

## TOWN PLANNING AND DEVELOPMENT (No. 2).

7° Elizabeth II., No. LXI.

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No. 61 of 1958.

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### AN ACT to amend the Town Planning and Development Act, 1928-1957.

[Assented to 24th December, 1958.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title  
and citation.

1. (1) This Act may be cited as the *Town Planning and Development Act Amendment Act* (No. 2), 1958.

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reprint  
15th May,  
1957.

(2) In this Act the Town Planning and Development Act, 1928-1957, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Town Planning and Development Act, 1928-1958.

2. (1) Section two of the principal Act is amended by adding after the word, "Board" at the end of the definition of "lot", the passage—

S. 2  
amended.

and includes the whole of the land the subject—

- (a) of a Crown Grant issued under the Land Act, 1933; or
- (b) of a Certificate of Title issued under the Transfer of Land Act, 1893; or
- (c) of a survey into a lot pursuant to a direction given under section seventeen of the Land Act, 1933; or
- (d) of a part-lot shown on a plan of subdivision or diagram deposited in the Department of Lands and Surveys, Office of Titles, or Registry of Deeds; or
- (e) of a conveyance registered under the Registration of Deeds Act, 1856.

(2) This section operates retrospectively to the commencement of the Town Planning and Development Act Amendment Act, 1956.

3. Subsection (4) of section seven of the principal Act is amended—

S. 7  
amended.

- (a) by adding after the passage, "varied," in line one, the word, "or";
- (b) by adding after the word, "amplified" in line two, the words, "by an amendment to the scheme"; and
- (c) by adding before the word, "published" in line four, the passage, "the amendment to the scheme or, as the case may be, the subsequent scheme".

4. Subsection (3) of section seven A of the principal Act is amended by substituting for the words, "one thousand nine hundred and fifty-eight" in lines five and six of paragraph (a), the words, "one thousand nine hundred and fifty-nine".

S. 7A  
amended.

S. 19  
amended.

5. Section nineteen of the principal Act is amended—

(a) by repealing the passage, “-1946” in line three of subsection (1); and

(b) by adding after subsection (3) a subsection as follows—

(4) (a) Where a town planning scheme has been prepared, approved, and published in accordance with the provisions of subsection (2) of this section and where any Crown land the subject of the town planning scheme has been sold, leased, or disposed of, the Board, with the approval of the Minister—

(i) may suspend, vary, supplement, or supersede, any of the provisions of the town planning scheme; or

(ii) may agree with a local authority to be jointly responsible with that local authority, as the responsible authority under and for the purposes of the town planning scheme either with respect to all, or part, of the town planning scheme; or

(iii) may agree with a local authority that the local authority shall be substituted as the responsible authority under and for the purposes of the town planning scheme, either with respect to all, or part, of the town planning scheme, and after the provisions of paragraph (b) of this subsection have been complied with, the provisions of subsection (4) of section seven of this Act apply to the town planning scheme.

(b) Where the Board exercises a power conferred on the Board by the provisions of paragraph (a) of this subsection and as a result of the exercise of that power a town planning scheme is amended the Minister shall cause notice of the amendment to the scheme to be published in the *Gazette*.

6. (1) Section twenty of the principal Act is amended by substituting for subsection (1) the following subsection—

S. 20  
amended.  
Para. (b)  
added to  
subs. (1) by  
Act No. 79 of  
1957, s. 2.

(1) (a) A person shall not, without the approval of the Board, lay out, grant or convey a street, road or way, or subdivide, or either lease or grant a license to use or occupy land for any term exceeding ten years including any option to extend or renew the term or period, or sell land or grant any option of purchase of land except as a lot or as lots; and the Board may give its approval under this paragraph subject to conditions which shall be carried out before the approval becomes effective.

(b) Where, after payment of consideration for any transaction relating to any land, it is found that the transaction cannot be completed because that land cannot be dealt with as a lot or as lots, the person who paid the consideration is entitled to a refund of the consideration from the person to whom it was paid.

(2) This section operates retrospectively to the commencement of the Town Planning and Development Act Amendment Act (No. 2), 1957, but without prejudice to the validity of any lease validly granted prior to the commencement of this Act.

S. 21  
amended.

7. Section twenty-one of the principal Act is amended—

(a) by substituting for subsection (1) the following subsection—

(1) A transfer, conveyance, lease or mortgage of any land shall not be received or registered in the Office of Titles or Registry of Deeds unless—

(a) it has been first approved in writing by the Board; or

(b) the land comprises the whole of one or more lots; or

(c) in the case of a lease, that the term is not more than ten years including any option to extend or renew the term, and that the lease does not contain or purport to contain an option to purchase land other than the whole of one or more lots. ;

(b) by deleting from subsection (2) the passage commencing with the word, “shown” in line five and ending with the word, “conveyance” in line nine.

S. 26  
amended.

8. Section twenty-six of the principal Act is amended—

(a) by adding after the word, “lease” in line three of paragraph (a) of subsection (1), the passage, “, license to use and occupy,”; and

(b) by adding after the word, “lease” in line two of paragraph (c) of subsection (1), the passage, “, license to use and occupy,”.

Second  
Schedule  
amended.

9. Item eight of the Second Schedule to the principal Act is amended by adding after the last word, “right-of-way”, the passage, “, shall not be less than that fixed by the by-laws according to the prospective traffic requirements of such street, road, or right-of-way”.