

South Australia

Linear Parks Act 2006

An Act to make provision for the River Torrens Linear Park, and other linear parks; and for other purposes.

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Legislative history

The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Linear Parks Act 2006*.

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.

3—Interpretation

In this Act, unless the contrary intention appears—

council means a council within the meaning of the *Local Government Act 1999*;

GRO means the General Registry Office at Adelaide;

linear park means—

- (a) the River Torrens Linear Park as defined (from time to time) by the River Torrens Linear Park Public Lands Plan; or
- (b) another linear park as defined (from time to time) by a relevant plan,

as the case requires;

plan means—

- (a) the River Torrens Linear Park Public Lands Plan; or
- (b) a plan defining some other linear park deposited in the GRO by the Minister for the purposes of this paragraph and identified by the Minister by notice in the Gazette,

as the case requires;

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

River Torrens Linear Park Public Lands Plan means Plan No 13 of 2007 deposited in the GRO on 2 March 2007, as varied or substituted from time to time under this Act;

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

State agency means—

- (a) the Crown or a Minister of the Crown;
- (b) an agency or instrumentality of the Crown (including a Department or administrative unit of the State);
- (c) a council;
- (d) any other prescribed person or prescribed body acting under the express authority of the Crown,

but does not include a person or body excluded from the ambit of this definition by regulation.

4—Linear parks

- (1) The Minister may, by plan under this Act—
 - (a) establish a linear park consisting of—
 - (i) unalienated Crown land; or
 - (ii) land owned by, or under the control of, the Minister or another agency or instrumentality of the Crown; or
 - (iii) land owned by, or under the care, control or management of, a council; and
 - (b) assign a name to the linear park so established.
- (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.
- (3) The Minister may, by instrument deposited in the GRO, vary a plan under this Act.
- (4) However—
- (a) a variation to add land to a linear park must relate to—
 - (i) unalienated Crown land; or
 - (ii) land owned by, or under the control of, the Minister or another agency or instrumentality of the Crown; or
 - (iii) land owned by, or under the care, control or management of, a council; and
 - (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
 - (c) a variation may not be made by virtue of which land ceases to be included in a linear park except in accordance with a resolution passed by both Houses of Parliament.
- (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.

5—Sale of land

- (1) Subject to this section, land within a linear park may not be sold or otherwise disposed of except in accordance with a resolution passed by both Houses of Parliament.
- (2) This section does not apply to the sale or other disposal of land to a State agency.

6—Special provisions relating to roads

- (1) 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" will be taken to be a public road (and to have been established in accordance with the *Roads (Opening and Closing) Act 1991*).

- (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*.
- (2) The Minister may, by instrument deposited in the GRO, vary a plan to ensure consistency with any road process under the *Roads (Opening and Closing) Act 1991*.
- (3) An instrument under subsection (2) will have effect despite any other section.

7—Effect of other Acts

- (1) The Minister may, by instrument deposited in the GRO, vary a plan to ensure consistency with the operation or effect of another Act (including an Act amending another Act) enacted after 4 August 2006.
- (2) An instrument under subsection (1) will have effect despite any other section.

8—Related matters

- (1) For the purposes of a provision of this Act, a plan may be varied by the substitution of a new plan.
- (2) If the Minister deposits an instrument in the GRO under this Act, the Minister must give public notice of that fact within a reasonable time after the instrument is deposited.
- (3) The Minister and each council within whose area a linear park is situated must ensure that copies of the plan of any such linear park are kept available for public inspection—
 - (a) in the case of the Minister—at the principal office of the Minister's department; and
 - (b) in the case of a council—at the principal office of the council,(and at such other locations as the Minister and councils think fit).

9—Acquisition of land

- (1) The Minister may, subject to and in accordance with the *Land Acquisition Act 1969*, acquire land for the purpose of increasing the area of a linear park.
- (2) If a notice of intention to acquire land has been served, a person who wilfully damages the land is guilty of an offence.

Maximum penalty: \$100 000 or imprisonment for 12 months.

- (3) If the Minister has reasonable cause to suspect that a person may act in contravention of subsection (2), a police officer may enter on the land and exercise such force as may be necessary or expedient to prevent the commission of an offence under that subsection.

10—Regulations

- (1) Subject to subsection (3), 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) Regulations under this Act—
 - (a) may make different provision according to the matters or circumstances to which they are expressed to apply; and
 - (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.
- (3) A regulation cannot be made under this Act unless the Minister has given the Local Government Association of South Australia notice of the proposed regulation and given consideration to any submission made by the Association within a period (of between 3 and 6 weeks) specified by the Minister.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- 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.

Formerly

River Torrens Linear Park Act 2006

Legislation repealed by principal Act

The *Linear Parks Act 2006* repealed the following:

River Torrens Acquisition Act 1970

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
2006	7	<i>River Torrens Linear Park Act 2006</i>	29.6.2006	4.8.2006 (<i>Gazette 27.7.2006 p2400</i>)
2009	80	<i>River Torrens Linear Park (Linear Parks) Amendment Act 2009</i>	10.12.2009	1.3.2010 (<i>Gazette 18.2.2010 p819</i>)
2017	59	<i>Linear Parks (Miscellaneous) Amendment Act 2017</i>	12.12.2017	12.12.2017

Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended under <i>Legislation Revision and Publication Act 2002</i> and by 80/2009 s 4 amended by 59/2017 s 3(1), (2)	1.3.2010 12.12.2017
s 1	amended by 80/2009 s 5	1.3.2010
s 2	omitted under <i>Legislation Revision and Publication Act 2002</i> inserted by 59/2017 s 4	1.3.2010 12.12.2017
s 3 linear park	inserted by 80/2009 s 6(1)	1.3.2010

<i>Plan</i>	<i>deleted by 80/2009 s 6(1)</i>	<i>1.3.2010</i>
plan	inserted by 80/2009 s 6(1)	1.3.2010
<i>River Torrens Linear Park</i>	<i>deleted by 80/2009 s 6(2)</i>	<i>1.3.2010</i>
River Torrens Linear Park Public Lands Plan	inserted by 80/2009 s 6(2)	1.3.2010
SA planning portal	inserted by 59/2017 s 5	12.12.2017
s 4	substituted by 80/2009 s 7	1.3.2010
s 4(1)	amended by 59/2017 s 6(1)—(3)	12.12.2017
s 4(2)	substituted by 59/2017 s 6(4)	12.12.2017
s 4(4)	amended by 59/2017 s 6(5), (6)	12.12.2017
s 4(5) and (6)	inserted by 59/2017 s 6(7)	12.12.2017
s 5		
s 5(1)	amended by 80/2009 s 8	1.3.2010
s 6		
s 6(1)	amended by 80/2009 s 9(1)	1.3.2010
	amended by 59/2017 s 7(1)	12.12.2017
s 6(1a)—(1d)	inserted by 59/2017 s 7(2)	12.12.2017
s 6(2)	amended by 80/2009 s 9(2)	1.3.2010
s 7		
s 7(1)	amended by 80/2009 s 10(1), (2)	1.3.2010
s 8		
s 8(1)	amended by 80/2009 s 11(1)	1.3.2010
s 8(3)	amended by 80/2009 s 11(2)—(4)	1.3.2010
s 9		
s 9(1)	amended by 80/2009 s 12	1.3.2010
<i>Sch 1</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.3.2010</i>

Historical versions

1.3.2010