

South Australia

Development (Miscellaneous No 2) Variation Regulations 2010

under the *Development Act 1993*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Development (Miscellaneous No 2) Variation Regulations 2010*.

2—Commencement

These regulations come into operation on the day on which they are made.

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 2008*

4—Variation of regulation 6A—Significant trees

- (1) Regulation 6A(2)(a)(i)—after "Extractive Industry Zone" insert:

the Mineral Extraction Zone,

- (2) Regulation 6A(2)(a)(ii)—after "Watershed Zone" insert:

, the Watershed Protection (Mount Lofty Ranges) Zone, the Primary Production (Mount Lofty Ranges) Zone

5—Variation of regulation 11A—Public consultation—sections 25 and 26

Regulation 11A(1)(c)—delete "hearing" and substitute:

meeting

6—Variation of regulation 15—Application to relevant authority

Regulation 15(5)(b)—after "paid," insert:

including details of each fee component paid,

7—Variation of regulation 25—Procedure where concurrence required

Regulation 25(b)—after subparagraph (vi) insert:

and

- (vii) a written acknowledgment that the appropriate fees have been paid, including details of each fee component paid.

8—Variation of regulation 28—Special provisions—referrals

Regulation 28—after subregulation (5) insert:

- (5a) If, in respect of an application referred to a fire authority under this regulation, the fire authority—
- (a) recommends against the granting of building rules consent;
or
 - (b) concurs in the granting of consent on conditions specified in its report,
but the relevant authority—
 - (c) proposes to grant building rules consent despite a recommendation referred to in paragraph (a); or

- (d) does not propose to impose the conditions referred to in paragraph (b), or proposes to impose the conditions in varied form, on the grant of consent,

the relevant authority—

- (e) must refer the application to the Building Rules Assessment Commission; and
- (f) must not grant consent unless the Building Rules Assessment Commission concurs in the granting of the consent.

9—Variation of regulation 32—Public notice categories

Regulation 32, note—delete the note

10—Variation of regulation 48—Lapse of consent or approval

Regulation 48(1)(b)(ii)—after "Development Assessment Commission" insert:

, accompanied by the *Certificate of Approval Fee* under Schedule 6,

11—Variation of regulation 76D—Swimming pool safety

Section 76D(1)(a)—delete "Part 3.9.3 of Volume 2 of the *Building Code*" and substitute:

Minister's Specification SA 76D

12—Variation of regulation 78—Building Rules: bushfire prone areas

- (1) Regulation 78(1)(b)—delete paragraph (b) and substitute:
 - (b) it is in an area identified as a *general, medium or high bushfire risk area* by the relevant Development Plan, or is in an area identified by the relevant Development Plan as an excluded area and is within 500 metres of an area identified as a *high bushfire risk area*.
- (2) Regulation 78(4) and (5)—delete subregulations (4) and (5)

13—Variation of regulation 83A—Occupation of Class 1a buildings

Regulation 83A(e)—after "*Building Code*" insert:

and any relevant requirements of *Minister's Specification SA 78*

14—Variation of regulation 88—Certificate of independent technical expert in certain cases

Regulation 88(1)(c)—delete "V2.6.2" and substitute:

Part 2.6

15—Variation of regulation 96—Prescribed rate of interest

Regulation 96(2), definition of *prescribed bank rate*—delete the definition and substitute:

prescribed bank rate, for a financial year, means the 1 year fixed (non comparison) rate applied by the Commonwealth Bank of Australia at the commencement of the financial year.

16—Variation of regulation 107—Constitution of statutory committees

- (1) Regulation 107(2)—delete subregulation (2)
- (2) Regulation 107(3)—delete "or (2)"

17—Variation of Schedule 1A—Development that does not require development plan consent

- (1) Schedule 1A, clause 1(2), definition of *attributable walls or structures*—after "fence" insert:

or retaining wall
- (2) Schedule 1A, clause 1(2), definition of *Historic Conservation Zone/Area*—delete "or a Historic Township Zone" and substitute:

, a Historic Township Zone or any other zone or area in which the word "Historic" appears in the title of the zone or area in the relevant Development Plan
- (3) Schedule 1A, clause 1(4)—after paragraph (c) insert:

or

 - (d) the development will be built, or will encroach, on an area that is, or will be, required for a sewerage system or waste control system which complies with the requirements of the *Public and Environmental Health Act 1987*.
- (4) Schedule 1A, clause 3—delete "or Golden Grove Residential D Zone" and substitute:

, the Golden Grove Residential D Zone or the Golden Grove Residential Policy Area in the Residential Zone of the City of Tea Tree Gully
- (5) Schedule 1A, clause 3(e)(i)—after "setback" insert:

of the building to which the outbuilding is ancillary
- (6) Schedule 1A, clause 3(g)(i)—after "access" insert:

facing a street frontage
- (7) Schedule 1A, clause 4(e)—after "setback" insert:

of the building to which the designated structure is ancillary
- (8) Schedule 1A, clause 4(g)(i)—after "access" insert:

facing a street frontage

- (9) Schedule 1A, clause 5—after its present contents (now to be designated as subclause (1)) insert:
- (2) Without limiting subclause (1), the construction of a swimming pool associated with a dwelling and intended primarily for use by the occupants of that dwelling, and which is not designed to be permanently in place or to be fixed in any way when in use.
- (10) Schedule 1A, clause 7(f)—after "setback" insert:
- of any building to which the sail and any supporting structure are ancillary

18—Variation of Schedule 3—Acts and activities which are not development

- (1) Schedule 3, clause 2(1)(d)(ii)(A)—after "Urban Coastal Zone," insert:
- Coastal Open Space Zone,
- (2) Schedule 3, clause 4(1)(a)—delete "or in the Golden Grove Residential D Zone" and substitute:
- , the Golden Grove Residential D Zone or in the Golden Grove Residential Policy Area in the Residential Zone of the City of Tea Tree Gully
- (3) Schedule 3, clause 4(1)(f)(i)(C)—delete "or in the Golden Grove Residential D Zone" and substitute:
- , the Golden Grove Residential D Zone or in the Golden Grove Residential Policy Area in the Residential Zone of the City of Tea Tree Gully

19—Variation of Schedule 4—Complying development

- (1) Schedule 4, clause 1(1)—delete "or a Historic (Conservation) Policy Area" and substitute:
- a Historic (Conservation) Policy Area or any other zone or area in which the word "Historic" appears in the title of the zone or area in the relevant Development Plan
- (2) Schedule 4, clause 1(1), paragraphs (d) to (f)—delete paragraphs (d) to (f)
- (3) Schedule 4, clause 1(2)—delete "or a Historic Township Zone" and substitute:
- , a Historic Township Zone or any other zone or area in which the word "Historic" appears in the title of the zone or area in the relevant Development Plan
- (4) Schedule 4, clause 1(2)(e)(i)—after "setback" insert:
- of the building to which the outbuilding is ancillary
- (5) Schedule 4, clause 1(2)(g)(i)—after "access" insert:
- facing a street frontage
- (6) Schedule 4, clause 1(2)—after paragraph (i) insert:
- and

- (j) the development will not be built, or will not encroach, on an area that is, or will be, required for a sewerage system or waste control system which complies with the requirements of the *Public and Environmental Health Act 1987*.
- (7) Schedule 4, clause 1(3)—delete "or a Historic Township Zone" and substitute:
 - , a Historic Township Zone or any other zone or area in which the word "Historic" appears in the title of the zone or area in the relevant Development Plan
- (8) Schedule 4, clause 1(3)(e)—after "setback" insert:
 - of the building to which the designated structure is ancillary
- (9) Schedule 4, clause 1(3)(g)(i)—after "access" insert:
 - facing a street frontage
- (10) Schedule 4, clause 1(10)—delete subclause (10)
- (11) Schedule 4, clause 1(11), definition of *attributable walls or structures*—after "fence" insert:
 - or retaining wall
- (12) Schedule 4, clause 1(11), definition of *swimming pool*—delete the definition
- (13) Schedule 4, clause 2A(2)(d)(iii)(A)—after "setback" insert:
 - of the building to which the wall is ancillary
- (14) Schedule 4, clause 2A(2)(e)(ii)—delete "not"
- (15) Schedule 4, clause 2A(2)(i)(iii)—after "access" insert:
 - facing a street frontage
- (16) Schedule 4, clause 2A(2)(l)—delete "external appearance of the building" and substitute:
 - facade of the existing dwelling
- (17) Schedule 4, clause 2A(2)—after paragraph (m) insert:
 - and
 - (n) the development will not be built, or will not encroach, on an area that is, or will be, required for a sewerage system or waste control system which complies with the requirements of the *Public and Environmental Health Act 1987*.
- (18) Schedule 4, clause 2A(4), definition of *attributable walls or structures*—after "fence" insert:
 - or retaining wall
- (19) Schedule 4, clause 2A(4), definition of *Historic Conservation Zone/Area*—delete "or a Historic Township Zone" and substitute:
 - , a Historic Township Zone or any other zone or area in which the word "Historic" appears in the title of the zone or area in the relevant Development Plan

(20) Schedule 4, clause 2B(5)—delete subclause (5) and substitute:

(5) Insofar as this clause applies to a site that does not comprise an entire allotment—

(a) the site, and any balance of the allotment, must each at least meet the minimum site area and any minimum frontage requirements prescribed in the relevant Development Plan; and

(b) if there is an existing dwelling on the allotment—

(i) the following minimum private open space requirements will apply in relation to the site after the development has been completed (after including the areas of the dwelling and any outbuildings, carports or verandahs on the site):

Site size	Minimum area of private open space	Minimum dimension
> 500m ²	80m ²	4m
300—500m ²	60m ²	4m
< 300m ²	24m ²	3m

and in any event at least 24 square metres of private open space at the rear or side of the dwelling with access directly from a habitable room within the dwelling must be provided; and

(ii) in the case of—

(A) a dwelling that will only have 1 bedroom at the completion of the development—the dwelling will have at least 1 car parking space that is enclosed or covered, or able to be enclosed or covered, and that complies with the requirements set out in subparagraph (iii) in relation to garages and carports;

(B) a dwelling that will have 2 or more bedrooms at the completion of the development—the dwelling will have at least 2 car parking spaces, 1 of which is enclosed or covered, or able to be enclosed or covered, and both of which comply with the requirements set out in subparagraph (iii) in relation to garages and carports; and

(iii) in relation to any proposed garage or carport, the garage or carport—

(A) will be set back at least 5.5 metres from the primary street; and

- (B) is or will be situated so that no part of the garage or carport will be in front of any part of the building line of the dwelling that faces the primary street; and
 - (C) will not have an opening or openings for vehicle access that exceed, in total, 7 metres in width; and
 - (D) is not designed or located so as to provide vehicle access from an alley, lane or right of way that is less than 6.2 metres wide along the boundary of the allotment; and
 - (E) is located so that vehicle access will use an existing or authorised driveway or access point under section 221 of the *Local Government Act 1999*; and
 - (F) is located so that the gradient from the place of access on the boundary of the allotment to the finished floor level at the front of the garage or carport when work is completed is not steeper than 1:5 in any place and 1:8 on average.
- (21) Schedule 4, clause 2B(6)(d)—before "wall" insert:
attributable
- (22) Schedule 4, clause 2B(6)(d)(iii)(A)—after "setback" insert:
of the building to which the wall is ancillary
- (23) Schedule 4, clause 2B(6)(k)(iii)—after "access" insert:
facing a street frontage
- (24) Schedule 4, clause 2B(6)—after paragraph (p) insert:
and
(q) the development will not be built, or will not encroach, on an area that is, or will be, required for a sewerage system or waste control system which complies with the requirements of the *Public and Environmental Health Act 1987*.
- (25) Schedule 4, clause 2B(8), definition of *attributable walls or structures*—after "fence" insert:
or retaining wall
- (26) Schedule 4, clause 2B(8), definition of *Historic Conservation Zone/Area*—delete "or a Historic Township Zone" and substitute:
, a Historic Township Zone or any other zone or area in which the word "Historic" appears in the title of the zone or area in the relevant Development Plan
- (27) Schedule 4, Part 2, items 6 and 7—delete items 6 and 7

20—Variation of Schedule 5—Requirements as to plans and specifications

- (1) Schedule 5, clause A1(a)—after subparagraph (viii) insert:
 - (ix) the location of any tanks proposed for an on-site sewerage or waste disposal system to be installed in compliance with the *Public and Environmental Health Act 1987*; and
- (2) Schedule 5, clause A2(a)—after subparagraph (ix) insert:
 - (x) the location of any tanks proposed for an on-site sewerage or waste disposal system to be installed in compliance with the *Public and Environmental Health Act 1987*; and
- (3) Schedule 5, clause 1(1)(a)—after subparagraph (vi) insert:
 - (vii) the location of any tanks proposed for an on-site sewerage or waste disposal system to be installed in compliance with the *Public and Environmental Health Act 1987*; and

21—Variation of Schedule 8—Referrals and concurrences

- (1) Schedule 8, clause 1(4), table, Rural City of Murray Bridge, column 3—after "Residential Zone" insert:

(except Low Density Policy Area 19)
- (2) Schedule 8, clause 2, table, item 18, column 1—delete paragraph (a)
- (3) Schedule 8, clause 2, table, item 19(g)(ii)—delete subparagraph (ii) and substitute:
 - (ii) is within the ambit of clause 11 of Schedule 1A or clause 6, 7, 9, 10 or 14(1)(a) of Schedule 4 Part 2; or

22—Variation of Schedule 9—Public notice categories

- (1) Schedule 9, clause 6(1)(e)—after "zone" insert:

or Commercial Zone
- (2) Schedule 9, clause 6(1)(g)—after "zone" insert:

or Industry Zone
- (3) Schedule 9, clause 6(1)(h)—delete "or District Business" and substitute:

, District Business, Local Town Centre or District Town Centre
- (4) Schedule 9, clause 6(1)(p)—after "MOSS (rural)" insert:

, Open Space, Rural Landscape Protection
- (5) Schedule 9, clause 6(1)(q)—after "Local Office," insert:

Deferred Urban,
- (6) Schedule 9, clause 24—after "zone" insert:

, or Horticulture Policy Area,
- (7) Schedule 9, clause 26(1)—after "Watershed Protection," insert:

Water Protection,

- (8) Schedule 9, clause 26(1)—after "zone," insert:

, or Horticulture Policy Area,

23—Variation of Schedule 17—Essential safety provisions—annual returns under regulation 76(7)

Schedule 17, table, column 1—after "Class 9a" insert:

and 9c

24—Variation of Schedule 18—Bushfire Protection Areas

- (1) Schedule 18, item 1—before *Medium Bushfire Risk* insert:

General Bushfire Risk,

- (2) Schedule 18, item 1—after *High Bushfire Risk* insert:

, or is in an area identified by the relevant Development Plan as an excluded area and is within 500 metres of an area identified as a *High Bushfire Risk,*

- (3) Schedule 18, item 2—before *Medium Bushfire Risk* insert:

General Bushfire Risk,

- (4) Schedule 18, item 2—after *High Bushfire Risk* insert:

, or is in an area identified by the relevant Development Plan as an excluded area and is within 500 metres of an area identified as a *High Bushfire Risk,*

- (5) Schedule 18, item 3—before *Medium Bushfire Risk* insert:

General Bushfire Risk,

- (6) Schedule 18, item 3—after *High Bushfire Risk* insert:

, or is in an area identified by the relevant Development Plan as an excluded area and is within 500 metres of an area identified as a *High Bushfire Risk,*

25—Variation of Schedule 21—Activities of environmental significance

Schedule 21, clause 7(3)(a)—delete "types" and substitute:

tyres

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 2 December 2010

No 245 of 2010

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