

RUNDLE STREET MALL ACT, 1975

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RUNDLE STREET MALL ACT, 1975

being

Rundle Street Mall Act, 1975, No. 52 of 1975 [Assented to 10th April, 1975].

An Act to provide for the establishment, management and operation of a Mall to be known as the Rundle Street Mall, for purposes incidental thereto, and for other purposes.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PART I

PRELIMINARY

1. This Act may be cited as the "Rundle Street Mall Act, 1975".

Short title.

2. This Act is arranged as follows:—

Arrangement of Act.

PART I—PRELIMINARY

PART II—ESTABLISHMENT OF THE MALL

PART III—POWERS OF THE COUNCIL

PART IV—GOVERNMENT GRANT

PART V—THE COMMITTEE

PART VI—THE PARKING STATION

PART VII—MISCELLANEOUS

THE SCHEDULE.

3. In this Act, unless the contrary intention appears—

Interpretation.

"the access and egress areas" means the areas more particularly delineated on the plan set out in the schedule hereto and light stippled:

"the car park site" means the whole of the land comprised in Certificates of Title Register Book Volume 2044 Folio 60, Register Book Volume 1598 Folio 196 and Register Book Volume 1929 Folio 35:

"the Committee" means the Rundle Street Mall Committee established by section 15 of this Act:

"the Council" means the council of The Corporation of the City of Adelaide:

"financial year" means any period of twelve months ending on the thirtieth day of June:

"the Mall" means the mall established under section 5 of this Act:

“member” in relation to the Committee includes the member for the time being appointed as chairman of the Committee:

“ratable property” means property upon which a special rate may be declared pursuant to section 9 of this Act:

“the special rate area” means the land more particularly delineated on the plan set out in the schedule to this Act and hachured:

“the works” means all works and conveniences necessary or convenient to be carried out in connection with or incidental to the establishment of the Mall and the access and egress areas and includes the provision of furniture, equipment and fittings for the Mall but does not include any activity relating to the cleaning, maintenance, operation or development of the Mall.

PART II

PART II

ESTABLISHMENT OF THE MALL

Fixing of
appointed day.

4. The Governor may, by proclamation, fix a day in this Part referred to as “the appointed day”.

Establishment
of Mall.

5. On and from the appointed day the land more particularly delineated on the plan set out in the schedule to this Act and dark stippled is established as a mall to be known as the “Rundle Street Mall”.

Restriction on
vehicle traffic in
Mall.

6. Notwithstanding any other Act or law, on and from the appointed day a person shall not—

(a) drive or suffer or permit a vehicle to be driven on any part of the Mall;

or

(b) suffer or permit a vehicle to be or remain on any part of the Mall, otherwise than in accordance with a notice or permit made or given by or on behalf of the Council under this Act.

Penalty: Not less than one hundred dollars and not more than two hundred dollars.

PART III

PART III

POWERS OF THE COUNCIL

Constitution
and provision of
the works.

7. (1) In addition to and not in derogation from any other power elsewhere conferred on it, the Council may undertake or provide the works, and do all things necessary for or incidental to that undertaking or provision.

(2) The Mall and the works shall be deemed to be a permanent work or undertaking for the purposes of the Local Government Act, 1934-1974¹.

Additional
borrowing
powers of
Council.

8. In addition to the borrowing powers elsewhere conferred on it, the Council may, from time to time, without further or other authority or consent borrow such amounts of money not exceeding in the aggregate six hundred thousand dollars for the purposes of undertaking and providing the works.

¹ Now Local Government Act, 1934-1975.

9. (1) In addition to any other rating powers conferred on it, but subject to subsection (3) of this section the Council may, in respect of any financial year, declare a special rate upon property within the special rate area.

(2) In the exercise of its powers under subsection (1) of this section, the Council may declare differential special rates that vary according to the use to which the ratable property is put or according to any other criteria as determined by the Council.

(3) A special rate declared under this section shall not in any one financial year exceed five cents in the dollar on the assessed value of the ratable property.

(4) The Council may in respect of any financial year remit in whole or in part the special rate provided for by this section.

(5) Part XIII and Part XIV of the Local Government Act, 1934-1974¹, shall apply to and in relation to a special rate declared under this section as if that special rate were a rate declared under that Act.

(6) Subject to subsection (7) of this section, the revenue accruing to the Council from the special rate declared under this section may be applied by the Council for any one or more of the following purposes:—

- (a) providing for the repayment with interest of not more than half of the moneys borrowed by the Council pursuant to section 8 of this Act;
 - (b) making grants to the Committee to assist it in the exercise and performance of its powers and functions;
 - (c) defraying the costs of cleaning, maintenance, operation and development of the Mall;
- and
- (d) any other purposes connected with the operation, management, development and promotion of the Mall,

but for no other purpose.

(7) Subsection (6) of this section shall not authorize or permit any part of the revenue referred to therein to be used to provide for the repayment with interest of more than half of the moneys borrowed by the Council pursuant to section 8 of this Act.

10. (1) The Council may from time to time by notice published in the *Gazette* specify—

Entry of
vehicles into
Mall.

- (a) the vehicles that may enter or remain within the Mall and such vehicles may be defined by reference to vehicles generally, vehicles of a specified class or description, vehicles used for a specified purpose, vehicles used by a specified person or person of a specified class or vehicles used in specified circumstances;
- (b) the hours or occasions during which such vehicles may so enter or remain within the Mall and the hours so specified may vary according to a vehicle or class of vehicles,

and the Council may by a subsequent notice published in a like manner amend, vary or revoke any such notice.

¹ Now Local Government Act, 1934-1975.

(2) The Council may by notice in writing permit a vehicle to enter and remain in the Mall for the purposes and for the period and subject to the conditions (if any) specified in the permission.

By-laws.

11. (1) In addition to and not in derogation from its other powers to make by-laws the Council may make by-laws—

- (a) regulating, controlling or prohibiting any activity in the Mall or any activity in the vicinity of the Mall that is, in the opinion of the Council, likely to affect the use or enjoyment of the Mall;
 - (b) providing for the fixing and varying or revoking by resolution of the Council of fees or charges for the use of the Mall or any part of the Mall for any display, activity or entertainment or for any service provided or permit issued in or in connection with the Mall and providing for any matter or thing in connection with the collection or remission of any such fees or charges;
 - (c) regulating any matter or thing connected with the external appearance of any building or structure on, abutting or visible from the Mall;
 - (d) regulating, controlling or prohibiting the movement or standing of vehicles on the access and egress areas;
- and
- (e) providing for and fixing penalties not exceeding two hundred dollars for any breach of or non-compliance with any such by-law.

(2) The Local Government Act, 1934-1974¹, shall apply to and in relation to a by-law made under subsection (1) of this section as if it were a by-law made under that Act.

General powers
as to operation
and
management.

12. In addition to and not in derogation from any other powers elsewhere conferred on it the Council shall have power to do all things necessary for or incidental to the operation, management, promotion and development of the Mall.

PART IV

PART IV

GOVERNMENT GRANT

Grant by
Treasurer.

13. (1) Where the Treasurer is satisfied that the Council has expended moneys for the purposes of the works, the Treasurer may, from time to time, but subject to subsection (2) of this section pay to the Council by way of grant an amount equal to one-third of the amount so expended.

(2) Subsection (1) of this section shall not authorize the payment to the Council of a grant or grants exceeding in the aggregate, three hundred thousand dollars.

(3) The moneys required to be paid by the Treasurer for the purposes of this section shall be payable out of the General Revenue of the State which is hereby, to the necessary extent, appropriated accordingly.

¹ Now Local Government Act, 1934-1975.

(4) For the purposes of subsection (1) of this section, on the commencement of this Act, the Council shall be deemed to have expended one hundred and twenty thousand dollars for the purposes of the works.

PART V

PART V

THE COMMITTEE

14. The Council may by notice in the *Gazette* fix a day in this Part referred to as "the appointed day".

15. (1) On the appointed day a committee by the name of the "Rundle Street Mall Committee" shall be established.

Rundle Street
Mall
Committee.

(2) The Committee—

(a) shall be a body corporate with perpetual succession and a common seal;

(b) subject to this Act, shall be capable of acquiring, taking or letting out on lease, holding, selling and otherwise disposing of real and personal property;

(c) may in its corporate name and capacity sue and be sued;
and

(d) shall have and may exercise the powers and functions conferred on it or delegated to it under this Act.

(3) Where a document purporting to bear the common seal of the Committee is produced before any court or person acting judicially that court or that person, as the case may be, shall, unless the contrary is proved, presume—

(a) that the document purporting to bear the common seal of the Committee bears the common seal of the Committee;

and

(b) that the common seal was duly affixed.

16. (1) Subject to this section, the Committee shall consist of six members appointed by the Council of whom—

Composition of
the Committee.

(a) one shall be a Councillor representing the Hindmarsh Ward of the City of Adelaide;

(b) two shall be appointed on the nomination of the Minister;

(c) two shall be persons—

(i) one of whom shall be nominated by The Retail Traders Association of South Australia Incorporated (in this section referred to as "the Association");

and

(ii) one of whom shall be a person carrying on business or employed in a business carried on from ratable property.

(2) Whenever a nomination is required for the appointment of a member of the Committee by the Association the Council may by written notice addressed to the Association and served personally or by post on it, request it to make the nomination within twenty-one days of the date of the notice or

such longer period as is specified in the notice and if no nomination is made in accordance with the request the Council may appoint a person to be a member of the Committee in lieu of a nominee of the Association and a person so appointed shall for all purposes be deemed to have been duly appointed the nominee of the Association.

(3) The Council may appoint a member of the Committee to be the chairman of the Committee.

(4) Every member of the Committee shall, subject to this Act, hold office as such until the day expressed in the instrument of his appointment as being the day on which he shall cease to hold office, but a member appointed to fill a casual vacancy in the office of a member of the Committee shall hold office only for the unexpired portion of the term of office of the member in whose place he was appointed.

(5) Where a person who is a member of the Committee is, through illness or any other cause, unable to perform his duties or functions as such a member he may, by notice in writing given to the secretary of the Committee, appoint a person as his deputy to act for him during the period of such inability and the person so appointed shall, while so acting, be deemed to be a member or the chairman of the Committee, as the case may be.

(6) On the expiration of his term of office as member a person appointed a member of the Committee shall, subject to subsection (1) of this section, be eligible for re-appointment.

Removal from
office of
member.

17. The Council may, by notice in writing served on a member of the Committee, remove the member from office on grounds of misconduct or incapacity to perform his duties and functions as a member.

Casual
vacancies.

18. The office of a member of the Committee shall become vacant if—

(a) he dies;

(b) being a member referred to in paragraph (a) or subparagraph (ii) of paragraph (c) of subsection (1) of section 16 of this Act he ceases to hold the qualifications by reason of which he was appointed;

(c) he resigns by written notice given to the Council;

(d) he is removed from office by the Council pursuant to section 17 of this Act;

(e) he is absent without leave of the Council from four consecutive meetings of the Committee;

(f) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his creditors for less than one hundred cents in the dollar;

(g) he is convicted of any indictable offence;

or

(h) he is convicted of any other offence and receives notice in writing from the Council discharging him from office on the ground of that conviction.

Common seal,
meetings and
quorum.

19. (1) The common seal of the Committee shall not be affixed to any instrument except in pursuance of a resolution of the Committee.

(2) Any instrument executed in pursuance of such a resolution shall be attested by the signature of any two members of the Committee.

(3) The procedure for the calling of meetings of the Committee and for the conduct of business at such meetings shall, subject to this Act, be as determined by the Committee.

(4) Any four members of the Committee of whom—

(a) not less than one shall be a member appointed by the Council without nomination or a deputy of such a member;

(b) not less than one shall be a member referred to in paragraph (a) of subsection (1) of section 16 of this Act or a deputy of such a member;

and

(c) not less than one shall be a member referred to in paragraph (b) of that subsection or a deputy of such a member,

shall constitute a quorum at any meeting of the Committee and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Committee and shall have and may discharge all the powers, duties and functions of the Committee.

(5) A decision carried by the majority of the votes cast by the members present at a meeting of the Committee shall be a decision of the Committee.

(6) The Committee shall cause accurate minutes to be kept of its proceedings at meetings.

20. (1) The chairman of the Committee or the deputy of the chairman shall preside at all meetings of the Committee at which he is present.

Chairman and
presiding
member.

(2) In the absence of the chairman or deputy of the chairman from any meeting of the Committee the members present shall, from amongst their own number, elect a member to preside at that meeting and at that meeting the member so elected shall have and may exercise the powers and functions conferred on the chairman by this section.

21. No act, proceeding or determination of the Committee shall be invalid on the ground only of any vacancy in the office of any member or of any defect in the appointment of any member.

Validity of acts,
etc., of
Committee.

22. The Council may provide an officer or servant of the Council to be the secretary to the Committee.

Secretary to
Committee.

23. With the approval of the Council the Committee may make use of any person in the service of the Council for the purposes of the exercise and performance by the Committee of its powers or functions.

Use by
Committee of
services of
Council
employees.

24. With the approval of the Council, the Committee may appoint, remunerate and dismiss such employees as are necessary for the exercise and discharge of the powers and functions of the Committee.

Employees of
Committee.

25. (1) The Council may from time to time by writing under its seal delegate to an officer or employee of the Council, the Committee or an employee of the Committee—

Power of
Council to
delegate.

(a) any of its powers under subsection (2) of section 10 of this Act;

(b) any of its powers to collect a fee or charge referred to in paragraph (b) of subsection (1) of section 11 of this Act;

(c) any of its powers under section 12 of this Act;

or

(d) any other prescribed power in or in relation to the Mall,

and may by a like notice amend, vary or revoke that delegation.

(2) The delegation of a power or function under subsection (1) of this section shall not limit or restrict the exercise or performance by the Council of that power or function.

Funds of the
Committee.

26. (1) The moneys required by the Committee for the purposes of the exercise and performance of its powers and functions under this Act shall be—

(a) all moneys received by the Committee in the exercise and performance of its powers or functions;

(b) all moneys paid by way of fees or charges referred to in paragraph (b) of subsection (1) of section 11 of this Act;

(c) all moneys granted to it by the Council;

(d) all moneys being gifts to the Committee or derived from the disposition by the Committee of gifts to the Committee;

(e) all moneys made available to the Committee by the Government of the Commonwealth;

and

(f) all moneys paid to the Committee by way of grants by the Treasurer out of moneys to be provided by Parliament for the purpose.

(2) Such of the moneys of the Committee as are not immediately required by the Committee may be lodged on deposit with the Treasurer or invested in any other manner approved of by the Council.

Budget.

27. (1) As soon as practicable after the commencement of this Act the Committee shall present to the Council a budget showing its estimates of revenue and expenditure over the balance of the financial year within which the budget is presented and thereafter the Committee shall before the commencement of each succeeding financial year present to the Council a budget showing its estimates of its revenue and expenditure for that succeeding financial year.

(2) The Council may approve of any budget presented to it pursuant to subsection (1) of this section or may direct or allow the Committee to amend a budget before so approving of the budget.

(3) The Committee shall not, without the consent of the Council, incur any expenditure that is not authorized by an approved budget.

(4) In this section—

“approved budget” means a budget that has been approved of by the Council or a budget that, having been amended, has been approved of by the Council.

PART VI

PART VI

THE PARKING STATION

28. (1) If on or before the thirty-first day of December, 1975, the Minister by writing under his hand states that he is satisfied that the Council will provide and construct, in accordance with final design plans approved of by the Minister, a car parking station on the car park site, the Minister of Works shall be authorized and required on or before the thirty-first day of January, 1976, to sell and convey to the Council the car park site with vacant possession for a consideration of one million one hundred and sixty thousand dollars.

Sale of car park site.

(2) The Council shall pay to the Treasurer the consideration referred to in subsection (1) of this section in five equal annual instalments without interest, an instalment being due and payable on the thirtieth day of June, next following the sale and conveyance of the car park site and each subsequent thirtieth day of June.

PART VII

PART VII

MISCELLANEOUS

29. (1) In any proceedings for an offence against this Act an allegation in the complaint that any person is the owner of a specified vehicle shall be deemed to be proved in the absence of proof to the contrary.

Evidentiary.

(2) If in any proceedings for an offence against this Act it is proved that any vehicle was driven, parked, standing or stationary in any place in contravention of this Act it shall be presumed in the absence of proof to the contrary that the vehicle was driven, parked or left standing or allowed to remain stationary by the owner thereof.

30. Proceedings in respect of an offence against this Act shall be disposed of summarily.

Summary proceedings.

31. The Governor may make such regulations as are necessary or expedient for giving effect to the purposes and objects of this Act.

Regulations.

THE SCHEDULE

