

DEVELOPMENT REGULATIONS 1993

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Reprint No. 8—7.3.96	[New Schedules 9 and 10 and Appendices]
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Reprint No. 12—1.7.96	[New Schedule 6 and Appendices]
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Reprint No. 16—14.11.96	[New Schedule 9 and Appendices]
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Reprint No. 18—13.2.97	[New Schedule 10 and Appendices]
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Reprint No. 26—19.11.98	[New Schedule 2 and Appendices]
Reprint No. 27—1.7.99	[New Parts 10, 15, Schedules 1, 6, 7, 8 and Appendices]

[Each Part and Schedule is numbered from page 1. Persons who are on Standing Order with Information SA SAMS for these regulations will receive complete replacement Parts and Schedules incorporating amendments to these regulations as they come into force.]

(Reprint No. 27)

SOUTH AUSTRALIA

DEVELOPMENT REGULATIONS 1993

*These regulations are reprinted pursuant to the Subordinate Legislation Act 1978 and incorporate all amendments in force as at **1 July 1999**.*

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being

No. 243 of 1993: *Gaz.* 27 October 1993, p. 1954¹

as varied by

- No. 275 of 1993: *Gaz.* 31 December 1993, p. 3195²
No. 162 of 1994: *Gaz.* 22 September 1994, p. 836³
No. 212 of 1994: *Gaz.* 15 December 1994, p. 2200⁴
No. 7 of 1995: *Gaz.* 12 January 1995, p. 92⁵
No. 39 of 1995: *Gaz.* 27 April 1995, p. 1646⁶
No. 42 of 1995: *Gaz.* 27 April 1995, p. 1661⁷
No. 159 of 1995: *Gaz.* 20 July 1995, p. 265⁸
No. 174 of 1995: *Gaz.* 24 August 1995, p. 529⁹
No. 213 of 1995: *Gaz.* 23 November 1995, p. 1456¹⁰
No. 7 of 1996: *Gaz.* 4 January 1996, p. 83¹¹
No. 34 of 1996: *Gaz.* 7 March 1996, p. 1564¹²
No. 55 of 1996: *Gaz.* 11 April 1996, p. 1956¹³
No. 61 of 1996: *Gaz.* 24 April 1996, p. 2070¹⁴
No. 143 of 1996: *Gaz.* 30 May 1996, p. 2818¹⁵
No. 218 of 1996: *Gaz.* 19 September 1996, p. 1198¹⁶
No. 226 of 1996: *Gaz.* 10 October 1996, p. 1352¹⁷
No. 234 of 1996: *Gaz.* 31 October 1996, p. 1545¹⁸ (Incorrectly inserted
as No. 244 of 1996: see *Gaz.* 24 October 1996, p. 1440)
No. 243 of 1996: *Gaz.* 14 November 1996, p. 1688¹⁹
No. 249 of 1996: *Gaz.* 28 November 1996, p. 1785²⁰
No. 255 of 1996: *Gaz.* 19 December 1996, p. 2230²¹
No. 15 of 1997: *Gaz.* 13 February 1997, p. 944²²
No. 137 of 1997: *Gaz.* 29 May 1997, p. 2761²³
No. 169 of 1997: *Gaz.* 26 June 1997, p. 3256²⁴
No. 183 of 1997: *Gaz.* 14 August 1997, p. 388²⁵
No. 203 of 1997: *Gaz.* 4 September 1997, p. 652²⁶
No. 254 of 1997: *Gaz.* 24 December 1997, p. 1836²⁷
No. 1 of 1998: *Gaz.* 8 January 1998, p. 30²⁸
No. 95 of 1998: *Gaz.* 28 May 1998, p. 2384²⁹
No. 180 of 1998: *Gaz.* 27 August 1998, p. 697³⁰
No. 199 of 1998: *Gaz.* 19 November 1998, p. 1586³¹
No. 92 of 1999: *Gaz.* 27 May 1999, p. 2878³²
No. 129 of 1999: *Gaz.* 24 June 1999, p. 3283³³
No. 143 of 1999: *Gaz.* 1 July 1999, p. 55³²

NOTE:

- Asterisks indicate repeal or deletion of text.
- Entries appearing in bold type indicate the amendments incorporated since the last reprint.
- For the legislative history of the regulations see Appendix I.

- ¹ Came into operation 15 January 1994: reg. 2.
- ² Came into operation 15 January 1994: reg. 2.
- ³ Came into operation 22 September 1994: reg. 2.
- ⁴ Came into operation 1 January 1995: reg. 2.
- ⁵ Came into operation 12 January 1995: reg. 2.
- ⁶ Came into operation (except regs. 6, 7, 16 and 17) 27 April 1995: reg. 2(1); regs. 6, 7, 16 and 17 came into operation 27 May 1995: reg. 2(2).
- ⁷ Came into operation 1 May 1995: reg. 2.
- ⁸ Came into operation 20 July 1995: reg. 2.
- ⁹ Came into operation 11 September 1995: reg. 2.
- ¹⁰ Came into operation 23 November 1995: reg. 2.
- ¹¹ Came into operation 4 January 1996: reg. 2.
- ¹² Came into operation 7 March 1996: reg. 2.
- ¹³ Came into operation 11 April 1996: reg. 2.
- ¹⁴ Came into operation (except regs. 7, 8 and 11) 1 May 1996: reg. 2(1); regs. 7, 8 and 11 came into operation 1 June 1996: reg. 2(2).
- ¹⁵ Came into operation 1 July 1996: reg. 2.
- ¹⁶ Came into operation 19 September 1996: reg. 2.
- ¹⁷ Came into operation 10 October 1996: reg. 2.
- ¹⁸ Came into operation 4 November 1996: reg. 2.
- ¹⁹ Came into operation 14 November 1996: reg. 2.
- ²⁰ Came into operation 2 January 1997: reg. 2.
- ²¹ Came into operation 19 December 1996: reg. 2.
- ²² Came into operation 13 February 1997: reg. 2.
- ²³ Came into operation 29 May 1997: reg. 2.
- ²⁴ Came into operation 2 July 1997: reg. 2.
- ²⁵ Came into operation 1 September 1997: reg. 2.
- ²⁶ Came into operation 4 September 1997: reg. 2.
- ²⁷ Came into operation 1 January 1998: reg. 2.
- ²⁸ Came into operation 1 February 1998: reg. 2.
- ²⁹ Came into operation 1 July 1998: reg. 2.
- ³⁰ Came into operation 1 October 1998: reg. 2.
- ³¹ Came into operation 19 November 1998: reg. 2.
- ³² **Came into operation 1 July 1999: reg. 2.**
- ³³ **Came into operation 24 June 1999: reg. 2.**

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**PART 1
PRELIMINARY**

Citation

- 1. These regulations may be cited as the *Development Regulations 1993*.

Commencement

- 2. These regulations will come into operation on 15 January 1994.

Interpretation

3. (1) In these regulations and in any Development Plan, the terms set out in schedule 1 have, unless inconsistent with the context, or unless the contrary intention appears, the respective meanings assigned by that schedule.

(2) Unless stated to the contrary, a term set out in schedule 1 which purports to define a form of land use will be taken to include a use which is ancillary and subordinate to that defined use.

(3) Where the Building Code defines a term which is also set out in schedule 1, then, to the extent of any inconsistency, the definition in the Building Code will prevail for the purposes of the Building Rules.

Note: For definition of divisional penalties (and divisional expiation fees) see Appendix 2.

Adoption of Building Code

- 4. (1) The Building Code is adopted by these regulations as part of the Building Rules.

* * * * *

(3) The Building Code is, for the purposes of its adoption by these regulations, modified in its application to a strata scheme under the *Strata Titles Act 1988* or to a community scheme under the *Community Titles Act 1996* to the extent that the following boundaries (if any) within a scheme will be disregarded for the purposes of determining requirements for fire-resistance of building elements:

- (a) a boundary between a unit and common property where the common property adjoining the unit along that boundary consists of a road, driveway, walkway or other thoroughfare, carpark, garden or other open space;
- (b) a boundary between two units, or between a unit and common property, within a building.¹

¹This subregulation does not derogate from—

- (a) the significance of any other boundary of the subject unit or common property, or the significance of the boundary of any other allotment, for the purposes of determining requirements for fire-resistance of building elements under the Code (*e.g.* the far boundary of a road adjoining the allotment);
- (b) the provisions of the Code relating to separation and compartmentation.

(4) In subregulation (3)—

"unit" means a unit under the *Strata Titles Act 1988* or a community lot under the *Community Titles Act 1996*.

Application of the Act

5. Pursuant to section 7 of the Act, sections 66, 67 and 68 of the Act (relating to the classification and occupation of buildings) do not apply to any Class 1 or 10 building under the Building Code which is not within the area of a council.

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**PART 2
DEVELOPMENT**

Additions to the definition of development

6. An act or activity in relation to land specified in schedule 2 is declared to constitute development.

Exclusions from the definition of development

7. (1) Subject to this regulation, an act or activity specified in schedule 3 is excluded from the ambit of the definition of "**development**".

(2) An exclusion is subject to any condition or limitation prescribed by schedule 3 for the relevant act or activity.

(3) An exclusion under schedule 3 does not apply in respect to a State heritage place.

(4) An exclusion under schedule 3 does not apply in respect of any work involving any repair to, or alteration or restoration of, a building that would cause the building not to comply with the Building Rules.

Complying development

8. (1) Pursuant to section 35 of the Act (but subject to subregulation (3)), any form of development specified in Part 1 of schedule 4 is a *complying* development in respect of a Development Plan.

(2) Pursuant to section 36 of the Act (but subject to subregulation (3)), any form of building work specified in Part 2 of schedule 4 is declared to comply with the Building Rules.

(3) No development which affects a State heritage place can constitute a *complying* development in respect of a Development Plan or building work that complies with the Building Rules.

**PART 3
DEVELOPMENT PLANS**

Statement of Intent

9. Pursuant to section 25(1) of the Act, a Statement of Intent in respect of a proposed amendment to a Development Plan must include the following matters:

- (a) Issues—an explanation of the reasons for the preparation of the amendment, and a description of the changes in circumstances leading to the need for amendment and the range of issues to be addressed in the Plan Amendment Report;
- (b) Strategic and Region-Wide Policies—an identification of the range of relevant Planning Strategy policies and policies which apply across the region which the amendment will need to address, and the possible objectives and principles needed to give effect to such policies;
- (c) Investigations—an outline of the investigations which will be undertaken and the form that those investigations will take in order to address the social, economic and environmental issues of the proposed amendment;
- (d) Agency Consultation—a list of the government Departments or agencies, and councils, which will be consulted during the investigation and consultation stage;
- (e) Public Consultation—a description of any public or interest group consultation (including consultation required under the Act and these regulations) which is proposed to be undertaken during the preparation or exhibition of the amendment;
- (f) Planning Procedures—the identification of the personnel who will be directly involved in the investigation, consultation, exhibition and authorisation stages, and confirmation that the professional advice required under the Act will be provided;
- (g) Related Policies—an indication of how the proposed policies which form the basis of the amendment will relate to other planning issues outside the scope of the amendment, and how those policies relate to policies in Development Plans for adjoining areas;
- (h) Document Production—a description of the nature and extent of the responsibility of officers and consultants in relation to the preparation of the draft text and maps so that such items can easily be consolidated into the Development Plan if the amendment is approved;
- (i) Timetable—an outline of the timetable for the proposed investigation and amendment preparation program (ensuring that the program is completed within reasonable time limits).

Plan Amendment Report—Section 25

10. (1) Pursuant to section 25(7) of the Act, the Plan Amendment Report must be accompanied by a statement which—

- (a) certifies that the council considers that the amendment is a suitable variation to the relevant Development Plan; and
- (b) sets out details of the consultation undertaken with, and the comments received from, government Departments or agencies, and the amendments (if any) that have been made to the report as a result of those comments; and

- (c) sets out details of the advice received, and council's position in relation to that advice, from the person appointed pursuant to section 25(3) of the Act.

(2) The council must ensure that a copy of any written report received from a government Department or agency under section 25(5) of the Act is annexed to the statement.

Public consultation—Sections 25 and 26

11. (1) For the purposes of sections 25 and 26 of the Act, public notice of a Plan Amendment Report must be given by publication in the *Gazette*, and in a newspaper circulating generally throughout the State, of a notice—

- (a) advising the time and places at which the Plan Amendment Report is available for inspection (without charge) and purchase by the public; and
- (b) inviting any interested person to make written submissions on the amendment—
 - (i) where the amendment has been prepared by a council—to the council;
 - (ii) where the amendment has been prepared by the Minister—to the Advisory Committee, or to a committee specifically appointed by the Minister for the purposes of the amendment,

within a period specified in the notice (being a period of not less than two months from the date of publication of the notice); and

- (c) stating that the submissions will be available for inspection by any interested person at a place specified in the notice from the expiration of the period specified under paragraph (b), until the conclusion of the public hearing; and
- (d) appointing a place and time at which a public hearing will be held at which interested persons may appear to be heard in relation to the amendment and the submissions (provided that at least one submission indicates an interest to be heard).

(2) The notices required under subregulation (1) will be published—

- (a) where the amendment has been prepared by a council—by the council;
- (b) where the amendment has been prepared by the Minister—by the Advisory Committee, or by the committee referred to in subregulation (1)(b)(ii).

(3) If one or more written submissions are made in response to a notice published under subregulation (1), a copy of each submission must be made available for inspection at the place specified in the notice from the expiration of the relevant period specified in the notice until the conclusion of the public hearing.

The hearing

12. (1) The public hearing must be held at the place and time specified in the notice (unless no submissions are received, or no submission indicates an interest to be heard).

(2) The public hearing must be convened by—

- (a) where the amendment has been prepared by a council—the council (or a committee appointed by the council);

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(b) where the amendment has been prepared by the Minister—by the Advisory Committee (or a subcommittee appointed by the Advisory Committee), or by the committee referred to in regulation 11(1)(b)(ii).

(3) Any interested person may appear at the public hearing and make representations on the proposed amendment or any submission on the amendment.

(4) A public hearing may, in an appropriate case, be adjourned from time to time and, if necessary or appropriate, from place to place.

Information to accompany council report

13. A report by a council to the Minister under section 25(13)(a) of the Act must be accompanied by—

(a) a copy of each written submission on the amendment received by the council under these regulations; and

(b) if an alteration to the amendment is proposed by the council—a copy of the amendment as altered.

Prescribed plans, etc.

14. The following documents are prescribed for the purposes of section 29(1)(b) of the Act:

(a) a coastal management plan (or part of a coastal management plan) approved by the Governor under the *Coast Protection Act 1972*;

(b) an environment protection policy (or part of an environment protection policy) under the *Environment Protection Act 1993*;

(c) a management plan (or part of a management plan) for a park or reserve adopted under the *National Parks and Wildlife Act 1972*;

(d) the list or amendment to the list of places entered, either on a provisional or permanent basis, in the State Heritage Register under the *Heritage Act 1993*;

(e) any regulation relating to the development of land under the *Electricity Act 1943* or the *Electricity Trust of South Australia Act 1947*;

(f) a management plan for aquaculture (or part of a management plan for aquaculture) prepared or adopted under the *Fisheries Act 1982* or the *Crown Lands Act 1929*.

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**PART 4
APPLICATIONS FOR DEVELOPMENT APPROVAL**

Application to relevant authority

15. (1) Subject to these regulations, an application in relation to a proposed development for the purposes of sections 32 and 33 of the Act—

- (a) must be lodged with the council for the area in which the proposed development is to be undertaken; and
- (b) must be in a form which complies with the requirements of section 39(1) of the Act and include the particulars required to be supplied by that form; and
- (c) must be accompanied by three copies of the plans, drawings, specifications and other documents and information relating to the proposed development (or such additional or lesser number of copies as the relevant authority may require) required under schedule 5 (and prepared in accordance with the requirements of that schedule).

(2) The fees payable in relation to the application are prescribed by schedule 6.

(3) Subregulations (1) and (2) are subject to the following qualifications:

- (a) where an application seeks a consent for some, but not all, of the relevant matters referred to in section 33 of the Act, the application must be adjusted accordingly and the plans, drawings, specifications and other documents and information, and the fees, must accord with schedules 5 and 6 to such extent as may be appropriate to the matters for which consent is sought; and
- (b) where—
 - (i) the application relates to a proposed development that involves the division of land; or
 - (ii) the proposed development is to be undertaken by a council and the Development Assessment Commission is the relevant authority pursuant to regulation 38(1a); or
 - (iii) the proposed development is to be undertaken in a part of the State that is not (wholly or in part) within the area of a council,

the application must be lodged with the Development Assessment Commission instead of with a council; and

- (c) where the application relates to a proposed development that involves the division of land—the application must be accompanied by nine copies of the appropriate plans, drawings, specifications and other documents and information (or such additional or lesser number of copies as the Development Assessment Commission may require) required under schedule 5 (prepared in accordance with the requirements of that schedule).

(4) If an application is lodged with a council but the Development Assessment Commission is the relevant authority, the council must—

- (a) retain one copy of the application, and one copy of any plans, drawings, specifications and other documents and information accompanying the application; and

- (b) forward the application, together with the remaining copies of the plans, drawings, specifications and other documents and information, and a written acknowledgment that the appropriate fees have been paid, to the Development Assessment Commission within five business days after their receipt by the council.

(5) If an application relates to a proposed development that involves the division of land, the Development Assessment Commission must forward to the council in whose area the development is situated—

- (a) a copy of the application; and
- (b) three copies of the plans, drawings, specifications and other documents and information accompanying the application; and
- (c) a written acknowledgment that the appropriate fees have been paid,

within five business days after their receipt by the Development Assessment Commission under subregulation (3).

(6) Pursuant to section 54(2)(c) of the Act, the period of four weeks from the commencement of the relevant work, or such longer period as a relevant authority may allow, is prescribed.

(7) Notwithstanding a previous subregulation, where an application relates to a proposed development that involves the division of land in the Golden Grove Development Area which is *complying* development in respect of the Development Plan—

- (a) the application must be lodged with the council for the area in which the proposed development is to be undertaken (instead of with the Development Assessment Commission); and
- (b) the application must be accompanied by three copies of the appropriate plans, drawings, specifications and other documents or information (or such additional or lesser number of copies as the council may require) required under schedule 5; and
- (c) the council must forward to the Development Assessment Commission within five business days after receipt by the council—
 - (i) a copy of the application; and
 - (ii) a copy of the plans, drawings, specifications and other documents or information accompanying the application.

(8) The relevant authority may, in an appropriate case, dispense with or modify the requirements of schedule 5 in relation to a particular application.

Nature of development

16. (1) If an application will require a relevant authority to assess a proposed development against the provisions of a Development Plan, the relevant authority must determine the nature of the development, and proceed to deal with the application according to that determination.

(2) If the relevant authority is of the opinion that an application relates to a kind of development that is described as *non-complying* under the relevant Development Plan, and the applicant has not identified the development as such, the relevant authority must, by notice in writing, inform the applicant of that fact.

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Non-complying development

17. (1) Where a person applies for consent in respect of a Development Plan for a *non-complying* development, the applicant must provide a brief statement in support of the application.

(2) If the statement required under subregulation (1) is not provided at the time that the application is made, any period between the date of a request by the relevant authority for the provision of the statement and the date on which the statement is provided is not to be included in the time within which the relevant authority is required to decide the application under these regulations.

(3) A relevant authority may, after receipt of an application which relates to a kind of development that is described as a *non-complying* development under the relevant Development Plan—

- (a) refuse the application pursuant to section 39(4)(d) of the Act, and notify the applicant accordingly; or
- (b) resolve to proceed with an assessment of the application.

(4) If a relevant authority resolves to proceed with an assessment of the application, the relevant authority must, before giving any notice required under section 38(4) or (5) of the Act, obtain from the applicant a statement of effect under section 39(2)(d) of the Act.

(5) The statement of effect must include—

- (a) a description of the nature of the development and the nature of its locality; and
- (b) a statement as to the provisions of the Development Plan which are relevant to the assessment of the proposed development; and
- (c) an assessment of the extent to which the proposed development complies with the provisions of the Development Plan; and
- (d) an assessment of the expected social, economic and environmental effects of the development on its locality; and
- (e) any other information specified by the relevant authority when it resolves to proceed with an assessment of the application (being information which the relevant authority reasonably requires in the circumstances of the particular case),

and may include such other information or material as the applicant thinks fit.

(6) A statement of effect is not required if the proposed development consists (wholly or substantially) of—

- (a) the alteration of a building; or
- (b) the construction of a new building which is to be used in a manner which is ancillary to, or in association with, the use of an existing building and which would facilitate the better enjoyment of the existing use of the existing building; or
- (c) the division of land where the number of allotments to result from the division is equal to or less than the number of existing allotments,

and the relevant authority considers that the proposed development is of a minor nature.

* * * * *

Period for additional information and other matters

19. If a request is made by a relevant authority under section 39(2) of the Act, the request must, pursuant to section 39(3)(b) of the Act, be complied with by the applicant within the period of three months from the date of the request.

Amended applications

20. (1) If a relevant authority permits an applicant to vary an application under section 39(4) of the Act, the date of receipt of the application as so varied (together with any amended plans, drawings, specifications or other documents or information, and appropriate fee) will, for the purposes of the time limits prescribed in Part 8, be taken to be the date of receipt of the application.

(2) If a variation relates (wholly or in part) to a proposed division of land (other than in the Golden Grove Development Area), a copy of any plans, as amended, must be lodged with the Development Assessment Commission.

(3) If an application is varied following referral under Part 5 or giving of notice under Part 6, the relevant authority may, if it is of the opinion that the variations are not substantial, consider the application without the need to repeat an action otherwise required under Part 5 or 6.

(4) If a variation would change the essential nature of a proposed development (as referred to in section 39(4)(a) of the Act), the relevant authority and the applicant may, by agreement, proceed with the variation on the basis that the application (as so varied) will be treated as a new application under these regulations.

Certification of building indemnity insurance

21. (1) In this regulation—

"**certificate of insurance**", in relation to domestic building work, means the certificate required under Division 3 of Part 5 of the *Building Work Contractors Act 1995* evidencing the taking out of a policy of insurance in accordance with that Division in relation to that work;

"**domestic building work**" means building work—

- (a) that constitutes domestic building work performed by a building work contractor under a domestic building work contract or on the building work contractor's own behalf under the *Building Work Contractors Act 1995*; and
- (b) in relation to which a policy of insurance is required to be taken out in accordance with Division 3 of Part 5 of that Act.

(2) The owner of land on which domestic building work is to be performed must ensure that a certificate of insurance in relation to that work is lodged with the relevant authority—

- (a) —
 - (i) where a domestic building work contract for that building work has been entered into before the lodgment of an application for provisional building rules consent under section 33(1)(b) of the Act; or
 - (ii) where the domestic building work is to be performed by a builder on the builder's own behalf,

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at the same time as the application for provisional building rules consent is lodged under these regulations;

(b) in any other case—on or before the giving of notice of commencement of the building work under regulation 74.

(3) A person must not commence domestic building work unless or until a certificate of insurance in relation to that work has been lodged in accordance with subregulation (2).

Withdrawal of application

22. If an application is withdrawn by the applicant under section 39(9) of the Act, the relevant authority must notify—

(a) any agency to which the application has been referred under Part 5; and

(b) any person who has made a representation in relation to the application under Part 6,

of the withdrawal.

Contravening development

23. (1) An application for consent or approval may be made under these regulations notwithstanding that the development has been commenced or undertaken, or is continuing, in contravention of the Act.

(2) Subject to section 85(14) of the Act, a relevant authority which has received an application under these regulations may, by notice in writing to the applicant, decline to deal with the application until any proceedings under the Act have been concluded.

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**PART 5
REFERRALS AND CONCURRENCE**

Referrals

24. (1) Pursuant to section 37 of the Act, where an application for consent or approval relates to a development that falls within a class of development prescribed under schedule 8, the relevant authority—

- (a) must refer the application, together with a copy of any relevant information provided by the applicant, to the relevant body prescribed under schedule 8; and
- (b) must not make its decision until it has received a response from that body in relation to the matter or matters for which the referral was made (but if a response is not received from the body within the period prescribed by schedule 8, it will be presumed, unless the body notifies the relevant authority within that period that the body requires an extension of time because of section 37(3) of the Act, that the body does not desire to make a response, or concurs (as the case requires)).

(2) Subregulation (1) is subject to the qualification that where an application for provisional development plan consent is referred to a prescribed body in accordance with the requirements of schedule 8, the relevant authority is not required, subject to subregulation (3), to refer to that body a further application for any other consent required for the approval of the same proposed development (and no further response is required from that body).

(3) Subregulation (2) does not extend to an application which is relevant to a matter that has been reserved for further consideration by the prescribed body.

Procedure where concurrence required

25. Where a relevant authority must seek the concurrence of another body under the Act or these regulations prior to issuing a consent or approval under the Act, the relevant authority—

- (a) must first comply with the requirements of this Part and schedule 8 to the extent that the application must be referred to another body or bodies for report or directions (but not concurrence), and with the requirements of Part 6 (insofar as they are relevant to the particular application); and
- (b) must then forward to the body from which the concurrence is required—
 - (i) a copy of the application, together with any plans, drawings, specifications or other documents or information submitted by the applicant; and
 - (ii) a copy of any report received from another body under the Act or these regulations which may be relevant to the body's decision; and
 - (iii) a copy of any written submissions or representations received by the relevant authority under section 38 of the Act; and
 - (iv) if a statement of effect has been prepared—a copy of that statement; and
 - (v) a copy of any report which has been obtained from a person under Part 15 of these regulations; and
 - (vi) a copy of the conditions (if any) that the relevant authority proposes to attach to its approval (if given).

Form of response

26. (1) Two or more prescribed bodies may provide a joint response for the purposes of section 37 of the Act.

(2) Subject to subregulation (3), a response for the purposes of section 37 of the Act must be made in writing (but may, at the discretion of the prescribed body, be provided to the relevant authority by facsimile transmission).

(3) A prescribed body which has no comment on an application referred to it under section 37 of the Act may make its response orally (and that response must then be noted on the relevant file).

Additional information or amended plans

27. (1) If a relevant authority has referred an application to a prescribed body under this Part and the relevant authority subsequently receives additional information, or an amended plan, drawing or specification, which is materially relevant to the referral, or to any report obtained as part of the referral process, it may repeat the referral process, and must do so if it appears that the additional information or amendment is significant.

(2) Any action taken by a prescribed body as a result of additional information, or a plan, drawing or specification, received under subregulation (1) will, to the extent of any inconsistency with any previous action taken by the prescribed body, override that previous action.

Special provision relating to fire authorities

28. (1) If—

(a) a proposed building would be required under the deemed-to-satisfy provisions under the Building Code—

(i) to be equipped with a booster assembly for use by a fire authority; or

(ii) to have installed in it a fire alarm that transmits a signal to a fire station or to a monitoring service approved by the relevant authority,

and an application for provisional building rules consent proposes that provision be made for fire detection, fire fighting or the control of smoke in a manner that is at variance with the performance requirements of the Building Code; or

(b) an application for provisional building rules does not comply with the deemed-to-satisfy provisions under the Building Code relating to—

(i) the installation of a fire hydrant system to facilitate the needs of a fire brigade in undertaking fire fighting operations; or

(ii) the installation of a fire control centre to coordinate intervention by a fire brigade during an emergency; or

(c) it appears to the relevant authority that special problems for fire fighting could arise due to hazardous conditions of a kind described in Clause E1.10 or Clause E2.3 of the Building Code,

the relevant authority must refer the application to the relevant fire authority for comment and report unless the fire authority indicates to the relevant authority that a referral is not required.

(2) If a report is not received from the fire authority on a referral under subregulation (1) within 20 business days, the relevant authority may presume that the fire authority does not desire to make a report.

(3) The relevant authority must have regard to any report received from a fire authority under this regulation.

(4) A relevant authority must provide to the Building Rules Assessment Commission a copy of any report received from a fire authority under subregulation (1) that relates to an application that is referred to the Building Rules Assessment Commission under the Act.

Land division applications

29. (1) If a council is the relevant authority for an application which relates to a proposed development that involves the division of land, other than where the division of land is *complying* development in respect of the Development Plan in the Golden Grove Development Area, the council must not, subject to subregulation (2), make a decision on the application until it has received a report from the Development Assessment Commission in relation to the matters under section 33(1) (as relevant).

(2) If a report is not received from the Development Assessment Commission within eight weeks from the day on which the application is lodged with the Development Assessment Commission under regulation 15, or within such longer period as the Development Assessment Commission may require by notice in writing to the council, the council may presume that the Development Assessment Commission does not desire to make a report.

(3) The Development Assessment Commission may, in relation to an application which relates to a proposed development that involves the division of land, consult with any other agency and may impose a time limit of four weeks for a response from that agency.

Underground mains areas

30. (1) If a council considers that an area should be declared an underground mains area, the council may seek a report from the relevant electricity authority in relation to the matter.

(2) Subject to subregulation (3), the council may, after having received and considered a report from the electricity authority, declare the area as an underground mains area.

(3) If any land within, or partly within, the proposed area is, at the time that a report is sought under subregulation (1), the subject of an application for division under the Act, and the council at the time that the report is sought gives notice of the application to the electricity authority, the council may presume that the electricity authority does not desire to make a report if a report is not received within eight weeks from the day on which the council makes its request for the report.

(4) If an application relates to a proposed development that involves the division of land within, or partly within, an underground mains area (even if the area is declared as such after the application is lodged with the relevant authority), a relevant authority may require, as a condition on its decision on the application, that any electricity mains be placed underground.

Appeals

31. Pursuant to section 37(5) of the Act, no appeal lies against a condition imposed by a relevant authority pursuant to a direction by the Commissioner of Highways under items 2 or 3 of schedule 8.

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**PART 6
PUBLIC NOTICE AND CONSULTATION****Public notice categories¹**

32. (1) Subject to subregulation (2), the various forms of development specified in Part 1 of schedule 9 are assigned to Category 1 for the purposes of section 38 of the Act.

(2) The assignment of various forms of development to Category 1 does not extend to developments that involve, or are for the purposes of, any activity specified in schedule 22, other than where the development is, in the opinion of the relevant authority, of a minor nature.

(3) The following forms of development are assigned to Category 2 for the purposes of section 38 of the Act:

- (a) the various forms of development specified to in Part 2 of schedule 9; and
- (b) developments that involve, or are for the purposes of, any activity specified in schedule 22 and that would, but for subregulation (2), be assigned to Category 1.

Giving of notice

33. (1) Any notice required under section 38(4) or (5) of the Act must—

- (a) describe the nature of the proposed development; and
- (b) identify the land on which the development is proposed; and
- (c) where applicable, state that the proposed development is a *non-complying* development under the relevant Development Plan; and
- (d) indicate where and when the relevant application may be inspected, and with whom, and the time by which, any relevant representations may be lodged.

(2) A notice under section 38(5)(c) of the Act may be given by publishing a copy of the notice in a newspaper circulating generally throughout the area of the State in which the relevant land is situated on at least one occasion.

Public inspection of certain applications

34. (1) For the purposes of section 38 of the Act, the relevant authority must, in respect of any application for consent in respect of the Development Plan for a Category 2 or 3 development, ensure that copies of—

- (a) the application; and
- (b) any supporting plans, drawings, specifications or other documents or information provided to the relevant authority under section 39 of the Act; and
- (c) if applicable, any statement of effect that has been prepared in accordance with these regulations,

Note 1. Pursuant to section 38 of the Act, the assignment by these regulations of a form of development to Category 1 or Category 2 is subject to any assignment provided by the relevant Development Plan.

are reasonably available for inspection (without charge) by the public at the principal office of the relevant authority for the period commencing on the day on which notice of the application is first given under these regulations and ending on a day by which written representations must be lodged under regulation 35.

(2) The relevant authority may, as it thinks fit, determine whether or not it will make copies of any documents available for inspection under subregulation (1) also available for purchase and, if such copies are available for purchase, the relevant authority may determine the price.

(3) Subregulation (1) is subject to the following qualifications:

- (a) the relevant authority is not required to make available any plans, drawings, specifications or other documents or information which relate to the assessment of the proposed development against the Building Rules and which are not reasonably necessary for determining whether provisional development plan consent should be granted; and
- (b) the relevant authority is not required to make available any plans, drawings, specifications or other documents or information if to do so would, in the opinion of the relevant authority, unreasonably jeopardise the present or future security of a building.

Lodging written representations

35. Pursuant to section 38(7) of the Act—

- (a) a representation under section 38 of the Act must be lodged with the relevant authority within 10 business days after the day on which notice of the application is given for the purposes of section 38(4) or (5) of the Act (or, if public notice is given under section 38(5)(c) of the Act, within 10 business days after the day on which a copy of the notice is published in a newspaper under these regulations) (and any representation lodged after any such period cannot be taken to constitute a representation for the purposes of section 38(12) of the Act); and
- (b) a representation must include the name and address of the person (or persons) who are making the representation; and
- (c) if a representation is being made by two or more persons, the representation should nominate a person who will be taken to be making the representation for the purposes of any subsequent step or proceedings under section 38 of the Act (and if no such nomination is made, it will be taken that the first person named in, or otherwise identified by, the representation as being a party to the representation is nominated as the person who will be taken to be making the representation for the purposes of any such subsequent step or proceedings); and
- (d) a representation must set out, with reasonable particularity, the reasons for the representation; and
- (e) a representation must indicate whether or not the person or persons who are making the representation desire, subject to section 38 of the Act, to be heard by the relevant authority.

Response by applicant

36. (1) Pursuant to section 38(8) of the Act, a response to a representation must be made by the applicant within 10 business days after the relevant material is forwarded to the applicant, or within such longer period as the relevant authority may allow.

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(2) An extension of time allowed by the relevant authority under subregulation (1) is not to be included in the time within which the relevant authority is required to decide the relevant application under these regulations.

Notice of hearing of submissions

37. If pursuant to section 38(10) or (11) of the Act a person is to be allowed to appear personally or by representative before a relevant authority to be heard on a representation, or to respond to any matter, the relevant authority must, unless the person otherwise agrees, give the person at least five business days notice of the place and time at which the person should appear.

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**PART 7
ASSESSMENT OF DEVELOPMENTS BY THE COMMISSION**

Determination of Commission as relevant authority

38. (1) Pursuant to section 34(1)(b)(i) of the Act, the Development Assessment Commission is the relevant authority in respect of any development of a class specified in schedule 10².

(1a) Pursuant to section 34(1)(b)(ii) of the Act, the following are prescribed as kinds of development to be undertaken by a council for which the Development Assessment Commission is the relevant authority (including any case where the council is not to undertake all of the relevant development itself, and in addition to any development of a class specified in schedule 10):

- (a) development that involves—
 - (i) the construction of, or a change in use to, a shop or office; or
 - (ii) the construction of a building for the purposes of, or a change in use to, a form of industry,

other than where—
 - (iii) the development involves an existing shop, office or industry that is owned, used and managed by the council and will not result in an increase in the total floor area of a building that constitutes, or is used for the purposes of, the shop, office or industry; or
 - (iv) the development involves a public service depot; or
 - (v) the interest of the council is limited to the ownership of rights associated with an easement, road or reserve and the purpose of the easement, road or reserve will not, in the opinion of the council, be materially affected;
 - (b) development that involves the construction of, or a change in use to—
 - (i) more than one detached dwelling; or
 - (ii) a group dwelling, multiple dwelling, residential flat building, row dwelling, retirement village unit or other similar form of residential development,

other than the alteration of, or an addition to, an existing building;
 - (c) development that involves the division of land where the number of allotments resulting from the division will be greater than one more than the existing number of allotments.
- (2) If the Development Assessment Commission is the relevant authority under section 34(1)(b) of the Act—
- (a) in a case where the Minister has made a declaration under section 34(1)(b)(iii) or (vi) of the Act—

Note 2. This regulation is subject to the operation of section 34(2) of the Act (if relevant).

- (i) the relevant council must forward to the Development Assessment Commission any application received by the council under the Act and these regulations in relation to the matter, together with any accompanying documentation or information and, as appropriate, fees, within five business days after receipt of a copy of the notice of the Minister's declaration; and
 - (ii) the Development Assessment Commission may, as it thinks fit—
 - (A) adopt any act or decision of the council in relation to the assessment of the application (including an act or decision under Part 4, 5 or 6 of these regulations);
 - (B) disregard or reject any act or decision of the council in relation to the assessment of the application; and
- (b) in any case—the Development Assessment Commission must give the council for the area in which the development is to be undertaken a reasonable opportunity to provide the Development Assessment Commission with a report on the matters under section 33(1) (as relevant) (but if a report is not received by the Development Assessment Commission within six weeks after the council received the application (or a copy of the application) under these regulations or, in a case where section 34(1)(b)(vi) of the Act applies, within the relevant period under subregulation (3) after the relevant declaration is made by the Minister, or within such longer period as the Development Assessment Commission may allow, the Development Assessment Commission may presume that the council does not desire to provide a report).
- (3) For the purposes of subregulation (2)(b), the relevant period in a case where section 34(1)(b)(vi) of the Act applies is—
- (a) if the declaration of the Minister is made under that section within six weeks after an application has been lodged with the council—six weeks from the date of lodgement or three weeks from the date of the declaration, whichever is longer;
 - (b) in any other case—
 - (i) if the declaration of the Minister is made under section 34(1)(b)(vi)(A) or (B)—three weeks after the declaration is made;
 - (ii) if the declaration of the Minister is made under section 34(1)(b)(vi)(C)—one week after the declaration is made.

Assessment in respect of the Building Rules referred to council

39. If a council is a relevant authority pursuant to section 34(2) of the Act, then, notwithstanding any other provision of these regulations, the council must not give its decision in respect of the assessment against the Building Rules until the Development Assessment Commission has made its decision in respect of the assessment of the development against the provisions of the relevant Development Plan (but then, if the council grants provisional building rules consent, the council may also, if it is appropriate for it to do so, issue a notice of approval under Part 8 of these regulations).

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Issue of provisional Building Rules consent by the Commission

40. If the Development Assessment Commission issues a provisional Building Rules consent, it must forward to the council for the area in which the development is to be undertaken (if any)—

- (a) two copies of the plans, drawings, specifications and other documents and information lodged by the applicant pursuant to regulation 15 and schedule 5, stamped or otherwise endorsed with the relevant consent; and
- (b) if relevant, a schedule in the appropriate form under schedule 16 which sets out the matters to be specified under Division 4 of Part 12 of these regulations.

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**PART 8
DETERMINATION OF AN APPLICATION**

Time within which a decision must be made

41. (1) Pursuant to section 41 of the Act, and subject to these regulations, a relevant authority should deal with an application under Division 1 of Part 4 of the Act within the following periods (calculated from the date of receipt of the application by the relevant authority):

(a) if—

- (i) the application only seeks provisional development plan consent; and
- (ii) the proposed development is of a kind prescribed as *complying* development under these regulations or the relevant Development Plan,

four weeks;

(b) in any other case where the application only seeks provisional development plan consent, other than where the application relates to a proposed development that involves the division of land—**eight weeks;**

(c) if—

- (i) provisional development plan consent has been obtained (or is not necessary); and
- (ii) the application only seeks provisional building rules consent (and no other consent); and
- (iii) the building falls within the Class 1 or 10 classification under the Building Code,

four weeks;

(d) in any other case—**12 weeks,**

subject to the qualifications that—

(e) if—

- (i) paragraph (a), (b) or (c) applies; and
- (ii) the application must be referred to a prescribed body under section 37 of the Act for a report or directions (but not concurrence),

an additional period of six weeks, plus any extension of time under section 37(3) of the Act (or, if more than one such extension of time is given, a period equal to the longest extension), must be added to the relevant period that applies above; and

(f) if the application must be—

- (i) referred to the Development Assessment Commission, the Minister or a council for concurrence under section 35(3) of the Act; or
- (ii) referred to a prescribed body under section 37 of the Act for concurrence,

an additional period of 10 weeks, plus any extension of time required by the Development Assessment Commission, the Minister or a council for the purposes of section 35(3) of the Act, or any extension of time under section 37(3) of the Act (or, if more than one such extension of time is given, a period equal to the longest extension), must be added to any period that applies above; and

- (fa) if the application must be referred to the Building Rules Assessment Commission under section 36 of the Act — **an additional period of two weeks** must be added to the period that applies above; and
- (g) if the application must otherwise be referred to another body for report under these regulations, or another body is entitled to report on the application under these regulations—an additional period equal to the time within which a report must be made by the body under these regulations in order to be taken into account for the purposes of any assessment must be added to the period that applies above.

(2) Notwithstanding subregulation (1), if a period prescribed by that subregulation would end on a day which falls between 25 December in any year and 1 January in the following year, an extra week must be added to that period.

Notification of decision to an applicant (including conditions)

42. (1) Pursuant to section 40 of the Act, notice of a decision on an application under Division 1 of Part 4 of the Act must be given in the form set out in schedule 11.³

(2) A notice under subregulation (1) must be given within five business days after the decision is made on the application.

(3) The notice must be accompanied by details of any condition to which the decision is subject, and of the reason for the imposition of the condition (and, if any condition is imposed on the basis of a direction of a prescribed body under section 37 of the Act, the relevant authority must identify the prescribed body).

(4) If a private certifier has made a decision in respect of the provisional building rules consent, the relevant authority must attach a copy of the private certifier's decision (as notified to the relevant authority under section 93 of the Act) to any relevant notice of a decision of the relevant authority.

(5) A notice under this regulation may include any classification assigned to a building under section 66 of the Act.

Notification of decision to a prescribed body

43. (1) If an application for the consent or approval of a proposed development is referred to the Development Assessment Commission, the Minister or a council under section 35(3) of the Act, or to a prescribed body under section 37 of the Act, the relevant authority must send a copy of the notice issued by the relevant authority under regulation 42 to the Development Assessment Commission, Minister, council or prescribed body (as the case requires).

(2) The relevant authority should comply with subregulation (1) within five business days after the notice is given to the applicant under regulation 42.

Note 3. Section 25 of the *Acts Interpretation Act 1915* allows the use of a form to the same effect as a prescribed form, provided that any deviation from the prescribed form is not calculated to mislead.

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Notification of land division decision

44. (1) If a council is the relevant authority for an application which relates (wholly or in part) to a proposed division of land, the council must, if or when it issues a development authorisation, send a copy of the notice issued by the council under regulation 42 to the Development Assessment Commission.

(2) The council should comply with subregulation (1) within five business days after the notice is given to the applicant under regulation 42.

Notification of decision to owner of land

45. (1) If an owner of the land to which a decision on an application under Division 1 of Part 4 of the Act relates is not a party to the application, the relevant authority must send a copy of any notice issued by the relevant authority under regulation 42 to that owner.

(2) The relevant authority should comply with subregulation (1) within five business days after the notice is given under regulation 42.

Scheme description—community titles

45A. (1) If an application under Division 1 of Part 4 of the Act relates to the division of land by a plan of community division and the relevant authority has endorsed a scheme description pursuant to the *Community Titles Act 1996*—

- (a) a notice under regulation 42(1) must be accompanied by two copies of the endorsed scheme description; and
- (b) a copy of any notice under regulation 43, 44 or 45 must be accompanied by a copy of the endorsed scheme description.

(2) An endorsement of a scheme description by a relevant authority under section 3 of the *Community Titles Act 1996* should be in the following terms:

- 1. All the consents or approvals required under the *Development Act 1993* in relation to the division of the land (and a change in the use of the land (if any)) in accordance with this scheme description and the relevant plan of community division under the *Community Titles Act 1996* have been granted.

OR

No consent or approval is required under the *Development Act 1993* in relation to the division of the land (or a change in the use of the land) in accordance with this scheme description.

- 2. This endorsement does not limit a relevant authority’s right to refuse, or to place conditions on, development authorisation under the *Development Act 1993* in relation to any other development envisaged by this scheme description.

Signed:

Dated:

[The endorsement may also include notes concerning conditions on any consent or approval, and notes concerning additional approvals that may be required in the future. The endorsement may be signed and dated by a duly authorised officer of the relevant authority.]

Special provision relating to staged consents

46. (1) If it appears to a relevant authority that all of the consents necessary for the approval of a particular development have been obtained under Division 1 of Part 4 of the Act, and that no such consent has lapsed and that all such consents are consistent with each other, the relevant authority must, subject to the Act and any other Act or law, forthwith issue a notice of approval in the form set out in schedule 11.

(2) A copy of a notice issued under subregulation (1) need not be sent to any person or body under regulation 43, or to any other person or body under the Act or these regulations (other than the applicant and any owner of land who is not a party to the relevant application), if the person or body has already received notification of the relevant authority's decision on that aspect of the application in respect of which the person or body has a particular interest.

Endorsed plans

47. If an approval which requires a provisional building rules consent is granted by a relevant authority, the relevant authority must return to the successful applicant a copy of the plans, drawings, specifications and other documents and information lodged by the applicant pursuant to regulation 15 and schedule 5, stamped or otherwise endorsed with the relevant consent.

Lapse of consent or approval

48. (1) Subject to this or any other regulation, any consent or approval under Part 4 of the Act (whether subject to conditions or not) will lapse at the expiration of—

- (a) subject to the operation of paragraph (b)—12 months from the operative date of the consent or approval;
- (b) if—
 - (i) the relevant development has been lawfully commenced by substantial work on the site of the development within 12 months from the operative date of the approval—three years from the operative date of the approval, unless the development has been substantially or fully completed within those three years (in which case the approval will not lapse); or
 - (ii) if the relevant development involves the division of land and an application for a certificate under section 51 of the Act has been lodged with the Development Assessment Commission within 12 months from the operative date of the relevant consent—three years from the operative date of the consent.

(2) A period prescribed by subregulation (1) may be extended by a relevant authority—

- (a) when the relevant consent or approval is given; or
- (b) at such later time as may be appropriate.⁴

(3) Where an approval is given, any consent which was necessary for that approval will not lapse unless or until the approval lapses.

Note 4. See section 40(3) of the Act in respect of the extension of any development authorisation under Division 1 of Part 4 of the Act.

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(4) In this regulation—

"**the operative date**" of a consent or approval means—

- (a) the date on which the consent or approval is given; or
- (b) if the decision to grant the consent or approval has been the subject to an appeal under this Act, the date on which any appeal is dismissed, struck out or withdrawn, or all questions raised by any appeal have been finally determined (other than any question as to costs),

whichever is the later.

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**PART 9
SPECIAL PROVISIONS RELATING TO LAND DIVISION**

DIVISION 1—PRELIMINARY

Interpretation

49. In this Part—

"**council**" means, in relation to any division of land that is not wholly within the area of a council, the Development Assessment Commission.

DIVISION 2—PRESCRIBED REQUIREMENTS—GENERAL LAND DIVISION

Prescribed requirements

50. The requirements set out in this Division are prescribed for the purposes of sections 33(1)(c)(v) and 51(1) of the Act.

Width of roads and thoroughfares

51. (1) Subject to subregulations (2) and (4), the width of any proposed road within the relevant division of land must be not less than 12.4 metres or more than 35 metres.

(2) Subject to section 38 of the *Roads Opening and Closing Act 1991*, the width of any proposed road which is likely to be used regularly or extensively by commercial vehicles must be not less than 20 metres.

(3) Subject to subregulation (4), the width of every proposed thoroughfare, not being a road, must be not less than two metres.

(4) The council may dispense with a width prescribed by subregulation (1) or (3) (and specify a different width) if it is of the opinion that the width so prescribed is not necessary for the safe and convenient movement of vehicles or pedestrians, or for underground services.

(5) Subject to subregulation (6), the width of the road at the head of every cul-de-sac must be at least 25 metres for a length of not less than 25 metres, or such other dimensions as may be acceptable to the council.

(6) The council may dispense with a requirement under subregulation (5) if it appears to the council that the cul-de-sac is likely to become a through road.

Road widening

52. (1) Subject to subregulation (2), where an existing road abuts land which is proposed to be divided and the council considers that the road should be widened in order to provide a road of adequate width having regard to existing and future requirements of the area, the proposed division of land must make provision for that widening.

(2) The abutting road referred to in subregulation (1) cannot be required to be widened—

(a) if the relevant plan delineates more than five allotments—by more than 15 metres; or

(b) if the relevant plan delineates five allotments or less—

(i) to a total width in excess of 15 metres; or

- (ii) by an area in excess of 23 square metres from the corner allotment abutting a junction of two or more roads shown on the relevant plan for the purpose of improving visibility; or
- (c) in any case—where a building suitable for occupation exists on any part of the land considered necessary for road widening purposes, if the plan makes some other provision for road widening which will accord with the objectives of this regulation.

Requirement as to forming of roads

53. (1) Subject to subregulation (2), the roadway of every proposed road on a plan of division must be formed to a width specified by the council, and in a manner satisfactory to the council.

(2) The council must not, when specifying a width for a roadway to be formed under subregulation (1), specify a width in excess of 7.4 metres unless, in the opinion of the council, that specification is necessary in view of the volume or type of traffic that is likely to traverse that road.

(3) Adequate provision must be made for the turning of vehicles at the head of a cul-de-sac.

(4) The council may dispense with the requirements under subregulation (3) if it is of the opinion that the cul-de-sac is likely to become a through road.

(5) Subject to subregulation (6), every footpath, water-table, kerbing, culvert and drain of every proposed road must be formed in a manner satisfactory to the council.

(6) The council may dispense with a requirement under subregulation (5).

Construction of roads, bridges, drains and services

54. (1) The roadway of every proposed road within the relevant division must be constructed and where required by the council, paved and sealed with bitumen, tar or asphalt or other material approved by the council.

(2) Any bridge, culvert, or underground drain or inlet which is reasonably necessary for a proposed road in accordance with recognised engineering design practice must be constructed.

(3) Any footpath, water-table, kerbing, culvert or drain of a proposed road required to be formed by the council must be constructed.

(4) Any drain which is necessary in accordance with recognised engineering practice for the safe and efficient drainage of the land and for the safe and efficient disposal of stormwater and effluent from the land must be provided and constructed.

(5) Electrical services must be installed in accordance with recognised engineering practice, and where relevant, in accordance with any requirement imposed under regulation 30.

Supplementary provisions

55. (1) The manner of forming any proposed road, footpath, water-table, kerbing, culvert or drain required under this Division must be in conformity with a road location and grading plan signed by a licensed surveyor and approved by the council prior to the commencement of the work.

(2) Subject to subregulation (4), all work referred to in regulations 53 and 54 must be carried out in a manner satisfactory to the council and in conformity with detailed construction plans and specifications signed by a professional engineer or, at the discretion of the council, a licensed surveyor, and approved by the council prior to the commencement of the work.

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(3) In subregulation (2)—

"**professional engineer**" means a person who is—

- (a) a corporate member of the Institution of Engineers, Australia who has appropriate experience and competence in the field of civil engineering; or
- (b) a person who is registered on the National Professional Engineers Register administered by the Institution of Engineers, Australia and who has appropriate experience and competence in the field of civil engineering.

(4) Before the roadway of any proposed road is sealed, the applicant must satisfy the council that all connections for water supply and sewerage services to any allotment delineated on the plan which, in the opinion of the Chief Executive of the Engineering and Water Supply Department are necessary and need to be laid under the surface of the proposed road, have been made.

DIVISION 3—OPEN SPACE CONTRIBUTION SCHEME

Exclusion from operation of section

56. (1) Pursuant to section 50(2) of the Act, where an application for the division of land by strata plan under the *Community Titles Act 1996* or the *Strata Titles Act 1988* relates to an existing building unit scheme, a contribution is not payable under section 50 of the Act unless the plan divides the land into more units than existed on 22 February 1968, and in that case, the contribution will be calculated only in respect of the additional units.

(2) For the purposes of subregulation (1), an existing building unit scheme is a scheme where—

- (a) land was, before 22 February 1968, laid out in a building unit scheme consisting of two or more properties designed for separate occupation; and
- (b) as at that date, buildings to which the scheme relates had been erected.

DIVISION 4—CERTIFICATE IN RESPECT OF THE DIVISION OF LAND

Exclusion from requirement to obtain a certificate⁵

57. Pursuant to section 51(1) of the Act, a certificate in respect of the division of land is not required if the division comprises a lease or licence to occupy part only of an allotment.

General land division

58. * * * * *

(2) Pursuant to section 51(1) of the Act, the Development Assessment Commission may issue a certificate under that section notwithstanding that the requirements under Division 2 have not been fully satisfied if the council advises the Development Assessment Commission—

- (a) that the applicant has entered into a binding arrangement with the council for the satisfaction of those requirements (other than a requirement under regulation 54(5)) and that the arrangement is supported by adequate security; and

Note 5. A certificate is also not required in a case involving a Crown development approved by the Minister under section 49 of the Act (*see s. 49(16)*).

- (b) in a case where a requirement under regulation 54(5) has not been fully satisfied—that the applicant has entered into a binding arrangement with the appropriate electricity authority for the satisfaction of the requirement and that the arrangement is supported by adequate security.

(3) Pursuant to section 51(1) of the Act, the Development Assessment Commission may issue a certificate under that section notwithstanding that the requirements of the Minister of Public Infrastructure relating to the provision of water supply and sewerage services have not been fully satisfied if the Minister of Public Infrastructure advises the Development Assessment Commission that the applicant has entered into a binding arrangement with the Minister of Public Infrastructure for the satisfaction of those requirements and that the arrangement is supported by adequate security.

(4) A document approved by the Minister for the purposes of this regulation by notice in the *Gazette* (and any alterations or amendments to any such document approved by the Minister from time to time by notice in the *Gazette*) is recognised as a model for binding arrangements under subregulation (2) or (3), and an agreement that conforms with any such model will, to the extent that the agreement provides for the matters referred to in section 33(1)(c) of the Act, be taken to be a sufficient agreement, and to provide adequate security, for the purposes of section 51(1) of the Act in its applications to the division of the land.

(5) A copy of a document approved by the Minister under subregulation (4) must be kept available at the principal office of the department of the Minister.

Division of land by strata title

59. (1) Pursuant to section 51(1) of the Act, the Development Assessment Commission may issue a certificate under that section in relation to the division of land by strata plan under the *Community Titles Act 1996* or the *Strata Titles Act 1988* notwithstanding that the requirements of section 33(1)(d) of the Act have not been fully satisfied if the council advises the Development Assessment Commission that the applicant has entered into a binding arrangement with the council for the satisfaction of those requirements and that the arrangement is supported by adequate security.

(2) The following documents, namely:

- (a) the document entitled "Standard Strata Unit Development Bond", agreed between the Urban Development Institute of Australia (South Australian Division) Incorporated, the Housing Industry Association Limited (South Australian Division) and the Local Government Association of South Australia, if or when approved by the Minister for the purposes of this regulation by notice in the *Gazette*; and
- (b) any other document approved by the Minister for the purposes of this regulation by notice in the *Gazette*,

(and any alterations or amendments to any such documents approved by the Minister from time to time by notice in the *Gazette*), are recognised as models for binding arrangements under subregulation (1) (insofar as they are relevant to the particular kind of strata plan), and an agreement that conforms with any such model will, to the extent that the agreement provides for the matters referred to in section 33(1)(d) of the Act, be taken to be a sufficient agreement, and to provide adequate security, for the purposes of section 51(1) of the Act in its application to the division of land by strata plan under the *Community Titles Act 1996* or the *Strata Titles Act 1988*.

(3) A copy of a document approved by the Minister under subregulation (2) must be kept available at the principal office of the department of the Minister.

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General provisions

60. (1) The approval of a model for binding arrangements by the Minister under this Division does not limit the ability of an applicant to enter into any other form of arrangement, to the satisfaction of the Development Assessment Commission and the relevant council, for the purposes of section 51(1) of the Act.

(2) In addition to the requirements of section 51(1) of the Act, the Development Assessment Commission must not issue a certificate on an application under this Division unless the Development Assessment Commission is satisfied—

- (a) that any relevant development authorisation under the Act has not lapsed; and
 - (b) that the amount required under the open space contribution scheme under section 50 of the Act (if any) has been paid.
- (3) Subject to the operation of subregulation (2), if—
- (a) a proposed division of land is *complying* development in respect of the Development Plan in the Golden Grove Development Area; and
 - (b) the Development Assessment Commission does not issue a "Statement of Requirements" under section 33(1)(c) of the Act in respect of the proposed division within 60 days after an application for a certificate under this Division is made to the Development Assessment Commission,

the Development Assessment Commission must issue a certificate in relation to the division.

(4) A certificate under section 51 of the Act must—

- (a) —
 - (i) be in the form of schedule 12 and accompanied by a copy of the final approved land division plan, prepared in accordance with schedule 5, signed and dated by a duly authorised officer of the Development Assessment Commission, and bearing the following certification:

"This is a copy of the plan to which
development approval dated
day of year refers.

Signed.....; or
 - (ii) be in the form of a notation on a copy of the final approved land division plan and signed and dated by a duly authorised officer of the Development Assessment Commission; and
- (b) in the case of a certificate for the division of land by community plan under the *Community Titles Act 1996* or by the strata plan under the *Strata Titles Act 1988*, incorporate, or be accompanied by, a certificate in a form approved by the Registrar-General from the relevant council (if any) which—
 - (i) evidences any necessary consent of the council to an encroachment by a building over other land (*see* section 27(1)(b)(i) of the *Community Titles Act 1996* or section 7(6)(b)(i) of the *Strata Titles Act 1988*); and

- (ii) sets out—
 - (A) the date on which any relevant building was erected (if known); and
 - (B) the postal address of the site.

(5) Certificates may be issued under this Division for the division of land in stages, provided that the provisions of the Act and these regulations are complied with in relation to each stage.

(6) A copy of the certificate and plan (or certificates and plans) referred to in subregulation (4) must be forwarded to the relevant council (if any) as soon as practical following the issue of the certificate under that subregulation.

(7) A certificate lapses at the expiration of twelve months following its issue (unless lodged with the Registrar-General under the *Real Property Act 1886* before its expiration, or extended by the Development Assessment Commission in response to an application made prior to the lapse of the certificate).

(8) The Development Assessment Commission must consult with the relevant council (if any) before it grants an extension of the period prescribed by subregulation (7).

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**PART 10
MAJOR DEVELOPMENTS OR PROJECTS**

Declaration by the Minister (s. 46)

61. (1) If the Minister makes a declaration under section 46(1) or (4) of the Act that relates to—

- (a) a particular development or project; or
- (b) a specified part of the State,

then the Minister must, within five business days after the relevant notice is published in the *Gazette*—

- (c) where paragraph (a) applies—send a copy of the notice to the council or councils for the area or areas in which the proposed development or project is to be undertaken;
- (d) where paragraph (b) applies—send a copy of the notice to the council or councils for the specified part of the State.

(2) For the purposes of section 46(5)(b) of the Act, a relevant authority must transmit to the Minister any relevant documentation (including the application and any accompanying documentation or information lodged by the proponent with the relevant authority under Division 1 of Part 4 of the Act)—

- (a) in the case of the Development Assessment Commission—within 10 business days after the relevant notice is published in the *Gazette*;
- (b) in the case of a council—within 10 business days after the receipt of a copy of the notice required by subregulation (1).

(3) A relevant authority must, at the time that documents are transmitted to the Minister under subregulation (2), also transmit to the Minister any fees that have been paid by the proponent under schedule 6 (less any amount that the Minister determines should be retained by the relevant authority).

(4) Pursuant to subsection (6)(e) of section 46 of the Act, if an application lodged with the Minister under that section will require an assessment against the Building Rules, the application must, unless otherwise directed by the Minister, be accompanied by three copies of the plans, drawings, specifications and other documents and information relating to the proposed development (or such additional or lesser number of copies as the Minister may require) required under schedule 5 (prepared in accordance with the requirements of that schedule).

Reference of matters to Major Developments Panel

62. (1) The Minister must, when referring a matter to the Major Developments Panel under section 46(7) of the Act, provide to the panel—

- (a) a copy of the declaration published under section 46(1) of the Act; and
- (b) a copy of any relevant documentation or information received by the Minister under section 46(5) and (6) of the Act.

(2) The Minister may also provide to the Major Developments Panel any comments or other information as the Minister thinks fit.

(3) The Minister should, when referring a matter to the Major Developments Panel, specify the time within which the panel should deal with the referral.

Prescribed criteria

63. (1) The following criteria are prescribed for the purposes of section 46(9) of the Act:

- (a) the character of the receiving environment;
- (b) the potential social, economic and environmental impacts of the development or project;
- (c) the resilience of the environment to cope with change;
- (d) the degree of confidence in the prediction of impacts resulting from the development or project;
- (e) the extent to which undesirable impacts which may occur are likely to be irreversible;
- (f) the extent to which impacts, and requirements for monitoring and assessing impacts, will be ongoing;
- (g) the presence of other statutory assessment or policy frameworks which provide other procedures or processes to address any issues of concern.

(2) For the purposes of taking into account the criteria prescribed by subregulation (1), consideration must be given to—

- (a) the extent of impacts by an analysis of their—
 - (i) type;
 - (ii) size;
 - (iii) scope;
 - (iv) intensity;
 - (v) duration; and
- (b) the nature of impacts by an analysis of—
 - (i) the degree to which the impacts are predictable;
 - (ii) the resilience of the environment to cope with change;
 - (iii) the degree to which the impacts can be reversed;
 - (iv) the degree to which the impacts can be managed or mitigated;
 - (v) the degree to which performance criteria can be applied in the circumstances of the case; and
- (c) the significance of impacts by an analysis of—
 - (i) the degree to which the impacts adversely affect environmentally sensitive areas;

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- (ii) the degree to which the impacts are acceptable considering the nature of the impacts; and
- (d) other factors determined to be relevant by the Major Developments Panel.

Prescribed time periods

63A. (1) For the purposes of section 46(8)(b) of the Act, the period within which interested persons may make submissions to the Major Developments Panel under that section is 20 business days from the day of publication of the relevant notice.

(2) For the purposes of section 46(10) of the Act, the period for consultation with the Environment Protection Authority is 20 business days from the day of publication of the notice under section 46(8)(b) of the Act.

Prescribed fee

63B. (1) Pursuant to section 46(16) of the Act, the prescribed fee is—

- (a) \$1 072; plus
- (b) any relevant fee under components (2), (3), (8) and (9) of item 1 of schedule 6 (as if references in that schedule to the relevant authority were references to the Governor acting under Subdivision 2 of Division 2 of Part 4 of the Act).

(2) Unless otherwise determined by the Minister—

- (a) the fee (other than a fee under components (8) and (9) of item 1 of schedule 6) is payable to the Minister within two months after the proponent lodges an application or project proposal with the Minister under section 46(6) of the Act; and
- (b) the fee under components (8) and (9) of item 1 of schedule 6 is payable before any assessment of a development under the Building Rules occurs.

(3) If a fee is not paid in accordance with the requirements of subregulation (2), the Minister may determine that no further step will occur in the assessment of the development or project until the fee is paid.

(4) If a proponent decides to withdraw an application or proposal under Division 2 of Part 4 of the Act, the Minister may (in the Minister's discretion) refund a fee (in whole or in part).

Procedures to be observed by the Major Developments Panel

63C. (1) A quorum at a meeting of the Major Developments Panel consists of four members (and no business may be transacted at a meeting of the panel unless a quorum is present).

(2) In the absence of the presiding member of the Major Developments Panel at a meeting of the panel, his or her deputy will preside or, if the deputy is also absent, a member chosen by those present will preside.

(3) A decision carried by a majority of the votes cast by members present at a meeting is a decision of the Major Developments Panel.

(4) Each member present at a meeting of the Major Developments Panel is entitled to one vote on a matter arising for decision and, if the votes are equal, the member presiding at the meeting is entitled to a second or casting vote.

(5) A conference between members constituting a quorum by telephone or audio-visual means is a valid meeting of the Major Developments Panel if—

- (a) a notice of the conference is given to all members in the manner determined by the Major Developments Panel for that purpose; and
- (b) the system of communication allows a participating member to communicate with any other participating member during the conference.

(6) A member of the Major Developments Panel who has a personal interest or a direct or indirect pecuniary interest in a matter before the panel (other than an indirect interest that exists in common with a substantial class of persons) must not take part in the deliberations or decisions of the panel in relation to that matter.

(7) The Major Developments Panel must have accurate minutes kept of its proceedings.

EIS process—Specific provisions

63D. (1) For the purposes of section 46B(5)(a) of the Act, the period of 30 business days from the date of referral of the EIS to the relevant authority or body is prescribed.

(2) The following requirements are prescribed for the purposes of section 46B(6) of the Act:

- (a) the public meeting should be publicised by the Minister ensuring that notice of the meeting is published on at least two occasions in a newspaper or newspapers circulating generally throughout the area of the State in which the proposed development or project is to be undertaken; and
- (b) the public meeting should be designed—
 - (i) to provide information on the development or project; and
 - (ii) to explain the EIS document and process; and
 - (iii) to assist interested persons to make submissions under the Act.

(3) For the purposes of section 46B(10)(a) of the Act, notification is given by giving to the relevant person notice in writing in accordance with regulation 94 (subject to the qualification that if the written submission was made by two or more persons jointly (including by petition) then it is sufficient if the notice is addressed to all of them (either individually or as a group without stating individual names) and given to a person who was nominated as a contact person for the purposes of the submission or, if no person was so nominated, to the first person named in, or otherwise identified by, the submission).

PER process—Specific provisions

63E. (1) For the purposes of section 46C(5)(a) of the Act, the period of 30 business days from the date of the referral of the PER to the relevant authority or body is prescribed.

(2) The following requirements are prescribed for the purposes of section 46C(6) of the Act:

- (a) the public meeting should be publicised by the Minister ensuring that notice of the meeting is published on at least two occasions in a newspaper or newspapers circulating generally throughout the area of the State in which the proposed development or project is to be undertaken; and

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- (b) the public meeting should be designed—
- (i) to provide information on the development or project; and
 - (ii) to explain the PER document and process; and
 - (iii) to assist interested persons to make submissions under the Act.

(3) For the purposes of section 46C(8) of the Act, the period of two months from the date on which the Minister gives the proponent written notice of the matters raised for consideration by him or her and copies of the submissions referred to the proponent under section 46C(7) of the Act is prescribed.

DR—Specific provisions

63F. (1) For the purposes of section 46D(5)(a) of the Act, the period of—

- (a) in the case of a referral to the Environment Protection Authority relating to a development that involves, or is for the purposes of, an activity specified in schedule 22—30 business days;
- (b) in any other case—20 business days,

from the date of referral of the DR to the relevant authority or body is prescribed.

(2) For the purposes of section 46D(7) of the Act, the period of 10 business days from the date on which the Minister gives to the proponent written notice of the matters raised for consideration by him or her and copies of the submissions referred to the proponent under section 46D(6) of the Act is prescribed.

Referral of assessment of building work

64. (1) Where a proposed development is subject to the operation of section 48 of the Act, the Governor (or the Development Assessment Commission acting as a delegate of the Governor under section 48(8) of the Act), may—

- (a) refer the assessment of the development in respect of the Building Rules to the council for the area in which the proposed development is to be undertaken; or
- (b) require that an assessment of the development in respect of the Building Rules be undertaken by a private certifier, or by some other person of a class determined by the Governor (or the Development Assessment Commission),

and, in such a case, the Governor (or the Development Assessment Commission) need not proceed to make a decision in relation to the matter until that assessment has occurred.

(2) A council or person acting under subregulation (1) must ensure that any assessment is consistent with any provisional development plan consent (including any condition or notes that apply in relation to that consent) that has been given under section 48 of the Act.

Cancellation of development authorisation (s. 48)

64A. For the purposes of section 48(11) of the Act, the period of two years from the date of the development authorisation is prescribed.

Notification of decision

65. (1) The Minister must ensure that the council for the relevant area receives written notification of the outcome of the Governor's decision on a proposed development under Division 2 of Part 4 of the Act.

(2) If a Governor's decision under Division 2 of Part 4 of the Act relates to a development or project that involves or is for the purposes of a prescribed activity of environmental significance as defined by the *Environment Protection Act 1993*, the Minister must ensure that the Environment Protection Authority receives written notification of the decision.

PART 11
CROWN DEVELOPMENT BY STATE AGENCIES

Exclusions from the definition of State agency

66. (1) Pursuant to section 49(1) of the Act, the bodies specified in schedule 13 are excluded from the ambit of the definition of "State agency".

(2) Julia Farr Services is excluded from the ambit of the definition of "State agency" under section 49 of the Act, but only on the condition that this subregulation ceases to have effect on 30 June 2001.

Development excluded from approval and notice

67. (1) Pursuant to section 49(3) of the Act (but subject to this regulation), the various forms of development specified in schedule 14, when carried on by a State agency, are excluded from the provisions of section 49 of the Act.

(2) If a State agency proposes to undertake any building work which is within the ambit of schedule 14, the State agency must, before commencing that building work—

- (a) give notice of the proposed work to the council for the area in which the building work is to be undertaken; and
- (b) furnish the council with—
 - (i) a description of the nature of the proposed work; and
 - (ii) so far as may be relevant, details of the location, siting, layout and appearance of the proposed work.

(3) Subregulation (2) does not apply if the building work is within the ambit of schedule 3 or Part 2 of schedule 4.

Applications by State agencies

68. Pursuant to section 49(2)(d) of the Act, the following particulars must be included in an application for approval lodged with the Development Assessment Commission:

- (a) a description of the nature of the proposed development; and
- (b) details of the location, siting, layout and appearance of the proposed development.

Notice to council

69. (1) Pursuant to section 49(2)(e) of the Act, a State agency must include the following particulars in a notice to a council under that section:

- (a) a description of the nature of the proposed development; and
- (b) details of the location, siting, layout and appearance of the proposed development.

(2) A notice under section 49(2)(e) of the Act must be given to the council within three business days after the relevant application is lodged with the Development Assessment Commission.

Criteria relevant to development at variance with the Building Rules

70. (1) For the purposes of section 49(14aa)(b) of the Act, the following are prescribed criteria when considering a variance with the Building Rules:

- (a) that the provisions of the Building Rules are inappropriate to the particular building or building work, or that the proposed building work fails to conform with the Building Rules only in minor respects; and
- (b) that the variance is justifiable having regard to the objects of the Development Plan or the performance requirements of the Building Code and would achieve the objects of this Act as effectively, or more effectively, than if the variance were not to be allowed.

(2) Despite subregulation (1), if in considering a matter under subsection (14) of section 49 of the Act an inconsistency exists between the Building Rules and a Development Plan in relation to a State heritage place or a local heritage place—

- (a) the Development Plan prevails and the Building Rules must not be applied to the extent of the inconsistency; but
- (b) the person acting under that subsection must ensure, so far as is reasonably practicable, that standards of building soundness, occupant safety and amenity are achieved that are as good as can reasonably be achieved in the circumstances.

Lapse of approval

71. (1) Subject to this regulation, an approval under section 49 of the Act (whether subject to conditions or not) will lapse at the expiration of—

- (a) subject to the operation of paragraph (b)—12 months from the date of the approval;
- (b) if the relevant development has been lawfully commenced by substantial work on the site of the development within 12 months from the date of the approval—three years from the date of the approval, unless the development has been substantially or fully completed within those three years (in which case the approval will not lapse).

(2) Subject to this regulation, an approval for a proposed division of land will lapse at the expiration of three years from the date of the approval.

(3) A period prescribed by subregulation (1) or (2) may be extended by the Minister—

- (a) when the relevant approval is given; or
- (b) at such later time as may be appropriate.

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**PART 12
REGULATION OF BUILDING WORK**

DIVISION 1—PRELIMINARY

Interpretation

72. In this Part—

"**council**" has the same meaning as in Part 6 of the Act.

Development Assessment Commission to act outside council areas

73. Pursuant to section 58 of the Act, the Development Assessment Commission is prescribed for the purposes of the definition of "**council**" under that section.

DIVISION 2—NOTIFICATIONS

Notifications during building work

74. (1) Except as otherwise determined by the council, a person proposing to undertake or undertaking building work on land (or who is in charge of such work) must give the council—

- (a) one business day's notice of the commencement of building work on the site; and
- (b) one business day's notice of the commencement of any stage of the building work specified by the council by notice in writing to the building owner on or before development approval is granted in respect of the work; and
- (c) one business day's notice of the intended completion of any stage of the building work specified by the council by notice in writing to the building owner on or before development approval is granted in respect of the work; and
- (d) one business day's notice of completion of the building work.

(2) If a licensed builder has not been engaged to undertake the building work, a notice under subregulation (1)(a) must include the name, address and telephone number of the person who is proposed to provide any written statement required under regulation 83(2)(a) or (b).

(3) A notice by a person under subregulation (1) may be given—

- (a) by leaving a written notice with a duly authorised officer of the council; or
- (b) by posting it to the council; or
- (c) by facsimile transmission to the council; or
- (d) by telephone.

(4) If notice is given under subregulation (3)(d), the council must make a note recording the receipt of the notice on the relevant file.

DIVISION 3—BUILDING WORK AFFECTING OTHER LAND

Building work affecting other land

75. (1) It must be assumed in designing, and assessing the design of, a building that it is possible that an excavation which intersects (but does not extend beyond) a notional plane extending downwards from the boundary at the site at a slope of 1 vertical to 2 horizontal from a point 600 millimetres below natural ground level at the boundary could be undertaken on an adjoining site.

(2) Pursuant to section 60 of the Act, work of the following nature is prescribed as building work which is to be treated for the purposes of that section as building work that affects the stability of other land or premises, namely:

- (a) an excavation which intersects a notional plane extending downwards at a slope of 1 vertical to 2 horizontal from a point 600 millimetres below natural ground level at a boundary with an adjoining site (as depicted by the example shown as figure 1 in schedule 15); or
- (b) an excavation which intersects any notional plane extending downwards at a slope of 1 vertical to 2 horizontal from a point at natural ground level at any boundary between two sites (not being a boundary with the site of the excavation), where the boundary is within a distance equal to twice the depth of the excavation (as depicted by the example shown as figure 2 in schedule 15); or
- (c) any fill which is within 600 millimetres of an adjoining site, other than where the fill is not greater than 200 millimetres in depth (or height) and is for landscaping, gardening or other similar purposes.

(3) For the purposes of section 60(1)(b) of the Act, the owner of the affected land or premises may require the building owner to shore up any excavation or to underpin, stabilise or otherwise strengthen the foundations of any building to the extent specified by a professional engineer engaged by the owner of the affected land or premises.

(4) The building owner must pay the reasonable costs of obtaining a report and plans and specifications from a professional engineer for the purposes of subregulation (3).

(5) In subregulations (3) and (4)—

"**professional engineer**" means a person who is—

- (a) a corporate member of the Institution of Engineers, Australia who has appropriate experience and competence in the field of civil or geotechnical engineering; or
- (b) a person who is registered on the National Professional Engineers Register administered by the Institution of Engineers, Australia and who has appropriate experience and competence in the field of civil or geotechnical engineering.

DIVISION 4—SAFETY, HEALTH AND AMENITY

Essential safety provisions

76. (1) This regulation applies in relation to a building in which essential safety provisions are installed or required to be installed or to be inspected, tested or maintained under the Building Code or any former regulations under the *Building Act 1971*.

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(1a) This regulation does not apply if the building is a Class 1a or 10 building under the Building Code.

(2) In this regulation, a reference to maintenance in respect of essential safety provisions includes a reference to replacing the safety provisions, and to keeping records relating to the carrying out of maintenance work on the safety provisions.

(3) A relevant authority or council must—

- (a) on granting a provisional building rules consent in relation to the construction of a building to which this regulation applies; or
- (ab) on the assignment of a change in the classification of a building to which this regulation applies in a case where there is no building work; or
- (b) on application by the owner of a building to which this regulation applies and payment of the appropriate fee set out in Schedule 6,

issue a schedule in the appropriate form under schedule 16 that specifies—

- (c) the essential safety provisions for the building; and
- (d) the standards or other requirements for maintenance and testing in respect of each of those essential safety provisions as set out in Minister's Specification SA 76.

(3a) The owner of a building in which essential safety provisions must be installed must, within a reasonable time after installation of those provisions, provide to the council a certificate of compliance for each essential safety provision, in the appropriate form under schedule 16, signed by the installer of the safety provision or, if the installer is a company, signed by the manager responsible for the installation work.

(4) The owner must not use or permit the use of a building to which this regulation applies unless maintenance and testing have been carried out in respect of each essential safety provision of the building in accordance with Minister's Specification SA 76 as in force at the time of the consent in respect of the building work in the course of which the essential safety provision was installed or, in the case of a building in which essential safety provisions were required under any former regulations under the *Building Act 1971*, in accordance with the requirements that applied to that building under those regulations.

(5) The owner of a building in relation to which a schedule of essential safety provisions has been issued must, as soon as practicable after the end of each calendar year, provide to the council adequate proof of the carrying out of maintenance and testing in respect of those safety provisions for that calendar year as required under subregulation (4).

(6) An owner complies with subregulation (5) if a certificate in the appropriate form under schedule 16 and signed by the owner or the manager of the building is lodged with the council certifying that maintenance and testing have been carried out in respect of the essential safety provisions of the building for the relevant calendar year as required under subregulation (4).

(7) Subregulation (5) does not apply if—

- (a) the building is a Class 1b building under the Building Code; or
- (b) the building is a Class 2 building under the Building Code that does not have a rise in storeys exceeding 3 and does not have a floor area exceeding 2 000 square metres; or

- (c) the building is a Class 3, 4, 5, 6, 7, 8 or 9b building under the Building Code that does not have a rise in storeys exceeding 2 and does not have a floor area exceeding 500 square metres,

and the building is not subject to a requirement under subregulation (8).¹

¹ See schedule 17 for a summary of these provisions in table form.

- (8) Despite subregulation (7), the council may require compliance with subregulation (5) if—
 - (a) the essential safety provisions were installed under a condition attached to a consent or approval that is expressed to apply by virtue of a variance with the performance requirements of the Building Code; or
 - (b) the building has been the subject of a notice under section 71 of the Act.

Fire safety requirements—Caravan parks and residential parks

76A. (1) This regulation applies—

- (a) in respect of new caravan parks and residential parks—to a caravan park or residential park that is the subject of a development authorisation after the commencement of this regulation (and then to the park, and to services or equipment, on an on-going basis); and
- (b) in respect of existing caravan parks and residential parks—to an alteration to the layout of the park, or to an alteration to fire safety services or equipment, after the commencement of this regulation (and then to the park (insofar as it is altered), and to the services or equipment, on an on-going basis).

(2) The owner of a caravan park or residential park to or in respect of which this regulation applies must ensure compliance with Minister's Specification SA 76A, as in force from time to time.

(3) In this regulation, **caravan park** and **residential park** have the same meanings as in Minister's Specification SA 76A.

Fire safety requirements—Smoke alarms in dwellings

76B. (1) This regulation applies to Class 1 and 2 buildings under the Building Code (whenever constructed).

(2) Subject to any other requirement in the Building Code, one or more self-contained smoke alarms complying with Australian Standard 3786-1993 (as in force from time to time) must be installed in each dwelling that is, or forms part of, a building to which this regulation applies in locations that will provide reasonable warning to occupants of bedrooms in that dwelling so that they may safely evacuate in the event of fire.

(3) Subject to subregulation (4), subregulation (2) must be complied with by 1 January 2000.

(4) If title of land on which a building to which this regulation applies is situated is transferred after the commencement of this regulation (whether before or after 1 January 2000), then, within six months from the day on which title is transferred, each dwelling that is, or forms part of, the building must have a smoke alarm or smoke alarms in accordance with the requirements of subregulation (2) that are powered through a mains source of electricity (unless the building is not connected to a mains source of electricity).

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(5) If a smoke alarm or smoke alarms are not installed in a building to which this regulation applies in accordance with the requirements of this regulation, the owner of the building is guilty of an offence.

Maximum penalty: \$750.

Health and amenity

77. (1) In this regulation—

"**public sewer**" means the undertaking within the meaning of the *Sewerage Act 1929*.

(2) The owner of a building must ensure that all sewage and sullage discharged from the building is treated and disposed of in such a manner that the sewage or sullage does not endanger the health of any person or affect the foundation of any building on the site, or on any adjacent site.

(3) A person will be taken to have complied with subregulation (2) if—

- (a) the building is connected to the public sewer; or
- (b) sewage or sullage discharged from the building is collected, treated and disposed of by means of a waste control system which complies with the requirements of the *Public and Environmental Health Act 1987* and which is installed in a manner approved by the council.

DIVISION 5—GENERAL**Building Code: bushfire prone areas**

78. For the purposes of Part G5 of the Building Code, a building is in a bushfire prone area if—

- (a) it is in an area referred to in schedule 18; or
- (b) it is in an area identified as a bushfire prone area by the relevant Development Plan.

Construction Industry Training Fund

79. (1) In this regulation—

"**government authority**" has the same meaning as in the *Construction Industry Training Fund Act 1993*.

(2) A relevant authority must not issue a provisional building rules consent unless it is satisfied—

- (a) that the appropriate levy has been paid under the *Construction Industry Training Fund Act 1993*; or
- (b) that no such levy is payable.

(3) Subregulation (2) does not apply if—

- (a) the building work is to be carried out for or on behalf of a government authority by a person or body other than—
 - (i) an officer or employee of a government authority; or

- (ii) another government authority; and
- (b) at the time that provisional building rules consent is sought the government authority has not engaged the person or body to carry out that work.

(4) If after assessing a proposed development against the building rules the relevant authority is yet to be satisfied that the appropriate levy has been paid under the *Construction Industry Training Fund Act 1993* or is not payable, the relevant authority may notify the applicant that it cannot issue a provisional building rules consent until it is satisfied that the levy has been paid or is not payable.

(5) If a notification is given under subregulation (4)—

- (a) any period between the date of the notification and the date on which satisfactory evidence is provided to the relevant authority pursuant to the notification is not to be included in the time within which the relevant authority is required to decide the application; and
- (b) if such evidence is not provided to the relevant authority within four weeks after the date of the notification, the relevant authority may, if it thinks fit, determine that the application has lapsed.

Provision of access for people with disabilities—alterations of a prescribed kind

80. For the purposes of section 53A(2) of the Act the following alterations to a building erected or constructed before 1 January 1980 are alterations of a prescribed kind:

- (a) any alteration of a structural nature to a principal or other entrance to the building; or
- (b) the construction of, or any building work incidental to the construction of, or any alteration of a structural nature to, a public foyer, entrance hall, lift lobby or toilet; or
- (c) where the floor is not more than 190 millimetres above or below the adjacent finished ground level at the point of entrance to the building—the installation of a replacement shopfront.

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**PART 13
CLASSIFICATION AND OCCUPATION OF BUILDINGS**

Preliminary

81. In this Part—

"**council**" has the same meaning as in Part 6 of the Act.

Classification of buildings

82. (1) The owner of a building to which a classification has not been assigned may apply to the council for assignment of a classification to the building in accordance with the Building Code.

(2) An owner of a building may apply for a change in classification of that building (but an application may be subject to the need to obtain an appropriate consent or approval in respect of any associated development).

(3) An application under subregulation (1) or (2) must—

(a) specify the existing classification (if any), and the classification which is being sought; and

(b) be accompanied by—

(i) such details, particulars, plans, drawings, specifications, certificates and other documents as the council may reasonably require to determine the building's classification; and

(ii) the appropriate fee calculated in accordance with schedule 6.

(4) A council must assign the appropriate classification under the Building Code to a building if it is satisfied, on the basis of the owner's application, and accompanying documentation, that the building, in respect of the classification applied for, possesses the attributes appropriate to its present or intended use.

Certificates of occupancy

83. (1) Pursuant to section 67(1)(a) of the Act, a certificate of occupancy is not required in respect of a Class 1a or 10 building under the Building Code.

(2) Pursuant to section 67(3)(b) of the Act, an application for a certificate of occupancy must be accompanied by such of the following statements, certificates, reports or documentation as the council may reasonably require:

(a) a written statement—

(i) from any licensed builder who, under an agreement or arrangement with an owner of the land, was responsible for undertaking any part of the building work;

(ii) if there is no such licensed builder—from a person who holds the appropriate qualifications prescribed by Part 15,

that the building work has been carried out in accordance with any relevant approval (disregarding any variation of a minor nature which has no adverse effect on the structural soundness or safety of the building, or on the health of the occupants of the building, or any variation undertaken with the written consent of the relevant authority (including a private certifier));

(b) a written statement—

- (i) from any licensed builder who, under an agreement or arrangement with an owner of the land, was responsible for undertaking any part of the building work;
- (ii) if there is no such licensed builder—from a person who holds the appropriate qualifications prescribed by Part 15,

that the connections required to any—

- (iii) public electricity source; or
- (iv) public water supply; or
- (v) public sewer; or
- (vi) septic tank effluent drainage system; or
- (vii) public telecommunications system; or
- (viii) other service or facility provided by a public authority or utility,

have been made in accordance with the requirements of the relevant authority or utility;

(c) unless already provided, any certificate of compliance required under regulation 76(3a);

* * * * *

(e) where the relevant authority has approved the development subject to conditions, such evidence as the council may reasonably require to show that the conditions have been satisfied;

(f) if the application relates to the construction or alteration of part of a building and further building work is envisaged in respect of the remainder of the building, such evidence as the council may reasonably require to show—

- (i) in the case of a building more than one storey—that the requirements of Minister's Specification SA 83 have been complied with; or
- (ii) in any other case—that the building is safe for occupation.

(3) Where the council is the relevant authority for the purposes of the assessment of an application for development authorisation against the Building Rules, the council must, on or before the granting of a provisional building rules consent, specify which of the statements, certificates, reports or documents referred to in subregulation (2) may be required by the council before it will grant a certificate of occupancy.

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(3a) If two or more licensed builders are responsible under one or more agreements or arrangements with an owner of the land for the performance of building work, the council may require, for the purposes of subregulation (2)(a), that the application for a certificate of occupancy be accompanied by a statement from each licensed builder.

(4) Where—

(a) a building is—

- (i) to be equipped with a booster assembly for use by a fire authority; or
- (ii) to have installed a fire alarm that transmits a signal to a fire station or to a monitoring service approved by the relevant authority; and

(b) facilities for fire detection, fire fighting or the control of smoke must be installed in the building pursuant to an approval under the Act,

the council must not grant a certificate of occupancy unless or until it has sought a report from the fire authority as to whether those facilities have been installed and operate satisfactorily.

(5) If a report is not received from the fire authority within 15 business days, the council may presume that the fire authority does not desire to make a report.

(6) The council must have regard to any report received from a fire authority under subregulation (4) before it issues a certificate of occupancy.

* * * * *

(8) Pursuant to section 67(8) of the Act, an application for the issue of a certificate of occupancy should be decided—

- (a) unless paragraph (b) applies, within five business days from the day on which all documentation required by the council under subregulation (2) is received by the council;
- (b) if the council must seek a report from a fire authority under subregulation (4)—within 20 business days from the day on which all documentation required by the council under subregulation (2) is received by the council.

(9) A certificate of occupancy will be in the form set out in schedule 19.

(10) Pursuant to section 67(13) of the Act, a council may revoke a certificate of occupancy if the owner of a building in relation to which a schedule of essential safety provisions has been issued under regulation 76 fails to comply with the requirements of regulation 76(5).

(11) If a new certificate of occupancy is issued for a building (or part of a building) for which a certificate of occupancy has previously been issued, the council must revoke the previous certificate (to the extent that the new certificate supersedes the previous certificate).

(12) Subject to subregulation (13), a reference in this regulation to a council will be taken to include a reference to a private certifier acting pursuant to section 68A of the Act.

(13) Subregulations (10) and (11) only apply to councils.

Occupation of Class 1a buildings

83A. A person must not occupy a Class 1a building under the Building Code (or an addition to a Class 1a building) that has not been fully completed in accordance with a development authorisation insofar as it relates to the performance of building work unless—

- (a) the building is structurally sound and weatherproof; and
- (b) the building work that has been carried out on the building is in accordance with the relevant approval (disregarding any variation of a minor nature which has no adverse effect on the safety of the building, or on the health of the occupants of the building, or any variation undertaken with the written consent of the council); and
- (c) the building includes all items specified in clause F2.1 of the Building Code for class 1a buildings under that Code; and
- (d) all connections required for the supply of water, and the disposal of water and effluent, have been made (although if the approved documentation provides for two or more of the same item, it is sufficient for the purposes of this paragraph that one item is connected); and
- (e) if the building is in a bushfire prone area under regulation 78, the building complies with Part G5 of the Building Code; and
- (f) all smoke alarms required under Part E1 of the Building Code have been installed and tested.

Penalty: Division 6 fine.

Statement—Class 1a buildings

83AB. (1) In this regulation—

"**notice of completion**" means a notice of completion under regulation 74(1)(d);

"**relevant authority**" means—

- (a) if a private certifier was the relevant authority for the purposes of the assessment of building work against the provisions of the Building Rules—that private certifier;
- (b) in any other case—the council;

"**relevant person**" in relation to the provision of a statement under this regulation means—

- (a) a licensed builder who has been responsible for undertaking the building work to which the statement relates; or
- (b) if there is no such licensed builder—the owner of the land on which the building work to which the statement relates has been undertaken.

(2) This regulation applies to a Class 1a building¹ under the Building Code constructed² after the commencement of this regulation (and, for the purposes of this regulation, a building on which building work was started before the commencement of this regulation will not be taken to be a building constructed after the commencement of this regulation).

¹ This includes a portion of a building—see definition of "**building**" under the Act.

² See definition of "**construct**" under the Act.

(3) When—

- (a) a person occupies a building to which this regulation applies before a notice of completion of building work is given (or in a case where no notice of completion is required); or
- (b) a notice of completion of building work is given (in a case where paragraph (a) does not apply),

the relevant person must provide a written statement to the relevant authority in accordance with the requirements of this regulation.

Penalty: Division 6 fine.

(4) The following requirements are prescribed for a statement for the purposes of this regulation:

- (a) the statement must be provided to the relevant authority within 10 business days after the occurrence of the event under subregulation (3);
- (b) the statement must declare that the building work carried out on the building is in accordance with any relevant approval (disregarding any variation of a minor nature which has no adverse effect on the structural soundness or safety of the building, or on the health of the occupants of the building, or any variation undertaken with the written consent of the relevant authority);
- (c) the statement must be signed by the relevant person.

(5) If the statement is lodged with a private certifier, the private certifier must forward the statement (or a copy) to the council within five business days after its receipt by the private certifier.

Swimming pools

83B. A person must not, in relation to a swimming pool completed after the commencement of this regulation, fill the pool with water unless the pool is enclosed by a barrier that complies with Performance Requirement GP1.2 of the Building Code.

Penalty: Division 6 fine.

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**PART 14
MINING PRODUCTION TENEMENTS**

Mining production tenements

84. (1) Pursuant to section 75(2) of the Act, the appropriate Authority must refer an application for a mining production tenement to the Minister for advice where the land to be comprised in the tenement is situated in—

- (a) those parts of the State described in schedule 20, other than in a regional reserve under the *National Parks and Wildlife Act 1972*; or
- (b) an area of a council not described in schedule 20 and the council, after consultation with the appropriate Authority, objects to the granting of the tenement within a period of six weeks from the date on which the council receives notice of the application.

(2) Pursuant to section 76(4) of the Act, the Building Rules apply to building work in the area of a council if the building is intended to provide—

- (a) housing or other forms of shelter; or
- (b) office accommodation; or
- (c) work areas or other amenities which are not directly involved in the performance of operations carried on in pursuance of any of the *Mining Acts*.

(3) Where the Building Rules apply to building work under subregulation (2), the building work must not be undertaken unless it has been granted a provisional building rules consent by the council.

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**PART 15
ADVICE AND CERTIFICATION**

DIVISION 1—PRESCRIBED QUALIFICATIONS

Interpretation

85. In this Division—

"independent technical expert" means a person who, in relation to building work—

- (a) is not the building owner or an employee of the building owner; and
- (b) has not—
 - (i) been involved in any aspect of the relevant development (other than through the provision of preliminary advice of a routine or general nature); or
 - (ii) had a direct or indirect pecuniary interest in any aspect of the relevant development or any body associated with any aspect of the relevant development; and
- (c) has engineering or other qualifications that the relevant authority is satisfied, on the basis of advice received from a relevant professional association or a relevant registration or accreditation authority, qualify the person to act as a technical expert under these regulations.

Qualifications in planning

86. (1) The qualifications specified in subregulation (5) are prescribed for the purposes of sections 25(3) and 26(1) of the Act.

(2) Subregulation (1) is subject to the qualification that a person is disqualified from providing advice under section 25(3) of the Act if the person has an interest (other than an interest that exists in common with a substantial class of persons) in a development which is proposed to proceed in the event that the relevant amendment to the Development Plan is approved under the Act by virtue of—

- (a) having been involved for remuneration in any aspect of the planning or design of the proposed development; or
- (b) having a direct or indirect interest in any aspect of the proposed development or any body associated with any aspect of the proposed development.

(3) Pursuant to section 101(2) of the Act, a relevant authority must not grant a provisional development plan consent in respect of a *non-complying* development under the relevant Development Plan unless and until it has sought and considered a report from a person with the qualifications specified in subregulation (5) which includes—

- (a) a report on his or her assessment of the proposed development; and
- (b) a commentary on the statement of effect; and
- (c) a report on the extent to which any representations received under section 38 of the Act (if any) are consistent with the objectives of the Development Plan.

(4) Subregulation (3) does not apply if the proposed development consists (wholly or substantially) of—

- (a) the alteration of a building; or
- (b) the construction of a new building which is to be used in a manner which is ancillary to, or in association with, the use of an existing building and which would facilitate the better enjoyment of the existing use of the existing building; or
- (c) the division of land where the number of allotments to result from the division is equal to or less than the number of existing allotments,

and the relevant authority considers that the proposed development is of a minor nature only.

(5) The following qualifications are specified:

- (a) corporate membership of the Royal Australian Planning Institute Incorporated; or
- (b) such qualifications or experience in urban and regional planning, environmental management or a related discipline as are in the opinion of the Minister appropriate.

Qualifications in building

87. (1) Pursuant to section 101(2) of the Act, a relevant authority must seek and consider the advice of a person with prescribed qualifications when—

- (a) assessing a development against the provisions of the Building Rules for the purposes of section 33(1)(b) of the Act; or

* * * * *

- (c) considering an application for a certificate of occupancy under section 67 of the Act; or
- (d) granting approval to occupy a building on a temporary basis under section 68 of the Act,

(except that this subregulation does not apply in relation to a relevant authority if the relevant authority is acting through, or on the advice or with the assistance of, an officer who holds the prescribed qualifications).

(2) For the purposes of subregulation (1), the prescribed qualifications are—

- (a) current accreditation as a Building Surveyor issued by the Building Surveyors and Allied Professions Accreditation Board; or

* * * * *

- (c) if—

- (i) the building does not have a rise in storeys exceeding 3 and does not have a floor area exceeding 2 000 square metres; and
- (ii) the calculations have been certified by an independent technical expert,

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for the purposes of subregulation (1)(a), (c) or (d)—current accreditation as an Assistant Building Surveyor issued by the Building Surveyors and Allied Professions Accreditation Board; or

(d) if—

(i) the building does not have a rise in storeys exceeding 1 and does not have a floor area exceeding 500 square metres; and

(ii) the calculations have been certified by an independent technical expert,

for the purposes of subregulation (1)(a), (c) or (d)—

(iii) current accreditation as a Building Surveying Technician issued by the Building Surveyors and Allied Professions Accreditation Board; or

* * * * *

(da) if—

(i) the building is a Class 1a or 10 building under the Building Code that does not have a rise in storeys exceeding 2; and

(ii) the calculations have been certified by an independent technical expert,

for the purposes of subregulation (1)(a)—

(iii) current accreditation as a Building Surveying Technician issued by the Building Surveyors and Allied Professions Accreditation Board; or

* * * * *

(e) an approval from the Minister under section 101(2) of the Act.

(3) The following qualifications are prescribed for the purposes of sections 69(1) and 71(2) of the Act:

(a) current accreditation as a Building Surveyor issued by the Building Surveyors and Allied Professions Accreditation Board; or

* * * * *

(c) current accreditation as an Assistant Building Surveyor issued by the Building Surveyors and Allied Professions Accreditation Board; or

(d) an approval from the Minister.

(4) The following qualifications are prescribed for the purposes of sections 19(1)(a)(ii), 59(3) and 71(1) of the Act:

(a) the qualifications set out in subregulation (3); or

(b) current accreditation as a Building Surveying Technician issued by the Building Surveyors and Allied Professions Accreditation Board.

* * * * *

(5) The following qualifications are prescribed for the purposes of regulation 83:

- (a) the qualifications set out in subregulations (3) and (4); or
- (b) registration as an architect under the *Architects Act 1939*.

Certificate of independent technical expert in respect of certain matters

88. (1) This regulation applies to the assessment of a proposed development against the Building Rules in respect of—

- (a) materials and forms of construction to which Part B1 of the Building Code applies; or
- (b) the matters referred to in Part E of the Building Code.

* * * * *

(2) For the purposes of section 36(4)(a) of the Act, a relevant authority must, in a circumstance where this regulation applies, accept that building work complies with the Building Rules to the extent that such compliance is certified by the provision of technical details, particulars, plans, drawings or specifications prepared and certified by an independent technical expert who—

- (a) certifies that the materials, forms of construction and systems to which the details, particulars, plans, drawings or specifications relate will, if installed or carried out in accordance with the details, particulars, plans, drawings or specifications, comply with the requirements of the Building Code; and
- (b) sets out in detail the basis on which the certificate is given and the extent to which the person giving the certificate has relied on relevant tests, specifications, rules, standards, codes of practice or other publications.

(3) Pursuant to section 101(1) of the Act, a relevant authority, authorised officer or private certifier may rely on the certificate of an independent technical expert in a circumstance where this regulation applies.

DIVISION 2—PRIVATE CERTIFICATION

Private certification—authorised functions

89. (1) Pursuant to section 89(2) of the Act, a private certifier is authorised to exercise the following functions:

- (a) the assessment of a development against the Building Rules and, if appropriate, the assignment of a classification under the Building Code, and the granting of a provisional building rules consent (but not an approval) under sections 33(1)(b) or 34(2)(d) of the Act, other than where section 36(3) of the Act applies; or
- (ab) the powers and duties of a relevant authority under section 36(2) of the Act; or
- (b) where section 36(3) of the Act applies—the provision of advice to the relevant authority; or

* * * * *

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- (ca) insofar as an application or an authorisation relates to an assessment against the Building Rules, the powers and duties of a relevant authority under section 37 of the Act; or
- (d) insofar as an application or an authorisation relates to an assessment against the Building Rules, the ability to make a request under section 39(2) of the Act, or to grant a permission under section 39(4)(a) or (b), or to grant a variation under section 39(6); or
- (da) the provision of a notice of decision to an applicant under section 40 of the Act; or
- (e) the imposition of conditions under section 42 of the Act if the private certifier grants a provisional building rules consent; or
- (ea) the powers of a relevant authority under section 53A of the Act; or
- (f) if the private certifier grants a provisional building rules consent—
 - (i) the issue of a schedule of essential safety provisions under Division 4 of Part 12 of these regulations; or
 - (ii) the assignment of a classification to the building under these regulations; or

* * * * *

- (g) the ability to act under any other provision of the Act or these regulations which specifically provides for the exercise of a function by a private certifier.
- (2) Subregulation (1) is subject to the following qualifications:
- (a) a private certifier must not grant a provisional building rules consent in respect of a development which requires provisional development plan consent before that provisional development plan consent is granted; and
 - (b) a private certifier must, in deciding whether to grant a provisional building rules consent, take into account the provisional development plan consent and any condition or notes that apply in relation to the provisional development plan consent (if such consent is required).

(3) If a private certifier grants a provisional building rules consent, the private certifier must, when providing the applicant with written notice of the decision, include in the notice a statement advising the applicant that building work cannot commence unless or until the development is approved under the Act.

Engagement of private certifier

90. (1) A private certifier must be engaged by or under an agreement in writing.

(2) If a person who is not the owner of land where a development is proposed proposes to engage a private certifier to assess building work against the provisions of the Building Rules, the person must, before engaging the private certifier, notify the owner of the land of his or her intention to engage a private certifier.

Qualifications

91. For the purposes of section 91(1)(a) or (b), the prescribed qualifications and experience are—

- (a) —
 - (i) current accreditation as a Building Surveyor issued by the Building Surveyors and Allied Professions Accreditation Board; and
 - (ii) at least eight years experience in the practice of architecture, civil engineering in respect of buildings or building surveying after obtaining—
 - (A) a graduate qualification in architecture; or
 - (B) a graduate qualification in civil engineering; or
 - (C) accreditation as a Building Surveyor issued by the Building Surveyors and Allied Professions Accreditation Board or a Certificate of Registration as a Building Surveyor issued by the Local Government Qualifications Committee; or
- (b) qualifications and experience approved by the Minister for the purposes of this regulation after consultation with the registration authority under regulation 93A.

Provision of information

92. (1) Pursuant to section 93(b) of the Act, a decision to grant a provisional building rules consent is a decision of a prescribed kind.

(2) Pursuant to section 93(b)(iii) of the Act, the following information or documentation must be provided to the relevant authority:

- (a) two copies of the plans, drawings, specifications and other documents and information lodged by the applicant, stamped or otherwise endorsed with the private certifier's consent; and
- (ab) if the private certifier determines under section 36(2) of the Act that it is appropriate to grant provisional building rules consent in relation to a development that is at variance with the Building Rules, written notification specifying—
 - (i) the variance; and
 - (ii) the grounds on which the determination is made; and
- (ac) if relevant, evidence of any concurrence from the Building Rules Assessment Commission; and
- (b) if relevant, a schedule of essential safety provisions in the appropriate form under schedule 16 which sets out the matters to be specified under Division 4 of Part 12 of these regulations; and
- (c) a certificate that the provisional building rules consent is consistent with the provisional development plan consent and any condition or notes that apply in relation to the provisional development plan consent (if such consent is required).

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- (3) If a private certifier assigns a classification to a building, the private certifier must—
- (a) if the assignment is made in conjunction with the assessment of a development against the Building Rules and the granting of a provisional building rules consent—at the time that the private certifier notifies the council of his or her decision to grant the provisional building rules consent;
 - (b) in any other case—within five business days after making the assignment,

provide to the council written notification of the classification assigned by the private certifier, including information on the address or location of the building and, if relevant, the maximum number of persons who may occupy the building.

(4) If a private certifier issues a certificate of occupancy for a building, the private certifier must, within five business days after issuing the certificate, provide to the council a copy of the certificate of occupancy together with any statements, certificates, reports or documentation required under regulation 83(2).

Insurance

93. Pursuant to section 100 of the Act, a private certifier must hold a policy for professional indemnity insurance that is reasonable and adequate taking into account the amount and nature of the work undertaken by the private certifier, subject to the qualification that the insurance must at least satisfy the requirements prescribed by schedule 23.

Register of private certifiers

93A. (1) A person must not act as a private certifier unless he or she is registered under this regulation.

Penalty: Division 6 fine.

- (2) An application for registration—
- (a) must be made to the registration authority in a manner and form determined by the Minister; and
 - (b) must be accompanied by a \$54 fee.
- (3) A person is entitled to be registered if the person—
- (a) satisfies the requirements of section 91(1) of the Act (and the relevant regulations); and
 - (b) is not disqualified under section 91(2) of the Act or regulation 99B; and
 - (c) holds the professional indemnity insurance required by these regulations.
- (4) Registration remains in force until—
- (a) the registration is surrendered or cancelled (either under this regulation or pursuant to a determination under regulation 99B); or
 - (b) the relevant person dies or, in the case of a company, is dissolved.
- (4a) Registration may also be suspended pursuant to a determination under regulation 99B.

- (5) A registered person must, on or before each anniversary of his or her registration—
- (a) pay an annual registration fee of \$32 in a manner determined by the Minister; and
 - (b) lodge with the registration authority a return in a form determined by the Minister.
- (6) The registration authority may cancel a registration if—
- (a) events have occurred such that the registered person would not be entitled to registration if he or she were to apply for registration; or
 - (b) the registered person, in acting as a private certifier, contravenes or fails to comply with a provision of the Act or these regulations; or
 - (c) the registered person fails to pay the annual registration fee required under subregulation (5); or
 - (d) the registration authority considers that the registered person obtained the registration improperly or on the basis of false or misleading information.
- (7) However—
- (a) before taking action under subregulation (6)(b) or (d), the registration authority must give the person a notice in writing—
 - (i) stating the proposed course of action; and
 - (ii) stating the reasons for the proposed course of action; and
 - (iii) inviting the person to show, within a specified time (of at least 10 business days), why the proposed action should not be taken,(and the registration authority may then cancel the registration if, after considering representations made under this paragraph, it still considers that action should be taken); and
 - (b) before taking action under subregulation (6)(c), the registration authority must give the person a notice in writing—
 - (i) stating that the fee has not been paid; and
 - (ii) warning the person that the registration will be cancelled if the person does not pay the fee within 10 business days,(and the registration authority may then cancel the registration if the fee remains unpaid after the 10 business days).
- (8) Despite a preceding subregulation, a registration is automatically cancelled if the Minister disqualifies the person from acting as a private certifier under section 91(2)(b) of the Act.
- (9) An insurer under a professional indemnity insurance policy taken out by a private certifier under these regulations must give the registration authority at least 10 business days written notice of an intention to cancel the policy.
- (10) A person may surrender his or her registration.

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(11) In this regulation—

"**registration authority**" means the Minister.

Person must avoid conflict of interest as a private certifier

93B. (1) A person must not—

- (a) act for a council in relation to a development if the person has acted as a private certifier in relation to the same development; or
- (b) act as a private certifier in relation to a development in the area of a council if—
 - (i) the person has acted for the council in relation to the same development; or
 - (ii) the person has an agreement with the council to provide professional advice to the council on an ongoing basis for the purposes of section 101(2) of the Act.

Penalty: Division 6 fine.

(2) For the purposes of subregulation (1), a person acts for a council if the person—

- (a) provides professional advice to the council for fee or reward; or
- (b) represents the council for fee or reward.

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**PART 16
MISCELLANEOUS**

Service of notices

94. (1) Subject to subregulation (2), and without derogating from any other regulation relating to the service of a notice, a notice or document which is required to be given or served on a person under the Act or these regulations may be so given or served as follows:

- (a) by personal service on the person or an agent of the person; or
- (b) by leaving it for the person at his or her usual or last known place of residence or business, or at any address for the service of notices or documents—
 - (i) with a person apparently over the age of 16 years; or
 - (ii) by placing it in a letter box, or in a conspicuous place; or
- (c) by posting it in an envelope addressed to the person at his or her usual or last known place of residence or business, or at any address for the service of notices or documents; or
- (d) in the case of a person who is the owner or occupier of a unit within a strata scheme under the *Strata Titles Act 1988*—by posting it to the person care of the strata corporation at the postal address of the strata corporation; or
- (da) in the case of a person who is the owner or occupier of a community lot within a community scheme under the *Community Titles Act 1996*—by posting it to the person care of the community corporation at the postal address of the community corporation; or
- (e) in the case of an incorporated body—by leaving it at its registered or principal office, or at any address for the service of notices or documents, with a person apparently over the age of 16 years, or by posting it in an envelope addressed to the body at its registered or principal office, or at any address for the service of notices or documents; or
- (f) by facsimile transmission to a facsimile number known to be used by the person (in which case the notice or document will be taken to have been given or served at the time of transmission).

(2) For the purposes of subregulation (1)—

- (a) the person or authority which must give or serve a notice or document may assume that the address of an owner or occupier of land entered in the assessment book of the council for the area in which the land is situated, or shown in the certificate of title register book for the land, is the owner's or occupier's address for the service of notices or documents; and
- (b) if a notice or document must be given to or served on two or more persons who appear to have the same place of residence or business, or who have the same address for the service of notices or documents, it will be taken that the notice or document has been provided to, or served on, each of them if one notice or document, addressed to all of them, is given or served in accordance with this regulation; and

- (c) if a notice or document must be given to or served on two or more persons who are the owners or occupiers of units within the same strata scheme under the *Strata Titles Act 1988*, it will be taken that the notice or document has been provided to, or served on, each of them if one notice or document, addressed to all of them as the owners or occupiers of the relevant units, is posted to the postal address of the strata corporation; and
- (d) if a notice or document must be given to or served on two or more persons who are the owners or occupiers of community lots within the same community scheme under the *Community Titles Act 1996*, it will be taken that the notice or document has been provided to, or served on, each of them if one notice or document, addressed to all of them as the owners or occupiers of the relevant lots, is posted to the postal address of the community corporation.

Fees

95. (1) The fees set out in schedule 6 are payable as specified in that schedule.
- (2) An authority (including the Minister) with which an application is duly lodged under these regulations—
- (a) may require the applicant to provide such information as the authority may reasonably require to calculate any fee payable under these regulations; and
 - (b) may make any other determination for the purposes of these regulations (even if it is not the relevant authority).
- (3) If an authority acting under subregulation (2), or a relevant authority in any event, believes that any information provided by an applicant is incomplete or inaccurate, the authority (or relevant authority) may calculate any fee on the basis of estimates made by it.
- (4) A relevant authority may, at any time, and notwithstanding any earlier acceptance of an amount in respect of the fee, reassess a fee payable under these regulations.
- (5) On a reassessment under subregulation (4)—
- (a) if it appears that an overpayment has occurred, a refund is due in accordance with the reassessment; and
 - (b) if it appears that an underpayment has occurred, a further amount becomes payable in accordance with the reassessment.
- (6) If a fee is not paid in accordance with the Act or these regulations, any period between the date of a request for payment of the fee by an authority entitled to receive payment of the fee under the Act or these regulations and the date of the actual payment of the fee will not be taken into account for the purposes of any time limit or period prescribed by these regulations.
- (7) For the purposes of a regulation that provides that a fee is fixed or determined by a relevant authority or council, relevant authorities and councils are prescribed as a class pursuant to item 31 of the schedule to the Act.
- (8) Notwithstanding any other regulation, schedule 7 has effect in relation to the distribution of fees between various authorities and bodies under the Act and these regulations.

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Prescribed rate of interest

96. (1) For the purposes of sections 55(6)(a), 56(4)(a), 69(6)(a), 71(9)(a), 84(8) and 85(13)(a) of the Act, the rate of interest is the prescribed bank rate for the financial year in which the liability to pay the interest first arises.

(2) In subregulation (1)—

"**prescribed bank rate**", for a particular financial year, means the published indicator rate for prime corporate lending of the Commonwealth Bank of Australia at the commencement of the financial year.

Limitation on time when action may be taken

97. Pursuant to section 7(3)(b) of the Act, section 73 of the Act does not apply to any defective building work—

- (a) carried out before the commencement of the Act; or
- (b) carried out after the commencement of the Act pursuant to an approval granted under another Act before the commencement of the Act; or
- (c) carried out after the commencement of the Act pursuant to an approval granted under the *Building Act 1971* after the commencement of the Act by virtue of section 24 of the *Statutes Repeal and Amendment (Development) Act 1993*.

Register of applications

98. (1) A relevant authority (other than a private certifier exercising the powers of a relevant authority under the Act) must keep available for public inspection without fee during its normal office hours a register of applications for consent, approval, or the assignment of building classifications under the Act.

(2) The following matters must be recorded in a register under subregulation (1) in respect of each application:

- (a) the name and address of the applicant (or of each applicant);
- (b) the date of the application;
- (c) the date on which the application was received by the relevant authority;
- (d) a description of the land which is the subject of the application;
- (e) a brief summary of the matters, acts or things in respect of which any consent or approval is sought;
- (f) details of any referral or concurrence on the application;
- (g) whether any decision is made on the application by a council, the Development Assessment Commission or the Governor;
- (h) any decision on the application (including the date of the decision and any conditions that are imposed);
- (i) in the case of an application for a provisional building rules consent—the fee or fees payable in relation to the application (separately listed and including a specific record of the fee payable to the Minister under item 2(c) of schedule 7);

(j) the date of the commencement of any building work, and the date of the completion of any building work, given under regulation 74(1);

(k) if any decision on the application is the subject of an appeal, the result of the appeal.

(3) A private certifier must keep a register that records, in respect of each application made to the private certifier under the Act—

(a) the name and address of the applicant (or of each applicant);

(b) the date of the application;

(c) a description of the land which is the subject of the application;

(d) a brief summary of the matters, acts or things in respect of which any consent or decision is sought;

(e) details of any referral or concurrence on the application;

(f) any decision on the application (including the date of the decision and any conditions that are imposed);

(g) in the case of an application for a provisional building rules consent—the fee payable under item 5(1) of schedule 6;

(h) if any decision on the application is the subject of an appeal, the result of the appeal.

(4) A private certifier must keep a record required under subregulation (3) for not less than three years after the date on which the relevant application is determined by the private certifier.

Documents to be preserved by a council

99. (1) A council must retain a copy of each of the following documents in relation to any building work approved under the Act in its area (whether approved by the council or otherwise):

(a) all technical details, particulars, plans, drawings, specifications and other documents or information relating to building work;

(b) all certificates, opinions and other documents submitted to the council in connection with an application for approval of building work;

(c) the duplicate of any certificate of occupancy issued by, or provided to, the council;

(d) a copy of any schedule of essential safety provisions issued by, or provided to, the council;

(e) a copy of any certificate submitted to the council under regulation 76 during the preceding six years;

(f) a copy of any other plan submitted to the council under these regulations.

(2) The council must preserve any document referred to in subregulation (1) until the building to which the document relates is demolished or removed.

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(3) Notwithstanding subregulations (1) and (2), the council may in the case of a Class 1 or 10 building under the Building Code, offer to give the plans and specifications in its possession, to the building owner ten years after the date of the approval (on such terms as the council thinks reasonable) and, if the owner declines the offer, the council may destroy the documents.

(4) A person may, subject to subregulation (5), with the consent of the council or the owner of the building to which the document relates, and on payment of a reasonable fee fixed by the council, inspect at the offices of the council during its normal office hours any document retained by the council under subregulation (1).

(5) A council is not required to make available any plans, drawings, specifications or other documents or information if to do so would, in the opinion of the council, unreasonably jeopardise the present or future security of a building.

(6) Despite subregulations (4) and (5), a council must, at any reasonable time and without the imposition of a fee, allow a person authorised by the Minister for the purposes of this subregulation to inspect, copy or take extracts from any document retained by the council under subregulation (1).

Documents to be provided by a private certifier

99A. A private certifier must ensure that he or she is able to produce to an authorised officer within a reasonable period (on request) a copy of any of the following documents:

- (a) any agreement to engage the private certifier under section 90 of the Act;
- (b) any notification of engagement given by the private certifier under section 93(a) of the Act;
- (c) any technical details, particulars, plans, drawings, specifications or other documents or information considered by the private certifier on an application for a provisional building rules consent;
- (d) any certificates, opinions or other documents submitted to the private certifier in connection with an application for a provisional building rules consent;
- (e) any notification of a decision given by the private certifier under section 93(b)(i) of the Act;
- (f) any statement required under regulation 89(3);
- (g) any document that the private certifier is required to provide to a relevant authority under regulation 92(2), (3) or (4) (to the extent that a preceding paragraph does not apply).

Complaints relating to building work assessment

99B. (1) In this regulation—

"**code of practice**" means a code of practice established by the Minister pursuant to section 97(3) of the Act.

(2) A person may make a complaint to the Minister about a private certifier or council if the person believes—

- (a) that the private certifier or council has failed to comply with, or acted in contravention of, the Act, these regulations or the Building Code with respect to any matter associated with any assessment, decision, permission, consent, approval, authorisation, certificate or process that relates to building work (or proposed building work), or the classification or occupation of a building; or
- (b) in the case of a private certifier—that the private certifier has failed to comply with, or acted in contravention of, a code of practice.

(3) A complaint must—

- (a) be in writing; and
- (b) contain particulars of the allegations on which the complaint is based; and
- (c) be verified by statutory declaration.

(4) Except with the express permission of the Minister, a complaint must not be lodged with the Minister more than six months after the day on which the complainant first had notice of the matters alleged in the complaint.

(5) The Minister may require the complainant to give further particulars of the complaint (verified, if the Minister so requires, by statutory declaration).

(6) The Minister may refuse to entertain a complaint or, having accepted a complaint for investigation, may refuse to continue to entertain a complaint, if it appears to the Minister—

- (a) that the complainant does not have a sufficient interest in the matter to which the complaint relates; or
- (b) that the matter raised in the complaint is trivial; or
- (c) that the complaint is frivolous or vexatious or is not made in good faith; or
- (d) that it would be more appropriate for proceedings to be initiated in a court or tribunal constituted by law; or
- (e) that there is some other good reason not to proceed (or to proceed further) with the matter under this regulation.

(7) If a complaint is against a council—

- (a) the Minister must initially refer the matter to the council for consideration (or further consideration) and report; and
- (b) the Minister may, on the basis of a report under paragraph (a) (and in addition to the powers of the Minister under subregulation (6)), decide not to proceed with the matter under this regulation.

(8) The Minister must inform the complainant of a decision under subregulation (6) or (7)(b) and the reasons for it.

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(9) Subject to the operation of subregulations (6) and (7), the Minister must, after receiving a complaint—

- (a) refer the matter to an authorised officer for investigation and report; and
- (b) by written notice—inform the private certifier or council of the reference of the matter to an authorised officer (including, in the case of a private certifier, information about the nature of the complaint).

(10) The authorised officer must conduct an investigation into the complaint as soon as practicable after the matter is referred under subregulation (9).

(11) The authorised officer must give the private certifier or council a reasonable opportunity to make representations to the authorised officer about the complaint.

(12) The authorised officer may (in addition to the powers of an authorised officer under section 19 of the Act) require—

- (a) the private certifier or council; or
- (b) the complainant,

to provide to the authorised officer any document or other information relevant to the investigation of the complaint (verified, if the authorised officer so requires, by statutory declaration).

(13) If during an investigation the authorised officer is satisfied that there is matter about which another complaint could have been made against the private certifier or council, the authorised officer may, after consultation with the Minister, deal with the matter as part of the investigation as if a complaint had been made about the matter.

(14) The authorised officer—

- (a) may report to the Minister at any stage of an investigation; and
- (b) must present a written report to the Minister at the conclusion of an investigation.

(15) The Minister must supply the complainant and the private certifier or council with a copy of a report presented under subregulation (14)(b).

(16) The Minister may, on the receipt of a report under subregulation (14)(b)—

- (a) decide to take no further action on the complaint; or
- (b) discuss the matter with the parties in order to attempt to resolve the issues between them; or
- (c) if the complaint has been made against a private certifier—
 - (i) caution or reprimand the private certifier;
 - (ii) make recommendations to the private certifier;
 - (iii) impose conditions on the registration of the private certifier under regulation 93A;

- (iv) determine that the registration of the private certifier under regulation 93A should be suspended or cancelled;
 - (v) disqualify the private certifier from registration under regulation 93A for a specified period or until the fulfilment of specified conditions; or
- (d) if the complaint has been made against a council—refer the matter to the council for further consideration, with or without recommendations; or
- (e) refer the matter to another person or authority, with a recommendation for further inquiry or action.

(17) A determination under subregulation (16)(c)(iii), (iv) or (v) will have effect according to its terms and without the need for further inquiry by the registration authority under regulation 93A.

(18) However, before taking action under subregulation (16)(c), (d) or (e), the Minister must give the private certifier or council (as the case may be) a notice in writing—

- (a) stating the proposed course of action; and
- (b) stating the reasons for the proposed course of action; and
- (c) inviting the private certifier or council to show, within a specified time (of at least 10 business days), why the proposed action should not be taken.

(19) The Minister must inform the complainant of the outcome of the complaint under subregulation (16).

(20) The Minister, an authorised officer or any other person or body conducting an investigation or other proceeding under this regulation is under no duty to rectify a problem involving a building or building work identified or reported as a result of the performance of a function under this regulation.

Transfer of development potential

100. (1) If the provisions of a Development Plan provide for the transfer of development potential, any council for the area to which the plan relates or, if there is no such council, the Development Assessment Commission, must maintain a register setting out the following information in relation to each site which is involved in the scheme:

- (a) the site area;
- (b) the basic plot ratio;
- (c) the total floor area of all buildings as at the date of any relevant application for the transfer of development potential;
- (d) the amount of transferable floor area available for disposal from time to time;
- (e) the date and number of any approval under the Act for additional floor area and the amount of such additional area;
- (f) the date of approval of any original disposal of transferable floor area;

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- (g) the date of any gift, sale, transfer or assignment of transferable floor area constituting an original disposal thereof or any agreement for or document constituting any such transaction;
 - (h) the names and addresses of the parties to a transaction referred to in paragraph (g) for the original disposal of transferable floor area;
 - (i) the amount of transferable floor area disposed of in any original disposal;
 - (j) the consideration in respect of any original disposal of transferable floor area;
 - (k) the names and parties to any agreement executed in compliance with a condition of approval of an original disposal of transferable floor area;
 - (l) the date of registration of any agreement referred to in paragraph (k);
 - (m) the date of approval of any subsequent disposal of transferable floor area;
 - (n) the date of any gift, sale, transfer or assignment of transferable floor area constituting a subsequent disposal thereof or any agreement for or document constituting any such transaction;
 - (o) the names and addresses of the parties to a transaction referred to in paragraph (n) for the subsequent disposal of transferable floor area;
 - (p) the amount of transferable floor area disposed of in any subsequent disposal;
 - (q) the consideration in respect of any subsequent disposal of transferable floor area;
 - (r) the date and number of any approval of the Act, including the grant of bonus plot ratio, in respect of transferable floor area;
 - (s) the name and address of the applicant for any approval referred to in paragraph (r);
 - (t) a description of the site area of any development incorporating bonus plot ratio in respect of transferable floor area sufficient to identify that area;
 - (u) the amount of transferable floor area incorporated in any development as bonus plot ratio;
 - (v) the name of the deceased donee, purchaser, transferee or assignee of transferable floor area;
 - (w) the date of death of the donee, purchaser, transferee of assignee of transferable floor area;
 - (x) the names and addresses of the executors or administrators of the will or estate of the deceased donee, purchaser, transferee or assignee of transferable floor area.
- (2) The register will be known as the Register of Development Rights for the relevant area.
- (3) The Development Assessment Commission must notify a council if it makes any decision which affects information contained in a register kept by the council under this regulation.

(4) A register must be available for inspection by members of the public during normal office hours on payment of a reasonable fee fixed by the relevant authority which maintains the register.

Accreditation of building products

101. For the purposes of section 104(1) of the Act, the following bodies are prescribed:

- (a) the Minister;
- (b) the Australian Building Codes Board;
- (c) the Commonwealth Scientific and Industrial Research Organisation;
- (d) the Standards Association of Australia.

Adoption of codes and standards

102. (1) For the purposes of section 23(5) of the Act, the Standards Association of Australia is prescribed.

(2) For the purposes of section 108(6) of the Act, the following bodies are prescribed:

- (a) the Minister;
- (b) the Australian Building Codes Board;
- (c) the Standards Association of Australia;
- (d) the Commonwealth Scientific and Industrial Research Organisation;
- (e) the International Scientific Organisation;
- (f) the American Institute of Steel Construction Incorporated;
- (g) the American Society of Testing Materials;
- (h) the Building Research Authority of New Zealand;
- (i) Fire Research Station, Building Research Establishment, Department of Environment, Great Britain;
- (j) Fire Insurer's Research and Testing Organisation, Great Britain.

(3) For the purposes of section 108(8)(c) of the Act, the prescribed office is such office as may from time to time constitute the principal office of the Department of the Minister.

Constitution of statutory committees

103. (1) Pursuant to section 16(1) of the Act, the Advisory Committee must establish the following committees, with criteria for membership determined by the Minister:

- (a) the Building Advisory Committee to report to the Advisory Committee on—
 - (i) matters relating to administration of the Act in respect to the design, construction and maintenance of buildings; and
 - (ii) the adequacy and application of the Building Rules; and

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- (iii) such other matters determined by the Minister or referred to the committee by the Advisory Committee;
- (b) the City of Adelaide Development Plan Committee to report to the Advisory Committee on—
 - (i) the need for, and adequacy of, amendments to the Development Plan that applies within the City of Adelaide; and
 - (ii) such other matters determined by the Minister or referred to the committee by the Advisory Committee;
- (c) the Local Heritage Advisory Committee to report to the Advisory Committee on—
 - (i) proposed amendments to Development Plans insofar as they relate to local heritage; and
 - (ii) on such other matters determined by the Minister or referred to the committee by the Advisory Committee.

(2) Pursuant to section 16(1) of the Act, the Development Assessment Commission must establish the following committees, with criteria for membership determined by the Minister:

- (a) the City of Adelaide Development Control Committee—
 - (i) to administer as appropriate delegated functions of the Development Assessment Commission within the City of Adelaide; and
 - (ii) to report to the Development Assessment Commission on such other matters determined by the Minister or referred to the committee by the Development Assessment Commission;
- (b) the Extractive Industries Committee—
 - (i) to administer as appropriate delegated functions of the Development Assessment Commission in relation to extractive industries; and
 - (ii) to report to the Development Assessment Commission on such other matters determined by the Minister or referred to the committee by the Development Assessment Commission.

(3) The Development Assessment Commission must establish the Building Rules Assessment Commission for the purposes of the Act.

(4) The Minister may determine in relation to the Building Rules Assessment Commission—

- (a) the criteria for membership; and
- (b) the terms and conditions under which a member is appointed; and
- (c) the term of office of a member.

(5) The functions of the Building Rules Assessment Commission are—

- (a) to consider matters referred to it under the Act; and

- (b) to administer as appropriate any delegated functions of the Development Assessment Commission; and
- (c) to report to the Development Assessment Commission on such matters determined by the Minister or referred by the Development Assessment Commission.

Special committees for certain developments (s. 34(1)(b)(vi))

103A. (1) Pursuant to section 16(1)(a) of the Act, the Development Assessment Commission must establish a special committee to act as its delegate if the Minister makes a declaration under section 34(1)(b)(vi) of the Act.

(2) The committee will consist of—

- (a) the members of the Development Assessment Commission; and
- (b) the person or persons who are entitled under subregulation (3) to act as a member or members of the committee for the particular development.

(3) If the Minister makes a declaration under section 34(1)(b)(vi) of the Act, then—

- (a) unless the principal member makes a nomination under paragraph (b)—the principal member of the council for the area in which the proposed development would be situated or, if the proposed development would be situated in the areas of two or more councils, the principal member for each council, is entitled to act as a member of the committee for the particular development; or
- (b) a person nominated by the principal member of a council referred to in paragraph (a) is entitled to act as a member of the committee for the particular development provided that the nomination is made by the principal member by notice in writing sent to the Development Assessment Commission within five business days after the council receives a copy of the Minister's declaration under that section.

(4) Unless otherwise determined by the Development Assessment Commission, a quorum at a meeting of the committee consists of five members of the committee (and no business may be transacted at a meeting of a committee unless a quorum is present).

(5) Pursuant to section 20(2)(b) of the Act, the Development Assessment Commission must delegate to the committee the following powers of the Development Assessment Commission in relation to proposed developments that are within the ambit of declarations of the Minister under section 34(1)(b)(vi) of the Act:

- (a) the power to determine whether relevant development authorisations should be given under Division 1 of Part 4 of the Act;
- (b) the power to impose conditions under section 42 of the Act.

(6) In this regulation—

"**principal member**" of a council means the mayor or chairman of the council.

Development Regulations 1993

Delegations

104. Pursuant to section 20(8) of the Act, a notice of a delegation must be given in the *Gazette* where—

- (a) in the case of the Minister—the delegation is—
 - (i) to a council; or
 - (ii) to a body or committee, other than the Development Assessment Commission or the Advisory Committee (or a committee or subcommittee established by the Development Assessment Commission or the Advisory Committee); or
 - (iii) to a person not employed under the *Public Sector Management Act 1995*;
- (b) in the case of the Development Assessment Commission—the delegation is—
 - (i) to a council, other than under section 34 of the Act; or
 - (ii) to a body or committee, other than a body or committee established under the Act or these regulations; or
 - (iii) to a person not employed under the *Public Sector Management Act 1995*;
- (c) in the case of a council—the delegation is—
 - (i) to a body or committee not established by the council (not being a controlling authority); or
 - (ii) to a person who is not an officer or employee of the council.

General offence

105. (1) A person who contravenes or fails to comply with these regulations is guilty of an offence.

(1a) A person who is guilty of an offence against these regulations for which no penalty is specifically prescribed is liable to a fine not exceeding \$2 500.

(2) Subregulation (1) does not render the Minister, the Development Assessment Commission, a council, or any other authority referred to in these regulations, or any of their staff or officers, or a person acting on their behalf, liable to prosecution for any act or omission related to the administration or operation of these regulations.

* * * * *

Development Regulations 1993

SCHEDULE 1

Definitions

"**the Act**" means the *Development Act 1993*;

"**advertisement area**" of an advertisement means, in the case of an advertisement consisting of writing on a distinctive background colour, the area within the perimeter of the background colour, or the area within the extremes of the writing, whichever is the greater, but does not include uprights of an advertising display;

"**advertising display**" means an advertisement depicted on an advertisement area on—

- (a) a free standing structure on land; or
- (b) a structure attached to a building; or
- (c) a structure similar to a building on land; or
- (d) any surface of a building or structure;

"**amusement machine**" means a machine that is designed and constructed for the purpose of enabling a person to participate in a game of amusement and is activated by the insertion of a coin or token, but does not include a lottery ticket dispensing machine;

"**amusement machine centre**" includes premises that contain four or more amusement machines and are open for public use or participation, whether or not the premises may also be used for some other purpose, and also includes premises commonly known as pinball parlours, amusement centres, billiard saloons or fun parlours;

"**bank**" means premises of an ADI;

"**builder's yard**" means land used by a person carrying on a building trade for the storage of materials, vehicles, machinery, or other equipment used or required for the conduct of that trade, but does not include a store or junk yard;

"**building height**" means the maximum vertical distance between the natural or finished ground level at any point of any part of a building and the finished roof height at its highest point, ignoring any antenna, aerial, chimney, flagpole or the like;

"**calculations**" means structural, mechanical or other calculations;

"**caravan park**" means land for the siting of caravans and tents, and includes associated support facilities, but does not include any group dwellings;

"**car parking space**" means an individually accessible car parking space, of at least 15 square metres, for the standing of one car;

"**commercial forestry**" means the use of land for planting, maintaining and growing trees for commercial production of timber or other forest products from plantation or native forests;

"**community centre**" means land used for the provision of social, recreational or educational facilities for the local community, but does not include a pre-school, primary school, educational establishment or indoor recreation centre;

"**consulting room**" means a building or part of a building (not being a hospital) used in the practice of a profession by a medical, veterinary or dental practitioner, or a practitioner in any curative science, in the provision of medical services, mental, moral or family guidance, but does not include a building or part of a building in which animals are kept for fee or reward;

"**dairy**" means a building or part of a building used for all or any of the operations of commercial milk production (whether mechanical or otherwise) and includes a milking shed, milk room, wash room or engine room;

"**detached dwelling**" means a detached building comprising one dwelling on a site that is held exclusively with that dwelling and has a frontage to a public road, or to a road proposed in a plan of land division that is the subject of a current development authorisation;

"**dwelling**" means a building or part of a building used as a self-contained residence;

"**educational establishment**" means a secondary school, college, university or technical institute, and includes an associated pre-school, primary school or institution for the care and maintenance of children;

"**electricity authority**" means The Electricity Trust of South Australia, or where a person other than The Electricity Trust of South Australia is supplying electricity in the relevant locality in exercise of statutory powers, that person;

"**electricity substation**" means:

- (a) works for the conversion, transformation or control of electricity by one or more transformers, or by any switchgear or other equipment; or
- (b) any equipment, building, structure or other works ancillary to or associated with works referred to in paragraph (a), other than any such works—
 - (i) that are mounted on a pole; or
 - (ii) that are wholly enclosed in a weather-proof enclosure not exceeding 8.5 cubic metres; or
 - (iii) that are incidental to any lawful use of the land which the works are situated;

"**essential safety provisions**" means—

- (a) in relation to a building erected or altered after the 17th June 1991—any safety systems, equipment or other provisions defined as such, or required to be installed under the Building Code, these regulations, any former regulations under the *Building Act 1971*, or Ministers Specification 32 or 76; or
- (b) in relation to a building erected or altered after the 1st January 1974 but before 17th June 1991—any safety systems, equipment or other provisions required under Part 59 of the revoked *Building Regulations 1973* to be inspected, tested or maintained in good working order or submitted to the council, and in the case of log books, to be maintained and kept;

"**farming**" includes the use of land for any purpose of agriculture, cropping, grazing, or animal husbandry, but does not include horticulture, commercial forestry, horse keeping, or any intensive animal keeping or the operation of a stock slaughter works or dairy;

"**farm building**" means a building used wholly or partly for the purpose of farming, but does not include a dwelling;

"**the fire authority**"—

- (a) in relation to any part of the State where the South Australian Metropolitan Fire Service has responsibility for the provision of fire-fighting services—means the South Australian Metropolitan Fire Service;
- (b) in relation to any other part of the State—means the Country Fire Service.

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"**floor area ratio**" means the ratio between—

- (a) the total floor area contained on all floors within a building or buildings (excluding areas permanently set aside for the parking, loading, unloading or movement of vehicles); and
- (b) the area of the site, where the area of the site is expressed as unity;

"**fuel depot**" means land used primarily for the storage of petrol, gas, oils or other petroleum products and within or upon which no retail trade is conducted;

"**general industry**" means any industry other than a service industry, light industry or special industry;

"**Golden Grove Development Area**" means the Development Area under the *Golden Grove (Indenture Ratification) Act 1984*;

"**gross leasable area**" means the total floor area of a building excluding public or common tenancy areas such as malls, verandahs or public toilets;

"**group dwelling**" means one of a group of two or more detached buildings, each of which is used as a dwelling and one or more of which has a site without a frontage to a public road or to a road proposed in a plan of land division that is the subject of a current development authorisation;

"**home activity**" means a use of a site by a person resident on the site—

- (a) that does not detrimentally affect the amenity of the locality or any part of the locality; and
- (b) that does not require or involve—
 - (i) assistance by more than one person who is not a resident in the dwelling; or
 - (ii) use (whether temporarily or permanently) of a floor area exceeding 30 square metres; or
 - (iii) any source of power other than an electric motor of not more than 0.4 kilowatts; or
 - (iv) the imposition on the services provided by any public utility organisation of any demand or load greater than which is ordinarily imposed by other users of the services in the locality; or
 - (v) the display of goods in a window or about the dwelling or its curtilage; or
 - (vi) the use of a vehicle exceeding one tonne tare in weight;

"**horse keeping**" means the keeping or husbandry of horses where more than one horse is kept per three hectares of land used for such purposes or where hand feeding of a horse is involved;

"**horticulture**" means the use of land for market gardening, viticulture, floriculture, orchards, wholesale plant nurseries or commercial turf growing;

"**hospital**" means an institution for the care of the sick, but does not include a nursing home;

"**hotel**" means premises licensed, or proposed to be licensed, as a hotel under the *Liquor Licensing Act 1985*, but does not include a motel;

"**identifier**" means a form of identification by number, letter, name or symbol;

"**indoor recreation centre**" means a building designed or adapted primarily for recreation, but does not include a stadium or amusement machine centre;

"**industry**" means the carrying on, in the course of a trade or business, of any process (other than a process in the course of farming or mining) for, or incidental to—

- (a) the making of any article, ship or vessel, or of part of any article, ship or vessel; or
- (b) the altering, repairing, ornamenting, finishing, assembling, cleaning, washing, packing, bottling, canning or adapting for sale, or the breaking up or demolition, of any article, ship or vessel; or
- (c) the getting, dressing or treatment of materials (and "industrial" will be construed accordingly);

"**intensive animal keeping**" means the keeping or husbandry of animals in a boiler shed, chicken hatchery, feedlot, kennel, piggery, poultry battery or other like circumstances, but does not include horse keeping;

"**junk yard**" means land used for the collection, storage, abandonment or sale of scrap metals, wastepaper, bottles or other scrap materials or goods, or for the collecting, dismantling, storage, salvaging or abandonment of automobiles or other vehicles or machinery, or the sale or other disposal of their parts;

"**licensed builder**" means a building work contractor under the *Building Work Contractors Act 1995*;

"**light industry**" means an industry where the process carried on, the materials and machinery used, the transport of materials, goods or commodities to and from the land on or in which (wholly or in part) the industry is conducted and the scale of the industry does not—

- (a) detrimentally affect the amenity of the locality or the amenity within the vicinity of the locality by reason of the establishment or the bulk of any building or structure, the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, spilled light, or otherwise howsoever; or
- (b) directly or indirectly, cause dangerous or congested traffic conditions in any nearby road;

"**major public service depot**" means a public service depot on a site of 8 000 square metres or more;

"**Minister's Specification**" means a specification as from time to time issued by the Minister for the purpose of these regulations;

"**minor public service depot**" means a public service depot on a site of less than 8 000 square metres;

"**motel**" means a building or group of buildings providing temporary accommodation for more than five travellers, and includes an associated restaurant facility, but does not include a hotel or residential flat building;

"**motor repair station**" means any land or building used for carrying out repairs (other than panel beating or spray painting) to motor vehicles;

"**multiple dwelling**" means one dwelling occupied by more than five persons who live independently of one another and share common facilities within that dwelling;

"**nursing home**" means a place for the care of the aged and infirm where no care of outpatients or surgery is undertaken;

"**office**" means any building used for administration or the practice of a profession, but does not include consulting rooms or premises where materials or goods are stored for sale or manufacture;

"**open space ratio**" means the ratio between—

- (a) the area of the open space about a building or the unbuilt portion of a site; and

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- (b) the total floor area of any building or buildings on the site (including all roofed areas, such as carports or verandahs) where that total floor area is expressed as unity;

"parking area" means an area allocated for the parking of motor vehicles (including areas provided for access to car parking space);

"petrol filling station" means land used for the purposes of fuelling and servicing motor vehicles (including the sale of goods where the area used for the sale of goods is not greater than 50 square metres), but does not include a motor repair station;

"plan of community division" means a plan of community division under the *Community Titles Act 1996*;

"pre-school" a place primarily for the care of instruction of children of less than primary school age not resident on the site, and includes a nursery, kindergarten or child-care centre;

"prescribed mains" means electricity mains of 11 000 volts rating, or less, but does not include switchgear, transformers or other works ancillary to prescribed mains deemed by the electricity authority unsuitable to be placed underground;

"public service depot" means land used for storage and operations connected with the provision of public services (including gas, electricity, water supply, sewerage, drainage, roadworks or telephone services), by a government department, local government authority or a public authority responsible for the provision of those services;

"recreation area" means any park, garden, children's playground or sports ground that is under the care, control and management of the Crown, or a council, and is open to the public without payment of a charge, but does not include a stadium;

"residential flat building" means a single building in which there are two or more dwellings, but does not include a semi-detached dwelling, a row dwelling or a group dwelling;

"restaurant" means land used primarily for the consumption of meals on the site;

"retail showroom" means premises used primarily for the sale, display or offer by retail, of furniture, floor coverings, household appliances or electronic equipment for domestic use, but does not include premises for the sale, display or offer by retail of foodstuffs, clothing, sporting goods and personal effects goods;

"River Torrens" means all that land lying between the tops of the banks of the River Torrens as delineated on the series of plans (numbered sheets 1 to 42 inclusive) held at the office of the Registrar-General being the original plans prepared and endorsed by the Surveyor-General pursuant to Section 2a of the *River Torrens Acquisition Act 1970*;

"road transport terminal" means land used primarily for the bulk handling of goods for transport by road, whether or not the land is also used for—

- (a) the loading and unloading of vehicles used to transport such goods; or
(b) the parking, servicing or repairing of vehicles used to transport such goods;

"row dwelling" means a dwelling—

- (a) occupying a site that is held exclusively with that dwelling and has a frontage to a public road or to a road proposed in a plan of land division that is the subject of a current development authorisation; and
(b) comprising one of three or more dwellings erected side by side, joined together and forming, by themselves, a single building;

"Rundle Mall" means the area established as Rundle Mall by the *Rundle Street Mall Act 1975*;

"**semi-detached dwelling**" means a dwelling—

- (a) occupying a site that is held exclusively with that dwelling and has a frontage to a public road or to a road proposed in a plan of land division that is the subject of a current planning authorisation; and
- (b) comprising one of two dwellings erected side by side, joined together and forming, by themselves, a single building;

"**service industry**" means a light industry in which—

- (a) goods manufactured on the site (but not any other goods) are sold or offered for sale to the public from the site; or
- (b) goods (other than vehicles or vehicle parts) are serviced, repaired or restored,

and the site occupied for such sale, service, repair or restoration (but not manufacture) does not exceed 200 square metres;

"**service trade premises**" means premises used primarily for the sale, rental or display of basic plant, equipment or machinery used in agriculture or industry, boats, caravans, domestic garages, sheds, outbuildings, motor vehicles, tents, trailers, swimming pools, building materials, landscaping materials or similar bulky articles or merchandise;

"**shop**" means—

- (a) premises used primarily for the sale by retail, rental or display of goods, foodstuffs, merchandise or materials; or
- (b) a restaurant; or
- (c) a retail showroom; or
- (d) a personal service establishment,

but does not include—

- (e) a bank; or
- (f) a post office; or
- (g) a hotel; or
- (h) a motor repair station; or
- (i) a petrol filling station; or
- (j) a plant nursery where there is no sale by retail; or
- (k) a timber yard; or
- (l) service trade premises; or
- (m) service industry;

"**site**" means the area of land on which a building is built, or proposed to be built, including the curtilage of the building, or in the case of a building comprising more than one separate occupancy, the area of land on which each occupancy is built, or proposed to be built, together with its curtilage;

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"**special industry**" means an industry where the processes carried on, the methods of manufacture adopted or the particular materials or goods used, produced or stored, are likely

- (a) to cause or create dust, fumes, vapours, smells or gases; or
- (b) to discharge foul liquid or blood or other substance or impurities liable to become foul,

and thereby—

- (c) to endanger, injure or detrimentally affect the life, health or property of any person (other than any person employed or engaged in the industry); or
- (d) to produce conditions which are, or may become, offensive or repugnant to the occupiers or users of land in the locality of or within the vicinity of the locality of the land on which (whether wholly or partly) the industry is conducted;

"**stock slaughter works**" means a building or part of a building, or land, used primarily for slaughter of stock or poultry, or the keeping of stock or poultry prior to slaughter on site;

"**store**" means a building or enclosed land used for the storage of goods, and within or upon which no trade (whether wholesale or retail) or industry is carried on, but does not include a junk yard, timber yard or public service depot;

"**telecommunications authority**" means any person or body providing telecommunication services within a subdivision or to a building;

"**timber yard**" means land used for the storage and sale of timber other than as fuel, but does not include land used for the breaking down of logs or baulks or other activities which impair the amenity of the locality;

"**total floor area**" with respect to a building or other roofed area means the sum of the superficies of horizontal sections thereof made at the level of each floor, inclusive of all roofed areas and of the external walls and of such portions of any party walls as belong to the building;

"**underground mains area**" means an underground mains area declared under these regulations;

"**warehouse**" means a building or enclosed land used for the storage of goods and the carrying out of commercial transactions involving the sale of such goods, but does not include any land or building used for sale by retail;

"**waste**" means waste within the meaning of the *Environment Protection Act 1993*;

"**Watercourse Zone**" means a Watercourse Zone delineated in the relevant Development Plan;

"**writing**" in relation to an advertisement, means all modes of representing or reproducing in visible form (other than by means of any illuminating or self-illuminating devices) words, figures, emblems or other symbols or any combination of words, figures, emblems or other symbols.

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SCHEDULE 2

Additional acts and activities constituting development

The following acts or activities constitute development:

1. Any excavating or filling (or excavating and filling) of land within the zones and areas specified in the schedule to this clause which involves the excavating or filling (or excavating and filling) of a volume of material which exceeds nine cubic metres in total, but not including the excavating or filling (or excavating and filling) of land—

- (a) incidental to the ploughing or tilling of land for the purpose of agriculture; or
- (b) incidental to the installation, repair or maintenance of any underground services; or
- (c) on or within a public road or public road reserve; or
- (d) in the event of an emergency in order—
 - (i) to protect life or property; or
 - (ii) to protect the environment where authority to undertake the activity is given by or under another Act.

SCHEDULE

(1) The Hills Face Zone.

(2) The following zones and areas in the Development Plan applying in the area of the City of Mitcham:

- (a) Residential (Hills) Zone;
- (b) Residential (Foothills) Zone within the suburb of Bedford Park;
- (ba) Residential (Blackwood Urban) Zone;
- (c) Commercial (Main Road) Zone;
- (d) Commercial (Coromandel Parade) Zone;
- (e) Neighbourhood Centre Zone within the suburb of Belair;
- (f) Residential (Belair Village) Zone;
- (g) Special Use Zones;
- (h) Rural Landscape Zone.

2. Any excavating or filling (or excavating and filling) of land in a local heritage place which involves the excavating or filling (or excavating and filling) of a volume of material which exceeds nine cubic metres in total.

3. Any excavating or filling (or excavation and filling) of land, or the forming of a levee or mound, in a Watercourse Zone, Flood Zone or Flood Plain delineated by the relevant Development Plan, or in any other zone or area shown as being subject to flooding or inundation in the relevant Development Plan, but not including the excavation or filling (or excavating and filling) of land—

- (a) incidental to the ploughing or tilling of land for the purpose of agriculture; or
- (b) incidental to the installation, repair or maintenance of any underground services; or

- (c) on or within a public road or public road reserve; or
- (d) in the event of an emergency in order—
 - (i) to protect life or property; or
 - (ii) to protect the environment where authority to undertake the activity is given by or under another Act.

4. Without derogating from the operation of any other clause, the forming of a levee or mound with a finished height greater than three metres above the natural surface of the ground.

5. Any excavating or filling (or excavating and filling)—

- (a) within coastal land, as defined for the purposes of item 1 of schedule 8; or
- (b) within three nautical miles seaward of the coast measured from mean high water mark on the sea shore at spring tide,

which involves the excavating or filling (or excavating and filling) of a volume of material which exceeds nine cubic metres in total.

6. The placing or making of any structure or works for coastal protection, including the placement of rocks, stones or other substances designed to control coastal erosion, within 100 metres landward of the coast measured from mean high water mark on the sea shore at spring tide or within one kilometre seaward of the coast measured from mean high water mark on the sea shore at spring tide.

7. Other than within the City of Adelaide, the commencement of the display of an advertisement, but not including a change made to the contents of an existing advertisement if the advertisement area is not increased.

8. (1) Within the City of Adelaide, the display of a sign or a change in the type of sign that is on display, including a change in size and the addition of animation or illumination.

(2) For the purposes of subclause (1)—

"**sign**" means every painted sign, mural or other sign, signboard, visual display screen, visual display image, visual display or projection device, other advertising device, lamp, globe, floodlight, banner, bunting, and streamer, including any background as well as any lettering and any advertising structure, but not including—

- (a) a traffic control device displayed and erected under the *Road Traffic Act 1961*; or
- (b) a sign displayed and erected by the Corporation of the City of Adelaide unless in relation to a commercial activity or purpose; or
- (c) a sign displayed by reason of any statutory obligation upon the Crown, a Minister of the Crown, any instrumentality or agency of the Crown, the council, or a person requiring such display; or
- (d) a sign displayed on enclosed land which is not ordinarily visible from land outside the enclosure, or from any public place; or
- (e) a sign displayed upon or inside a vehicle other than a vehicle which is adapted and exhibited primarily as an advertisement; or
- (f) banners displayed in Rundle Mall as defined by the *Rundle Street Mall Act 1975*; or
- (g) a sign not exceeding four square metres in advertisement area, advertising land for sale or lease that is situated on the land advertised for sale or lease; or

Development Regulations 1993

- (h) a sign affixed to the inside of a window of premises, or displayed inside a window of premises; or
- (i) a sign displaying the name or street number of premises and not exceeding 0.2 square metres in area; or
- (j) a moveable sign.

Development Regulations 1993**SCHEDULE 3***Acts and activities which are not development*

The following acts or activities are excluded from the definition of development (other than in respect of a State heritage place, or as otherwise indicated below):

Advertising displays

1. The commencement of an advertising display containing an advertisement—

- (a) that is a traffic control device displayed and erected under the *Road Traffic Act 1961*; or
- (b) that is displayed by reason of a statutory obligation on the Crown, a Minister of the Crown, an agency or instrumentality of the Crown, a council, or a person requiring such display; or
- (c) that is on enclosed land or within a building and is not readily visible from land outside the enclosure or the building; or
- (d) that is displayed for the purposes of identification, direction, warning or other information in relation to a detached, semi-detached, row or multiple dwelling or residential flat building, subject to the following conditions:
 - (i) that the advertisement area is not more than 0.2 square metres; and
 - (ii) that the advertising display—
 - (A) does not move; and
 - (B) does not flash; and
 - (C) does not reflect light so as to be an undue distraction to motorists; and
 - (D) is not internally illuminated; and
 - (iii) that not more than two such advertisements are displayed in relation to the same building; or
- (e) other than within the City of Adelaide, that is displayed on a building or a building in separate occupation (other than the side or rear walls of the building) used primarily for retail, commercial, office or business purposes, subject to the following conditions:
 - (i) that the advertisement is not displayed or erected above any verandah or the fascia of a verandah or, in a case where there is no verandah, that no part of the advertisement is more than 3.7 metres above ground level; and
 - (ii) that the advertising display—
 - (A) does not move; and
 - (B) does not flash; and
 - (C) does not reflect light so as to be an undue distraction to motorists; and
 - (D) is not internally illuminated; or
- (f) that announces a local event of a religious, educational, cultural, social or recreational character, or that relates to an event of a political character, subject to the following conditions:
 - (i) that the total advertisement area of all advertisements of that kind displayed on one building or site is not more than two square metres; and

- (ii) except for an advertisement that relates to a federal, State or local government election, that the advertisement is displayed for a period not exceeding one month prior to the event and one week after the conclusion of the event; and
- (iii) that the advertising display—
 - (A) does not move; and
 - (B) does not flash; and
 - (C) does not reflect light so as to be an undue distraction to motorists; and
 - (D) is not internally illuminated; or
- (g) that is on land on which building work is being lawfully undertaken, subject to the following conditions:
 - (i) that the information in the advertisement refers to the work being undertaken; and
 - (ii) that the advertising display—
 - (A) does not move; and
 - (B) does not flash; and
 - (C) does not reflect light so as to be an undue distraction to motorists; and
 - (D) is not internally illuminated; and
 - (iii) that the advertisement area is not more than three square metres; or
- (h) that constitutes a moveable sign for the purposes of section 370 of the *Local Government Act 1934* and is placed on a public street, road or footpath within an area of a council under that Act; or
- (i) that is a real estate "for sale" or "for lease" signs, subject to the following conditions:
 - (i) that the sign is situated on the land which is for sale or for lease; and
 - (ii) that the sign—
 - (A) does not move; and
 - (B) does not flash; and
 - (C) does not reflect light so as to be an undue distraction to motorists; and
 - (D) is not internally illuminated; and
 - (iii) that the sign is not more than four square metres in advertisement area; and
 - (iv) that the sign is removed within two weeks after the completion of the sale or the entering into of the lease.

Council works

2. (1) The construction, reconstruction, alteration, repair or maintenance by a council of—
- (a) a road, drain or pipe, other than the construction of a new road, drain or pipe within 100 metres of the coast, measured from mean high water mark on the sea shore at spring tide; or
 - (b) an effluent drainage scheme, but not including any effluent pond or lagoon; or

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- (c) a structure or equipment used for or associated with the supply, conversion, transformation or control of electricity, other than the construction of an electricity generating station, an electricity substation, a transmission line, a distribution main or a single wire earthed return electricity line; or
- (d) a single wire earthed return electricity line, other than any such activity—
 - (i) in the Flinders Ranges Environmental Areas Class A and B, excluding townships; or
 - (ii) —
 - (A) in any Coastal Zone, Urban Coastal Zone, Rural Coastal Zone or Coastal Landscape Area delineated in the relevant Development Plan; or
 - (B) where no such zone or area has been delineated in the Development Plan—in any of the following:
 - (AA) rural land which is within 500 metres of the coast measured from mean high water mark on the sea shore at spring tide; or
 - (BB) land within a country township, developed urban area or proposed urban area shown on the relevant Development Plan which is within 100 metres of the coast measured from mean high water mark on the sea shore at spring tide; or
- (e) a recreation area, or a building in a recreation area, other than—
 - (i) the construction of a new building exceeding 30 square metres in total floor area on a recreation area; or
 - (ii) an alteration or extension to an existing building on a recreation area which will result in the total floor of the building exceeding 30 square metres; or
 - (iii) the construction or alteration of, or an extension to, any building within 100 metres of the coast (landward or seaward), measured from mean high water mark on the sea shore at spring tide; or
 - (iv) the placing or making of any structure or works for coastal protection, including the placement of rocks, stones or other substances designed to control coastal erosion, within 100 metres landward of the coast measured from mean high water mark on the sea shore at spring tide or within 100 metres of the seaward boundary of the recreation area where the recreation area extends seaward from the mean high water mark on the sea shore at spring tide; or
- (f) the placement, installation or construction of playground equipment on or in a recreation area; or
- (g) an item of street furniture (including directional signs, lighting, seating and weather shelters); or
- (h) a building within an existing council works depot which is consistent with the continued use of the area as a council works depot, other than—
 - (i) the construction of a new building exceeding 200 square metres in total floor area, or 10 metres in height; or
 - (ii) an alteration or extension to an existing building which will result in the total floor area of the building exceeding 200 square metres, or the total height of the building exceeding 10 metres; or
 - (iii) the performance of work within 10 metres of a boundary of the depot.

(2) The erection, alteration or replacement by a council of a sign or advertisement (including in a case that involves the commencement of the display of an advertisement) on an item of street furniture located on a road or road reserve (but not on a part of a carriageway), subject to the following conditions:

- (a) that the size of the display area does not exceed 3 square metres; and
- (b) that the sign or advertisement—
 - (i) does not incorporate a moving display or message; and
 - (ii) does not flash; and
 - (iii) is not internally illuminated; and
- (c) that the sign or advertisement is not within 100 metres of a signalised intersection or a pedestrian actuated crossing; and
- (d) that the erection or display of the sign or advertisement is not classified as *non-complying* development under the relevant Development Plan.

Land division

3. (1) For the purpose of giving effect to a proposal approved or authorised under the provisions of the *Roads Opening and Closing Act 1991*, the division of a single allotment into two allotments or the adjustment of an allotment boundary.

(2) The grant or acceptance of a lease or licence, or the making of an agreement for a lease or licence, by virtue of which a person becomes, or may become, entitled to possession or occupation of part only of an allotment, other than a lease or licence over land—

- (a) that comprises a dwelling and curtilage; or
- (b) on which there is no building that is suitable, and is used, for human occupation.

(3) The division of an allotment pursuant to an order under the *Encroachments Act 1944*.

(4) The amendment of an existing strata plan under the *Community Titles Act 1996* or the *Strata Titles Act 1988* where the delineation of strata lots or strata units, and common property, is not altered.

(5) The division of an allotment, or the alteration of a boundary of an allotment, for the purpose of widening or adding to an existing road, road reserve or drainage reserve, subject to the condition that any land that is being added to the road, road reserve or drainage reserve is, or is to be, vested in the Crown, a Minister of the Crown, an instrumentality or agency of the Crown, or a council.

(6) The conferral of a right to occupy a residential unit under the *Retirement Villages Act 1987*.

Sundry minor operations

4. (1) The construction or alteration of, or addition to, any of the following (including any incidental excavation or filling), other than in respect of a local heritage place:

- (a) an outbuilding (other than in the Hills Face Zone, in a Watercourse Zone, Flood Zone or Flood Plain delineated by the relevant Development Plan, in any other zone or area shown as being subject to flooding or inundation in the relevant Development Plan, or in a Residential Zone in the area of the City of Henley and Grange or in a Residential 1 Zone, Residential 2A Zone, Residential 3B Zone or Residential 3C Zone in the area of the City of Hindmarsh and Woodville) in which human activity is secondary, and which—
 - (i) is detached from and ancillary to another building which is erected on the site, or for which consent has been granted by the relevant authority, or which is expressed as *complying* development in respect of the Development Plan; and

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-
- (ii) has a total floor area not exceeding ten square metres, no span exceeding three metres, and no part of the building being higher than 2.5 metres above the natural surface of the ground; and
 - (iii) is not being constructed, added to or altered so that any portion of the building is nearer to an existing boundary of a road than any distance that may be prescribed in respect of set-backs by the relevant Development Plan for any road or portion of a road; and
 - (iv) is not within six metres of the intersection of two boundaries of the land where those boundaries both face a road, other than where a 4 x 4 metre corner cut-off has already been provided (and is to be preserved); or
- (b) —
- (i) a windmill; or
 - (ii) a non load-bearing aerial, antenna, flagpole, mast or open framed tower or other similar structure (but not including an advertising hoarding),
- which is not attached to a building and is not more than ten metres in height, or which is attached to a building and is not more than four metres in height above the topmost point of attachment to the building, exclusive of guy wires; or
- (c) a swimming pool (other than in the Hills Face Zone, in a Watercourse Zone, Flood Zone or Flood Plain delineated by the relevant Development Plan, or in any other zone or area shown as being subject to flooding or inundation in the relevant Development Plan) which is constructed in association with a dwelling and intended primarily for use by the occupants of that dwelling, and which does not have a maximum capacity exceeding 9 000 litres and does not have a depth exceeding 300 mm; or
- (ca) a spa which is constructed in association with a dwelling and intended primarily for use by the occupants of that dwelling, and which does not have a maximum capacity exceeding 680 litres; or
- (d) a detached incinerator not exceeding 0.5 cubic metres in overall volume; or
- (e) a fence not exceeding two metres in height (measured from the lower of the two adjoining finished ground levels), other than—
- (i) a fence in the Hills Face Zone, in a Historic (Conservation) Zone or a Historic (Conservation) Policy Area, in a Watercourse Zone, Flood Zone or Flood Plain delineated by a Development Plan, in any other zone or area shown as being subject to flooding or inundation in a Development Plan, in a Regional Centre Zone, in a Residential 2 Zone in the area of the City of Henley and Grange, or in a Residential IW Zone, Residential 2A Zone, Residential 3B Zone, Residential 3C Zone or Residential (Hallett Brickworks) Zone in the area of the City of Hindmarsh and Woodville; or
 - (ii) a fence that exceeds (or would exceed) one metre in height within six metres of the intersection of two boundaries of land where those boundaries both face a road, other than where a 4 x 4 metre corner cut-off has already been provided (and is to be preserved); or
 - (iii) a masonry fence that exceeds (or would exceed) one metre in height (measured from the lower of the two adjoining finished ground levels); or
 - (iv) a fence that is (or is to be) a safety fence for a swimming pool which is approved for construction, or requires approval for construction, on or after 1 July 1993; or
- (f) a post and wire fence, other than a chain mesh fence, in a Watercourse Zone, Flood Zone or Flood Plain delineated by the relevant Development Plan, or in any other zone or area shown as being subject to flooding or inundation in the relevant Development Plan; or

- (g) a retaining wall (other than in a Watercourse Zone, Flood Zone or Flood Plain delineated by the relevant Development Plan, in any other zone or area shown as being subject to flooding or inundation in the relevant Development Plan, or within 100 metres of the coast measured from mean high water mark on the sea shore at spring tide) which retains a difference in ground levels not exceeding one metre; or
 - (h) a water tank (and any supporting structure) which—
 - (i) is part of a roof-drainage system; and
 - (ii) has a total floor area not exceeding ten square metres; and
 - (iii) has no part higher than four metres above the natural surface of the ground; or
 - (i) a temporary builder's office, shed, store or other similar building—
 - (i) that is used for the purpose of storing materials or documents, providing amenities for workers, or for any other purpose connected with the performance of building work, other than to provide overnight accommodation; and
 - (ii) that is to be removed at the completion of the relevant building work; and
 - (iii) that is positioned on the ground and totally within the site of the building work.
- (2) Other than in respect of a local heritage place, the repair, maintenance or internal alteration of a building—
- (a) that does not involve demolition of any part of the building (other than the removal of fixtures, fittings or partitions); and
 - (b) that will not adversely affect the structural soundness of the building or the safety of any person occupying or using it; and
 - (c) that is not inconsistent with any other provision of this schedule.
- (3) Other than in respect of a local heritage place—
- (a) the installation of, or any alteration of or addition to, a building that is necessary for or incidental to the installation of—
 - (i) an individual air handling unit mounted on a wall, window or domestic floor; or
 - (ii) a ceiling or roof fan or fan coil section of air conditioning systems not exceeding 100 kg and installed within the ceiling space; or
 - (iii) an exhaust fan,where the item being installed does not encroach on a public street or affect the ability of the building to resist the spread of fire;
 - (b) the installation or alteration of a building or the making of any excavation or filling, that is necessary for or incidental to the installation of, any electrical, gas, water, sewage and sullage, or telecommunications service (including appliances and fittings), the installation of which requires the approval of an authority other than a council, and which does not affect the ability of the building in which it is installed to resist the spread of fire;
 - (c) the construction of a pergola associated with an existing dwelling (whether attached to the building or freestanding)—
 - (i) which does not have a roof; and

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- (ii) each freestanding side of which is open; and
- (iii) no part of which is higher than four metres above the ground; and
- (iv) which is not being constructed so that any portion of the pergola is nearer to an existing boundary of a road than any distance that may be prescribed in respect of set-backs in the relevant Development Plan for the road (or that portion of the road).

(3a) In respect of a local heritage place, the installation of, or an alteration of or addition to a building that is necessary for or incidental to the installation of—

- (a) an individual air handling unit mounted on a wall, window or floor; or
- (b) a ceiling or roof fan or fan coil section of air conditioning systems not exceeding 100 kg and installed within the ceiling space; or
- (c) an exhaust fan,

where the item being installed—

- (d) does not encroach on a public street or affect the ability of the place to resist the spread of fire; and
- (e) will not, when installed, be able to be seen by a person standing at ground level in a public street.

(4) The repair, maintenance or replacement of an existing seawall, levee bank or other structure associated with coast protection where there is no change to the materials used for the purposes of the structure and no change to the form or dimensions of the structure.

(5) The construction of a temporary building by, or with the authorisation of, a council where the building—

- (a) does not remain on the site for more than 30 days; and
- (b) is erected for the use of the council, or for some other public or community purpose approved by the council; and
- (c) does not carry any advertising material (other than material which is incidental to the purpose for which the building is erected).

(6) Any work undertaken solely for the purposes of fitting a smoke alarm in accordance with the requirements under regulation 76B.

Use of land and buildings

5. The use of land and the use of any lawfully-erected building which is ordinarily regarded as (and is in fact) reasonably incidental to any particular use of the land and the building, or the land or the building, and which is for the substantial benefit of the person or persons who, in any capacity, are making use of the land and the building, or the land or the building, including, without limiting the generality of the foregoing, the following uses of land and buildings:

- (a) the carrying on of a home activity; or
- (b) the use of any land or building for the supply, conversion, transformation or control of electricity by one or more transformers or by any switchgear or other equipment used wholly or partly for supplying electricity to any part of such land or building; or
- (c) the keeping of animals, birds, or other livestock (other than horses, sheep, cattle, pigs, goats, donkeys and wild animals) solely for the domestic needs or enjoyment of the occupants of a residence (and land appurtenant to a residence); or
- (d) the parking of any vehicle not exceeding 3 000 kilograms in weight (including the weight of any attached trailer) on land used for residential purposes.

Special cemetery buildings

6. The construction of a mausoleum in a public cemetery where—

- (a) the mausoleum is located more than 50 metres from the boundaries of the cemetery; and
- (b) no part of the mausoleum is higher than three metres above the natural surface of the ground; and
- (c) the mausoleum is not internally accessible to the public (including any relative of a deceased person).

Inground sewerage pumping stations

7. The construction of an inground sewerage pumping station (including any associated valve chamber, electrical control or switching gear, and flew extending not more than 15 metres above ground level)—

- (a) that has a total floor area not exceeding 8 square metres and a depth not exceeding 10 metres; and
- (b) that is designed and constructed in accordance with specifications approved by the Minister of Public Infrastructure.

Inground water valve chamber

8. The construction of an inground water valve chamber—

- (a) that has a total floor area not exceeding 15 square metres and a depth not exceeding 4 metres; and
- (b) that is designed and constructed with specifications approved by the Minister of Public Infrastructure.

Certain building work outside council areas

9. Building work in relation to a Class 10 building under the Building Code that is not within the area of a council, other than building work—

- (a) in a zone or area designated for retail, office, commercial, industrial or extractive industry use under the relevant Development Plan; or
- (b) in respect of a local heritage place; or
- (c) in a zone or area designated as Environmental Class A or B by the relevant Development Plan; or
- (d) in a zone or area designated for conservation by the relevant Development Plan; or
- (e) within 1 kilometre of the coast measured from mean high water mark on the sea shore at spring tide; or
- (f) within 1 kilometre of the River Murray; or
- (g) within 500 metres of an arterial road, primary road, primary arterial road or secondary arterial road (as delineated in the relevant Development Plan); or
- (h) within a township, or within 50 metres of the boundaries of a township; or
- (i) on land that is subject to the *National Parks and Wildlife Act 1972*; or
- (j) within part of the State described in schedule 20.

Development Regulations 1993**SCHEDULE 4***Complying Development***PART 1****DEVELOPMENT PLAN**

The following forms of development are *complying* developments in respect of a Development Plan (other than development which affects a State heritage place, or as otherwise indicated below):

Building works

1. Other than in relation to the City of Adelaide, a local heritage place, a Historic (Conservation) Zone, or a Historic (Conservation) Policy Area—

- (a) the construction of a new building in the same, or substantially the same, position as a building which was demolished within the previous three years where the new building has the same, or substantially the same, layout and external appearance as the previous building;
- (b) work undertaken within a building that does not increase the total floor area of the building and does not alter the external appearance of the building to a substantial degree;
- (c) the total demolition and removal of a building;
- (d) the construction of a fence not exceeding two metres in height (measured from the lower of the two adjoining finished ground levels), other than—
 - (i) a fence in the Hills Face Zone, in a Historic (Conservation) Zone or a Historic (Conservation) Policy Area, in a Watercourse Zone, Flood Zone or Flood Plain delineated by a Development Plan, in any other zone or area shown as being subject to flooding or inundation in a Development Plan, in a Regional Centre Zone, in a Residential 2 Zone in the area of the City of Henley and Grange, or in a Residential IW Zone, Residential 2A Zone, Residential 3B Zone, Residential 3C Zone or Residential (Hallett Brickworks) Zone in the area of the City of Hindmarsh and Woodville; or
 - (ii) a fence within six metres of the intersection of two boundaries of the land where those boundaries both face a road, other than where a 4 x 4 metre corner cut-off has already been provided (and is to be preserved); or
 - (iia) a masonry fence that would exceed one metre in height (measured from the lower of the two adjoining finished ground levels); or
 - (iii) a fence within 10 metres landward of the coast measured from high water mark on the sea shore at spring tide; or
 - (iv) a fence which extends seaward from the high water mark on the sea shore at spring tide;
- (e) the construction of a water tank having a floor area not exceeding 10 square metres and a height not greater than four metres above the ground, other than in the Hills Face Zone, in a Watercourse Zone, Flood Zone or Flood Plain delineated by the relevant Development Plan, or in any other zone or area shown as being subject to flooding or inundation in the relevant Development Plan.

Building work—Detached dwellings—Out of council areas

2. Building work associated with a detached dwelling that is not within the area of a council, other than building work—

- (a) in a zone or area designated for retail, office, commercial, industrial or extractive industry use under the relevant Development Plan; or
- (b) in respect of a local heritage place; or
- (c) in a zone or area designated as Environmental Class A or B by the relevant Development Plan; or

- (d) in a zone or area designated for conservation by the relevant Development Plan; or
- (e) within 1 kilometre of the coast measured from mean high water mark on the sea shore at spring tide; or
- (f) within 1 kilometre of the River Murray; or
- (g) within 500 metres of an arterial road, primary road, primary arterial road or secondary arterial road (as delineated in the relevant Development Plan); or
- (h) within a township, or within 50 metres of the boundaries of a township; or
- (i) on land that is subject to the *National Parks and Wildlife Act 1972*; or
- (j) within part of the State described in schedule 20.

Special cemetery buildings

3. The construction of a mausoleum in a public cemetery where—

- (a) the mausoleum is located more than 50 metres from the boundaries of the cemetery; and
- (b) no part of the mausoleum is higher than three metres above the natural surface of the ground.

**PART 2
BUILDING RULES**

The following forms of building work are declared to comply with the Building Rules (other than building work which affects a State heritage place, or as otherwise indicated below):

1. The installation of, or any alteration of or addition to, a building that is necessary for or incidental to the installation of—

- (a) an individual air handling unit mounted on a wall, window or domestic floor; or
- (b) a ceiling or roof fan or fan coil section of air conditioning systems not exceeding 100 kg and installed within the ceiling space; or
- (c) an exhaust fan,

where the item being installed does not encroach on a public street or affect the ability of the building in which it is installed to resist the spread of fire.

2. The installation or alteration of a building or the making of any excavation or filling that is necessary for or incidental to the installation of, electrical, gas, water, sewage and sullage, or telecommunications services (including appliances and fittings) the installation of which requires the approval of an authority other than a council, and which does not affect the ability of the building to resist the spread of fire.

3. The construction, alteration or removal of a dam on land used for farming purposes, except where the dam is of masonry construction.

4. The construction of a pergola associated with an existing dwelling (whether attached to the building or freestanding)—

- (a) which does not have a roof; and
- (b) each freestanding side of which is open; and
- (c) no part of which is higher than four metres above the ground.

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5. An alteration to a building—

- (a) that does not involve the demolition of any part of the building (other than the removal of the fixtures, fittings or partitions); and
- (b) that will not adversely affect the structural soundness of the building or the safety of any person occupying or using it; and
- (c) that is not inconsistent with any other provision of this schedule.

6. Building work in relation to a Class 10 building under the Building Code which is not within the area of a council.

7. The construction of—

- (a) a hayshed or implement shed not exceeding 500 square metres in total floor area; or
- (b) a class 10a building under the Building Code not exceeding 25 square metres in total floor area,

where the hayshed, implement shed or class 10a building—

- (c) will be at least 50 metres from any allotment boundary; and
- (d) will be within a rural, farming or horticultural zone or area, as delineated by the relevant Development Plan, and within a part of the State outside the areas of the following councils:

DC Angaston	DC Murat Bay
DC Barossa	DC Pirie
DC Blyth—Snowtown	DC Ridley-Truro
DC Burra Burra	DC Riverton
DC Clare	DC Robertstown
DC Eudunda	DC Saddleworth and Auburn
CT Gawler	CC Salisbury
DC Light	DC Strathalbyn
DC Kapunda	DC Tanunda
DC Mallala	DC Victor Harbor
DC Mannum	DC Waikerie
DC Meningie	DC Wakefield Plains
DC Mount Pleasant	DC Yankalilla.
CC Munno Para	

8. The construction of a stockyard (including any associated ramp or facility for loading stock onto a vehicle), but not including any walkway or steps.

9. The construction or alteration of any of the following (including any incidental excavation or filling):

- (a) an outbuilding in which human activity is secondary, and which has a total floor area not exceeding 10 square metres, no span exceeding three metres, and no part of the building higher than 2.5 metres above the natural surface of the ground; or
- (b) a fence not exceeding two metres in height, or one metre in the case of a masonry fence (both measured from the lower of the two adjoining finished ground levels), other than where the fence is a safety fence for a swimming pool which is approved for construction, or requires approval for construction, on or after 1 July 1993; or
- (c) —
 - (i) a windmill; or
 - (ii) a non load-bearing aerial, antenna, flagpole, mast or open framed tower or other similar structure (but not including an advertising hoarding),

which is not attached to a building and is not more than ten metres in height, or which is attached to a building and is not more than four metres in height above the topmost point of attachment to the building, exclusive of guy wires; or

- (d) a retaining wall which retains a difference in ground levels not exceeding one metre; or
- (e) a water tank (and any supporting structure) which—
 - (i) is part of a roof-drainage system; and
 - (ii) has a total floor area not exceeding ten square metres; and
 - (iii) has no part higher than four metres above the natural surface of the ground; or
- (f) a temporary builder's office, shed, store or other similar building—
 - (i) that is used for the purpose of storing materials or documents, providing amenities for workers, or for any other purpose connected with the performance of building work, other than to provide overnight accommodation; and
 - (ii) that is to be removed at the completion of the relevant building work; and
 - (iii) that is positioned on the ground and totally within the site of the building work.

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SCHEDULE 5⁶

Requirements as to plans and specifications

Plans for building work

1. (1) An application for provisional building rules consent must be accompanied by—

- (a) a site plan, drawn to a scale of not less than 1:500, showing:
 - (i) the boundaries and dimensions of the site and any relevant easements; and
 - (ii) the positions and dimensions of any proposed building and its relationship to the boundaries of the site and any other features such as other buildings or trees on the site or on adjoining land or public places that might be affected by the work or affect the work proposed to be performed; and
 - (iii) the purpose for which any existing building on the site is used and for which any proposed building on the site is intended to be used; and
 - (iv) the levels of the site and of the floors of the proposed building in relation to any street drainage channel or council drain; and
 - (v) the method of drainage and services proposed to be used; and
 - (vi) the approximate north point; and
- (b) drawings showing—
 - (i) a dimensioned plan of each floor level, drawn to a scale of not less than 1:100; and
 - (ii) dimensioned elevations and sections of any proposed building, drawn to a scale of not less than 1:100; and
 - (iii) the sizes and locations of footings and other structural components, drawn to a scale of not less than 1:100; and
 - (iv) such other details as may be necessary, drawn to a scale of not less than 1:20; and
- (c) specifications describing materials and standards of work and, where not indicated on the drawings referred to in paragraph (b), such other information as may be necessary to show that the building work will, if performed in accordance with the specifications and drawings, comply with the Act and these regulations and provide satisfactory levels of safety on or about the site; and
- (d) calculations or reports to show that the building work will, if performed in accordance with the calculations and reports, comply with the Act and these regulations; and
- (e) details in writing of any foundation investigations that have been carried out.

(2) An application for the provisional building rules consent for development consisting of or involving the demolition or removal of a building (or part of a building) must be accompanied by—

- (a) a description in writing of the construction of the building (or relevant part) to be demolished or removed; and

Note 6. Regulation 15(3) provides that where an application seeks a consent for some, but not all, of the matters referred to in section 33 of the Act, the plans, drawings, specifications and other documents and information relating to the development must accord with this schedule to such extent as may be appropriate to the matters for which consent is sought.

- (b) a site plan showing the location of the building in relation to the boundaries of the site and any other features such as other buildings or trees on the site or on adjoining land or public places that might be affected by the work or affect the work proposed to be performed; and
- (c) where only part of a building is to be demolished or removed, calculations or other information in writing to show that the remainder of the building will comply with the Act and these regulations, either as the building remains after the proposed demolition or removal takes place, or after other building work is performed; and
- (d) a description in writing of the demolition procedure, including details of the measures to be taken to provide satisfactory levels of safety on or about the site.

(3) An application for provisional building rules consent for development consisting of or involving an alteration to a building must, if—

- (a) the applicant is applying for a change in the classification of the building to a classification other than Class 10 under the Building Code; or
- (b) the building was erected before 1st January 1974 and the applicant is applying for a classification other than Class 10 under the Building Code to be assigned to the building,

be accompanied by such details, particulars, plans, drawings, specifications and other documents (in addition to the other documents required to accompany the application) as the relevant authority may reasonably require to show that the entire building will, on completion of the building work, comply with the requirements of the Act and these regulations for a building of the classification applied for or with so many of those requirements as will ensure that building is safe and conforms to a proper structural standard.

(4) An application for the assessment of proposed building work in stages must—

- (a) in the case of an application for consent to the siting of, excavation and filling for, and general arrangements of, a proposed building, be accompanied by—
 - (i) a site plan, drawn to a scale of not less than 1:500, showing—
 - (A) the boundaries and dimensions of the site and any relevant easements; and
 - (B) the positions and dimensions of any proposed building and its relationship to the boundaries of the site and any other features such as other buildings or trees on the site or on adjoining land or public places that might be affected by the work or affect the work proposed to be performed; and
 - (C) the purpose for which any existing building on the site is used and for which any proposed building on the site is intended to be used; and
 - (D) the levels of the site and of the floors of the proposed building in relation to any street drainage channel or council drain; and
 - (E) the method of drainage and services proposed to be used; and
 - (ii) elevational drawings of the proposed building showing its relation to the ground levels of the site; and
 - (iii) plans and specifications showing the extent of excavation or filling to be carried out; and
- (b) in the case of an application for consent to the construction of the substructure of a building, be accompanied by—
 - (i) the documents referred to in subclauses (1)(b), (c), (d) and (e) (but relating to the substructure only); and

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- (ii) such other documents as may be necessary to enable the extent of the superstructure to be determined; and
- (c) in the case of an application for approval of the construction of the superstructure of a building, be accompanied by the documents referred to in subclauses (1)(b), (c) and (d).

Requirements for development near the coast

2. If a development is to be undertaken on a site any part of which is adjacent to the coast, the following particulars must be shown on the plan:

- (a) the distance from high water mark to the nearest point or points where buildings suitable for human occupation are likely to be constructed; and
- (b) the surface profile of the natural surface between high water mark and the points where buildings suitable for human occupation are likely to be constructed, at intervals of 30 metres, together with a written description of the nature of the exposed surface along that profile.

Requirements for general land division applications for development approval (proposal plans)

3. (1) This clause does not apply with respect to—

- (a) a division of land which is *complying* development in respect of the Development Plan (but see clause 4).

* * * * *

(2) A plan which provides for the division of land must—

- (a) show the following particulars:
 - (i) all allotments, roads, streets, thoroughfares and reserves into which the land is proposed to be divided, marked with distinctive numbers, names or symbols, the measurements and areas of the proposed allotments and reserves, the widths of all proposed roads, streets or thoroughfares, and the total area (bounded by a firm, clear line) of the land proposed to be divided;
 - (ii) the names, widths and alignments of abutting, existing or proposed roads, streets and thoroughfares and of any existing or proposed roads, streets or thoroughfares intersecting or forming a junction therewith;
 - (iii) the former subdivisional and section boundaries and the number of those subdivisions and sections all shown by broken lines;
 - (iv) the north point, the scale of the plan, the names of each owner of land and agent, and references to the volumes and folios of all certificates of title relating to the land proposed to be divided;
 - (v) a heading which contains a description of the land being divided by reference to any relevant Lands Titles Registration Office or General Registry Office plan showing the block or allotment number, the section number and the name of the hundred, and, in addition:
 - (A) where the division is lodged within the boundaries of a named area assigned pursuant to the *Geographical Names Act 1991* the words "In the area named...";
 - (B) where the division is lodged for residential allotments and is outside the boundaries of any area named pursuant to the *Geographical Names Act 1991* the words "Laid out as the Township of...";
 - (C) where the division is lodged for residential purposes and is outside the boundaries of any area named pursuant to the *Geographical Names Act 1991* but is adjoining to an existing named division, the words "Laid out as Portion of the Township of...", the name being the name of the existing named division;

- (D) where the division is lodged for other than residential purposes and is outside the boundaries of any area named pursuant to the *Geographical Names Act 1991* no name is required but, if a name is used, the words "In the area named...";
 - (vi) the position of any buildings intended to be retained on the land and the approximate position of any buildings which are to be demolished or removed;
 - (vii) all existing registered easements;
 - (viii) all relevant topographic features; and
- (b) be drawn in accordance with the following rule of scale:
- (i) if the area of the smallest allotment is one-fifth of one hectare or under, a scale of not less than 1:1000;
 - (ii) if the area of the smallest allotment is over one-fifth of a hectare and under one hectare, a scale of not less than 1:2500;
 - (iii) if the area of the smallest allotment is one hectare or over, a scale so that such allotment or block will be delineated by no less than three square centimetres on the plan.
- (3) A plan which provides for the division of land into more than five allotments, or for a new road must—
- (a) show the following particulars in addition to those contained in subclause (2):
 - (i) the numbers of the sections, allotments or plans, and references to the volumes and folios of all certificates of title, of adjoining land, and of the land on the opposite side of any abutting road;
 - (ii) the contours of the present surface of the ground above some known datum level sufficient to determine the intended level or gradient of all proposed allotments, reserves and parcels of land, all abutting and proposed roads, streets or thoroughfares, and all roads, streets or thoroughfares with which it is intended that the proposed roads, streets or thoroughfares be connected, and where the land is to be filled or graded, both existing contours or levels and proposed contours or levels must be shown;
 - (iii) the positions and construction of new permanent marks; and
 - (b) be vouched for by a licensed surveyor as to its reasonable accuracy.
- (4) The land comprised in a plan for the division of land must consist of a single allotment or an aggregation of contiguous allotments.
- (5) For the purposes of subclause (4), allotments separated only by a road or a road reserve will be regarded as contiguous.

Requirement for *complying* divisions⁷

4. (1) This clause applies with respect to a division of land which is *complying* development in respect of the Development Plan.

(2) A plan which provides for the division of land to which this clause applies must comply with—

- (a) in the case of the division of land under Part 19AB of the *Real Property Act 1886*—the requirements for plans under that Act;

Note 7. Only a "final plan" is required in this case.

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- (b) in the case of the division of land by a plan of community division under the *Community Titles Act 1996*—the requirements for plans under that Act;
- (c) in the case of the division of land by strata plan under the *Strata Titles Act 1988*—the requirements for plans under that Act.

Additional requirements for community plans

5. (1) An application for the division of land by a plan of community division under the *Community Titles Act 1996* must be accompanied by the proposed scheme description of the relevant community scheme (unless a scheme description is not required to be lodged with the Registrar-General under section 15 of that Act¹).

(2) A plan which provides for the division of land by a plan of community division under the *Community Titles Act 1996* must state whether the plan is a primary plan, a secondary plan or a tertiary plan under that Act and—

- (a) in the case of a secondary plan—must define the primary lot;
- (b) in the case of a tertiary plan—must define the secondary lot.

¹ Section 15 of the *Community Titles Act 1996* provides that there is no need to lodge a scheme description with the Registrar-General if—

- (a) the plan of community division under that Act—
 - (i) does not create more than six community lots (or such other number as is prescribed by regulation under that Act); and
 - (ii) does not create a development lot; and
- (b) each of the community lots is intended to be used solely or predominantly for residential purposes.

Land division certificates (final plan)

6. A land division plan lodged for a certificate under section 51 of the Act must comply with—

- (a) in the case of the division of land under Part 19AB of the *Real Property Act 1886*—the requirements for plans under that Act;
- (b) in the case of the division of land by a plan of community division under the *Community Titles Act 1996*—the requirements for plans under that Act;
- (c) in the case of the division of land by strata plan under the *Strata Titles Act 1988*—the requirements for plans under that Act.

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SCHEDULE 6*Fees*

1. The following fees are payable in relation to an application under Part 4 of the Act:

- | | | |
|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| (1) | A Lodgement Fee | \$28 |
| (2) | If the application requires the relevant authority to assess the development against the provisions of the appropriate Development Plan, other than where the application relates— | |
| | (a) to a <i>complying development</i> under these regulations or the Development Plan; or | |
| | (b) to a proposed division of land into allotments which does not involve the performance of building work, | |
| | a Development Plan Assessment Fee of the following amount— | |
| | (c) if the development cost does not exceed \$10 000 | \$17 |
| | (d) if the development cost exceeds \$10 000 but does not exceed \$100 000 | \$56 |
| | (e) if the development cost exceeds \$100 000 | 0.1 per cent of the development cost up to a maximum of \$100 000 |
| (3) | If the application relates to a proposed division of land— | |
| | (a) other than where the application relates to a <i>complying development</i> under these regulations or the Development Plan, a Land Division Fee of the following amount— | |
| | (i) if the number of allotments resulting from the division is equal to or less than the number of existing allotments | \$17 |
| | (ii) if the number of allotments resulting from the division is greater than the number of existing allotments | \$56 plus \$5.50 for each allotment up to a maximum of \$1 072 |
| | and | |
| | (b) a Statement of Requirements Fee for the purposes of section 33(1)(c) or (d) of the Act | \$146 |
| | and | |
| | (c) a Certificate of Approval Fee for the purposes of section 51 of the Act | \$56 |

- (4) If the application relates to a proposed development that is of a kind described as a *non-complying* development under the relevant Development Plan—in respect of the requirement for a concurrence (or concurrences) under section 35(3) of the Act (one fee)—a Non-complying Fee \$56
- (5) If the application must be referred to a body prescribed under schedule 8 for the purposes of section 37 of the Act—for each body to which the application must be referred—a Referral Fee \$56
- (6) If the proposed development is a Category 2 or Category 3 development for the purposes of section 38 of the Act—a Public Notification Fee \$56
- (7) If the proposed development is a Category 3 development for the purposes of section 38 of the Act—an Advertisement Fee An amount determined by the relevant authority as being appropriate to cover its reasonable costs in giving public notice of the application under section 38(5)(c) of the Act
- (8) If the application requires a relevant authority to assess the development against the provisions of the Building Rules—
- (a) in the case of a building that has a floor area $F = 0.002 \times CI \times A \times CF$, or \$28, whichever is the greater
- (b) in the case of a building that does not have a floor area $F = 0.002 \times CI \times S \times CF$, or \$28, whichever is the greater
- where—
- F is the fee (in dollars) payable under this component (unless the \$28 minimum applies)
- CI is the construction index determined by the Minister from time to time and set out in the Schedule of Construction Indices published in the *Gazette*
- A is the prescribed floor area
- S is the projected area of the largest side or plane of the building
- CF is the complexity factor
- (9) If the application requires a relevant authority to grant consent to a development that is at variance with the Building Rules \$79
- (10) If the application requires referral to the Building Rules Assessment Commission for concurrence before granting consent to a development that is at variance with the performance requirements of the Building Code \$173.

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For the purposes of this item:

- (a) "development cost" does not include any fit-out costs;
- (b) "allotment" does not include an allotment for road or open space requirements;

* * * * *

- (d) no fee is payable—
 - (i) in respect of a development which is to be undertaken by a council, except where the primary reason for the proposed development is to raise revenue for the council; or
 - (ii) in respect of a development which is undertaken by a State agency and assessed under section 49 of the Act, or which is excluded from the provisions of section 49 of the Act by a regulation under section 49(3);
- (e) subject to schedule 7, a body prescribed under schedule 8 for the purposes of section 37 of the Act may waive the whole or part of a fee due to the body under component (5), or refund any such fee (in whole or in part).

2. The following fee is payable in respect of an application for assignment of a classification to a building or a change in the classification of a building for the purposes of section 66 of the Act:

- (a) in the case of a building that has a floor area F = 0.0016 x CI x A x CF, or \$28, whichever is the greater
- (b) in the case of a building that does not have a floor area F = 0.0016 x CI x S x CF, or \$28, whichever is the greater

where—

- F is the fee (in dollars) payable under this component (unless the \$28 minimum applies)
- CI is the construction index determined by the Minister from time to time and set out in the Schedule of Construction Indices published in the *Gazette*
- A is the prescribed floor area
- S is the projected area of the largest side or plane of the building
- CF is the complexity factor.

- 3. A fee of \$5.50 is payable in respect of an application for a certificate of occupancy.
- 4. A fee of \$28 is payable in respect of an application under regulation 76(3)(b).

The following provisions also apply for the purposes of items 1(8) and 2:

- (a) the prescribed floor area is—
 - (i) for the purpose of calculating the fee on an application for assessment against the provisions of the Building Rules that consists of the erection of a building or the demolition of a building—the aggregate of the floor areas of the building proposed to be erected or demolished;

- (ii) for the purpose of calculating the fee on an application for assessment against the provisions of the Building Rules where the building work consists of an alteration to a building—
 - (A) the aggregate of the floor areas of the rooms or compartments to be altered; or
 - (B) where the alteration consists of the fixing or erection of an attachment that does not have a floor area—the floor area of the building within a distance of three metres of where the attachment is to be fixed or erected;
- (iii) for the purpose of calculating the fee on application for assignment of a classification to, or a change in the classification of, a building—the aggregate of the floor areas of the building;
- (b) the floor area of a building is to be measured over any enclosing walls and is to include the area of the floor of any fully or partly covered carport, portico, verandah, balcony, porch or other similar structure attached or to be attached to the building;
- (c) where a building is without storeys, or has a storey of a height of more than 10 metres, the floor area is to be calculated as if the building contained floors at 10 metre intervals, measured vertically;
- (d) a building is to be taken not to have any floor area if it is principally of open framework or web construction or solid construction and without any fully or partly enclosed space intended for occupation or use by persons;
- (e) the "**complexity factor**" is—
 - (i) except as below—1.0;
 - (ii) for building work for the erection or alteration of a building that exceeds six storeys—1.3;
 - (iii) for building work for the erection or alteration of a building that contains an atrium—1.3;
 - (iv) for building work for the erection or alteration of a building that contains an arcade exceeding 40 metres in length—1.3;
 - (v) for building work that consists solely of the demolition of a building—0.2;
 - (vi) for assignment of classification or a change in classification where no building work is proposed—0.8;
- (f) where a building is made up of parts that have different construction indices, the fee payable for the assessment of building work against the provisions of the Building Rules, the assignment of classification or a change in classification, is the aggregate of the fees calculated in accordance with this schedule for those parts;
- (g) subject to paragraph (h), where an application for the assessment of building work against the provisions of the Building Rules incorporates an application for the assignment of a classification to, or a change in the classification of, the building, one fee is payable in respect of the applications, being whichever of the fees for those applications that is of the greater amount;
- (h) where a relevant authority consents to receive an application for approval of building work in stages, the following fees are payable:
 - (i) for assignment of classification to the building—5 per cent of the fee payable for approval of the total building work;
 - (ii) for approval of the siting of, excavation and filling for, and general arrangements of, the building—25 per cent of the fee payable for approval of the total building work;

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- (iii) for approval of construction of the substructure—20 per cent of the fee payable for approval of the total building work;
- (iv) for approval of construction of the superstructure—the fee payable for approval of the total building work less any fees paid for stages approved within 12 months preceding the application for approval of construction of the superstructure.

5. (1) If the matter involves an application to a private certifier for an assessment of a development against the provisions of the Building Rules, a fee equal to four per cent of the fee that would apply under component (8) of item 1 if a council were the relevant authority for that assessment is payable by the applicant.

(2) The fee must be paid by the applicant to the private certifier at the time of application.

(3) The fee must be held by the private certifier pending payment to the Minister under schedule 7.

(4) Except as provided above, the fee to be paid to a private certifier will be determined by agreement between the applicant and the private certifier.

6. The following fees are payable in respect of a referral to the Building Rules Assessment Commission under section 36(2b) of the Act:

(a) for Class 1 and 10 buildings — \$268;

(b) for Class 2 to 9 buildings — \$590.

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SCHEDULE 7

Provisions regulating the distribution of fees between authorities

Interpretation

1. In this schedule—

"quarter" means a three-month period commencing on any of the following days in any year:

- 1 January
- 1 April
- 1 July
- 1 October.

Distribution of fees between a council and other authorities

2. A council must, within 10 business days after the end of each quarter—

- (a) pay to the Development Assessment Commission an amount equal to the sum of the following:
 - (i) 75 per cent of fees received by the council during that quarter under component (1) of item 1 of schedule 6 in respect of applications for which the Development Assessment Commission is the relevant authority; and
 - (ii) the total of all fees received by the council during that quarter under components (2), 3(a), (5), (6) and (7) of item 1 of schedule 6 in respect of developments for which the Development Assessment Commission is the relevant authority; and
 - (iii) \$50.40 for each amount received by the council during that quarter under component (3)(b) of item 1 of schedule 6; and
 - (iv) 90 per cent of fees received by the council during that quarter under component (4) of item 1 of schedule 6 where the council is the relevant authority; and
 - (v) 10 per cent of fees received by the council during that quarter under component (4) of item 1 of schedule 6 where the Development Assessment Commission is the relevant authority; and
 - (vi) the total of all fees received by the council during that quarter under components (8) and (9) of item 1 of schedule 6 in relation to applications for which the council is not the relevant authority for the purposes of the assessment of the applications in respect of the Building Rules; and
- (b) pay to any body prescribed under schedule 8 for the purposes of section 37 of the Act 60 per cent of fees received by the council during that quarter under component (5) of item 1 of schedule 6 on account of referrals of applications to that body under schedule 8 where the council is the relevant authority; and
- (c) pay to the Minister four per cent of fees received by the council during the quarter under component (8) of item 1 of schedule 6, or under clause 3(a)(vi) of this schedule.

Distribution of fees between the Commission and councils

3. The Development Assessment Commission must, within 10 business days after the end of each quarter—

- (a) pay to a council an amount equal to the sum of the following:
 - (i) 75 per cent of fees received by the Development Assessment Commission during that quarter under item 1 of schedule 6 in respect of applications that involve the division of land for which the council is the relevant authority; and

- (ii) the total of all fees received by the Development Assessment Commission during that quarter under components (2), (3)(a), (5), (6) and (7) of item 1 of schedule 6 in respect of developments for which the council is the relevant authority; and
 - (iii) \$95.60 for each amount received by the Development Assessment Commission during that quarter under component (3)(b) of item 1 of schedule 6 in respect of developments within the area of the council; and
 - (iv) 90 per cent of fees received by the Development Assessment Commission during that quarter under component (4) of item 3 of schedule 6 where the Development Assessment Commission is the relevant authority in respect of developments within the area of the council; and
 - (v) 10 per cent of fees received by the Development Assessment Commission during that quarter under component (4) of item 1 of schedule 6 where the council is the relevant authority; and
 - (vi) the total of all fees received by the Development Assessment Commission during that quarter under components (8) and (9) of item 1 of schedule 6 in relation to applications for which the council is the relevant authority for the purposes of the assessment of the applications in respect of the Building Rules; and
- (b) pay to any body prescribed under schedule 8 for the purposes of section 37 of the Act 60 per cent of fees received by the Development Assessment Commission during that quarter on account of referrals of applications by the Development Assessment Commission to that body under schedule 8.

3A. A private certifier must, within 10 business days after the end of each quarter, pay to the Minister the fees received by the private certifier during the quarter under item 5(1) of schedule 6.

Requirement for a return and method of payment

4. (1) A payment under this schedule must be accompanied by a return, in a form determined by the Minister, containing reasonable details of the items that make up the amount of the payment.

(2) A payment under this schedule must be made—

(a) by cheque; or

(b) in some other manner determined by the Minister.

Ability to defer payment of small amounts

5. Despite a preceding clause, if an amount due to be paid to a body or the Minister by a council under clause 2(b) or (c) for a particular quarter would, but for this clause, be less than \$50, the council may defer the payment until the amount, together with an amount or amounts payable to the body or the Minister (as the case may be) in a succeeding quarter or quarters, are equal to, or greater than, \$50.

Certificate in respect of land

6. The Certificate of Approval Fee under component (3)(c) of item 1 of schedule 6 is payable to the Development Assessment Commission.

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SCHEDULE 8*Referrals and concurrences⁸*

In relation to each item of this schedule—

- (a) a form of development referred to in paragraph A of the item is prescribed as a class of development for the purposes of section 37 of the Act; and
- (b) the body referred to in paragraph B of the item is prescribed as the body to which the relevant application is referred for the purposes of section 37 of the Act; and
- (c) the period referred to in paragraph C of the item is prescribed for the purposes of section 37(1)(b) of the Act; and
- (d) the following term or terms, when specified in paragraph D of the item, have (subject to any qualification referred to in the relevant paragraph) the meanings assigned to them as follows:
 - (i) **Regard.** This means that the relevant authority cannot consent to or approve the development without having regard to the response of the prescribed body;
 - (ii) **Concurrence.** This means that the relevant authority cannot consent or approve the development without the concurrence of the prescribed body (which concurrence may be given by the prescribed body on such conditions as it thinks fit);
 - (iii) **Direction.** This means that the prescribed body may direct the relevant authority—
 - to refuse the relevant application; or
 - if the relevant authority decides to consent to or approve the development—(subject to any other Act) to impose such conditions as the prescribed body thinks fit,
 (and that the relevant authority must comply with any such direction).

1. Development near the coast

A. Development on coastal land, other than—

- (a) development that comprises the construction or alteration of, or addition to, a farm building; or
- (b) development that in the opinion of the relevant authority is of a minor nature and comprises—
 - (i) the alteration of an existing building; or
 - (ii) the construction of a building to facilitate the use of an existing building; or
- (c) *complying* development in respect of the Development Plan.

Note 8. Pursuant to section 35(3) of the Act, a development that is of a kind described as a *non-complying* development under the relevant Development Plan must not be granted a provisional development plan consent unless—

- (a) where the relevant authority is the Development Assessment Commission—the Minister and, if the development is to be undertaken in the area of a council, that council, concur in the granting of the consent;
- (b) in any other case—the Development Assessment Commission concurs in the granting of the consent.

In this item—

"coastal land" means—

- (a) land situated in a zone or area defined in the relevant Development Plan where the name of the zone or area includes the word "Coast" or "Coastal", or which indicates or suggests in some other way that the zone or area is situated on the coast;
- (b) where paragraph (a) does not apply—
 - (i) land that is situated in an area that, in the opinion of the relevant authority, comprises a township or an urban area and that is within 100 metres of the coast measured mean high water mark on the sea shore at spring tide; or
 - (ii) land that is situated in an area that, in the opinion of the relevant authority, comprises rural land and that is within 500 metres landward of the coast from mean high water mark on the sea shore at spring tide,if there is no zone or area of a kind referred to in paragraph (a) between the land and the coast;
- (c) an area three nautical miles seaward of mean high water mark on the sea shore at spring tide.

B. The Coast Protection Board.

C. Six weeks.

D. (a) Direction, if the development comprises or includes—

- (i) excavating or filling (or excavating and filling) land within 100 metres landward of the coast measured from mean high water mark on the sea shore at spring tide or within three nautical miles seaward measured from mean high water mark on the sea shore at spring tide, where the volume of material excavated or filled exceeds nine cubic metres in total; or
- (ii) the placing or making of any structure or works for coastal protection, including the placement of rocks, stones or other substance designed to control coastal erosion, within 100 metres landward of the coast measured from mean high water mark on the sea shore at spring tide or within one kilometre seaward measured from mean high water mark on the sea shore at spring tide; or

(b) Regard, in any other case.

2. Land division adjacent to main roads

(1) A. Development that involves the division of land where the land being divided abuts a controlled access road declared pursuant to the *Highways Act 1926*.

B. Commissioner of Highways.

C. Six weeks.

D. Direction.

(2) A. Development that involves the division of land where the land being divided abuts an arterial road and creates new road junctions on that arterial road.

B. The Commissioner of Highways.

C. Six weeks.

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- D. Direction, in respect of the location of the junctions.

3. Development adjacent to main roads

- A. Development which in the opinion of the relevant authority is likely to—

- (a) alter an existing access; or
- (b) change the nature of movement through an existing access; or
- (c) create a new access; or
- (d) encroach within a road widening setback under the *Metropolitan Adelaide Road Widening Plan Act 1972*,

in relation to an existing or proposed arterial road, primary road, primary arterial road or secondary arterial road, or within 25 metres of a junction with an existing or proposed arterial road, primary road, primary arterial road or secondary arterial road, (as delineated in the relevant Development Plan), other than (unless an access certificate is required for *complying* development) *complying* development in respect of the relevant Development Plan.

- B. The Commissioner of Highways.

- C. Four weeks.

- D. (a) Direction, in respect of a proposed development that would encroach on land shown on the Metropolitan Road Widening Plan as being potentially required for road widening or would be undertaken within six metres of the boundary of such land or, in any other case in respect of the location or nature of access to a controlled access road; or
- (b) Regard, in relation to any other form of development or any other matter.

4. Advertising displays on or abutting arterial roads.

- A. Development that will involve an advertising display on an existing arterial road, primary road, primary arterial road or secondary arterial road (as delineated in the relevant Development Plan) and within 100 metres of a signalised intersection or a pedestrian actuated crossing where the display—

- (a) will be internally illuminated and incorporate red, yellow, green or blue lighting; or
- (b) will incorporate a moving display or message; or
- (c) will incorporate a flashing light.

- B. Commissioner of Highways

- C. Four weeks

- D. Regard.

5. State heritage places

- (1) A. Other than development to be undertaken in accordance with a Heritage Agreement under the *Heritage Act 1993*, development which directly affects a State heritage place, or development which in the opinion of the relevant authority materially affects the context within which the State heritage place is situated.
- B. The Minister for the time being administering the *Heritage Act 1993*.
- C. Eight weeks.

- D. Regard.
- (2) A. Development where a consent or approval proposed by a council as a relevant authority in relation to the development does not totally adopt the recommendation or any condition proposed in a report forwarded by the Minister under subclause (1).
- B. The Development Assessment Commission.
- C. Six weeks.
- D. Concurrence.

* * * * *

7. Mining — General

- A. Except as provided in item 8, development, other than development which, in the opinion of the relevant authority, is of a minor nature only, within a zone or area designated by a Development Plan as being for a mineral resource.
- B. The Minister for the time being administering the Mining Acts.
- C. Six weeks.
- D. Direction.

8. Mining — Extractive industries

- A. Development within an "Extractive Industry" or "Extractive Industry (Deferred)" zone or area under a Development Plan.
- B. The Minister for the time being administering the Mining Acts.
- C. Six weeks.
- D. Direction.

9. Airports

- A. If the relevant Development Plan contains a map entitled "Airport Building Heights", development within the area shown on the map which would exceed a height prescribed by the map.
- B. The Federal Airports Corporation.
- C. Four weeks.
- D. Direction.

10. Activities of environmental significance

- A. Development—
 - (a) in the Mount Lofty Ranges Water Protection Area or the River Murray Water Protection Area, as proclaimed under the *Water Resources Act 1990*, which is *non-complying* development under the relevant Development Plan, except—
 - (i) development of a kind referred to in item 12; or
 - (ii) where the development is proposed within a township with a sewerage or common septic tank effluent disposal scheme; or

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- (b) that involves, or is for the purposes of, an activity specified in schedule 21 (including, where an activity is only relevant when a threshold level of capacity is reached, development with the capacity or potential to operate above the threshold level, and an alteration or expansion of an existing development (or existing use) where the alteration or expansion will have the effect of producing a total capacity exceeding the relevant threshold level), other than development which comprises the alteration of, or addition to, an existing building and which, in the opinion of the relevant authority—
- (i) does not change the use of the building; and
 - (ii) is of a minor nature only; and
 - (iii) does not have any adverse effect on the environment.
- B. The Environment Protection Authority.
- C. For development under paragraph A(a)—Six weeks;
For development under paragraph A(b)—Four weeks.
- D. Regard.
11. Activities of major environmental significance
- A. Development that involves, or is for the purposes of, an activity specified in schedule 22 (including, where an activity is only relevant when a threshold level of capacity is reached, development with the capacity or potential to operate above the threshold level, and an alteration or expansion of an existing development (or existing use) where the alteration or expansion will have the effect of producing a total capacity exceeding the relevant threshold level).
 - B. The Environment Protection Authority.
 - C. Six weeks.
 - D. Direction.
12. Activities that would otherwise require a permit under the *Water Resources Act 1997*
- A. Development comprising or including an activity for which a permit would be required under section 9(3)(d) or (4)(a) of the *Water Resources Act 1997* if it were not for the operation of section 12(d) of that Act.
 - B. The relevant authority under the *Water Resources Act 1997* who would, but for section 12(d), have the authority under that Act to grant or refuse the permit referred to in paragraph A.
 - C. Six weeks.
 - D. Direction.
13. Retail developments in Metropolitan Adelaide exceeding a prescribed size
- A. Development within Metropolitan Adelaide that will involve the construction of a shop or group of shops in a Regional or District Centre Zone delineated by a Development Plan where the gross leasable area, or the increase in gross leasable area, to be created by the development (as the case may be) exceeds—
 - (a) in the case of a Regional Centre Zone—10 000 square metres;
 - (b) in the case of a District Centre Zone—5 000 square metres.
 - B. The Development Assessment Commission.

(Reprint No. 27)

SCHEDULE 8

6

Development Regulations 1993

C. Eight weeks.

D. Direction.

Development Regulations 1993

SCHEDULE 9⁹*Public notice categories***PART 1****CATEGORY 1 DEVELOPMENT**

1. Any development classified as a *complying* development under these regulations or the relevant Development Plan, or which would be a *complying* development if it were it to meet the conditions associated with the classification where the failure to meet those conditions is, in the opinion of the relevant authority, of a minor nature only.

2. (1) Except where the development is classified as *non-complying* under the relevant Development Plan, any development which comprises—

- (a) the construction of—
 - (i) a detached dwelling, or of single storey dwelling (or single storey dwellings); or
 - (ii) a two-storey semi-detached or row dwelling; or
- (b) the alteration of, or addition to, a building so as to preserve the building as, or to convert it to, a building of a kind referred to in paragraph (a); or
- (c) a change in the use of land to residential use that is consequential on the construction of, or conversion of a building to, a building of a kind referred to in paragraph (a), or on the resumption of use of such a building; or
- (d) the construction of a farm building on land used for farming, or the alteration of, or addition to, a building on land used for farming that preserves the building as, or converts it to, a farm building; or
- (e) the division of land which creates not more than four additional allotments; or
- (f) a kind of development which, in the opinion of the relevant authority, is of a minor nature only and is unlikely to be the subject of reasonable objection from the owners or occupiers of land in the locality of the site of the development.

(2) Subclause (1)(a) to (d) (inclusive) does not apply where the development is to occur in that part of the area of the City of Salisbury defined in the relevant Development Plan as the MFP (The Levels) Zone.

3. Any development classified as *non-complying* under the relevant Development Plan which comprises—

- (a) the alteration of, or addition to, a building which, in the opinion of the relevant authority, is of a minor nature only; or
- (b) the construction of a building to be used as ancillary to or in association with an existing building and which will facilitate the better enjoyment of the purpose for which the existing building is being used, and which constitutes, in the opinion of the relevant authority, development of a minor nature only; or
- (c) the division of land where the number of allotments resulting from the division is equal to or less than the number of existing allotments.

Note 9. · Pursuant to section 38 of the Act, the assignment by these regulations of a form of development to Category 1 or Category 2 is subject to any assignment provided by the relevant development plan.

· The assignment of various forms of development to Category 1 does not extend to developments that involve, or are for the purposes of, any activity specified in schedule 22 (*see* regulation 32).

4. The division of land by way of strata plan under the *Community Titles Act 1996* or the *Strata Titles Act 1988*.

5. The division of land (including for the construction of a road or thoroughfare) where the applicant proposes to use the land for a purpose which is, in the opinion of the relevant authority, consistent with the objective of the zone or area under the Development Plan, other than where the division will, in the opinion of the relevant authority, change the nature or function of an existing road.

6. (1) Any development which consists of any of the following, other than where the site of the development is adjacent land to land in a zone under the relevant Development Plan which is different to the zone that applies to the site of the development:

- (a) the construction of, or a change in use to, a shop or bank in a Local Shopping, District Shopping or Specialty Goods Centre zone delineated in the Development Plan; or
- (b) the construction of, or a change in use to, a petrol filling station in a Commercial, District Commercial, Local Commercial, Industry, Light Industry or General Industry zone delineated in the Development Plan; or
- (c) the construction of, or a change in use to, a warehouse, store, timber yard or service industry or in a District Commercial, Industry, Light Industry or General Industry zone delineated in the Development Plan; or
- (d) the construction of, or a change in use to, a bank, office or consulting room in a Local Office, Commercial, Local Commercial or District Commercial zone as delineated in the Development Plan; or
- (e) the construction of, or a change in use to, a shop, office, consulting room or bank in a Business zone as delineated in the Development Plan; or
- (f) the construction of, or a change in use to, a motor showroom, used car lot or auction room in a District Commercial zone as delineated in the Development Plan; or
- (g) the construction of a building for the purposes of, or a change of use to, light industry or a motor repair station in a Industry, Light Industry or General Industry zone as delineated in the Development Plan; or
- (h) the construction of a building for the purposes of, or a change of use to, general industry in a General Industry zone as delineated in the Development Plan; or
- (i) any kind of development within a Local Centre, Town Centre, City Centre, Neighbourhood Centre, District Centre, Regional Centre or District Business zone as delineated in the Development Plan; or
- (j) the construction of, or a change of use to, an educational establishment or pre-school in an Educational zone as delineated in the Development Plan; or
- (k) the construction of, or a change of use to, tourist accommodation (and accessory activities) in a Tourist Accommodation zone as delineated in the Development Plan; or
- (ka) the construction of, or a change in use to, recreation or tourist related facilities (including tourist accommodation and any accessory activities) on land in the Recreation (West Beach) Zone as delineated in the relevant Development Plan; or
- (l) any kind of development in the Port Adelaide Centre zone or the Lincoln Cove Centre zone as delineated in the relevant Development Plan; or
- (m) the construction of a building for the purposes of, or a change of use to, light industry, or the construction of, or a change of use to, an office, in the Technology Park Zone as delineated in the relevant Development Plan; or

Development Regulations 1993

- (n) any kind of development involving, or undertaken for the purposes of, the construction, creation, use or alteration of any of the following (or of anything associated with any of the following) within the relevant area at Cape Jervis (*see* subclause (2)):
- (i) tourist accommodation;
 - (ii) tourist, conference, leisure or amusement facilities;
 - (iii) a hotel or tavern;
 - (iv) a marina, a boat mooring, a boat storage facility, or a boat ramp or other boat launching facility;
 - (v) a marine harbour or channel;
 - (vi) a jetty or wharf;
 - (vii) a boat fuelling facility;
 - (viii) a breakwater;
 - (ix) a navigation aid structure;
 - (x) a rock wall or a retaining wall, or coastal protection works;
 - (xi) a shop, or group of shops, with a gross leaseable area not exceeding 450 square metres.

(2) For the purposes of subclause (1)(n), the following constitutes the relevant area at Cape Jervis—

- (a) the Commercial (Cape Jervis) Zone, as delineated in the relevant Development Plan; and
- (b) an area adjoining the Commercial (Cape Jervis) Zone bounded as follows:

Commencing from the south-western corner of the Commercial (Cape Jervis) Zone (being where the southern boundary of the zone meets the seacoast) in a westerly direction into the sea along a projection of the southern boundary of the zone for a distance of 250 metres, then along a straight line in a northerly direction to intersect with the projection of the northern boundary of the zone for 250 metres in a westerly direction from the north-western corner of the zone (being where the northern boundary of the zone meets the sea coast), then along that projection in an easterly direction to the north-western corner of the zone (as described above), and then in a southerly direction along the western side of the zone (being along the seacoast) to the point of commencement.

7. Except where the development is classified as *non-complying* under the relevant Development Plan, any development within the City of Adelaide which is listed in the Development Plan as "desired", or any development within the Core, Frame or Institutional Districts of the City of Adelaide which is listed in the Development Plan as "For consideration on merit", including other uses not specified in the use charts, as provided in Principle 4 of the City of Adelaide Development Plan.

8. Except where the development is classified as *non-complying* under the relevant Development Plan, any development which comprises—

- (a) intensive outdoor recreation of a temporary nature only; or
- (b) active outdoor recreation; or
- (c) passive outdoor recreation,

within the Parklands District of the City of Adelaide.

9. Any form of aquaculture development in an aquaculture zone delineated by a Development Plan or by a management plan for aquaculture under the *Fisheries Act 1982* or the *Crown Lands Act 1929*.

10. Any development which comprises the construction of, or alteration of or addition to, a water or wastewater (or water and wastewater) treatment plant, or associated infrastructure, as part of a project for the provision, extension or improvement of public infrastructure, and which is undertaken on land owned by the Crown, a Minister of the Crown, or an agency or instrumentality of the Crown.

11. (1) Any development which comprises a special event if—

(a) the special event will not be held over more than three consecutive days; and

(b) in the opinion of the relevant authority, an event of a similar or greater size, or of a similar or greater impact on surrounding areas, has not been held on the same site (or substantially the same site) within six months immediately preceding the day or days on which the special event is proposed to occur.

(2) In subclause (1)—

"**special event**" means a community, cultural, arts, entertainment, recreational, sporting or other similar event that is to be held over a limited period of time.

12. Any development in that part of the area of the City of Salisbury defined in the relevant Development Plan as the MFP (The Levels) Zone which consists of—

(a) the division of land; or

(b) earthworks.

PART 2 CATEGORY 2 DEVELOPMENT

1. Except where the development falls within Part 1 of this schedule, is within the City of Adelaide, or is classified as *non-complying* development under the relevant Development Plan, any development which consists of the construction of the following, or a change of land use consequent on the construction of the following:

(a) a building of two storeys comprising dwellings; or

(b) a building in a situation referred to in clause 6 of Part 1 of this schedule where the site of the proposed development is adjacent land to land in a zone under the relevant Development Plan which is different to the zone that applies to the site of the development.

2. Except where the development is classified as *non-complying* development under the relevant Development Plan, the division of land where the applicant proposes to use the land for a purpose which is, in the opinion of the relevant authority, consistent with the zone or area under the Development Plan and where the division will, in the opinion of the relevant authority, changed the nature or function of an existing road.

3. Except where the development is classified as *non-complying* under the relevant Development Plan, or is of a temporary nature only, any development within the Parklands District of the City of Adelaide which comprises an alteration of, or an addition to, an existing outdoor recreation activity.

4. Except where the development falls within Part 1 of this schedule, any development in that part of the area of the City of Salisbury defined in the relevant Development Plan as the MFP (The Levels) Zone.

5. Except where the development falls within Part 1 of this schedule, any development which consists of the construction of a building for the purposes of, or a change of use to, any of the following in the Lobethal Woollen Mills Policy Area as delineated in the relevant Development Plan:

(a) light industry;

Development Regulations 1993

- (b) motor repair station;
- (c) offices, other than new offices, or an addition to existing offices, where the total floor area of the office building will exceed 10 per cent of the area of the policy area;
- (d) museum;
- (e) public service depot;
- (f) service industry;
- (g) store;
- (h) warehouse.

Development Regulations 1993

SCHEDULE 10

Decisions by Development Assessment Commission

Areas of all councils

1. The following classes of development in the areas of all councils:

- (a) development undertaken by the South Australian Housing Trust, other than—
 - (i) the alteration of, or an addition to, an existing building; or
 - (ii) the construction of an outbuilding ancillary to, or associated with, an existing building; or
 - (iii) the division of land which creates not more than four additional allotments; or
 - (iv) the construction of a detached dwelling that will be the only dwelling on the allotment; or
 - (v) development of any kind undertaken outside Metropolitan Adelaide.
- (b) development undertaken by the South Australian Urban Land Trust, either individually or jointly with other persons or bodies, other than—
 - (i) the alteration of, or an addition to, an existing building; or
 - (ii) the erection of an outbuilding ancillary to, or associated with, an existing building; or
 - (iii) the erection or construction of a detached dwelling that will be the only dwelling on the allotment; or
 - (iv) land division, or any form of *complying* development in respect of the Development Plan, in the Golden Grove Area.

Areas of all councils

2. The following classes of development in the areas of all councils:

- (a) prescribed mining operations; or
- (b) development of land for the purpose of the reception, storage, treatment or disposal of waste.

* * * * *

Metropolitan Hills Face Zone

3. (1) Those classes of development set out in the schedule to this subclause in those parts of the areas of the following councils defined in the relevant Development Plan as Hills Face Zone, or Metropolitan Open Space System (Hills Face) Zone:

- (a) the Municipalities of Burnside, Campbelltown, Happy Valley, Marion, Mitcham, Munno Para, Noarlunga, Salisbury and Tea Tree Gully; and
- (b) the District Councils of Stirling and Willunga.

SCHEDULE

- A. The construction of a dwelling that is not a detached dwelling.

- B. The excavation or filling (or excavation and filling) of land, otherwise than—
 - (a) in association with the construction, conversion or alteration of, or addition to, a building; or
 - (b) for the purposes of a dam used, or to be used, for the purpose of primary production.
- C. The division of an allotment or allotments, otherwise than where, in the case of division by deposit of a plan of division in the Lands Titles Registration Office, the number of allotments to result from the division is equal to or less than the number of existing allotments.
- D. The construction (but not alteration) of a shop, office, motel, hotel, petrol filling station or building to be used for an industrial purpose.

(2) All classes of development, other than those set out in the schedule to this subclause, in those parts of the area of the District Council of East Torrens defined in the relevant Development Plan as Hills Face Zone, or Metropolitan Open Space System (Hills Face) Zone.

SCHEDULE

- A. The construction of an outbuilding ancillary to, or associated with, an existing dwelling.
- B. The alteration of, or addition to, an existing detached dwelling.

East End Market

4. All classes of development in that part of the City of Adelaide bounded by Rundle Street, East Terrace, Grenfell Street and Frome Road.

Port Adelaide Centre

5. All classes of development in that part of the area of the City of Port Adelaide defined in the relevant Development Plan as the Port Adelaide Centre Zone.

City of Port Adelaide Enfield—Industry (Cast Metals) Zone

6. All classes of development in that part of the area of the City of Port Adelaide Enfield defined in a relevant Development Plan as a Industry (Cast Metals) Zone, other than—

- (a) the alteration of, or an addition to, an existing building, but not including a case where the floor area of the building will be increased by more than 50 square metres; or
- (b) the construction of an outbuilding ancillary to, or associated with, an existing building; or
- (c) the division of an allotment or allotments where the number of allotments to result from the division is equal to or less than the number of existing allotments; or
- (d) the commencement of the display of an advertisement or the erection of a structure solely for the purposes of the display of an advertisement.

Development Regulations 1993**Mount Lofty Ranges Water Protection Area**

7. The division of an allotment or allotments outside a township designated in or by a Development Plan in those parts of the areas of the Municipalities of Happy Valley, Munno Para, Noarlunga and Tea Tree Gully and the District Councils of Barossa, East Torrens, Gumeracha, Mount Barker, Mount Pleasant, Onkaparinga, Port Elliot and Goolwa, Stirling, Strathalbyn, Victor Harbor, Willunga and Yankalilla lying within the area of land described in the First Schedule to the regulations made under the Waterworks Act 1932 on 4 July 1974 and published in the Government *Gazette* on the same day at pages 33 to 58 inclusive, as varied, and described in that *Gazette* as the Mount Lofty Ranges Watershed (and also known as "Mount Lofty Ranges Water Protection Area"), other than—

- (a) where the only purpose of the division is to realign the common boundary between two contiguous allotments and no more than 10 per cent of either allotment is affected by the change in boundary; or
- (b) where two habitable detached dwellings are situated on one allotment and the purpose of the division is to divide the allotment into two allotments so that each dwelling will be situated on a separate allotment.

Conservation Zones

8. Applications for approval to all classes of development in any Conservation Zone delineated in a Development Plan, other than—

- (a) the construction, conversion or alteration of, or addition to—
 - (i) a detached dwelling; or
 - (ii) an outbuilding used, or to be used, in association with an existing dwelling; or
 - (iii) a farm building; or
- (b) the division of an allotment or allotments where the number of allotments to result from the division is equal to or less than the number of existing allotments.

River Murray Flood Zone

9. Those classes of development set out in the schedule to this clause in that part of the River Murray Flood Zone situated in the areas of the District Councils of Barmera, Berri, Loxton, Mannum, Meningie, Morgan, Paringa, Ridley-Truro and Waikerie, the Corporation of the Town of Renmark, and the Rural City of Murray Bridge.

SCHEDULE

- A. The division of an allotment.
- B. The erection or construction of a dwelling (but not the alteration of or addition to an existing dwelling).
- C. The erection or construction of a marina, or mooring facilities, for more than five boats.
- D. The erection, construction, conversion or alteration of, or addition to, residential accommodation for tourists.
- E. The erection or construction of a building except where the building will be used in conjunction with a dwelling, and the dwelling and the building are situated on land held by one or more persons pursuant to the one tenure.

West Beach Recreation Reserve

10. All classes of development on that land in allotment 21 of Section 157, and allotments 1 and 2 of section 224, in the Hundreds of Adelaide and Noarlunga in the area known as West Beach Recreation Reserve and more particularly described in Certificate of Title Register Book Volume 4196 Folio 330, other than development to be undertaken by a State agency within the meaning of section 49 of the Act that is dealt with in accordance with the provisions of that section.

Land Within Irrigation Areas

11. All classes of development on that land which is included within Irrigation Areas proclaimed under the *Irrigation Act 1930* but which lies outside municipal and district council districts.

Private Open Space

12. All classes of development on land subject to a proclamation by virtue of the *Statutes Repeal and Amendment (Development) Act 1993*—

- (a) made under section 62 of the *Planning Act 1982*; or
- (b) having the force and effect of a proclamation made under section 62 of the *Planning Act 1982*.

Shopping Development

13. Any development which involves the construction or alteration of, or the addition to, a shop or shops where—

- (a) —
 - (i) in the case of the erection or construction of a new shop or shops—
 - (A) the gross leasable area of the shop will exceed 2 000 square metres; or
 - (B) where the application relates to a number of shops — the aggregate of the gross leasable areas of the shops to be built on the same allotment or on adjoining allotments will exceed 2 000 square metres; or
 - (ii) in the case of the alteration of, or an addition to, an existing shop or shops—
 - (A) the increase in the gross leasable area of the shop will exceed 2 000 square metres; or
 - (B) where the application relates to a number of shops — the aggregate of the increases in the gross leasable areas of the shops situated on the same allotment or on adjoining allotments exceeds 2 000 square metres; or
 - (iii) in the case of an application proposing, or including a proposal for, the construction of new shops and the alteration of or addition to existing shops situated on the same allotment or on adjoining allotments — the aggregate of the gross leasable areas of the new shop or shops when added to the aggregate of the increases in the gross leasable areas of the existing shop or shops exceeds 2 000 square metres; and

Development Regulations 1993

(b) the shop or shops are—

(i) situated within the area of one of the following councils—

City of Port Lincoln, the Corporate Towns of Naracoorte, Peterborough, Wallaroo and the District Councils of Barossa, Beachport, Blyth-Snowtown, Brown's Well, Bute, Carrieton, Cleve, Coonalpyn Downs, Crystal Brook-Redhill, Elliston, Eudunda, Gumeracha, Hallett, Hawker, Jamestown, Kanyaka-Quorn, Kapunda, Karoonda-East Murray, Kimba, Lameroo, Light, Lucindale, Mallala, Meningie, Millicent, Morgan, Mount Gambier, Mount Pleasant, Murat Bay, Naracoorte, Northern Yorke Peninsula, Onkaparinga, Orroroo, Paringa, Peake, Penola, Peterborough, Pinnaroo, Pirie, Port Macdonnell, Ridley-Truro, Riverton, Robertstown, Rocky River, Saddleworth and Auburn, Spalding, Tanunda, Waikerie, Wakefield Plains, Warooka, Willunga and Yorketown; but

(ii) are not situated within any area designated in the relevant Development Plan as a—

shopping zone or shopping area
local shopping zone or local shopping area
district shopping zone or district shopping area
business centre zone or business centre area
local centre zone or local centre area
neighbourhood centre zone or neighbourhood centre area
district centre zone or district centre area
regional centre zone or regional centre area
business zone or business area
local business zone or local business area
district business zone or district business area
town centre zone or town centre area
centre zone.

Water/Wastewater Treatment Plants

14. Any development which comprises the construction of, or alteration of or addition to, a water or wastewater (or water and wastewater) treatment plant, or associated infrastructure, as part of a project for the provision, extension or improvement of public infrastructure, and which is undertaken on land owned by the Crown, a Minister of the Crown, or an agency or instrumentality of the Crown.

City of Salisbury—MFP (The Levels) Zone

15. All classes of development in that part of the area of the City of Salisbury defined in the relevant Development Plan as the MFP (The Levels) Zone.

Marion Regional Centre

16. All classes of development in that part of the area of the City of Marion defined in the relevant Development Plan as the Regional Centre Zone.

Glenelg (Foreshore/Patawalonga) Zone

17. All classes of development in that part of the area of the City of Holdfast Bay defined in the relevant Development Plan as the Glenelg (Foreshore/Patawalonga) Zone.

Development Regulations 1993

SCHEDULE 11

Decision notification form

[Form appears in *Gaz.* 27 October 1993, p. 1954]

Development Regulations 1993

SCHEDULE 12

Land division certificate

(Development Act 1993—Section 51)

(Development Regulations 1993—Regulation 60)

Approved in accordance with the requirements of section 51 of the *Development Act 1993*.

Signed

Description of signatory

Dated

Development Regulations 1993

SCHEDULE 13

Bodies excluded from the definition of State agency

The South Australian Housing Trust

The South Australian Totalizator Agency Board

Development Regulations 1993**SCHEDULE 14***State agency development exempt from approval*

The following forms of development, other than in relation to a State heritage place, are excluded from the provisions of section 49 of the Act:

- (a) —
- (i) the reconstruction (including widening), alteration, repair or maintenance of any road, bridge, railway, wharf or jetty; or
 - (ii) the maintenance of a levee bank; or
- (b) if the work is certified by a private certifier, or by some person nominated by the Minister for the purposes of this provision, as complying with the Building Rules (or the Building Rules to the extent that is appropriate in the circumstances after taking into account the requirements of the Building Rules and, insofar as may be relevant, the matters prescribed under regulation 70 for the purposes of section 49 of the Act)—
- (i) *complying* development in respect of the Development Plan; or
 - (ii) the construction, reconstruction or alteration of a local water treatment station, pressure regulating station or pumping station; or
 - (iii) the construction, reconstruction or alteration of a building or equipment used for or associated with the supply, conversion, transformation or control of electricity (other than an electricity generating station or an electricity substation); or
 - (iv) the development of land dedicated under the *National Parks and Wildlife Act 1972* where such development is carried out in accordance with an adopted plan of management for the park; or
 - (v) the construction, reconstruction or alteration of, or addition to a building contained within the existing security-fenced area of an existing electricity substation; or
 - (vi) the construction, reconstruction or alteration of or addition to, a building which is to be located wholly underground, other than on or under land which is subject to coastal processes, or in relation to which there is evidence to suggest that the land is likely to be affected by coastal processes within the foreseeable future, or on land within the City of Adelaide; or
 - (vii) the construction, reconstruction or alteration of, or addition to, an outbuilding within the area of an existing school, other than—
 - (A) the construction of a new building exceeding one storey in height; or
 - (B) where the relevant work would be performed within 20 metres of a boundary of the area of the school; or
 - (C) where the relevant work would affect a local heritage place; or
 - (viii) building work associated with the placement of a transportable and temporary classroom within the area of an existing school, other than—
 - (A) where the building exceeds one storey in height; or
 - (B) where the classroom would be within 20 metres of a boundary of the area of the school; or
 - (C) where the building work would affect a local heritage place; or

- (c) the construction, reconstruction, alteration, repair or maintenance of any drain, pipe or underground cable, other than on or under land which is subject to coastal processes or in relation to which there is evidence to suggest that the land is likely to be affected by coastal processes within the foreseeable future; or
- (d) the undertaking of any temporary development which is required in an emergency situation in order to—
 - (i) prevent loss of life or injury; or
 - (ii) prevent loss or damage to land or buildings; or
 - (iii) maintain essential public services; or
 - (iv) prevent a health or safety hazard; or
 - (v) protect the environment where authority to undertake the development is given by or under another Act; or
- (e) the excavation, removal or placement of sand and other beach sediment by or as authorised by the Coast Protection Board on land which is owned by, or under the care and control of, a council or Crown agency or instrumentality, where the land is between mean low water mark on the sea shore at spring tide, and the landward limit of any sandy beach or sand dune; or
- (f) the granting of a lease or licence in a dedicated forest reserve under the *Forestry Act*; or
- (g) an alteration to the cadastre arising from the administration of the *Crown Lands Act 1929*, the *Pastoral Land Management and Conservation Act 1989*, or the *Irrigation Act 1930*, other than where five or more allotments are being created; or
- (h) a division of land arising out of, or reasonably incidental to, the implementation of any matter referred to above; or
- (i) an alteration, or repairs, to a building—
 - (i) which are predominantly internal; and
 - (ii) which do not change the external appearance or total floor area of the building; and
 - (iii) which will not adversely affect the structural soundness of the building or the safety of any person occupying or using it; or
- (j) excavating or filling (or excavating and filling) for the purpose of providing proper access to an existing wharf, jetty or mooring, but excluding excavating or filling where more than 1 500 cubic metres of material has been excavated or filled at the particular place within the previous 12 months; or
- (k) the division of land arising out of the granting of a lease under the *Harbors and Navigation Act 1993* for the purposes of aquaculture; or
- (l) the construction, reconstruction or alteration of a fire hydrant, fire plug or location indicator in a public place that is not connected with the performance of any other building work that requires approval under the Act; or
- (m) the construction, reconstruction or alteration of an electricity power line, other than a transmission line of 33 000 volts or more.

Development Regulations 1993

SCHEDULE 15

Work that affects the stability of other land or premises

[Figures appear in *Gaz.* 27 October 1993, p. 1954]

Development Regulations 1993

SCHEDULE 16

Essential safety provisions

Form 1

Development Act 1993

Development Regulations 1993—Regulation 76(3)

SCHEDULE OF ESSENTIAL SAFETY PROVISIONS

Municipal or District Council of
(or Relevant authority)

Project name (if applicable)

Reference: Address of building

Portion of building applicable:

Name of owner:

Development number:

This is to specify the essential safety provisions required for the above building and the standards/codes/conditions of approval for maintenance and testing in respect of each of those provisions:

Essential safety provisions

Standards/codes/conditions of approval

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

Signed
(Duly authorised officer)

Date

Form 2

Development Act 1993

Development Regulations 1993—Regulation 76(3a)

CERTIFICATE OF COMPLIANCE WITH ESSENTIAL SAFETY PROVISIONS

To the Municipal or District council of
Project name (if applicable)
Reference: Address of building
Portion of building applicable:
Name of owner*/applicant*
(*Delete where appropriate)
Development number:

This is to certify that the following essential safety provisions for the above building have been installed and tested in accordance with the following standards/codes/conditions of approval:

Table with 2 columns: Essential safety provisions, Standards/codes/conditions of approval. The table contains multiple rows of dotted lines for text entry.

Signed Date
(Position held)

.....
(Name of installer or manager)

Development Regulations 1993**SCHEDULE 17***Essential safety provisions
Annual returns under regulation 76(5)*

BUILDING CLASSIFICATION	CONDITIONS FOR REGULATION 76(5) TO APPLY
Class 1a and 1b	Never
Class 2	Either (or both) of the following: (a) 4 or more storeys; (b) a building floor area exceeding 2 000 square metres
Class 3, 4, 5, 6, 7, 8 and 9b	Either (or both) of the following: (a) 3 or more storeys; (b) a building floor area exceeding 500 square metres
Class 9a	Always
Class 10	Never

NOTE: Despite the above, a council may under regulation 76(8) require compliance with regulation 76(5) in any case where—

- (a) the essential safety provisions have been installed under a condition attached to a consent or approval that is expressed to apply by virtue of a variance with the performance requirements of the Building Code; or*
- (b) the building has been the subject of a notice under section 71 of the Act (Fire Safety).*

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SCHEDULE 18

Building Code—Bushfire Prone Areas

Mount Lofty Ranges Bushfire Prone Area

1. The whole of the areas of the following councils:

DC Angaston	DC Port Elliot and Goolwa
DC Barossa	DC Stirling
DC East Torrens	DC Strathalbyn
DC Gumeracha	DC Tanunda
DC Mount Barker	DC Victor Harbor
DC Mount Pleasant	DC Yankalilla
DC Onkaparinga	

2. That portion of:

- (a) the area of the City of Munno Para east of the western edge of the Hills Face Zone;
- (b) the area of the City of Salisbury east of the western edge of the Hills Face Zone;
- (c) the area of the Corporation of the City of Tea Tree Gully east of the western edge of the Hills Face Zone;
- (d) the area of the Corporation of the City of Campbelltown east of the western edge of the Hills Face Zone;
- (e) the area of the Corporation of the City of Burnside east of the western edge of the Hills Face Zone;
- (f) the area of the City of Mitcham east of the western edge of the Hills Face Zone between the boundary of the Corporation of the City of Burnside and its intersection with section 13, then west along the northern edge of sections 13 and 36, then south along the western edge of sections 36, 35, 34, 33, 32, 31, 30 and 625, Hundred of Adelaide;
- (g) the area of the Corporation of the City of Happy Valley east of a line from the boundary of the Corporation of the City of Happy Valley with the City of Mitcham along the western and southern edges of section 1561, then south along the western edge of sections 21, 22 and 23 in the Hundreds of Adelaide and Noarlunga to the intersection with Black Road, then along the north-eastern boundary of Black Road to its intersection with Oakridge Road, then along the north-eastern boundary of Oakridge Road to the intersection with the Hills Face Zone in section 794, then along the western boundary of the Hills Face Zone to the boundary of the Corporation of the City of Happy Valley with the Corporation of the City of Noarlunga;
- (h) the area of the Corporation of City of Noarlunga east of the western edge of the Hills Face Zone from the boundary of the Corporation of the City of Noarlunga with the Corporation of the City of Happy Valley to its intersection with the southern edge of section 687, then in a straight line easterly to the intersection of the Hills Face Zone to the north-east corner of section 12, then along the western edge of the Hills Face Zone to the boundary of the Corporation of the City of Noarlunga with the District Council of Willunga;
- (i) the area of the District Council of Willunga east of the western edge of the Hills Face Zone.

In this schedule—

"Hills Face Zone" means the Hills Face Zone as delineated in a Development Plan, or where no such zone appears, then a zone with the name "Hills Face" appearing in its name.

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SCHEDULE 20

Mining production tenements

Adelaide and Environs

1. The areas of:

- (a) the municipalities of Brighton, Burnside Campbelltown, Elizabeth, Enfield, Gawler, Glenelg, Happy Valley, Henley and Grange, Hindmarsh and Woodville, Kensington and Norwood, Marion, Mitcham, Munno Para, Noarlunga, Payneham, Port Adelaide, Prospect, St Peters, Salisbury, Tea Tree Gully, Thebarton, Unley, Walkerville and West Torrens;
- (b) the district council districts of Angaston, Barossa, East Torrens, Gumeracha, Kapunda, Light, Mallala, Mount Barker, Mount Pleasant, Onkaparinga, Port Elliot and Goolwa, Stirling, Strathalbyn, Tanunda, Victor Harbor, Willunga and Yankalilla.

The coast

2. (1) Those parts of the State situated within 800 metres of the coast measured from mean high water mark on the seashore at spring tide.

(2) The coast as defined in the *Coast Protection Act 1972*.

(3) The parts of the State proclaimed by the Governor to be a coast protection district under the *Coast Protection Act 1972*.

Other Areas

3. The areas of the State of South Australia depicted on the series of maps deposited in the General Registry Office and numbered 156 of 1982 each map bearing the stamp *Planning Act 1982, Mining Production Tenement Regulations*, and titled as follows:

(a) Index Map (Map 1);

(b) Eyre Plan: Those proposed open space areas generally depicted on Map 2, which are more particularly described as follows:

- County Dufferin - Sections 2 and 86, out of hundreds, and surrounding areas. Aboriginal tribal grounds. Flora and fauna. Approximately 39,000 hectares. (No 2)
- The Gawler Ranges and adjacent small ranges. Scenic interest; Spring Hill and Mount Nott worthy of special consideration. (No 3)
- Pilepudla Water Reserve - Various species of birds, small fauna and flora. Approximately 750 hectares. (No 5)
- Cortlinye Water Conservation Reserve - flora and fauna Approximately 490 hectares. (No 6).
- Pinkawillinie Area - Parts of the hundreds of Panitya, Pinkawillinie, Koogawa, Peella, Hill and Corrobinnie. Adjacent to Pinkawillinie Conservation Park. A potential wilderness reserve, approximately 92 000 hectares. (No 8)
- Yalanda Tanks - Water Conservation Reserve, hundred of Yalanda. Native flora, including acacia, cassia and orchids. Approximately 240 hectares. (No 9)
- Darke Peake Range - Area of geological interest and scenic beauty. Approximately 2,100 hectares. (No 13)
- Minbrie Range - Varying mallee, salt bush, blue bush associations and scenic views. Approximately 2 200 hectares. (No 15)

- Cleve Water Reserve - Sections 327, 328, 329, hundred of Mann. A catchment area with variety of fauna. Approximately 3 300 hectares. (No 17)
 - Moody Tanks - Railway Reserve - Section 48, hundred of Moody. A heavily timbered area. Approximately 77 hectares. (No 25)
 - Sections 415, 416, 417, hundred of Louth - Sugar gum heath with abundance of orchid species. Approximately 535 hectares. (No 33)
 - Section 99, hundred of Wanilla - Uncleared sand dune vegetation. Includes mallee, acacias and banksia. Approximately 430 hectares. (No 34)
 - Caraleu Bluff - Native pines, picnic area. Approximately 90 hectares. (No 43)
 - Tcharkulda Hill - Granite outcrop. Mallee, native pine, cassia. Picnic area. Approximately 195 hectares. (No 44)
 - Pillawarta Creek - Sugar and blue gums, wildflowers. Approximately 80 hectares. (No 46)
 - Corunna - in the Baxter Ranges. Scenic hills, considerable native flora and fauna of scientific interest. (No 47)
 - Polda Rock and Little Wudinna Rock - Sections 48 & 52, hundred of Wudinna. Suitable for recreation and picnic area. Approximately 115 hectares. (No 48)
 - Corrobinnie Hill - Rock outcrop with unusual erosion. Mallee broom and acacias. Approximately 40 hectares. (No 49)
 - Minnipa Hill - Suitable for recreation and picnic area. Approximately 75 hectares. (No 50)
 - Talia Caves - Approximately 220 hectares. (No 53)
 - Waddikee Rocks - Monument to explorer Darke. Approximately 85 hectares. (No 54)
- (c) Far North Plan: All boundary referral areas as depicted on Maps 3a to 3w inclusive;
- (d) Kangaroo Island Plan: Those proposed open space areas generally depicted on Map 4 which are more particularly described as follows:
- Sections 399, 420, 421, 422 and 434, hundred of Dudley. Eastern end of island, frontage to Antechamber Bay and Chapman River. Suitable for general recreation and picnic area. Approximately 59 hectares. (No 1).
 - Land adjacent to American River and Pelican Lagoon between the township of American River and Picnic Point, with a link to the south coast. Scenic area suitable for general recreation. (No 2).
 - Land north of Sections 7 & 8, hundred of Borda, adjacent to Cape Torrens Conservation Park. Includes high and spectacular cliffs. Natural vegetation largely in original state. Approximately 150 hectares. (No 3).
 - Part Section 14, hundred of McDonald. South coast, at mouth of South West River. Suitable for general recreation. Approximately 12 hectares. (No 4).
- (e) Flinders Plan: Those areas depicted on Maps 5a to 5h inclusive, all of which define areas of environmental significance in the Flinders Ranges;
- (f) Murray Mallee Plan: Those areas depicted on Maps 6a to 6f inclusive, all of which define areas of conservation significance;

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- (g) River Murray Valley Plan: Those areas depicted on Maps 7a to 7b, both of which define areas known as Conservation Zones;
- (h) River Murray Valley Plan: Those areas depicted on Maps 8a and 8p inclusive, all of which define areas known as Flood Zones and Fringe Zones;
- (i) Riverland Plan: Those areas depicted on Maps 9a to 9c inclusive, all of which define possible conservation park areas;
- (j) Wetlands of the South-East: Those areas depicted on Maps 10a to 10q inclusive;
- (k) Whyalla Town Plan: Approximately 1 400 hectares of existing open space depicted on Map 11, and lying approximately 10 kilometres north of the city of Whyalla;
- (l) Yorke Peninsula Plan: Those areas depicted on Maps 12a to 12g inclusive, all of which define a boundary referral area.

Development Regulations 1993**SCHEDULE 21***Activities of environmental significance***1. Petroleum and Chemical**

(1) Chemical Storage and Warehousing Facilities: the storage or warehousing of chemicals or chemical products that are, or are to be, stored or kept in bulk or in containers having a capacity exceeding 200 litres at facilities with a total storage capacity exceeding 100 but not exceeding 1 000 cubic metres.

(2) Chemical Works: the conduct of—

(a) works with a total processing capacity exceeding 10 but not exceeding 100 tonnes per year involving either or both of the following operations:

(i) manufacture (through chemical reaction) of any inorganic chemical, including sulphuric acid, inorganic fertilisers, soap, sodium silicate, lime or other calcium compound;

(ii) manufacture (through chemical reaction) or processing of any organic chemical or chemical product or petrochemical, including the separation of such materials into different products by distillation or other means; or

(b) works with a total processing capacity exceeding 500 but not exceeding 5 000 tonnes per year involving operations for salt production.

(3) Petroleum Production, Storage or Processing Works or Facilities (including retail petroleum facilities): the conduct of works or facilities—

(a) at which petroleum products are stored in tanks with a total storage capacity exceeding 100 but not exceeding 2 000 cubic metres; or

(b) with a total petroleum production rate not exceeding 20 tonnes per hour.

2. Manufacturing and Mineral Processing

(1) Abrasive Blasting: the cleaning of materials by the abrasive action of any metal shot or mineral particulate propelled in a gaseous or liquid medium solely by using blast cleaning cabinets less than 5 cubic metres in volume or totally enclosed automatic blast cleaning units.

(2) Ceramic Works: the conduct of works for the production of any products such as bricks, tiles, pipes, pottery goods, refractories, or glass that are manufactured or are capable of being manufactured in furnaces or kilns fired by any fuel, being works with a total capacity for the production of such products exceeding 10 but not exceeding 100 tonnes per year.

(3) Ferrous and Non-ferrous Metal Melting: the melting of ferrous or non-ferrous metal in a furnace or furnaces that alone or in aggregate have the capacity to melt in excess of 50 but not in excess of 500 kilograms of metal during the normal cycle of operation.

(4) Pulp or Paper Works: the conduct of works at which paper pulp or paper is manufactured or is capable of being manufactured, being works with a total capacity for production of such products exceeding 10 but not exceeding 100 tonnes per year.

(5) Surface Coating: the conduct of—

(a) works for metal finishing, in which metal surfaces are prepared or finished by means of electroplating, electrolyse plating, anodising (chromating, phosphating and colouring), chemical etching or milling, or printed circuit board manufacture, being works producing not more than 5 kilolitres per day of effluent; or

(b) works for spray painting and powder coating with a capacity to use not more than 100 litres per day of paint or 10 kilograms per day of dry powder.

(6) Wood Processing Works: the conduct of works (other than works at a builders supply yard or a home improvement centre) at which timber is sawn, cut, chipped, compressed, milled or machined, being works with a total processing capacity exceeding 400 but not exceeding 4 000 cubic metres per year.

(7) Vehicle Production: the conduct of works for the production of motor vehicles, being works with a production capacity exceeding 20 but not exceeding 2 000 motor vehicles per year.

3. Waste Treatment

(1) Incineration: the conduct of works for incineration by way of thermal oxidation using fuel burning equipment, being works for the disposal of solid trade waste with a processing capacity not exceeding 100 kilograms per hour.

(2) Sewage Treatment Works or Septic Tank Effluent Disposal Schemes: the conduct of—

- (a) works that involve the discharge of treated or untreated sewage or septic tank effluent to land or waters in a water protection area (as defined for the purposes of the *Water Resources Act 1990*), being works with a peak loading capacity designed for more than 50 but not more than 100 persons per day; or
- (b) works that involved the discharge of treated or untreated sewage or septic tank effluent to land or waters (other than land or waters referred to in paragraph (a)), being works with a peak loading capacity designed for more than 250 but not more than 1 000 persons per day.

4. Animal Husbandry, Aquaculture and Other Activities

(1) Cattle Feedlots: carrying on an operation for holding in a confined yard or area and feeding principally by mechanical means or by hand—

- (a) an average of more than 250 but not more than 500 cattle per day over any period of 12 months; or
- (b) where the yard or area is situated in a water protection area (as defined for the purposes of the *Water Resources Act 1990*)—an average of more than 100 but not more than 200 cattle per day over any period of 12 months,

but not including any such operation carried on at an abattoir, slaughterhouse or saleyard or for the purpose only of drought or other emergency feeding.

(2) Aquaculture or Fish Farming: the propagation or rearing of molluscs or finfish in marine waters.

(3) Saleyards: the commercial conduct of yards at which cattle, sheep or other animals are gathered or confined for the purpose of their sale, auction or exchange, including associated transport loading facilities, being yards with throughput exceeding 25 000 but not exceeding 50 000 sheep equivalent units per year [sheep equivalent units: 1 sheep or goat = 1 unit, 1 pig (< 40kg) = 1 unit, 1 pig (> 40kg) = 4 units, 1 cattle (< 40kg) = 3 units, 1 cattle (40—400kg) = 6 units, 1 cattle (> 400kg) = 8 units].

(4) Piggeries: the keeping or husbandry in confined or roofed structures of—

- (a) more than 1 000 but less than 5 000 pigs at any one time; or
- (b) where the structures are situated in a water protection area (as defined for the purposes of the *Water Resources Act 1990*) more than 100 but less than 500 pigs at any one time.

(5) Dairies: carrying on a dairy involving more than 100 milking cows at any one time in a water protection area (as defined for the purposes of the *Water Resources Act 1990*).

(6) Poultry: the keeping of poultry involving an enclosed shed area exceeding 1 000 square metres.

(7) Dogs: the keeping of more than 10 dogs in kennels except in areas zoned in the Development Plan to allow the keeping of dogs as a *complying* development.

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(8) Emus, Ostriches: the keeping of more than 5 emus or ostriches (of an age of one year or more) at any one time in the Mount Lofty Ranges and River Murray water protection areas (as proclaimed under the *Water Resources Act 1990*).

(9) Deer: the keeping of more than 20 deer (of an age of one year or more) at any one time in the Mount Lofty Ranges and River Murray water protection areas (as proclaimed under the *Water Resources Act 1990*).

5. Food Production and Animal and Plant Product Processing

(1) Abattoirs, Slaughterhouses or Poultry Processing Works: the conduct of slaughtering works for commercial purposes for the production of meat or meat products for human or animal consumption, being—

- (a) works with a rate of production exceeding 50 but not exceeding 100 tonnes per year of sheep, beef or pork meat or meat products; or
- (b) works with a rate of production exceeding 100 but not exceeding 200 tonnes per year of poultry or poultry meat products.

(2) Beverage Production Works: the conduct of works for the production of beer by infusion, boiling or fermentation, being works with a production capacity exceeding 500 but not exceeding 5 000 litres per day.

(3) Composting, Organic Fertiliser and Soil Conditioner Works: the conduct of works at which mushroom or other compost, organic fertiliser or soil conditioner having organic components are produced or are capable of being produced at a rate exceeding 20 tonnes per year.

(4) Milk Processing Works: the conduct of works at which milk is separated, evaporated or otherwise processed for the manufacture of evaporated or condensed milk, cheese, butter, ice cream or other similar dairy products, being works with a processing capacity exceeding 1 000 000 but not exceeding 5 000 000 litres per year.

(5) Produce Processing Works: the conduct of works for processing any agricultural crop material being—

- (a) works for the processing of agricultural crop material by deep fat frying, roasting or drying through the application of heat with a processing capacity exceeding 10 but not exceeding 30 kilograms per hour; or
- (b) works at which more than 2 000 000 but not exceeding 10 000 000 litres of waste water is generated per year and disposed of otherwise than to a sewer or septic tank effluent disposal system.

(6) Rendering or Fat Extraction Works: the conduct of works at which animal, fish or grease trap wastes or other matter is processed or is capable of being processed by rendering or extraction or by some other means to produce tallow or fat or their derivatives or proteinaceous matter, being works with a total processing capacity exceeding 25 but not exceeding 250 kilograms per hour.

(7) Curing or Drying Works: the conduct of works at which meat, fish or other edible products are smoked, dried or cured by the application of heat or smoke with a total processing capacity exceeding 25 but not exceeding 250 kilograms per hour.

(8) Wineries or Distilleries: the conduct of works for the processing of grapes or other produce to make wine or spirits, being works at which more than 50 but not more than 500 tonnes of grapes or other produce are processed per year.

6. Materials Handling and Transportation

(1) Bulk Storage and Shipping Facilities: the conduct of facilities for bulk handling of agricultural crop products, rock, ores, minerals, petroleum products or chemicals to or from—

- (a) any commercial storage facility at a rate exceeding 100 tonnes per day; or

- (b) any wharf or wharf side facility (including sea-port grain terminals), being facilities handling or capable of handling these materials at a rate exceeding 10 but not exceeding 100 tonnes per day.

(2) Crushing, Grinding or Milling: processing (by crushing, grinding, milling separating into different sizes by sieving, air elutriation or in any other manner) of—

- (a) chemicals or rubber at a rate in excess of 1 but not in excess of 100 tonnes per year; or
- (b) agricultural crop products at a rate in excess of 50 but not in excess of 500 tonnes per year, but excluding non-commercial processing for on farm use; or
- (c) rock ores or minerals involving—
- (i) processing at a rate in excess of 1 000 tonnes per year on a mining lease area, or processing of material from a mining lease area on adjacent land subject to a miscellaneous purposes licence, under the *Mining Act 1971*; or
- (ii) processing at a rate in excess of 1 000 tonnes per year on the area of a private mine (within the meaning of section 19 of the *Mining Act 1971*), or processing of material from a private mine on adjacent land subject to a miscellaneous purposes licence under the *Mining Act 1971*; or
- (iii) processing of sand, gravel, stone, shell, shale, clay or soil at a rate in excess of 1 000 tonnes per year as authorised under any statute other than the *Mining Act 1971*; or
- (iv) processing under any other circumstances at a rate in excess of 100 but not in excess of 1 000 tonnes per year.

(5) Coal Handling and Storage: the handling of coal or carbonaceous material by any means or the storage of coal, coke or carbonaceous reject material at facilities with a total handling capacity exceeding 1 but not exceeding 100 tonnes per day or a storage capacity exceeding 50 but not exceeding 5 000 tonnes.

7. Other

(1) Fuel Burning: the conduct of works or facilities involving the use of fuel burning equipment, including flaring (other than flaring at petroleum production, storage or processing works or facilities that do not have a total storage capacity or total production rate exceeding the levels respectively specified in clause 1(5) of schedule 22) or incineration, where the equipment alone or in aggregate is capable of burning combustible matter—

- (a) at a rate of heat release exceeding 0.5 but not exceeding 5 megawatts; or
- (b) at a rate of heat release exceeding 50 but not exceeding 500 kilowatts and the products of combustion are used—
- (i) to stove enamel; or
- (ii) to bake or dry any substance that on heating releases dust or air impurities.

(2) Marinas and Boating Facilities: the conduct of facilities comprising pontoons, jetties, piers or other structures (whether on water or land) designed or used to provide moorings or dry storage for more than 5 but not more than 50 powered vessels at any one time.

(3) Materials handling: the conduct of facilities with a storage capacity exceeding 5 tonnes—

- (a) where sand and metal is stored and despatched; or
- (b) where materials (including grain or fertilisers) are bagged for sale, but excluding on farm bagging of grain for sale.

(4) Transport depots: the conduct of a road transport terminal or depot (including a bus depot).

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(5) Manufacturing: any process involving—

- (a) retreading types; or
- (b) manufacturing fibre-reinforced plastic products.

(6) Animal tracks: the conduct of commercial facilities for animal racing or training.

(7) Land division: development involving—

- (a) land division creating one or more additional allotments for residential purposes—
 - (i) within 400 metres of an "Extractive Industry" zone in a Development Plan; or
 - (ii) within 500 metres of land used as a landfill waste depot; or
 - (iii) within 500 metres of land used for a sewerage treatment works or septic tank effluent disposal scheme, being works with a peak-loading capacity designed for more than 100 persons per day; or
 - (iv) within 500 metres of land used for a piggery involving the keeping or husbandry in confined or roofed structures of more than 100 pigs at any one time; or
 - (v) within 500 metres of land used for the keeping of poultry involving an enclosed shed area exceeding 1 000 square metres; or
- (b) land division creating 50 or more allotments for residential purposes.

(8) Development in the vicinity of certain airports: development involving—

- (a) land division creating one or more additional allotments for residential purposes; or
- (b) the construction of a dwelling, educational establishment, hospital or nursing home,

where the development is within a prescribed area that relates to one of the following airports, namely Mt. Gambier, Edinburgh, Whyalla, Port Lincoln, Kingscote and Port Augusta Airports, where the "prescribed area" is—

- (c) in relation to the Mt. Gambier Airport—the area within the "25 Noise Exposure Forecast Contour" depicted in Map 5 of the relevant Development Plan;
- (d) in relation to the Edinburgh Airport—the area within the "25 ANEF Contour" depicted on the relevant Australian Noise Exposure Forecast Map held by the City of Salisbury;
- (e) in relation to the Whyalla Airport—the area within the "25 ANEF Contour" depicted on the relevant Australian Noise Exposure Forecast Map held by the City of Whyalla;
- (f) in relation to the Port Lincoln, Kingscote and Port Augusta Airports—an area within a three kilometre radius of the airport runway.

(9) Saline water discharge: an activity involving discharge of water containing more than 1 500 milligrams of total dissolved solids per litre—

- (a) to land, surface water or underground water within the River Murray Flood Zone (as delineated in the Development Plan); or
- (b) to land, surface water or underground water elsewhere where the maximum discharge is estimated to exceed 0.5 megalitres on any one day.

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SCHEDULE 22

Activities of major environmental significance

**PART A
ACTIVITIES**

1. Petroleum and Chemical

(1) Chemical Storage and Warehousing Facilities: the storage or warehousing of chemicals or chemical products that are, or are to be, stored or kept in bulk or in containers having a capacity exceeding 200 litres at facilities with a total storage capacity exceeding 1 000 cubic metres.

(2) Chemical Works: the conduct of—

(a) works with a total processing capacity exceeding 100 tonnes per year involving either or both of the following operations:

(i) manufacture (through chemical reaction) of any inorganic chemical, including sulphuric acid, inorganic fertilisers, soap, sodium silicate, lime or other calcium compound;

(ii) manufacture (through chemical reaction) or processing of any organic chemical or chemical product or petrochemical, including the separation of such materials into different products by distillation or other means; or

(b) works with a total processing capacity exceeding 5 000 tonnes per year involving operations for salt production.

(3) Coke Works: the production, quenching, cutting, crushing and grading of coke.

(4) Oil Refineries: the conduct of works at which crude petroleum oil or shale oil is refined, or where lubricating oil is produced.

(5) Petroleum Production, Storage or Processing Works or Facilities: the conduct of works or facilities—

(a) at which petroleum products are stored in tanks with a total storage capacity exceeding 2 000 cubic metres; or

(b) with a total petroleum production rate exceeding 20 tonnes per hour.

(6) Wood Preservation Works: the conduct of works for the treatment or preservation of timber by chemicals (including chemicals containing copper, chromium, arsenic or creosote), but excluding the treatment or preservation of timber by primary producers for their own primary production purposes and not for supply to others.

2. Manufacturing and Mineral Processing

(1) Abrasive Blasting: the cleaning of materials by the abrasive action of any metal shot or mineral particulate propelled in a gaseous or liquid medium (otherwise than solely by using blast cleaning cabinets less than 5 cubic metres in volume or totally enclosed automatic blast cleaning units).

(2) Hot Mix Asphalt Preparation: the conduct of works at which crushed or ground rock aggregates are mixed with bituminous or asphaltic materials for the purposes of producing road building mixtures.

(3) Cement Works: the conduct of works for the use of argillaceous and calcareous materials in the production of cement clinker or the grinding of cement clinker.

(4) Ceramic Works: the conduct of works for the production of any products such as bricks, tiles, pipes, pottery goods, refractories, or glass that are manufactured or are capable of being manufactured in furnaces or kilns fired by any fuel, being works with a total capacity for the production of such products exceeding 100 tonnes per year.

(5) Concrete Batching Works: the conduct of works for the production of concrete or concrete products that are manufactured or are capable of being manufactured by the mixing of cement, sand, rock, aggregate or other similar materials, being works with a total capacity for production of such products exceeding 0.5 cubic metres per production cycle.

(6) Drum Reconditioning: the conduct of drum reconditioning works, including associated storage facilities.

(7) Ferrous and Non-ferrous Metal Melting: the melting of ferrous or non-ferrous metal in a furnace or furnaces that alone or in aggregate have the capacity to melt in excess of 500 kilograms of metal during the normal cycle of operation.

(8) Metallurgical Works: the conduct of works at which ores are smelted or reduced to produce metal.

(9) Mineral Works: the conduct of works for processing mineral ores, sands or earths to produce mineral concentrates.

(10) Pulp or Paper Works: the conduct of works at which paper pulp or paper is manufactured or is capable of being manufactured, being works with a total capacity for production of such products exceeding 100 tonnes per year.

(11) Scrap Metal Recovery: the conduct of works at which scrap metals are treated in any type of fuel burning equipment or electrically heated furnaces or are disintegrated by mechanical means for recovery of metal, but excluding commercial printing establishments at which type metal is melted or re-melted in thermostatically controlled pots for the purpose of type casting.

(12) Surface Coating: the conduct of—

- (a) works for metal finishing, in which metal surfaces are prepared or finished by means of electroplating, electrolyse plating, anodising (chromating, phosphating and colouring), chemical etching or milling, or printed circuit board manufacture, being works producing more than 5 kilolitres per day of effluent; or
- (b) works for hot dip galvanising; or
- (c) works for spray painting and powder coating with a capacity to use more than 100 litres per day of paint or 10 kilograms per day of dry powder.

(13) Wood Processing Works: the conduct of works (other than works at a builders supply yard or a home improvement centre) at which timber is sawn, cut, chipped, compressed, milled or machined, being works with a total processing capacity exceeding 4 000 cubic metres per year.

(14) Maritime Construction Works: the conduct of works for the construction or repair of ships, vessels or floating platforms or structures, being works with the capacity to construct or repair ships, vessels or floating platforms or structures of a mass exceeding 80 tonnes.

(15) Vehicle Production: the conduct of works for the production of motor vehicles, being works with a production capacity exceeding 2 000 motor vehicles per year.

3. Waste Treatment and Disposal

(1) Incineration: the conduct of works for incineration by way of thermal oxidation using fuel burning equipment, being—

- (a) works for the destruction of chemical wastes (including halogenated organic compounds); or
- (b) works for the destruction of medical wastes produced by hospitals, or by pathology, medical, dental or veterinary practices or laboratories, or of cytotoxic wastes, or for the destruction of quarantine wastes; or
- (c) works for the cremation of bodies; or

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- (d) works for the destruction of solid municipal waste; or
- (e) works for the disposal of solid trade waste with a processing capacity exceeding 100 kilograms per hour.

(2) Sewage Treatment Works or Septic Tank Effluent Disposal Schemes: the conduct of—

- (a) works that involve the discharge of treated or untreated sewage or septic tank effluent to marine waters; or
- (b) works that involve the discharge of treated or untreated sewage or septic tank effluent to land or waters in a water protection area (as defined for the purposes of the *Water Resources Act 1990*), being works with a peak loading capacity designed for more than 100 persons per day; or
- (c) works that involve the discharge of treated or untreated sewage or septic tank effluent to land or waters (other than land or waters referred to in paragraph (a) or (b)), being works with a peak loading capacity designed for more than 1 000 persons per day.

(3) Waste or Recycling Depots: the conduct of a depot for the reception, storage, treatment or disposal of waste other than—

- (a) temporary storage at the place at which the waste (not being tyres or tyre pieces) is produced while awaiting transport to another place; or
- (b) storage, treatment or disposal of domestic waste at residential premises; or
- (c) a depot that the Environment Protection Authority is satisfied will be conducted for such limited purposes that a referral is not necessary and has provided written confirmation of this to the relevant authority.

(4) Activities Producing Listed Wastes: an activity in which any of the substances or things listed in Part B of this Schedule are produced as or become waste other than any of the following activities:

- (a) a domestic activity;
- (b) an activity in which the waste produced is lawfully disposed of to a sewer;
- (c) an activity consisting only of storing or distributing goods;
- (d) building work;
- (e) carpentry or joinery;
- (f) retail pharmacy;
- (g) film processing;
- (h) dental practice;
- (i) plumbing or gas fitting;
- (j) dry cleaning;
- (k) primary or secondary school education;
- (l) agriculture or horticulture;
- (m) french polishing;
- (n) manufacturing jewellery;

- (o) medical practice, not being the practice of pathology;
- (p) painting or decorating;
- (q) panel beating and associated spray painting;
- (r) operation of a nursing home;
- (s) veterinary practice;
- (t) operation of an immunisation clinic;
- (u) operation of a hospital with a capacity of less than 40 beds;
- (v) an activity producing waste oil at a rate of less than 50 000 litres per year;
- (w) an activity authorised by a lease or licence under the *Mining Act 1971*, the *Petroleum Act 1940* or the *Roxby Downs (Indenture Ratification) Act 1982* where the waste is disposed of to land and contained within the area of the lease or licence;
- (x) an activity authorised by a lease under the *Mining Act 1971* where the waste is disposed of to land and contained within the area of a miscellaneous purposes licence under that Act adjacent to the area of the lease;
- (y) an activity that the Environment Protection Authority is satisfied will involve the production of waste in such quantities or circumstances that a referral is not necessary and has provided written confirmation of this to the relevant authority.

(5) Waste transport business (category A): the collection or transport for fee or reward of—

- (a) waste substances or things listed in Part B of this schedule; or
- (b) liquid waste (not being such waste lawfully disposed of to a sewer) arising from any commercial or industrial premises or from any teaching or research institution.

(6) Waste transport business (category B): the collection or transport for fee or reward of—

- (a) waste from domestic premises where the waste is collected or transported for or on behalf of a council; or
- (b) solid waste from any commercial or industrial premises or from any teaching or research institution (other than building or demolition waste); or
- (c) septic tank effluent; or
- (d) waste soil containing substances or things listed in Part B of this schedule in a concentration above that naturally occurring in soil in the area.

4. Activities in Specified Areas

(1) Brukunga Mine Site: the management of the abandoned Brukunga mine site and associated acid neutralisation plant situated adjacent to Dawesley Creek in the Mount Lofty Ranges.

(2) Discharge of Stormwater to Underground Aquifers: discharge of stormwater from a catchment area exceeding 1 hectare to an underground aquifer by way of a well or other direct means where the stormwater drains to the aquifer from—

- (a) land or premises situated in the area of the City of Mount Gambier or the Western Industrial Zone of the area of the District Council of Mount Gambier (as defined in the relevant Development Plan), being land or premises on which a business is carried on; or

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- (b) a stormwater drainage system in the area of the City of Mount Gambier or the Western Industrial Zone in the area of District Council of Mount Gambier (as defined in the relevant Development Plan); or
- (c) a stormwater drainage system in Metropolitan Adelaide.

5. Animal Husbandry, Aquaculture and Other Activities

(1) Cattle Feedlots: carrying on an operation for holding in a confined yard or area and feeding principally by mechanical means or by hand—

- (a) not less than an average of 500 cattle per day over any period of 12 months; or
- (b) where the yard or area is situated in a water protection area (as defined for the purposes of the *Water Resources Act 1990*)—not less than an average of 200 cattle per day over any period of 12 months,

but not including any such operation carried on at an abattoir, slaughterhouse or saleyard or for the purpose only of drought or other emergency feeding.

(2) Aquaculture or Fish Farming: the propagation or rearing of marine, estuarine or fresh water fish or other marine or freshwater organisms, but not including—

- (a) the propagation or rearing of molluscs or finfish in marine waters; or
- (b) the propagation or rearing of other marine or freshwater organisms in an operation resulting in the harvesting of less than 1 tonne of live fish or organisms per year.

(3) Saleyards: the commercial conduct of yards at which cattle, sheep or other animals are gathered or confined for the purpose of their sale, auction or exchange, including associated transport loading facilities, being yards with a throughput exceeding 50 000 sheep equivalent units per year [sheep equivalent units: 1 sheep or goat = 1 unit, 1 pig (< 40kg) = 1 unit, 1 pig (> 40kg) = 4 units, 1 cattle (< 40kg) = 3 units, 1 cattle (40—400kg) = 6 units, 1 cattle (> 400kg) = 8 units].

(4) Piggeries: the keeping or husbandry in confined or roofed structures of—

- (a) 5 000 or more pigs at any one time; or
- (b) where the structures are situated in a water protection area (as defined for the purposes of the *Water Resources Act 1990*)—500 or more pigs at any one time.

6. Food Production and Animal and Plant Product Processing

(1) Abattoirs, Slaughterhouses or Poultry Processing Works: the conduct of slaughtering works for commercial purposes for the production of meat or meat products for human or animal consumption, being—

- (a) works with a rate of production exceeding 100 tonnes per year of sheep, beef or pork meat or meat products; or
- (b) works with a rate of production exceeding 200 tonnes per year of poultry or poultry meat products.

(2) Breweries: the conduct of works for the production of beer by infusion, boiling or fermentation, being works with a beer production capacity exceeding 5 000 litres per day.

(3) Composting Works: the conduct of works at which mushroom or other compost is produced or is capable of being produced at a rate exceeding 200 tonnes per year.

(4) Fish Processing: the conduct of works for scaling, gilling, gutting, filleting, freezing, chilling, packing or otherwise processing fish (as defined in the *Fisheries Act 1982*) for sale, but excluding—

- (a) works with a processing output of less than 100 tonnes per year where waste water is disposed of to a sewer or septic tank effluent disposal system; or
- (b) works with a processing output of less than 2 tonnes per year where waste water is disposed of otherwise than to a sewer or septic tank effluent disposal system; or
- (c) processing of fish only in the course of a business of selling fish by retail.

(5) Milk Processing Works: the conduct of works at which milk is separated, evaporated or otherwise processed for the manufacture of evaporated or condensed milk, cheese, butter, ice cream or other similar dairy products, being works at which milk is processed at a rate exceeding 5 000 000 litres per year.

(6) Produce Processing Works: the conduct of works for processing any agricultural crop material being—

- (a) works for the processing of agricultural crop material by deep fat frying, roasting or drying through the application of heat with a processing capacity exceeding 30 kilograms per hour; or
- (b) works at which more than 10 000 000 litres of waste water is generated per year and disposed of otherwise than to a sewer or septic tank effluent disposal system.

(7) Rendering or Fat Extraction Works: the conduct of works at which animal, fish or grease trap wastes or other matter is processed or is capable of being processed by rendering or extraction or by some other means to produce tallow or fat or their derivatives or proteinaceous matter, being works with a total processing capacity exceeding 250 kilograms per hour.

(8) Curing or Drying Works: the conduct of works at which meat, fish or other edible products are smoked, dried or cured by the application of heat or smoke with a total processing capacity exceeding 250 kilograms per hour.

(9) Tanneries or Fellmongeries: the conduct of works for the commercial preservation or treatment of animal skins or hides being works processing more than 5 tonnes of skins or hides per year, but excluding—

- (a) the processing of skins or hides by primary producers in the course of primary production activities outside township areas; or
- (b) the processing of skins or hides in the course of taxidermy.

(10) Woolscouring or Wool Carbonising Works: the conduct of works for the commercial cleaning or carbonising of wool, but excluding cleaning or carbonising of wool in the course of handicraft activities where the wool is further processed for sale by retail.

(11) Wineries or Distilleries: the conduct of works for the processing of grapes or other produce to make wine or spirits, being works at which more than 500 tonnes of grapes or other produce are processed per year, but excluding works for bottling only.

7. Materials Handling and Transportation

(1) Bulk Shipping Facilities: the conduct of facilities for bulk handling of agricultural crop products, rock, ores, minerals, petroleum products or chemicals to or from any wharf or wharf side facility (including sea-port grain terminals), being facilities handling or capable of handling these materials into or from vessels at a rate exceeding 100 tonnes per day.

(2) Railway Systems: the conduct of railway systems, including maintenance and other associated works and facilities, but excluding systems operated for heritage value or amusement or scale model systems.

(3) Crushing, Grinding or Milling: processing (by crushing, grinding, milling or separating into different sizes by sieving, air elutriation or in any other manner) of—

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- (a) chemicals or rubber at a rate in excess of 100 tonnes per year; or
- (b) agricultural crop products at a rate in excess of 500 tonnes per year, but excluding non-commercial processing for on farm use; or
- (c) rock, ores or minerals at a rate in excess of 1 000 tonnes per year, but excluding—
 - (i) processing on a mining lease area, or processing of material from a mining lease area on adjacent land subject to a miscellaneous purposes licence, under the *Mining Act 1971*; and
 - (ii) processing on the area of a private mine (within the meaning of section 19 of the *Mining Act 1971*), or processing of material from a private mine on adjacent land subject to a miscellaneous purposes licence under the *Mining Act 1971*; and
 - (iii) processing of sand, gravel, stone, shell, shale, clay or soil as authorised under any statute other than this Act or the *Mining Act 1971*; and
 - (iv) processing of wet sand.

(4) Dredging: removing solid matter from the bed of any marine waters or inland waters by any digging or suction apparatus, but excluding works carried out for the establishment of a visual aid to navigation and any lawful fishing or recreational activity.

(5) Coal Handling and Storage: the handling of coal or carbonaceous material by any means or the storage of coal, coke or carbonaceous reject material at facilities with a total handling capacity exceeding 100 tonnes per day or a storage capacity exceeding 5 000 tonnes.

(6) Earthworks Drainage: the conduct of earthworks operations in the course of which more than 100 kilolitres of waste water containing suspended solids in a concentration exceeding 25 milligrams per litre is discharged directly or indirectly to marine waters or inland waters.

(7) Extractive Industries: the conduct of operations involving extraction, or extraction and processing (by crushing, grinding, milling or separating into different sizes by sieving, air elutriation or in any other manner), of sand, gravel, stone, shell, shale, clay or soil, being operations with an extraction production rate exceeding 100 000 tonnes per year.

8. Other

(1) Aerodromes: the conduct of facilities for commercial or charter aircraft take-off and landing, being facilities estimated to be used for—

- (a) more than 200 flight movements per year but excluding facilities more than 3 kilometres from residential premises not associated with the facilities; or
- (b) more than 2 000 flight movements per year in any case.

(2) Fuel Burning: the conduct of works or facilities involving the use of fuel burning equipment, including flaring (other than flaring at petroleum production, storage or processing works or facilities that do not have a total storage capacity or total production rate exceeding the levels respectively specified in clause 1(5)) or incineration, where the equipment alone or in aggregate is capable of burning combustible matter—

- (a) at a rate of heat release exceeding 5 megawatts; or
- (b) at a rate of heat release exceeding 500 kilowatts and the products of combustion are used—
 - (i) to stove enamel; or
 - (ii) to bake or dry any substance that on heating releases dust or air impurities.

(3) Helicopter Landing Facilities: the conduct of facilities designed for the arrival and departure of helicopters, but excluding—

- (a) facilities that are situated more than 3 kilometres from residential premises not associated with the facilities; or
- (b) facilities at the site of an activity authorised under the *Mining Act 1971*, the *Petroleum Act 1940*, the *Petroleum (Submerged Lands) Act 1982* or the *Roxby Downs (Indenture Ratification) Act 1982*.

(4) Marinas and Boating Facilities: the conduct of—

- (a) facilities comprising pontoons, jetties, piers or other structures (whether on water or land) designed or used to provide moorings or dry storage for 50 or more powered vessels at any one time; or
- (b) works for the repair or maintenance of vessels with the capacity to handle 5 or more vessels at any one time or vessels 12 metres or more in length.

(5) Motor Racing or Testing Venues: the conduct of facilities designed and used for motor vehicle competitions or motor vehicle speed or performance trials, but excluding facilities that are situated more than 3 kilometres from residential premises not associated with the facilities.

(6) Shooting Ranges: the conduct of facilities for shooting competitions, practice or instruction (being shooting involving the propulsion of projectiles by means of explosion), but excluding facilities that are situated more than 3 kilometres from residential premises not associated with the facilities.

(7) Discharges to Marine or Inland Waters: the conduct of operations involving discharges into marine waters or inland waters where—

- (a) the discharges—
 - (i) raise the temperature of the receiving waters by more than 2 degrees Celsius at any time at a distance of 10 metres or more from the point of discharge; or
 - (ii) contain antibiotic or chemical water treatments; and
- (b) the total volume of the discharges exceeds 50 kilolitres per day.

PART B LISTED WASTES

Acids and acidic solutions
Adhesives (excluding solid inert polymeric materials)
Alkali metals and alkaline earth metals
Alkalis and alkaline solutions
Antimony and antimony compounds and solutions
Arsenic and arsenic compounds and solutions
Asbestos
Barium compounds and solutions
Beryllium and beryllium compounds
Boron and boron compounds
Cadmium and cadmium compounds and solutions
Calcium carbide
Carbon disulphide
Carcinogens teratogens and mutagens
Chlorates
Chromium compounds and solutions
Copper compounds and solutions
Cyanides or cyanide solutions and cyanide complexes
Cytotoxic wastes
Dangerous substances within the meaning of the *Dangerous Substances Act 1979*
Distillation residues

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Fluoride compounds
Halogens
Heterocyclic organic compounds containing oxygen, nitrogen or sulphur
Hydrocarbons and their oxygen, nitrogen and sulphur compounds (including oils)
Isocyanate compounds (excluding solid inert polymeric materials)
Laboratory chemicals
Lead compounds and solutions
Lime sludges or slurries
Manganese compounds
Medical waste consisting of—

- (a) a needle, syringe with needle, surgical instrument or other article that is discarded in the course of medical*, dental or veterinary practice or research and has a sharp edge or point capable of inflicting a penetrating injury on a person who comes into contact with it; or
- (b) human tissue, bone, organ, body part or foetus; or
- (c) a vessel, bag or tube containing a liquid body substance; or
- (d) an animal carcass discarded in the course of veterinary or medical* practice or research; or
- (e) a specimen or culture discarded in the course of medical*, dental or veterinary practice or research and any material that has come into contact with such a specimen or culture; or
- (f) any other article or matter that is discarded in the course of medical*, dental or veterinary practice or research and that poses a significant risk to the health of a person who comes into contact with it.

* **"medical practice"** includes the practice of pathology and the operation of an immunisation clinic.

Mercaptans
Mercury compounds and equipment containing mercury
Nickel compounds and solutions
Nitrates
Organic halogen compounds (excluding solid inert polymeric materials)
Organic phosphates
Organic solvents
Organometallic residues
Oxidising agents
Paint sludges and residues
Perchlorates
Peroxides
Pesticides (including herbicides and fungicides)
Pharmaceutical wastes and residues
Phenolic compounds (excluding solid inert polymeric materials)
Phosphorus and its compounds
Polychlorinated biphenyls
Poisons within the meaning of the *Drugs Act 1908*
Reactive chemicals
Reducing agents
Selenium and selenium compounds and solutions
Silver compounds and solutions
Solvent recovery residues
Sulphides and sulphide solutions
Surfactants
Thallium and thallium compounds and solutions
Vanadium compounds
Zinc compounds and solutions

Note: Information on activities under clause 3(3) which are likely to require referral as producers of listed wastes is available from the Environment Protection Authority (EPA): Phone (08) 204 2063 Fax (08) 204 2025.

Examples of activities which require referrals and are not activities covered in Part A include—

Activity	Listed Waste
<i>Agricultural equipment manufacturing</i>	<i>- acids, cyanides, paint thinners</i>
<i>Air conditioner manufacturing</i>	<i>- paint thinners, acids</i>
<i>Automotive parts manufacturing</i>	<i>- cleaning solvents, chromium compounds, acids</i>
<i>Battery manufacturing</i>	<i>- acids, lead compounds</i>
<i>Electrical or electronic equipment manufacturing</i>	<i>- acids, copper compounds, alkalis</i>
<i>Furniture manufacturing or restoring</i>	<i>- methylene chloride, paint thinners, adhesives</i>
<i>Pathology service</i>	<i>- medical waste</i>
<i>Printing and screen printing</i>	<i>- waste inks and solvents</i>
<i>Pest control service</i>	<i>- pesticide washings</i>

Note: The discretion under clauses 3(3)(c) and 3(4)(y) for the EPA to dispense with referrals. For information and responses under these clauses contact the EPA: Phone (08) 204 2063 Fax (08) 204 2025.

Development Regulations 1993**SCHEDULE 23***Private certifiers—Professional indemnity insurance*

The following requirements are prescribed as minimum requirements for professional indemnity insurance for private certifiers for the purposes of regulation 93:

- (a) a minimum limit of indemnity of—
 - (i) \$1 000 000 for any one claim; and
 - (ii) \$2 000 000 in aggregate during any one period of insurance;
- (b) in addition to the limit of indemnity, indemnity for costs and expenses incurred with the consent of the insurer in defending or settling a claim;
- (c) subject to paragraph (d), indemnity for breach of professional duty arising from an act, error or omission committed by the insured after the retroactive date (as specified by the policy);
- (d) a retroactive date no later than the date on which the private certifier first commenced work as a private certifier;
- (e) unless otherwise approved by the Minister, a maximum excess of \$5 000 if the private certifier is a natural person and \$50 000 if the private certifier is a company;
- (f) indemnity in respect of claims under the *Trade Practices Act 1974* (Cwlth) or the *Fair Trading Act 1987* for acts or omissions, other than dishonest, fraudulent, malicious or illegal acts or omissions and excluding any portion of a claim made pursuant to the penal or criminal provisions of either Act;
- (g) a right to at least one automatic reinstatement of the limit of indemnity;
- (h) indemnity for claims for damages arising from inadvertent defamation;
- (i) indemnity for any liability to third parties arising from the loss or destruction of documents;
- (j) indemnity for claims for negligence on account of the dishonesty of employees;
- (k) cover for partners, principals or directors who join the business, firm or company for professional liability arising from previous work as a private certifier and for claims against partners, principals or directors who retire or resign from the business, firm or company;
- (l) "run-off" cover which automatically operates to continue cover in the event that the private certifier ceases to practice, and this cover must not require the private certifier to request the cover or to pay an additional premium for the provision of the cover.

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APPENDIX 1

LEGISLATIVE HISTORY

(entries in bold type indicate amendments incorporated since the last reprint)

Regulation 4:	redesignated as reg. 4(1) by 174, 1995, reg. 3
Regulation 4(2):	inserted by 174, 1995, reg. 3; revoked by 254, 1997, reg. 3(a)
Regulation 4(3):	inserted by 183, 1997, reg. 3; varied by 254, 1997, reg. 3(b), (c)
Regulation 4(4):	inserted by 183, 1997, reg. 3
Regulation 7(4):	inserted by 254, 1997, reg. 4
Regulation 14:	varied by 39, 1995, reg. 3; 42, 1995, reg. 3
Regulation 15(3):	varied by 249, 1996, reg. 3
Regulation 18:	varied by 39, 1995, reg. 4; revoked by 254, 1997, reg. 5
Regulation 21(1):	definition of "certificate of insurance" varied by 183, 1997, reg. 4(a) definition of "domestic building work" substituted by 183, 1997, reg. 4(b)
Regulation 28(1):	varied by 183, 1997, reg. 5; substituted by 254, 1997, reg. 6(a)
Regulation 28(4):	inserted by 254, 1997, reg. 6(b)
Regulation 32(2):	varied by 42, 1995, reg. 4
Regulation 38(1a):	inserted by 249, 1996, reg. 4(a)
Regulation 38(2):	varied by 275, 1993, reg. 3; 249, 1996, reg. 4(b)-(d)
Regulation 38(3):	inserted by 249, 1996, reg. 4(e)
Regulation 41(1):	varied by 275, 1993, reg. 4; 254, 1997, reg. 7
Regulation 45A:	inserted by 244, 1996, reg. 3.
Regulation 47:	varied by 183, 1997, reg. 6
Regulation 56(1):	varied by 244, 1996, reg. 4
Regulation 58(1):	revoked by 244, 1996, reg. 5(a)
Regulation 58(4):	varied by 244, 1996, reg. 5(b)
Regulation 59(1):	varied by 244, 1996, reg. 6(a)
Regulation 59(2):	varied by 244, 1996, reg. 6(b), (c)
Regulation 60(4):	varied by 244, 1996, reg. 7
Part 10 Division 1 heading:	revoked by 249, 1996, reg. 5
Regulation 61:	varied by 42, 1995, reg. 5; substituted by 249, 1996, reg. 5
Regulation 62:	substituted by 42, 1995, reg. 6; 249, 1996, reg. 5
Part 10 Division 2 heading:	revoked by 249, 1996, reg. 5
Regulation 63:	substituted by 249, 1996, reg. 5
Regulations 63A and 63B:	inserted by 249, 1996, reg. 5
Regulation 63B(1):	varied by 95, 1998, reg. 3; 92, 1999, reg. 3
Regulations 63C - 63F:	inserted by 249, 1996, reg. 5
Regulation 64(1):	varied by 249, 1996, reg. 6
Regulation 64A:	inserted by 249, 1996, reg. 7
Regulation 65:	redesignated as reg. 65(1) by 42, 1995, reg. 7
Regulation 65(2):	inserted by 42, 1995, reg. 7
Regulation 66:	redesignated as reg. 66(1) by 226, 1996, reg. 3
Regulation 66(2):	inserted by 226, 1996, reg. 3
Regulation 68:	varied by 249, 1996, reg. 8
Regulation 69(1) and (2):	varied by 249, 1996, reg. 9
Regulation 70:	varied by 183, 1997, reg. 7; substituted by 254, 1997, reg. 8
Regulation 74(1):	varied by 275, 1993, reg. 5(a)
Regulation 74(4):	varied by 275, 1993, reg. 5(b)
Regulation 75(5):	definition of "professional engineer" varied by 39, 1995, reg. 5
Part 12 Division 4 heading:	varied by 7, 1996, reg. 3
Regulation 76(1):	varied by 39, 1995, reg. 6(a); 254, 1997, reg. 9(a)
Regulation 76(1a):	inserted by 183, 1997, reg. 8(a)
Regulation 76(3):	varied by 39, 1995, reg. 6(b), (c); 254, 1997, reg. 9(b)
Regulation 76(3a):	inserted by 39, 1995, reg. 6(d)
Regulation 76(4):	varied by 275, 1993, reg. 6
Regulation 76(7):	substituted by 39, 1995, reg. 6(e); varied by 183, 1997, reg. 8(b)

Regulation 76(8):	inserted by 39, 1995, reg. 6(e); varied by 254, 1997, reg. 9(c)
Regulation 76A:	inserted by 7, 1996, reg. 4
Regulation 76B:	inserted by 1, 1998, reg. 3
Regulation 78:	varied by 162, 1994, reg. 3; 212, 1994, reg. 3; substituted by 183, 1997, reg. 9
Regulation 80:	varied by 254, 1997, reg. 10
Regulation 83(1):	varied by 162, 1994, reg. 4(a)
Regulation 83(2):	varied by 275, 1993, reg. 7(a)-(c); 39, 1995, reg. 7(a)
Regulation 83(2)(d):	revoked by 254, 1997, reg. 11(a)
Regulation 83(3):	varied by 183, 1997, reg. 10(a)
Regulation 83(3a):	inserted by 275, 1993, reg. 7(d)
Regulation 83(4):	varied by 183, 1997, reg. 10(b); 254, 1997, reg. 11(b), (c)
Regulation 83(7):	revoked by 39, 1995, reg. 7(b)
Regulation 83(8):	varied by 275, 1993, reg. 7(e); 162, 1994, reg. 4(b)
Regulation 83(11):	substituted by 183, 1997, reg. 10(c)
Regulation 83(12) and (13):	inserted by 183, 1997, reg. 10(c)
Regulation 83A:	inserted by 162, 1994, reg. 5; varied by 183, 1997, reg. 11
Regulation 83AB:	inserted by 61, 1996, reg. 3
Regulation 83B:	inserted by 162, 1994, reg. 5; varied by 254, 1997, reg. 12
Regulation 87(1):	varied by 275, 1993, reg. 8; 162, 1994, reg. 6(a)
Regulation 87(1)(b):	revoked by 254, 1997, reg. 13
Regulation 87(2):	varied by 162, 1994, reg. 6(b), (c); 39, 1995, reg. 8
Regulation 87(2)(b):	revoked by 183, 1997, reg. 12(a)
Regulation 87(2)(d)(iv):	revoked by 183, 1997, reg. 12(b)
Regulation 87(2)(da)(iv):	revoked by 183, 1997, reg. 12(c)
Regulation 87(3)(b):	revoked by 183, 1997, reg. 12(d)
Regulation 87(4)(c):	revoked by 183, 1997, reg. 12(e)
Regulation 88(1)(c):	revoked by 254, 1997, reg. 14
Regulation 89(1):	varied by 61, 1996, reg. 4(a); 183, 1997, reg. 13; 254, 1997, reg. 15(a), (c), (e)
Regulation 89(1)(c):	revoked by 254, 1997, reg. 15(b)
Regulation 89(1)(f)(iii):	revoked by 254, 1997, reg. 15(d)
Regulation 89(3):	inserted by 61, 1996, reg. 4(b)
Regulation 90:	redesignated as reg. 90(1) by 61, 1996, reg. 5
Regulation 90(2):	inserted by 61, 1996, reg. 5
Regulation 91:	varied by 183, 1997, reg. 14
Regulation 92(2):	varied by 183, 1997, reg. 15(a), (b); 254, 1997, reg. 16
Regulation 92(3):	inserted by 61, 1996, reg. 6
Regulation 92(4):	inserted by 183, 1997, reg. 15(c)
Regulation 93:	varied by 39, 1995, reg. 9; substituted by 61, 1996, reg. 7; varied by 183, 1997, reg. 16
Regulation 93A:	inserted by 61, 1996, reg. 8
Regulation 93A(2):	varied by 95, 1998, reg. 4(a); 92, 1999, reg. 4(a)
Regulation 93A(3):	varied by 180, 1998, reg. 3(a)
Regulation 93A(4):	varied by 180, 1998, reg. 3(b)
Regulation 93A(4a):	inserted by 180, 1998, reg. 3(c)
Regulation 93A(5):	varied by 95, 1998, reg. 4(b); 92, 1999, reg. 4(b)
Regulation 93A(6):	varied by 183, 1997, reg. 17(a)
Regulation 93A(7):	varied by 183, 1997, reg. 17(b)
Regulation 93A(11):	substituted by 180, 1998, reg. 3(d)
Regulation 93B:	inserted by 183, 1997, reg. 18
Regulation 94(1):	varied by 244, 1996, reg. 8(a)
Regulation 94(2):	varied by 244, 1996, reg. 8(b)
Regulation 95(2):	varied by 249, 1996, reg. 10
Regulation 96(1):	varied by 39, 1995, reg. 10(a)
Regulation 96(2):	substituted by 39, 1995, reg. 10(b)
Regulation 98(1):	varied by 180, 1998, reg. 4(a)
Regulation 98(2):	varied by 180, 1998, reg. 4(b), (c)
Regulation 98(3) and (4):	inserted by 180, 1998, reg. 4(d)
Regulation 99(1):	varied by 180, 1998, reg. 5
Regulation 99(2):	varied by 254, 1997, reg. 17(a)

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Regulation 99(3):	varied by 254, 1997, reg. 17(b)
Regulation 99(6):	inserted by 254, 1997, reg. 17(c)
Regulation 99A and 99B:	inserted by 180, 1998, reg. 6
Regulation 101:	varied by 275, 1993, reg. 9
Regulation 102(2):	varied by 275, 1993, reg. 10
Regulation 103(3) - (5):	inserted by 254, 1997, reg. 18
Regulation 103A:	inserted by 249, 1996, reg. 11
Regulation 104:	varied by 254, 1997, reg. 19
Regulation 105(1):	varied by 1, 1998, reg. 4(a)
Regulation 105(1a):	inserted by 1, 1998, reg. 4(b)
Regulation 106:	varied by 212, 1994, reg. 4; revoked by 183, 1997, reg. 19
Schedule 1:	definition of "the Building Code" varied by 275, 1993, reg. 11; revoked by 254, 1997, reg. 20(a) definition of "bank" inserted by 143, 1999, reg. 3 (Sched. clause 6) definition of "Housing Code" inserted by 174, 1995, reg. 4; revoked by 254, 1997, reg. 20(b) definition of "licensed builder" substituted by 183, 1997, reg. 20 definition of "plan of community division" inserted by 244, 1996, reg. 9 definition of "waste" substituted by 42, 1995, reg. 8
Schedule 2	
Clause 1	
Schedule	
Item (2):	varied by 199, 1998, reg. 3
Schedule 3	
Clause 1:	varied by 159, 1995, reg. 3(a), (b)
Clause 2:	varied and redesignated as cl. 2(1) by 159, 1995, reg. 3(c), (d)
Clause 2(2):	inserted by 159, 1995, reg. 3(d)
Clause 3(2):	varied by 275, 1993, reg. 12(a)
Clause 3(4):	substituted by 244, 1996, reg. 10
Clause 3(5):	inserted by 159, 1995, reg. 3(e)
Clause 3(6):	inserted by 213, 1995, reg. 3
Clause 4(1):	varied by 275, 1993, reg. 12(b)-(d); 7, 1995, reg. 3; 39, 1995, reg. 11(a), (b); 183, 1997, reg. 21
Clause 4(3a):	inserted by 39, 1995, reg. 11(c)
Clause 4(5):	inserted by 275, 1993, reg. 12(e)
Clause 4(6):	inserted by 1, 1998, reg. 5
Clause 9:	inserted by 159, 1995, reg. 3(f)
Schedule 4	
Part 1	
Clause 1:	varied by 7, 1995, reg. 4; 39, 1995, reg. 12(a), (b)
Clause 2:	substituted by 159, 1995, reg. 4
Part 2	
Clause 7:	varied by 275, 1993, reg. 13(a), (b); 39, 1995, reg. 12(c)
Clause 9:	inserted by 275, 1993, reg. 13(c); varied by 183, 1997, reg. 22
Schedule 5	
Clause 3(1)(b):	revoked by 244, 1996, reg. 11(a)
Clause 4(2):	substituted by 244, 1996, reg. 11(b)
Clauses 5 and 6:	substituted by 244, 1996, reg. 11(c)
Schedule 6	
Item 1:	varied by 275, 1993, reg. 14; 143, 1996, reg. 3(a)-(n); 244, 1996, reg. 12; 254, 1997, reg. 21(a); 95, 1998, reg. 5(a)-(o); 92, 1999, reg. 5(a)-(o)
Item 1(c):	revoked by 249, 1996, reg. 12
Item 2:	varied by 143, 1996, reg. 3(o)-(q); 95, 1998, reg. 5(p)-(r); 92, 1999, reg. 5(p)-(r)
Item 3:	varied by 143, 1996, reg. 3(r); 95, 1998, reg. 5(s); 92, 1999, reg. 5(s)
Item 4:	varied by 143, 1996, reg. 3(s); 95, 1998, reg. 5(t); 92, 1999, reg. 5(t)

Item 5:	inserted by 61, 1996, reg. 9
Item 6:	inserted by 254, 1997, reg. 21(b); varied by 95, 1998, reg. 5(u), (v); 92, 1999, reg. 5(u), (v)
Schedule 7	
Clause 2:	varied by 95, 1998, reg. 6(a); 92, 1999, reg. 6(a)
Clause 3:	varied by 95, 1998, reg. 6(b); 92, 1999, reg. 6(b)
Clause 3A:	inserted by 61, 1996, reg. 10
Clause 5:	inserted by 39, 1995, reg. 13
Clause 6:	inserted by 95, 1998, reg. 6(c)
Schedule 8	
Item 3 paragraph A:	varied by 39, 1995, reg. 14
Item 6:	revoked by 42, 1995, reg. 9(a)
Item 7 paragraph D:	substituted by 159, 1995, reg. 5
Item 10:	substituted by 42, 1995, reg. 9(b); varied by 169, 1997, reg. 3(a)
Item 11 paragraphs B and C:	substituted by 42, 1995, reg. 9(c)
Item 12:	inserted by 169, 1997, reg. 3(b)
Item 13:	inserted by 129, 1999, reg. 3
Schedule 9	
Part 1	
Clause 2:	varied and redesignated as cl. 2(1) by 255, 1996, reg. 3(a)
Clause 2(2):	inserted by 255, 1996, reg. 3(a)
Clause 4:	substituted by 244, 1996, reg. 13
Clause 6:	varied by 275, 1993, reg. 15(a); 39, 1995, reg. 15(a), (b); 34, 1996, reg. 3; varied and redesignated as cl. 6(1) by 137, 1997, reg. 3(a)-(c)
Clause 6(2):	inserted by 137, 1997, reg. 3(c)
Clause 7:	varied by 39, 1995, reg. 15(c)
Clause 9:	inserted by 39, 1995, reg. 15(d)
Clause 10:	inserted by 213, 1995, reg. 4
Clause 11:	inserted by 243, 1996, reg. 3
Clause 12:	inserted by 255, 1996, reg. 3(b)
Part 2	
Clause 1:	varied by 275, 1993, reg. 15(b)
Clause 4:	inserted by 255, 1996, reg. 3(c)
Clause 5:	inserted by 137, 1997, reg. 3(d)
Schedule 10	
Clause 2(c):	revoked by 159, 1995, reg. 6(a)
Clause 3(1):	varied by 159, 1995, reg. 6(b), (c)
Clause 3(2):	substituted by 159, 1995, reg. 6(d)
Clause 6:	revoked by 34, 1996, reg. 4(a); inserted by 218, 1996, reg. 3
Clause 7:	substituted by 159, 1995, reg. 6(e)
Clause 10:	varied by 34, 1996, reg. 4(b)
Clause 14:	inserted by 213, 1995, reg. 5
Clause 15:	inserted by 255, 1996, reg. 4
Clause 16:	inserted by 15, 1997, reg. 3
Clause 17:	inserted by 203, 1997, reg. 3
Schedule 13:	varied by 183, 1997, reg. 23
Schedule 14	
Paragraph (b):	varied by 159, 1995, reg. 7; 183, 1997, reg. 24(a), (b); 254, 1997, reg. 22
Paragraphs (l) and (m):	inserted by 55, 1996, reg. 3; inserted by 183, 1997, reg. 24(c)
Schedule 16:	substituted by 39, 1995, reg. 16
Form 1:	varied by 254, 1997, reg. 23(a)
Form 2:	varied by 254, 1997, reg. 23(b)
Form 3:	varied by 254, 1997, reg. 23(c)
Schedule 17:	revoked by 212, 1994, reg. 5; inserted by 39, 1995, reg. 17; varied by 254, 1997, reg. 24
Schedule 19:	varied by 275, 1993, reg. 16; 254, 1997, reg. 25
Schedule 21:	substituted by 42, 1995, reg. 10
Clause 7(7):	varied by 159, 1995, reg. 8
Schedule 22:	substituted by 42, 1995, reg. 10

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Schedule 23:

inserted by 61, 1996, reg. 11

APPENDIX 2

DIVISIONAL PENALTIES AND EXPIATION FEES

At the date of publication of this reprint divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	-	\$500	\$100
10	-	\$200	\$75
11	-	\$100	\$50
12	-	\$50	\$25

Note: This appendix is provided for convenience of reference only.