

South Australia

Linear Parks (Miscellaneous) Amendment Act 2017

An Act to amend the *Linear Parks Act 2006*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Amendment provisions

Part 2—Amendment of *Linear Parks Act 2006*

- 3 Amendment of long title
 - 4 Insertion of section 2
 - 2 Objects and purposes of Act
 - 5 Amendment of section 3—Interpretation
 - 6 Amendment of section 4—Linear parks
 - 7 Amendment of section 6—Special provisions relating to roads
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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Linear Parks (Miscellaneous) Amendment Act 2017*.

2—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 *Linear Parks Act 2006*

3—Amendment of long title

- (1) Long title—delete "to provide for the protection of" and substitute:
 - to make provision for
- (2) Long title—delete ", as world-class assets to be preserved as public parks for the benefit of present and future generations"

4—Insertion of section 2

After section 1 insert:

2—Objects and purposes of Act

The objects and purposes of this Act are—

- (a) to establish, maintain and preserve linear parks as world-class assets to be used and enjoyed as public parks for the benefit of present and future generations; and
- (b) to promote the use and enjoyment of linear parks by members of the local community and others; and
- (c) to promote healthy active lifestyles by facilitating the use of linear parks by members of the local community and others for exercise and other outdoor activities.

5—Amendment of section 3—Interpretation

Section 3—after the definition of *River Torrens Linear Park Public Lands Plan* insert:

SA planning portal has the same meaning as in the *Planning, Development and Infrastructure Act 2016*;

6—Amendment of section 4—Linear parks

- (1) Section 4(1)(a)—delete "constitute" and substitute:
establish
- (2) Section 4(1)(a)(iii)—delete "under the care, control or management of" and substitute:
owned by, or under the care, control or management of,
- (3) Section 4(1)(b)—delete "constituted" and substitute:
established
- (4) Section 4(2)—delete subsection (2) and substitute:
 - (2) However, a linear park must not be established unless the Minister—
 - (a) has published notice of the proposed linear park (including a proposed plan defining the linear park) on the SA planning portal; and
 - (b) in relation to a linear park that is proposed to include land owned by, or under the care, control or management of, a council—has given written notice of the proposed linear park to the council; and
 - (c) has given consideration to any submission made in response to a notice under this subsection within a period (of between 3 and 6 weeks) specified by the Minister in the relevant notice.
- (5) Section 4(4)(a)(iii)—delete "under the care, control or management of" and substitute:
owned by, or under the care, control or management of,

- (6) Section 4(4)(b)—delete paragraph (b) and substitute:
- (b) a variation to a linear park may not be made unless the Minister—
 - (i) has published notice of the proposed variation (including a proposed variation plan) on the SA planning portal; and
 - (ii) has given written notice of the proposed variation to any council that would be affected by the variation; and
 - (iii) has given consideration to any submission made in response to a notice under this paragraph within a period (of between 3 and 6 weeks) specified by the Minister in the relevant notice; and
- (7) Section 4—after subsection (4) insert:
- (5) A council is not required to comply with any other Act or law (including, for example, the *Local Government Act 1999*) in making a submission to the Minister under this section.
 - (6) For the avoidance of doubt, land may be included in a linear park under this Act even if the land has been dedicated under another Act or law for a purpose and despite that purpose.

7—Amendment of section 6—Special provisions relating to roads

- (1) Section 6(1)—delete "An area identified as a *road area* in a plan defining a linear park on the date on which the plan is deposited in the GRO" and substitute:
- Any area in a plan defining a linear park that is, on the date on which the plan is deposited in the GRO, specified on the plan as a "road area"
- (2) Section 6—after subsection (1) insert:
- (1a) The Minister may, as the Minister thinks fit for the purposes of this Act, in relation to an area specified as a road area on a plan defining a linear park, exercise a power that a council may exercise under any Act or law (including, for example, the *Local Government Act 1999*) in relation to a road in the area of the council and, for that purpose, a reference in such an Act or law to a council will be taken to be a reference to the Minister.
 - (1b) The regulations may, in relation to the exercise of a power under an Act or law by the Minister under subsection (1a), modify or exclude the application of a provision of the Act or law.
 - (1c) The Minister may, in connection with the exercise of a power under subsection (1a) in respect of a linear park, enter, occupy and use land within the linear park.
 - (1d) To the extent that the Minister may exercise a power under subsection (1a), the Minister is taken to be a road authority for the purposes of section 42 of the *Civil Liability Act 1936*.