

**Legislative Council—No 54**

As received from the House of Assembly and read a first time, 10 September 2015

South Australia

**Local Government (Accountability and Governance) Amendment Bill 2015**

A BILL FOR

An Act to amend the *Local Government Act 1999*; to make a related amendment to the *City of Adelaide Act 1998*; and to repeal the *Local Government Act 1934*.

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**The Parliament of South Australia enacts as follows:**

**Part 1—Preliminary**

**1—Short title**

- 5 This Act may be cited as the *Local Government (Accountability and Governance) Amendment Act 2015*.

**2—Commencement**

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

**3—Amendment provisions**

- 10 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 *Local Government Act 1999*

### 4—Amendment of section 4—Interpretation

(1) Section 4(1)—after the definition of *day therapy centre* insert:

*district council* means a council constituted as a district council;

(2) Section 4(1)—after the definition of *moveable sign* insert:

*municipal council* means a council constituted as a municipal council;

(3) Section 4(1), definition of *public notice*—delete the definition and substitute:

*public notice*—see subsection (1aa);

(4) Section 4(1), definition of *relative*—after paragraph (d) insert:

or

(e) a stepfather, stepmother, stepson or stepdaughter; or

(f) any member of the person's family who resides in the member's household;

(5) Section 4—after subsection (1) insert:

(1aa) For the purposes of this Act, *public notice* is given if—

(a) notice is published—

(i) in the Gazette; and

(ii) —

(A) in the case of a notice to be published by a council—on a website determined by the chief executive officer; or

(B) in the case of a notice to be published by another person or body—on a website determined by the person or body; and

(b) notification of the fact of publication of the notice and the website address at which the notice is available for inspection is published in a newspaper circulating within the area of the relevant council.

### 5—Amendment of section 12—Composition and wards

Section 12(11c)(b)(iii)—delete "the Internet" and substitute:

a website determined by the chief executive officer

### 6—Amendment of section 44—Delegations

(1) Section 44(3)(f)—delete paragraph (f)

(2) Section 44(3)—after paragraph (j) insert:

(ja) the power to revoke the classification of land as community land under section 194;

**7—Amendment of section 48—Prudential requirements for certain activities**

(1) Section 48(1)(b)(i)—delete "expenditure" and substitute:  
operating expenses calculated on an accrual basis

(2) Section 48(2)—after paragraph (i) insert:

5                   (j) if the project involves the sale or disposition of land, the valuation of  
the land by a qualified valuer under the *Land Valuers Act 1994*.

**8—Amendment of section 50—Public consultation policies**

(1) Section 50(4)(a)—delete paragraph (a) and substitute:

(a) the publication of a notice—

10                   (i) in a newspaper circulating within the area of the council;  
and

                     (ii) on a website determined by the chief executive officer,  
describing the matter under consideration and inviting interested  
persons to make submissions in relation to the matter within a period  
15                   (which must be at least 21 days) stated in the notice; and

(2) Section 50(6)(d)—delete "in a newspaper circulating generally throughout the State  
and"

**9—Amendment of section 54—Casual vacancies**

20                   Section 54(1)(d)—delete "meetings (the first of which having been held three months  
or more before the last)" and substitute:

ordinary meetings of the council

**10—Amendment of section 62—General duties**

Section 62—after subsection (4) insert:

25                   (4a) A member or former member of a council must not disclose  
information or a document in relation to which there is an order of a  
council or council committee in effect under section 90 requiring the  
information or document to be treated confidentially.

Maximum penalty: \$10 000 or 2 years imprisonment.

30                   (4b) Nothing in subsection (4a) prohibits the disclosure of information or  
a document that is required or authorised by law.

## 11—Substitution of section 67

Section 67—delete the section and substitute:

### 67—Form and content of returns

- 5 (1) A member of a council who has submitted a return under this Division must notify the chief executive officer of a change or variation in the information appearing on the Register in respect of the member or a person related to the member (within the meaning of Schedule 3) within 1 month of the change or variation.

Maximum penalty: \$10 000.

- 10 (2) It is a defence to a prosecution for an offence against subsection (1) to prove that the member did not know, and could not reasonably be expected to have known, of the relevant change or variation.

## 12—Amendment of section 68—Register of Interests

Section 68—after subsection (3) insert:

- 15 (4) Despite this Division and Schedule 3, if the chief executive officer is satisfied that—

- 20 (a) the inclusion in the Register of the address of a person would place at risk the personal safety of that person, a member of that person's family or any other person, the chief executive officer may suppress the address from the Register; or
- (b) a person's address is suppressed from the roll under the *Electoral Act 1985*, the chief executive officer must suppress the person's residential address from the Register.

## 13—Amendment of section 70—Inspection of Register

- 25 (1) Section 70—before subsection (1) insert:

- (a1) A council must publish, in accordance with the regulations, the following details in relation to each member of the council contained in the Register on a website determined by the chief executive officer (and cause the details on the website to be updated at regular intervals):

- 30 (a) the member's income sources (within the meaning of Schedule 3) or employer;
- 35 (b) the name of any political party, any body or association formed for political purposes or any trade or professional organisation (within the meaning of Schedule 3) of which the member is a member;
- (c) any gifts received by the member that are required to be included in the information entered in the Register in relation to the member.

- 40 (2) Section 70(3) and (4)—delete subsections (3) and (4)

## 14—Substitution of Chapter 5 Part 4 Division 3

Chapter 5 Part 4 Division 3—delete the Division and substitute:

### Division 3—Conflicts of interest

#### Subdivision 1—Material conflicts of interest

#### 73—Material conflicts of interest

- 5
- (1) Subject to this section, for the purposes of this Subdivision, a member of a council has a *material conflict of interest* in a matter to be discussed at a meeting of the council if any of the following persons would gain a benefit, or suffer a loss, (whether directly or indirectly and whether of a personal or pecuniary nature) depending on the outcome of the consideration of the matter at the meeting:
- 10
- (a) the member;
  - (b) a relative of the member;
  - (c) a body corporate of which the member is a director or a member of the governing body;
  - 15
  - (d) a proprietary company in which the member is a shareholder;
  - (e) a beneficiary under a trust or an object of a discretionary trust of which the member is a trustee;
  - 20
  - (f) a partner of the member;
  - (g) the employer or an employee of the member;
  - (h) a person from whom the member has received or might reasonably be expected to receive a fee, commission or other reward for providing professional or other services;
  - 25
  - (i) a person of a prescribed class.
- (2) A member of a council will not be taken to have a material conflict of interest in a matter to be discussed at a meeting of the council—
- (a) if the relevant benefit or loss would be enjoyed or suffered in common with all or a substantial proportion of the ratepayers, electors or residents of the council area; or
  - 30
  - (b) on account of an interest under subsection (1) of a relative of the member, other than the member's spouse or domestic partner, if the member does not know, and could not reasonably be expected to know, of the interest.

(3) A member of a council who is a member, officer or employee of an agency or instrumentality of the Crown, will be regarded as having a material conflict of interest in a matter before the council if the matter directly concerns that agency or instrumentality but otherwise will not be regarded as having an interest in a matter by virtue of being a member, officer or employee of the agency or instrumentality.

(4) In this section—

*agency or instrumentality of the Crown* includes—

- (a) an administrative unit of the Public Service;
- (b) a body corporate comprised of, or including or having a governing body comprised of or including, a Minister or Ministers of the Crown or a person or persons appointed by the Governor or a Minister or other agency or instrumentality of the Crown.

#### **74—Dealing with material conflicts of interest**

(1) If a member of a council has a material conflict of interest in a matter to be discussed at a meeting of the council, the member must—

- (a) inform the meeting of the member's material conflict of interest in the matter; and
- (b) leave the meeting room (including any area set aside for the public) such that the member cannot view or hear any discussion or voting at the meeting, and stay out of the meeting room while the matter is being discussed and voted on.

Maximum penalty:

- (a) if the member votes on the matter with an intention to gain a benefit, or avoid a loss, for the member or another person—\$15 000 or 4 years imprisonment; or
- (b) in any other case—\$5 000.

(2) However, a member of the council does not contravene subsection (1) by taking part in the meeting, or being in the chamber where the meeting is being conducted, if the member—

- (a) has been granted an approval under subsection (3); and
- (b) is complying with the conditions of the approval.

(3) The Minister may grant an approval in writing to a member of the council to take part in the meeting, or to be in the chamber where the meeting is being conducted, if—

- (a) because of the number of members subject to the obligation under this section, conduct of the meeting would be obstructed if the approval were not given; or



- (b) it appears to the Minister to be in the interests of the council's community and area.
- (4) The Minister may grant an approval under subsection (3) subject to any conditions determined by the Minister.
- 5 (5) If a member of a council discloses a material conflict of interest in a matter to be discussed at a meeting of the council, the following details must be recorded in the minutes of the meeting and on a website determined by the chief executive officer:
- (a) the member's name;
- 10 (b) the nature of the interest, as described by the member;
- (c) if the member took part in the meeting, or was in the chamber during the meeting, under an approval under subsection (3), the fact that the member took part in the meeting, or was in the chamber during the meeting (as the case requires).
- 15 (6) This section does not apply to a matter of ordinary business of the council of a kind prescribed by regulation for the purposes of this section.

## Subdivision 2—Actual and perceived conflicts of interest

### 20 75—Actual and perceived conflicts of interest

- (1) In this Subdivision—
- actual conflict of interest*—see section 75A(1)(a);
- conflict of interest*—see subsections (2) and (3);
- perceived conflict of interest*—see section 75A(1)(b).
- 25 (2) For the purposes of this Subdivision but subject to this section, a *conflict of interest* is a conflict between—
- (a) a member of a council's interests (whether direct or indirect personal or pecuniary); and
- (b) the public interest,
- 30 that might lead to a decision that is contrary to the public interest.
- (3) A member of a council will not be regarded as having a conflict of interest in a matter to be discussed at a meeting of the council—
- (a) by reason only of—
- 35 (i) an engagement with a community group, sporting club or similar organisation undertaken by the member in his or her capacity as a member; or
- (ii) membership of a political party; or
- (iii) membership of a community group, sporting club or similar organisation (if the member is not an office holder for the group, club or organisation); or
- 40

(iv) the member having been a student of a particular school or his or her involvement with a school as parent of a student at the school; or

(v) a nomination or appointment as a member of a board of a corporation or other association, if the member was nominated for appointment by a council; or

(b) in prescribed circumstances.

(4) A member of a council will not be taken, for the purposes of this Subdivision, to have a conflict of interest in a matter to be discussed at a meeting of the council if the relevant member's interest in the matter is held in common with all or a substantial proportion of the ratepayers, electors or residents of the council area.

### **75A—Dealing with actual and perceived conflicts of interest**

(1) If, in relation to a matter to be discussed at a meeting of a council, a member of the council—

(a) has a conflict of interest in the matter (an *actual conflict of interest*); or

(b) could reasonably be taken, from the perspective of an impartial, fair-minded person, to have a conflict of interest in the matter (a *perceived conflict of interest*),

the member must deal with the actual or perceived conflict of interest in a transparent and accountable way.

(2) Without limiting subsection (1), the member must inform the meeting of—

(a) the member's interest in the matter; and

(b) if the member proposes to participate in the meeting in relation to the matter, how the member intends to deal with the actual or perceived conflict of interest.

(3) If a quorum at a meeting cannot be formed because a member of a council proposes to exclude himself or herself from the meeting in order to comply with subsection (1), the member will not be taken to have contravened subsection (1) by participating (including by voting, for example) in the meeting in relation to the matter if the attendance of the member, together with any other required number of members, forms a quorum for the meeting.

(4) If a member of a council discloses an actual or perceived conflict of interest in a matter to be discussed at a meeting of the council, the following details must be recorded in the minutes of the meeting and on a website determined by the chief executive officer:

(a) the member's name;

(b) the nature of the interest, as described by the member;

- (c) the manner in which the member dealt with the actual or perceived conflict of interest;
- (d) if the member voted on the matter, the manner in which he or she voted;
- (e) the manner in which the majority of persons who were entitled to vote at the meeting voted on the matter.

- (5) To avoid doubt, it is declared that non-participation in a meeting of a council is not the only way in which a member of the council may appropriately deal in a transparent and accountable way with an actual or perceived conflict of interest of the member in a matter to be discussed at the meeting.
- (6) This section does not apply to a matter of ordinary business of the council of a kind prescribed by regulation for the purposes of this section.

### **Subdivision 3—Other matters**

#### **75B—Application of Division to members and meetings of committees and subsidiaries**

- (1) The provisions of this Division extend to committees and to members of committees established by councils as if—
  - (a) a committee were a council; and
  - (b) a member of a committee were a member of a council.
- (2) The provisions of this Division extend to subsidiaries and to board members of subsidiaries as if—
  - (a) a subsidiary were a council; and
  - (b) a board member of a subsidiary were a member of a council.

#### **15—Amendment of section 76—Allowances**

- (1) Section 76(8)—delete "take effect from the first ordinary meeting of the council held after the conclusion of the relevant periodic election." and substitute:
  - be payable for the period—
    - (a) commencing on the conclusion of the relevant periodic election; and
    - (b) concluding at the time at which the last result of the next periodic election is certified by the returning officer under the *Local Government (Elections) Act 1999* (including in respect of a member of the council for whom the conclusion of the next periodic election is, for other purposes, the last business day before the second Saturday of November of the year of the periodic election as a result of the operation of section 4(2)(a)).
- (2) Section 76(11)—delete "A" and substitute:
  - Subject to subsection (8), a

## 16—Amendment of section 85—Quorum

Section 85(2) and (3)—delete subsections (2) and (3)

## 17—Amendment of section 90—Meetings to be held in public except in special circumstances

- 5 (1) Section 90(4)—after paragraph (b) insert:
- or
- (c) involve discussion of a matter that is controversial within the council area; or
- (d) make the council susceptible to adverse criticism.
- 10 (2) Section 90(7)—delete "and of the grounds on which it was made" and substitute:  
and specifying—
- (a) the grounds on which the order was made; and
- (b) the basis on which the information or matter to which the order relates falls within the ambit of each ground on which the order was
- 15 made; and
- (c) if relevant, the reasons that receipt, consideration or discussion of the information or matter in a meeting open to the public would be contrary to the public interest.
- (3) Section 90—after subsection (8) insert:
- 20 (8a) In addition, an informal gathering or discussion under subsection (8) may only be held if—
- (a) the council has adopted a policy on the holding of informal gatherings or discussions; and
- (b) the informal gathering or discussion complies with the
- 25 policy.
- (8b) A policy adopted under subsection (8a) must comply with any requirements prescribed by the regulations, and the regulations may (for example) include requirements that the policy provide for—
- (a) the imposition of limitations on the holding of informal gatherings or discussions; and
- 30 (b) procedures for approval of informal gatherings or discussions; and
- (c) the capacity of the council to impose conditions on an approval.
- 35 (8c) A council may from time to time alter its policy, or substitute a new policy.
- (8d) The council must ensure that a copy of the policy under subsection (8a) is available for inspection (without charge) at the principal office of the council during ordinary office hours and on a
- 40 website determined by the chief executive officer.

- (8e) A person is entitled, on payment of a fee fixed by the council, to a copy of a policy under subsection (8a).

### **18—Amendment of section 91—Minutes and release of documents**

Section 91(9)—after paragraph (a) insert:

- 5 (ab) in the case of an order of specified duration—
- (i) the duration of the order cannot be extended after the order has ceased to apply (as a result of the expiry of the period for which the order was specified to apply); and
- 10 (ii) an order extending the duration of such an order cannot be delegated by the relevant council or council committee; and

### **19—Amendment of section 92—Access to meetings and documents—code of practice**

Section 92(5)(a)—after "office" insert:

15 and available for inspection on a website determined by the chief executive officer

### **20—Amendment of section 97—Vacancy in office**

Section 97—after subsection (3) insert:

- 20 (4) Subject to subsection (5), a chief executive officer who resigns under subsection (2)(a) may, before the date that the resignation takes effect, withdraw the resignation by notice in writing to the council.
- (5) A withdrawal under subsection (4) is void and of no effect unless the council, by resolution, accepts the withdrawal.

### **21—Insertion of section 110A**

After section 110 insert:

#### **110A—Duty to protect confidential information**

- 25 (1) An employee or former employee of a council must not disclose information or a document in relation to which there is an order of a council or council committee in effect under section 90 requiring the information or document to be treated confidentially.
- 30 Maximum penalty: \$10 000 or 2 years imprisonment.
- (2) Nothing in subsection (1) prohibits the disclosure of information or a document where the disclosure is required or authorised by law.

### **22—Amendment of section 122—Strategic management plans**

(1) Section 122—after subsection (1a) insert:

- 35 (1b) The financial projections in a long-term financial plan adopted by a council must be consistent with those in the infrastructure and asset management plan adopted by the council.

(2) Section 122(6)—after "plans" insert:

(but nothing in this subsection is to be taken to limit subsection (5))

### **23—Amendment of section 123—Annual business plans and budgets**

(1) Section 123(4)(a)—after "area of the council" insert:

5 and on a website determined by the chief executive officer

(2) Section 123(5)—after "principal office of the council" insert:

and on the website

(3) Section 123(9)—after paragraph (b) insert:

and

10 (c) ensure that electronic copies of the annual business plan and the budget (as adopted) are published on a website determined by the chief executive officer.

### **24—Amendment of section 126—Audit committee**

Section 126(4)(ad)—delete paragraph (ad)

### **25—Amendment of section 132—Access to documents**

(1) Section 132(3)—delete "the Internet" and substitute:

a website determined by the chief executive officer

(2) Section 132—after subsection (3) insert:

20 (3a) To avoid doubt, if an order under section 91(7) expires or ceases to apply in relation to a document or part of a document, the council must make the document or part of the document (as the case requires) available for inspection on the website referred to in subsection (3) within a reasonable time after it is available for inspection under section 91(5) at the principal office of the council.

### **26—Amendment of section 155—Service rates and service charges**

Section 155(5a)—delete "that fixes a price" and substitute:

regulating prices, conditions relating to prices, and price-fixing factors

### **27—Amendment of section 169—Objections to valuations made by council**

(1) Section 169(1)(b)—delete paragraph (b)

30 (2) Section 169(15)—delete subsection (15) and substitute:

(15) A person who is dissatisfied with—

(a) the decision of a valuer on reconsideration of a valuation on an objection under subsection (1)(a); or

(b) the decision of a valuer after a further review on a request under subsection (8),

35 may apply to SACAT for a review of the decision.

(15aa) However, the right of review conferred by subsection (15)(a) may not be exercised by the council.

(3) Section 169(15a)—delete "subsections (1)(b) and" and substitute:  
subsection

(4) Section 169(15a)(a)—delete paragraph (a) and substitute:

(a) an application for a review by SACAT must be made within 21 days after the applicant receives notice of the relevant decision (unless SACAT, in its discretion, allows an extension of time for making the application); and

## **28—Amendment of section 174—Inspection of assessment record**

Section 174—after subsection (2) insert:

(3) A person who inspects the assessment record or obtains a copy of an entry made in the assessment record under this section must not use the information so obtained for advertising or marketing activities for commercial purposes.

Maximum penalty: \$10 000

## **29—Amendment of section 202—Alienation of community land by lease or licence**

Section 202—delete "21" wherever occurring and substitute in each case:

42

## **30—Amendment of section 219—Power to assign a name, or change the name, of a road or public place**

Section 219(7)—delete subsection (7) and substitute:

(7) Notice of the adopting or altering of a policy under this section must be published—

(a) in the Gazette; and

(b) in a newspaper circulating within the area of the council;  
and

(c) on a website determined by the chief executive officer.

## **31—Insertion of section 234A**

After section 234 insert:

### **234A—Prohibition of traffic or closure of streets or roads**

(1) Subject to this section, a council may, by resolution supported by an absolute majority of the members of the council, exclude vehicles (either generally or of a particular class) from the whole or any part of a road or public place.

(2) The council may, by further resolution, vary or revoke a resolution under subsection (1).

- 5
- (3) A resolution or resolutions passed under this section may only operate so as to exclude vehicles from the whole or part of a particular road for a maximum period of 30 days in a year.
- (4) To avoid doubt, a resolution passed under this section cannot be extended, renewed or remade so as to operate to exclude vehicles from the whole or part of a particular road for more than the maximum period of 30 days in a year.
- 10
- (5) Subject to the *Road Traffic Act 1961*, the council may erect such barricades or other traffic control devices as are necessary to give effect to a resolution passed under this section.
- (6) A resolution passed under this section cannot take effect before it has been published—
- 15
- (a) in the Gazette; and
- (b) in a newspaper circulating within the area of the council; and
- (c) on a website determined by the chief executive officer.
- (7) A person who contravenes or fails to comply with a resolution under this section is guilty of an offence.
- 20
- Maximum penalty: \$5 000.  
Expiation fee: \$210.

### **32—Amendment of section 237—Removal of vehicles**

- (1) Section 237(3)—delete subsection (3) and substitute:
- 25
- (3) The regulations may provide that subsections (1) and (2) do not apply, or apply with prescribed variations, in circumstances or a class of circumstances prescribed in the regulations.
- (3a) To avoid doubt, a vehicle parked or left standing on a public road in a manner that does not contravene a law regulating the parking or standing of vehicles on public roads will be taken not to have been ***left on a public road*** for the purposes of subsection (1), unless the vehicle has, in the opinion of the authorised person, been abandoned.
- 30
- (2) Section 237(4)—delete "and of the place to which the vehicle was removed"

### **33—Amendment of section 246—Power to make by-laws**

Section 246(2)—delete subsection (2) and substitute:

- 35
- (2) Without limiting subsection (1), a council has a general power to make by-laws for the good rule and government of the area, and for the convenience, comfort and safety of its community.



### **34—Amendment of section 264—Complaint lodged in District Court**

(1) Section 264(1) and (2)—delete subsections (1) and (2) and substitute:

(1) A complaint setting out the matters that are alleged to constitute the grounds for complaint against a member of a council under this Part may be lodged with the District Court by—

- (a) a person authorised in writing by the Minister or the council for the purposes of this section; or
- (b) the chief executive officer of the council.

(2) However, a person referred to in subsection (1)(a) or (b) may not lodge a complaint unless the matter has been investigated by the Ombudsman or the Independent Commissioner Against Corruption.

(2) Section 264(3)—delete "approval under subsection (2)" and substitute:  
authorisation under subsection (1)(a)

(3) Section 264(3)—delete "approval" second occurring and substitute:  
authorisation

### **35—Amendment of section 265—Hearing by District Court**

Section 265(2)(a)—after "Ombudsman" insert:

, the Independent Commissioner Against Corruption

### **36—Amendment of section 270—Procedures for review of decisions and requests for services**

Section 270(a1)(a)—delete "provided by the council; or" and substitute:  
provided by the council; and

### **37—Amendment of section 271—Mediation, conciliation and neutral evaluation**

(1) Section 271(5)—after "mediator" insert:  
, conciliator

(2) Section 271(6)—after "mediation" insert:  
, conciliation

(3) Section 271(7)—after "mediator" insert:  
, conciliator

(4) Section 271(8)—after "mediator" insert:  
, conciliator

### **38—Amendment of section 294—Power to enter and occupy land in connection with an activity**

Section 294(6)(a)—delete "450 metres of the curtilage of a house" and substitute:  
500 metres of a house or dwelling

### 39—Repeal of section 299

Section 299—delete the section

### 40—Amendment of Schedule 2—Provisions applicable to subsidiaries

(1) Schedule 2, Part 1, clause 3(5)(b)—delete "in the Gazette" and substitute:

on a website determined by the chief executive officer

(2) Schedule 2, Part 1, clause 3(5)—after paragraph (b) insert:

and

(c) ensure that notice of the fact of the amendment and a website address at which the charter is available for inspection is published in the Gazette.

(3) Schedule 2, Part 1, clause 9(3)—after "its" insert:

adopted

(4) Schedule 2, Part 1, clause 19(5)(b)—delete "in the Gazette" and substitute:

on a website (or websites) determined by the chief executive officers of the constituent councils

(5) Schedule 2, Part 2, clause 19(5)—after paragraph (b) insert:

and

(c) ensure that a notice of the fact of the amendment and a website address at which the charter is available for inspection is published in the Gazette.

(6) Schedule 2, Part 2, clause 25(3)—after "its" insert:

adopted

## Schedule 1—Related amendment, repeal and transitional provisions

### Part 1—Related amendment to *City of Adelaide Act 1998*

#### 1—Amendment of section 24—Allowances

(1) Section 24(8)—delete "take effect from the first ordinary meeting of the Council held after the conclusion of the relevant periodic election." and substitute:

be payable for the period—

(a) commencing on the conclusion of the relevant periodic election; and

(b) concluding at the time at which the last result of the next periodic election for the City of Adelaide held under the *Local Government (Elections) Act 1999* is certified by the returning officer under that Act (including in respect of a member of the Council for whom the conclusion of the next periodic election is, for other purposes, the last business day before the second Saturday of November of the year of the periodic election as a result of the operation of section 4(2)(a) of the *Local Government Act 1999*).

(2) Section 24(9)—delete "the determination" and substitute:  
the relevant periodic election

(3) Section 24(11)—delete "A" and substitute:  
Subject to subsection (8), a

## 5 **Part 2—Repeal of *Local Government Act 1934***

The *Local Government Act 1934* is repealed.

## **Part 3—Transitional provisions**

### **Division 1—Transitional provisions related to repeal of *Local Government Act 1934***

#### 10 **2—Preliminary**

In this Division—

*Minister* means the Minister responsible for the administration of the *Local Government Act 1999*;

*principal Act* means the *Local Government Act 1934*;

15 *relevant day* means the day on which Part 2 of this Schedule comes into operation.

#### **3—Prohibition of traffic or closure of streets or roads**

A resolution passed under section 359 of the principal Act and in force on the relevant day will continue to have force and effect unless or until the resolution expires or is revoked by the council (and that section will continue to apply in relation to any such resolution as if the principal Act had not been repealed).

#### **4—By-laws**

(1) A by-law made under section 667 of the principal Act and in force on the relevant day (other than a by-law made under section 667(1) 4 or 9 XVI) will continue to have force and effect unless or until the by-law expires or is revoked by the council (and that section will continue to apply in relation to any such by-law as if the principal Act had not been repealed).

(2) A by-law made under section 667(1) 4 of the principal Act and in force on the relevant day will continue to have force and effect until—

(a) a day designated by the Minister by notice in the Gazette; or

(b) if the by-law expires or is revoked by the council before a day is designated by the Minister—the day on which the expiry or revocation takes effect,

(and section 667(1) 4 of the principal Act will continue to apply in relation to any such by-law as if the principal Act had not been repealed).

(3) The *Local Government Act 1999* applies to and in relation to by-laws continued in operation under subclause (1) and (2) as if they were by-laws made under that Act.

(4) A by-law made under section 667(1) 9 XVI of the principal Act and in force on the relevant day will be taken to be a by-law made under section 246(2) of the *Local Government Act 1999* (as to be inserted by this Act).

- 5 (5) Any process or proceeding commenced by a council in relation to the making of a by-law under section 667(1) 9 XVI of the principal Act before the relevant day may be completed as if the principal Act had not been repealed and the by-law will, if or when it is made, have effect as if it was made under section 246(2) of the *Local Government Act 1999* (as to be inserted by this Act).

## **Division 2—Transitional provision related to objections to valuations**

### **5—Transitional provision—objections to valuations**

- 10 (1) The repeal of section 169(1)(b) of the principal Act by section 27(1) does not affect—

- (a) any proceedings before the Tribunal commenced before the relevant day under section 169(1)(b) of the principal Act in existence before that day; or  
(b) a right to apply for a review by the Tribunal under section 169(1)(b) of the principal Act in existence before the relevant day (but not exercised before that day).

- 15 (2) In this section—

***principal Act*** means the *Local Government Act 1999*;

***relevant day*** means the day on which section 27(1) comes into operation;

***Tribunal*** means the South Australian Civil and Administrative Tribunal.