

South Australia

Development (Bushfire Recovery) Variation Regulations 2020

under the *Development Act 1993*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Development (Bushfire Recovery) Variation Regulations 2020*.

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 Schedule 3—Acts and activities that are not development

- (1) Schedule 3, clause 4(1)—after paragraph (a) insert:
 - (ab) a temporary structure on land on which a building, or part of a building, has been destroyed or significantly damaged by a bushfire if—

- (i) the structure is for the use of the owner of the land for the storage of goods or materials required to assist in the recovery and redevelopment of an area affected by the bushfire; and
 - (ii) the structure—
 - (A) does not exceed 3 metres in height (measured from ground level); and
 - (B) does not exceed 12.5 metres in length; and
 - (C) does not exceed 2.5 metres in width; and
 - (iii) the structure does not remain on the land after 1 January 2022; or
- (2) Schedule 3, clause 5(2)—after paragraph (e) insert:
 - (ea) the parking of a caravan or other vehicle of any weight on land on which a dwelling, or part of a dwelling, has been destroyed or significantly damaged by a bushfire if the vehicle is to be used as accommodation by the owner of the land—
 - (i) until 1 January 2022; or
 - (ii) until a Class 1a building on the land is able to be occupied in accordance with regulation 83A,whichever occurs first; or
 - (eb) the storage of goods or materials until 1 January 2022 on land on which a building, or part of a building, has been destroyed or significantly damaged by a bushfire if the storage is for the use of the owner of the land to assist in the recovery and redevelopment of an area affected by the bushfire; or
- (3) Schedule 3—after clause 20 insert:

21—Demolition of building destroyed or damaged by bushfire

- (1) The partial or total demolition of a building and associated structures if the building, or part of the building, has been destroyed or significantly damaged by a bushfire, other than in respect of a local heritage place or Historic Conservation Zone/Area.
- (2) In this clause—

Historic Conservation Zone/Area means a Historic (Conservation) Zone, a Historic (Conservation) Policy Area, a Residential Historic (Conservation) Zone, a Historic Conservation Area, 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.

5—Variation of Schedule 4—Complying development

- (1) Schedule 4, Part 1—after clause 4 insert:

5—Temporary accommodation in area affected by bushfire

The construction or placement of a building or structure on land on which a dwelling, or part of a dwelling, has been destroyed or significantly damaged by a bushfire if—

- (a) the building or structure is to be used as accommodation by the owner of the land; and
- (b) the building or structure is a minimum of 20 metres from any remaining or regenerating cluster of vegetation (whether that vegetation is on the land or on adjoining land); and
- (c) the owner of the land complies with any requirements of the South Australian Country Fire Service relating to the maintenance of a clearance area between the temporary accommodation and any remaining or regenerating cluster of vegetation; and
- (d) the building or structure is to be used as accommodation—
 - (i) until 1 January 2022; or
 - (ii) until a Class 1a building on the land is able to be occupied in accordance with regulation 83A,whichever occurs first.

- (2) Schedule 4, Part 2—after clause 17 insert:

18 The construction or placement of a building or structure on land on which a dwelling, or part of a dwelling, has been destroyed or significantly damaged by a bushfire if—

- (a) the building or structure is to be used as accommodation by the owner of the land; and
- (b) the building or structure is a minimum of 20 metres from any remaining or regenerating cluster of vegetation (whether that vegetation is on the land or on adjoining land); and
- (c) the owner of the land complies with any requirements of the South Australian Country Fire Service relating to the maintenance of a clearance area between the temporary accommodation and any remaining or regenerating cluster of vegetation; and
- (d) the building or structure is to be used as accommodation—
 - (i) until 1 January 2022; or
 - (ii) until a Class 1a building on the land is able to be occupied in accordance with regulation 83A,whichever occurs first; and

- (e) the building or structure complies with the following requirements:
 - (i) the requirements in—
 - (A) the relevant clauses of Part 2.1 of the Housing Provisions of the National Construction Code; and
 - (B) clause P2.2.2 of the Housing Provisions of the National Construction Code; and
 - (C) clause P2.4.3 of the Housing Provisions of the National Construction Code;
 - (ii) —
 - (A) if the site is connected to mains water—the land on which the building or structure is constructed or placed has a 2 000 litre dedicated fire fighting water supply with a tap; or
 - (B) if the site is not connected to mains water—the land on which the building or structure is constructed or placed has a 5 000 litre dedicated fire fighting water supply with a tap;
 - (iii) waste water is disposed of through, or connected to, an approved wastewater system, SA Water sewer or council community wastewater system;
 - (iv) all smoke alarms required under clause P2.3.2 of the Housing Provisions of the National Construction Code are installed and tested;
 - (v) the building or structure is fitted with a fire extinguisher.

6—Variation of Schedule 8—Referrals and concurrences

- (1) Schedule 8, clause 1—after the definition of *prescribed area* insert:

relevant certificate means a certificate by, or on behalf of, the South Australian Country Fire Service certifying that—

- (a) a Bushfire Attack Level assessment of the development has been undertaken within 3 months prior to lodgement of the application for development plan consent in respect of the development; and
- (b) the Bushfire Attack Level is –19 range.

- (2) Schedule 8, clause 2, table, item 18, column 1—after "Plan" insert:

, except if a relevant certificate accompanies the application for development plan consent in respect of the development

7—Variation of Schedule 9—Public notice categories

Schedule 9, Part 1—after clause 16B insert:

- 16C Development which comprises replacing development that has been destroyed or significantly damaged by a bushfire in substantially the same form.

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 5 March 2020

No 23 of 2020