

South Australia

Adelaide Park Lands Act 2005

An Act to establish a legislative framework that promotes the special status, attributes and character of the Adelaide Park Lands; to provide for the protection of those park lands and for their management as a world-class asset to be preserved as an urban park for the benefit of present and future generations; to amend the *City of Adelaide Act 1998*, the *Development Act 1993*, the *Highways Act 1926*, the *Local Government Act 1934*, the *Local Government Act 1999*, the *National Wine Centre (Restructuring and Leasing Arrangements) Act 2002*, the *Roads (Opening and Closing) Act 1991*, the *South Australian Motor Sport Act 1984* and the *Waterworks Act 1932*; and for other purposes.

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Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Adelaide Park Lands Act 2005*.

2—Commencement

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

3—Interpretation

- (1) In this Act, unless the contrary intention appears—

Adelaide City Council or *the Council* means The Corporation of the City of Adelaide;

Adelaide Park Lands or *Park Lands* means the Adelaide Park Lands as defined (from time to time) by the Adelaide Park Lands Plan;

Adelaide Park Lands Plan—see Part 3;

Adelaide Park Lands Authority or *the Authority* means the *Adelaide Park Lands Authority* established under Part 2;

Adelaide Park Lands Fund or *the Fund* means the *Adelaide Park Lands Fund* established under Part 5;

adjoining council means a council that shares a common boundary with the Adelaide City Council;

board of management, in relation to the Authority, means the board of management constituted under Part 2 Division 2;

City of Adelaide means the area of the Adelaide City Council;

council means a council established under the *Local Government Act 1999*;

GRO means the General Registry Office at Adelaide;

public notice means notice given to the public in accordance with the regulations;

public road has the same meaning as in the *Local Government Act 1999*;

State authority means—

- (a) a Minister of the Crown; or
- (b) an agency or instrumentality of the Crown; or
- (c) a body—
 - (i) established for a public purpose by an Act; or
 - (ii) established for a public purpose under an Act (other than an Act providing for the incorporation of companies or associations, co-operatives, societies or other voluntary organisations); or
 - (iii) established or subject to control or direction by the Governor, a Minister of the Crown or an agency or instrumentality of the Crown (whether or not established by or under an Act or an enactment); or
- (d) any other body or entity brought within the ambit of this definition by the regulations,

but does not include—

- (e) a council or any other body established for local government purposes; or
 - (f) a body or entity excluded from the ambit of this definition by the regulations.
- (2) The principles that are to be applied under this Act with respect to the concept of the use of land are to be the same as the principles that apply with respect to that concept under the *Development Act 1993*.

4—Statutory principles

- (1) The following principles are relevant to the operation of this Act:
 - (a) the land comprising the Adelaide Park Lands should, as far as is reasonably appropriate, correspond to the general intentions of Colonel William Light in establishing the first Plan of Adelaide in 1837;
 - (b) the Adelaide Park Lands should be held for the public benefit of the people of South Australia, and should be generally available to them for their use and enjoyment (recognising that certain uses of the Park Lands may restrict or prevent access to particular parts of the Park Lands);
 - (c) the Adelaide Park Lands reflect and support a diverse range of environmental, cultural, recreational and social values and activities that should be protected and enhanced;
 - (d) the Adelaide Park Lands provide a defining feature to the City of Adelaide and contribute to the economic and social well-being of the City in a manner that should be recognised and enhanced;
 - (e) the contribution that the Adelaide Park Lands make to the natural heritage of the Adelaide Plains should be recognised, and consideration given to the extent to which initiatives involving the Park Lands can improve the biodiversity and sustainability of the Adelaide Plains;
 - (f) the State Government, State agencies and authorities, and the Adelaide City Council, should actively seek to co-operate and collaborate with each other in order to protect and enhance the Adelaide Park Lands;
 - (g) the interests of the South Australian community in ensuring the preservation of the Adelaide Park Lands are to be recognised, and activities that may affect the Park Lands should be consistent with maintaining or enhancing the environmental, cultural, recreational and social heritage status of the Park Lands for the benefit of the State.
- (2) A person or body—
 - (a) involved in the administration of this Act; or
 - (b) performing a function under this Act; or
 - (c) responsible for the care, control or management of any part of the Adelaide Park Lands,

must have regard to, and seek to apply, the principles set out in subsection (1).

Part 2—Adelaide Park Lands Authority

Division 1—Establishment of Authority

5—Establishment of Authority

- (1) The *Adelaide Park Lands Authority* is established.

- (2) The Authority will be taken to be a subsidiary of the Adelaide City Council under Chapter 4 Part 1 Division 3 of the *Local Government Act 1999* (and, except to the extent that a matter is dealt with by this Act, or except to the extent of any inconsistency with this Act, the provisions of that Act, insofar as they apply to council subsidiaries, will apply to the Authority).

Division 2—Board of management

6—Board of management

- (1) The Authority will have a board of management constituted by—
- (a) —
 - (i) the Lord Mayor or, if the Lord Mayor chooses not to be a member of the Authority, a person appointed by the Adelaide City Council; and
 - (ii) 4 other members appointed by the Council; and
 - (b) 5 members appointed by the Minister.
- (2) An appointment will be made by notice in the Gazette.
- (3) Subject to subsection (4), the Adelaide City Council and the Minister must, in making appointments under this section, consult with each other in order to endeavour to achieve, in the membership of the board of management, a range of knowledge, skills and experience across the following areas:
- (a) biodiversity or environmental planning or management;
 - (b) recreation or open space planning or management;
 - (c) cultural heritage conservation or management;
 - (d) landscape design or park management;
 - (e) tourism or event management;
 - (f) indigenous culture or reconciliation;
 - (g) financial management;
 - (h) local government.
- (4) 1 member appointed under subsection (1)(b) must be a person selected by the Minister from a panel of 3 persons nominated by an incorporated body that, in the opinion of the Minister, has demonstrated an interest in the preservation and management of the Adelaide Park Lands for the benefit of the community and that has been invited by the Minister to make a nomination under this section (and the person so selected need not fall within the ambit of subsection (3)).
- (5) The Adelaide City Council and the Minister must ensure that they each appoint at least 1 woman and at least 1 man to the membership of the board of management.
- (6) The Adelaide City Council and the Minister may appoint suitable persons to be the deputies of the members of the board of management that they have appointed.
- (7) A deputy may act as a member of the board of management during any period of absence of the member in relation to who the deputy has been appointed.

7—Conditions of membership

- (1) A member of the board of management will hold office on conditions determined by the Adelaide City Council after consultation with the Minister.
- (2) An appointment as a member of the board of management will be for a term, not exceeding 3 years, determined by—
 - (a) in the case of a member appointed under section 6(1)(a)—the Adelaide City Council after consultation with the Minister;
 - (b) in the case of a member appointed under section 6(1)(b)—the Minister after consultation with the Council,

(and a member is eligible for reappointment at the expiration of a term of office).
- (3) A member of the board of management may be removed from office—
 - (a) in the case of a member appointed under section 6(1)(a)—by the Adelaide City Council;
 - (b) in the case of a member appointed under section 6(1)(b)—by the Minister,

on any of the following grounds:

 - (c) for breach of, or non-compliance with, a condition of appointment;
 - (d) for mental or physical incapacity to carry out duties of office satisfactorily;
 - (e) for neglect of duty;
 - (f) for dishonourable conduct.
- (4) The office of a member of the board of management becomes vacant if the member—
 - (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Adelaide City Council or the Minister (depending on who made the appointment); or
 - (d) becomes bankrupt or applies to take the benefit of a law for the relief of insolvent debtors; or
 - (e) is removed from office under subsection (3).

8—Validity of acts

An act or proceeding of the Authority is not invalid by reason of a vacancy in the membership of the board of management or a defect in the appointment of a member.

Division 3—Functions

9—Functions

The functions of the Authority are—

- (a) to undertake a key policy role with respect to the management and protection of the Adelaide Park Lands; and
- (b) to prepare and, as appropriate, to revise, the Adelaide Park Lands Management Strategy in accordance with the requirements of this Act; and

- (c) to provide comments and advice on any management plan prepared by the Adelaide City Council or a State authority under this Act or the *Local Government Act 1999* that relates to any part of the Adelaide Park Lands, and to monitor and, as appropriate, to provide comments, advice or reports in relation to, the implementation or operation of any such plan; and
- (d) to provide comments or advice in relation to the operation of any lease, licence or other form of grant of occupation of land within the Adelaide Park Lands; and
- (e) on the basis of any request or on its own initiative, to provide advice to the Adelaide City Council or to the Minister on policy, development, heritage or management issues affecting the Adelaide Park Lands; and
- (f) to promote public awareness of the importance of the Adelaide Park Lands and the need to ensure that they are managed and used responsibly; and
- (g) to ensure that the interests of South Australians are taken into account, and that community consultation processes are established, in relation to the strategic management of the Adelaide Park Lands; and
- (h) to administer the Adelaide Park Lands Fund; and
- (i) to undertake or support other activities that will protect or enhance the Adelaide Park Lands, or in any other way promote or advance the objects of this Act.

Division 4—Related matters

10—Proceedings

- (1) The Lord Mayor will be the presiding member of the board of management of the Authority but in the event that the Lord Mayor is not a member of the board of management then a member nominated by the Adelaide City Council will be the presiding member.
- (2) A member of the board of management nominated by the Minister will be the deputy presiding member of the board of management.
- (3) If the presiding member is absent from a meeting of the board of management, the deputy presiding member will preside and if they are both absent then a member of the board of management chosen by the members present at the meeting will preside.
- (4) 6 members constitute a quorum of the board of management.
- (5) A decision carried by a majority of the votes cast by members at a meeting of the board of management is a decision of the Authority.
- (6) Each member present at a meeting of the board of management has 1 vote on any question arising for decision and, if the votes are equal, the member presiding at the meeting does not have a second or casting vote (and the relevant question will lapse).

11—Committees

- (1) The board of management of the Authority may establish such committees as the board of management thinks fit to advise or assist the board of management.

- (2) A committee established under subsection (1) may, but need not, consist of or include members of the board of management.
- (3) The procedures to be observed in relation to the conduct of business of a committee will be—
 - (a) as determined by the board of management; or
 - (b) insofar as the procedure is not determined by the board of management—as determined by the committee.

12—Reports

- (1) A member of the board of management of the Authority does not commit a breach of a duty of confidence by reporting a matter relating to the affairs of the Authority to the Minister.
- (2) The Authority must, at the time that it furnishes its annual report to the Adelaide City Council, furnish a copy of the report to the Minister.

13—Interaction with *Local Government Act 1999*

The following additional provisions apply in connection with the operation of Schedule 2 of the *Local Government Act 1999*:

- (a) the Adelaide City Council must not adopt or amend the charter of the Authority without first consulting the Minister responsible for the administration of this Act and then obtaining the approval of the Minister responsible for the administration of the *Local Government Act 1999*;
- (b) the charter of the Authority must be consistent with the objects of this Act;
- (c) the charter of the Authority must not exclude the operation of Chapter 6 Part 3 of the *Local Government Act 1999* in relation to the proceedings of the Authority;
- (d) the Adelaide City Council must not give a direction to the Authority unless or until the Council has consulted with the Minister;
- (e) the Authority cannot be wound up under the provisions of the *Local Government Act 1999*.

Part 3—Designation of Adelaide Park Lands

Division 1—Definition of Park Lands

14—Definition of Park Lands by plan

- (1) The Minister must, within 12 months after the commencement of this section, define the Adelaide Park Lands by depositing a plan in the GRO.
- (2) The plan deposited under subsection (1) will be known as the *Adelaide Park Lands Plan*.
- (3) The following principles or requirements are to be taken into account (and, as appropriate, applied) in relation to the plan:
 - (a) the Adelaide Park Lands are to include—

- (i) the land commonly known as the *Adelaide Park Lands*; and
 - (ii) *Victoria Square, Light Square, Hindmarsh Square, Hurtle Square, Whitmore Square* and *Wellington Square*; and
 - (iii) *Brougham Gardens* and *Palmer Gardens*,
(as determined and defined by the Minister taking into account the principles set out in section 4 (but not to include any road (or part of a road) unless the Minister is acting under paragraph (b) or another provision of this Act));
 - (b) any road (or part of a road) running through, or bordering, any part of the park lands, or any part of any square, may be included as part of the Adelaide Park Lands;
 - (c) the Adelaide Park Lands will not include—
 - (i) Parliament House, the premises known as *Old Parliament House*, or the land appurtenant to Parliament House or Old Parliament House; or
 - (ii) Government House, or the land appurtenant to Government House;
 - (d) the Adelaide Park Lands will not include any land vested in the Commonwealth, or an agency or instrumentality of the Commonwealth;
 - (e) the Adelaide Park Lands are to include any other land vested in, or under the care, control or management of, the Crown, a State authority or a local government body that is relevant in view of the principle set out in section 4(1)(a).
- (4) The Minister may, by instrument deposited in the GRO, vary the Adelaide Park Lands Plan.
- (5) However—
- (a) a variation must not be made under subsection (4) by virtue of which any land would cease to be included in the Adelaide Park Lands under the plan except in pursuance of a resolution passed by both Houses of Parliament; and
 - (b) a variation must not be made under subsection (4) by virtue of which any land would be placed under the care, control and management of the Adelaide City Council except at the request, or with the concurrence, of the Council; and
 - (c) a variation must not be made under subsection (4) by virtue of which any land would continue to be included in the Adelaide Park Lands but would cease to be under the care, control and management of the Adelaide City Council except at the request, or with the concurrence, of the Council.
- (6) This section does not limit the operation of section 15 or Part 11 of Schedule 1.

15—Interaction with other Acts

- (1) The Minister may, by instrument deposited in the GRO, vary the Adelaide Park Lands Plan to ensure consistency with—
- (a) the operation of another Act (including an Act amending another Act) enacted after the commencement of this Act; or

- (b) the operation of a proclamation under Chapter 3 of the *Local Government Act 1999* made after the commencement of this Act.
- (2) The Minister may, by instrument deposited in the GRO, on the recommendation of the Surveyor-General, vary the Adelaide Park Lands Plan to ensure consistency with any road process under the *Roads (Opening and Closing) Act 1991* that takes effect after the commencement of this Act.
- (3) The Minister may, by instrument deposited in the GRO, vary the Adelaide Park Lands Plan to ensure consistency with any action taken (or proposed to be taken) with respect to the construction or operation of a tramline in Victoria Square under the provisions of another Act.
- (4) Any provision made by an instrument under subsection (1), (2) or (3) will have effect according to its terms and despite any other provision of this Act.
- (5) To avoid doubt, nothing in this Division requires the Minister to take action with respect to any land that is inconsistent with the operation of another Act that makes specific provision in relation to the status or use of a particular piece of land.

16—Related matters

- (1) For the purposes of this Division, the Adelaide Park Lands Plan may be varied by the substitution of a new plan.
- (2) Without derogating from the operation of any other provision, the Minister must not deposit or vary a plan in the GRO under this Division without first consulting with the Surveyor-General and the Adelaide City Council.
- (3) For the purposes of any other Act or law—
 - (a) any land designated in the Adelaide Park Lands Plan as being park lands under the care, control and management of the Adelaide City Council—
 - (i) will, insofar as is not already the case, be placed under the care, control and management of the Adelaide City Council by force of this subsection (but so as to not limit any further variation of the plan by subsequent action taken under this Act); and
 - (ii) will, other than in relation to land held in fee simple, be taken to be dedicated for park land by force of this subsection (including so as to vary any previous dedication or reservation to the extent necessary to give effect to the dedication under this subsection); and
 - (b) any variation to the Adelaide Park Lands Plan that has effect pursuant to this Act will, to the extent that the variation removes land from the Adelaide Park Lands, by force of this subsection—
 - (i) revoke any dedication of relevant land as park lands (including a dedication that has effect under another Act or has had effect under this Act); and
 - (ii) revoke any classification of relevant land as community land under the *Local Government Act 1999*.

- (4) The Minister may, in conjunction with the operation of any other provision of this Act, by instrument deposited in the GRO, make any other provision relating to the status, vesting or management of land as the Minister thinks fit (including by making any other provision for the reservation of land for a specified purpose and on the basis that any provision made by the Minister under this subsection will have effect according to its terms and despite any other provision of any other Act or law).
- (5) If the Minister deposits an instrument in the GRO under this Division, the Minister must give public notice of that fact within 2 months after the instrument is deposited.
- (6) The Governor may, by proclamation, transfer, apportion, settle or adjust property, assets, rights, liabilities or expenses as between 2 or more parties in connection with the depositing or variation of the Adelaide Park Lands Plan.
- (7) A proclamation under subsection (6) may, if the proclamation so provides, take effect on a day that is earlier than the day on which the proclamation is made (other than a day that is earlier than the day on which the plan was deposited or varied (as the case requires)).
- (8) A proclamation cannot be made under subsection (6) except at the request, or with the concurrence, of the relevant parties.
- (9) The Minister and the Adelaide City Council must ensure that copies of the Adelaide Park Lands Plan are kept available for public inspection—
 - (a) in the case of the Minister—at an office designated by the Minister;
 - (b) in the case of the Adelaide City Council—at an office of the Council designated by the Council.

Division 2—Identification of tenure

17—Identification of tenure

- (1) The Minister must attach a schedule to the plan deposited in the GRO under section 14(1) that—
 - (a) identifies all land (other than public roads) within the Adelaide Park Lands owned, occupied or under the care, control or management of—
 - (i) the Crown or a State authority; or
 - (ii) the Adelaide City Council; and
 - (b) in relation to each piece of land so identified, includes information about the tenure of the land.
- (2) The Minister may, by instrument deposited in the GRO, update the schedule from time to time.
- (3) The Minister must, in establishing or varying the schedule, consult with the Surveyor-General and the Adelaide City Council.

Part 4—Management of Adelaide Park Lands

Division 1—Adelaide Park Lands Management Strategy

18—Adelaide Park Lands Management Strategy

- (1) There will be an *Adelaide Park Lands Management Strategy*.
- (2) The management strategy will be prepared and maintained by the Authority.
- (3) The management strategy must—
 - (a) in relation to each piece of land within the Adelaide Park Lands owned, occupied or under the care, control or management of the Crown, a State authority or the Adelaide City Council—
 - (i) describe the occupation, tenure and existing use of the land; and
 - (ii) provide information about the State Government's or the Council's (as the case may be) plans for the use and management of the land into the future; and
 - (iii) identify any plans or feasible options for increasing public access to the land for recreational purposes (taking into account the existing or proposed use of the land); and
 - (iv) if the land is owned, occupied or under the care, control or management of the Crown or a State authority—provide information about its suitability for use as park lands under the care, control and management of the Adelaide City Council, or through transferring the land to the Council, and, if appropriate, a program for its future use as park lands; and
 - (b) identify any land within the Adelaide Park Lands that is, or that is proposed to be (according to information in the possession of the Authority), subject to a lease or licence with a term exceeding 5 years (including any right of extension), other than a lease or licence that falls within any exception prescribed by the regulations for the purposes of this paragraph; and
 - (c) identify goals, set priorities and identify strategies with respect to the management of the Adelaide Park Lands; and
 - (d) include any other information or material prescribed by the regulations; and
 - (e) be consistent (insofar as is reasonably practicable) with any plan, policy or statement prepared by or on behalf of the State Government and identified by the regulations for the purposes of this section.
- (4) The Authority must, in relation to a proposal to establish or vary the management strategy—
 - (a) prepare a draft of the proposal; and
 - (b) refer the proposal to the Minister, the Adelaide City Council, and any State authority or adjoining council that has a direct interest in the proposal; and

- (c) at a time determined to be appropriate by the Authority, by public advertisement, invite any interested person to make written submissions to the Authority within a period specified by the Authority (being not less than 1 month from the date of publication of the advertisement), and to attend a public meeting to be held in relation to the proposal.
- (5) Subsection (4)(c) does not apply if the proposal relates to a variation of the management strategy that is, in the opinion of the Authority, of minor significance.
- (6) The Authority may, on the basis of any consultation undertaken or submissions received under subsection (4) (or as it thinks fit), amend the proposal.
- (7) The Authority must then prepare a report on the matter (incorporating the proposal, as finalised by the Authority) and furnish copies of the report to—
 - (a) the Minister; and
 - (b) the Adelaide City Council.
- (8) The Minister and the Adelaide City Council must confer on the report (and proposal) and may then—
 - (a) adopt the proposal with or without amendment; or
 - (b) refer the proposal back to the Authority for further consideration and, if appropriate, amendment and then subsequently adopt the proposal, with or without amendment, after taking into account any report or recommendation from the Authority.
- (9) The Minister must, within 6 sitting days after a proposal is adopted under subsection (8), cause copies of the management strategy (with any amendments) to be laid before both Houses of Parliament.
- (10) The Minister and the Adelaide City Council must ensure that copies of the management strategy are kept available for public inspection—
 - (a) in the case of the Minister—at an office designated by the Minister;
 - (b) in the case of the Adelaide City Council—at an office of the Council designated by the Council.
- (11) A State authority and the Adelaide City Council must provide such information as the Authority may reasonably require for the purposes of preparing or revising the management strategy under this section.
- (12) For the purposes of this section, the management strategy may be varied by the substitution of a new management strategy.
- (13) The Authority must prepare the management strategy within 2 years after the commencement of this section.
- (14) The Authority must undertake a comprehensive review of the management strategy at least once in every 5 years.

Division 2—Management plans

19—Adelaide City Council

- (1) The Adelaide City Council must ensure that its management plan for community land within the Adelaide Park Lands under Chapter 11 of the *Local Government Act 1999* is consistent with the Adelaide Park Lands Management Strategy.
- (2) The Adelaide City Council must, before it releases its proposed management plan, or a proposed amendment to its management plan, for public consultation under the *Local Government Act 1999*, consult on a draft of its proposal with—
 - (a) the Minister; and
 - (b) the Authority; and
 - (c) any State authority or adjoining council that has a direct interest in the matter; and
 - (d) to the extent that paragraph (c) does not apply—any government department or agency, or any council, specified by the Minister.
- (3) The Adelaide City Council must undertake a comprehensive review of its management plan for community land within the Adelaide Park Lands at least once in every 5 years.

20—State authorities

- (1) Each State authority to which this section applies must prepare and adopt a management plan for that part of the Adelaide Park Lands which it owns or occupies, or which is under its care, control or management.
- (2) A management plan must—
 - (a) identify the land to which it applies; and
 - (b) state the existing use of the land; and
 - (c) state the State authority's objectives, policies and proposals for the management of the land; and
 - (d) set out performance targets for the management of the land and how the State authority proposes to measure its performance against its objectives and performance targets; and
 - (e) provide information on any arrangements for public use of, or access to, the land; and
 - (f) if relevant, provide specific information on the State authority's policies for the granting of leases or licences over any part of the land; and
 - (g) state the State authority's plans for the future use of the land and when the State authority plans to relinquish ownership, occupation or care, control and management of the land; and
 - (h) comply with any other requirement prescribed by the regulations.

- (3) A State authority must, in relation to a proposal to establish or vary a management plan under this section—
 - (a) prepare a draft of the proposal; and
 - (b) refer the proposal to the Minister, the Adelaide City Council, the Authority, and any adjoining council that has a direct interest in the matter, and to any other body determined by the Minister; and
 - (c) at a time determined to be appropriate by the State authority, by public advertisement, invite any interested person to make written submissions to the State authority within a period specified by the State authority (being not less than 1 month from the date of publication of the advertisement) and to attend a public meeting to be held in relation to the proposal.
- (4) Subsection (3)(c) does not apply if the proposal relates to a variation of a management plan that is, in the opinion of the State authority, of minor significance.
- (5) A State authority may, on the basis of any consultation undertaken or submissions received under subsection (3) (or as it thinks fit), amend the proposal.
- (6) The State authority must then prepare a report on the matter (incorporating the proposal, as finalised by the State authority) and furnish a copy of the report to the Minister.
- (7) The State authority may then, with the approval of the Minister, adopt the proposal (with or without any amendments determined or approved by the Minister).
- (8) The State authority must ensure that copies of the management plan are available for public inspection in accordance with the regulations.
- (9) Each State authority to which this section applies must prepare a management plan within 2 years after the adoption of the first Adelaide Park Lands Management Strategy under Division 1 unless the Governor, by regulation, allows an extension of time.
- (10) A State authority to which this section applies must undertake a comprehensive review of its management plan under this section at least once in every 5 years.
- (11) This section applies to any State authority that owns or occupies land within the Adelaide Park Lands, or that has land within the Adelaide Park Lands under its care, control or management, other than—
 - (a) land constituting a road (or part of a road); or
 - (b) land excluded from the operation of this section by the regulations.

Division 3—Grants of occupancy

21—Leases and licences granted by Council

- (1) The maximum term for which the Adelaide City Council may grant or renew a lease or licence over land in the Adelaide Park Lands is 42 years (taking into account any right of extension and despite the provisions of the *Local Government Act 1999*).

- (2) However, before the Council grants (or renews) a lease or licence over land in the Park Lands for a term of 10 years or more (taking into account any right of renewal), the Council must submit copies of the lease or licence to the Presiding Members of both Houses of Parliament.
- (3) The Presiding Members of the Houses of Parliament must, within 6 sitting days after receiving a copy of a lease or licence under subsection (2), lay the copy before their respective Houses.
- (4) A House of Parliament may resolve to disallow the grant or renewal of a lease or licence pursuant to a notice of motion given in the House within 14 sitting days after a copy of the lease or licence is laid before the House under subsection (3).
- (5) The Council may only grant or renew a lease or licence within the ambit of subsection (2) if the time for disallowance has passed and neither House of Parliament has passed a resolution disallowing its granting or renewal.

Part 5—Adelaide Park Lands Fund

22—Adelaide Park Lands Fund

- (1) The Authority must establish and maintain a fund to be called the *Adelaide Park Lands Fund*.
- (2) The Fund will consist of—
 - (a) any money paid to the credit of the Fund by the Crown, a State authority or the Adelaide City Council; and
 - (b) grants, gifts and loans made to the Adelaide City Council or to the Authority for payment into the Fund; and
 - (c) any income arising from the investment of the Fund under subsection (3); and
 - (d) all other money required to be paid into the Fund under any other Act or law.
- (3) Any money in the Fund that is not for the time being required for the purposes of the Fund may be invested by the Authority after consultation with the Adelaide City Council.
- (4) The Authority may apply any part of the Fund—
 - (a) towards increasing or improving the use or enjoyment of the Adelaide Park Lands for the public benefit; or
 - (b) towards increasing or achieving the beautification or rehabilitation of any part of the Adelaide Park Lands; or
 - (c) towards promoting or increasing the status of the Adelaide Park Lands; or
 - (d) in providing for, or supporting, research into any matter relevant to status, use or management of the Adelaide Park Lands; or
 - (e) in supporting the improved management of the Adelaide Park Lands; or
 - (f) in providing for any other matter that will further the objects of this Act; or
 - (g) in providing for the operational costs or expenses of the Authority; or
 - (h) in making any payment required or authorised by or under this or any other Act or law.

Part 6—Miscellaneous

23—Steps regarding change in intended use of land

- (1) If land within the Adelaide Park Lands occupied by the Crown or a State authority is no longer required for any of its existing uses, the Minister must ensure that a report concerning the State Government's position on the future use and status of the land is prepared within the prescribed period.
- (2) A report under subsection (1) must include information on the condition of the land and on the action (if any) that would be required in order to make the land suitable for public use as park lands.
- (3) The Minister must, after the completion of a report under subsection (1), cause copies of the report—
 - (a) to be laid before both Houses of Parliament; and
 - (b) to be furnished to the Adelaide City Council.
- (4) The Minister must, either during or after the completion of the report required under subsection (1), enter into discussions with the Adelaide City Council about whether the land should be placed under the care, control and management of the Council.
- (5) If—
 - (a) the Adelaide City Council considers that the Minister has failed to prepare a report in accordance with subsection (1); or
 - (b) a dispute arises between the Minister and the Adelaide City Council in connection with the operation of subsection (4),the Minister or the Council may refer the matter to the Environment, Resources and Development Committee of the Parliament.
- (6) The Environment, Resources and Development Committee may, on a referral under subsection (5)—
 - (a) inquire into the matter as it thinks fit;
 - (b) make any determination or recommendation that it thinks appropriate with a view to resolving the matter;
 - (c) make any report to Parliament that it thinks appropriate in the circumstances of the particular case.

24—Duties of Registrar-General and other persons

If a plan or instrument is deposited in the Lands Titles Registration Office or in the GRO under this Act or notification is given by the Minister of an instrument under this Act—

- (a) the Registrar-General must amend, cancel or replace any document of title affected and make any entry in or amendment of the Register Book or the Register of Crown leases as required in consequence of the plan or instrument; and

- (b) any other person required or authorised under an Act or law to record instruments or transactions relating to land must take any action necessary to give effect to the plan or instrument.

25—Provisions relating to specific land

- (1) The Adelaide City Council continues to have the care, control and management of the dam erected pursuant to powers conferred by the *River Torrens Improvement Act 1869*, and of the water held by that dam.
- (2) Subsection (1) operates subject to the provisions of the *Natural Resources Management Act 2004*.
- (3) The waters held by the dam referred to in subsection (1) will be taken to constitute part of the Adelaide Park Lands (and to be local government land that has been classified as community land for the purposes of the *Local Government Act 1999*).
- (4) Nothing in subsection (1) or (3) affects any right, interest or title of the Crown in respect of the bed, soil, banks or shores of the River Torrens, or of any reserve or land of the Crown.

26—Regulations

- (1) The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may—
 - (a) require the provision of reports or other information to the Minister, the Adelaide City Council, the Authority or any other person or body prescribed by the regulations;
 - (b) require the giving of notice before any prescribed class of activity or procedure is commenced, the notification of the occurrence of any prescribed class of event, or the giving of a notice to a person or body in prescribed circumstances;
 - (c) require that a person proposing to undertake an activity of a prescribed class, or to give a permission or other form of authorisation in prescribed circumstances, must consult with the Minister, the Adelaide City Council, the Authority or any other person or body prescribed by the regulations.
- (3) A regulation under this Act—
 - (a) may make different provision according to the matters or circumstances to which they are expressed to apply;
 - (b) may provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister or any other person or body prescribed by the regulations;
 - (c) may apply to matters or activities that arise or occur outside the Adelaide Park Lands.

Schedule 1—Related amendments and transitional provisions

Part 1—Preliminary

1—Amendment provisions

In this Schedule, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *City of Adelaide Act 1998*

2—Substitution of section 37C

Section 37C—delete the section and substitute:

37C—The Corporation Acre

The land known as "The Corporation Acre" within the City of Adelaide is vested in the Adelaide City Council.

Part 3—Amendment of *Development Act 1993*

3—Amendment of section 4—Definitions

Section 4(1), before the definition of *adjacent land* insert:

Adelaide Park Lands has the same meaning as in the *Adelaide Park Lands Act 2005*;

4—Amendment of section 46—Declaration by Minister

Section 46—after subsection (3) insert:

- (3a) A declaration under this section cannot apply with respect to a development or project within the Adelaide Park Lands.

5—Amendment of section 49—Crown development

Section 49—after subsection (17) insert:

- (18) Subject to subsection (19), this section does not apply to any development within the Adelaide Park Lands (and any such development must be assessed under another Division (other than Division 3A)).
- (19) Subsection (18) does not apply—
- (a) so as to exclude the Governor making a regulation under subsection (3) with respect to minor works of a prescribed kind; or
 - (b) so as to exclude from the operation of this section development within any part of the *Institutional District* of the City of Adelaide that has been identified by regulations made for the purposes of this paragraph by the Governor on the recommendation of the Minister.

- (20) Before making a recommendation to the Governor to make a regulation identifying a part of the *Institutional District* of the City of Adelaide for the purposes of paragraph (b) of subsection (19), the Minister must take reasonable steps to consult with the Adelaide Park Lands Authority.
- (21) A regulation under subsection (19)(b) cannot apply with respect to any part of the *Institutional District* of the City of Adelaide that is under the care, control or management of The Corporation of the City of Adelaide.
- (22) For the purposes of this section, the *Institutional District* of the City of Adelaide is the *Institutional District* identified and defined by the Development Plan that relates to the area of The Corporation of the City of Adelaide, as in existence on the commencement of this subsection.

6—Amendment of section 49A—Development involving electricity infrastructure

Section 49A—after subsection (21) insert:

- (22) Subject to subsection (23), this section does not apply to any development within the Adelaide Park Lands (and any such development must be assessed under another Division (other than Division 3)).
- (23) Subsection (22) does not apply so as to exclude the Governor making a regulation under subsection (3) with respect to minor works of a prescribed kind.

Part 4—Amendment of *Highways Act 1926*

7—Amendment of section 2—Act not to apply to City of Adelaide

- (1) Section 2(1)—delete "This Act" and substitute:
Subject to this section, this Act
- (2) Section 2—after subsection (1) insert:
 - (1a) This Act applies, or a specified provision or provisions of this Act apply, to a road or roadwork that is within the ambit of a proclamation made by the Governor for the purposes of this subsection.
 - (1b) A proclamation under subsection (1a) may only relate to a road (or part of a road) that runs through, or borders, a part of the Adelaide Park Lands under the *Adelaide Park Lands Act 2005*.
 - (1c) The Minister must consult with the Adelaide City Council before a proclamation is made under subsection (1a).
- (3) Section 2(2)—delete "However, the" and substitute:
The

(4) Section 2—after subsection (2) insert:

(2a) A notice under subsection (2) does not need to relate to a road within the ambit of a proclamation under subsection (1a).

Part 5—Amendment of *Local Government Act 1934*

8—Repeal of Part 16

Part 16—delete the Part

Part 6—Amendment of *Local Government Act 1999*

9—Amendment of section 4—Interpretation

Section 4(1), definition of *Adelaide Park Lands*—delete the definition and substitute:

Adelaide City Council means The Corporation of the City of Adelaide;

10—Amendment of section 194—Revocation of classification of land as community land

(1) Section 194(1)(a)—delete "(see Division 7)" and substitute:

unless the revocation is by force of a provision of another Act

(2) Section 194—after subsection (4) insert:

(5) For the purposes of subsection (1)(a) (but subject to the exclusion of roads under section 193(1)), the Adelaide Park Lands will be taken to be any local government land within the Adelaide Park Lands, as defined (from time to time) under the *Adelaide Park Lands Act 2005*.

11—Amendment of section 196—Management plans

(1) Section 196(1)(a)—delete "(a),"

(2) Section 196—after subsection (1) insert:

(1a) The Adelaide City Council must prepare and adopt a management plan for the Adelaide Park Lands.

(3) Section 196(3)—after paragraph (d) insert:

(e) in the case of the management plan for the Adelaide Park Lands—

- (i) provide information on any arrangements or restrictions on public use of any part of the park lands, or on movement through the park lands; and
- (ii) provide specific information on the council's policies for the granting of leases or licences over any part of the park lands.

(4) Section 196—after subsection (7) insert:

(8) The Adelaide City Council must have a management plan under this section for the Adelaide Park Lands within 2 years after the adoption of the first Adelaide Park Lands Management Strategy under the *Adelaide Park Lands Act 2005* unless the Governor, by regulation, allows an extension of time.

- (9) In this section—

Adelaide Park Lands means the Adelaide Park Lands under the *Adelaide Park Lands Act 2005*, but does not include any land constituting a road (or part of a road).

12—Amendment of section 202—Alienation of community land by lease or licence

- (1) Section 202(4)—delete "(subject to the operation of Division 7)"
- (2) Section 202—after subsection (6) insert:
 - (7) This section operates subject to the provisions of the *Adelaide Park Lands Act 2005* in respect of the Adelaide Park Lands under that Act.

13—Repeal of Chapter 11 Part 1 Division 7

Chapter 11 Part 1 Division 7—delete Division 7

14—Amendment of Schedule 8

- (1) Schedule 8, Part 1—delete Part 1
- (2) Schedule 8, Part 2, heading—delete the heading to Part 2

Part 7—Amendment of *National Wine Centre (Restructuring and Leasing Arrangements) Act 2002*

15—Amendment of section 3—Interpretation

Section 3(1), definition of *Centre land*—delete the definition and substitute:

Centre land—see section 3A;

16—Insertion of section 3A

After section 3 insert:

3A—Centre land

- (1) Subject to this section, the Centre land will be the area of land shown as Allotment 100 in Lands Titles Registration Office Deposited Plan 66751.
- (2) The Minister may, by instrument deposited in the Lands Titles Registration Office, vary the Centre land.
- (3) However—
 - (a) a variation must not be made under subsection (2) by virtue of which any land would be added to the Centre land except in pursuance of a resolution passed by both Houses of Parliament; and
 - (b) a variation must not be made under subsection (2) by virtue of which any land would be placed under the control of the Board of the Botanic Gardens and State Herbarium except with the concurrence of that board.

- (4) The Minister must also consult with the Surveyor-General, and any lessee or other person who may be directly affected, before the Minister deposits an instrument under subsection (2).
- (5) A variation to the Centre land under this section will, by force of this section, vary any relevant dedication of the land affected by the variation.
- (6) For the purposes of this section, the Centre land may be varied by the depositing of a new plan (with a new number) in the Lands Titles Registration Office.

17—Variation of section 5—Continuation of dedication of Centre land

Section 5—after subsection (2) insert:

- (3) This section has effect subject to the operation of section 3A.

18—Variation of section 6—Minister may lease Centre land

Section 6—after subsection (8) insert:

- (9) If a variation to the Centre land under section 3A affects any land subject to a lease under this section, the lease, and any related interest or instrument, are, by force of this section, varied to take into account the variation to the Centre land.

19—Repeal of Schedule 1

Schedule 1—delete the Schedule

Part 8—Amendment of *Roads (Opening and Closing) Act 1991*

20—Insertion of section 6B

After section 6A insert:

6B—Special powers to alter roads associated with Adelaide Park Lands

- (1) A road to which this section applies may be made wider, narrower, longer or shorter by the Minister in accordance with Part 7B.
- (2) This section applies to a road within, or adjacent to, the Adelaide Park Lands.
- (3) The Minister may take action under this section even if any part of the relevant land has been dedicated for the purposes of park lands or for any other purpose.
- (4) To avoid doubt, nothing in this section or Part 7B prevents steps being taken to open or close a road under another provision of this Act (to the extent to which that provision would otherwise apply).
- (5) In this section—

Adelaide Park Lands has the same meaning as in the *Adelaide Park Lands Act 2005*.

21—Insertion of Part 7B

After Part 7A insert:

Part 7B—Roads associated with Adelaide Park Lands

34G—Roads associated with Adelaide Park Lands

- (1) An application may be made to the Minister to make a road wider, narrower, longer or shorter pursuant to section 6B—
 - (a) by the Commissioner of Highways (including in a case involving an area within the City of Adelaide); or
 - (b) by the Adelaide City Council; or
 - (c) by a council whose area adjoins the City of Adelaide.
- (2) The application must be accompanied by—
 - (a) a preliminary plan of the land subject to the proposed road process, in a form determined or approved by the Surveyor-General; and
 - (b) such other information as may be required by the regulations.
- (3) The Minister must, on receipt of the application, consult with the Minister for the time being administering the *Adelaide Park Lands Act 2005* (and may consult with such other persons as the Minister thinks fit).
- (4) If the Minister, after consultation under subsection (3), determines that the application should be considered, the Minister may notify the applicant of that determination and the applicant must then—
 - (a) give public notice, in accordance with the regulations, of the proposal; and
 - (b) give notice of the proposal to any State authority or council specified by the Minister; and
 - (c) give notice of the proposal to the Adelaide Park Lands Authority (unless the Authority has already been consulted under subsection (3) and indicated that it has no further comment to make in relation to the matter).
- (5) A notice under subsection (4) must specify that representations in relation to the proposal may be made within 28 days from the date of the notice, or within such longer period as the Minister may direct.
- (6) The applicant must forward to the Surveyor-General, after the expiration of the period that applies under subsection (5)—
 - (a) any representation in relation to the proposal made to the applicant within the relevant period; and

- (b) any response that the applicant wishes to make in relation to those representations.
- (7) The Surveyor-General must then prepare a report in relation to the matter and furnish the report to the Minister.
- (8) After considering the report furnished by the Surveyor-General, and such other matters as the Minister thinks fit, the Minister may—
 - (a) indicate to the applicant that the Minister is willing to approve the application (with or without modifications); or
 - (b) indicate to the applicant that the Minister is unwilling to approve the application (and then the application will lapse).
- (9) If the Minister is willing to approve the application, the applicant may, after consultation with the Surveyor-General, cause survey plans and any other documents to be prepared as required by the Registrar-General, and may then submit them to the Minister.
- (10) If or when the Minister is satisfied, on the advice of the Surveyor-General, that the plans and other documents required under subsection (9) are in order, the Minister may, by notice in the Gazette, make an order that has the effect of making the relevant road wider, narrower, longer or shorter.
- (11) The Minister may, as part of an order under this section—
 - (a) make an order for the granting of an easement over land subject to the order;
 - (b) make an order relating to the status, vesting or management of any land subject to the order (including by providing for the reservation of any land for a specified purpose);
 - (c) make an order providing for any other related or ancillary matter.
- (12) The order will, on publication, have effect according to its terms.
- (13) If an order widening or extending a road under this section relates to land within the Adelaide Park Lands, the classification of the land being affected by this widening or extension as community land under the *Local Government Act 1999* (if relevant) is, by force of this section, revoked.
- (14) The applicant must, after the publication of the order, provide any documentation required by the Registrar-General to the Registrar-General.
- (15) Parts 4 and 8 apply with respect to an order under this Part as if the order were an order confirmed by the Minister on the date on which notice of the order is published in the Gazette, subject to the express terms of the order or to such modifications as may be prescribed, or as may be necessary for the purpose.
- (16) If an application under this section is made by a council, the Minister may recover, as a debt from the council, reasonable costs incurred by the Crown in dealing with the application under this section.

(17) In this section—

Adelaide City Council means The Corporation of the City of Adelaide;

City of Adelaide means the area of the Adelaide City Council;

State authority has the same meaning as in the *Adelaide Park Lands Act 2005*.

Part 9—Amendment of *South Australian Motor Sport Act 1984*

22—Amendment of section 3—Interpretation

Section 3, definition of *parkland*—delete the definition

23—Amendment of section 20—Minister may declare area and period

(1) Section 20(1)—after paragraph (b) insert:

and

(c) a specified period or periods (*prescribed works periods*) under this Act during which the Board may have access to land within a declared area for the purposes of carrying out works in the manner contemplated by section 22(1a) (and different periods may be specified in respect of different categories of work).

(2) Section 20—after subsection (3) insert:

(4) The Minister must not make a declaration under this section unless or until the Minister has consulted with—

(a) the Minister for the time being administering the *Adelaide Park Lands Act 2005*; and

(b) any relevant council; and

(c) the Adelaide Park Lands Authority.

24—Amendment of section 22—Board to have power to enter and carry out works, etc, on declared area

(1) Section 22(1)—delete "free and unrestricted"

(2) Section 22—after subsection (1) insert:

(1a) Subject to subsection (2), the access that the Board may have under subsection (1) during a prescribed works period is, with respect to any relevant category of work, free and unrestricted.

(3) Section 22(2)—after "under this section" insert:

during a prescribed works period with respect to any relevant category of work

- (4) Section 22—after subsection (2) insert:
- (2a) The Board must, in exercising its powers under this section with respect to any matter that is outside the ambit of subsection (1a), comply with—
 - (a) subject to paragraph (b), any conditions determined by a relevant council or any person having a right of occupation of the land or any part of the land; or
 - (b) if the Minister considers, on application by the Board, that a condition under paragraph (a) is unreasonable—any conditions determined by the Minister.
- (5) Section 22(3)—delete "under subsection (2)" and substitute:
under subsections (2) and (2a)
- (6) Section 22(3)—delete "generality of subsection (2)" and substitute:
generality of those subsections
- (7) Section 22(3)—after paragraph (d) insert:
- (e) without limiting a preceding paragraph, that provide for the management, protection or rehabilitation of land (including land outside the declared area that may be affected by the Board's activities).
- (8) Section 22—after subsection (3) insert:
- (4) The Minister must, before making a determination under this section, consult with—
 - (a) any relevant council; and
 - (b) the Board.
 - (5) The Environment, Resources and Development Court may, on application by—
 - (a) any relevant council; or
 - (b) any person having a right of occupation of the land or any part of the land; or
 - (c) the Adelaide Park Lands Authority,restrain a breach of this section.
 - (6) The Board must also comply with any direction (including a specific direction) of the Minister—
 - (a) to ensure compliance with this section; or
 - (b) to rectify any matter that, in the opinion of the Minister, constitutes a breach of this section.

25—Amendment of section 24—Certain land taken to be lawfully occupied by Board

Section 24—after subsection (3) insert:

- (4) The Board must, with respect to the operation of subsection (2), comply with any requirement that applies under section 22.

Part 10—Amendment of *Waterworks Act 1932*

26—Amendment of section 27—Free supply for public purposes within Port Adelaide

- (1) Section 27—delete "Corporations of the City of Adelaide and the City of Port Adelaide" and substitute:

City of Port Adelaide Enfield

- (2) Section 27—delete "the City of Adelaide and the township of" and substitute:

the township of

- (3) Section 27—delete "city and township and occupied and used by either of such corporations" and substitute:

township and occupied and used by the council

- (4) Section 27—after its present contents as amended by this section (now to be designated as subsection (1)) insert:

- (2) For the purposes of this section, the township of Port Adelaide will be that township as it existed in 1882.

- (3) This section will expire on a day to be fixed by proclamation.

Part 11—Transitional provisions

27—Boundaries of the City of Adelaide

- (1) The boundaries of the City of Adelaide (and, accordingly, the boundaries of any adjoining council) may be delineated by a plan filed or deposited in the Lands Titles Registration Office by the Surveyor-General acting under this clause.
- (2) The Surveyor-General must consult with the Adelaide City Council, and any other relevant council, before he or she files or deposits a plan under subclause (1).
- (3) To avoid doubt, a boundary established under subclause (1) may be altered by proclamation under the *Local Government Act 1999*.

28—Special provisions relating to roads and Adelaide/Glenelg tramline

- (1) The Minister may, in the plan deposited in the GRO under section 14(1), on the recommendation of the Surveyor-General—
 - (a) designate land forming, or previously forming, part of a public road and that is, immediately before the commencement of this clause, being used by the public as park land as being incorporated into the Adelaide Park Lands as park land; or

- (b) designate land that is, immediately before the commencement of this clause, being used by the public as a road (or as part of a road) as being a public road or a part of a public road.
- (2) The Minister may, in conjunction with the operation of subclause (1), as part of the plan deposited in the GRO under section 14(1), on the recommendation of the Surveyor-General, designate any land within the operation of subclause (1)(b) as having been established in accordance with the *Roads (Opening and Closing) Act 1991*.
- (3) The Minister may, in conjunction with depositing the Adelaide Park Lands Plan in the GRO under section 14(1), or at a later time, by plan filed or deposited in the Lands Titles Registration Office, on the recommendation of the Surveyor-General—
 - (a) determine the location of the boundary of any road in existence immediately before the commencement of this clause where the Surveyor-General has certified that there is a degree of uncertainty as to the location of such a boundary;
 - (b) determine the location of the boundary of the land that should, in the opinion of the Surveyor-General, be regarded as being reserved for the purposes of the transport corridor containing the Adelaide/Glenelg tramline.
- (4) The Minister may, in conjunction with the operation of a preceding subclause, by instrument deposited in the GRO, make any provision relating to the status, vesting or management of land as the Minister thinks fit (including by providing for the reservation of any land for a specified purpose and including, if appropriate, by revoking any other dedication of any land, or trust applying to any land, and any status of land as community land under the *Local Government Act 1999*).
- (5) Any provision made by a plan or instrument under this clause will have effect according to its terms and despite any other provision of this Act, or any other Act or law.
- (6) Nothing in a preceding subclause affects or limits any future dedication or other dealing with any relevant land (subject to any other provision of this Act).

29—Special financial contributions by State Government

The Minister must take reasonable steps to come to an agreement with the Adelaide City Council about the provision to the Council of State Government funding towards the costs incurred by the Council for watering the Adelaide Park Lands.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal Act

Year	No	Title	Assent	Commencement
2005	69	<i>Adelaide Park Lands Act 2005</i>	8.12.2005	uncommenced