

South Australia

# **Planning, Development and Infrastructure (Planning Agreements) Regulations 2020**

under the *Planning, Development and Infrastructure Act 2016*

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## **Contents**

1	Short title
2	Commencement
3	Interpretation
4	Termination of planning agreements
5	Other provisions in planning agreements

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### **1—Short title**

These regulations may be cited as the *Planning, Development and Infrastructure (Planning Agreements) Regulations 2020*.

### **2—Commencement**

These regulations come into operation on the day on which they are made.

### **3—Interpretation**

In these regulations, unless the contrary intention appears—

*Act* means the *Planning, Development and Infrastructure Act 2016*.

### **4—Termination of planning agreements**

For the purposes of section 35(7)(b) of the Act, on the termination of a planning agreement, any assets or liabilities held by, or attached to, the joint planning board immediately before the termination of the planning agreement will be distributed to, or become the responsibility of—

- (a) if a new joint planning board has been established in relation to the same area—that joint planning board; or
- (b) in any other case—the entities which were the parties to the planning agreement immediately before the termination of the planning agreement in accordance with an agreement between those parties or, in default of such an agreement, in accordance with the resolution of the matter under the procedures set out in the agreement for the resolution of a dispute (and the provisions of the agreement will continue to apply until the dispute is resolved).

## 5—Other provisions in planning agreements

- (1) For the purposes of section 35(7)(c) of the Act, a planning agreement may—
- (a) provide that the appointment of an elected member of a council, or of an employee of a council, as a member of a joint planning board does not give rise to a conflict between the duties of the office of member of the joint planning board and the duties of the office of elected member or employee of the council (as the case may be); or
  - (b) provide that the appointment of an elected member of a council, or of an employee of a council, as a member of a joint planning board is valid even if the duties of either office require, by implication, the person's full time attention; or
  - (c) provide that a party to the agreement may give a direction in relation to an actual or perceived conflict of duty on account of a member of a joint planning board holding concurrent offices, or in relation to any other duty applying in respect of a person as a member of a joint planning board (so that there is not a breach of duty if the direction is complied with); or
  - (d) provide that to the extent that any matter relating to the proceedings of a joint planning board are not covered by a specific provision of the agreement, the joint planning board may determine its own procedures; or
  - (e) provide that an act or proceeding of a joint planning board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member of the joint planning board; or
  - (f) provide that the parties to the agreement, or a joint planning board, must indemnify each member of the joint planning board against any civil liability for an honest act or omission in the performance, exercise or discharge of the member's, or the board's, functions, powers or duties under the agreement; or
  - (g) provide for the service of any document on a joint planning board; or
  - (h) provide that the appointment of a joint planning board does not derogate from the power of a party to the agreement to act in relation to a matter that falls within a function of a joint planning board (subject to the operation of the Act, or any other Act); or
  - (i) provide for a scheme for the parties to the agreement to direct and control a joint planning board (subject to the operation of the Act, or any other Act); or
  - (j) provide that a joint planning board may apply to the Minister for an exemption from a requirement of the agreement (subject to any condition or conditions specified in the agreement).
- (2) This regulation does not limit the ability of the parties to a planning agreement to include any other provision in the agreement in accordance with the scheme set out in the Act.

### 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 6 February 2020

No 5 of 2020