

South Australia

Planning, Development and Infrastructure (General) (Electricity Infrastructure) Variation Regulations 2021

under the *Planning, Development and Infrastructure Act 2016*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Variation provisions

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

- 4 Insertion of regulation 3CA
3CA Exclusions from definition of *development*—essential infrastructure
 - 5 Insertion of Schedule 4A
Schedule 4A—Exclusions from definition of development—essential infrastructure
 - 1 Essential infrastructure
-

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Planning, Development and Infrastructure (General) (Electricity Infrastructure) Variation Regulations 2021*.

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

4—Insertion of regulation 3CA

After regulation 3C insert:

3CA—Exclusions from definition of *development*—essential infrastructure

- (1) Subject to this regulation, an act or activity specified in Schedule 4A is, when carried on by a prescribed person, declared not to constitute development for the purposes of the Act.
- (2) If a prescribed person proposes to undertake any building work which is within the ambit of Schedule 4A, the person must, before commencing that building work—
 - (a) give notice of the proposed work to the council for the area in which the building work is to be undertaken; and
 - (b) furnish the council with—
 - (i) a description of the nature of the proposed work; and
 - (ii) so far as may be relevant, details of the location, siting, layout and appearance of the proposed work.
- (3) Subregulation (2) does not apply if the building work is within the ambit of Schedule 4, Schedule 5 or Schedule 7.
- (4) An exclusion under Schedule 4A is subject to any condition or limitation prescribed by Schedule 4A for the relevant act or activity.
- (5) An exclusion under Schedule 4A does not apply in respect of a State heritage place.
- (6) An exclusion under Schedule 4A does not apply in respect of any work involving any repair to, or alteration or restoration of, a building that would cause the building not to comply with the Building Rules.
- (7) Nothing in this regulation or Schedule 4A affects the operation of Schedule 5.
- (8) In this regulation—

prescribed person means—

- (a) the holder of a licence under the *Electricity Act 1996* issued in accordance with an order of the Minister under Part 5 of the *Electricity Corporations (Restructuring and Disposal) Act 1999* authorising the operation of a distribution network or some other licence under the *Electricity Act 1996* authorising the operation of all or part of that distribution network; or

- (b) the holder of a licence under the *Electricity Act 1996* issued in accordance with an order of the Minister under Part 5 of the *Electricity Corporations (Restructuring and Disposal) Act 1999* authorising the generation of electricity or some other licence under the *Electricity Act 1996* authorising the generation of electricity by means of an electricity generating plant previously operated pursuant to the licence issued in accordance with the order of the Minister; or
- (c) the holder of a licence under the *Electricity Act 1996* issued in accordance with an order of the Minister under Part 5 of the *Electricity Corporations (Restructuring and Disposal) Act 1999* authorising the operation of a transmission network or some other licence under the *Electricity Act 1996* authorising the operation of all or part of that transmission network,

but does not include a State agency within the meaning of section 131 of the Act.

5—Insertion of Schedule 4A

After Schedule 4 insert:

Schedule 4A—Exclusions from definition of development—essential infrastructure

Note—

An act or activity specified in this Schedule is declared not to constitute development for the purposes of the Act, subject to the limitations set out in regulation 3CA. For example, that regulation provides that an exclusion under Schedule 4A does not apply in respect of a State heritage place.

1—Essential infrastructure

- (1) The following forms of development, other than within the Adelaide Park Lands:
 - (a) if the work is certified by a building certifier, or by some person nominated by the Minister for the purposes of this provision, as complying with the Building Rules (or the Building Rules to the extent that is appropriate in the circumstances after taking into account the requirements of the Building Rules)—
 - (i) accepted development or deemed-to-satisfy development under the Planning and Design Code; or
 - (ii) the construction, reconstruction or alteration of a building or equipment used for or associated with the supply, conversion, transformation or control of electricity (other than an electricity generating station or an electricity substation); or

Planning, Development and Infrastructure (General) (Electricity Infrastructure) Variation Regulations 2021

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

- (iii) the development of land dedicated under the *National Parks and Wildlife Act 1972*, other than on or under land that is subject to coastal processes, or in relation to which there is evidence to suggest that the land is likely to be affected by coastal processes within the foreseeable future, unless the Coast Protection Board has authorised the development; or
 - (iv) the construction, reconstruction or alteration of, or addition to, a building contained within the existing security-fenced area of an existing electricity substation; or
 - (v) the construction, reconstruction or alteration of, or addition to, a building which is to be located wholly underground, other than on or under land which is subject to coastal processes, or in relation to which there is evidence to suggest that the land is likely to be affected by coastal processes within the foreseeable future;
- (b) the construction, reconstruction, alteration, repair or maintenance of any underground cable, other than under land which is subject to coastal processes or in relation to which there is evidence to suggest that the land is likely to be affected by coastal processes within the foreseeable future;
- (c) the undertaking of any temporary development which is required in an emergency situation in order to—
 - (i) prevent loss of life or injury; or
 - (ii) prevent loss or damage to land or buildings; or
 - (iii) maintain essential public services; or
 - (iv) prevent a health or safety hazard; or
 - (v) protect the environment where authority to undertake the development is given by or under another Act;
- (d) a division of land arising out of, or reasonably incidental to, the implementation of any matter referred to above;
- (e) an alteration, or repairs, to a building—
 - (i) which are predominantly internal; and
 - (ii) which do not change the external appearance or total floor area of the building; and
 - (iii) which will not adversely affect the structural soundness of the building or the safety of any person occupying or using it;

- (f) the construction, reconstruction or alteration of an electricity power line, other than a transmission line of 33 000 volts or more;
 - (g) the construction, reconstruction, alteration or addition to a security fence of an existing electricity substation or other electricity infrastructure within the meaning of the *Electricity Act 1996* subject to the following limitations:
 - (i) the fence must not exceed a height of 3.2 m (measured as a height above the natural surface of the ground);
 - (ii) —
 - (A) in the case of a fence that has a frontage to a public road—the fence must be a chain mesh fence; or
 - (B) in any other case—the fence must be a chain mesh fence or a fence clad in pre-colour treated sheet metal.
- (2) The following forms of development within the Adelaide Park Lands:
- (a) if the work is certified by a building certifier, or by some person nominated by the Minister for the purposes of this provision, as complying with the Building Rules (or the Building Rules to the extent that is appropriate in the circumstances after taking into account the requirements of the Building Rules)—
 - (i) the alteration of a building or equipment used for or associated with the supply, conversion, transformation or control of electricity (other than an electricity generating station or an electricity substation); or
 - (ii) the alteration of, or addition to, a building contained within the existing security-fenced area of an existing electricity substation; or
 - (iii) the alteration of, or addition to, a building—
 - (A) which is to be located wholly underground; and
 - (B) which will not result in a material change to the existing landform at the site of the development; or
 - (iv) without limiting subparagraph (iii), the construction or reconstruction of a building—
 - (A) which is to be located wholly underground; and

Planning, Development and Infrastructure (General) (Electricity Infrastructure) Variation Regulations 2021

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

- (B) which is intended only to house electricity infrastructure (within the meaning of the *Electricity Act 1996*); and
 - (C) which has a total floor area not exceeding 15 m² and a depth (determined according to the distance below ground level of the base of the building) not exceeding 4 m; and
 - (D) which will not result in a material change to the existing landform at the site of the development;
- (b) the construction, reconstruction, alteration, repair or maintenance of any underground cable;
 - (c) the undertaking of any temporary development which is required in an emergency situation in order to—
 - (i) prevent loss of life or injury; or
 - (ii) prevent loss or damage to land or buildings; or
 - (iii) maintain essential public services; or
 - (iv) prevent a health or safety hazard; or
 - (v) protect the environment where authority to undertake the development is given by or under another Act;
 - (d) a division of land arising out of, or reasonably incidental to, the implementation of any matter referred to above;
 - (e) an alteration, or repairs, to a building—
 - (i) which are predominantly internal; and
 - (ii) which do not change the external appearance or total floor area of the building; and
 - (iii) which will not adversely affect the structural soundness of the building or the safety of any person occupying or using it;
 - (f) the construction, reconstruction or alteration of an electricity power line, other than a transmission line of 33 000 volts or more.

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 18 August 2021

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