

South Australia

## Roads (Opening and Closing) Regulations 2006

under the *Roads (Opening and Closing) Act 1991*

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### Legislative history

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#### 1—Short title

These regulations may be cited as the *Roads (Opening and Closing) Regulations 2006*.

#### 2—Commencement

- (1) Subject to subregulation (2), these regulations will come into operation on 1 September 2006.
- (2) Regulations 10 to 12 (inclusive) will come into operation on the day on which Part 8 of Schedule 1 of the *Adelaide Park Lands Act 2005* comes into operation.

#### 3—Interpretation

In these regulations, unless the contrary intention appears—

**Act** means the *Roads (Opening and Closing) Act 1991*;

**unmade road** means a road that is not sealed with bitumen (or other surfacing material) for use by motor vehicles.

#### 4—Prescribed public utilities

- (1) For the purposes of the definition of **prescribed public utility** in section 3(1) of the Act, a prescribed public utility is an entity within the ambit of a declaration made by the Surveyor-General by notice published in the Gazette for the purposes of this regulation.

- (2) The Surveyor-General may, by subsequent notice in the Gazette, vary a previous declaration under subregulation (1).

## 5—Prescribed public authorities

For the purposes of paragraph (d) of the definition of *person affected* in section 3(1) of the Act, the following are prescribed public authorities in relation to land of the class prescribed:

- (a) the Commissioner of Highways, in relation to land vested in, or under the care, control and management of, the Commissioner pursuant to the *Highways Act 1926* that adjoins land subject to a road process or proposed road process or that is near such land and may be affected by the road process or proposed road process;
- (b) the Coast Protection Board, in relation to land within a coast protection district constituted under Part 3 of the *Coast Protection Act 1972* that is subject to, or adjoins land that is subject to, a road process or proposed road process;
- (c) the National Parks and Wildlife Service, in relation to land within a national park, conservation park, game reserve, recreation park or regional reserve constituted under the *National Parks and Wildlife Act 1972* that adjoins land that is subject to a road process or proposed road process;
- (d) the Native Vegetation Council, in relation to land subject to a road opening or proposed road opening on which native vegetation within the meaning of the *Native Vegetation Act 1991* is growing;
- (e) the administrative unit responsible for assisting the Minister for Recreation, Sport and Racing, in relation to land forming the whole or a part of an unmade road that is subject to a road closure or proposed road closure.

## 6—Public notice of proposed road process

- (1) For the purposes of section 10 of the Act, public notice of a proposed road process must be given in accordance with this regulation.
- (2) The notice of a proposed road process must—
  - (a) describe, with reasonable particularity, the nature of the proposal; and
  - (b) specify, by means of a clear and accurate diagram, or other description determined by the Surveyor-General, the land subject to the proposed road process; and
  - (c) where the proposed road process is or includes a road closure—specify the manner in which it is intended to deal with each part of the land that is subject to the closure; and
  - (d) state the address of an office of the council and the times at which the preliminary plan and statement prepared by the council pursuant to section 9 of the Act are available for examination by the public and indicate that the plan and statement are also available for inspection on request at the Adelaide office of the Surveyor-General during normal office hours; and

- (e) state that any person who objects to the proposal may lodge a written objection for the consideration of the relevant authority at a meeting of the authority, and indicate—
    - (i) the time within which such an objection must be made; and
    - (ii) where the objection should be lodged; and
    - (iii) the information that the objection should contain; and
  - (f) where the proposed road process is or includes a road closure—state that an adjoining landowner or other person substantially affected by the closure who wishes to apply for an easement over any part of the land subject to the closure may do so in accordance with these regulations, and indicate—
    - (i) the time within which such an application must be made; and
    - (ii) where the application should be lodged; and
    - (iii) the information that the application should contain.
- (3) The notice must be published in the Gazette and in a newspaper circulating generally in the area in which the proposed road process is to be undertaken.

## **7—Form of objection to proposed road process**

- (1) For the purposes of section 13(3) of the Act, a notice of objection to a proposed road process must comply with this regulation.
- (2) The notice must—
  - (a) be in writing; and
  - (b) set out the full name and address of the person making the objection; and
  - (c) state with reasonable particularity the reasons for the objection; and
  - (d) state whether the objector wishes to make submissions to the relevant authority at any meeting held by the authority to consider objections and applications made in relation to the proposed road process.

## **8—Form of application for easement**

- (1) For the purposes of section 13(3) of the Act, a notice of application for the grant of an easement over land subject to a proposed road closure must comply with this regulation.
- (2) The application must—
  - (a) be in writing; and
  - (b) set out the full name and address of the person applying for the grant; and
  - (c) give full particulars of the nature and location of the easement that is being applied for; and
  - (d) where the application is made by a person as the owner of adjoining or nearby land—specify the land to which the easement is to be annexed; and
  - (e) state with reasonable particularity the reasons for the application for the grant of the easement.

## **9—Notice of discontinuance of road opening**

- (1) For the purposes of section 15(3)(c), 19(b)(ii), 20(3)(b) or 24(2)(b)(ii) of the Act, where a proposed road opening is discontinued in respect of the whole or a part of the land that was subject to the proposed opening, a notice of discontinuance given by a council or the relevant authority to a person who has an interest in that land must be given in accordance with this regulation.
- (2) The notice of discontinuance must—
  - (a) state that notice of a proposed road opening over land in which the person has an interest was given under the Act and specify—
    - (i) the date of that notice; and
    - (ii) the name of the council that commenced the road opening; and
  - (b) indicate that the road opening has been discontinued in respect of the whole or a part of that land; and
  - (c) specify, by means of a diagram or written description or a combination of the two, the land that is no longer subject to the proposed road opening; and
  - (d) state that the person may, by written notice served on the council, claim compensation from the council pursuant to section 32 of the Act and indicate—
    - (i) the time within which such a claim must be made; and
    - (ii) where the claim should be lodged; and
    - (iii) the matters, specified in Part 3 of the *Land Acquisition Act 1969*, in respect of which compensation may be claimed.

## **10—Adelaide Park Lands—information**

- (1) For the purposes of section 34G(2)(b) of the Act, an application pursuant to section 6B of the Act must comply with this regulation.
- (2) The application must include the following matters:
  - (a) the applicant's reasons for making the application; and
  - (b) evidence that the applicant has undertaken research or consulted on the potential impacts of the proposal; and
  - (c) findings resulting from the research or consultations provided by the applicant under paragraph (b); and
  - (d) evidence that the applicant has considered and investigated alternative options, and the basis for the decision to proceed with the proposal.

## **11—Adelaide Park Lands—public notice of application**

- (1) For the purposes of section 34G(4)(a) of the Act, public notice of an application must be given in accordance with this regulation.
- (2) The notice of an application must—
  - (a) describe, with reasonable particularity, the nature of the proposal; and

- (b) specify, by means of a clear and accurate diagram, or other description determined by the Surveyor-General—
    - (i) the land subject to the proposal; and
    - (ii) the effect on any land adjoining the relevant road, including any loss of land as a result of the proposal; and
  - (c) if the proposal includes a road closure—specify the manner in which it is intended to deal with each part of the land that is subject to the closure; and
  - (d) state the address of an office and the times at which the information provided by the applicant under section 34G(2) of the Act is available for examination by the public and indicate that the information is also available for inspection on request at the Adelaide office of the Surveyor-General during normal office hours; and
  - (e) state that any person who objects to the proposal or wishes to comment on the proposal may lodge a written objection or provide a written comment for the consideration of the applicant, and indicate—
    - (i) where the objection or comment should be lodged; and
    - (ii) the information that the objection or comment should contain, including the full name and address of the person making the objection or comment; and
    - (iii) the time within which the objection or comment should be made in accordance with section 34G(5) of the Act; and
  - (f) where the proposal is or includes a road closure—state that an adjoining landowner or other person substantially affected by the closure who wishes to apply for an easement over any part of the land subject to the closure may do so in accordance with regulation 8.
- (3) The notice must be published in the Gazette and in a newspaper circulating generally in the State.

## **12—Adelaide Park Lands—road closure processes**

Pursuant to subsection (15) of section 34G of the Act, Parts 4 and 8 of the Act are modified to the extent necessary to ensure that the following provisions may take effect:

- (a) the order made by the Minister under that section will operate under those Parts of the Act as if it were a road process order;
- (b) the Minister may issue a closed road title certificate so that the land to which the certificate relates may be vested in the Crown and merged with adjoining land;
- (c) if the Minister so indicates in an order under section 34G of the Act or in a closed road title certificate, the land will be taken to be placed under the care, control and management of The Corporation of the City of Adelaide as park lands;
- (d) the Registrar-General may take such action as is necessary to give effect to an order of the Minister under section 34G of the Act, or to any provision made by this regulation;

- (e) to the extent that the Commissioner of Highways makes an alteration to a road that is fenced along one or both of its boundaries—the Commissioner will be responsible for ensuring that the road as altered is fenced along its boundaries with a fence of the same nature as the fence previously on the boundary of the road and abutting the land.

### **13—Revocation of regulations**

The *Roads (Opening and Closing) Regulations 1991* are revoked.

## Legislative history

### Notes

- 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](http://www.legislation.sa.gov.au).

### Principal regulations

| Year | No  | Reference                      | Commencement                              |
|------|-----|--------------------------------|-------------------------------------------|
| 2006 | 199 | <i>Gazette 17.8.2006 p2834</i> | 1.9.2006 except rr 10—12—uncommenced: r 2 |