ANNO VICESIMO

GEORGII V REGIS.

A.D. 1929.

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No. 1945.

An Act to repeal the Town Planning and Development Act, 1920, and the Control of Subdivision of Land Act, 1917, and to enact other provisions in lieu thereof.

[Assented to, January 15th, 1930.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as the "Town Planning Act, 1929," and shall come into operation on a date to be fixed by proclamation.

2. In this Act, unless some other meaning is clearly intended—

"Area" means a Municipality or District Council District:

"Council" means a Municipal or District Council:

"Crown lands" means and includes all lands in the State, except—

i. lands reserved for or dedicated to any public purpose:

ii. lands lawfully granted, or contracted to be granted, in fee simple by or on behalf of the Crown:

iii. lands subject to any agreement, lease, or licence lawfully granted by or on behalf of the Crown, and includes all lands which, having been granted or held under agreement or lease, have been or are surrendered, or having been reserved or dedicated, have been or are lawfully resumed by proclamation; and all lands which, having been lawfully
lawfully held by any person for any estate or interest, have been or are lawfully forfeited to or resumed by, or by any means whatsoever have reverted or revert to, or have been or are acquired by, the Crown:

"Plan of subdivision" means—

(a) any plan which, in addition to dividing or subdividing the land delineated therein into allotments, shows any new or intended road, street, thoroughfare, or reserve; and

(b) any other plan which, in the opinion of the Town Planner, ought to be dealt with as a plan of subdivision:

"Plan of re-subdivision" means any plan dividing or subdividing the land delineated therein into allotments or otherwise, and not being a plan of subdivision:

"Plan" includes plan of subdivision and plan of re-subdivision.

Application of Act

3. (1) This Act shall apply only to plans which divide land into allotments suitable or intended to be used for sites for residences, shops, factories, or other like premises, and shall not apply to plans dividing land into allotments suitable or intended to be used for agricultural, horticultural, viticultural, pastoral, or other like purposes.

(2) Plans to which this Act does not apply shall be dealt with under the provisions of the District Councils Act, 1914, the Municipal Corporations Act, 1923, and any other laws relating to plans of subdivision or re-subdivision.

(3) This Act does not apply to the City of Adelaide nor to any Crown lands.

Saving of Real Property Act, 1886.

4. The provisions of this Act are in addition to, and not in derogation of, the provisions of the Real Property Act, 1886.

Repeal.

5. The Control of Subdivision of Land Act, 1917, and the Town Planning and Development Act, 1920, are repealed.

The Town Planner and the Town Planning Appeal Board.

6. (1) There shall be an officer of the Public Service appointed by the Governor and styled the Town Planner.

(2) The Town Planner shall be an officer of the Department of the Registrar-General of Deeds, but shall be responsible to the Minister for the due execution of his functions under this Act.

Power of Town Planner to do work for the public.

7. (1) The Town Planner may prepare plans and do other work (not being surveying) in connection with the subdivision of land for any person, and may charge for any work so done such fees as are approved by the Minister.

(2) Any
(2) Any money collected by the Town Planner under this section shall be paid into the General Revenue of the State.

8. (1) There shall be a Town Planning Appeal Board which shall be appointed by the Governor, and shall consist of the following members, namely:
   I. the Town Planner:
   II. the Chief Draughtsman of the Lands Titles Registration Office:
   III. the Surveyor-General:
   IV. a civil engineer:
   V. an architect:
   VI. two persons nominated respectively by the Municipal Association of South Australia and the Local Government Association of South Australia at the time and in accordance with the conditions prescribed.

(2) Every member of the Board shall hold office for three years: Provided that a member appointed to fill a casual vacancy shall hold office only for the balance of the term of the member in whose place he was appointed.

(3) On the expiration of his term of office a member shall be eligible for re-appointment.

Requirements as to Plans.

9. Section 101 of the Real Property Act 1886 is amended by inserting at the end thereof the following subsection:

(4) This section shall apply to any person, whether the registered proprietor or not, who subdivides any land which is subject to the provisions of this Act, for the purpose of selling the same in allotments, and to any licensed land broker or other person acting as the agent of such a person.

10. (1) No person shall sell in allotments, offer or agree to sell in allotments, or convey in allotments, any land not subject to the provisions of the Real Property Act, 1886, unless a plan of subdivision showing the said land has first been deposited in the General Registry Office, either under this Act or under the laws in force before the commencement of this Act.

(2) Any person who contravenes subsection (1), and any licensed land broker or other person acting as the agent of any person who, as such agent, sells or offers for sale any land contrary to subsection (1), shall be guilty of an offence and liable to a penalty not exceeding One Hundred Pounds.

11. Except
11. Except as allowed by this Act, no plan of subdivision shall be deposited, and no plan of re-subdivision shall be lodged, in the Lands Titles Registration Office or in the General Registry Office unless it has been approved by the Town Planner and the Council of the area in which the land shown in the plan is situated.

12. (a) The mode in which plans are to be prepared, the particulars to be shown thereon, and all other requirements in relation to plans; and

(b) the procedure to be followed by an applicant in order to obtain the approval of the Town Planner or of the Council to any plan, and the procedure to be followed by the Town Planner and the Council before approving any plan; and

(c) the grounds on which the Town Planner or a Council may withhold its approval of any plan,

shall be as prescribed by regulations.

13. There shall be an appeal in accordance with the regulations to the Town Planning Appeal Board against any refusal of a Council or the Town Planner to approve of any plan and the decision of the said Appeal Board on any such appeal shall be final.

14. (1) When any plan of subdivision has been deposited in the Lands Titles Registration Office or the General Registry Office every road, street, thoroughfare, reserve, or other like open space shown thereon shall, unless it is specified that the said road, street, thoroughfare, reserve, or other open space is vested in any other person or body, be vested for the purpose indicated on the plan in fee simple by virtue of this Act in the Council of the area in which it is situated without compensation or payment to any person.

(2) Every road, street, or thoroughfare vested in a Council pursuant to this section shall be for all purposes a public road, street, or thoroughfare, as the case may be.

15. If a plan of re-subdivision re-subdivides one allotment only it shall not be necessary to obtain the approval of the Council thereto if the Town Planner approves of the said plan.

16. The Registrar-General shall not be bound to accept any plan of subdivision sought to be deposited in the Lands Titles Registration Office or the General Registry Office unless he is satisfied that all persons who appear from the Register Book or any other instrument or document in the Lands Titles Registration Office or the General Registry Office to have or claim any interest in the land shown in the plan, consent to the proposed subdivision.

17. The Town Planner may require any plan sought to be lodged in the Lands Titles Registration Office or the General Registry Office as a plan of re-subdivision to be prepared and dealt with as a plan of subdivision, and in such a case the plan shall not be approved or accepted except as a plan of subdivision.
18. (1) No person shall divide any allotment shown on a plan of subdivision which has been deposited, whether before or after the commencement of this Act, in the Lands Titles Registration Office or the General Registry Office, except in accordance with a plan of re-subdivision duly approved under this Act.

(2) No person shall divide any allotment or parcel shown on a plan of re-subdivision lodged, whether before or after the commencement of this Act, in the Lands Titles Registration Office or the General Registry Office, except in accordance with another plan of re-subdivision duly approved under this Act.

(3) A person shall be deemed to divide an allotment within the meaning of this section—

(a) if, being the owner of the whole allotment, he builds on the allotment in such a manner that any part thereof becomes obviously adapted for occupation separately from the remaining part thereof:

(b) if, being the owner of portion only of the allotment, he builds on that portion in such a manner that any part of that portion becomes obviously adapted for occupation separately from the remaining part thereof:

(c) if, being the owner of the whole allotment, he sells, agrees to sell, conveys, transfers, mortgages, or otherwise disposes of, or procures the issue under The Real Property Act, 1886, of a certificate of title to, part only of that allotment:

(d) if, being the owner of portion only of the allotment, he sells, agrees to sell, conveys, transfers, mortgages, or otherwise disposes of, or procures the issue under The Real Property Act, 1886, of a certificate of title to, part only of that portion.

(4) Any person who contravenes this section shall be guilty of an offence and liable to a penalty not exceeding Two Hundred Pounds.

19. (1) Notwithstanding The Real Property Act, 1886, the Registrar-General of Deeds may correct any error or omission which, in his opinion, exists in any plan in his office, whether a plan as defined in this Act or not.

(2) In correcting any plan the Registrar-General shall not erase or render illegible the original words, figures, or other symbols, and shall date and initial the correction.

(3) The Registrar-General shall notify the Council in whose area the land comprised in the plan is situated of every correction made under this section.

20. (1) The Town Planner or any person authorised in writing by him or by the Minister may at any reasonable time enter upon and
and inspect any land or buildings for any purpose of this Act or to ascertain whether the provisions of this Act are being observed.

(2) The powers conferred by subsection (1) may also be exercised by any person authorised by the Council of the area in which the land or premises are situated.

(3) No person shall obstruct any person in the exercise of any power conferred by this section.

Penalty: Not exceeding Twenty-five Pounds.

21. (1) Where any land whether shown on a plan or not is bounded or partly bounded on any side by a strip of land which—

(a) is less than six feet in width;

(b) abuts on or bounds any proposed or existing street, road, lane, passage, or other thoroughfare, or any reserve, or open space of land; and

(c) in the opinion of the Council of the area in which the strip is situated obstructs the development of, or interferes with the means of communication or access to or the convenience of, the Council's area or any part thereof,

the Council may by resolution declare that the strip ought to be vested in fee simple in the Council.

(2) When any such resolution has been passed, the Council shall, within one month after the passing of the resolution, serve a notice under the hand of the Mayor or Chairman and the Town or District Clerk, as the case may be, on the owner of the strip, either personally, or by post in a registered letter addressed to the owner at his last known place of residence.

(3) The notice shall state that the Council has, in conformity with the provisions of this Act, passed the said resolution, and shall state its terms and the date on which it was passed.

(4) A copy of the notice shall be published by the Council in the Government Gazette not less than one month and not more than two months after the passing of the resolution.

(5) If the owner of the strip cannot, after diligent inquiry, be found, the requirements of this section as to notice to the owner shall be deemed to be sufficiently complied with by the publication of the notice in the Government Gazette, as required by subsection (4) hereof.

(6) Upon the publication pursuant to subsection (4) hereof of any notice under this section, the strip of land mentioned therein shall forthwith become vested in fee simple in the Council of the area wherein the strip is situated without compensation or payment to the owner or any other person.

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(8) Upon receipt of the said copy the Registrar-General of Deeds shall, if the land affected is land under The Real Property Act, 1886, make all such entries as may be necessary or proper to evidence the vesting of the said land in the Council, or, if it is land not under that Act, register in the General Registry Office a memorial of the vesting of the said land in the Council.

22. (1) In any case where—

(a) an application was made to the Government Town Planner under the Town Planning and Development Act, 1920, for approval of a plan of subdivision under that Act; and

(b) the Government Town Planner signified to the applicant or his agent by a letter in the Form known as Letter Form A that approval had been given to the proposal for the subdivision shown in the plan; and

(c) the said plan of subdivision was subsequently deposited in the Lands Titles Registration Office or the General Registry Office,

the said plan shall be deemed for all purposes to have been so deposited at the time when the said letter in the Letter Form A was received by the applicant or his agent, and all transactions after that time relating to any land shown on the said plan shall be, and be deemed to have been, of the same force and validity as if the plan had been deposited at that time.

(2) Any case on appeal before the High Court of Australia when this Act comes into force shall be determined as if this section had not been passed.

23. In addition to the other powers to make regulations conferred by this Act the Governor may make regulations—

(a) prescribing minimum sizes for allotments shown on plans of subdivision and the minimum widths of the different classes of roads shown on plans of subdivision:

(b) prescribing all matters relating to appeals under this Act:

(c) prescribing fees payable under this Act:

(d) prescribing any other matters necessary or convenient for carrying this Act into effect:

(e) imposing penalties not exceeding Twenty Pounds for any breach of any regulation.

24. Proceedings for offences against this Act shall be disposed of summarily.

25. The moneys required for the purposes of this Act shall be paid out of the moneys provided by Parliament for those purposes.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

G. J. R. MURRAY, Deputy Governor.