Amendments to the *Planning, Development and Infrastructure (General) Regulations 2017*

Reg	Amendment	What this means?
3	The spatial application of marine park overlays in the Planning and Design Code (the Code) do not align with established marine parks under the *Marine Parks Act 2007.* This amendment prescribes that the Code can be updated in line with established parks under the *Marine Parks Act 2007*.	This amendment will allow the spatial application of relevant marine park overlays to be updated without a full Code amendment process having to be undertaken, noting that consultation is required to establish a marine park under the *Marine Parks Act 2007*.
4	There is currently no time limitation on a Request for Information (RFI) made by a relevant authority concerning a development application, meaning they can extend indefinitely, and applications remain idle in the Development Application Processing (DAP) System.	This means that a relevant authority will have to continue assessing an application without the requested information if an RFI has not been complied with after 12 months or otherwise refuse the application. This will also prevent applications from sitting idle in the DAP System.
5	It is unclear whether additional business days to assess an application may be provided to a relevant authority where an applicant amends an application and a process needs to be repeated (eg referral or notification).	Where an applicant amends an application causing notification or referrals to be undertaken a second time, the relevant authority will receive additional time to undertake these processes.
6	Landowners are currently required to provide building indemnity insurance policy certificates to the relevant authority when they do not always have access to it. Instead, the applicant should be obligated to provide this information to the relevant authority.	This will mean that there is an obligation on the applicant to provide a copy of the building indemnity insurance policy certificate to the relevant authority, thereby removing the landowner from this process.
7	Prescribed referral bodies need a clear pathway to delegate their referral function. This is required for the Government Architect and the Chief Executive of the Department for Energy and Mining.	This amendment will ultimately allow the referral bodies to delegate their response to a relevant authority on an application to the person or body with the appropriate expertise. While referral bodies may be able to rely on the agency principle for less substantive tasks that are required to be performed, referral bodies will need to establish and maintain an Instrument of Delegation under the *Planning, Development and Infrastructure Act 2016* (the Act) should they wish to delegate their more substantive functions.
8(1)	Under reg 53(1)(i), a relevant authority receives an additional 10 business days for their assessment when an application for building consent is referred to the State Planning Commission (Commission). The additional time is to be added to the timeframe prescribed under regs 53(1)(c) or 53(1)(e), however reg 53(1)(c) is an application for planning consent and not building consent – it should instead refer to reg 53(1)(d).	This amendment is correcting a drafting error.
8(2)	Consequential amendment – see reg 8(3) below.	

Reg	Amendment	What this means?
8(3)	Currently a prescribed outage of the SA Planning Portal (the Portal) can only occur where access to the Portal is restricted for 24 hours or more. This amendment allows the Chief Executive to declare a prescribed outage where access has been restricted for less than 24 hours (eg during core business hours).	This will allow the Chief Executive to declare a prescribed outage when access has been restricted during core business hours, but not necessarily for 24 hours.
9	This amendment makes it clear that the variation to a condition is to be assessed by the relevant authority who issued the initial consent (other than where the Commission was the relevant authority and a certificate of occupancy (**CoO**) has since been issued).	This makes it clear that applications to vary a condition only will be assessed by the relevant authority who issued the initial consent, other than where the Commission issued the consent and a CoO has since been issued (in which case it will be the Assessment Manager).
10	When a consent or approval is the subject of an appeal, reg 67(3) amends the operative date of the consent to the date when a decision is made in relation to that appeal. However, it is unclear whether this applies in relation to 'reviews' under the Act.	Where the decision of an assessment manager is reviewed by an assessment panel, this amendment will clarify that the operative date of the consent will be the date the assessment panel makes a decision.
11	It is unclear whether the notice of decision requirements under reg 73(3) apply to all impact assessed development (including restricted development) and not just impact assessed declared development. This amendment makes it clear that this requirement applies to all impact assessed development.	This amendment will provide certainty for applicants and councils that they will receive notification of the outcome concerning all impact assessed developments.
12	To issue land division consent, SA Water is identified in the *Planning, Development and Infrastructure (General) Regulations 2017* (General Regulations) as a water industry entity under the *Water Industry Act 2012,* and any requirements they specify about water supply and sewerage must be satisfied. There are, however, 68 water industry entities licenced under the *Water Industry Act 2012*, many of which are local councils that run Community Wastewater Management Systems in regional areas.	This will mean that councils that are water industries licenced under the *Water Industry Act 2012* will also be able to specify requirements about water supply and sewerage for land division development applications.
13	Consequential amendment – see reg 12.	
14(1)	Consequential amendment – see reg 14(2).	
14(2)	In reg 94(11), the form is not required to be published on the Portal (unlike other forms within regulation 94). As such, this amendment specifies the relevant form is that which is published on the Portal.	This means that the appropriate form for this section will be the form that is published on the Portal.
15(1)	Consequential amendment – see reg 14(2).	

Reg	Amendment	What this means?
15(2)	Clarifying that the documentation accompanying the Statement of Compliance will be indicated when the Decision Notification Form is issued under reg 57(8)(c).	While already happening in practice, this amendment clarifies that it is the Decision Notification Form that will indicate what documentation needs to accompany the Statement of Compliance.
16	The *Development Act 1993* had the Electricity Infrastructure Development Pathway under section 49A. The Act has a similar pathway known as the essential infrastructure pathway and this amendment enlivens the pathway by prescribing classes of essential infrastructure that may be assessed under it.	This will enliven the essential infrastructure pathway to allow electricity infrastructure providers access to a streamlined pathway for certain approvals as they had under the *Development Act 1993*. In doing so, the Minister for Planning will be responsible for issuing final development approval rather than councils.
17	Consequential amendment – see reg 10.	
18	When hearing a review of an assessment manager's decision, it is understood that some assessment panels will hear from the assessment manager and not the applicant. To ensure basic procedural fairness is afforded to applicants, it is prescribed that they have an opportunity to provide a submission (and appear at a hearing if there is one).	An applicant seeking a review must be able to provide a submission and if an assessment panel hears from the assessment manager when considering a review, it must also hear from the applicant to reduce the risk of any procedural fairness issues arising.
19(1)	Consequential amendment – see reg 10.	
19(2)	Regulation 120(2) requires accredited professionals to maintain a register of applications they have assessed. The information to be recorded, however, is the same as that already recorded on the Portal. As such, this requirement is considered unnecessary.	This means accredited professionals no longer need to maintain a register of applications assessed.
20(1)	Consequential amendment – see reg 25(10).	Makes it clear that councils can also undertake works to support public health services to be consistent with the state agency provision.
20(2)	This amendment makes it clear that non-permeable screens, such as plastic café blinds, are able to be added to structures without the need to obtain development approval.	Means non-permeable café blinds can be added to pergolas and verandas without the need to obtain development approval.
21(1)	Make it clear that repair or maintenance of electricity infrastructure does not require development approval where it is required to maintain supply of electricity.	Confirms that repair work is able to be undertaken without the need to obtain development approval in order to ensure the supply of electricity is maintained.
21(2)	Allow weld mesh fences to be constructed with the provision of essential infrastructure without the need to obtain development approval.	Makes is clear that weld mesh fences that are ancillary to essential infrastructure do not require development approval.

Reg	Amendment	What this means?
22(1)	This amendment clarifies that the Commission will be the relevant authority for development across two council areas.	This will provide a guarantee to applicants and councils that the Commission will assess development applications where the proposed development straddles two council boundaries. This will prevent any need for the application to be 'called-in' for assessment.
22(2)-(4)	Consequential amendment – see reg 22(8).	
22(5)	Following the 1 Walkerville Terrace, Gilberton Code Amendment, the 1 Walkerville Terrace site is now in the Design Overlay and has a maximum building height of six storeys. To make this site consistent with similar sites in other metropolitan councils, the Commission should be the relevant authority for any applications on the site where a proposed building will exceed four storeys.	The Commission will be the relevant authority for assessing proposed developments in the Town of Walkerville where the building height will exceed four storeys. This will be consistent with other metropolitan council areas, including: • City of Burnside • The Corporation of the City of Norwood Payneham and St Peters • City of Prospect • The Corporation of the City of Unley • City of West Torrens • City of Holdfast Bay
22(6)	Consequential amendment – see reg 22(8).	
22(7)	The Commission is currently the relevant authority for any development in the Osborne Maritime Policy Area in the City of Port Adelaide Enfield Development Plan as it existed on 1 April 2020. This amendment updates this reference to the National Naval Shipbuilding Subzone in the Code.	This means the Commission will be the relevant authority for any development within the National Naval Shipbuilding Subzone in the Code.
22(8)	This amendment makes it clear that the Commission is the relevant authority for variations to applications initially assessed by the Commission, even where circumstances have changed (eg Renewal SA are no longer involved).	This means that councils will not have to assess variations to applications that the Commission initially assessed until after a COO has been issued.
23(1)	Schedule 8 cl 2(1)(e) refers to a 'designated' bushfire prone area. However, this term 'designated' does not appear elsewhere in the General Regulations (other than in reg 98).	This amendment does not affect the operation of the regulation.
23(2)	This amendment makes it clear that a person undertaking 'prescribed work' (as defined by the *Strata Titles Act 1988* and the *Community Titles Act 1996*) must have authorisation from the relevant strata or community corporation before they can obtain planning consent.	This means that an applicant must obtain authorisation from the relevant strata or community corporation before applying for development approval.

Reg	Amendment	What this means?
24(1)	Amend the timeframe for referrals to airport operators from 20 business days to 30 business days	This means an airport operator will have an extra 10 business days to respond to a referral.
24(2)	Schedule 9 of the Regulations currently requires a referral (with a power of direction) to the Environment Protection Authority (EPA) for all development applications where site contamination may exist as a result of 'a class 2 or class 3 activity' having been conducted on the land.	This will reduce the number of referrals to the EPA regarding class 3 activities, which include (but are not limited to) wineries, animal burial, brickworks, mushroom farming and glazing.
25	Amendments affecting state agencies (see below).	

Amendments affecting state agencies:

Sub-reg	Amendment	What this means?
(1)	The Government has an initiative to open reservoirs for public use and as such, recreational types of development (such as toilet blocks) should be exempt from requiring approval.	This amendment will allow works to be undertaken like those that the Department for Environment and Water can undertake in conservation parks, and may include toilet blocks, carparks and pontoons.
(2)	Only allow construction or additions to an outbuilding where the floor area does not exceed 50m² to ensure larger additions require assessment because of their scale.	This will prevent the construction of outbuildings (or additions to existing outbuildings) with a floor area greater than 50m² from occurring without State agencies first having obtained approval.
(3)	In certain circumstances, work associated with classrooms or covered outdoor educational areas are exempt from requiring development approval. These two buildings or structures, however, are different by nature and as such, should not have the same requirements to be exempt from requiring approval.	Work associated with a classroom will be exempt where height does not exceed 1 storey (or does not change), it is not within 900mm of allotment boundary, does not affect local heritage place and does not exceed 150m^2. Work associated with a covered outdoor educational area will be exempt where height does not exceed 7.5m, it is not within 5m of boundary of allotment, does not affect a local heritage place and does not exceed 500m^2.
(4) - (6)	In certain circumstances, the alteration of, or addition to, a building within the area of an existing school is exempt. However, there is no restriction on an increase in floor area or the ability to alter existing buildings that exceed one storey. This amendment also clarifies that this provision relating to buildings within existing schools does not apply to classrooms or covered outdoor educational areas (as they are covered by other provisions).	State agencies will be able to perform building work on existing buildings within a school that exceeds one storey, where the height of the building remains the same. The amendment will also prevent additions to an existing building that exceeds 150m² without approval being obtained.

Sub-reg	Amendment	What this means?
(7)	Building work associated with any other building is exempt from requiring approval where the work will result in the building exceeding one storey. This amendment, however, clarifies that work can be undertaken on existing buildings that exceed one storey where the height does not change.	This will mean that state agencies can undertake work on existing buildings without approval, where the height of the building remains the same.
(8)	The alteration, repair or maintenance of dam walls or dam spillways are exempt, with this amendment also exempting ancillary works.	State agencies can undertake works associated with the alteration, repair or maintenance of dam walls or dam spillways without the need to obtain approval.
(9)	This amendment makes it clear that temporary development to support public health services (such as vaccination and testing clinics) during a health emergency is exempt from requiring approval (for future pandemics).	This amendment strengthens the ability of State agencies to undertake temporary development to support public health services during an emergency.
(10)	This amendment makes the installation of public art works exempt from requiring approval.	This amendment will allow State agencies to install public art displays without needing to obtain approval first.
(11)	Certain fence types were already exempt from requiring approval around particular electricity infrastructure, with this amendment adding weld mesh fences.	State agencies can construct weld mesh fences around particular electricity infrastructure without the need to obtain approval.
(12)	Clarify that the construction, reconstruction or alteration of a building or structure within an existing correctional services facility does not require approval.	This amendment will allow state agencies to build buildings or alter existing facilities within an existing correctional services facility without the need to obtain approval.
(13)	Consequential amendment – see reg 25(1).	