

South Australia

Development (Miscellaneous No 2) Variation Regulations 2017

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 2017*.

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 15—Application to relevant authority

Regulation 15(3)(b)(ii)—delete subparagraph (ii)

5—Variation of regulation 76B—Fire safety requirements—smoke alarms in dwellings

Regulation 76B(2)—delete "—1993"

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

- (1) Regulation 103A—before subregulation (1) insert:
 - (a1) For the purposes of paragraph (a) of the definition of *building assessment auditor* in section 56B(1) of the Act, a person who satisfies the Minister that they hold appropriate qualifications or experience in building assessment auditing or a related discipline is a person of a prescribed class.
- (2) Regulation 103A(1)—delete "section 56B(1)(b)" and substitute:

paragraph (b) of the definition of *building assessment auditor* in section 56B(1)
- (3) Regulation 103A(1)(a)—delete ", under the Minister,"
- (4) Regulation 103A(2)—delete "2017" and substitute:

2018

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

- (1) Regulation 103AB—before subregulation (1) insert:
 - (a1) For the purposes of paragraph (a) of the definition of *development assessment auditor* in section 56C(1) of the Act, a person who satisfies the Minister that they hold appropriate qualifications or experience to conduct audits for the purposes of, and in accordance with, section 56C of the Act is a person of a prescribed class.
- (2) Regulation 103AB(1)(a)—delete ", under the Minister,"

8—Variation of Schedule 3—Acts and activities that are not development

Schedule 3, clause 9—after paragraph (j) insert:

- (k) that consists of prescribed infrastructure within the meaning of clause 12 to the extent that it constitutes development under that clause.

9—Variation of Schedule 4—Complying development

- (1) Schedule 4, clause 2A(2)(b)—before subparagraph (i) insert:
 - (ai) nearer to an existing boundary of the primary street for the dwelling than the existing dwelling on the allotment;
- (2) Schedule 4, clause 2A(2)(b)(i)—before "nearer" insert:

subject to subparagraph (ai),
- (3) Schedule 4, clause 2A(2)(b)(ia)—before "more than" insert:

subject to subparagraph (ai),

- (4) Schedule 4, clause 2A(3)(b)(ii)—before subparagraph (A) insert:
- (AA) if a corner allotment containing an existing building continues, following a division of that allotment, to be a corner allotment containing that building—the same primary street as applied immediately before that division;
- (5) Schedule 4, clause 2A(3)(b)(ii)(A)—before "if the frontages" insert:
- subject to subparagraph (AA),
- (6) Schedule 4, clause 2A(3)(b)(ii)(B)—before "if the frontages" insert:
- subject to subparagraph (AA),
- (7) Schedule 4, clause 2B(5)(b)(ii)(B)—delete subparagraph (B) and substitute:
- (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 of which—
- 1 or more must be, or must be able to be, enclosed or covered and must comply with the requirements set out in subparagraph (iii) in relation to garages and carports; and
 - 1 may comprise a driveway, provided that it complies with the requirements set out in subparagraph (iii) (except subparagraph (A) and (B)) as if it were a garage or carport;
- (8) Schedule 4, clause 2B(5)(b)(iii)(E), first subsubsubparagraph—delete the first subsubsubparagraph and substitute:
- will use an existing driveway or a driveway authorised under section 221 of the *Local Government Act 1999* (including a driveway for which consent under the Act has been granted as part of an application for the division of land); or
- (9) Schedule 4, clause 2B(6)—delete "detached or new semi-detached"
- (10) Schedule 4, clause 2B(6)(a)(iii)—delete "300 square metres or less" and substitute:
- less than 301 square metres
- (11) Schedule 4, clause 2B(6)(a)(iv)—delete "exceeds 300 square metres" and substitute:
- is 301 square metres or more
- (12) Schedule 4, clause 2B(6)(b)(ii)—delete "near" and substitute:
- on
- (13) Schedule 4, clause 2B(6)(k)(v)(A)—delete subparagraph (A) and substitute:
- (A) will use an existing driveway or a driveway authorised under section 221 of the *Local Government Act 1999* (including a driveway for which consent under the Act has been granted as part of an application for the division of land); or

- (14) Schedule 4, clause 2B(7)(d)(ii)—before subparagraph (A) insert:
- (AA) if a corner allotment containing an existing building continues, following a division of that allotment, to be a corner allotment containing that building—the same primary street as applied immediately before that land division;
- (15) Schedule 4, clause 2B(7)(d)(ii)(A)—before "if the frontages" insert:
- subject to subparagraph (AA),
- (16) Schedule 4, clause 2B(7)(d)(ii)(B)—before "if the frontages" insert:
- subject to subparagraph (AA),

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

- (1) Schedule 10, clause 7—delete clause 7 and substitute:

7—Mount Lofty Ranges Water Protection Area

The division of land creating 1 or more additional allotments within the Mount Lofty Ranges Water Protection Area (as declared under Part 8 of the *Environment Protection Act 1993*), other than—

- (a) the division of land within the area of a township as shown in the relevant Development Plan; or
- (b) the division of 1 allotment containing 2 existing detached habitable dwellings into 2 allotments for the purpose of allowing each dwelling to be situated on a separate allotment.
- (2) Schedule 10, clause 9—delete clause 9

11—Variation of Schedule 14—State agency development exempt from approval

- (1) Schedule 14, clause 1(1)(b)—after subparagraph (viii) insert:
- (viiiia) building work associated with the alteration of, or addition to, a building within the area of an existing school, other than—
- (A) where the work will result in—
- the building exceeding 1 storey in height; or
 - the creation of a new access point to or from a public road or the alteration of an existing access point to or from a public road; or
 - fewer carparks on the site; or
- (B) where the building is, or will be when the building work is completed, within 5 metres of a boundary of the area of the school; or
- (C) where the building work would affect a local heritage place; or

- (2) Schedule 14, clause 1(1)(b)(ix)—delete "a building" and substitute:
any other building
- (3) Schedule 14, clause 1(1)—after paragraph (u) insert:
- (v) tree-damaging activity in relation to a regulated tree—
 - (i) that is on any land—
 - (A) on which a school, within the meaning of the *Education and Early Childhood Services (Registration and Standards) Act 2011*, is located or is proposed to be built; and
 - (B) that is under the care, control or management of the Minister responsible for the administration of that Act; or
 - (ii) that is on any land—
 - (A) on which a road is located or is proposed to be built or widened; and
 - (B) that is under the care, control and management of the Commissioner for Highways.
- (4) Schedule 14, clause 1(3)—delete "Subclause" and substitute:
Except as otherwise specified in this Schedule, subclause

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's Deputy

with the advice and consent of the Executive Council
on 7 November 2017

No 301 of 2017

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