

South Australia

Development (Miscellaneous) Variation Regulations 2015

under the *Development Act 1993*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Variation provisions

Part 2—Variation of *Development Regulations 2008*

- 4 Variation of regulation 3—Interpretation
 - 5 Variation of regulation 15—Application to relevant authority
 - 6 Variation of regulation 24—Referrals
 - 7 Variation of regulation 25—Procedure where concurrence required
 - 8 Variation of regulation 35—Lodging written representations
 - 9 Variation of regulation 38—Determination of Commission as relevant authority
 - 10 Revocation of regulation 74A
 - 11 Substitution of regulation 76C
 - 76C Fire safety requirements—brush fences
 - 12 Variation of regulation 82—Classification of buildings
 - 13 Variation of regulation 84—Mining production tenements
 - 14 Variation of regulation 87—Qualifications in building
 - 15 Variation of regulation 91—Qualifications
 - 16 Variation of regulation 92—Provision of information
 - 17 Variation of regulation 102—Documents to be provided by private certifier
 - 18 Variation of regulation 103A—Building Rules assessment audits
 - 19 Variation of regulation 103AB—Development Plan assessment audits
 - 20 Variation of Schedule 1A—Development that does not require development plan consent
 - 21 Variation of Schedule 2—Additional acts and activities constituting development
 - 22 Variation of Schedule 3—Acts and activities which are not development
 - 23 Variation of Schedule 3A—Colonel Light Gardens State Heritage Area
 - 24 Variation of Schedule 4—Complying development
 - 25 Variation of Schedule 5—Requirements as to plans and specifications
 - 26 Variation of Schedule 8—Referrals and concurrences
 - 27 Variation of Schedule 9—Public notice categories
 - 28 Variation of Schedule 10—Decisions by Development Assessment Commission
 - 29 Variation of Schedule 14—State agency development exempt from approval
 - 30 Variation of Schedule 14A—Development involving electricity infrastructure exempt from approval
-

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Development (Miscellaneous) Variation Regulations 2015*.

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 3—Interpretation

Regulation 3(6), definitions of *Commonwealth Nation Building Program* and *Local Government Infrastructure Program*—delete the definitions

5—Variation of regulation 15—Application to relevant authority

Regulation 15(3)(b)(iv)—delete "the Commonwealth Nation Building Program or"

6—Variation of regulation 24—Referrals

Regulation 24(5)—delete "the Commonwealth Nation Building Program, the Local Government Infrastructure Program or"

7—Variation of regulation 25—Procedure where concurrence required

- (1) Regulation 25(b)(i)—after "application" insert:

(including the date of lodgement)
- (2) Regulation 25(b)(ii)—after "decision" insert:

(including a copy of any report prepared by the Development Assessment Commission, council or regional development assessment panel relating to the application)
- (3) Regulation 25(b)—delete subparagraph (v) and substitute:
 - (v) if a statement of support under regulation 17(1) is required—a copy of the statement; and
 - (va) a copy of any minutes of a meeting of the Development Assessment Commission, council or regional development assessment panel relating to the application; and
 - (vb) a copy of any declarations required to be made in relation to the application under the Act or these regulations; and

8—Variation of regulation 35—Lodging written representations

Regulation 35(e)—delete paragraph (e) and substitute:

- (e) if the person or persons who are making a representation desire, subject to section 38 of the Act, to be heard by the relevant authority, the representation must indicate the fact that the person or persons so desire.

9—Variation of regulation 38—Determination of Commission as relevant authority

Regulation 38(5)—delete "the Commonwealth Nation Building Program or"

10—Revocation of regulation 74A

Regulation 74A—delete the regulation

11—Substitution of regulation 76C

Regulation 76C—delete the regulation and substitute:

76C—Fire safety requirements—brush fences

- (1) A brush fence must not be constructed closer than 3 metres to a Class 1 or 2 building under the *Building Code* unless any external wall of the relevant building that will, as a result of the construction of the brush fence, be closer than 3 metres to the brush fence is fire resisting in accordance with the provisions of the *Building Code* relating to fire separation in respect of brush fences.
- (2) For the purposes of subregulation (1), the distance of 3 metres will be measured from any part of a proposed or existing brush fence and from any part of an external wall of the relevant building.
- (3) In this regulation—

brush means—

- (a) Broombrush (*Melaleuca uncinata*); and
- (b) any other form of dried vegetation material that has similar fire characteristics to Broombrush;

brush fence includes—

- (a) a fence that is predominantly constituted by brush;
- (b) a gate that is predominantly constituted by brush;

construction, in relation to a brush fence, includes an alteration of, or addition to, a brush fence but does not include the repair of an existing brush fence that does not enlarge or extend the brush fence;

external wall means an external wall within the meaning of the *Building Code*;

fire resisting means fire resisting within the meaning of the *Building Code*.

12—Variation of regulation 82—Classification of buildings

Regulation 82—after subregulation (4) insert:

- (5) On assigning a classification to a building (or part of a building), a council must, if relevant, determine and specify in the notice to the owner under section 66(4) of the Act—
 - (a) the maximum number of persons who may occupy the building (or part of the building); and
 - (b) if the building has more than 1 classification—the part or parts of the building to which each classification relates and the classifications currently assigned to the other parts of the building.

13—Variation of regulation 84—Mining production tenements

Regulation 84—after subregulation (1b) insert:

- (1c) For the purposes of section 75(5) of the Act, a report of the Development Assessment Commission is prescribed.

14—Variation of regulation 87—Qualifications in building

Regulation 87(6), definition of *approved building industry accreditation authority*—delete the definition and substitute:

approved building industry accreditation authority means an accreditation body recognised by the Minister for the purposes of this definition.

15—Variation of regulation 91—Qualifications

- (1) Regulation 91(1)(a)(ii)(C)—delete "or a Certificate of Registration as a Building Surveyor issued by the Local Government Qualifications Committee"
- (2) Regulation 91(2)(a), definition of *approved building industry accreditation authority*—delete the definition and substitute:

approved building industry accreditation authority means an accreditation body recognised by the Minister for the purposes of this definition.

16—Variation of regulation 92—Provision of information

- (1) Regulation 92—after subregulation (2ab) insert:
 - (2ac) Despite subregulation (2)(e), if a private certifier grants development plan consent and building rules consent at the same time in relation to a particular development, the private certifier is not required to provide to the relevant authority a certificate under subregulation (2)(e) for the development.
- (2) Regulation 92(2b)—delete "CNBP development, LGIP development or"
- (3) Regulation 92(6)—delete ", other than material referred to in subregulation (2)(a) or other certified plans or drawings,"
- (4) Regulation 92(7), definitions of *CNBP development* and *LGIP development*—delete the definitions

17—Variation of regulation 102—Documents to be provided by private certifier

- (1) Regulation 102(1)(b)—delete "section 93(a)" and substitute:
section 93(1)(a)
- (2) Regulation 102(1)(e)—delete "section 93(b)(i)" and substitute:
section 93(1)(b)(i)

18—Variation of regulation 103A—Building Rules assessment audits

- (1) Regulation 103A(2)—delete "2015" and substitute:
2017
- (2) Regulation 103A(3)(a)—delete "3" and substitute:
5
- (3) Regulation 103A(3)(b)—delete "2015" and substitute:
2017
- (4) Regulation 103A(4)—delete "3" and substitute:
5

19—Variation of regulation 103AB—Development Plan assessment audits

- (1) Regulation 103AB(3)—delete "2016" and substitute:
2018
- (2) Regulation 103AB(4)—delete "3" and substitute:
5

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

- (1) Schedule 1A, clause 5(1)—before "a Historic" insert:
the Municipal Council of Roxby Downs,
- (2) Schedule 1A, clause 5(1)(a)—after "site" insert:
, or a dwelling to be erected on the site in accordance with a development authorisation which has been granted
- (3) Schedule 1A—after clause 15 insert:

16—Building work on railway land

Building work in relation to a building that is—

- (a) associated with a railway; and
- (b) situated (or to be situated) on railway land (within the meaning of Schedule 3 clause 13(5)); and
- (c) required for the conduct or maintenance of railway activities.

21—Variation of Schedule 2—Additional acts and activities constituting development

- (1) Schedule 2, clause 3—after "Watercourse Zone," insert:

Watercourse Policy Area,

- (2) Schedule 2, clause 3—after "Flood Zone" insert:

, Flood Policy Area

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

- (1) Schedule 3, clause 3(2)(a)—after "dwelling" insert:

or a dwelling

- (2) Schedule 3, clause 3(2)(b)—delete paragraph (b) and substitute:

(b) which permits or is varied to permit the use of the leased or licensed land and any part of it for residential purposes.

- (3) Schedule 3, clause 3—after subclause (2) insert:

(2a) The grant or acceptance of a lease or licence, or the making of an agreement for a lease or licence, related to the installation or alteration of telecommunications facilities or wind turbine generators, including any infrastructure associated with such facilities or generators.

- (4) Schedule 3, clause 4(1)(f)(i)(B)—delete subsubparagraph (B)

- (5) Schedule 3, clause 4(1)(f)(iv)—delete subparagraph (iv) and substitute:

(iv) —

(A) a masonry fence; or

(B) a fence any part of which is formed from masonry (including, for example, a fence that includes masonry piers or columns),

that exceeds (or would exceed) 1 metre in height (measured (if relevant) from the lower of the 2 adjoining finished ground levels);
or

- (6) Schedule 3, clause 4(1)(g)(iii)—delete subparagraph (iii) and substitute:

(iii) —

(A) a masonry fence; or

(B) a fence any part of which is formed from masonry (including, for example, a fence that includes masonry piers or columns),

that exceeds (or would exceed) 1 metre in height (measured (if relevant) from the lower of the 2 adjoining finished ground levels);
or

- (7) Schedule 3, clause 4(8)—after the definition of *brush fence* insert:
- masonry* means stone, brick, terracotta or concrete block or any other similar building unit or material, or a combination of any such materials;
- (8) Schedule 3, clause 13—after subclause (4) insert:
- (4a) For the purposes of this clause, a reference to infrastructure associated with a railway, tramway or light railway includes a reference to infrastructure and related works required for the operation or maintenance of activities related to the railway, tramway or light railway.
- (9) Schedule 3, clause 13(5), definition of *infrastructure*—after paragraph (f) insert:
- (g) other infrastructure related to the operation or maintenance of railway, tramway or light railway activities;

23—Variation of Schedule 3A—Colonel Light Gardens State Heritage Area

- (1) Schedule 3A, clause 4(1)(f)(iii)—delete subparagraph (iii) and substitute:
- (iii) —
- (A) a masonry fence; or
- (B) a fence any part of which is formed from masonry (including, for example, a fence that includes masonry piers or columns),
- that exceeds (or would exceed) 1 metre in height (measured (if relevant) from the lower of the 2 adjoining finished ground levels);
- or
- (2) Schedule 3A, clause 4(8)—after the definition of *brush fence* insert:
- masonry* means stone, brick, terracotta or concrete block or other similar building unit or material, or a combination of such materials;

24—Variation of Schedule 4—Complying development

- (1) Schedule 4, clause 2A(2)—after "dwelling" first occurring insert:
- or a detached or semi-detached dwelling to be erected in accordance with a development authorisation which has been granted
- (2) Schedule 4, clause 2A(2)(1)—after "dwelling" insert:
- or the proposed facade of the dwelling to be erected
- (3) Schedule 4, clause 2B(4)(a)—after "activity on the land" insert:
- or in the vicinity of the land
- (4) Schedule 4, clause 2B(4)(b)—after "activity on the land" insert:
- or in the vicinity of the land
- (5) Schedule 4, clause 2B(5)(b)—after "allotment" insert:
- (which will remain on the allotment after completion of the development)

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

- (1) Schedule 5, clause A2(f)(i)—after "activity on the land" insert:
 or in the vicinity of the land
- (2) Schedule 5, clause 1(1)(g)—delete paragraph (g) and substitute:
 (g) if the building work involves the installation, alteration, relocation or removal and reinstatement of a roof truss within the ambit of the Minister's Schedule 5 list of roof truss information—the details relating to the truss required by the Minister's Schedule 5 list of roof truss information.
- (3) Schedule 5, clause 1(6a), definition of *Minister's Schedule 5 roof framing checklist*—delete the definition and substitute:
Minister's Schedule 5 list of roof truss information means a list of roof truss information published by the Minister in the Gazette for the purposes of subclause (1)(g).
- (4) Schedule 5, clause 2A—after subclause (1) insert:
 (1a) Subclause (1) does not apply to a development that is intended only to house, or that constitutes, electricity infrastructure (within the meaning of the *Electricity Act 1996*) (so that an application relating to such a development is not required to be accompanied by the declaration referred to in that subclause).

26—Variation of Schedule 8—Referrals and concurrences

- (1) Schedule 8, clause 1(4), table, item relating to District Council of Loxton Waikerie—delete the item and substitute:

District Council of Loxton Waikerie	Loxton	District Centre Zone Industry Zone Residential Zone
	Moorook	Township Zone
	Waikerie	District Centre Zone Residential Zone Industry Zone

- (2) Schedule 8, clause 1(4), table, item relating to Mid Murray Council—delete the item and substitute:

Mid Murray Council	Mannum	Town Centre Zone Residential Zone Recreation Zone Residential Marina Zone Mannum Marina Zone Residential Escarpment Zone Residential Character Zone
--------------------	--------	---

	Morgan	Township (Morgan) Zone
	Blanchetown	Service Centre Zone

- (3) Schedule 8, clause 1(4), table, item relating to Rural City of Murray Bridge, column 3—before "Local Centre Zone" insert:

Country Living Zone

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

Rural Living Zone

- (5) Schedule 8, clause 1(4), table, item relating to Alexandrina Council—delete the item and substitute:

Alexandrina Council	Goolwa	Residential Zone
	Hindmarsh Island	Residential Zone Rural Living Zone
	Clayton	Settlement Zone
	Milang	Residential Zone Town Centre Zone
	Langhorne Creek	Industry Zone Settlement Zone

- (6) Schedule 8, clause 2, table, item 4—after "display on" insert:

or abutting

- (7) Schedule 8, clause 2, table, item 9B—after "the development" insert:

is a building that is intended only to house, or that constitutes, electricity infrastructure (within the meaning of the *Electricity Act 1996*) or

- (8) Schedule 8, clause 2, table, item 19(g)—after subparagraph (iv) insert:

(iva) is the construction of an enclosed shed, garage or similar outbuilding—

- (A) that is ancillary to an existing building; and
- (B) that will not have a total floor area of more than 60 square metres; and
- (C) that will have on opposite sides either removable panels or at least 2 doors so as not to impede flood waters; and
- (D) that will not be located closer to the River Murray than the building to which it is ancillary; or

27—Variation of Schedule 9—Public notice categories

- (1) Schedule 9, clause 2(d)—delete paragraph (d) and substitute:

(d) the construction of (or of any combination of) a carport, garage, shed, pergola, verandah, fence, swimming pool, spa pool or outbuilding if it will be ancillary to a dwelling; or

- (2) Schedule 9, clause 6(1)(j)—after "zone" insert:
or Caravan and Tourist Park Zone
- (3) Schedule 9, clause 6(1)(k)—delete "Recreation Zone" and substitute:
Adelaide Shores Zone
- (4) Schedule 9, clause 6(1)(k)—after "Sturt" insert:
, or the Adelaide Shores Zone or Coastal Marina Zone in the Development Plan that relates to the area of the City of West Torrens
- (5) Schedule 9, clause 6(1)(l) and (m)—delete paragraphs (l) and (m)
- (6) Schedule 9, clause 6(1)(q)—delete "Technology Park" and substitute:
Infrastructure Zone, Mineral Extraction Zone
- (7) Schedule 9, clause 6(2)—delete "Commercial (Cape Jervis) Zone" wherever occurring and substitute in each case:
Cape Jervis Port Zone
- (8) Schedule 9, clause 15—delete "under clause 1(2) of Schedule 4" and substitute:
under clause 12(3) of Schedule 1A
- (9) Schedule 9, clause 20—delete the clause

28—Variation of Schedule 10—Decisions by Development Assessment Commission

- (1) Schedule 10, clause 1(1)(b)—delete "Land Management Corporation" and substitute:
Urban Renewal Authority established under the *Urban Renewal Act 1995*
- (2) Schedule 10, clause 2—delete "and the purpose of the easement, road or reserve will not, in the opinion of the council, be materially affected" wherever occurring
- (3) Schedule 10, clause 3A(2), definition of *prescribed area*, (c)—delete "Policy Area 61 (Primary Production), or Policy Area 62 (Watershed) in the Rural Zone" and substitute:
the Mount Lofty Ranges Policy Area in the Primary Production Zone or the Watershed Protection (Mount Lofty Ranges) Zone
- (4) Schedule 10, clause 6A—delete "General Industry (2) Zone in the Port Adelaide Enfield (City) Development Plan as *Policy Area 49—Osborne Maritime*" and substitute:
Industry Zone in the Port Adelaide Enfield Council Development Plan as Osborne Maritime Policy Area 11
- (5) Schedule 10, clause 8—delete the clause
- (6) Schedule 10, clause 9(1)—delete "Floodplain Policy Area of the River Murray and Lakes Zone" and substitute:
River Murray Flood Zone
- (7) Schedule 10, clause 9(2)(a)—delete "an allotment" and substitute:
land creating 1 or more additional allotments

