

TO THE SOUTH AUSTRALIAN PRODUCTIVITY COMMISSION

RE: LOCAL GOVERNMENT INQUIRY INTO COSTS AND EFFICIENCIES

SUBMISSION FROM: Winnie Pelz

**Ratepayer and resident,
District Council of Yankalilla**

DATE: 28 June 2019

Background

The District Council of Yankalilla is one of the smallest council areas in this State. It covers 750 sq. km and has a rate-paying population of 5,160.

It comprises one of four councils in the Fleurieu Peninsula: Onkaparinga, Alexandrina, Victor Harbor and Yankalilla. Five, if Kangaroo Island is included.

By any measure, this appears to be an outstanding case of over-government and leads to many inefficiencies and high costs, particularly in the area of human resources required to deliver essential services such as roads maintenance, waste management and support for endeavours that promote tourism, small business and local employment.

The cost of salaries in the DCY 2019 - 20 Business Plan and Budget is \$5.14 million. With 55 council staff members, the average salary is \$93,000. Since this fact has become known during the recent public consultation process for the Business Plan and Budget, there has been widespread discontent expressed by many community members. The district has a higher than State average of age pensioners and other people reliant on social security, who have openly expressed 'rate stress', and discontent with the poor services delivered.

There is a strong feeling growing in the community that "we do not get value for money".

In areas zoned 'rural living,' the recent RAC Plan, adopted to restrict burning waste in township areas, has been used to re-zone the township boundaries and actually reduce services for waste pick-up and road maintenance. People living in these areas have had a reduction in services but with no commensurate adjustment to their rates.

The differential rating system based entirely on property values further disadvantages ratepayers.

Candidates for council and election process

I accept that this subject is at a tangent to the main terms of reference, but I believe is pertinent to the subject of inefficiencies.

In such a small geographic area, with sparse population, the 'pool' of candidates for election to office is very small. Many of the 5,160 ratepayers are part-time residents who own holiday homes or rental property. Many come to the district only a few times per year. They do not seek to become involved in local politics and only rarely contribute to debate or discussion about local community matters.

This has the effect of reducing the 'pool' of candidates to an even smaller demographic. Many are re-elected by a network of friends and associates and remain as councillors for repeated terms, without appearing to contribute to the advancement of local issues.

The election process requires review, and although it is outside the ambit of this inquiry, I raise it in the hope that it may form the subject of further inquiry in the future.

Possible solutions for consideration

In past years, there has been resistance from DCY ratepayers to pursue any exploration of mergers or changes in council boundaries. There has been a belief that this area would be disadvantaged by any such move - even an attitude that "we are special, and deserve/require separate consideration and local government".

There is now a growing view, expressed by many in the community, that a merger or re-drawing of council boundaries in the Fleurieu is essential if we are to move forward.

In late 2017, I was the co-author of a draft paper proposing a new council area for the Western Fleurieu. This did not entail a merger, but a change of boundaries between Onkaparinga and Yankalilla. The paper was to be presented to the Boundaries Commission.

The draft paper was put aside, pending the outcome of the State election and the changes that were mooted to the wards in Onkaparinga.

There are aspects of the paper that now require up-dating, but the main thrust remains as is: that the current size and resources of the District Council of Yankalilla will never provide the financial base that will enable the potential of the area to be realised.

In addition, it will remain an area suffering from inefficiencies, lacking economies of scale, and with an impost of exceptionally high rates.

I am attaching the paper in its draft, unamended form and trust that you will find the information relevant.

Sincerely and with thanks for the opportunity to make a submission,

Winnie Pelz

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[REDACTED]

28 June 2019



**a resident initiated proposal
for amalgamation of Yankalilla
Council with adjacent areas**

VISION

A vibrant sustainable local government structure for the western Fleurieu peninsula for

- environment
- agriculture
- tourism
- communities and villages

PROPOSAL

FOR A NEW COUNCIL

FOR

THE WESTERN FLEURIEU REGION

**A resident-initiated proposal for a merger of the
District Council of Yankalilla
with adjacent areas**

1. INTRODUCTION

1.1 Executive summary

This proposal represents a ratepayer - led initiative for boundary changes for an area currently within the local government areas of the District Council of Yankalilla and the City of Onkaparinga. It has been initiated by residents of the District Council of Yankalilla.

- The District Council of Yankalilla is one of the smallest councils in South Australia, with less than 5,000 ratepayers and a full-time population of under 2,000. Its small population and financial base is a significant impediment to providing essential services and to supporting growth and development.
- The adjoining City of Onkaparinga is one of the largest councils in the State, with approximately 169,000 ratepayers. The northern part of Onkaparinga is essentially metropolitan, while the southern part is predominantly rural, with small towns.
- It is proposed that Ward 5 (the southern, rural part) of the City of Onkaparinga is joined with the District Council of Yankalilla to create a new Council Area which would be in alignment with the proposed new State Electorate of Mawson.

1.2 Background

It is hoped that the elected members and staff of the District Council of Yankalilla will see beyond any potentially threatening aspects of this proposal and recognise that the intention is to seek to improve current local government structures.

The proposal aims to take advantage of state legislation which protects the water resources and food and wine production in the McLaren Vale and Barossa areas (*Character Preservation (Barossa Valley) Act 2012, and Character Preservation (McLaren Vale) Act 2012*) and a focus generated by the bid to establish a UNESCO World Heritage Area (2017) covering the Barossa Valley, Mt Lofty Ranges, McLaren Vale, Willunga and Yankalilla regions.

An example is the protection of the right to operate agricultural activities and to protect high quality agricultural land from being subdivided for residential or speculative investment land purposes. Character preservation legislation similar to that in the Barossa Valley and McLaren Vale areas should exist in the Yankalilla area.

Furthermore, it seeks to align with proposed changes to the boundaries of the State Electorates and the new electorate of Mawson which will come into effect post the next State election in 2018.

Essentially, the proposal focuses on positive change. It does, however, document limitations in the performance of the Yankalilla Council. These are largely due to the financial constraints created by a small population-base spread over a large geographic area.

Despite charging its ratepayers some of the highest rates in the State, the current financial and resource base inhibits any significant developmental initiatives that can address the

complexity and speed of change sought in State policies, or by the expectations of the market for holiday and tourism services in the area.

Environmental protection, especially of coastal and marine assets, is currently beyond the capacity of the Council which is too small to negotiate State or Federal resources and assistance.

Public Health is another significant issue which the Yankalilla Council has admitted to not having the resources to address the alarming findings of the socio-economic index scores of the area.

2. PROPOSAL

This is a proposal for merging the District Council of Yankalilla with the region called Ward 5 of the City of Onkaparinga.

As residents of the District Council of Yankalilla, we have become concerned about the performance of the Council and the economic and social viability of the district.

We believe that structural reasons for many of the problems facing our district can be addressed by a boundary restructuring and an increase in the size and population base of local government for the western Fleurieu region.

This proposal is seen as a mechanism to contribute to the overall economic growth and social wellbeing of the larger area formed. We believe it is the best option to ensure that the environmental, agricultural and tourism needs of the western Fleurieu region can be managed effectively and efficiently.

We are aware that amalgamation of the councils of Yankalilla, Alexandrina and Victor Harbor has been investigated in the past (1994), but this notion was dismissed as too complex and not adequately differentiating between the issues pertinent to urban development and rural development in the region.

We submit that the model proposed is a better choice for the following reasons:

- it provides for a new region, in which mutually cohesive strategies can be developed so that it is aligned with the proposed new State boundary of Mawson
- it draws together a community that can be physically, socially and economically functional based on environment, agriculture, tourism and marine/coastal initiatives
- it draws a line for the southern border of the metropolitan area and provides a geographic base to both protect and develop food-producing agricultural land and water resources
- it creates a focus on the area's interaction with the marine bio-diversity of Gulf St Vincent, the associated issues of protection and the potential for highest quality marine eco-tourism
- it provides for an urban character of small towns with tourism appeal protected by sensitive design and planning

The petitioners wish to take advantage of the provisions under Division 5 section 28 of the South Australian *Local Government Act 1999*, to petition the District Council of Yankalilla to review its boundaries with a view to creating a larger and more viable council.

The petitioners are prepared to make presentations as required by Division 5 section 28 of the South Australian *Local Government Act 1999*

3.THE VISION

The vision is for a local government structure that is responsive to needs and opportunities, and is capable of ensuring the most positive outcomes for the western Fleurieu region.

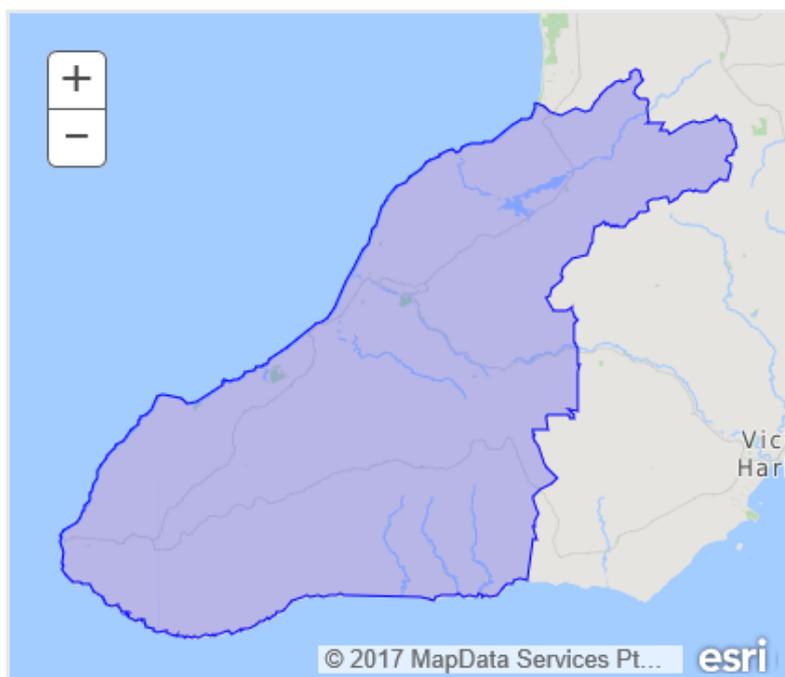
The Council would have a structure that demonstrates specialist skills in strategic planning and management of complex environmental, agricultural, water resource and tourism related issues. It would demonstrate the capability and skills to respond to and expand the Character Preservation legislation and to ensure that the UNESCO Heritage Bid is supported and effectively implemented, if successful.

The Council would have the following characteristics:

- an understanding of rural (non-metropolitan) issues and the skills to support planning for a sustainable future in such a context
- the capacity to support, and where required, to provide leadership in agricultural renewal and innovation
- specialised skills in managing planning for a rural area with significant township precincts
- the ability to realise the potential future and economic development in water management, supply and recycling
- the ability to recognise the tourism potential in the towns, the landscape and marine environment and develop this in the context of environmental and design sensitivity
- the capacity to protect the coastal marine environment

4. CURRENT COUNCILS OF THE WESTERN FLEURIEU

4.1 DISTRICT COUNCIL OF YANKALILLA



4.1.1 Yankalilla demographic summary

People	5,159
Male	49.40%
Female	50.60%
Median age	54
Families	1,418
Average children per family	
for families with children	1.9
for all families	0.5
All private dwellings	3,866
Average people per household	2.2
Median weekly household income	\$923
Median monthly mortgage repayments	\$1,257
Median weekly rent	\$231
Average motor vehicles	1.9

per dwelling

4.1.2 District Council of Yankalilla Draft Structure Plan

The following paragraphs are quoted from Yankalilla Council's Draft Structure plan - released 2017 for consultation

Yankalilla district is separated from the Adelaide metropolitan area by its geography. Located 70km south of the city on the Southern Fleurieu peninsula the district falls between the Mount Lofty Range and the Gulf of St Vincent.

The district has experienced development pressures from the seachange phenomenon. Towns within the study area serve as a coastal getaway for residents of the metropolitan area and almost 50 per cent of dwellings are holiday homes unoccupied periodically during the year. During summer months, the area experiences peak population levels which place pressure on services and infrastructure. In planning for sustainable population growth, the key challenges include:

- Protection of the natural features which attract people to the district*
- Maintaining a distinct separation between the towns to reinforce their unique identity and character*
- Strengthening the connections between the towns so that they function cohesively*
- Promoting community wellbeing by planning for the needs of an ageing population through a diverse supply of housing and greater transport option*
- Ensuring infrastructure is developed and used efficiently to meet peak demands*
- Taking advantage of the improvements in communications infrastructure to attract a broad based population supported by employment choices*
- Assisting the continuing regional economic transition from primary industry by creating opportunities for tourism, service and knowledge based activities.*

<http://www.yankalilla.sa.gov.au/webdata/resources/files/Draft%20Structure%20Plan%202013.pdf>

The Yankalilla District Council remained separate after the last round of Local Government Council amalgamations (1994). Since that time there have been sharp increases in rates, and the long term financial position has stimulated strong efforts to rein in expenditure. The Council receives one of the lowest per capita grants from the SA Grants Commission, which, when combined with a low resident population compared to the number of households, provides a very low level of routine supplementary income from the Federal Government.

While the resident population increases slowly and more houses are built each year, the number of jobs in the district remains static. Seasonal trading means that many businesses are unsuccessful for the following reasons

- its population base and capital base
- underlying infrastructure issues such as lack of mains water supply in key areas and deficiencies in public transport
- lack of integrated planning with the major tourism areas of Kangaroo Island and McLaren Vale.

Public Health Issues.

The most recent Public Health Action Plan, presented at the District Council of Yankalilla September Council Meeting, identified a range of alarming public health problems, including mental health issues, obesity, a high ratio of low-income, welfare-dependent families, low immunisation rates among children, poor diet and high smoking/drug dependency. The SEIFA (Socio-economic Indexes for Areas) data identified the Yankalilla area as having the second lowest SEIFA score in the State, and a high number of overall health risks.

The report stated in its key findings:

"The District Council of Yankalilla is unlikely to have the resources to address the health issues and partnerships and funding opportunities will be important".

Boundary changes are needed to

- increase the efficiency and effectiveness of local government in the Western Fleurieu region
- provide a means of addressing issues regarding expertise and knowledge within Council by expanding the skills base
- increase the possibility of positive change in the economic and social wellbeing of the western Fleurieu district by expanding the population and financial base
- increase the ability to negotiate partnerships and funding opportunities to address the issues identified in the Public Health Action Plan
- bring together the skills and policies necessary to address problems arising from the changing relationship between the ownership of capital assets and current income and its impact on funding for Local Government
- form a coherent regional structure to advance integrated agriculture, tourism and coastal management.

DCY does not have the capital base necessary to stimulate industries and is far behind other councils in detailed strategic planning, stormwater management and water resources

management. The District Council of Yankalilla Development Plan is out of date and its proposed Structure Plan has no economic analysis or statement of strategies to increase services and facilities for a projected growing population.

4.1.3 Forward Planning in the Draft Structure Plan

The Draft Structure Plan contains projections regarding population growth, capacity of electricity services and stormwater management, and assertions that appear to lack supporting evidence. The petitioners wish to express doubt about many of these claims and also question the research methodology and diligence. The consultants engaged to prepare the report state that they have done so *"in accordance with the usual care and thoroughness of the consulting profession....based on generally accepted practices and standards at the time it was prepared"*.

However, they go on to state that they *"assume no liability for any inaccuracies in or omissions to that information"* and block the authorisation of any third party using the report.

Whilst this may be standard consulting practise, it does not encourage confidence in the information contained.

The petitioners submit that they have concerns about what has been termed the 'flexibility' of the District Council of Yankalilla reports and plans. In recent years, some planning decisions appear to have arisen outside the scrutiny of the ratepayers of the district.

Our reading of the plan reveals assertions, suppositions and what can, in our view, best be described as propaganda eg roll-out completion dates for the NBN and the impact this may have on education and employment opportunities.

The concluding statement about cost estimates is of some concern, particularly given the date of the report.

Elements of the Plan

Population peaks

Demand for essential services peaks during the summer months with the influx of a high number of visitors and holiday home owners. During January, the estimated population of the district reaches nearly 17 000 people. The review of infrastructure capacity has taken into account these demands. Recent upgrades to both wastewater and electricity supplies will ensure sufficient capacity to accommodate future demand.

Wastewater

Yankalilla and Normanville are serviced by the Community Wastewater Management System (CWMS). The capacity of the treatment plant has been recently upgraded to 80 ML per month and easily copes with current peak summer flows of 15ML per month. The CWMS has the capacity to service a population of 15,500 persons.

Carrickalinga is not yet connected to the CWMS and dwellings have individual on-site waste systems. The CWMS has the capacity for Carrickalinga to join the system in the future and accommodate peak monthly flows which are projected to reach 52ML by 2042.

Electricity

A new transformer upgrade is estimated to cost \$100,000 and this will enable the plant to progressively service increasing demand up to the maximum capacity.

The capacity of the Yankalilla substation was significantly upgraded in 2009. A further upgrade to the Normanville feeder line will be undertaken by SA Power Networks in 2014 to accommodate future population growth. Communications

The district is one of the first areas in Australia to receive the National Broadband Network (NBN). The roll-out in Yankalilla, Normanville, Carrickalinga has commenced and will be complete by January 2014.

Access to high speed reliable internet will improve communication, education and employment opportunities within the district.

Stormwater

Council has recently undertaken a major stormwater management plan for the study area. Its objective is to improve water quality and reduce the environmental impact of urban and rural stormwater discharge to the sea. The plan examined a range of stormwater, flooding and drainage issues.

A key focus of the stormwater management plan is the establishment of the Bungala Linear Park and additional buffer areas along three main watercourses and estuaries within the township boundaries. The linear park will provide the opportunity to develop an extensive environmental buffer for long term, low maintenance reduction of runoff and pollutants from agricultural and future urban land. The linear park will form a buffer between Normanville and Yankalilla and improve the linkages between the towns for pedestrians and cyclists. At present, stormwater infrastructure consists of a limited underground network of pipes and pits together with kerb and gutter along roads and an overland system of swale drains. The stormwater management plan examined all of the growth areas to determine issues that may arise from future development. Two areas were identified for specific attention due to their topography, the sensitivity of the surrounding natural systems and water quality risks.

<http://www.yankalilla.sa.gov.au/webdata/resources/files/Draft%20Structure%20Plan%202013.pdf>

We also draw attention to the fact that the plan is introduced by the following:

URS Australia Pty Ltd (URS) has prepared this report in accordance with the usual care and thoroughness of the consulting profession for the use of Yankalilla District Council and only those third parties who have been authorised in writing by URS to rely on this Report. It is based on generally accepted practices and standards at the time it was prepared.

No other warranty, expressed or implied, is made as to the professional advice included in this Report.

It is prepared in accordance with the scope of work and for the purpose outlined in the contract between URS and the District Council of Yankalilla in relation to the Yankalilla DC Structure Plan.

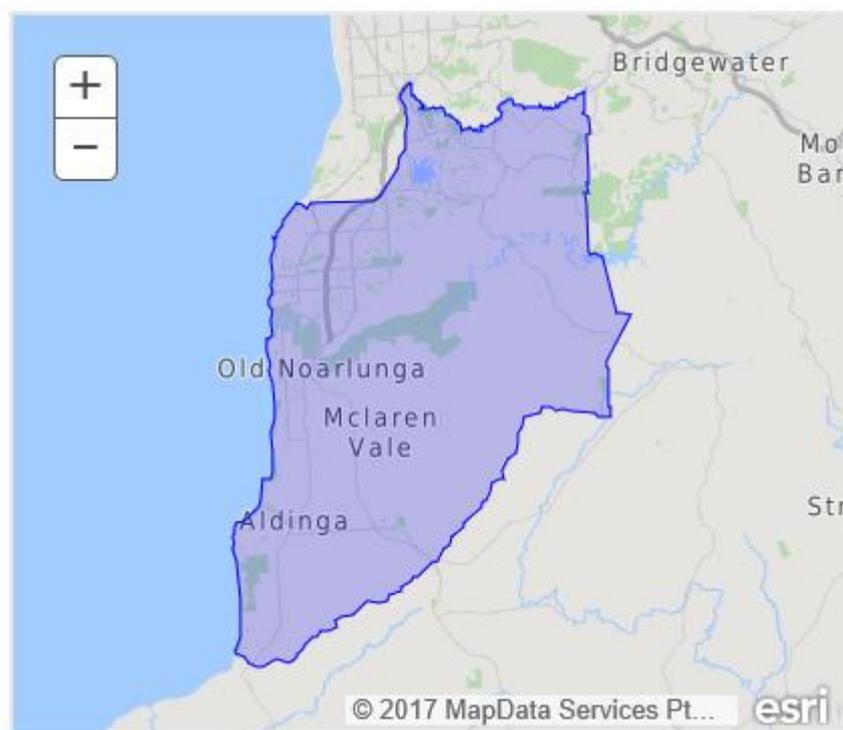
Where this Report indicates that information has been provided to URS by third parties, URS has made no independent verification of this information except as expressly stated in the Report. URS assumes no liability for any inaccuracies in or omissions to that information.

This Report was prepared between March 2012 and January 2013 and is based on the conditions encountered and information reviewed at the time of preparation. URS disclaims responsibility for any changes that may have occurred after this time. This Report should be read in full. No responsibility is accepted for use of any part of this report in any other context or for any other purpose or by third parties. This Report does not purport to give legal advice. Legal advice can only be given by qualified legal practitioners.

Except as required by law, no third party may use or rely on this Report unless otherwise agreed by URS in writing. Where such agreement is provided, URS will provide a letter of reliance to the agreed third party in the form required by URS. To the extent permitted by law, URS expressly disclaims and excludes liability for any loss, damage, cost or expenses suffered by any third party relating to or resulting from the use of, or reliance on, any information contained in this Report. URS does not admit that any action, liability or claim may exist or be available to any third party.

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4.2 CITY OF ONKAPARINGA



4.2.1 Onkaparinga demographic summary

Onkaparinga 2016

[Code LGA45340 \(LGA\)Search for a Community Profile](#)

People	166,766
Male	48.90%
Female	51.10%
Median age	40
Families	46,398
Average children per family	
for families with children	1.8
for all families	0.8
All private dwellings	71,692
Average people per household	2.5
Median weekly household income	\$1,194
Median monthly mortgage repayments	\$1,447
Median weekly rent	\$290
Average motor vehicles per dwelling	1.8

4.2.3 City of Onkaparinga Development Plan

<http://www.sa.gov.au/topics/planning-and-property/development-plans/greater-metropolitan-adelaide-development-plans/onkaparinga-council-development-plan>

A Snapshot of our City

(Extracted from the Community Plan 2035 Discussion Paper)

Our city is known for its natural beauty and enviable lifestyle with a growing population currently in excess of 160 000, which makes us the largest council area by population in South Australia. The city includes picturesque hills, the world-class McLaren Vale wine region, 31 kilometres of pristine coastline and a 75 per cent rural area.

Our city has diverse landscapes

Our city covers 518 square kilometres from the industrial areas in the north west of the city, the rural landscapes and townships of the north east, central and southern areas and the urban areas along the coast that stretches from Sellicks Beach to Port Stanvac.

80 per cent of our population live in suburbs north of the Onkaparinga River, 15 per cent along the central and southern coast and the remainder in rural and township areas.

The entire catchments of the Aldinga Washpool, Pedler Creek, Christies Creek, Maslins Creek, Willunga Creek and Sellicks Creek, the lower Onkaparinga River and estuary, most of the Field River and part of the Sturt River catchment falls within the city boundaries. Since European settlement large scale changes in land management have significantly impacted on catchment hydrology within the city.

The Sturt and Onkaparinga Rivers, Tangari Park, the Aldinga Scrub and Washpool are significant natural conservation areas. They link with the ranges, creeks and coasts to form the city's major environmental features. The distribution of native vegetation and fauna has been severely impacted on by changes to our city's landscape over time. Only 5 per cent of pre-European vegetation remains on the plains areas in the city and 26 per cent on the less fertile and less accessible hilly areas.

Our city has a growing and ageing population

Our city is also the largest South Australian council by population (10 per cent of the state's population) and it is growing quickly.

The city's estimated residential population in 2010 was 162 925 and between 2001 and 2010 it is estimated that the city's population grew by 7.9 per cent. The city experienced the largest population increase (2431) compared to the other local government areas in metropolitan Adelaide between 2009–2010. Between 2011 and 2026 the population in the city is projected to grow by 17.9 per cent or

almost 30 000 people. This growth will require approximately 20 000 new dwellings.

Compared to the Adelaide average our population is younger, with more children and youth and fewer aged people. However, in most suburbs numbers and proportions of young people have declined while the over fifties population steadily grows. In 2006, 29.1 per cent of the city's population was over 50 years and this percentage has been projected to grow to 35.6 per cent by 2011.

The largest growth between 2011 and 2026 is anticipated in the older age groups of 70–74 and 75–79. The largest declines in growth are projected in the 20–24 and 25–29 age groups.

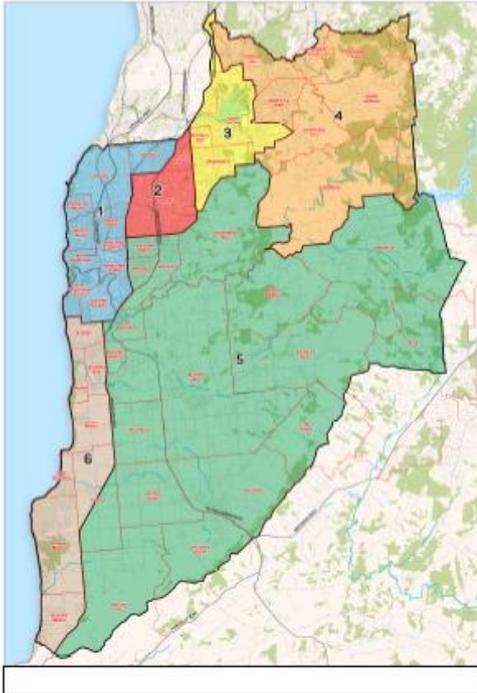
4.2.3.1 Forward planning

Council proposes to introduce a new six ward structure, as depicted in Map 1 which:

- is relatively simple in configuration*
- is reasonably well balanced in regard to the distribution of electors between the proposed wards*
- exhibits elector ratios within each of the proposed wards which lay comfortably within the specified quota tolerance limits and, as such, all of the proposed wards are capable of sustaining reasonable fluctuations in elector numbers*
- has a consistent level of representation across all of the proposed wards*
- proposes wards which incorporate whole suburbs and areas of perceived common character, and therefore serve to preserve existing “communities of interest”.*
- Further, all of the proposed ward boundaries are considered to be appropriate and acceptable, given that they primarily align with long established suburb boundaries.*

Figure 1 Onkaparinga ward structure proposal

Map 2: Proposed ward structure



CITY OF ONKAPARINGA ELECTOR REPRESENTATION REVIEW • PROPOSAL REPORT 2017

Source *CITY OF ONKAPARINGA ELECTOR REPRESENTATION REVIEW • PROPOSAL REPORT 2017* section 5

4.2.3.2 Ward 5 demographic summary

The proposed Ward 5 appears to have the same boundaries as the section of City of Onkaparinga Council area transferred to the new Mawson electorate. The information below is drawn from ABS Census data. The Census data does not yet provide data according to the new Mawson electorate boundaries as these are to be proclaimed before the 2018 State election and are not included in current Australian demography.



Ward 5

People	34,222
Male	48.90%
Female	51.10%
Median age	41
Families	9,563
Average children per family	
for families with children	1.8
for all families	0.8
All private dwellings	14,309
Average people per household	2.5
Median weekly household income	\$1,170
Median monthly mortgage	\$1,400

Of particular relevance are the following highlighted sections:

...this Bill defines the boundary of the district, sets out broad objectives guiding its development and, at the local level, ensures that development will be assessed against local zoning policies that era consistent with these objectives. Once operative, this legislation will set out what is desirable and undesirable in McLaren Vale. Neither the State Government nor the local council will be able to change the rules, or allow incremental erosion of the landscape for urban development, without the approval of Parliament.

.....Residential development in rural areas can substantially impact on both landscape character and core primary production activities. Subdivision in these areas is often the thin edge of the wedge- fragmenting rural and agricultural lands so that they are no longer economically viable as farming operations.

THIS BECOMES AN APPENDIX

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (17:56): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in Hansard without my reading it.

Leave granted.

As members may recall, each Bill lay on the notice paper to provide members of the community and councils to provide their views on the proposed method of protection for these two iconic wine-producing regions. The feedback received during consultation has highlighted and confirmed the Government's view that the protection of McLaren Vale from urban sprawl—from either expanding townships or creeping suburbia—is a priority for the community. People want to see the special character of McLaren Vale protected and they support legislation as the means for this to occur.

The Government has introduced a revised version of the Character Preservation (McLaren Vale) Bill . The revised Bill contains a number of changes from the original Bill, which the Government believes will improve the effectiveness of the protection regime the Government is seeking to put in place. The changes reflect the feedback received during the consultation period and the Government wants to publicly acknowledge all those who took the time to put in a submission as part of that process.

As members may recall, the original Bill was based substantially on a discussion paper and associated maps the former Minister released for consultation in June 2011.

Overwhelmingly, the more than 220 submissions received from councils, members of parliament and community and industry groups in response to that paper supported the proposal to enact legislation to preserve and enhance the special character of the McLaren Vale district. In essence, the key features of the original Bill remain unchanged.

As in the original Bill, this Bill defines the boundary of the district, sets out broad objectives guiding its development and, at the local level, ensures that development will be assessed against local zoning policies that are consistent with these objectives. Once operative, this legislation will set out what is desirable and undesirable in McLaren Vale. Neither the State Government nor the local council will be able to change the rules, or allow incremental erosion of the landscape for urban development, without the approval of Parliament.

However, as already indicated, the Government has decided to make three changes in response to feedback received during the consultation period.

Firstly, the boundaries of the McLaren Vale district have been altered in response to submissions received from councils and the community; in essence the northern boundary of the district now follows the boundary of the City of Onkaparinga and does not include any part of the City of Burnside, the City of Mitcham or the Adelaide Hills Council.

This change reflects the concern expressed by some that the district boundaries were too expansive and included areas that were not related closely enough to the character of McLaren Vale. In total, the revised boundaries will ensure that 38,905 hectares of land are recognised and protected within the McLaren Vale district. A revised map of the district has been deposited in the General Registry Office reflecting the changes.

Secondly, the Bill does not include the district and township objectives, describing the special character of the district, that were set out in the schedule to the original Bill. Consultation feedback suggested councils in particular found these provisions confusing and so, instead of this, the Bill now contains a simplified list of district character values and proposes that these be elaborated upon in a supplementary volume of the Planning Strategy. This new volume will be prepared, in collaboration with the affected councils, over the course of the next 6 months. During the same timeframe, the Bill proposes that affected councils must review their development plans to align zoning policy with the special character of the district. Consultation on both of these statutory processes is intended to occur concurrently.

Thirdly, whereas the original Bill prohibited subdivision for residential and industrial purposes within the district, the revised Bill places that prohibition on the creation of additional residential allotments only. Residential subdivision in rural areas can substantially impact on both landscape character and core primary production activities. Subdivision in these areas is often the thin edge of the wedge—fragmenting rural and agricultural lands so that they are no longer economically viable as farming operations. However, given that there are a number of industrial land uses complementary to agricultural production, the Government has accepted the view put to it through consultation that a statutory prohibition on subdivision for industrial purposes would be overly restrictive.

Instead, such proposals should continue to be assessed, on their merits, against the development plan.

Importantly, in response to feedback from members of the community, the Government has relaxed the subdivision controls in the interim development plan amendment to enable those land owners along the coastal living strip between Aldinga and Maslin Beach to apply for residential subdivision in accordance with the previous zoning policy. The Government wants to make it clear to Parliament and land owners in those areas that the former subdivision controls for this coastal living area—which is zoned as part of the Metropolitan Open Space System—imposed tight controls on subdivision to preserve the open space seascape character of this important coastal strip. There are just under 140 allotments in these two areas and less than 30 of them are subdividable under the policy, which sets a minimum allotment size of 4 hectares. It was never the case that these two areas—which provide an important landscape corridor connecting the wine-growing areas of the Willunga basin with the sea—would ever be allowed urban subdivision under the former policy and, if Parliament supports this Bill, the opportunity for the area to be rezoned to allow residential subdivision in these areas will be removed. Those land owners who are contemplating subdivision in accordance with the 4 hectare minimum allotment size will have a window of opportunity starting today with the relaxation of the interim development plan amendment. However, should Parliament support this Bill, that opportunity will end upon commencement of the legislation.

The other key elements of the Bill remain substantially unchanged. Complementary to this Bill, the Legislative Council is also informed that the Development Plan Amendment or DPA which was introduced on an interim basis last year to support the operation of the original Bill has also been revised, via a new interim DPA, in response to public feedback.

The new interim DPA will prevent inappropriate urban development from occurring within the district as Parliament debates this legislation, while allowing growth within the key township areas.

Aspects of the Bill's operation require some clarification, given some of the feedback on the Bill and DPA the Government has received.

Firstly, it is important to reiterate that this legislation does not aim to replace or replicate the Development Act 1993. Applications for development will still go to council and be assessed against the local development plan. The only exception to this—as stated previously—relates to the residential subdivision in the rural areas of the district which is prohibited under the Bill. This close connection to the Development Act 1993 has, the Government believes, been reinforced by the changes made linking the character values of the district directly to the Planning Strategy.

It is also clarified that, while the Bill also contains a power to make regulations, this power is limited and reflects the standard regulation-making powers contained in most legislation. For example, there is no power for the regulations to specify exceptions to the requirements of the Bill. In short, the Government will not be able to act without Parliamentary scrutiny to change the legislation.

It is important to emphasise as well that the Bill requires a review of the legislation within five years of commencement. The responsible Minister is required to table the report of the review in both Houses. This review will provide a suitable opportunity for the entire protection regime—legislation, Planning Strategy and development plans—to be assessed for their effectiveness in collaboration with councils.

Finally, it is important to highlight that the district boundary does not include Glenthorne Farm, despite views put to me by some in the community that it should do so. When the Government introduced the original Bill, the former Minister stated that the Government would investigate extending the district boundary to include Glenthorne Farm in response to community concern. However, given its disconnection from the remainder of the district, The Government has decided it would not be appropriate to include Glenthorne Farm in this Bill. The Government is continuing to examine other options to ensure its continuing protection as an open space.

Given the substantial community interest generated by the previous Bill, the Government believes it is important that members have the opportunity to canvass their constituents and give the Bill appropriate consideration.

However, the Government reiterates to the Legislative Council its strong commitment to seeing this process through to a successful conclusion. We believe this Bill strikes the appropriate balance and will ensure the special character of this district is protected and maintained.

It would be remiss to not acknowledge the work of the member for Mawson and the Hon. Robert Brokenshire, who have both championed the protection of the McLaren Vale area. The Government would also like to acknowledge the efforts of Pip Forrester, the McLaren Vale Grape Wine and Tourism Association and others groups such as the Friends of the Willunga Basin who have for many years been seeking to further protect this region. The Government wants to take this opportunity to particularly thank both the elected members and staff of Onkaparinga Council who have been extensively involved in this and the previous Bill as well as the associated DPA.

I commend the Bill to Members.

5 LOW POPULATION COUNCILS: CAPACITY TO FUNCTION

5.1 THE CHALLENGES OF SMALL POPULATIONS AND LARGE GEOGRAPHIC AREAS

There is a serious basis for concern that the District Council of Yankalilla is too small by itself to generate and manage sustainable development for agriculture, land and sea environments, and tourism infrastructure. This concern extends to the capacity of the Council to support a relatively disadvantaged resident community.

5.1.1 Road maintenance

Most rural councils struggle with the costs of road maintenance. Changes to commonwealth road funding since 2013 have exacerbated the problems. The cost of maintaining a large network of rural roads in a state as large, and with as low a population density, as South Australia, is made very difficult to cover where funding is provided on a population basis. Road funding problems for country councils therefore have a structural basis.

This is reflected in different ways in each rural council. Rural councils may in particular be affected where State or Commonwealth ownership of land (e.g. conservation and national parks, marinas and reservoirs) reduces the rate base while significantly increasing road traffic by non-residents.

5.1.2 Coastal protection

While councils have responsibility for their coastlines, there is no systematic funding for coastal management outside of the Adelaide metropolitan area. Commonwealth and state government manage marine parks.

The coastal environment is important as a basis for tourism and has a strong impact on the fishing industry. Rural councils struggle with the need to maintain often pristine coastlines and to implement management of stormwater pollutants and sediments on the basis of locally generated funds and in the context of a low organisational capital base.

5.1.3 Non-resident housing

The District Council of Yankalilla raised the issue of the impact of low permanent population combined with High proportions of dwelling for holiday housing with the SA Grants Commission. It argued that grant calculations where rate income potential was calculated on capital value of building as a ratio of usual resident population did not accurately reflect the low socio-economic status of permanent residents and their capacity to pay rates .

The LGA followed up with this issue and in 2014 *Second homes and changing populations Impacts and implications for local government in South Australia* was published.

([http://www.lga.sa.gov.au/webdata/resources/project/2013.35 -
_Second_homes_and_changing_populations -
_Impacts_and_implications_for_local_government_in_SA.pdf](http://www.lga.sa.gov.au/webdata/resources/project/2013.35_-_Second_homes_and_changing_populations_-_Impacts_and_implications_for_local_government_in_SA.pdf))

The study confirmed that a problem existed and provided extensive evidence that the problem existed across SA coastal councils.

Road maintenance, coastal protection and non-resident housing combine to present significant challenges for the councils in the western Fleurieu. The District Council of Yankalilla does not have the technical capacity or influence to deal with these issues.

5.2 DEFICIENCIES IN THE DISTRICT COUNCIL OF YANKALILLA

In addition to general structural and policy limitations, deficiencies in the functioning and efficiency of the District Council of Yankalilla can be attributed to

- economic performance of the district
- a limited vision of the function and opportunities for local government in the region
- limitations in the skills and capacities of staff.

5.2.1 Development planning

The current development plan has not been subject to routine systematic reviews for more than 20 years. Only short term essential amendments have been included. This has led to a somewhat haphazard development in the interests of a limited number of developers, which has resulted in high levels of undeveloped sites.

In 1997 the State Government deemed that the District Council of Yankalilla's capacity was too small and intervened to guide the Wirrina development. This development has experienced 5 insolvencies which have interrupted the revenue flows to Council. In 2013 it was necessary for Council to take over responsibility for water supply and effluent processing to ensure that these services would continue to be available. This responsibility carries significant risk if the resort fails again. The development plan for the Wirrina precinct has been made redundant by the breaking up of the resort complex elements, but there has been no move to rewrite this part of the development plan.

This water and effluent situation exposes current residents of Wirrina to health risks. The failure to trigger growth clauses in the initial plan for the state to supply mains water to the development as it grew, means that there is inadequate protection of the catchment zone of the local supply into the future. The lease of the Marina is proposing development of a residential component which will require water and effluent services, but as the development is on state-owned land there is no provision for Council to charge rates. Urgent attention is required to update this section of the development plan and to ensure that a catchment protection zone for the local Wirrina water supply is defined and made operational or for the precinct to be supplied with SAWater mains.

The Links Lady Bay concept has developed slowly which has undermined Council's projected revenues. Overall predicted population targets have not been reached, resulting in lower than anticipated revenue streams. Despite projects focusing on thirty year planning and structural planning process for Yankalilla and Normanville there remains many gaps in material to be used for a district-wide Development Plan which integrates rural and township planning. This suggests that the resources available and planning skills of the District Council of Yankalilla have been well below those required. The current Structure Plan is not an adequate development response.

5.2.2 Agriculture

Passive capital investment in rural land with an expectation of capital gain has increased agricultural land values. This has proven to be a barrier for turnover of farming land and contributed to a farming sector which has an ageing population of operators as new enterprises cannot obtain returns that will cover loans for purchase.

There is a risk from predatory development practices that threaten the current and future viability of agricultural enterprises. Speculative investment in agricultural land is occurring, contributing to a decrease in the productivity and biosecurity of land at the margin between agricultural enterprise and possible potential residential or tourism development.

The loss of revenue to the DCY by a deteriorating agricultural sector is leading to a loss of access of full-time residents to services that are taken for granted in other councils.

Ratio of non-resident dwellings

Yankalilla has one of the highest levels of unoccupied dwellings in South Australia. This produces an unstable commercial environment with severe seasonal fluctuation which has resulted in a very slow increase in job numbers in the area (10 per year from 2006 to 2011) Structural reform is needed to increase job activity and develop a greater proportion of houses with permanent residents. Holiday houses are not treated as commercial properties and hence the proportion of rate revenue from commercial properties is far less than experienced in other councils.

1.1.1 Coastal management

Yankalilla council has 83 kms of coastline which is a key environmental asset. The district has more than half of the estuaries that flow into Gulf St Vincent. Expenditure on protection of this asset has been miniscule compared to that in the much smaller Adelaide metropolitan area. There is a significant risk that failure to address coastal and estuarine management could result in sand loss from Lady Bay to Carrickalinga, undermining key tourist assets.

1.1.2 Stormwater management

Stormwater management and environmental protection must be a high priority, but the recent stormwater plan has been limited in scope due to the predicted lack of resources from Council. The plan, even if fully implemented, will only reduce sedimentation and nutrient by less than 30%.

The plan does not address the total flow profile of the estuaries and ignores the potential value of stormwater as a recycled asset. Failure to address the current situation will result in further damage to the high-density of endemic species in the marine environment, and a high risk of loss of sand from beaches that are recognised across Australia as among the most beautiful.

5.2.5 Effluent and water supply management

The district, with assistance from the commonwealth, installed an effluent recycling scheme in 2012. The scheme has not been used because information provided to Council on the quality of effluent was incorrect. An offer was made by AWE to purchase the effluent systems and the potable water supply at Wirrina. This offer was rejected after community backlash at the possible privatisation and modification of the offer by AWE to exclude Wirrina services. The Water Act 2012 has left Council with a requirement to immediately address effluent discharge quality and the high risk with respect to maintaining potable water quality at Wirrina. The cost of managing these risks are higher because the district is too small to use in-house staff with appropriate engineering qualifications, and the newly competitive water market has dramatically increased consultant engineering costs.

The petitioners do not accept the information in the structure plan and in the ten-year financial plan describing a healthy position with respect to the capacity of the Normanville CWMS system. The particular issues are the lack of discussion and analysis about

- storage of effluent is on land not owned by Council
- the need to improve effluent to A class standard to facilitate recycling
- a plan to dispose of an increased volume of B class effluent if the upgrade is not undertaken
- the future need to meet current health and EPA standards regarding the use of effluent sprinkling on the Lady Bay Resort golf course.

The basis for this concern is supported by the following paragraphs in the long-term financial plan:

A significant risk to Council is the ongoing maintenance of its Community Wastewater Management System (CWMS) and Wirrina Water. The LTFP has not catered for any expansion of these facilities.

It is currently calculated that the Normanville CWMS is receiving 128,976 Kl of effluent per annum which equates to 358Kl per day (an Olympic sized swimming pool of effluent a week) or 1790 EP (Equivalent Person) per day. The plant capability for effluent in is 464,313 Kl per annum or 6360 EP per day. The production output is 330 Kl per day (120,450 Kl per annum); the production capability is estimated at 924 Kl per day (337,260 Kl per annum).)

https://www.yankalilla.sa.gov.au/contentFile.aspx?filename=Long Term Financial Plan 2017-2027_Adopted.pdf (Page 11)

1.1.6 Tourism management

The Yankalilla District has the potential for an expanding tourism industry. Under the current structure tourism had been limited mainly to private holiday houses that lie vacant for much of the year.

There are no linkages with the tourism of the McLaren Vale winery district or the Kangaroo Island tourist promotions despite common issues and strengths. Fragmentation of councils contributes to this situation. Current tourism patterns do not transfer wealth into the district because they produce only low wage casual employment on a seasonal basis. The labour for peak periods is imported. Capital investment comes from outside the region and thus the profit flows away from the region, creating a resident servant population which is significantly economically disadvantaged. A small council is unable to confront this issue and there is a need for a consolidated effort with neighbouring areas which are currently in competition yet are affected by the same economic bypass issues.

1.1.7 Managing road maintenance

Maintaining unsealed roads in high rainfall areas is skilled task. Rural rate payers in particular have complained about the standards of road maintenance. They question the

- management of tenders
- engineering of the road foundations
- profiling of road surfaces
- selection of road building materials
- cost efficiency of the equipment and techniques used

Yankalilla District has 435 km of unsealed roads and therefore requires the related road-making equipment. A compromise must be made in a small council to balance the capital cost of equipment against the level of use and depreciation. It is likely that cost efficiency could be increased by upgrading the equipment and using it to saturation level across a wider area. While service-sharing could be used, it is unlikely to be as efficient as having a coordinated works schedule across a larger area under a single management system.

1.1.8 Staff stasis

The District Council of Yankalilla went through a period of low changeover of senior staff in the ten years before 2012. At the end of this period an EBA was in place which rewarded permanent staff with a high level of security and all staff with high salaries. The nature of this EBA has limited the possibility for staff restructuring.

While there has been turnover since then among the most senior officers of council, it is clear that many middle level staff have remained in place. They have moved to the highest increment of their current position levels. Changeover of the middle levels is blocked by over reliance on permanent positions.

It is apparent from the high-risk issues outlined above that the productivity of middle level staff is almost certainly below par and that a culture of non-responsiveness has developed. This matter requires structural reform which is beyond the scope of internal reform. The problem has developed over time and it appears that in many ways the current senior management team has had its hands tied by a structure which they have inherited.

1.1.9 Council strategic view

Financial plan https://www.yankalilla.sa.gov.au/contentFile.aspx?filename=Long Term Financial Plan 2017-2027_Adopted.pdf

In developing the LTFP, a number of key assumptions are applied. For this year, the LTFP model utilises the 2016/17 Estimated Financial Statements as the base year, including changes approved by Council as part of the Quarter Two Budget Review at the February 2017 meeting of Council

The model also assumes that overall, service levels will remain materially unchanged throughout the planning period. However there is recognition of some exceptions to this, outlined below:

? Provision has been made for outlays for new/upgraded assets across this ten-year period that will add to service levels

? Some specific services may be varied or additional services added over time in response to changes in community needs, priorities and preferences

? Any grant funding opportunities will be actively pursued as they arise, as this is an important source of revenue. This may lead to increased service levels.

With these principles and objectives in mind, this Long Term Financial Plan is based on, and achieves the following outcomes:

? Consumer Price Index (CPI) of 2.0% across the ten year period

? Projecting an operating surplus (before non-operating revenues) in all years of the Long Term Financial Plan

? Rate rises in Year 1 at 2.7% and then for Years 2 to 10 maintained at 2.5% (Based on CPI of 2.0% plus half a percent increase)

? Financial indicators within acceptable target levels throughout the 10 year period

? Renewal and Replacement project expenses to be progressed to a level that matches the requirements of the adopted Asset Management Plans (AMPs) including the completion of backlog of asset replacements. Asset Sustainability Ratio (achieving of the AMP) to equal 100%

? Renewal and Replacement of existing assets totaling \$33.2M across the 10 year period

? Spending of \$1.396M in Year 1 on new and upgrade projects, reducing to \$1.3M in Year 2 and then maintained at \$1.2M for Years 3 to 10

? Spending of \$12.296M on New and Upgraded assets across the 10 year period

? Long Term Borrowings levels maintained between \$1.9M and \$4.8M (net financial liabilities ratio to be maintained between 29% and 42%)

The long-term financial plan identifies risks and imponderables which limit the control of councils. For Yankalilla this can be seen to be an important list and reinforces the view of this submission that small councils have a critical range of risks for which they can generate few buffers and over which politically they have little influence.

https://www.yankalilla.sa.gov.au/contentFile.aspx?filename=Long Term Financial Plan 2017-2027_Adopted.pdf Page 6

The petitioners believe that the District Council of Yankalilla is a considerable risk of poor development and damage to its character because the resources, capital, and knowledge and skills necessary for analysis and development cannot be present unless planning is built on a larger population.

2 OPTIONS FOR CHANGE

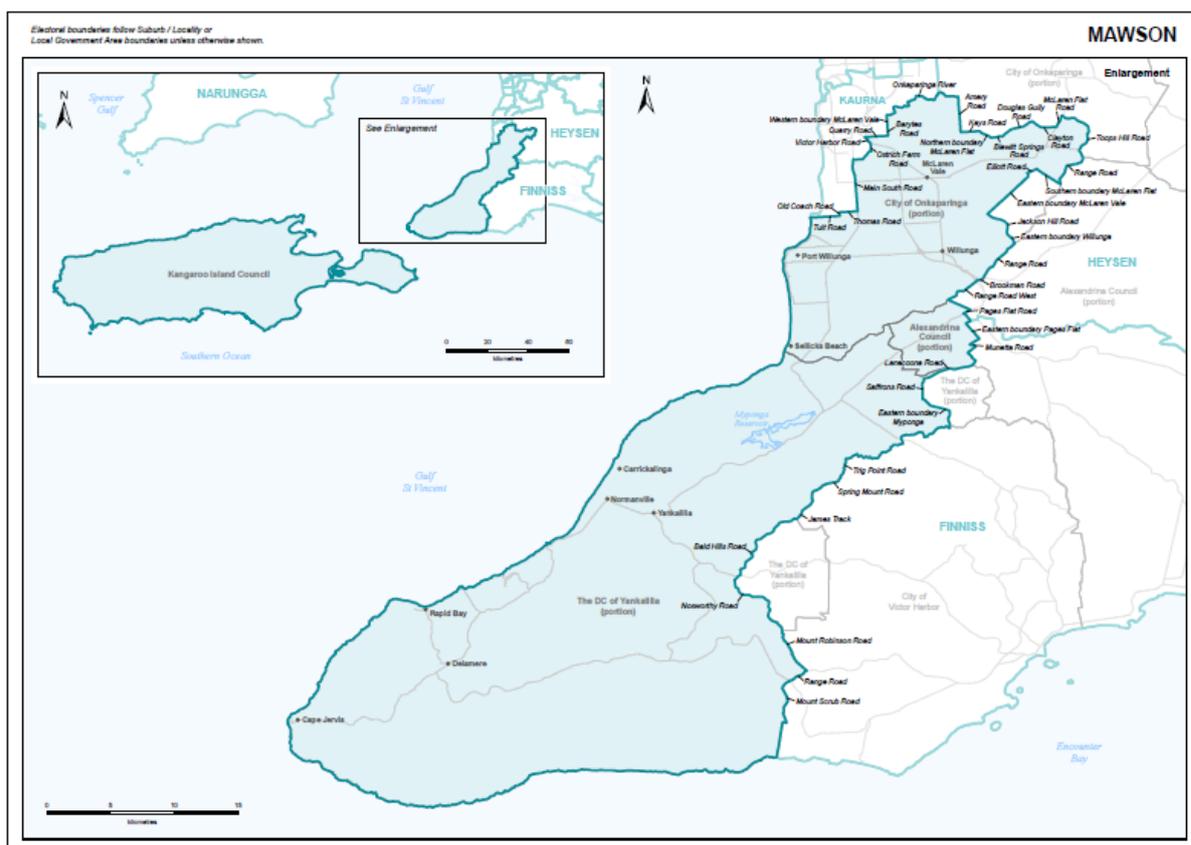


Figure 3 Mawson electorate 2018

From the current position of the Councils and the strategies of the South Australia government it is clear that there is a concern among all parties.

- Generate a stronger economy in the area
- Create a management strategy which effectively and efficiently stimulates development and growth while protecting Agriculture, environment and Character

On the Western Fleurieu region and Kangaroo island The Yankalilla District if poorly integrated into this process

The petitioners considered ways of working creatively in these circumstances. The idea of a complete amalgamation of all Local Government in the area was dismissed as too complex, not adequately differentiating the tasks for Urban development and rural development in the region. It is argued that reducing the size of the Onkaparinga Council by the removal of Ward 6 would allow the remaining council focus on its main function of Urban area management. This leaves the question of how to best ensure that the Agricultural, tourist and environmental needs of the Western Fleurieu should be managed efficiently and effectively.

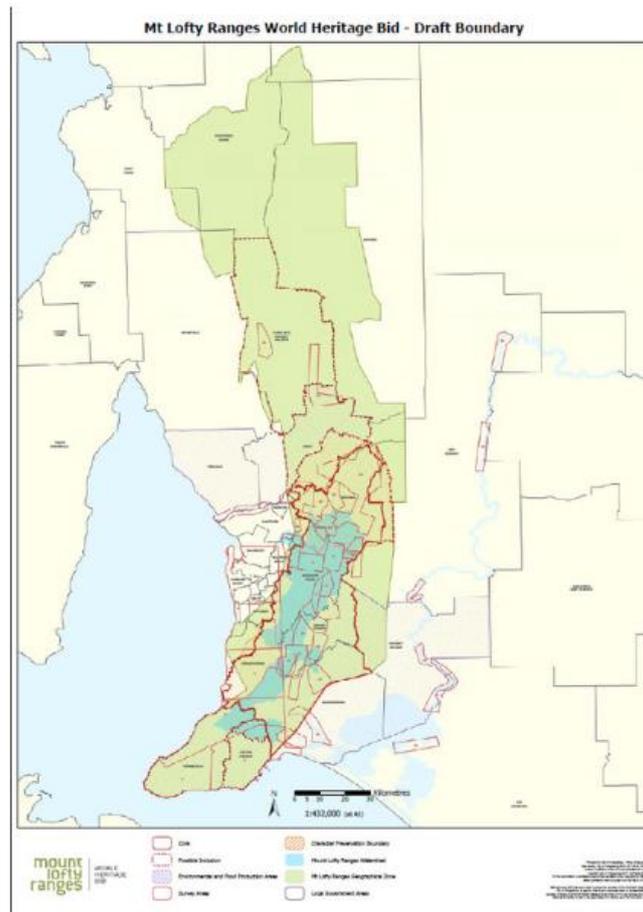
We believe that a single local government body to respond to the implementation of Character protection legislation, expanded to include the Yankalilla district and to develop a harmonised development strategy and to gather a focus the necessary skills has great merit.

It would also be wise to consider the merit of including Kangaroo Island under the Character Preservation legislation and the inclusion of the KI Council in a merger with detailed consideration on the effect of this in the context of the development of the program of the Commissioner for Kangaroo Island. However, we believe it likely that this would introduce too high a level of complexity of change if attempted in the short term. It could however be considered as a second step in the longer term.

The broad demographic impacts of the two strategies are presented in the following tables

6. Non legislated structural change: UNESCO heritage listing

Draft Boundary Map For National Heritage Listing Nomination



3 CENSUS DATA 2011 2016

3.1 YANKALILLA

2011 Census QuickStats

All people - usual residents



Australia | South Australia | Local Government Areas

Yankalilla (DC)

Code LGA48750 (LGA)



People	4,397
Male	2,171
Female	2,226
Median age	51



Families	1,284
Average children per family	1.8



All private dwellings	3,594
Average people per household	2.2
Median weekly household income	\$778
Median monthly mortgage repayments	\$1,120
Median weekly rent	\$190
Average motor vehicles per dwelling	1.9

2016 Census QuickStats

Australia | South Australia | Local Government Areas

Yankalilla (DC)

Code LGA48750 (LGA)

[Search for a Community Profile](#)



People	5,159
Male	49.4%
Female	50.6%
Median age	54



Families	1,418
Average children per family	
for families with children	1.9
for all families	0.5



All private dwellings	3,866
Average people per household	2.2
Median weekly household income	\$923
Median monthly mortgage repayments	\$1,257
Median weekly rent	\$231
Average motor vehicles per dwelling	1.9

3.2 ONKAPARINGA

3.2.1 Onkaparinga Whole

2011 Census QuickStats

All people - usual residents



Australia | South Australia | Local Government Areas

Onkaparinga (C)

Code LGA45340 (LGA)



People	159,576
Male	78,409
Female	81,167
Median age	38



Families	45,186
Average children per family	1.8



All private dwellings	67,867
Average people per household	2.5
Median weekly household income	\$1,080
Median monthly mortgage repayments	\$1,473
Median weekly rent	\$250
Average motor vehicles per dwelling	1.8

2016 Census QuickStats

Australia | South Australia | Local Government Areas

Onkaparinga (C)

Code LGA45340 (LGA)

[Search for a Community Profile](#)



People	166,766
Male	48.9%
Female	51.1%
Median age	40



Families	46,398
Average children per family	
for families with children	1.8
for all families	0.8



All private dwellings	71,692
Average people per household	2.5
Median weekly household income	\$1,194
Median monthly mortgage repayments	\$1,447
Median weekly rent	\$290
Average motor vehicles per dwelling	1.8

3.2.2 Proposed Ward 6

2011 Census QuickStats

All people - usual residents



Australia | South Australia | State Electoral Divisions

Mawson

Code SED40028 (SED)



People	35,455
Male	17,360
Female	18,095
Median age	38



Families	9,998
Average children per family	1.9



All private dwellings	14,550
Average people per household	2.6
Median weekly household income	\$1,055
Median monthly mortgage repayments	\$1,408
Median weekly rent	\$225
Average motor vehicles per dwelling	1.8

2016 Census QuickStats

Australia | South Australia | State Electoral Divisions

Mawson

Code SED40029 (SED)

[Search for a Community Profile](#)



People	34,222
Male	48.9%
Female	51.1%
Median age	41



Families	9,563
Average children per family	
for families with children	1.8
for all families	0.8



All private dwellings	14,309
Average people per household	2.5
Median weekly household income	\$1,170
Median monthly mortgage repayments	\$1,400
Median weekly rent	\$270
Average motor vehicles per dwelling	1.9

3.3 KANGAROO ISLAND

2011 Census QuickStats

All people - usual residents



Australia | South Australia | Local Government Areas

Kangaroo Island (DC)

Code LGA42750 (LGA)



People	4,417
Male	2,259
Female	2,158
Median age	46



Families	1,181
Average children per family	1.8



All private dwellings	3,057
Average people per household	2.2
Median weekly household income	\$834
Median monthly mortgage repayments	\$1,083
Median weekly rent	\$159
Average motor vehicles per dwelling	1.9

2016 Census QuickStats

Australia | South Australia | Local Government Areas

Kangaroo Island (DC)

Code LGA42750 (LGA)

[Search for a Community Profile](#)



People	4,702
Male	51.1%
Female	48.9%
Median age	49



Families	1,180
Average children per family	
for families with children	1.8
for all families	0.5



All private dwellings	3,150
Average people per household	2.2
Median weekly household income	\$947
Median monthly mortgage repayments	\$1,083
Median weekly rent	\$170
Average motor vehicles per dwelling	1.9

4 LINKS TO COUNCIL AND PLANNING DOCUMENTS

4.1 YANKALILLA

4.1.1 Draft Structure plan

4.1.2 Strategic plan Business Plan

4.1.3 Development plan

4.2 ONKAPARINGA

4.2.1 Draft Structure plan

4.2.2 Strategic plan Business Plan

4.2.3 Development plan

4.3 KANGAROO ISLAND

4.3.1 Structure plan

4.3.2 Strategic plan Business Plan

4.3.3 Development plan

4.3.4 KI Commissioner Legislative back ground

<https://hansardpublic.parliament.sa.gov.au/Pages/HansardResult.aspx#/docid/HANSARD-11-16204>

4.3.5 KI Commissioner Management Plan

http://kangarooislandcommissioner.sa.gov.au/projects/transformation_project

5 DETAILS OF RELEVANT LEGISLATION

5.1 LOCAL GOVERNMENT ACT

LOCAL GOVERNMENT ACT 1999 DIVISION 3 - SECT 26

26—Principles

(1) The Minister should, in arriving at recommendations for the purposes of this Chapter (but taking into account the nature of the proposal under consideration), have regard to—

- (a) the objects of this Act; and
- (b) the roles, functions and objectives of [councils](#) under this Act; and
- (c) the following principles:
 - (i) the resources available to local communities should be used as economically as possible while recognising the desirability of avoiding significant divisions within a community;
 - (ii) proposed changes should, wherever practicable, benefit [ratepayers](#);
 - (iii) a [council](#) should have a sufficient resource base to fulfil its functions fairly, effectively and efficiently;
 - (iv) a [council](#) should offer its community a reasonable range of services delivered on an efficient, flexible, equitable and responsive basis;
 - (v) a [council](#) should facilitate effective planning and development within an [area](#), and be constituted with respect to an [area](#) that can be promoted on a coherent basis;
 - (vi) a [council](#) should be in a position to facilitate sustainable development, the protection of the environment and the integration of [land](#) use schemes;
 - (vii) a [council](#) should reflect communities of interest of an economic, recreational, social, regional or other kind, and be consistent with community structures, values, expectations and aspirations;
 - (viii) a [council area](#) should incorporate or promote an accessible centre (or centres) for local administration and services;

(ix) the importance within the scheme of local government to ensure that local communities within large [council areas](#) can participate effectively in decisions about local matters;

(x) in considering boundary reform, it is advantageous (but not essential) to amalgamate whole [areas](#) of [councils](#) (with associated boundary changes, if necessary), and to avoid significant dislocations within the community;

(xi) residents should receive adequate and fair representation within the local government system, while over-representation in comparison with [councils](#) of a similar size and type should be avoided (at least in the longer term);

(xii) the importance within the scheme of local government that a [council](#) be able to co-operate with other [councils](#) and provide an effective form of government to the community;

(xiii) a scheme that provides for the integration or sharing of staff and resources between two or more [councils](#) may offer a community or communities a viable and appropriate alternative to structural change options; and

(d) the extent and frequency of previous changes affecting the [council](#) or [councils](#) under this Chapter or the [repealed Act](#).

(2) The Minister should, so far as is relevant, give preference to structural changes that enhance the capacity of local government to play a significant role in the future of an [area](#) or region from a strategic perspective.

5.1.1 LOCAL GOVERNMENT ACT 1999 – Division 5 SECT 28

28—Public initiated submissions

(1) In this section—

"eligible elector", in relation to a proposal, is—

(a) in the case of a proposal to alter the boundaries of two or more [councils](#) to incorporate [land](#) within the [area](#) of a [council](#) into the [area](#) of another [council](#) (a "receiving council")—an [elector](#) in respect of a place of residence or [rateable property](#) within the [area](#) of a [receiving council](#), or within the [area](#) that would be so incorporated;

(b) in the case of a proposal that relates to the composition of a [council](#) or the issue of wards within the [area](#) of a [council](#)—an [elector](#) in respect of a place of residence or [rateable property](#) within the [area](#) of the [council](#);

(c) in the case of a proposal to incorporate within the [area](#) of a [council](#) a part of the State that is not within the [area](#) of a [council](#)—a person, body corporate or group who or which would, if the proposal were to proceed, be an [elector](#) in respect of a place of residence or [rateable property](#) within the [area](#) that would be so incorporated.

(2) A group of at least 20 [eligible electors](#) may submit to a [council](#) a submission that the [council](#) consider a proposal—

- (a) to alter the boundaries of the [council](#);
- (b) to alter the composition of the [council](#) or the representative structure of the [council](#) (including by the creation, alteration or abolition of wards);
- (c) to incorporate within the [area](#) of the [council](#) a part of the State that is not within the [area](#) of a [council](#).

(3) However, if the [council](#) has, within the 2 years immediately preceding the making of the submission, been newly constituted (including through an amalgamation) or otherwise subject to change through the implementation of a [structural reform proposal](#), a submission cannot be made under subsection (2)

unless—

- (a) the submission is being made with a view to addressing a matter recommended by the Minister that the [council](#) has failed to implement; or
- (b) the submission is to alter the boundaries of the [council](#) and the alteration would not, if it were to be brought into effect—
 - (i) alter a boundary that has been established (including through an amalgamation) within the preceding 2 years; or
 - (ii) alter the same part of a boundary that has already been altered within the preceding 2 years.

(4) A submission under subsection (2)

must—

- (a) set out in general terms the grounds on which the submission is made and the issues that, in the opinion of the person or persons making the submission, should be considered in an assessment of the matter; and
- (b) nominate five persons who are willing to represent the interests of persons who would be directly affected by any proposal based on the matters raised in the submission; and
- (c) comply with guidelines published by the Minister.

(5) The [eligible electors](#) making the submission must furnish a copy of a submission under subsection (2)

to the Minister in accordance with guidelines published by the Minister.

(6) On the receipt of a submission under subsection (2)

, a [council](#) must consider the issues determined by the [council](#) to be relevant to the matter and then decide whether or not it is willing to—

(a) conduct a review in relation to the matter under Division 2

of Part 1

; or

(b) formulate (or participate in the formulation of) a proposal in relation to the matter under Division 4

of this Part.

(7) The [council](#) must give the [eligible electors](#) and the Minister written notice of its decision under subsection (6)

in accordance with guidelines published by the Minister (which may include a time-frame within which a decision should be made under that subsection).

(8) A group of [eligible electors](#) who, after making a submission under subsection (2)

, are dissatisfied with—

(a) a decision of a [council](#) under subsection (6)

; or

(b) any aspect of a review or proposal referred to in that subsection,

may submit the submission, or a submission in substantially the same terms, to the Minister.

(9) A submission under subsection (8)

must—

- (a) set out in general terms the grounds on which the submission is made; and
 - (b) nominate five persons who are willing to represent the interests of persons who would be directly affected by any proposal based on the matters raised in the submission; and
 - (c) comply with guidelines published by the Minister.
- (10) On the receipt of a submission under subsection (8)

, the Minister must examine and consider those issues determined by the Minister to be relevant to the matter—including the actions of any relevant [council](#) in response to a submission under subsection (2)

, whether in his or her opinion action under this Chapter is the most appropriate response to the issues raised by the submission, and whether there is likely to be sufficient support from [electors](#) or potential [electors](#) to justify the formulation and consideration of a proposal by the Minister under this Chapter—and then decide whether or not it appears appropriate to proceed with a proposal himself or herself on the basis of the submission.

Examination of relevant issues should include consultation with the relevant [council](#) or [councils](#) and, if the Minister thinks fit, public consultation.

- (11) If the Minister decides not to proceed with a proposal under subsection (10)

, the Minister must provide a report on the matter—

- (a) to the persons who made the submission; and
 - (c) to any relevant [council](#).
- (12) If the Minister decides to proceed with a proposal under subsection (10)

, the Minister may formulate a proposal and must then—

- (a) by [public notice](#)—
 - (i) inform the public of the substance of the proposal; and

(ii) invite interested persons to make written submissions on the proposal within a period specified by the Minister (being a period of at least 6 weeks); and

(b) publish a copy of the notice in a newspaper circulating within the [area](#) or [areas](#) of the relevant [council](#) or [councils](#).

(13) The Minister must then, after the expiration of the time allowed for submissions, hold a hearing in relation to the proposal unless satisfied that there has already been adequate consultation on the matter or that a hearing is otherwise not warranted in the circumstances of the particular case.

(14) At a hearing held pursuant to subsection (13)

—

(a) a person who made written submissions is entitled to appear personally or by representative and to be heard on those submissions; and

(b) the Minister may hear and consider other evidence and submissions as the Minister thinks fit.

(15) The Minister must consult with any [council](#) affected by a proposal.

(16) The Minister may conduct other inquiries and consultation as the Minister thinks fit.

(17) The Minister may, at the conclusion of his or her inquiries and consultation on a proposal under this section, determine—

(a) that the proposal should proceed; or

(b) that the proposal should be amended, or that an alternative proposal should proceed; or

(c) that the proposal should lapse.

(18) However, the Minister must not make an amendment, or determine that an alternative proposal should proceed, unless—

(a) the Minister has conducted further consultation as the Minister thinks fit; or

(b) the Minister determines—

(i) that there has already been adequate consultation on the matter; or

(ii) that the amendment, or the alternative proposal, is of only minor significance, or that the final proposal differs from the original proposal in minor respects only.

(19) The Minister must ascertain whether a [council](#) affected by a proposal under subsection (17)

accepts or rejects the terms of the proposal (and unless a [council](#) resolves to accept a proposal within one month after the Minister presents it to the [council](#) for formal consideration under this subsection, or within a longer period requested by the [council](#) before the expiration of that month, it will be taken that the [council](#) rejects the terms of the proposal).

(20) If a [council](#) accepts the terms of a proposal subject to the proposal being amended (or further amended), or rejects the terms of the proposal, the Minister must reconsider the proposal and may then determine—

(a) that the proposal should still proceed; or

(b) that the proposal should be amended (and the Minister may then proceed to make the amendment); or

(c) that the proposal should lapse.

(21) The Minister must, after complying with the preceding subsections, cause [public notice](#) of the proposal to be given in the prescribed form and publish a copy of the notice in a newspaper circulating within the [area](#) or [areas](#) of the relevant [council](#) or [councils](#).

(22) If, within the period of eight weeks immediately following the giving of [public notice](#) under subsection (21)

, in respect of a [structural reform proposal](#)—

(a) in the case of a proposal to alter the boundaries of two or more [councils](#) to incorporate [land](#) within the [area](#) of a [council](#) (a "relinquishing council") into the [area](#) of another [council](#) (a "receiving council")—

(i) 10 per cent or more of [electors](#) in respect of places of residence or [rateable property](#) within the [area](#) of a [relinquishing council](#); or

(ii) 10 per cent or more of [electors](#) in respect of places of residence or [rateable property](#) within the [area](#) of a [receiving council](#); or

(iii) 10 per cent or more of [electors](#) in respect of places of residence or [rateable property](#) within the [area](#) that is to be so incorporated;

(b) in any other case—10 per cent of [eligible electors](#) in relation to the proposal,

notify the Minister in accordance with the terms of notice that they desire a poll to be conducted on the proposal, the proposal cannot proceed unless or until a poll has been conducted on the matter.

For the purposes of this subsection—

(a) a body corporate that is an [elector](#) may act through an [officer](#) of the body corporate; and

(b) a group that is an [elector](#) may act through a [member](#) of the group, or an [officer](#) of a body corporate that is a [member](#) of the group.

(23) The following provisions apply to a poll:

(a) the [Local Government \(Elections\) Act 1999](#)

will apply to the poll subject to modifications, exclusions or additions prescribed by regulation;

(b) a person is entitled to vote at the poll if (and only if) the person is—

(i) in the case of a proposal to alter the boundaries of two or more [councils](#) to incorporate [land](#) within the [area](#) of a [council](#) into the [area](#) of another [council](#)—an [elector](#) (or, in the case of a body corporate or a group of persons, a nominee of an [elector](#)) for the [area](#) of any [council](#) affected by the proposal;

(ii) in any other case—an [eligible elector](#) (or, in the case of a body corporate or a group of persons, a nominee of an [eligible elector](#));

(c) the Minister will, after consultation with the relevant [council](#) or [councils](#), determine the day on which the poll will be conducted;

(d) the poll will be conducted by postal voting in a manner that allows the Minister to ascertain the overall result of the poll and, in a case where subsection (22)(a)

applies, voting according to—

(i) the [area](#) of the [relinquishing council](#), or of each [relinquishing council](#) (as the case may be), excluding the [area](#) that is to be incorporated into the [area](#) of another [council](#); and

(ii) the [area](#) of the [receiving council](#), or of each [receiving council](#); and

(iii) the [area](#) that is to be incorporated into the [area](#) of another [council](#);

(e) the [council](#) or [councils](#) for the relevant [area](#) or [areas](#) must conduct the poll (at its or their expense);

(f) the Minister must prepare a summary of the issues surrounding the proposal to assist persons who may vote at the poll, subject to complying with the following requirements:

(i) the Minister must consult with the relevant [council](#) or [councils](#) about the summary and must, at the request of a [council](#), include a statement (in a form agreed between the Minister and the [council](#)) as to whether the [council](#) accepts or rejects the terms of the proposal; and

(ii) the Minister must not release the summary until the [Electoral Commissioner](#) has certified that he or she is satisfied that the Minister has taken reasonable steps to ensure that the summary presents the arguments for and against the implementation of the proposal in a fair and comprehensive manner;

(g) a [council](#) affected by a proposal must ensure that copies of the summary prepared by the Minister under paragraph (f)

are made available for public inspection at the principal office of the [council](#), and distributed to [electors](#) in accordance with directions of the Minister;

(h) the Minister may publish directions and guidelines relating to—

(i) the preparation, distribution and use of ballot papers; and

(ii) the procedure for voting at the poll; and

(iii) the counting of votes; and

(iv) the publication of results; and

(v) other issues relevant to the conduct of the poll;

(i) if—

(i) in the case where subsection (22)(a)

applies—

(A) 40 per cent or more of the combined total of [electors](#) in respect of places of residence or [rateable property](#) within the [area](#) of the [receiving council](#) and [electors](#) in respect of places of residence or [rateable property](#) within the [area](#) that is to be incorporated into the [area](#) of the [receiving council](#) cast a vote at the poll (either personally or, in the case of a body corporate or group, through a nominee); and

(B) a majority of those persons so voting vote against the proposal; or

(ii) in any other case—

(A) 40 per cent or more of the persons entitled to vote cast a vote at the poll (either personally or, in the case of a body corporate or group, through a nominee); and

(B) a majority of those persons so voting vote against the proposal, the result is binding and the proposal cannot proceed;

(j) if paragraph (i)

does not apply, the Minister must nevertheless reconsider the proposal in view of the outcome of the poll (including the outcome of the poll in distinct [areas](#)) and may, if the Minister thinks fit, amend the proposal, or substitute an alternative proposal, or resolve that the proposal should lapse.

(24) However, if—

(a) the Minister—

(i) amends the proposal so that it directly affects [electors](#) who were not directly affected by the original proposal; or

(ii) substitutes an alternative proposal; and

(b) the Minister does not, at that time, determine that the amendment, or the alternative proposal, is of only minor significance, or that the final proposal differs from the original proposal in minor respects only,

then the amended or substituted proposal will be taken to be a new proposal under this section.

(25) The Minister must, after complying with the above requirements, prepare and publish a report on the matter. ¹

5.2 AMENDMENTS IMPACTING ON THE LOCAL GOVERNMENT ACT 1999

5.2.1 Local Government (Boundary Adjustment) Amendment Bill 2016

House of Assembly—No 180 As laid on the table and read a first time, 16 November 2016 HA GP 465-B OPC 85 1
South Australia
Local Government (Boundary Adjustment) Amendment Bill 2016

A BILL FOR

An Act to amend the *Local Government Act 1999*; and to make related amendments to the *South Australian Local Government Grants Commission Act 1992*. Local Government (Boundary Adjustment) Amendment Bill 2016 Contents 2 HA GP 465-B OPC 85

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6 Amendment of section 26—Principles

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11 Amendment of Schedule 5—Documents to be made available by councils

Schedule 1—Related amendments and transitional provision

Part 1—Related amendments to *South Australian Local Government Grants Commission Act 1992*

1 Amendment of section 5—The Account

2 Amendment of section 14—Staff

3 Amendment of section 15—Functions of Commission

Part 2—Transitional provision

4 Transitional provision

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Local Government (Boundary Adjustment) Amendment Act 2016*.
5 **Local Government (Boundary Adjustment) Amendment Bill 2016** Preliminary—Part 1 HA GP 465-B
OPC 85 3

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified. 5

Part 2—Amendment of *Local Government Act 1999*

4—Amendment of section 4—Interpretation

Section 4(1)—after the definition of *commercial project* insert:

Commission means the South Australian Local Government Grants Commission established under the *South Australian Local Government 10 Grants Commission Act 1992*;

5—Amendment of section 8—Principles to be observed by a council

Section 8—after paragraph (e) insert:

(ea) seek to collaborate and form partnerships with other councils and regional bodies for the purposes of delivering cost-effective services 15 (while avoiding cost-shifting among councils), integrated planning, maintaining local representation of communities and facilitating community benefit;

6—Amendment of section 26—Principles

(1) Section 26(1) and (2)—delete "Minister" wherever occurring and substitute in each 20 case:

Commission

(2) Section 26(1)(c)(x)—delete subparagraph (x)

(3) Section 26(1)(c)(xii) and (xiii)—delete subparagraphs (xii) and (xiii) and substitute:

(xii) a scheme that provides for the performance of functions and delivery 25 of services in relation to 2 or more councils (for example, a scheme for regional governance) may improve councils' capacity to deliver services on a regional basis and therefore offer a viable and appropriate alternative to structural change; and

7—Substitution of Chapter 3 Part 2 Divisions 4 to 7 30

Chapter 3 Part 2 Divisions 4 to 7—delete Divisions 4 to 7 (inclusive) and substitute:

Division 4—Procedures for proposals

27—Preliminary

(1) In this Division—

administrative proposal—see section 30(7); 35 **Local Government (Boundary Adjustment) Amendment Bill 2016** Part 2—Amendment of *Local Government Act 1999* 4 HA GP 465-B OPC 85

eligible elector, in relation to a proposal, is—

(a) in the case of a proposal to alter the boundaries of 2 or more councils to incorporate land within the area of a council into the area of another council (a **receiving council**)—an elector in respect of a place of residence or rateable property within 5 the area of a receiving council, or within the area that would be so incorporated; or

(b) in the case of a proposal that relates to the composition of a council or the issue of wards within the area of a council—an elector in respect of a place of residence or 10 rateable property within the area of the council; or

(c) in the case of a proposal to incorporate within the area of a council a part of the State that is not within the area of a council (the **outside area**)—a person, body corporate or group within the outside area who or which would, if the 15 proposal were to proceed, be an elector in respect of a place of residence or rateable property within the area that would be so incorporated;

general proposal means a proposal for the making of a proclamation under this Chapter, other than an administrative proposal; 20

proposal includes an administrative proposal or a general proposal;

proposal guidelines—see subsection (2).

(2) The Commission must prepare and publish on a website determined by the Commission guidelines (**proposal guidelines**) for the purposes of this Division. 25

(3) Without limiting subsection (2), the proposal guidelines—

(a) must set out procedures for inquiries under this Division; and

(b) must specify requirements relating to consultation that must be undertaken for the purposes of inquiries under this 30 Division, including consultation with the community, councils affected by proposals and entities that represent the interests of council employees affected by proposals; and

(c) may provide for any other matter the Commission thinks appropriate. 35

(4) A provision of the proposal guidelines may be of general, limited or varied application according to—

(a) the kind of proposal or inquiry; or

(b) any other specified factor,

28—Commission to receive proposals

(1) Subject to this section, a proposal for the making of a proclamation under this Chapter may be referred to the Commission—

- (a) by resolution of either House of Parliament; or
- (b) by the Minister; or 5
- (c) by a council or councils; or
- (d) by the prescribed percentage or number of eligible electors.

(2) A proposal referred under subsection (1)(d) by the prescribed percentage or number of eligible electors may only relate to—

- (a) the alteration of council boundaries to incorporate land 10 within the area of a council into the area of another council; or
- (b) the composition of a council or its representative structure; or
- (c) the incorporation within the area of a council a part of the 15 State that is not within the area of a council.

(3) A proposal under this section must—

- (a) set out in general terms the nature of the proposal; and
- (b) comply with any requirements of the proposal guidelines.

29—Commission to deal with proposals 20

(1) The Commission must, in accordance with the proposal guidelines, assess a proposal and determine whether—

- (a) to inquire into the proposal in accordance with subsection (2); or
- (b) to refuse to inquire into the proposal in accordance with 25 subsection (3).

(2) If the Commission determines to inquire into a proposal, the following provisions apply:

- (a) if the proposal is an administrative proposal, the Commission must inquire into the administrative proposal in 30 accordance with section 30;
- (b) if the proposal is a general proposal, the Commission must inquire into the general proposal in accordance with section 31.

(3) The Commission may refuse to inquire into a proposal if the 35 Commission considers that—

- (a) the proposal is vexatious, frivolous or trivial; or

(b) it is not in the public interest to inquire into the proposal; or **Local Government (Boundary Adjustment) Amendment Bill 2016** Part 2—Amendment of *Local Government Act 1999* 6 HA GP 465-B OPC 85

(c) the proposal is the same as or substantially similar to a proposal that has already been inquired into; or

(d) there is some other good reason to refuse to inquire into the proposal.

(4) For the purposes of this Division— 5

(a) an inquiry may relate to 1 or more proposals before the Commission; and

(b) a proposal received by the Commission after the commencement of an inquiry may be dealt with at the inquiry, if the Commission determines it appropriate to do 10 so.

30—Inquiries—administrative proposals

(1) An inquiry under this section into an administrative proposal will be conducted by the Commission according to such procedures as the Commission thinks fit, provided that a reasonable amount of 15 community consultation is conducted in accordance with the proposal guidelines.

(2) Despite subsection (1), the Commission may determine not to conduct community consultation in relation to a particular administrative proposal if the Commission considers it unnecessary 20 to do so.

(3) After conducting an inquiry into an administrative proposal, the Commission must consult with the Minister on the matter (including on any recommendations that the Commission proposes to make in relation to the administrative proposal). 25

(4) After consulting with the Minister under subsection (3), the Commission must—

(a) prepare and publish on a website determined by the Commission a report on the administrative proposal that includes the Commission's recommendations as to the 30 administrative proposal (subject to any redactions or limitations that the Commission considers necessary to prevent the disclosure of confidential or commercially sensitive information); and

(b) provide a copy of the report to the Minister. 35

(5) To avoid doubt, if the Commission determines to recommend an administrative proposal in a report under subsection (4), the administrative proposal recommended may involve such variations as the Commission thinks fit to the administrative proposal referred to the Commission under this Division. 40 **Local Government (Boundary Adjustment) Amendment Bill 2016** Amendment of *Local Government Act 1999*—Part 2 HA GP 465-B OPC 85 7

(6) The Minister may, in relation to an administrative proposal set out in a report under subsection (4), determine that—

(a) the administrative proposal proceed and forward it to the Governor with a recommendation that a proclamation be made under this Chapter in relation to the administrative 5 proposal; or

(b) the administrative proposal not proceed.

(7) In this section—

administrative proposal means a proposal—

(a) relating to the alteration of a boundary that is shared by 2 or 10 more councils—

(i) to facilitate a development that has been granted a development authorisation (within the meaning of the *Planning, Development and Infrastructure Act 2016*); or 15

(ii) to correct an anomaly that is, in the opinion of the Commission, generally recognised; or

(b) in the case of a boundary shared by 2 or more councils that falls along a road—relating to the alteration of the boundary following the realignment of the road; or 20

(c) relating to the alteration of a boundary to incorporate within the area of a council vacant land in a part of the State that is not within the area of a council; or

(d) of a kind prescribed by the regulations.

31—Inquiries—general proposals 25

(1) The Commission—

(a) in the case of an inquiry under this section into a general proposal—

(i) referred by resolution of either House of Parliament or by the Minister; or 30

(ii) of a prescribed kind,

must appoint 1 or more investigators to conduct the inquiry; or

(b) in any other case—may appoint 1 or more investigators to conduct the inquiry. 35

(2) In appointing investigators to conduct inquiries under this section, the Commission must seek to ensure, as far as is reasonably practicable, that—

(a) the qualifications, knowledge, expertise and experience of a particular investigator are relevant to the inquiry for which 40 the investigator is being appointed; and **Local Government (Boundary Adjustment) Amendment Bill 2016** Part 2—Amendment of *Local Government Act 1999* 8 HA GP 465-B OPC 85

(b) councils affected by a proposal the subject of an inquiry are consulted on proposed appointments.

(3) An inquiry into a general proposal under this section—

(a) must be conducted in accordance with the proposal guidelines; and 5

(b) must consider (in addition to the principles set out in section 26)—

(i) the financial implications and impact on resources that the general proposal is likely to have on any council affected by the general proposal; and 10

(ii) the extent of support for the general proposal (in particular) and boundary reform in the area (in a general sense) within the community affected by the general proposal; and

(iii) the extent of support for the general proposal of any 15 council affected by the general proposal; and

(iv) the impact on the various rights and interests of any council employees affected by the general proposal; and

(v) any other principles prescribed by the regulations. 20

(4) An investigator appointed to conduct an inquiry under this section must—

(a) comply with any directions or requirements of the Commission relating to the inquiry; and

(b) at the conclusion of the inquiry, provide a report on the 25 inquiry to the Commission.

(5) The Commission must—

(a) after conducting an inquiry to which this section applies; or

(b) receiving a report under subsection (4),

prepare and publish on a website determined by the Commission a 30 report on the matter that includes the Commission's recommendations as to the general proposal (subject to any redactions or limitations that the Commission considers necessary to prevent the disclosure of confidential or commercially sensitive information) and provide a copy of the report to the Minister. 35

(6) To avoid doubt, if the Commission determines to recommend a general proposal in a report under this section, the general proposal recommended may involve such variations as the Commission thinks fit to the general proposal referred to the Commission under this Division. 40 **Local Government (Boundary Adjustment) Amendment Bill 2016** Amendment of *Local Government Act 1999*—Part 2 HA GP 465-B OPC 85 9

(7) The Commission may include in a report published under this section recommendations relating to the delivery of services on a regional basis by councils as an alternative to structural change, or any other recommendation the Commission considers appropriate.

(8) The Minister may send a report back to the Commission for 5 reconsideration in accordance with any directions of the Minister.

(9) The Commission may, after complying with any directions of the Minister, publish on a website determined by the Commission an amended report (which may include amended recommendations) and provide a copy of the amended report to the Minister. 10

(10) The Minister may, in relation to a general proposal set out in a report of the Commission under subsection (5) or subsection (9)—

(a) determine that the general proposal proceed and forward it to the Governor with a recommendation that a proclamation be made under this Chapter in relation to the general 15 proposal; or

(b) determine that the general proposal not proceed; or

(c) in the case of a general proposal referred to the Commission by a council that the Commission has recommended in the report not proceed—at the request of 1 or more councils, 20 consult with the relevant councils about the matter.

(11) After consultation in accordance with subsection (10)(c), the Minister may—

(a) if the Minister determines that it is appropriate to make a recommendation to the Governor in the circumstances of the 25 particular case, forward the general proposal to the Governor with a recommendation that a proclamation be made under this Chapter in relation to the general proposal; or

(b) in any other case—determine that the general proposal not 30 proceed.

32—Notification of outcome of inquiries

(1) After completion of all relevant procedures in relation to an inquiry under section 30 or 31, the Commission must give public notice of, and notify the following persons or bodies, the Minister's 35 determination in relation to the proposal:

(a) the person or body who referred the proposal to the Commission;

(b) any council affected by the proposal;

(c) any registered industrial association (within the meaning of 40 section 108) that represents the interests of employees of councils.**Local Government (Boundary Adjustment) Amendment Bill 2016** Part 2—Amendment of *Local Government Act 1999* 10 HA GP 465-B OPC 85

(2) In addition, if a general proposal recommended by the Commission under section 31 does not proceed to a proclamation after completion of all relevant procedures under that section, the Minister must prepare a report on the matter and cause copies of that report to be laid before both Houses of Parliament. 5

32A—Powers relating to inquiries

(1) The Commission or an investigator conducting an inquiry under this Division may, in connection with the inquiry—

(a) by summons signed by the Commission or investigator (as the case requires), require a person's attendance; and 10

(b) require a person to answer, orally or in writing, questions to the best of his or her knowledge, information and belief; and

(c) require a person to verify an answer under paragraph (b) by declaration; and

(d) require a council or person to produce any relevant 15 documents or other records; and

(e) retain documents or other records produced under paragraph (d) for reasonable periods and make copies of them or their contents; and

(f) call for or receive submissions or representations. 20

(2) Subject to subsection (3), a person or council must not refuse or fail to comply with a requirement under subsection (1).

Maximum penalty: \$10 000.

(3) A person is not obliged to comply with a requirement under subsection (1) if to do so might incriminate the person of an offence, 25 and a person or a council is not required to

provide information under subsection (1) that is privileged on the ground of legal professional privilege.

32B—Costs

The Commission may recover reasonable costs incurred in respect of 30 an inquiry in relation to a general proposal referred to the Commission by a council or councils under this Division as a debt due from the council or councils.

32C—Inquiries—independence of Commission etc

(1) Except as provided by this Division, the Commission or an 35 investigator appointed by the Commission is not subject to Ministerial direction in relation to an inquiry or a recommendation or report under this Division.

(2) Sections 16 to 18 of the *South Australian Local Government Grants Commission Act 1992* do not apply to or in relation to an inquiry 40 conducted or recommendation made under this Division. **Local Government (Boundary Adjustment) Amendment Bill 2016** Amendment of *Local Government Act 1999*—Part 2 HA GP 465-B OPC 85 11

8—Amendment of section 34—Error or deficiency in address, recommendation, notice or proclamation

Section 34(1)—delete "or in a recommendation or report of the Minister" and substitute:

, in a recommendation of the Minister, or in a report of the Commission 5

9—Amendment of section 110—Code of conduct for employees

Section 110(2)—after "registered" insert:

industrial

10—Amendment of section 122—Strategic management plans

Section 122(1)(a)(iii)—after "governments" insert: 10

and councils or other regional bodies

11—Amendment of Schedule 5—Documents to be made available by councils

Schedule 5, item commencing **Reviews of council constitution, wards and boundaries**, second and third dot points—delete the second and third dot points

Schedule 1—Related amendments and transitional provision 15

Part 1—Related amendments to *South Australian Local Government Grants Commission Act 1992*

1—Amendment of section 5—The Account

(1) Section 5(2)—after paragraph (d) insert:

(e) amounts paid into the Account for the purposes of the Commission's 20 functions under any other Act.

(2) Section 5(3)(b)—after "this Act" insert:

or the performance of the Commission's functions under any other Act

2—Amendment of section 14—Staff

Section 14(1)—delete "this Act" and substitute: 25

the performance of the Commission's functions under this and any other Act

3—Amendment of section 15—Functions of Commission

Section 15(1)(b)—after "this" insert:

or any other **Local Government (Boundary Adjustment) Amendment Bill 2016** Schedule 1—
Related amendments and transitional provision 12 HA GP 465-B OPC 85

Part 2—Transitional provision

4—Transitional provision

Any process or proceeding commenced before the commencement of this clause under Chapter 3 Part 2 of the *Local Government Act 1999* (as in existence before the amendment of that Part by this Act) may be continued and completed in accordance 5 with the process set out in Chapter 3 Part 2 of the *Local Government Act 1999* (and be the subject of any appropriate proclamation) as if that Part had not been amended by this Act.

5.3 CHARACTER PRESERVATION ACT (MCLAREN VALE) 2012

South Australia

Character Preservation (McLaren Vale) Act 2012

An Act to provide measures to protect and enhance the special character of the McLaren Vale region; to make related amendments to the *Development Act 1993*; and for other purposes.

Contents

- 1 Short title
- 2 Commencement
- 3 Interpretation

- 4 Interaction with other Acts
- 5 Administration of Act
- 6 Objects
- 7 Character values of district
- 8 Limitations on land division in district
- 9 Power to require information
- 10 Review of Act
- 11 Regulations

Schedule 1—Related amendments and transitional provisions

Part 1—Preliminary

- 1 Amendment provisions

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Legislative history

The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Character Preservation (McLaren Vale) Act 2012*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Interpretation

- (1) In this Act, unless the contrary intention appears—

development authorisation has the same meaning as in the *Development Act 1993*;

district means the area defined as the McLaren Vale district by the plan deposited in the General Registry Office at Adelaide and numbered GP 3 of 2012 (being the plan as it exists on 26 June 2012);

Planning Strategy means the Planning Strategy under the *Development Act 1993*;

relevant authority, in relation to a proposed development, means the body determined to be the relevant authority under the *Development Act 1993* for the purpose of an application made under the *Development Act 1993* in relation to the proposed development;

relevant council means a council whose area includes part of the district;

residential development means development primarily for residential purposes but does not include—

(a) the use of land for the purposes of a hotel or motel or to provide any other form of temporary residential accommodation for valuable consideration; or

(b) a dwelling for residential purposes on land used primarily for primary production purposes;

rural area means the area of the district not including townships;

township means an area marked as a township in the plan deposited in the General Registry Office at Adelaide and numbered GP 3 of 2012 (being the plan as it exists on 26 June 2012).

(2) A reference in this Act to the **special character** of the district is a reference to the identity and characteristics of the district and locations within the district, having regard to any relevant provisions of the Planning Strategy and the character values of the district.

4—Interaction with other Acts

(1) Except where the contrary intention is expressed in this or any other Act, this Act is in addition to and does not limit or derogate from the provisions of any other Act.

(2) For the purposes of the *Development Act 1993*, this Act is a character preservation law.

5—Administration of Act

This Act is to be administered by the Minister responsible for the administration of the *Development Act 1993*.

6—Objects

(1) The objects of this Act are—

(a) to recognise, protect and enhance the special character of the district while at the same time providing for the economic, social and physical well being of the community; and

(b) to ensure that activities that are unacceptable in view of their adverse effects on the special character of the district are prevented from proceeding; and

(c) to ensure that future development does not detract from the special character of the district; and

(d) otherwise to ensure the preservation of the special character of the district.

(2) A person or body involved in the administration of an Act must, in exercising powers and functions in relation to the district, have regard to and seek to further the objects of this Act.

7—Character values of district

(1) The following character values of the district are recognised:

(a) the rural and natural landscape and visual amenity of the district;

(b) the heritage attributes of the district;

(c) the built form of the townships as they relate to the district;

(d) the viticultural, agricultural and associated industries of the district;

(e) the scenic and tourism attributes of the district.

(2) The character values of the district are relevant to—

(a) assessing the special character of the district; and

(b) the policies to be developed and applied under the Planning Strategy and any Development Plan under the *Development Act 1993* that relates to the district.

8—Limitations on land division in district

(1) This section applies to a proposed development in the rural area that involves a division of land under the *Development Act 1993* that would create 1 or more additional allotments.

(2) A relevant authority (other than the Development Assessment Commission) must not grant development authorisation to a development to which this section applies unless the Development Assessment Commission concurs in the granting of the authorisation.

(3) If the Development Assessment Commission is the relevant authority, the Development Assessment Commission must not grant development authorisation to a development to which this section applies unless the council for the area where the proposed development is situated concurs in the granting of the authorisation.

(4) No appeal under the *Development Act 1993* lies against a refusal by a relevant authority to grant development authorisation to a development to which this section applies or a refusal by the Development Assessment Commission or a council to concur in the granting of such an authorisation.

(5) If a proposed development to which this section applies will create additional allotments to be used for residential development, the relevant authority must refuse to

grant development authorisation in relation to the proposed development (if the application for the development authorisation for the division of land was made after the commencement of this section).

(6) If the relevant authority determines an application in respect of a development authorisation on the basis of subsection (5), the relevant authority must notify the applicant of that fact.

(7) A development authorisation granted in relation to a proposed development to which this section applies will be taken to be subject to the condition that the additional allotments created will not be used for residential development (if the application for the development authorisation for the division of land was made after the commencement of this section).

9—Power to require information

(1) A person or body responsible for issuing statutory authorisations under an Act (the **relevant Act**) may, by notice in writing to—

(a) an applicant for such a statutory authorisation that relates to, or would otherwise affect, the district; or

(b) a government or local government authority,

request that specified information be provided to the person or body to enable the person or body to consider any matter relevant to the objects of this Act in relation to the statutory authorisation (and the applicant or authority of whom the request is made must not, without reasonable excuse, fail to comply with a request under this section).

(2) In this section—

statutory authorisation means an approval, consent, licence, permit or other authorisation granted or required under an Act.

10—Review of Act

(1) The Minister must, within 5 years after the commencement of this Act, undertake a review of this Act.

(2) In conducting the review, the Minister must (in such manner as the Minister thinks fit) consult with, and consider any submissions of, relevant councils.

(3) The review must include an assessment of—

(a) the state of the district, especially taking into account the objects of this Act and any relevant provisions of the Planning Strategy; and

(b) the family, social, economic and environmental impacts of this Act; and

(c) the impact of this Act on local government in the district; and

(d) any steps that have been taken or strategies that have been implemented to address any negative impacts of this Act,

and may include such other matters as the Minister thinks fit.

(4) The Minister must cause a report on the outcome of the review to be tabled in both Houses of Parliament within 12 sitting days after its completion.

11—Regulations

(1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.

(2) Without limiting the generality of subsection (1), those regulations may—

(a) make provision in relation to the referral of any application for development authorisation to the Development Assessment Commission for the purposes of section 8(2); and

(b) prescribe fees in respect of any matter under this Act and provide for their payment, recovery or waiver; and

(c) prohibit or restrict the undertaking of a specified activity, or an activity of a specified class, in the district, or in a specified part of the district (despite any other Act or law); and

(d) provide that a person undertaking a specified activity, or an activity of a specified class, or proposing to undertake a specified activity, or an activity of a specified class, in the district, or in a specified part of the district, comply with any prescribed requirement or condition (despite any other Act or law); and

(e) prescribe fines, not exceeding \$10 000, for offences against the regulations.

(3) The regulations may—

(a) be of general application or vary in their application according to prescribed factors; and

(b) 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.

(4) Before a regulation is made under this Act, the Minister must (in such manner as the Minister thinks fit) consult with, and consider any submissions of, relevant councils.

Schedule 1—Related amendments and transitional provisions

Part 1—Preliminary

1—Amendment provisions

In this Schedule, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Development Act 1993*

2—Amendment of section 4—Interpretation

Section 4(1)—after the definition of *business day* insert:

character preservation law means an Act that specifies that it is a character preservation law for the purposes of this Act;

3—Amendment of section 22—The Planning Strategy

(1) Section 22(3a)—after paragraph (c) insert:

and

(ca) the objects under a character preservation law; and

(2) Section 22—after subsection (3a) insert:

(3aa) Without derogating from subsection (3), the Planning Strategy must incorporate provisions which address any character values of a district recognised under a character preservation law.

(3) Section 22—after subsection (4a) insert:

(4aa) Before making any alterations to the Planning Strategy to incorporate provisions which address any character values of a district recognised under a character preservation law (or to alter any such provisions), the Minister must (in such manner as the Minister thinks fit) consult with, and consider any submissions of, relevant councils (within the meaning of the character preservation law).

4—Amendment of section 23—Development Plans

Section 23—after subsection (5) insert:

(5a) A Development Plan may refer to any relevant statutory provision.

5—Amendment of section 24—Council or Minister may amend a Development Plan

Section 24(1)—after paragraph (fba) insert:

(fbb) where the purpose of the amendment is to promote the objects under a character preservation law—by the Minister; or

6—Amendment of section 34—Determination of relevant authority

Section 34(1)(b)—after subparagraph (ix) insert:

or

(x) the Minister declares, by notice in writing served personally or by post on the proponent, that the Development Assessment Commission should act as the relevant authority in relation to the proposed development in substitution for the council or the regional development assessment panel (as the case may be) because, in the opinion of the

Minister, the proposed development may have a significant impact on an aspect of the district within the meaning of a character preservation law,

7—Amendment of section 46—Declaration by Minister

(1) Section 46(3a)—delete subsection (3a) and substitute:

(3a) A declaration under this section cannot apply with respect to a development or project within—

- (a) the Adelaide Park Lands; or
- (b) a character preservation rural area.

(2) Section 46—after subsection (16) insert:

(17) In this section—

character preservation rural area means an area that is defined as a rural area under a character preservation law.

Part 3—Transitional provisions

8—Transitional provisions

The Minister must—

(a) take steps to comply with subsection (3aa) of section 22 of the *Development Act 1993*, as enacted by this Act, in relation to the district under this Act within 6 months after the commencement of this clause; and

(b) ensure that any Development Plan under that Act that relates to the district, or part of the district, is reviewed within 6 months after the alterations to the Planning Strategy under paragraph (a) have been made for the purpose of determining whether any amendments should be made to the Development Plans on account of the provisions of the Planning Strategy as altered under paragraph (a) or on account of any other provisions that are relevant to the operation and effect of this Act; and

(c) (in such manner as the Minister thinks fit) consult with, and consider any submissions of, relevant councils in relation to the matters specified in paragraphs (a) and (b).

Legislative history

Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- 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.

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
2012	39	<i>Character Preservation (McLaren Vale) Act 2012</i>	8.11.2012	18.1.2013 (<i>Gazette 17.1.2013 p75</i>)
2016	14	<i>Planning, Development and Infrastructure Act 2016</i>	21.4.2016	Sch 6 (cll 10—16)—uncommenced