

**Legislative Council—No 124**

As introduced and read a first time, 26 May 2021

South Australia

**Walking and Cycling Commissioner Bill 2021**

A BILL FOR

An Act to establish a Walking and Cycling Commissioner and for other purposes.

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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 *Walking and Cycling Commissioner Act 2021*.

#### 5 2—Commencement

This Act comes into operation 3 months after the day on which it is assented to by the Governor.

#### 3—Interpretation

In this Act, unless the contrary intention appears—

10 **Commissioner** means the person for the time being holding or acting in the office of the Walking and Cycling Commissioner under Part 2;

**State authority** means—

- 15 (a) a person who holds an office established by an Act; or
- (b) a public sector agency (within the meaning of the *Public Sector Act 2009*); or
- (c) a local council constituted under the *Local Government Act 1999*; or
- (d) any incorporated or unincorporated 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
- 5 (iii) established, or subject to control or direction, by the Governor, a Minister of the Crown or any instrumentality or agency of the Crown or a local council (whether or not established by or under an Act or an enactment); or
- (e) any other person or body, or person or body of a class, declared by the regulations to be a State authority,
- 10 but does not include a person or body, or person or body of a class, declared by the regulations to be excluded from the ambit of this definition.

## Part 2—Walking and Cycling Commissioner

### 4—Walking and Cycling Commissioner

- (1) There is to be a Walking and Cycling Commissioner.
- 15 (2) The Commissioner will be appointed by the Governor and is an agency of the Crown.
- (3) The Commissioner is independent of direction or control by the Crown or any Minister or officer of the Crown.

### 5—Appointment of Commissioner

- 20 (1) The Commissioner will be appointed for a term not exceeding 5 years and on conditions determined by the Governor and, at the end of a term of appointment, will be eligible for reappointment.
- (2) The appointment of the Commissioner may be terminated by the Governor on the ground that the Commissioner—
- 25 (a) has been guilty of misconduct; or
- (b) has been convicted of an offence punishable by imprisonment; or
- (c) has become bankrupt or has applied to take the benefit of a law for the relief of insolvent debtors; or
- (d) has been disqualified from managing corporations under Chapter 2D Part 2D.6 of the *Corporations Act 2001* of the Commonwealth; or
- 30 (e) has, because of mental or physical incapacity, failed to carry out duties of the position satisfactorily; or
- (f) is incompetent or has neglected the duties of the position.
- (3) The appointment of the Commissioner is terminated if the Commissioner—
- 35 (a) becomes a member, or a candidate for election as a member, of the Parliament of a State or the Commonwealth or a Legislative Assembly of a Territory of the Commonwealth; or
- (b) is sentenced to imprisonment for an offence.
- (4) The Commissioner may resign by notice in writing to the Governor of not less than 3 months (or such shorter period as is accepted by the Governor).

**6—Functions of Commissioner**

- (1) The functions of the Commissioner are—
  - (a) to encourage walking and cycling as modes of travel; and
  - (b) to promote the health, environmental, social and economic benefits of walking and cycling; and
  - (c) to prepare and promote strategies to make walking and cycling accessible and inclusive for all people in the State, including by promoting the installation of walking and cycling infrastructure designed to facilitate safe and efficient walking and cycling; and
  - (d) to provide advice and assistance to Ministers, State authorities and other bodies (including non-Government bodies) on matters related to walking and cycling, including implementing the strategies referred to in paragraph (c); and
  - (e) to undertake or commission research into topics related to walking and cycling; and
  - (f) to prepare and publish reports on matters related to walking and cycling; and
  - (g) any other functions conferred on the Commissioner by or under this or any other Act.
- (2) The Commissioner may, if the Commissioner considers it appropriate to do so, undertake the functions in subsection (1) in respect of active and sustainable modes of travel other than walking and cycling.

**7—Appointment of acting Commissioner**

- (1) The Governor may appoint a person (who may be a Public Service employee) to act as the Commissioner during any period for which—
  - (a) no person is for the time being appointed as the Commissioner; or
  - (b) the Commissioner is absent from, or unable to discharge, official duties.
- (2) The terms and conditions of appointment of the person appointed to act as the Commissioner will be determined by the Governor.

**8—Honesty and accountability**

The Commissioner and any other person appointed to act as the Commissioner are senior officials for the purposes of the *Public Sector (Honesty and Accountability) Act 1995*.

**9—Staff and resources**

The Commissioner may, by agreement with the Minister responsible for an administrative unit of the Public Service, make use of the services of the staff, equipment or facilities of that administrative unit.

## 10—Delegation

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- (1) Subject to this section, the Commissioner may delegate a function or power under this Act (other than a prescribed function or power) to any person or body that is, in the Commissioner's opinion, competent to perform or exercise the relevant function or power.
- (2) A delegation under this section—
- (a) must be in writing; and
  - (b) may be conditional or unconditional; and
  - (c) is revocable at will; and
  - 10 (d) does not prevent the delegator from acting in any matter.
- (3) A function or power delegated under this section may, if the instrument of delegation so provides, be further delegated.

## Part 3—Miscellaneous

### 11—Annual report

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- (1) The Commissioner must, on or before 30 September in each year, prepare and deliver to the Minister a report on the operations of the Commissioner during the previous financial year.
- (2) The Minister must, within 12 sitting days after receiving a report under this section, cause a copy of the report to be laid before both Houses of Parliament.

### 20 12—Regulations

The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.