

South Australia

## **Planning, Development and Infrastructure (General) (Miscellaneous) (No 2) Variation Regulations 2020**

under the *Planning, Development and Infrastructure Act 2016*

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## **Part 1—Preliminary**

### **1—Short title**

These regulations may be cited as the *Planning, Development and Infrastructure (General) (Miscellaneous) (No 2) Variation Regulations 2020*.

### **2—Commencement**

- (1) Subject to subregulation (2), these regulations come into operation on the day on which they are made.
- (2) Regulations 4 to 24 (inclusive) and 26 to 33 (inclusive) come into operation on the day on which Schedule 8 clause 33 of the *Planning, Development and Infrastructure Act 2016* comes into operation.

### **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 *Planning, Development and Infrastructure (General) Regulations 2017***

### **4—Variation of regulation 3—Interpretation**

- (1) Regulation 3(1), definitions of *AHD* and *ARI*—delete the definitions
- (2) Regulation 3(3)—delete subregulation (3)

### **5—Variation of regulation 3A—Application of Act (section 8)**

- (1) Regulation 3A—after subregulation (3) insert:
  - (3a) Pursuant to section 8(2)(b) of the Act, section 215 of the Act applies with the following prescribed variation during the period from the commencement of this subregulation until the designated day:
    - Section 215—after subsection (4) insert:
      - (5) Subsection (4) does not apply to prevent a person who operates a shop used primarily for the sale of foodstuffs by retail from—
        - (a) loading or unloading goods at the shop at any time; or
        - (b) opening the shop to the public at any time.

- (2) Regulation 3A(4)—before the definition of *prescribed separation distance* insert:

*designated day* means the earlier of the following days:

- (a) the day designated by the Minister by notice in the Gazette;
- (b) 30 September 2020;

#### **6—Variation of regulation 3F—Regulated and significant trees**

- (1) Regulation 3F(1)—delete "*significant tree*" and substitute:

*regulated tree*

- (2) Regulation 3F(4)(c)—delete "Chapter 8 Part 1 of the *Natural Resources Management Act 2004*" and substitute:

Part 9 Division 1 of the *Landscape South Australia Act 2019*

#### **7—Variation of regulation 19—Incorporation of material (section 71(b))**

Regulation 19—after paragraph (a) insert:

- (ab) the administrative unit of the Public Service that is responsible for assisting a Minister in the administration of the *Heritage Places Act 1993*;

#### **8—Variation of regulation 21—Minor or operational amendments (section 76)**

Regulation 21(h)—delete "an NRM plan (or a part of any such plan) prepared under Chapter 4 of the *Natural Resources Management Act 2004*" and substitute:

a regional landscape plan, water allocation plan or landscapes or water affecting activities control policy (or a part of any such plan or policy) under the *Landscape South Australia Act 2019*

#### **9—Variation of regulation 22—Prescribed scheme (section 93)**

Regulation 22—after its present contents (now to be designated as subregulation (1)) insert:

- (2) In connection with subregulation (1)(a)(ii), an assessment manager may act as a relevant authority for the purposes of—
  - (a) making a decision in accordance with a practice direction under section 107(3)(a) of the Act; and
  - (b) determining whether a proposed development the subject of an application falls within a specified class of development excluded from the operation of section 107(3) and (4) of the Act by the Planning and Design Code.

## **10—Variation of regulation 43—River Murray**

Regulation 43(2)—delete subregulation (2) and substitute:

- (2) If an application for the consent or approval of a proposed development must be referred under Schedule 9 to the Minister responsible for the administration of the *River Murray Act 2003* (the ***River Murray Minister***), the following provisions apply:
  - (a) subject to subregulation (3), the River Murray Minister must, in considering the application, take into account any matter that is raised by another Minister or other authority responsible for, or involved in, the administration of a related operational Act that is provided to the River Murray Minister in response to the referral of the application by the River Murray Minister to the other Minister or authority for comment;
  - (b) the River Murray Minister may, in providing a response to the relevant authority under section 122 of the Act, make that response on the basis of a matter referred to in paragraph (a).
- (3) A matter raised by another Minister or authority in response to the referral of an application by the River Murray Minister under subregulation (2)(a) is not required to be taken into account by the River Murray Minister unless it is provided to the River Murray Minister within a period specified by the River Murray Minister.

## **11—Variation of regulation 44—Appeals**

Regulation 44—delete "item 14" wherever occurring and substitute in each case:

item 18

## **12—Variation of regulation 47—Performance assessed development and restricted development**

Regulation 47(4)—delete subregulation (4) and substitute:

- (4) If—
  - (a) the applicant, in accordance with a procedure specified by a practice direction, requests the relevant authority to place a notice on land under subregulation (2); and
  - (b) the proposed development is to be undertaken within the area of a council; and
  - (c) the relevant authority is an assessment panel appointed or constituted under section 83 or 84 of the Act; and
  - (d) the applicant pays the fee determined by the council for the area in which the proposed development is to be undertaken as being appropriate to cover the reasonable costs of placing the notice on the land,

the relevant authority will be responsible for placing the notice on the land.

### **13—Variation of regulation 57—Notice of decision (section 126(1))**

Regulation 57(4)—delete subregulation (4) and substitute:

- (4) The relevant authority must—
  - (a) endorse a set of any approved plans and other relevant documentation with an appropriate form of authentication; and
  - (b) ensure that the notice provided via the SA planning portal under subregulation (2) includes the endorsed set of approved plans and other relevant documentation.

### **14—Variation of regulation 64—Building work affecting other land**

Regulation 64—after subregulation (2) insert:

- (2a) For the purposes of section 139(2)(a) of the Act—
  - (a) the form set out in Schedule 10A is prescribed; and
  - (b) the person undertaking the development must serve a completed notice on the owner of the affected site at least 20 business days before the building work is commenced.
- (2b) For the purposes of section 139(2)(c) of the Act, before seeking access under section 139(2)(b) of the Act, the person undertaking the development (or a person authorised by that person) must give at least 1 business day's notice of the proposed work and the proposed time of accessing the affected site.

### **15—Insertion of regulation 64A**

After regulation 64 insert:

#### **64A—Access to neighbouring land**

For the purposes of section 140(3) of the Act, the form set out in Schedule 10B is prescribed.

### **16—Variation of regulation 65—Variation of authorisation (section 128)**

Regulation 65—after subregulation (2) insert:

- (3) Subregulation (1) does not apply to a development authorisation relating to a division of land where certificates of title have been issued by the Registrar-General in respect of the land divided in accordance with the development authorisation.

### **17—Variation of regulation 68—Procedural matters (section 111(2))**

Regulation 68(3)—delete subregulation (3)

## **18—Variation of regulation 93—Notifications during building work**

- (1) Regulation 93(1)(c)—delete "or before development approval is granted" and substitute:

the granting of development approval
- (2) Regulation 93(1)(f)—before "completion" insert:

the intended

## **19—Variation of regulation 94—Essential safety provisions**

- Regulation 94(4)(a)—delete "building rules consent" and substitute:

building consent

## **20—Variation of regulation 99—Construction Industry Training Fund**

- (1) Regulation 99(2)—delete "building rules consent" and substitute:

building consent
- (2) Regulation 99(3)(b)—delete "building rules consent" and substitute:

building consent
- (3) Regulation 99(4)—delete "building rules consent" and substitute:

building consent

## **21—Variation of regulation 103—Certificates of occupancy**

- (1) Regulation 103—after subregulation (6) insert:
  - (6a) If, on receipt of a notification of intended completion of building work under regulation 93(1)(f), a council determines that the building work will be inspected by an authorised officer, the certificate of occupancy must not be granted until the inspection has been carried out and any required building work or other action has been undertaken.
  - (6b) A council must provide to the relevant authority responsible for assessment of the building work against the provisions of the Building Rules (unless that relevant authority was the council)—
    - (a) notice of its determination to carry out an inspection of building work in accordance with subregulation (6a); and
    - (b) notice of the completion of the inspection (after any building work or other action required by the inspection has been undertaken).
- (2) Regulation 103(7)—delete "Pursuant" and substitute:

Subject to subregulation (7a), pursuant

- (3) Regulation 103—after subregulation (7) insert:

(7a) If the council has determined to carry out an inspection of building work in accordance with subregulation (6a), the period under subregulation (7)(a) or (b) (within which an application for the issue of a certificate of occupancy in respect of the building must be decided) does not commence until the day after the notice of completion of the inspection under subregulation (6b)(b) is provided.

- (4) Regulation 103(11)—after "(3)" insert:

, (6a)

## **22—Variation of regulation 104—Statement of Compliance**

- (1) Regulation 104(3)—delete subregulation (3) and substitute:

(3) If building work is carried out in a case where this regulation applies—

- (a) the licensed building work contractor responsible for carrying out the building work; or
- (b) if there is no such person, a registered building work supervisor or a building certifier,

must, when a notice of completion with respect to the building work is given, provide to the relevant authority under subregulation (4) and the person referred to in subregulation (6)(b) via the SA planning portal a duly completed Statement of Compliance in the form determined by the Chief Executive for the purposes of this regulation (being a form published by the Chief Executive on the SA planning portal).

- (2) Regulation 104(5)—delete "building rules consent" and substitute:

building consent

- (3) Regulation 104(10)—delete subregulation (10)

## **23—Variation of regulation 112—Authorised officers and inspections**

- (1) Regulation 112(2)(a)—delete "section 144" and substitute:

sections 144 and 156

- (2) Regulation 112—after subregulation (2) insert:

(3) For the purposes of section 155(2) of the Act, the prescribed qualifications are the qualifications that apply for the purposes of gaining accreditation as an accredited professional who is—

- (a) an Accredited professional—building level 1; or
- (b) an Accredited professional—building level 2.

## **24—Variation of regulation 116—Rights of review and appeal**

Regulation 116—delete "An" and substitute:

For the purposes of section 203(1) of the Act, an

## **25—Variation of regulation 119—Application of Fund**

Regulation 119—delete "a public work or public purpose that promotes or complements a policy or strategy contained in a state planning policy is authorised as a purpose for which the Planning and Development Fund may be applied." and substitute:

the Planning and Development Fund may be applied for the following purposes:

- (a) a public work or public purpose that promotes or complements a policy or strategy contained in a state planning policy;
- (b) the establishment of projects associated with the implementation of the Act, including the establishment of—
  - (i) the SA planning website (the SA planning portal); and
  - (ii) the SA planning database; and
  - (iii) the online atlas and search facility; and
  - (iv) the online delivery of planning services; and
  - (v) the Planning and Design Code.

## **26—Variation of Schedule 3—Additions to definition of development**

Schedule 3, clause 7(1)(d)—after "Flood Plain" insert:

Protection Area

## **27—Variation of Schedule 4—Exclusions from definition of development—general**

(1) Schedule 4, 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 m in height (measured from ground level); and
    - (B) does not exceed 12.5 m in length; and
    - (C) does not exceed 2.5 m in width; and
  - (iii) the structure does not remain on the land for a period exceeding 2 years;

(2) Schedule 4, clause 4(1)(b)—delete paragraph (b) and substitute:

- (b) a windmill or a flagpole that—



- (i) is not attached to a building and is not more than 10 m in height; or
  - (ii) is attached to a building and is not more than 4 m in height above the topmost point of attachment to the building, exclusive of guy wires,and, if in a designated airport building heights area, is not more than the height restriction under the Planning and Design Code relating to structures in the location of the proposed development;
- (3) Schedule 4, clause 4(1)(d)(i)(A)—after "overlay" insert:
  - identified under the Planning and Design Code for the purposes of this subsubparagraph
- (4) Schedule 4, clause 4(1)(d)(i)(B)—delete "subparagraph" and substitute:
  - subsubparagraph
- (5) Schedule 4, clause 4(1)(d)(ii)—delete "Local Heritage Area Overlay" and substitute:
  - Historic Area Overlay
- (6) Schedule 4, clause 4(1)(e)—after "overlay" insert:
  - identified under the Planning and Design Code for the purposes of this paragraph
- (7) Schedule 4, clause 4(1)(g)(ii)(A)—delete "Hazards (Bushfire Protection) Overlay" and substitute:
  - Hazards (Bushfire—Outback) Overlay, Hazards (Bushfire—Regional) Overlay, Hazards (Bushfire—General Risk) Overlay, Hazards (Bushfire—Medium Risk) Overlay, Hazards (Bushfire—High Risk) Overlay or Hazards (Bushfire—Urban Interface) Overlay or any other zone or area in which the word "Bushfire" appears in the title of the zone or area
- (8) Schedule 4, clause 4(1)(i)—delete "Local Heritage Area Overlay" and substitute:
  - Historic Area Overlay
- (9) Schedule 4, clause 4(2)—delete "Local Heritage Area Overlay" and substitute:
  - Historic Area Overlay
- (10) Schedule 4, clause 4(3)—delete "Local Heritage Area Overlay" and substitute:
  - Historic Area Overlay
- (11) Schedule 4, clause 5(2)—after paragraph (f) insert:
  - (fa) 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) for a period not exceeding 2 years; or
    - (ii) until a Class 1a building on the land is able to be occupied in accordance with regulation 103,whichever occurs first;

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- (fb) the storage of goods or materials for a period not exceeding 2 years 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;
- (12) Schedule 4, clause 9(a)—delete "Local Infrastructure (Airfield) Zone, Settlement Zone" and substitute:
- Infrastructure (Airfield) Zone, Rural Settlement Zone
- (13) Schedule 4, clause 9(a)—after "Flood Plain" insert:
- Protection Area
- (14) Schedule 4, clause 9(a)—delete "Specific Use (Tourism Development) Zone" and substitute:
- Tourism Development Zone
- (15) Schedule 4, clause 9(d)—delete "Settlement Zone or Specific Use (Tourism Development) Zone" and substitute:
- Rural Settlement Zone or Tourism Development Zone
- (16) Schedule 4, clause 10—after its present contents (now to be designated as subclause (1)) insert:
- (2) 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 Area Overlay in the Planning and Design Code.
- (17) Schedule 4, clause 11(c)(i)—after "overlay" insert:
- identified under the Planning and Design Code for the purposes of this subparagraph
- (18) Schedule 4, clause 13(1)(b)(i)—delete "Local Heritage Area Overlay" and substitute:
- Historic Area Overlay
- (19) Schedule 4, clause 13(3)(a)—delete "Local Infrastructure (Airfield) Zone, Settlement Zone" and substitute:
- Infrastructure (Airfield) Zone, Rural Settlement Zone
- (20) Schedule 4, clause 13(3)(a)—after "Flood Plain" insert:
- Protection Area
- (21) Schedule 4, clause 13(3)(a)—delete "Specific Use (Tourism Development) Zone" and substitute:
- Tourism Development Zone
- (22) Schedule 4, clause 13(3)(d)—delete "Settlement Zone or Specific Use (Tourism Development) Zone" and substitute:
- Rural Settlement Zone or Tourism Development Zone

- (23) Schedule 4, clause 14—after subclause (5) insert:
- (5a) Subclauses (1) and (5) do not apply in relation to the construction of a new railway station.
- (24) Schedule 4, clause 14(7), definition of *infrastructure*, (d)—delete "buildings heights area" and substitute:
- building heights area where the work exceeds the height restriction under the Planning and Design Code relating to structures in the location of the work

## **28—Variation of Schedule 5—Exclusions from definition of development—State heritage areas**

- (1) Schedule 5, clause 4(1)(c)—after "swimming pool" insert:
- or spa pool (other than in a designated flood zone, subzone or overlay or in any other zone, subzone or overlay identified under the Planning and Design Code for the purposes of this paragraph) which is
- (2) Schedule 5, clause 4(1)(c)—after subparagraph (iii) insert:
- and
- (iv) in the case of an aboveground or inflatable swimming pool or spa pool, does not incorporate a filtration system;
- (3) Schedule 5, clause 4(1)(d) and (e)—delete paragraphs (d) and (e)

## **29—Variation of Schedule 6—Relevant authority—Commission**

- (1) Schedule 6, clause 1(1)(a)—after "South Australian Housing Trust" insert:
- , either individually or jointly with other persons or bodies, or by a provider registered under the *Community Housing National Law* participating in a program relating to the renewal of housing endorsed by the South Australian Housing Trust
- (2) Schedule 6, clause 1(1)(a)(iii) and (iv)—delete subparagraphs (iii) and (iv)
- (3) Schedule 6, clause 1(1)(a)(v)—after "regulated tree" insert:
- that is not associated with an application for building work on the relevant land
- (4) Schedule 6, clause 1(1)(a)(vi)—delete subparagraph (vi) and substitute:
- (vi) development which is classified as deemed-to-satisfy under section 106 of the Act.
- (5) Schedule 6—after clause 4 insert:

### **4A—Morphettville and Camden Park—buildings exceeding 4 storeys**

- (1) Development that involves the erection or construction of a building that exceeds 4 storeys in height in an Urban Neighbourhood Zone under the Planning and Design Code in the suburb of Morphettville or Camden Park.

- (2) Subject to subclause (3), development—
  - (a) under an application to vary a development authorisation given by the Commission under this clause; or
  - (b) which, in the opinion of the Commission, is ancillary to or in association with a development the subject of an authorisation given by the Commission under this clause.
- (3) Subclause (2) does not apply to development involving a building in relation to which a certificate of occupancy has been issued.
- (6) Schedule 6, clause 12—delete "identified as coastal or coastal conservation zones, subzones or overlays under the Planning and Design Code for the purposes of this clause" and substitute:
  - within the Conservation Zone under the Planning and Design Code
- (7) Schedule 6—after clause 12 insert:

#### **12A—Tourist accommodation in reserves**

Development for the purposes of tourist accommodation in a reserve constituted under the *National Parks and Wildlife Act 1972*.

- (8) Schedule 6—after clause 13 insert:

#### **14—Osborne maritime area**

Development in any part of the area identified as the Osborne Maritime Policy Area by the Development Plan relating to the City of Port Adelaide Enfield, as that Development Plan existed on 1 April 2020.

### **30—Variation of Schedule 7—Complying building work**

Schedule 7—after clause 11 insert:

#### **12—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 m 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) for a period not exceeding 2 years; or

- (ii) until a Class 1a building on the land is able to be occupied in accordance with regulation 103, 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 L 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 L 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.

### **31—Variation of Schedule 8—Plans**

- (1) Schedule 8, clause 1—delete "or pergola" and substitute:

, deck, fence, retaining wall or pergola (or any other development ancillary to a dwelling not within the ambit of clause 3)
- (2) Schedule 8, clause 2—delete "relates to 1 or more proposed dwellings, or the alteration of or addition to an existing dwelling," and substitute:

proposes building work not within the ambit Schedule 8 clause 1 or 3

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- (3) Schedule 8, clause 2(a)—after subparagraph (i) insert:
- (ia) the boundaries and dimensions of any proposed sites (after completion of the proposed development) and, if the application provides for an area of common or community land, the boundaries of such land; and
- (4) Schedule 8, clause 2(a)(ii)—delete "the minimum front and side setbacks of"
- (5) Schedule 8, clause 2(a)(vi)—delete "that are not fully enclosed or covered"
- (6) Schedule 8, clause 2(a)—after subparagraph (ix) insert:
- (x) the amount and location of private open space that will exist on the site after completion of the development, including details of any fencing around areas of private open space; and
  - (xi) the location and capacity of any proposed water tank and connection type; and
  - (xii) if a new or modified driveway or access point is proposed, the width of the vehicle crossover, the driveway width at the front boundary and the minimum and maximum driveway widths.
- (7) Schedule 8, clause 2(b)—delete "the location and purpose of rooms and other areas at the completion of the development; and" and substitute:
- 
- (i) the location and purpose of rooms and other areas at the completion of the development; and
  - (ii) the internal dimensions of any proposed carport or garage; and
  - (iii) the roof area, including any eaves and verandahs; and
- (8) Schedule 8, clause 2(c)(v)(C)—delete subparagraph (C)
- (9) Schedule 8, clause 2(c)(viii)—delete subparagraph (viii)
- (10) Schedule 8, clause 2(d)—after "new dwellings" insert:
- where the previous use or activity on the allotment was not for residential purposes
- (11) Schedule 8, clause 2—after paragraph (d) insert:
- and
- (e) in the case of an application proposing development located in a designated bushfire prone area—a site plan, drawn to scale, including appropriate bar and ratio scales, showing—
    - (i) the location of an existing or proposed asset protection zone; and
    - (ii) the surface materials of any existing or proposed driveway; and
    - (iii) the gradient of the transition area between the public road and any existing or proposed driveway, the gradients of the driveway, and the cross fall of the driveway; and

- (f) in the case of an application proposing a deemed-to-satisfy development for a new dwelling that is not connected to an approved common waste water disposal service but which is serviced by an on-site wastewater treatment system—evidence that the wastewater treatment system has been granted a wastewater works approval under the *South Australian Public Health (Wastewater) Regulations 2013*; and
- (g) in the case of an application proposing development located in the Native Vegetation Overlay or State Significant Native Vegetation Overlay in the Planning and Design Code—
  - (i) if native vegetation is proposed to be cleared—a report prepared in accordance with regulation 18(2)(a) of the *Native Vegetation Regulations 2017* that establishes that the clearance is categorised as Level 1 clearance in accordance with guidelines established by the Native Vegetation Council for the purposes of applications to clear native vegetation under the *Native Vegetation Act 1991*; or
  - (ii) in any other case—a declaration stating that the proposal will not involve clearance of native vegetation under the *Native Vegetation Act 1991*; and
- (h) in the case of an application proposing development which uses an existing or proposed access point from a road affected by the Key Outback and Rural Routes Overlay, Major Urban Transport Routes Overlay or Urban Transport Routes Overlay under the Planning and Design Code, or within 25 m of such a road—a site plan, drawn to scale, including appropriate bar and ratio scales, showing—
  - (i) the location and dimensions of all access points (noting whether an access point is located on a section of road affected by double barrier lines between edges of the access points); and
  - (ii) the expected number of vehicle movements per day; and
  - (iii) the expected maximum vehicle length for vehicles expected to access the site; and
  - (iv) in respect of the largest vehicle expected to access the site—
    - (A) vehicle turning profiles demonstrating entry and exit movements and on-site circulation (if required); and
    - (B) the angle of vehicle access crossing the property boundary; and
  - (v) the distance of unobstructed line of sight to and from any new access point for vehicles entering and exiting the access point; and
  - (vi) the distance between each access point and the nearest—

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- (A) public road junction or terminating or merging lane on a public road; and
  - (B) access point to or from a private road; and
  - (C) internal (on-site) driveway, intersection, car parking space, gate or other internal obstruction to vehicle movement; and
  - (D) roadside infrastructure or tree.
- (12) Schedule 8, clause 10(1)—delete "item 16" and substitute:  
item 9
- (13) Schedule 8, clause 11(1)—delete "*Natural Resources Management Act 2004* under item 7" and substitute:  
*Landscape South Australia Act 2019* under item 13
- (14) Schedule 8, clause 12(1)—delete "item 9 or 10" and substitute:  
item 15 or 16
- (15) Schedule 8, clause 13(1)—delete "item 11" and substitute:  
item 10

**Note—**

The heading to Schedule 8 clause 1 will be varied to "Plans for development ancillary to dwellings" when this regulation comes into operation.

The heading to Schedule 8 clause 2 will be varied to "Plans for applications seeking planning consent for new buildings or structures or extensions to existing buildings" when this regulation comes into operation.

The heading to Schedule 8 clause 9 will be varied to "Land division certificates or deemed-to-satisfy land division" when this regulation comes into operation.

**32—Variation of Schedule 9—Referrals**

- (1) Schedule 9, clause 1(1)(a)—after "column 1" insert:  
, other than such development that is classified as deemed-to-satisfy development,
- (2) Schedule 9, clause 1(1)(c)—after "column 3" insert:  
in Part A of the table
- (3) Schedule 9, clause 1(1)—after paragraph (c) insert:  
(ca) the term ***Direction to impose conditions*** specified in column 3 in Part A of the table means that the prescribed body may, if the relevant authority decides to consent to or approve the development, direct the relevant authority to impose such conditions as the prescribed body thinks fit (subject to any qualification referred to in the relevant item and any specific limitation under another Act as to the conditions that may be imposed by the prescribed body) and that the relevant authority must comply with any such direction; and



- (cb) the term *Advice* specified in column 3 in Part B of the table means that the relevant authority must not make its decision until it has received a response from the prescribed body in relation to the matter or matters for which the referral was made (provided that the prescribed body complies with section 122 of the Act in relation to the provision of its response); and
- (4) Schedule 9, clause 1(2)—delete "items 9 and 10" and substitute:  
items 15 and 16
- (5) Schedule 9, clause 2(a)—delete "item 14" and substitute:  
item 18
- (6) Schedule 9, clause 3—delete clause 3 and substitute:

**3—Table**

**Planning, Development and Infrastructure (General) (Miscellaneous) (No 2) Variation Regulations 2020**

Part 2—Variation of *Planning, Development and Infrastructure (General) Regulations 2017*

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<b>Development</b>	<b>Body</b>	<b>Function</b>	<b>Period</b>
<b>Part A</b>			
<b>1—Airports</b>			
Development that is—	Airport-operator company for the relevant airport within the meaning of the <i>Airports Act 1996</i> of the Commonwealth or, if there is no airport-operator company, Secretary of the Department of the Minister responsible for the administration of the <i>Airports Act 1996</i> of the Commonwealth	Direction	20 business days
(a) in the Airport Building Heights (Regulated) Overlay under the Planning and Design Code; and			
(b) specified by the Planning and Design Code as development of a class to which this item applies.			
<b>2—Development in high bushfire risk areas</b>			
Development that is—	South Australian Country Fire Service	Direction	30 business days
(a) within a Hazards (Bushfire—High Risk) Overlay under the Planning and Design Code; and			
(b) specified by the Planning and Design Code as development of a class to which this item applies.			
<b>3—Development near the coast</b>			
Development that is—	Coast Protection Board	Direction	30 business days
(a) in the Coastal Areas Overlay under the Planning and Design Code; and			
(b) specified by the Planning and Design Code as development of a class to which this item applies.			

**Planning, Development and Infrastructure (General) (Miscellaneous) (No 2) Variation Regulations 2020**  
Variation of *Planning, Development and Infrastructure (General) Regulations 2017*—Part 2

<b>Development</b>	<b>Body</b>	<b>Function</b>	<b>Period</b>
<b>4—Future road widening</b>			
Development that is—	Commissioner of Highways	Direction	20 business days
(a) in the Future Road Widening Overlay under the Planning and Design Code; and			
(b) specified by the Planning and Design Code as development of a class to which this item applies.			
<b>5—Historic shipwrecks (State)</b>			
Development that is—	Minister responsible for the administration of the <i>Historic Shipwrecks Act 1981</i>	Direction	20 business days
(a) in the Historic Shipwrecks Overlay under the Planning and Design Code; and			
(b) specified by the Planning and Design Code as development of a class to which this item applies.			
<b>6—Historic shipwrecks (Commonwealth)</b>			
Development that is—	Commonwealth Minister responsible for the administration of the <i>Underwater Cultural Heritage Act 2018</i> of the Commonwealth	Direction	20 business days
(a) in the Historic Shipwrecks Overlay under the Planning and Design Code; and			
(b) specified by the Planning and Design Code as development of a class to which this item applies.			
<b>7—Development affecting transport routes and corridors</b>			
Development that is—	Commissioner of Highways	Direction	20 business days
(a) in the Key Outback and Rural Routes Overlay, Major Urban Transport Routes Overlay, Non-Stop Corridors Overlay, Traffic Generating Development Overlay or Urban Transport Routes Overlay under the Planning and Design Code; and			
(b) specified by the Planning and Design Code as development of a class to which this item applies.			

**Planning, Development and Infrastructure (General) (Miscellaneous) (No 2) Variation Regulations 2020**

Part 2—Variation of *Planning, Development and Infrastructure (General) Regulations 2017*

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<b>Development</b>	<b>Body</b>	<b>Function</b>	<b>Period</b>
<b>9—Activities of environmental significance</b>			
Development—	Environment Protection Authority	Direction	30 business days
(a) that involves, or is for the purposes of, an activity specified by the Planning and Design Code as an activity of environmental significance to which this item applies; or			
(b) that is—			
(i) in the Mount Lofty Ranges Catchment (Area 1) Overlay, Mount Lofty Ranges Catchment (Area 2) Overlay, River Murray Flood Plain Protection Area Overlay or Water Protection Area Overlay under the Planning and Design Code; and			
(ii) specified by the Planning and Design Code as development of a class to which this item applies.			
<b>10—Certain activities in Murray-Darling Basin Area</b>			
Development that is—	Minister responsible for the administration of the <i>River Murray Act 2003</i>	Direction	30 business days
(a) in the Murray-Darling Basin Overlay under the Planning and Design Code; and			
(b) specified by the Planning and Design Code as development of a class to which this item applies.			
<b>11—Native vegetation</b>			
Development that is—	Native Vegetation Council	Direction	20 business days
(a) within the Native Vegetation Overlay or the State Significant Native Vegetation Overlay under the Planning and Design Code; and			
(b) is specified by the Planning and Design Code as development of a class to which this item applies.			

**Planning, Development and Infrastructure (General) (Miscellaneous) (No 2) Variation Regulations 2020**  
Variation of *Planning, Development and Infrastructure (General) Regulations 2017*—Part 2

Development	Body	Function	Period
<b>12—Activities that would otherwise require permit under <i>Landscape South Australia Act 2019</i> that may impact on water resources</b>			
Development that—			
(a) —			
(i) is in the Prescribed Surface Water Area Overlay, Prescribed Watercourses Overlay or Prescribed Water Resources Overlay under the Planning and Design Code; or	Relevant authority under the <i>Landscape South Australia Act 2019</i> that would, if it were not for the operation of section 106(1)(e) of that Act, have the authority under that Act to grant or refuse a permit to undertake the development referred to in column 1	Direction	30 business days
(ii) relates to a dam; or			
(iii) relates to commercial forestry; and			
(b) is specified by the Planning and Design Code as development of a class to which this item applies.			
<b>13—Activities that may give rise to water allocation issues under <i>Landscape South Australia Act 2019</i> that involve the taking of water</b>			
Development that—			
(a) —			
(i) is in the Prescribed Surface Water Area Overlay, Prescribed Water Resources Area Overlay, Prescribed Watercourses Overlay or Prescribed Wells Area Overlay under the Planning and Design Code; and	Chief Executive of the Department of the Minister responsible for the administration of the <i>Landscape South Australia Act 2019</i>	Direction	30 business days
(ii) is specified by the Planning and Design Code as development of a class to which this item applies; or			
(b) will involve the construction or enlargement of a dam in part of the State within the ambit of a notice under section 109 of the <i>Landscape South Australia Act 2019</i> .			

**Planning, Development and Infrastructure (General) (Miscellaneous) (No 2) Variation Regulations 2020**

Part 2—Variation of *Planning, Development and Infrastructure (General) Regulations 2017*

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<b>Development</b>	<b>Body</b>	<b>Function</b>	<b>Period</b>
<b>14—Mining</b>			
Development that is—	Minister responsible for the administration of the Mining Acts	Direction	30 business days
(a) in a Resource Extraction Zone or Resource Extraction Protection Area Overlay under the Planning and Design Code; and			
(b) specified by the Planning and Design Code as development of a class to which this item applies.			
<b>15—Development in River Murray Flood Plain Protection Area</b>			
Development that is—	Minister responsible for the administration of the <i>River Murray Act 2003</i>	Direction	30 business days
(a) in the River Murray Flood Plain Protection Area Overlay under the Planning and Design Code; and			
(b) specified by the Planning and Design Code as development of a class to which this item applies.			
<b>16—Development in River Murray Tributaries Protection Area</b>			
Development that is—	Minister responsible for the administration of the <i>River Murray Act 2003</i>	Direction	30 business days
(a) in the River Murray Tributaries Protection Area Overlay under the Planning and Design Code; and			
(b) specified by the Planning and Design Code as development of a class to which this item applies.			
<b>17—State heritage places</b>			
Development that is—	Minister responsible for the administration of the <i>Heritage Places Act 1993</i>	Direction	30 business days
(a) in the State Heritage Place Overlay, State Heritage Area Overlay or the Heritage Adjacency Overlay under the Planning and Design Code; and			
(b) specified by the Planning and Design Code as development of a class to which this item applies.			
<b>18—Electricity infrastructure</b>			
Development that is specified by the Planning and Design Code as development of a class to which this item applies.	Technical Regulator	Direction	20 business days

**Planning, Development and Infrastructure (General) (Miscellaneous) (No 2) Variation Regulations 2020**  
Variation of *Planning, Development and Infrastructure (General) Regulations 2017*—Part 2

<b>Development</b>	<b>Body</b>	<b>Function</b>	<b>Period</b>
<b>19—Aquaculture development</b>			
Aquaculture development specified by the Planning and Design Code as development of a class to which this item applies, other than such development that is excluded from the application of this item by the Planning and Design Code.	Minister responsible for the administration of the <i>Aquaculture Act 2001</i>	Direction	20 business days
<b>20—Affordable housing</b>			
Development that is—	Minister responsible for the administration of the <i>South Australian Housing Trust Act 1995</i>	Direction to impose conditions	20 business days
(a) in the Affordable Housing Overlay under the Planning and Design Code; and			
(b) specified by the Planning and Design Code as development of a class to which this item applies.			
<b>Part B</b>			
<b>21—Advertisements near signalised intersections</b>			
Development that is—	Commissioner of Highways	Advice	20 business days
(a) in the Advertising Near Signalised Intersections Overlay under the Planning and Design Code; and			
(b) specified by the Planning and Design Code as development of a class to which this item applies.			
<b>22—Design</b>			
Development that is—	Government Architect	Advice	30 business days
(a) in the Design Overlay under the Planning and Design Code; and			
(b) specified by the Planning and Design Code as development of a class to which this item applies.			
<b>23—Land division near landfill waste depots</b>			
Development that is specified by the Planning and Design Code as development of a class to which this item applies.	Environment Protection Authority	Advice	20 business days

### **33—Insertion of Schedules 10A and 10B**

After Schedule 10 insert:

#### **Schedule 10A—Building work affecting stability—prescribed form**

##### **Form 1—Initial notice to owner of affected site**

*Planning, Development and Infrastructure Act 2016*—section 139(2)(a)

To: *[Insert details of owner]*

The following building work will be to performed on the affected site: *[Insert details of building work, including description of the nature of the building work]*

The building work is intended to commence on: *[Insert date of commencement]*

The building work is intended to be completed on: *[Insert date of completion]*

TAKE NOTICE that access to the affected site may be required in accordance with section 139(2) and (3) of the *Planning, Development and Infrastructure Act 2016* *[Insert details of section 139(2) and (3)]*

Signed:

Date:

#### **Schedule 10B—Access to neighbouring land—prescribed form**

##### **Form 1—Access to neighbouring land**

*Planning, Development and Infrastructure Act 2016*—section 140(3)

To: *[Insert details of owner of adjoining allotment]*

Request for access to adjoining allotment *[Insert details required under section 140(3) of the Planning, Development and Infrastructure Act 2016]*

Reason for which access is sought:

Time at which, or period for which, access is sought:

Details of—

- (a) person proposed to be entering:
- (b) what they would bring with them:
- (c) what activity or work would be carried out:

Signed:

Date:



**Planning, Development and Infrastructure (General) (Miscellaneous) (No 2) Variation  
Regulations 2020**  
Variation of *Planning, Development and Infrastructure (General) Regulations 2017*—Part 2

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**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**

being satisfied that provisions about the policy or policies that each body prescribed for the purposes of section 122 of the Act will seek to apply in connection with the operation of that section have been included in the Planning and Design Code, or that the Minister has provided an indication under section 122(2)(b) of the Act in a relevant case, with the advice and consent of the Executive Council

on 23 July 2020

No 241 of 2020