

Legislative Council—No 238A

As reported with amendments, report adopted, Standing Orders suspended and passed remaining stages, 16 November 2017

South Australia

**Linear Parks (Miscellaneous) Amendment
Bill 2017**

A BILL FOR

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

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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*.

5 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

- 10 (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

- 15 After section 1 insert:

2—Objects and purposes of Act

The objects and purposes of this Act are—

- 20 (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

5 Clause 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

- 10 (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:
15 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.
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- (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,
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- (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
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(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*.