

# By-law Review – Consultation Feedback and Endorsement

Tuesday, 20 August 2024

City Finance and Governance Committee

Strategic Alignment - Our Corporation

**Program Contact:**

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Public

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Shaping

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## EXECUTIVE SUMMARY

City of Adelaide's (CoA) by-laws are required to be renewed every seven (7) years. Revised draft by-laws were endorsed for public consultation by Council at its meeting on at the 11 June 2024.

The draft by-laws were subsequently submitted to the Dog and Cat Management Board (DCMB) for feedback in addition to undergoing a public consultation process.

This report presents the feedback during consultation and seeks formal adoption of the draft by-laws.

All feedback received during the consultation has been considered and responded to. Following the public consultation process and DCMB review, there are no changes proposed to the draft by-laws previously endorsed by Council.

Under the *Local Government Act (SA) 1999* (the Act), at least two-thirds of Council Members will be required to be present at the Council Meeting (where the by-laws will be presented for adoption), with support by an absolute majority of Council Members.

If adopted by Council, by-laws will be submitted to the Legislative Review Committee for review, gazetted and laid before Parliament, taking effect four (4) months from the date they are gazetted.

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## RECOMMENDATION

The following recommendation will be presented to Council on 27 August 2024 for consideration

THAT THE CITY FINANCE AND GOVERNANCE COMMITTEE RECOMMENDS TO COUNCIL

THAT COUNCIL

1. Notes the public consultation submissions and recommendations received on the draft by-laws, as included in Attachment A, and the Dog and Cat Management Board's endorsement provided in Attachment B to Item 7.2 on the Agenda for the meeting of the City Finance and Governance Committee held on 20 August 2024.
2. Notes the requirements of the National Competition Policy and the Reports prepared on the National Competition Policy with respect to the by-laws, included in Attachment C to Item 7.2 on the Agenda for the meeting of the City Finance and Governance Committee held on 20 August 2024.
3. Makes, pursuant to Section 246 of the *Local Government Act 1999* (SA), in exercise of the powers and taking into account the requirements under the *Acts Interpretation Act 1915*, *City of Adelaide Act 1998*, *Dog and Cat Management Act 1995* and *Local Government Act 1999* (SA) and regulations, the following by-laws as contained in Attachments D-L to Item 7.2 on the Agenda for the meeting of the City Finance and Governance Committee held on 20 August 2024:

3.1 *Permits and Penalties By-law 2024*

3.2 *Moveable Signs By-law 2024*

3.3 *Local Government Land By-law 2024*

3.4 *Roads By-law 2024*

3.5 *Waste Management By-law 2024*

3.6 *Rundle Mall By-law 2024*

3.7 *Dogs By-law 2024*

3.8 *Cats By-law 2024*

3.9 *Lodging Houses By-law 2024*

4. Authorises the Chief Executive Officer to sign the by-laws as made by Council.
  5. Authorises the Chief Executive Officer to publish notice of the making of the by-laws in the Advertiser newspaper.
  6. Authorises the Chief Executive Officer to arrange for the by-laws as made by Council to be published in the Government Gazette.
  7. Adopts the reports to the Legislative Review Committee on each of the by-laws included at Attachment M to Item 7.2 on the Agenda for the meeting of the City Finance and Governance Committee held on 20 August 2024 and authorises the Chief Executive Officer to sign on Council's behalf.
  8. Authorises the Chief Executive Officer to arrange for the by-laws and all other necessary documentation to be provided to the Legislative Review Committee.
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## IMPLICATIONS AND FINANCIALS

City of Adelaide 2024-2028 Strategic Plan	<a href="#">Strategic Alignment – Our Corporation</a>
Policy	By-laws are a legislated function within the <i>Local Government Act 1999 (SA)</i> . The revised draft by-laws have no material impact on existing policies.
Consultation	All required consultation with the Dog and Cat Management Board and public has been completed.
Resource	Not as a result of this report
Risk / Legal / Legislative	Legal advice has been sought to mitigate any risk and ensure the process is legislatively sound.
Opportunities	That CoA has appropriate and applicable by-laws in place to ensure Council continues to be a convenient, safe and comfortable environment for all residents, businesses and visitors.
24/25 Budget Allocation	\$20,000 for legal fees and State Government fees to gazette the final by-laws.
Proposed 25/26 Budget Allocation	Not as a result of this report
Life of Project, Service, Initiative or (Expectancy of) Asset	Council by-laws must be renewed every seven (7) years but can be reviewed at any time within the seven (7) years.
24/25 Budget Reconsideration (if applicable)	Not as a result of this report
Ongoing Costs (eg maintenance cost)	Not as a result of this report
Other Funding Sources	Not as a result of this report

# DISCUSSION

## Background

1. By-laws are a form of delegated legislation designed to provide good governance and assist Council in providing a convenient, safe and comfortable space for its community.
2. Council's power to make a by-law is derived from Section 246 of the Act provided as [Link 1](#). Council is required to review and formally make new by-laws every seven (7) years.
3. Provisions under Section 249(3) of the Act to make the by-laws include:
  - 3.1. (3) A by-law cannot be made unless-
    - 3.1.1. (a) the by-law is made at a meeting of the council where at least two-thirds of the members of the council are present; and
    - 3.1.2. (b) the relevant resolution is supported by an absolute majority of members of the council.
4. The by-laws proposed to Council are largely based on Council's existing by-laws, with some refinements to take into account changes to legislation and modern language since Council last reviewed its by-laws.
5. The proposed changes were highlighted in detail in the 11 June 2024 Council report.
6. CoA currently has 9 by-laws:
  - 6.1. By-law No 1 – Permits and Penalties
  - 6.2. By-law No 2 – Moveable Signs
  - 6.3. By-law No 3 – Local Government Land
  - 6.4. By-law No 4 – Roads
  - 6.5. By-law No 5 – Waste Management
  - 6.6. By-law No 6 – Rundle Mall
  - 6.7. By-law No 7 – Dogs
  - 6.8. By-law No 8 – Cats
  - 6.9. By-law No 9 – Lodging Houses
7. Following Council endorsement of the revised draft by-laws, they were submitted to the Dog and Cat Management Board (DCMB) for comment. Council's letter and the DCMB's endorsement are provided in **Attachment B**.
8. Public consultation was undertaken through Council's 'Our Adelaide' engagement platform. In addition to the online format, information packs were available at our Customer Centre, libraries and community centres, and an advertisement placed in The Advertiser.
9. Consultation resulted in 1889 views and 29 pieces of feedback lodged. Complete results of the public consultation feedback are provided as **Attachment A**, however in summary:
  - 9.1. The majority of feedback, both positive and negative, centred on questions and clarity regarding gender inclusivity in public conveniences. As noted in the 11 June 2024 Council report, the wording of Council's draft by-laws in this regard comes directly from the model by-law recently drafted by the Legislative Review Committee.
  - 9.2. Feedback also included suggestions for improving the placement of a-frame signs, and support for residential waste collection and compliance among other matters.
  - 9.3. Many of the practical comments submitted by the public can be considered and achieved through permit guidelines and operational approaches, if deemed appropriate, rather than within the by-laws themselves.
  - 9.4. All feedback will be shared with the Legislative Review Committee.
10. While all consultation feedback has been considered and responded to, no changes are proposed to the draft by-laws previously presented to Council.
11. Solicitor's Certificates of Validity have been prepared for each by-law pursuant to Section 249(4) of the Act, see [Link 2](#), which certifies that in the opinion of a legal practitioner, the Council has the power to make the by-laws by virtue of a statutory power specified in the certificate, and the by-law is not in conflict with the Act.
12. The final draft of all nine (9) by-laws is now presented for Council for consideration and endorsement.

## Next Steps

13. By-laws will be published in the Government Gazette, the Advertiser newspaper and referred to the Legislative Review Committee for review.
14. If not disallowed by Parliament, by-laws will take effect four months after they are Gazetted and will be valid for a further seven years, unless revoked prior.
15. If the Legislative Review Committee makes the decision that any of the proposed by-laws should not be allowed, a report of the grounds will be submitted to Council.
16. Council remain able to add, edit or revoke by-laws at any time prior to the legislation seven year timeframe.

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## DATA AND SUPPORTING INFORMATION

**Link 1** - Local Government Act 1999

**Link 2** - Solicitors Certificates of Validity

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## ATTACHMENTS

**Attachment A** – Public consultation submission/feedback spreadsheet

**Attachment B** – Council’s letter and the Dog and Cat Management Boards endorsement

**Attachment C** – Reports to Council – National Competition Policy

**Attachment D** – Draft By-law No 1 – Permits and Penalties By-Law 2024

**Attachment E** – Draft By-law No 2 – Moveable Signs By-law 2024

**Attachment F** – Draft By-law No 3 – Local Government Land By-law 2024

**Attachment G** – Draft By-law No 4 – Roads By-law 2024

**Attachment H** – Draft By-law No 5 – Waste Management By-law 2024

**Attachment I** – Draft By-law No 6 – Rundle Mall By-law 2024

**Attachment J** – Draft By-law No 7 – Dogs By-law 2024

**Attachment K** – Draft By-law No 8 – Cats By-law 2024

**Attachment L** – Draft By-law No 9 – Lodging Houses By-law 2024

**Attachment M** – Reports to the Legislative Review Committee

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