

By-law Amendment Report

Strategic Alignment - Our Corporation

Public

Tuesday, 15 April 2025

City Finance and Governance
Committee

Program Contact:

Steve Zaluski, Associate Director
Regulatory Services

Approving Officer:

Jo Podoliak, Director City
Community

EXECUTIVE SUMMARY

This report requests that Council make three minor amendments to City of Adelaide's (CoA) by-laws.

CoA's by-laws were made by Council on 27 August 2024 and came into effect on 5 January 2025.

On 13 December 2024, the Chief Executive Officer received a letter from the Legislative Review Committee (LRC) recommending amendments to two CoA by-laws, namely the Moveable Signs By-law 2024, City of Adelaide By-Law No. 2 and the Local Government Land By-law 2024, City of Adelaide By-law No. 3.

The LRC's proposed amendments seek to strengthen the wording and avoid any confusion. They are not considered to alter the intent of the by-laws nor their impact on the community.

The Miscellaneous Amendment By-law 2025, City of Adelaide By-law No.10 has been created to reflect the proposed changes and has undergone public consultation. All feedback received during the consultation has been considered and responded to.

Should Council make the Miscellaneous Amendment By-law 2025, City of Adelaide By-law No. 10, it will come into effect on 1 May 2025.

RECOMMENDATION

The following recommendation will be presented to Council on 22 April 2025 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 Miscellaneous Amendment By-law, City of Adelaide By-law No.10 as contained in Attachment A to Item 7.4 on the Agenda for the meeting of the City Finance and Governance Committee held on 15 April 2025.
2. Notes the requirements of the National Competition Policy and the Reports prepared on the National Competition Policy with respect to the Miscellaneous Amendment By-law 2025, City of Adelaide By-law No.10, as contained in Attachment B to Item 7.4 on the Agenda for the meeting of the City Finance and Governance Committee held on 15 April 2025.
3. Makes the Miscellaneous Amendment By-law 2025, City of Adelaide By-law No.10, as contained in Attachment C to Item 7.4 on the Agenda for the meeting of the City Finance and Governance Committee held on 15 April 2025, pursuant to Section 246 of the *Local Government Act 1999* and in exercise of the powers and taking into account the requirement contained in the *Legislation Interpretation Act 2021*, *City of Adelaide Act 1998*, and *Local Government Act 1999 (SA)* and regulations.
4. Authorises the Chief Executive Officer to sign the Miscellaneous Amendment By-law 2025, City of Adelaide By-law No.10 as made by Council.
5. Authorises the Chief Executive Officer to publish notice of the making of the Miscellaneous Amendment By-law 2025, City of Adelaide By-law No.10 in the Advertiser newspaper.

6. Authorises the Chief Executive Officer to arrange for the Miscellaneous Amendment By-law 2025, City of Adelaide By-law No.10 as made by Council to be published in the Government Gazette.
 7. Adopts the report to the Legislative Review Committee on the Miscellaneous Amendment By-law 2025, City of Adelaide By-law No.10 as contained in Attachment D to Item 7.4 on the Agenda for the meeting of the City Finance and Governance Committee held on 15 April 2025.
 8. Authorises the Chief Executive Officer to sign the Legislative Review Committee Report on the Miscellaneous Amendment By-law 2025, City of Adelaide By-law No.10 as contained in Attachment D to Item 7.4 on the Agenda for the meeting of the City Finance and Governance Committee held on 15 April 2025, on behalf of Council.
 9. Authorises the Chief Executive Officer to arrange for the Miscellaneous Amendment By-law 2025, City of Adelaide By-law No.10 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	Strategic Alignment – Our Corporation Enable effective governance, risk management, accountability and transparency at all times in decision making.
Policy	By-laws are a legislated function which support the delivery of Council’s legislative obligations, Strategic Plan and policies. The variations to the by-laws will not impact existing policies.
Consultation	The Miscellaneous Amendment By-law 2025, City of Adelaide By-law No.10 was available for formal consultation with the general public from 20 February to 13 March 2025.
Resource	Not as a result of this report
Risk / Legal / Legislative	Legal advice has been sought to mitigate risk and ensure the Miscellaneous Amendment By-law 2025, City of Adelaide By-law No.10 satisfies the Legislative Review Committee.
Opportunities	To support enhanced community convenience, safety and comfort, leveraging varied by-laws to benefit residents, businesses and visitors.
24/25 Budget Allocation	Nil budget allocation for variation - will come from operating budget.
Proposed 25/26 Budget Allocation	Not as a result of this report
Life of Project, Service, Initiative or (Expectancy of) Asset	Not as a result of this report
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

1. Council's power to make a by-law is derived from Section 26 of the *Local Government Act 1999 (SA)* (the Act).
2. Revised City of Adelaide by-laws were made by Council on [27 August 2024](#) (refer item 13.2).
3. Once made by Council, the by-laws were submitted to the Legislative Review Committee (LRC) for review, gazetted and laid before Parliament, taking effect on 5 January 2025, four months from the date they were gazetted.
4. On 13 December 2024, the Chief Executive Officer received a letter from the LRC raising concerns that they had not received a formal response from our legal representative regarding feedback they had provided relating to:
 - 4.1. Movable Signs By-law – By-law No.2 ([Link 1](#)): The LRC's preference is for Clause 5 of the by-law to explicitly require an opinion of an Authorised Officer to be objectively reasonable. This can be achieved via the addition of the word 'reasonable' within the appropriate sentence of the by-law.
 - 4.2. Local Government Land By-law – By-law No. 3 ([Link 2](#)): The LRC raised two concerns:
 - 4.2.1. Clauses 6.2.2 and 6.2.3 outline conditions regarding driving forklifts in the Adelaide Central Market. The LRC considered the Council's intention for the clauses was to place these conditions on persons that have the Council's permission to drive or use a forklift in the Adelaide Central Market. It was the LRC's view that the current wording could be interpreted as requiring these conditions on all persons entering the Market generally, not just those seeking to drive a forklift.
 - 4.2.2. An incorrect cross reference in clause 13 that should reference clause 5.9.2, rather than 5.8.2.
5. The LRC's feedback relates to wording contained within CoA's pre-existing by-laws. The sections were not changed during the recent review process and Administration considers the intent of the by-laws are not materially impacted by the proposed changes.
6. Council's legal representatives had previously liaised with the LRC regarding the matters raised and considered them able to be addressed via administrative arrangements allowed for within legislation, given the minor nature of proposed amendments.
7. However, as there was some uncertainty to ensure validity of these proposed amendments, the recommended approach was to formally amend the by-laws via the manner outlined in this report.
8. Administration confirmed to the LRC that CoA will take on board their feedback and seek to amend the two by-laws. This approach and the amendments to be proposed were outlined to the LRC in [Link 3](#).
9. As a result, the Miscellaneous Amendment By-law 2025, City of Adelaide By-law No.10 (Miscellaneous Amendment By-law) was created and released for public consultation on 20 February 2025.
10. 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.
11. Consultation resulted in 112 views and four written responses. Complete results of public consultation feedback are provided as **Attachment A**.
12. All consultation feedback has been considered and responded to, and no changes are proposed to the Miscellaneous Amendment By-law.
13. Solicitor's Certificate of Validity, [Link 4](#), has been prepared for the Miscellaneous Amendment By-law pursuant to Section 249(4) of the Act, which certifies that in the opinion of a legal practitioner, the Council has the power to make the Amendment By-law by virtue of a statutory power specified in the certificate, and the Amendment By-law is not in conflict with the Act.
14. The final draft Miscellaneous Amendment By-law is now presented to Committee for consideration and recommendation to Council.
15. Following Council making the by-law, the Miscellaneous Amendment By-law will be published in the Government Gazette on 1 May 2025 and will come into effect that day.
16. The impact of this by-law is allowing for updates to be made to By Law's No. 2 and No. 3, so they will read as complete and updated documents.

DATA AND SUPPORTING INFORMATION

Link 1 - Moveable Signs By-law - By-law No. 2

Link 2 - Local Government Land By-law – By-law No. 4

Link 3 - Letter from Norman Waterhouse to Legislative Review Committee

Link 4 - Solicitors Certificate of Validity

ATTACHMENTS

Attachment A – Public consultation submission/feedback spreadsheet

Attachment B – Reports to Council – National Competition Policy

Attachment C – The Miscellaneous Amendment By-law 2025, City of Adelaide By-law No.10

Attachment D – Report to the Legislative Review Committee

- END OF REPORT -