

## Regulation Changes

On 16 December 2021, the Governor made the *Planning Development and Infrastructure (General) (Miscellaneous) Variation Regulations 2021* (the Miscellaneous Variation Regulations) and the *Planning Development and Infrastructure (Transitional Provisions) (Major Development) Variation Regulations 2021* (Major Development Variation Regulations).

### Miscellaneous Variation Regulations

The Miscellaneous Variation Regulations make the following minor technical changes and clarifications to the *Planning, Development and Infrastructure (General) Regulations 2017* (the Regulations):

- Amending regulation 19 to reflect that the Chief Executive of the Department is only a prescribed body for the purposes of referring to or incorporating a building envelope plan into a designated instrument.
- Clarify that 'engagement' for the purposes of the *Planning, Development and Infrastructure Act 2016* (the PDI Act) and Regulations is when an accredited professional has determined that it is the correct entity to assess the application (or any part of the application) and has provided an appropriate notice in accordance with regulation 31(1)(d)(iii).
- Clarification that referrals under section 122 of the Act should only relate to planning consent.
- Where a development application is required to be publicly notified, removing the requirement for notice to be placed on the relevant land when the development falls within a class of development not requiring notice on the relevant land in the Planning and Design Code (the Code).
- Prescribing a time period for a person to respond to a request to access part of a building or allotment to carry out an inspection or building work, as there is currently no prescribed time.
- With respect to the lapse of a consent or approval, clarification that the 'operative date' is the later of either the date on which the consent or approval was given, or the date on which an appeal is finalised where the consent or approval is the subject of an appeal.
- Where a development application relates to the division of land and the relevant authority requires a report of the State Planning Commission (the Commission), making it clear that the report from the Commission should only relate to the land division aspects of the development application (rather than it also covering planning and building matters).
- The Commission will be specified as the relevant authority for all development applications within the District Council of Coober Pedy.

- Under Schedule 8, ensuring that both plans for development ancillary to dwellings and plans for applications seeking planning consent for new buildings or structures or extensions to existing buildings are both accompanied with details of soft landscaping and the percentage of the site that is pervious to water.
- Where a proposed development is in the Native Vegetation Overlay or State Significant Native Vegetation Overlay and it involves the clearance of native vegetation, clarifying that a clearance report is required for level 2, 3 and 4 clearance under the *Native Vegetation Act 1991*, and not just for level 1 clearance.
- Reintroducing an expiation fee that existed under the *Development Act 1993* for the failure to comply with an enforcement notice.

The Miscellaneous Variation Regulations also make the following larger changes to the Regulations:

- Removing the requirements for a Certificate of Occupancy to be issued for class 1a buildings (single or attached dwelling, such as house, townhouse, etc.) until 30 June 2022, with a view to enliven the provisions again after this date following modifications to the Development Application Processing (DAP) system with the following amendments:
  - Distinction between the required documentation to accompany an application for a Certificate of Occupancy for class 1a buildings versus class 1b to 9 buildings;
  - Addition of prescribed requirements for class 1a buildings that a council must be satisfied the relevant building meets prior to issuing a Certificate of Occupancy. The prescribed requirements will be published on the PlanSA portal by the Chief Executive; and
  - Clarification of the timeframes to issue a Certificate of Occupancy.
- Introduction of a new temporary provision (to expire on 30 June 2022 and similar to what was in the *Development Act 1993*) that ensures a minimum standard of occupancy for dwellings while the Certificate of Occupancy deferral is in place.

## Major Development Variation Regulations

The Major Development Variation Regulations clarify the assessment pathway for existing major development authorisations granted under the *Development Act 1993*. In particular, they clarify that:

- Section 115 of the PDI Act applies, which ultimately allows the Minister for Planning and Local Government (the Minister) to make a decision to grant or refuse development approval.
- A declaration by the Minister declaring a proposed development to be a 'major development' under the *Development Act 1993* is taken to be a declaration by the Minister declaring a project as 'impact assessed' under the PDI Act.
- The preparation of an Environmental Impact Statement (EIS), Public Environmental Report and Development Report under the *Development Act 1993* is taken to be the preparation of an EIS as required under the PDI Act.
- An Assessment Report prepared under the *Development Act 1993* in connection with the decision as to whether or not to grant the existing major development authorisation is taken to be an Assessment Report within the meaning of section 113(9) of the PDI Act.