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

Reg	Matter	Proposed Amendment	What this means?
3	The State Planning Commission (Commission) is the designated authority for approving a Building Envelope Plan (BEP) when it is the relevant authority for a division of land. In assessing the BEP, the Commission relies on comments received from council. As such, it would be more appropriate for the assessment manager from the council to be the designated authority for approving the BEP.	Remove paragraph (a) from the definition of ***designated authority*** in regulation 19A of the *Planning, Development and Infrastructure (General) Regulations 2017* (the Regulations).	This means that local councils will be responsible for assessing and approving BEPs going forward. The Chief Executive will still be responsible for publishing the approved BEP on the SA planning portal.
4	Section 76(1)(d) of the *Planning, Development and Infrastructure Act 2016* (the Act) allows the Planning and Design Code (the Code) to be updated in accordance with a plan, policy, standard, report, document or code prepared under another Act that is prescribed in the Regulations. The spatial application of some overlays in the Code is determined by documents under other Acts, and so it is proposed to prescribe those documents in the Regulations.	Amend regulation 21 of the Regulations to allow the following overlays to be updated: • Adelaide Dolphin Sanctuary Overlay in line with a management plan (or part of a management plan) under the *Adelaide Dolphin Sanctuary Act 2005*; or • Historic Shipwrecks Overlay in line with the list or amendment to the list of places entered, either on a provisional or permanent basis, in the South Australian Register of Historic Shipwrecks under the *Historic Shipwrecks Act 1981*.	This amendment will allow the spatial application of the specified overlays to be updated without a full Code amendment process having to be undertaken.
5	There may be instances where only the public notification pages of the SA planning portal are not operating during a prescribed outage of the SA planning portal and therefore, only additional time should be added to the clock for applications on public notification (and not to applications that are not subject to public notification).	Amend regulation 53 to allow the Chief Executive's notice to specify a class of applications to which the prescribed outage applies.	If a prescribed outage of the SA planning portal occurs, only those applications that are affected will have additional time added to the assessment timeframe.

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6	The operative period of a consent/approval is two years from the day that consent/approval is issued. Where a planning consent is issued on 1 January and development approval is issued on 1 February, on 15 January two years later the planning consent has lapsed but the development approval is still valid. The operative period of the planning consent should align with the operative period of the development approval.	Clarify in regulation 67 of the Regulations that the operative period of any consent aligns with the operative period of the relevant final development approval.	This amendment clarifies that the expiry date of all associated consents and final development approval will align going forward and there will not be circumstances where a consent has lapsed but the final development approval is valid.
7	The Commission is the designated authority for development occurring in out of council areas. Regulation 93 prescribes building notification periods for the purposes of section 146(1) of the Act. In the case of development being undertaken outside of Metropolitan Adelaide, two business days' notice is required prior to commencing specific stages of work. Given the significant logistics in arranging inspections in out of council areas, two business days' notice is not enough time to undertake the inspection.	Update the notification period prescribed in regulation 93(1)(b) of the Regulations to five business days' notice for out of council areas to allow more time to plan for and undertake inspections if required.	This means that the Commission will have five business days to undertake an inspection from when it receives the notification.
8	A building work contractor/registered building work supervisor must complete a Statement of Compliance (SoC) on completion of construction. The SoC must confirm that all ***service connections*** have been made, which includes connection to a '*public telecommunications system'.* This reference to a public telecommunications system is considered outdated and does not make developers aware of their obligations under Part 20A of the Commonwealth's *Telecommunications Act 1997* (which is the requirement to connect a new property to NBN before it is sold).	Amend regulation 104(8)(d) of the Regulations to make reference to a communications facility under the Commonwealth's *Telecommunications Act 1997*.	Going forward, a building work contractor/registered building work supervisor will be required to confirm, when completing the SoC, that a new dwelling has been connected to NBN, which is in line with the requirements of the Commonwealth's *Telecommunications Act 1997*.

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9	Under regulation 112(3) of the Regulations, the prescribed qualifications to issue an emergency order because of a threat to safety arising out of the condition or use of a building are the qualifications to obtain accreditation as a Building Level 1 or Building Level 2. Where the Chief Executive amends the qualifications required to obtain accreditation, it may mean that currently qualified people are no longer able to issue an emergency order.	Ament regulation 112(3) of the Regulations to clarify that the prescribed qualifications to issue an emergency order are accreditation as a Building Level 1 or Building Level 2.	Any authorised officer under the Act who is currently accredited as either a Building Level 1 or Building Level 2 will be able to issue an emergency order in the appropriate circumstances.
10	Under regulation 113 of the Regulations, the prescribed qualifications to enter and inspect a building for fire safety reasons are the qualifications to obtain accreditation as a Building Level 1 or Building Level 2. Where the Chief Executive amends the qualifications required to obtain accreditation, it may mean that currently qualified people are no longer able to enter and inspect in these circumstances.	Ament regulation 113 of the Regulations to clarify that the prescribed qualifications to enter and inspect a building for fire safety reasons are accreditation as a Building Level 1 or Building Level 2.	It clarifies that any authorised officer under the Act who is currently accredited as either a Building Level 1 or Building Level 2 will be able to enter and inspect a building for fire safety reasons.
11	Under section 213 of the Act, a designated authority may issue an enforcement notice when it has reason to believe on reasonable grounds that a person has breached the Act. The Accreditation Authority is, however, not a designated authority for the purposes of issuing an enforcement notice.	A new regulation that brings the Accreditation Authority within the ambit of the definition of designated authority.	This means that the Accreditation Authority will be able to issue an enforcement notice when it has reason to believe a person has breached the Act.
12	The Department for Infrastructure and Transport (DIT) has requested that transshipment points be prescribed as development to ensure that there is transparency in the planning process regarding new port facilities and their overall operation. It will allow all elements of the development and their impacts to be assessed and appropriately considered.	A new clause in schedule 3 of the Regulations that makes the establishment of transhipment points in association with a proposed or existing port facility for the transfer of bulk commodities within state coastal waters development.	Any future transhipment points will require a development application and development approval going forward.

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13(1)	The heading of schedule 6, clause 4 of the Regulations suggest that this clause applies to 'inner metropolitan area', which is not an area defined under the Act.	Amend the heading of schedule 6, clause 4 of the Regulations to refer to 'Metropolitan Adelaide', as this area is defined under the Act.	This amendment simply makes it clear that schedule 6, clause 4 of the Regulations applies to Metropolitan Adelaide.
13(2)-(3)	Schedule 6, clause 8(2) of the Regulations makes the Commission the relevant authority for variation applications and applications for ancillary development in specified zones in the City of Charles Sturt. This is in part a duplication of the provisions in schedule 6, clause 17 of the Regulations.	Amend schedule 6, clause 8(2) of the Regulations in so far as it is a duplication of schedule 6, clause 17 of the Regulations.	This amendment has no impact on determining the relevant authority and simply ensures consistency with schedule 6, clause 17 of the Regulations.
13(4)	Schedule 6, clause 17 of the Regulations makes the Commission the relevant authority for variations to existing authorisations given by the Commission and for development ancillary to a development the subject of an authorisation given by the Commission. The heading of this clause is 'Variations of authorisations', which has created confusion regarding whether it applies to ancillary development.	Amend the heading of schedule 6, clause 17 of the Regulations to make it clear the provision also applies to ancillary development.	While this change has no legislative impact, it will make it clear that schedule 6, clause 17 of the Regulations applies to ancillary development.
13(5)	Where the Commission has refused a development application and the Environment, Resources and Development Court subsequently orders that an approval be granted, it is unclear who the relevant authority is for subsequent variations and ancillary development. This is because schedule 6, clause 17 of the Regulations only applies where the Commission has previously given an authorisation.	Amend schedule 6, clause 17 of the Regulations to clarify that this provision applies where the Commission would be the relevant authority for giving an authorisation.	This amendment simply clarifies that in circumstances where the Commission has refused an application and this refusal has been overturned by the courts, the Commission is still the relevant authority for any future variation applications that relate to that development.

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14(1)	SA Water is currently able to construct water treatment stations, pressure regulating stations, pumping stations, desalination plants, waste water pumping stations, water filtration plants, water storage tanks, pump-out facilities or sewerage works without approval if it is only of a local nature. There are, however, a number of other facilities they construct and the requirement to obtain approval reduces their ability to do so efficiently.	It is proposed to broaden schedule 13 clause 2(1)(b)(ii) by allowing for the construction, reconstruction or alteration of a building or equipment, if only of a local nature, used for or associated with the supply, disposal or treatment of water or waste water. This is in line with the wording in schedule 13 of the Regulations for the construction of electricity infrastructure.	This will allow SA Water to carry out essential water works in a more efficient and effective manner without having to obtain development approval.
14(2)	Schedule 13 clause 2(1)(s) of the Regulations exempts works associated with the construction of a road in certain circumstances. In some instances, the DIT seek to build amenities facilities alongside a road, and this requires development approval.	Insert a new provision within schedule 13 of the Regulations to allow amenities facilities to be constructed alongside a road where the building has a floor area not exceeding $50m^2$.	This will mean that the DIT is able to construct both the road and accompanying amenities facilities without the need to obtain development approval.
14(3)	SA Water's security fencing standards require a fence of 2.4m in height to be built around SA Water facilities. At the moment, SA Water require development approval for any fence constructed that exceeds 2.1m in height.	Under schedule 13 of the Regulations, specified kinds of fences around electricity infrastructure are exempt from requiring approval up to a height of 3.2m. It is proposed to expand the scope of this existing regulation to include fences around SA Water facilities.	This means that SA Water will be able to construct fences up to a height of 3.2m around facilities without the need to obtain development approval.
14(4)	The Department for Environment and Water (DEW) installs hazard monitoring equipment alongside watercourses to notify of impending hazards. While they are structures, it is considered that development approval should not be required.	Add in schedule 13 that hazard monitoring equipment installed outside of a State heritage place or the Adelaide Park Lands is exempt from requiring approval.	This means that the DEW will be able to install hazard monitoring equipment alongside watercourses without the need to obtain development approval.