nothing in this paragraph prevents the statutory lease from providing for the designated entity to reimburse the owner of the prescribed land for rates, taxes, levies, premiums or charges payable by the lessor in respect of the land); and
- 15 (d) must contain such other information or provisions as may be required by the regulations,
- and may specify such other terms and conditions of the statutory lease as the designated entity thinks fit.
- 20 (3) It is a condition of every statutory lease under subsection (1) that the owner of the prescribed land to which the lease relates is entitled to access the land for the purpose of conducting testing or inspections, or for any other reason that is reasonably required in relation to the development or sale of the land.
- 25 (4) A statutory lease under subsection (1) will cease to have effect on—
- (a) the day specified by a designated entity (being the designated entity that made the declaration) by notice in the Gazette; or
- (b) if no such day is specified—the day determined in accordance with the scheme set out in the regulations,
- 30 and, for the purposes of the law of the State, the designated entity will be taken to no longer occupy the prescribed land from that day.
- 35 (5) Without limiting the circumstances in which a designated entity may specify a day under subsection (4)(a), a designated entity that holds a statutory lease under subsection (1) must specify a day under that paragraph if the designated entity is satisfied that—
- (a) a development authorisation has been granted in respect of the prescribed land to which the statutory lease relates; and
- (b) development will commence on the prescribed land pursuant to the development authorisation within 3 months of the specified day.
- 40 (6) A statutory lease under subsection (1) applies according to its terms despite any Act or law to the contrary.

5 (7) Before determining an application for a development authorisation relating to prescribed land that is the subject of a statutory lease under subsection (1), the relevant authority in relation to the application must consult with the designated entity holding the statutory lease.

(8) No compensation is payable for an act or omission undertaken or made, or purportedly undertaken or made, by a designated entity or other person in relation to the exercise or performance, or purported exercise or performance, of a power or function under this section.

10 (9) In this section—

designated entity means—

(a) in relation to all land within the State (whether or not the land is situated within the area of a council)—the Minister; or

15 (b) in relation to land within the area of a council—the council;

prescribed land means land that a designated entity is satisfied is primarily vacant and not being sufficiently used or developed;

public purpose, in relation to the use of land, means—

20 (a) use of land as a public park, playground or for the purposes of recreation or sport; or

(b) use of land for the purpose of providing public housing on a temporary basis; or

(c) any other purpose declared by the Minister, by notice in the Gazette, to be a public purpose.