

South Australia

# **Planning, Development and Infrastructure (General) (Tunnel Protection Overlay) Amendment Regulations 2023**

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) (Tunnel Protection Overlay) Amendment Regulations 2023*.

### **2—Commencement**

These regulations come into operation on the day on which the *Tunnel Protection Overlay Code Amendment* comes into operation under section 78(4) of the *Planning, Development and Infrastructure Act 2016*.

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

### **3—Amendment of regulation 3C—Exclusions from definition of *development*—general**

Regulation 3C—after subregulation (4):

- (4a) An exclusion under Schedule 4 does not apply in respect of—
  - (a) the construction of a new building exceeding 3 storeys in height; or
  - (b) an alteration or extension to an existing building which will result in the building exceeding 3 storeys in height; or
  - (c) the construction of a temporary or permanent structure exceeding 9 m in height,within the Tunnel Protection Overlay under the Planning and Design Code.
- (4b) An exclusion under Schedule 4 does not apply in respect of an activity referred to in Schedule 3 clause 10 within the Tunnel Protection Overlay under the Planning and Design Code (unless the activity is undertaken by or on behalf of the Commissioner of Highways or the Rail Commissioner).

### **4—Amendment of regulation 3CA—Exclusions from definition of *development*—essential infrastructure**

Regulation 3CA—after subregulation (6):

- (6a) An exclusion under Schedule 4A does not apply in respect of—
  - (a) the construction of a new building exceeding 3 storeys in height; or
  - (b) an alteration or extension to an existing building which will result in the building exceeding 3 storeys in height; or
  - (c) the construction of a temporary or permanent structure exceeding 9 m in height,within the Tunnel Protection Overlay under the Planning and Design Code.
- (6b) An exclusion under Schedule 4A does not apply in respect of an activity referred to in Schedule 3 clause 10 within the Tunnel Protection Overlay under the Planning and Design Code.

### **5—Relocation of regulation 41A**

Regulation 41A—relocate the regulation so that it follows regulation 41

## 6—Amendment of regulation 106—Developments excluded from approval and notice

Regulation 106—after subregulation (1):

- (1a) An exclusion under Schedule 13 does not apply in respect of—
- (a) the construction of a new building exceeding 3 storeys in height; or
  - (b) an alteration or extension to an existing building which will result in the building exceeding 3 storeys in height; or
  - (c) the construction of a temporary or permanent structure exceeding 9 m in height,
- within the Tunnel Protection Overlay under the Planning and Design Code.
- (1b) An exclusion under Schedule 13 does not apply in respect of an activity referred to in Schedule 3 clause 10 within the Tunnel Protection Overlay under the Planning and Design Code (unless the activity is undertaken by or on behalf of the Commissioner of Highways or the Rail Commissioner).

## 7—Amendment of Schedule 3—Additions to definition of development

Schedule 3—after clause 9 insert:

### 10—Activities within Tunnel Protection Overlay

- (1) Any excavating or filling (or excavating and filling) of land within the Tunnel Protection Overlay under the Planning and Design Code which involves—
- (a) excavation exceeding a depth of 2.5 m below the regulated surface level; or
  - (b) filling exceeding a vertical height of 1 m above the regulated surface level.
- (2) Any ground intruding activity exceeding a depth of 2.5 m below the regulated surface level within the Tunnel Protection Overlay under the Planning and Design Code.
- (3) Any storage of materials, equipment or vehicles (whether temporary or permanent) over an area exceeding 100 m<sup>2</sup> on land within the Tunnel Protection Overlay under the Planning and Design Code.
- (4) Any temporary stockpiling of soil, gravel, rock or other natural material over an area exceeding 100 m<sup>2</sup> on land within the Tunnel Protection Overlay under the Planning and Design Code.
- (5) In this clause—
- ground intruding activity*** means an activity that intrudes the ground and includes—
- (a) excavation for building pad or strip footings or pile foundations; and

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

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- (b) installing an underground drain, pipe, cable or conduit; and
- (c) excavation for a tunnel, underground passageway or adit; and
- (d) the use of ground reinforcing elements, including—
  - (i) ground anchors; and
  - (ii) soil nails; and
  - (iii) rock bolts; and
  - (iv) mechanical stabilising elements as part of a retaining structure;

*regulated surface level* has the same meaning as in the Planning and Design Code.

## **8—Amendment of Schedule 9—Referrals**

Schedule 9, clause 3, table, Part A—after item 7 insert:

### **8—Tunnel Protection Overlay**

Development that is—	Commissioner of Highways	Direction	30 business days
(a) in the Tunnel Protection 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.			

### **Editorial note—**

As required by section 10AA(2) of the *Legislative Instruments 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 31 August 2023

No 96 of 2023