

South Australia

Development (Development Plans) Variation Regulations 2007

under the *Development Act 1993*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Development (Development Plans) Variation Regulations 2007*.

2—Commencement

These regulations will come into operation on the day on which section 10 of the *Development (Development Plans) Amendment Act 2006* comes into operation.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Development Regulations 1993*

4—Substitution of regulation 9

Regulation 9—delete the regulation and substitute:

9—Statement of Intent

- (1) Pursuant to section 25 of the Act, a Statement of Intent in respect of a proposed amendment to a Development Plan must include the following matters:
 - (a) Scope—an explanation of the reasons for the preparation of the amendment, and a description of the changes in circumstances leading to the need for amendment and the range of issues to be addressed in the DPA;
 - (b) Planning Strategy Policies—an identification of relevant Planning Strategy policies identified by the Minister and a statement confirming that the DPA will be consistent with those policies;
 - (c) Minister's Policies—an identification of any policies relevant to the amendment that apply under or by virtue of section 25(5), 26 or 29 of the Act, and a statement confirming that those policies will only be changed in a way that ensures consistency with the Planning Strategy;
 - (d) Council Policies—an indication of how the policy issues proposed to be addressed by the amendment relate to the latest report of the council under section 30 of the Act, relevant infrastructure planning (as identified under section 25(3)(d) of the Act), relevant council wide policies, local planning issues, any other DPA that may be current, and relevant policies in the Development Plans for adjoining areas;
 - (e) Policy Library—an identification of any objectives or principles under section 24(1)(da)(ii) of the Act that are relevant in the circumstances, a statement confirming that the latest version of any such objectives or principles will be used, and a statement that additional policies will be clearly identified and justified;
 - (f) Investigations—an outline of the investigations that will be undertaken and the form that those investigations will take in order to address the strategic and social, economic and environmental issues of the proposed amendment;
 - (g) Agency Consultation—a list of the Ministers, government Departments or agencies, and councils, that will be consulted during the investigation and consultation stages;

- (h) Public Consultation—a description of the public consultation (including the consultation required under the Act or by these regulations) that is proposed to be undertaken during the investigation and consultation stages;
 - (i) Process—an indication of the process that is proposed under section 25(6) of the Act and an explanation as to why the proposed process is considered to be the most appropriate;
 - (j) Planning Procedures—the identification of the personnel who will provide professional advice to the council on the DPA for the purposes of section 25(4) and (13)(a) of the Act, and a statement confirming that no one directly involved in the preparation of the DPA has a conflict of interest;
 - (k) Document Production—
 - (i) an indication of the means by which the existing and proposed policies will be shown in accordance with section 25(3)(c)(iii) of the Act; and
 - (ii) an outline of the nature and extent of the responsibility of officers and consultants in relation to the preparation of the draft text and maps so that such items can easily be consolidated into the Development Plan if the amendment is approved;
 - (l) Timetable—an outline of the proposed timetable for each step of the process (ensuring that the program is completed within reasonable time limits and including specific periods for the purposes of paragraphs (a), (b) and (c) of section 25(19) of the Act), and a commitment on the part of the council that the council will take steps to update this timetable if it appears at any stage that the council will require an extension.
- (2) If or when agreement is reached with the Minister on a Statement of Intent that includes a proposal for an amendment to a part of the Development Plan that forms a part of a set of standard policy modules for the purposes of the Act, it will be taken that the Minister has provided a relevant authorisation under section 25(5) of the Act.

9AA—Infrastructure planning

- (1) Pursuant to section 25(3)(d) of the Act, the council must, in preparing the DPA, to the extent (if any) required by the Statement of Intent, seek the advice of a Minister, and any other government agency, specified by the Minister as part of the agreement on the Statement of Intent.
- (2) The advice must be sought in a manner and form agreed under the Statement of Intent.

5—Variation of regulation 9A—Consultation with the Minister for the River Murray

- (1) Regulation 9A(a)—delete paragraph (a) and substitute:
 - (a) the Minister is to consult with the Minister for the River Murray before the Minister gives any relevant approval under section 25(15) or 26(8) of the Act.
- (2) Regulation 9A(b)—delete "paragraph (a)(ii)" and substitute:

paragraph (a)
- (3) Regulation 9A(b)(ii)—delete subparagraph (ii) and substitute:
 - (ii) in the case of an amendment being considered under section 26 of the Act—a summary of any submission made for the purposes of that section;
- (4) Regulation 9A(c)—delete "paragraph (a)(ii)" and substitute:

paragraph (a)
- (5) Regulation 9A—after its present contents as varied by this regulation (now to be designated as subregulation (1)) insert:
 - (2) Consultation need not occur under subregulation (1) if the Minister for the River Murray has indicated that he or she does not need to be consulted before a relevant approval is given under section 25(15) or 26(8) of the Act (as the case may be).

6—Variation of regulation 10—Consultation with government Departments or agencies

- (1) Regulation 10—delete "section 25(6)(a)" and substitute:

section 25(7)(a)
- (2) Regulation 10—delete "section 25(8)" and substitute:

section 25(7)(b)
- (3) Regulation 10—after its present contents as varied by this regulation (now to be designated as subregulation (1)) insert:
 - (2) For the purposes of sections 25(7)(a) and 26(5)(a) of the Act, the period of 6 weeks is prescribed.

7—Substitution of regulation 10A

Regulation 10A—delete the regulation and substitute:

10A—Prescribed certificate of CEO—Section 25

For the purposes of section 25(10) of the Act, a certificate of the chief executive officer of a council must—

- (a) be in the form of Schedule 4A; and
- (b) form part of the DPA.

8—Variation of regulation 11—Public consultation—Sections 25 and 26

- (1) Regulation 11(1)—delete "a Plan Amendment Report must be given by publication in the Gazette, and in a newspaper circulating generally throughout the State, of a notice" and substitute:

a DPA must be given by publication in the designated manner of a notice
- (2) Regulation 11(1)(a)—delete "Plan Amendment Report" and substitute:

DPA
- (3) Regulation 11(1)(b)—delete "a period specified in the notice (being a period of not less than two months from the date of publication of the notice)" and substitute:

the relevant period specified in the notice
- (4) Regulation 11(1)(c)—delete "the public hearing" and substitute:

any public hearing held for the purposes of section 25(11)(b) or 26(5c)(b) of the Act (or, if no such meeting is to be held, until the decision is made not to hold the meeting)
- (5) Regulation 11(1)(d)—delete paragraph (d) and substitute:
 - (d) providing information about when and where any public meeting is proposed to be held for the purposes of section 25(11)(b) or 26(5c)(b) of the Act (subject to a decision being made under the relevant section not to hold a meeting).
- (6) Regulation 11(3)—delete subregulation (3) and substitute:
 - (3) If 1 or more written submissions are made in response to a notice published under subregulation (1), a copy of each submission must be made available for inspection in accordance with the statement included under subregulation (1)(c).
 - (4) For the purposes of sections 25(9)(c) and 26(5b)(c) of the Act, the written notice must include the same information required for a notice under subregulation (1).
 - (5) A council must ensure that a copy of any DPA released for public consultation under section 25 of the Act is provided to the Minister within 2 business days after that release.
 - (6) For the purposes of subregulation (1), the designated manner for giving public notice of a DPA is—
 - (a) by publication of the notice in the Gazette; and
 - (b) in the case of a DPA under section 25 of the Act—
 - (i) unless subparagraph (ii) applies—by publication of the notice in a newspaper circulating generally throughout the State; or
 - (ii) if the Statement of Intent provides a form of publication as an alternative to publication in the manner contemplated by subparagraph (i)—by publication in a manner specified in the Statement of Intent; and

- (c) in the case of a DPA under section 26 of the Act—by publication of the notice in a newspaper circulating generally throughout the State.

9—Variation of regulation 12—Public meeting

- (1) Regulation 12(1)—delete subregulation (1) and substitute:
 - (1) This regulation applies to a public meeting held under section 25(11)(b) or 26(5c)(b) of the Act.
- (2) Regulation 12(2)—delete "hearing" and substitute:

meeting
- (3) Regulation 12(3)—delete "hearing" and substitute:

meeting
- (4) Regulation 12(4)—delete "hearing" and substitute:

meeting

10—Variation of regulation 13—Council report

Regulation 13—after subregulation (2) insert:

- (3) A certificate of the chief executive officer under subregulation (2) must form part of the report by the council under section 25(13)(a) of the Act.

11—Variation of regulation 86—Qualifications in planning

- (1) Regulation 86(1)—delete "sections 25(3) and 26(1)" and substitute:

sections 25(4) and 26(3)
- (2) Regulation 86(2)—delete "section 25(3)" and substitute:

section 25(4)

12—Variation of Schedule 4A

- (1) Schedule 4A, heading—delete "**section 25(6)(b)**" and substitute:

section 25(10)
- (2) Schedule 4A—delete "**PLAN AMENDMENT REPORT**" and substitute:

DEVELOPMENT PLAN AMENDMENT (DPA)
- (3) Schedule 4A—delete "accompanying the Plan Amendment Report to which this certificate relates" and substitute:

accompanying this DPA
- (4) Schedule 4A—delete "section 25(6)(b)" and substitute:

section 25(10)(e)
- (5) Schedule 4A—after paragraph (e) insert:

The following person or persons have provided advice to the council for the purposes of section 25(4) of the Act:

13—Variation of Schedule 4B

Schedule 4B—after paragraph (b) insert:

- (c) that the report by the council sets out a comprehensive statement of the reasons for any failure to complying with any time set for any relevant step under section 25 of the Act; and
- (d) that the following person or persons have provided professional advice to the council for the purposes of section 25(13)(a) of the Act:

14—Variation of Schedule 25

- (1) Schedule 25, item 2(6)—delete "section 25(5)(a) or (6)(a)" and substitute:
section 25(7)(a), (8)(b)(ii) or (9)(a)
- (2) Schedule 25, item 2(9)—delete "Plan Amendment Reports" and substitute:
DPAs
- (3) Schedule 25, item 2(10)—delete "section 26(4)(a)" and substitute:
section 26(5)(a), (5a)(a) or (5b)(a)
- (4) Schedule 25, item 2(12)(b)—delete "Plan Amendment Report" and substitute:
DPA

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 27 September 2007

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