

South Australia

Development (Horticultural Netting) Variation Regulations 2018

under the *Development Act 1993*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Development (Horticultural Netting) Variation Regulations 2018*.

2—Commencement

These regulations will come into operation on 8 April 2018.

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 24—Referrals

Regulation 24—after subregulation (6) insert:

- (7) Schedule 8 does not apply to any development within the ambit of Schedule 1A clause 17.

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

Schedule 1A—after clause 16 insert:

17—Horticultural netting

- (1) The construction or alteration of, or addition to, a protective tree netting structure on a site if—
 - (a) no part of the protective tree netting structure will be more than 6 metres above ground level (depending on where it is situated); and
 - (b) netting visible from the outside of the protective tree netting structure is of a low light-reflective nature, and, in the case of a structure that has side netting, the side netting is of a dark colour; and
 - (c) in the case of a development on a site that is within an area identified as a bushfire protection area by a Development Plan—the protective tree netting structure provides for access to the site in accordance with subclause (2); and
 - (d) no part of the netting canopy of the protective tree netting structure—
 - (i) will cover native vegetation; or
 - (ii) will be within 5 metres of a road (including any road reserve); and
 - (e) the points of attachment of any cables will not be located—
 - (i) outside the boundaries of the site; or
 - (ii) within a watercourse (within the meaning of the *Natural Resources Management Act 2004*); and
 - (f) the protective tree netting structure complies with the requirements set out in subclause (3).
- (2) In connection with subclause (1)(c), a protective tree netting structure complies with the requirement to provide access to the site if—
 - (a) no part of the protective tree netting structure (including cables and points of attachment of cables (known as "auger" or "anchor" points)) will be within 5 metres of any boundary of the site; or
 - (b) the protective tree netting structure does not prevent access or movement of vehicles of 4 metres height and 3.5 metres width (or less) on any access road or track (including fire tracks) on the site.

- (3) The netting canopy of a protective tree netting structure must comply with the following requirements in relation to a dwelling located on an allotment adjoining the site on which the structure is located:
 - (a) if the netting canopy nearest the dwelling on the adjoining allotment is 4 metres or less above ground level (depending on where it is situated), no part of the netting canopy may be within 10 metres of the dwelling;
 - (b) in any other case—no part of the netting canopy may be within 15 metres of the dwelling.
- (4) This clause does not apply if—
 - (a) the development is in relation to a site where a State heritage place or a local heritage place is situated; or
 - (b) the development is in a Historic Conservation Zone/Area, the Hills Face Zone or a Flood Management Zone/Area; or
 - (c) 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; or
 - (d) the development would be contrary to the regulations prescribed for the purposes of section 86 of the *Electricity Act 1996*.
- (5) In this clause—

protective tree netting structure means netting and any associated structure—

 - (a) that is designed to protect trees or plants grown for the purpose of commercial horticulture; and
 - (b) that consists of a netting canopy attached to a structure (such as poles and cables).

6—Variation of Schedule 6—Fees

- (1) Schedule 6, item 1(8)—after "Rules" insert:

, other than an application within the ambit of component (8a) of this item
- (2) Schedule 6, item 1—after component (8) insert:

(8a) If the application relates to a proposed development within the ambit of Schedule 1A clause 17 (being a protective tree netting structure) that requires assessment against the provisions of the Building Rules	\$430.00 plus \$45.00 for each 10 000 square metres (or part of 10 000 square metres) of netting for the protective tree netting structure
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- (3) Schedule 6, item 5(1)—after "(8)" insert:

or (8a)

7—Variation of Schedule 7—Provisions regulating distribution of fees between authorities

(1) Schedule 7, clause 2(a)(vi)—after "(8)" insert:

, (8a)

(2) Schedule 7, clause 2(d)—after "(8)" insert:

and (8a)

(3) Schedule 7, clause 3(a)(ix)—after "(8)" insert:

, (8a)

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 13 February 2018

No 31 of 2018

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