

South Australia

Development (Upgrading Underutilised Buildings) 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 (Upgrading Underutilised Buildings) 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 80—Requirement to up-grade building in certain cases

Regulation 80—after subregulation (1) insert:

- (1a) Pursuant to section 7(3)(b) of the Act, section 53A(1) of the Act applies in relation to a class 2 to class 9 building as if it were modified as follows:
- (1) If an application for a building rules consent relates to building work in the nature of an alteration to a class 2 to 9 building constructed before 1 January 2002 and the building is, in the opinion of the relevant authority, unsafe, structurally unsound or in an unhealthy condition, the relevant authority may require, as a condition of consent—
 - (a) that building work that conforms with the requirements of the Building Rules be carried out to the extent reasonably necessary to ensure that the building is safe and conforms to proper structural and health standards; or
 - (b) that the building work comply with *Minister's Specification SA: Upgrading health and safety in existing buildings* (to the extent reasonably applicable to the building and its condition).

5—Insertion of regulation 80ABA

After regulation 80AB insert:

80ABA—Fire safety relating to existing class 2 to 9 buildings

Pursuant to section 7(3)(b) of the Act, section 71 of the Act applies in relation to an existing class 2 to class 9 building as if it were modified as follows:

- (a) insert after subsection (2):

(2a) Despite a preceding subsection, the fire safety of an existing class 2 to class 9 building will be taken to be adequate for the purposes of this section if it complies with Part 3 of *Minister's Specification SA: Upgrading health and safety in existing buildings* (including any provisions of that Specification that assist in the interpretation or construction of that Part) to the extent reasonably applicable to the building.

(b) delete subsection (16) and substitute:

(16) Any action taken under this section in relation to an existing class 2 to class 9 building should seek to achieve compliance with Part 3 of *Minister's Specification SA: Upgrading health and safety in existing buildings* (including any provisions of that Specification that assist in the interpretation or construction of that Part) to the extent reasonably applicable to the building.

6—Variation of regulation 82—Classification of buildings

(1) Regulation 82(4)—delete "A council" and substitute:

Subject to subregulation (4a), a council

(2) Regulation 82—after subregulation (4) insert:

(4a) If an application under this regulation is made in respect of an existing class 2 to class 9 building, the council may require the applicant to satisfy it that *Minister's Specification SA: Upgrading health and safety in existing buildings* has been complied with (to the extent reasonably applicable to the building and its present or intended use).

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

(1) Schedule 1A clause 11(1)—delete ", a River Murray Zone, or the area of The Corporation of the City of Adelaide," and substitute:

or a River Murray Zone

(2) Schedule 1A clause 12(1)(b)—before "the area" insert:

subject to subclause (1a),

(3) Schedule 1A clause 12—after subclause (1) insert:

(1a) Demolition undertaken within a building in the area of The Corporation of the City of Adelaide.

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 19 September 2017

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