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

Reg	Matter	Proposed Amendment	What this means?
3	Consolidate definitions of particular terms that appear throughout the *Planning, Development and Infrastructure (General) Regulations 2017* (the Regulations) on more than one occasion into the interpretation regulation.	Consolidate the definitions of the following terms into regulation 3: • Independent Technical Expert • Bushfire Prone Area	The definitions of the identified terms will no longer appear throughout the Regulations but will appear once in regulation 3.
4	Consequential amendment – see reg 3.		
5	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 'live' in the Development Application Processing (DAP) System.	Amend regulation 34(1) to prevent relevant authorities from allowing an RFI to extend beyond one year to reduce the load on the 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.
6	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).	Clarifying in reg 35 that where a process needs to be repeated, the relevant authority receives any additional time associated with that process under reg 53(1).	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.
7	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.	Amend reg 36(2) to require the applicant to provide a copy of the building indemnity insurance policy certificate 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.
8	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.	It is proposed to introduce a new clause in reg 41 or in schedule 9 that allows a referral body to delegate its powers and functions as a referral body.	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* should they wish to delegate their more substantive functions.

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9(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 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).	Amend reg 53(1)(i) to refer to reg 53(1)(d) instead of reg 53(1)(c).	This amendment is correcting a drafting error.
9(2)	Consequential amendment – see reg 9(3) below.		
9(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.	Amend reg 53(9) to also allow the Chief Executive to declare that a prescribed outage has occurred.	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.
10	Consequential amendment – see reg 3.		
11	Consequential amendment – see reg 3.		
12	For a development where the Commission was the relevant authority for issuing planning consent, the Act and the Regulations are currently unclear about who assesses the variation of a condition once a Certificate of Occupancy (CoO) has been issued.	Clarify under reg 65 that the Commission will not be the relevant authority for assessing a variation application to vary a condition once a CoO has been issued for any development that the Commission initially assessed.	This amendment will confirm that once a CoO has been issued and a building may be occupied, any applications to vary a planning condition will be assessed by the local council and not the Commission.
13	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.	Amend reg 67(3) to make it clear that the operative date is amended when a consent is also the subject of a review.	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.
14	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.	Clarify that reg 73(3) (notification for impact assessed development) applies to restricted development and to the notice of the decision to the applicant.	This amendment will provide certainty for applicants and councils that they will receive notification of the outcome concerning all impact assessed developments.

Reg	Matter	Proposed Amendment	What this means?
15	To issue land division consent, SA Water is identified in the 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.	Amend reg 79(1) to identify all water industries licenced under the *Water Industry Act 2012* as water industry entities for the purpose of issuing land division consent.	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.
16(1)	Consequential amendment – see reg 16(2).	A requirement for the form under reg 94(4) to be published on the Portal, this amendment makes the wording consistent with other provisions.	
16(2)	In reg 94(11), the form is not required to be published on the Portal (unlike other forms within regulation 94).	Clarify in reg 94(11) that the form must be published by the Chief Executive on the Portal.	This means that the appropriate form for this section will be the form that is published on the Portal.
17(1)	Consequential amendment – see reg 16(2).	A requirement for the form under reg 104(3) to be published on the Portal, this amendment makes the wording consistent with other provisions.	
17(2)	It could be clarified that the documentation accompanying the Statement of Compliance will be indicated when the Decision Notification Form is issued under reg 57(8)(c).	Regulation 104(5) to explicitly reference reg 57(8)(c), which is the notice of documentation to accompany Statement of Compliance.	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.

Reg	Matter	Proposed Amendment	What this means?
18	The *Development Act 1993* had the Electricity Infrastructure Development Pathway under section 49A. The *Planning, Development and Infrastructure Act 2016* (the Act) has a similar pathway known as the essential infrastructure pathway. However, there are no classes of essential infrastructure prescribed that allow the pathway to be utilised.	Prescribe a class of essential infrastructure that allows SA Power Networks to seek approvals using the essential infrastructure pathway as they could under the *Development Act 1993*.	This will enliven the essential infrastructure pathway to provide SA Power Networks 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.
19	Consequential amendment – see reg 13.		
20	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.	Clarifying that an applicant seeking a review of an assessment manager's decision must be able to provide submissions to the assessment panel (and if a hearing is held, must have an opportunity to appear at the hearing).	If an assessment panel hears from the assessment manager when considering a review of an assessment manager's decision, it must also hear from the applicant to reduce the risk of any procedural fairness issues arising.
21(1)	Consequential amendment – see reg 13.		
21(2)	Regulation 120(2) requires accredited professionals to maintain a register of applications they have assessed, however, the information is already recorded on the Portal.	Remove reg 120(2) so accredited professionals no longer need to maintain a register of applications assessed.	This means accredited professionals no longer need to maintain a register of applications assessed.
22	Consequential amendment – see reg 26(10).		Makes it clear that councils can also undertake works to support public health services to be consistent with the state agency provision.
23(1)	The Act and Regulations need to clarify who the relevant authority for development in two council areas should be.	Update Schedule 6 to make the Commission the relevant authority for developments across two council areas (other than in a case where a regional assessment panel has been constituted regarding the area across which the development is to occur).	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.

Reg	Matter	Proposed Amendment	What this means?
23(2)-(4)	Consequential amendment – see reg 23(7).	Provisions are no longer required as they replicate reg 23(7).	
23(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.	Amend schedule 6 to make the Commission the relevant authority for development applications in the Town of Walkerville that are also within the Design Overlay and 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
23(6)	Consequential amendment – see reg 23(7).	Provision is no longer required as it duplicates reg 23(7).	
23(7)	It is unclear whether the Commission is the relevant authority for variations to applications initially assessed by the Commission where circumstance have changed (eg Renewal SA are no longer involved).	In Schedule 6, making it clear that the Commission is the relevant authority for variations (being a variation application) to applications initially assessed by the Commission where a COO has yet to be issued.	This means that councils will not have to assess variations to applications that the Commission initially assessed until after a COO has been issued.
24(1)	Schedule 8 cl 2(1)(e) refers to a 'designated' bushfire prone area. However, this term does not appear elsewhere in the Regulations.	Amend sch 8 cl 2(1)(e) to remove the term 'designated' from this clause.	This amendment does not affect the operation of the regulation.
24(2)	A person may receive development approval to undertake 'prescribed work' (as defined by the *Strata Titles Act 1988* and the *Community Titles Act 1996*) without obtaining authorisation from the relevant strata or community corporation.	Insert a new provision into sch 8 requiring a person applying for development that involves 'prescribed work' to provide evidence that the relevant corporation has authorised the works.	This means that an applicant must obtain authorisation from the relevant strata or community corporation before applying for development approval.

Reg	Matter	Proposed Amendment	What this means?
25	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. The EPA has advised that they do not require referrals where a class 3 activity has been conducted on the land.	Remove the 'or class 3' wording from sch 9, cl 3, item 9AB(b)(ii) from the table.	This will reduce the number of referrals that the EPA will receive, specifically about class 3 activities, which include (but are not limited to) wineries, animal burial, brickworks, mushroom farming and glazing.
26	Amendments affecting state agencies (see below).		

Amendments affecting state agencies:

Sub-reg	Matter	Proposed Amendment	What this means?
(1)	The Government has an initiative to open reservoirs for public use and as such, recreational types of development should be exempt from requiring approval.	Amend schedule 13 to allow development within reservoirs for recreational purposes except where the development creates a new access point or modifies an existing access point to a public road.	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)	The construction, reconstruction, or alteration of, or addition to, an outbuilding is exempt from requiring approval in certain circumstances, but there is no floor area cap.	Amend schedule 13 to 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.	Remove the existing provision and insert separate provisions for classrooms and covered outdoor educational areas that have their own requirements regarding height and floor area.	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).	As above, it is proposed to amend schedule 13 to clarify that approval is not required for alterations where: • the height of an existing building is not changing; and • where the addition does not exceed 150m² in floor area.	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	Matter	Proposed 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. However, it is unclear whether work can be undertaken on existing buildings that exceed one storey.	It is proposed to amend schedule 13 to clarify that approval is not required for alterations to any other building where the height of an existing building is not changing.	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. However, ancillary works associated with this are not exempt.	It is proposed to amend schedule 13 to exempt ancillary works associated with the alteration, repair or maintenance of dam walls or dam spillways from requiring approval.	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)	It could be clearer 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).	Amend schedule 13 to clarify that development to support public health services during an emergency is exempt from requiring approval.	This amendment strengthens the ability of State agencies to undertake temporary development to support public health services during an emergency.
(10)	Tourist information signs, shade-cloth structures, billboards etc are all exempt from requiring approval, but the installation of public art works is not.	Amend schedule 13 to include the installation of public art works as exempt from requiring approval under the Act.	This amendment will allow State agencies to install public art displays without needing to obtain approval first.
(11)	Certain fence types are already exempt from requiring approval around particular electricity infrastructure, but weld mesh fences are not included.	It is proposed to amend schedule 13 to allow weld mesh fences to be exempt, in addition to palisade, chain mesh and open metal fences.	State agencies can construct weld mesh fences around particular electricity infrastructure without the need to obtain approval.
(12)	It is unclear whether works within an existing correctional services facility are exempt from requiring approval.	Amend schedule 13 to 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 26(1).	Means that reg 26(1) will not apply to land that is subject to coastal processes.	