

South Australia

Planning, Development and Infrastructure (General) Regulations 2017

under the *Planning, Development and Infrastructure Act 2016*

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Legislative history

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Planning, Development and Infrastructure (General) Regulations 2017*.

2—Commencement

These regulations will come into operation on 1 April 2017.

3—Interpretation

In these regulations—

Act means the *Planning, Development and Infrastructure Act 2016*.

Part 2—Initial regulations

4—Definition of public notice

For the purposes of the definition of *public notice* in section 3 of the Act, a notice that—

- (a) is published on the SA planning portal; or
- (b) is published—
 - (i) in a newspaper circulating generally in the State; or
 - (ii) in relation to a notice that relates to a particular place, in a newspaper circulating in the area where the place is situated,

complies with these regulations.

5—Annual report—Commission

For the purposes of section 32(2) of the Act, an annual report of the Commission must also contain the following information:

- (a) information about any strategic or other similar objective adopted by the Commission for the coming year or years;
- (b) information about the extent to which the principles referred to in section 14 of the Act are being reflected in the planning system established under the Act;
- (c) information about—
 - (i) any performance targets set under Schedule 4 of the Act during the relevant financial year; and
 - (ii) the work of the Commission under clause 1 of Schedule 4 of the Act during the relevant financial year;
- (d) information about any review under clause 3 of Schedule 4 of the Act concluded during the relevant financial year.

6—Annual reports—joint planning boards

- (1) For the purposes of section 36(2)(e) of the Act, a joint planning board must, on or before 30 September in every year, forward to the Minister and to the Commission a report on the joint planning board's operations for the preceding financial year.
- (2) An annual report must also contain the following information:
 - (a) information about the membership of the joint planning board during the relevant financial year;
 - (b) the audited annual financial statements of the joint planning board for the relevant financial year;
 - (c) information about the activities of the joint planning board's committees during the relevant financial year;

- (d) information about the implementation and operation of the joint planning board's regional plan under section 64 of the Act during the relevant financial year.
- (3) The Minister must, within 6 sitting days after receiving a report under this regulation, cause copies of the report to be laid before both Houses of Parliament.

7—SA planning portal—certification and verification of information

For the purposes of section 52(1) of the Act, a prescribed requirement is—

- (a) that the instrument is published on a part of the SA planning portal that states that instruments published on that part are certified by the Chief Executive under section 52(1) of the Act; or
- (b) that the instrument has a statement appearing as a heading to the instrument, or at the foot of each page of the instrument, to the effect that it is certified by the Chief Executive under section 52(1) of the Act.

8—Disclosure of financial interests

- (1) In this regulation—

financial benefit, in relation to a person, means—

- (a) any remuneration, fee or other pecuniary sum exceeding \$1 000 received by the person in respect of a contract of service entered into, or paid office held by, the person; and
- (b) any remuneration, fee or other pecuniary sum received by the person in respect of a trade, vocation, business or profession engaged in by the person where the total exceeds \$1 000,

but does not include an allowance, fee or other sum payable to the person under the Act;

income source, in relation to a person, means—

- (a) any person or body of persons with whom the person entered into a contract of service or held any paid office; and
- (b) any trade, vocation, business or profession engaged in by the person;

ordinary return means a return under clause 2(1)(b) of Schedule 1 of the Act;

primary return means a return under clause 2(1)(a) of Schedule 1 of the Act;

return period, in relation to the ordinary return of a prescribed member, means—

- (a) in the case of a prescribed member whose last return was a primary return—the period between the date of the primary return and 30 June next following;
 - (b) in any other case—the period of 12 months expiring on 30 June on or within 60 days after which the ordinary return is required to be submitted.
- (2) A word or expression used in this regulation that is referred to in clause 1 of Schedule 1 of the Act has the same meaning in this regulation as in that clause.

- (3) For the purposes of this regulation, a person is an investor in a body if—
- (a) the person has deposited money with, or lent money to, the body that has not been repaid and the amount not repaid equals or exceeds \$10 000; or
 - (b) the person holds, or has a beneficial interest in, shares in, or debentures of, the body or a policy of insurance issued by the body.
- (4) For the purposes of clause 2(1)(a) of Schedule 1 of the Act, a primary return must be in the form set out in Schedule 1 of these regulations and contain the following information:
- (a) a statement of any income source that the prescribed member required to submit the return or a person related to the prescribed member has or expects to have in the period of 12 months after the date of the primary return;
 - (b) the name of any company, or other body, corporate or unincorporate, in which the prescribed member or a member of the prescribed member's family holds office whether as a director or otherwise, for the purposes of obtaining financial gain (including at sometime in the future);
 - (c) the information required by subregulation (7).
- (5) For the purposes of clause 2(1)(b) of Schedule 1 of the Act, an ordinary return must be submitted within 60 days after 30 June in each year.
- (6) For the purposes of clause 2(1)(b) of Schedule 1 of the Act, an ordinary return must be in the form set out in Schedule 2 and contain the following information:
- (a) if the prescribed member required to submit the return or a person related to the prescribed member received, or was entitled to receive, a financial benefit during any part of the return period—the income source of the financial benefit;
 - (b) if the prescribed member or a member of the prescribed member's family held an office whether as a director or otherwise in any company or other body, corporate or unincorporate, during the return period for the purposes of obtaining financial gain (including at some time in the future)—the name of the company or other body;
 - (c) the information required by subregulation (7).
- (7) For the purposes of this regulation, a return (whether primary or ordinary) must contain the following information:
- (a) the name or description of any company, partnership, association or other body in which the prescribed member required to submit the return or a person related to the prescribed member is an investor;
 - (b) a concise description of any trust (other than a testamentary trust) of which the prescribed member or a person related to the prescribed member is a beneficiary or trustee (including the name and address of each trustee);
 - (c) the address or description of any land in which the prescribed member or a person related to the prescribed member has a beneficial interest other than by way of security for any debt;

- (d) any fund in which the prescribed member or a person related to the prescribed member has an actual or prospective interest to which contributions are made by a person other than the prescribed member or a person related to the prescribed member;
 - (e) if the prescribed member or a person related to the prescribed member is indebted to another person (not being related to the prescribed member or to a member of the prescribed member's family by blood or marriage) in an amount equal to or exceeding \$10 000—the name and address of that person;
 - (f) if the prescribed member or a person related to the prescribed member is owed money by a natural person (not being related to the prescribed member or to a member of the prescribed member's family by blood or marriage) in an amount equal to or exceeding \$10 000—the name and address of that person;
 - (g) any other substantial interest of a pecuniary nature of the prescribed member or of a person related to the prescribed member of which the prescribed member is aware and which the prescribed member considers might appear to raise a material conflict between the prescribed member's private interest and the duty that the prescribed member has or may subsequently have as a member of a designated entity.
- (8) A prescribed member is required by this regulation only to disclose information that is known to the prescribed member or ascertainable by the prescribed member by the exercise of reasonable diligence.
- (9) Nothing in this regulation requires a prescribed member to disclose information relating to a person as trustee of a trust unless the information relates to the person in the person's capacity as trustee of a trust by reason of which the person is related to the prescribed member.
- (10) A prescribed member may include in a return such additional information as the prescribed member thinks fit.
- (11) Nothing in this regulation will be taken to prevent a prescribed member from disclosing information required by this regulation in such a way that no distinction is made between information relating to the prescribed member personally and information relating to a person related to the prescribed member.
- (12) Nothing in this regulation requires disclosure of the actual amount or extent of a financial benefit or interest.

9—Compliance with code of conduct—Commission

- (1) In this regulation—
- code of conduct* means the code of conduct to be observed by members of the Commission adopted by the Minister under clause 1(1)(a) of Schedule 3 of the Act.
- (2) A person may make a complaint to the Minister if the person believes that a member of the Commission has acted in contravention of the code of conduct.
- (3) A complaint must—
- (a) be in writing; and
 - (b) contain particulars of the allegations on which the complaint is based; and
 - (c) be verified by statutory declaration.

- (4) Except with the approval of the Minister, a complaint must not be lodged with the Minister more than 6 months after the day on which the complainant first had notice of the matters alleged in the complaint.
- (5) The Minister may require the complainant to give further particulars of the complaint (verified, if the Minister so requires, by statutory declaration).
- (6) The Minister may refuse to entertain a complaint or, having accepted a complaint for investigation, may refuse to continue to entertain a complaint, if it appears to the Minister—
 - (a) that the complainant does not have a sufficient interest in the matter to which the complaint relates; or
 - (b) that the matter raised in the complaint is trivial; or
 - (c) that the complaint is frivolous or vexatious or is not made in good faith; or
 - (d) that there is some other good reason not to proceed (or to proceed further) with the matter under this regulation.
- (7) The Minister may, as the Minister's first step in dealing with a complaint—
 - (a) refer the matter to the member of the Commission to whom the complaint relates for a response; or
 - (b) refer the matter to the presiding member of the Commission for consideration and report; or
 - (c) if the complaint relates to the member of the Commission who holds office under section 18(1)(b) of the Act—refer the matter to the Chief Executive.
- (8) The Minister may take such other action as the Minister thinks fit (including by deciding not to proceed further with the matter).
- (9) The Minister may, whether or not the Minister has acted under subregulation (7), appoint a person to investigate the complaint.
- (10) If the Minister appoints an investigator—
 - (a) the Minister must inform the member of the Commission to whom the complaint relates of the appointment of the investigator and furnish formal notification about the nature of the complaint; and
 - (b) the investigator must conduct an investigation into the complaint as soon as practicable after the appointment has been made; and
 - (c) the investigator must give the member of the Commission to whom the complaint relates a reasonable opportunity to make representations to the investigator about the complaint; and
 - (d) the investigator may require—
 - (i) the complainant; and
 - (ii) the member of the Commission to whom the complaint relates; and
 - (iii) the presiding member of the Commission; and
 - (iv) if the complaint relates to the member of the Commission who holds office under section 18(1)(b) of the Act—the Chief Executive,

to provide to the investigator any document or other information relevant to the investigation of the complaint (verified, if the investigator so requires, by statutory declaration); and

- (e) the investigator—
 - (i) must otherwise comply with the rules of natural justice; and
 - (ii) subject to subparagraph (i), may conduct the investigation in such manner as the investigator thinks fit (including by undertaking such other consultations and undertaking such other inquiries as the investigator thinks fit).
- (11) If during an investigation the investigator is satisfied that there is a matter about which another complaint could have been made against the member of the Commission, the investigator may, after consultation with the Minister, deal with the matter as part of the investigation as if a complaint had been made about the matter.
- (12) The investigator—
 - (a) may report to the Minister at any stage of an investigation; and
 - (b) must present a written report to the Minister at the conclusion of the investigation.
- (13) The Minister must provide the person to whom the complaint relates with a copy of a report presented under subregulation (12)(b) (and the Minister may, if the Minister thinks fit, invite a response from the person).
- (14) The Minister may, on the receipt of a report under subregulation (12)(b), or at the conclusion of any other process that the Minister has adopted in the alternative—
 - (a) decide to take no further action on the complaint; or
 - (b) refer the matter to the presiding member of the Commission for further consideration and, if appropriate, further action or response; or
 - (c) undertake any consultation or further inquiry as the Minister thinks fit; or
 - (d) if the complaint relates to an appointed member of the Commission—decide to make a recommendation to the Governor that the member be removed from office; or
 - (e) if the complaint relates to the member of the Commission who holds office under section 18(1)(b) of the Act—replace the person under that section of the Act; or
 - (f) take any other action as the Minister thinks fit.
- (15) The Minister must inform the complainant of the outcome of the complaint under subregulation (14).

10—Compliance with code of conduct—joint planning boards

- (1) In this regulation—

code of conduct means the code of conduct to be observed by members of a joint planning board adopted by the Minister under clause 1(1)(b) of Schedule 3 of the Act.
- (2) A person may make a complaint to the Minister if the person believes that a member of a joint planning board has acted in contravention of the code of conduct.

- (3) A complaint must—
 - (a) be in writing; and
 - (b) contain particulars of the allegation on which the complaint is based; and
 - (c) be verified by statutory declaration.
- (4) Except with the approval of the Minister, a complaint must not be lodged with the Minister more than 6 months after the day on which the complainant first had notice of the matters alleged in the complaint.
- (5) The Minister may require the complainant to give further particulars of the complaint (verified, if the Minister so requires, by statutory declaration).
- (6) The Minister may refuse to entertain a complaint or, having accepted a complaint for investigation, may refuse to continue to entertain a complaint, if it appears to the Minister—
 - (a) that the complainant does not have a sufficient interest in the matter to which the complaint relates; or
 - (b) that the matter raised by the complaint is trivial; or
 - (c) that the complaint is frivolous or vexatious or is not made in good faith; or
 - (d) that there is some other good reason not to proceed (or further proceed) with the matter under this regulation.
- (7) The Minister may, as the Minister's first step in dealing with a complaint, refer the matter to the member of the joint planning board to whom the complaint relates for a response.
- (8) The Minister may take such other action as the Minister thinks fit (including deciding not to proceed further with the matter).
- (9) The Minister may, whether or not the Minister has acted under subregulation (7), appoint a person to investigate a complaint.
- (10) If the Minister appoints an investigator—
 - (a) the Minister must inform the member of the joint planning board to whom the complaint relates of the appointment of an investigator and furnish formal notification about the nature of the complaint; and
 - (b) the investigator must conduct an investigation into the complaint as soon as practicable after the appointment has been made; and
 - (c) the investigator must give the member of the joint planning board to whom the complaint relates a reasonable opportunity to make representations to the investigator about the complaint; and
 - (d) the investigator may require—
 - (i) the complainant; and
 - (ii) the member of the joint planning board to whom the complaint relates,to provide to the investigator any document or other information relevant to the investigation of the complaint (verified, if the investigator so requires, by statutory declaration); and

- (e) the investigator—
 - (i) must otherwise comply with the rules of natural justice; and
 - (ii) subject to subparagraph (i), may conduct the investigation in such manner as the investigator thinks fit (including by undertaking such other consultations and undertaking such other inquiries as the investigator thinks fit).
- (11) If during an investigation the investigator is satisfied that there is a matter about which another complaint could have been made against the member of the joint planning board, the investigator may, after consultation with the Minister, deal with the matter as if a complaint had been made about the matter.
- (12) The investigator—
 - (a) may report to the Minister at any stage of the investigation; and
 - (b) must present a report to the Minister at the conclusion of the investigation.
- (13) The Minister must provide the person to whom the complaint relates with a copy of a report presented under subregulation (12)(b) (and the Minister may, if the Minister thinks fit, invite a response from the person).
- (14) The Minister may, on the receipt of a report under subregulation (12)(b), or at the conclusion of any other process that the Minister has adopted in the alternative—
 - (a) decide to take no further action on the complaint; or
 - (b) undertake any consultation or further inquiry as the Minister thinks fit; or
 - (c) take action to have the member of the joint planning board to whom the complaint relates removed from office; or
 - (d) take any other action as the Minister thinks fit.
- (15) The Minister must inform the complainant of the outcome of a complaint under subregulation (14).

Schedule 1—Register of interest—primary return

Please read instructions and notes below before completing this return.

SURNAME

OTHER NAMES

OFFICE HELD

Registrable interests	Details
1	Provide a statement of any income source ² that you have or a person related to you ³ has or expects to have in the period of 12 months after the date of the primary return.
2	State the name of any company or other body, corporate or unincorporate, in which you hold, or a member of your family ⁴ holds, any office whether as director or otherwise, for the purpose of obtaining financial gain (including at some time in the future).
3	State the name or description of any company, partnership, association or other body in which you or a person related to you ³ is an investor ⁵ .

Planning, Development and Infrastructure (General) Regulations 2017—28.3.2017 to 31.3.2017—uncommenced

Schedule 1—Register of interest—primary return

Registrable interests	Details
4	Provide a concise description of any trust (other than a testamentary trust) of which you or a person related to you ³ is a beneficiary or trustee, and the name and address of each trustee.
5	Provide the address or description of any land in which you have or a person related to you ³ has any beneficial interest ⁶ other than by way of security for any debt.
6	Provide details of any fund in which you or a person related to you ³ has an actual or prospective interest to which contributions are made by a person other than you or a person related to you ³ .
7	If you are or a person related to you ³ is indebted to another person (not being related by blood or marriage) in an amount of or exceeding \$7 500—state the name and address of that other person.
8	If you are or a person related to you ³ is owed money by a natural person (not being related by blood or marriage) in an amount of or exceeding \$10 000—state the name and address of that person.
9	Declare any other substantial interest of yours or of a person related to you whether of a pecuniary nature or not, of which you are aware and which you consider might appear to raise a material conflict between your private interest and the duty that you have or may subsequently have as a member of a designated entity.
10	Provide any other additional information which you think fit.

Signature

Date

Instructions/notes

- 1 This return is to be completed in block letters except for signatures. If there is not sufficient space on this return for all of the information you are required to provide, you may attach additional papers for that purpose. Each such paper must be signed and dated.
- 2 Under the regulations—
income source, in relation to a person, means—
 - (a) any person or body of persons with whom the person entered into a contract of service or held any paid office; and
 - (b) any trade, vocation, business or profession engaged in by the person.
- 3.1 A *person related to a member* means—
 - (a) a member of the member's family;
 - (b) a family company of the member;
 - (c) a trustee of a family trust of the member.
- 3.2 A *family company* of a member means a proprietary company—
 - (a) in which the member or a member of the member's family is a shareholder; and
 - (b) in respect of which the member or a member of the member's family, or any such persons together, are in a position to cast, or control the casting or, more than one-half of the maximum number of votes that might be cast at a general meeting of the company.

- 3.3 A *family trust* of a member means a trust (other than a testamentary trust)—
- (a) of which the member or a member of the member's family is a beneficiary; and
 - (b) which is established or administered wholly or substantially in the interests of the member or a member of the member's family, or any such persons together.
- 4 Under the Act—
- family*, in relation to a member, means—
- (a) a spouse or domestic partner of the member; and
 - (b) a child of the member who is under the age of 18 years and normally resides with the member.
- 5 For the purpose of this return, a person is an investor in a body if—
- (a) the person has deposited money with, or lent money to, the body that has not been repaid and the amount not repaid equals or exceeds \$10 000; or
 - (b) the person holds, or has a beneficial interest in, shares in, or debentures of, the body or a policy of life insurance issued by the body.
- 6 A *beneficial interest* in property includes a right to re-acquire the property.

Note—

- 1 A member is required only to disclose information that is known to the member or ascertainable by the member by the exercise of reasonable diligence.
- 2 A member is not required to disclose information relating to a person as trustee of a trust unless the information relates to the person in the person's capacity as trustee of a trust by reason of which the person is related to the member.
- 3 A member may include in a return such additional information as the member thinks fit.
- 4 Nothing in this return will be taken to prevent a member from disclosing information in such a way that no distinction is made between information relating to the member personally and information relating to a person related to the member.
- 5 A member is not required to disclose the actual amount or extent of a financial benefit or interest.

Schedule 2—Register of interest—ordinary return

Please read instructions and notes below before completing this return.

SURNAME

OTHER NAMES

OFFICE HELD

Registrable interests	Details
1	Provide a statement of any income source of a financial benefit ² that you have or a person related to you ³ has received, or was entitled to receive, during the return period.
2	State the name of any company or other body, corporate or unincorporate, in which you held, or a member of your family ⁴ held, any office during the return period whether as director or otherwise, for the purpose of obtaining financial gain (including at some time in the future).

Planning, Development and Infrastructure (General) Regulations 2017—28.3.2017 to 31.3.2017—uncommenced

Schedule 2—Register of interest—ordinary return

Registrable interests	Details
3	State the name or description of any company, partnership, association or other body in which you or a person related to you ³ is an investor ⁵ .
4	Provide a concise description of any trust (other than a testamentary trust) of which you or a person related to you ³ is a beneficiary or trustee, and the name and address of each trustee.
5	Provide the address or description of any land in which you have or a person related to you ³ has any beneficial interest ⁶ other than by way of security for any debt.
6	Provide details of any fund in which you or a person related to you ³ has an actual or prospective interest to which contributions are made by a person other than you or a person related to you ³ .
7	If you are or a person related to you ³ is indebted to another person (not being related by blood or marriage) in an amount of or exceeding \$7 500—state the name and address of that other person.
8	If you are or a person related to you ³ is owed money by a natural person (not being related by blood or marriage) in an amount of or exceeding \$10 000—state the name and address of that person.
9	Declare any other substantial interest of yours or of a person related to you whether of a pecuniary nature or not, of which you are aware and which you consider might appear to raise a material conflict between your private interest and the duty that you have or may subsequently have as a member of a designated entity.
10	Provide any other additional information which you think fit.

Signature

Date

Instructions/notes

- 1.1 This return is to be completed in block letters except for signatures. If there is not sufficient space on this return for all of the information you are required to provide, you may attach additional papers for that purpose. Each such paper must be signed and dated.
- 1.2 The *return period* for the purposes of this return is as follows:
 - (a) if your last return was a *primary return* under the Act—the period between the date of the primary return and 30 June next following;
 - (b) in any other case—the period of 12 months expiring on 30 June, or within 60 days after 30 June in any year.
- 2.1 Under the regulations—*income source*, in relation to a person, means—
 - (a) any person or body of persons with whom the person entered into a contract of service or held any paid office; and
 - (b) any trade, vocation, business or profession engaged in by the person.

2.2 Under the regulations—

financial benefit, in relation to a person, means—

- (a) any remuneration, fee or other pecuniary sum exceeding \$1 000 received by the person in respect of a contract of service entered into, or paid office held by, the person; and
- (b) the total of all remuneration, fees or other pecuniary sums received by the person in respect of a trade, profession, business or vocation engaged in by the person where the total exceeds \$1 000,

but does not include an annual allowance, fees, expenses or other financial benefit payable to the person under the Act.

3.1 A *person related to a member* means—

- (a) a member of the member's family;
- (b) a family company of the member;
- (c) a trustee of a family trust of the member.

3.2 A *family company* of a member means a proprietary company—

- (a) in which the member or a member of the member's family is a shareholder; and
- (b) in respect of which the member or a member of the member's family, or any such persons together, are in a position to cast, or control the casting or, more than one-half of the maximum number of votes that might be cast at a general meeting of the company.

3.3 A *family trust* of a member means a trust (other than a testamentary trust)—

- (a) of which the member or a member of the member's family is a beneficiary; and
- (b) which is established or administered wholly or substantially in the interests of the member or a member of the member's family, or any such persons together.

4 Under the Act—

family, in relation to a member, means—

- (a) a spouse or domestic partner of the member; and
- (b) a child of the member who is under the age of 18 years and normally resides with the member.

5 For the purpose of this return, a person is an investor in a body if—

- (a) the person has deposited money with, or lent money to, the body that has not been repaid and the amount not repaid equals or exceeds \$10 000; or
- (b) the person holds, or has a beneficial interest in, shares in, or debentures of, the body or a policy of life insurance issued by the body.

6 A *beneficial interest* in property includes a right to re-acquire the property.

Note—

- 1 A member is required only to disclose information that is known to the member or ascertainable by the member by the exercise of reasonable diligence.
- 2 A member is not required to disclose information relating to a person as trustee of a trust unless the information relates to the person in the person's capacity as trustee of a trust by reason of which the person is related to the member.
- 3 A member may include in a return such additional information as the member thinks fit.
- 4 Nothing in this return will be taken to prevent a member from disclosing information in such a way that no distinction is made between information relating to the member personally and information relating to a person related to the member.
- 5 A member is not required to disclose the actual amount or extent of a financial benefit or interest.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal regulations

Year	No	Reference	Commencement
2017	24	<i>Gazette</i> 28.3.2017 p965	1.4.2017: r 2