

South Australia

## **Development (Section 37AA) 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 (Section 37AA) Variation Regulations 2007*.

#### **2—Commencement**

These regulations will come into operation on the day on which section 9 of the *Development (Assessment Procedures) Amendment Act 2007* 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—Insertion of regulation 31A**

After regulation 31 insert:

##### **31A—Preliminary advice and agreement—section 37AA**

- (1) In this regulation—

*prescribed body* means a prescribed body under section 37 of the Act.

- (2) An application to a prescribed body for the purposes of section 37AA of the Act—
  - (a) must be made in a form determined by the Minister for the purposes of this regulation (being a form published by the Minister in the Gazette); and
  - (b) must be accompanied by such plans, drawings, specifications or other documents as may be determined by the Minister in publishing a form under paragraph (a).
- (3) For the purposes of section 37AA(2)(c) of the Act, an agreement of a prescribed body—
  - (a) must be in writing endorsed and stamped by the prescribed body; and
  - (b) must be accompanied by such plans, drawings, specifications or other documents submitted under subregulation (2)(b) that are relevant to the agreement, being documents endorsed and stamped by the prescribed body.
- (4) For the purposes of section 37AA(3)(a) of the Act, the prescribed fee is equal to the fee that would be payable under Schedule 6 for a referral to a prescribed body had the application been for development plan consent rather than under section 37AA of the Act.
- (5) If an applicant for development plan consent proposes to rely on an agreement under section 37AA of the Act, the applicant must ensure that the application lodged under regulation 15 is accompanied by copies of the agreement and other documents endorsed and stamped under subregulation (3) (with the number of copies being equal to the number that applies under regulation 15 for the other documents that are required to accompany the application under that regulation).
- (6) If—
  - (a) a relevant authority permits an applicant to vary an applicant under section 39(4) of the Act; and
  - (b) the relevant authority determines that the application no longer accords with the agreement indicated by the prescribed body,then the application must (unless withdrawn) be referred to the prescribed body—
  - (c) to obtain a variation to the agreement under section 37AA of the Act; or
  - (d) to obtain a response from the prescribed body for the purposes of section 37 of the Act (and the requirements of that section, and these regulations in relation to such a referral, other than for the payment of a fee under Schedule 6, will then apply).
- (7) If—
  - (a) an application is withdrawn by the applicant; and

- (b) the applicant sought to rely on an agreement under section 37AA of the Act in connection with the application, the relevant authority must notify the relevant prescribed body of the withdrawal.
- (8) If—
  - (a) an application is lapsed by a relevant authority under regulation 22A; and
  - (b) the applicant sought to rely on an agreement under section 37AA of the Act in connection with the application, the relevant authority must notify the relevant prescribed body of the lapsing.
- (9) If—
  - (a) an applicant seeks to rely on an agreement under section 37AA of the Act in connection with the application; and
  - (b) a notice of a decision on the application is issued by the relevant authority under regulation 42, the relevant authority must send a copy of the notice to the prescribed body within 5 business days after the notice is given to the applicant under regulation 42.

### **5—Variation of regulation 42—Notification of decision to an applicant (including conditions)**

Regulation 42(1)—delete "the form set out in Schedule 11" and substitute:

a form determined by the Minister for the purposes of this regulation (being a form published by the Minister in the Gazette)

### **6—Variation of regulation 84—Mining production tenements**

Regulation 84(3)—delete "provisional"

### **7—Revocation of Schedule 11**

Schedule 11—delete the Schedule

#### **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 29 November 2007

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