

South Australia

Development (Exclusions) Variation Regulations 2008

under the *Development Act 1993*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Development (Exclusions) Variation Regulations 2008*.

2—Commencement

These regulations will come into operation on 1 January 2009.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Development Regulations 2008*

4—Variation of Schedule 3—Acts and activities which are not development

- (1) Schedule 3, clause 4(1)(a)(ii) and (iii)—delete subparagraphs (ii) and (iii) and substitute:
 - (ii) has a total floor area not exceeding—
 - (A) in the case of an outbuilding in a Historic (Conservation) Zone, a Historic (Conservation) Policy Area, a Residential Historic (Conservation) Zone, a Historic Conservation Area or a Historic Township Zone—10 square metres;
 - (B) in any other case—15 square metres; and
 - (iia) has no span exceeding 3 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 situated—
 - (A) in front of any part of the building line of the building to which it is ancillary that faces the primary street; or
 - (B) within 900 millimetres of a boundary of the land with a secondary street (if the land has boundaries on 2 or more roads); and
- (2) Schedule 3, clause 4(1)(f)—delete "2 metres" and substitute:

2.1 metres
- (3) Schedule 3, clause 4(1)(g)—delete "2 metres" and substitute:

2.1 metres
- (4) Schedule 3, clause 4(1)(j)—after subparagraph (ii) insert:
 - (iia) is located wholly above ground; and
- (5) Schedule 3, clause 4(1)—after paragraph (k) insert:

or

 - (l) a deck (other than in a Coastal Zone, a Coastal Conservation Zone, the Hills Face Zone, a Historic (Conservation) Zone, a Historic (Conservation) Policy Area, a Residential Historic (Conservation) Zone, a Historic Conservation Area or a Historic Township Zone or in a bushfire prone area under regulation 78(1)) which is used (or to be used) in association with an existing dwelling and which—
 - (i) will not have any point on the floor of the deck that is higher than 500 millimetres above the natural surface of the ground; and
 - (ii) will not have any portion of the deck situated within 900 millimetres of a boundary of the land.
- (6) Schedule 3, clause 4—after subclause (1) insert:
 - (1a) Other than in respect of a local heritage place or in a Historic (Conservation) Zone, a Historic (Conservation) Policy Area, a Residential Historic (Conservation) Zone, a Historic Conservation Area or a Historic Township Zone, the installation of a garage or carport door (of any kind or style) if the garage or carport—
 - (a) already exists on the site; and
 - (b) is ancillary to another building which is erected on the site or for which consent has been granted by the relevant authority; and
 - (c) does not have any portion in front of any part of the building line of the building to which it is ancillary that faces the primary street.

- (1b) Other than in respect of a local heritage place or in a Historic (Conservation) Zone, a Historic (Conservation) Policy Area, a Residential Historic (Conservation) Zone, a Historic Conservation Area or a Historic Township Zone, the construction of a shade sail if—
- (a) the shade sail is to consist of permeable material; and
 - (b) the area of the sail will not exceed 20 square metres; and
 - (c) no part of the sail will be more than 3 metres above ground or floor level (depending on where it is to be situated); and
 - (d) no part of the sail will be in front of any part of the building line of the building to which it is ancillary that faces the primary street.
- (7) Schedule 3, clause 4(3)(b)—delete "the installation of which requires the approval of an authority other than a council,"
- (8) Schedule 3, clause 4(3)(c)(iv)—delete subparagraph (iv) and substitute:
- (iv) which is not being constructed so that any part of the pergola will be in front of any part of the building line of the dwelling to which it is ancillary that faces the primary street.
- (9) Schedule 3, clause 4(4)—after paragraph (c) insert:
- or
- (ca) any electrical, gas, water, sewage and sullage, or telecommunications service (including appliances and fittings),
- (10) Schedule 3, clause 4—after subclause (7) insert:
- (7a) For the purposes of this clause—
 - (a) the primary street in relation to a building is the road that forms part of the street address of the building, as determined by the council for the relevant area when it is allocating numbers to buildings and allotments under section 220 of the *Local Government Act 1999*; and
 - (b) a secondary street in relation to a building is any road, other than the primary street, that shares a boundary with the land where the building is situated (or to be situated).
- (11) Schedule 3, clause 4(8)—before the definition of *swimming pool* insert:
- road** has the same meaning as in the *Local Government Act 1999* but does not include an alley, lane or right of way;
- (12) Schedule 3, clause 12(1)(b)(ii)—delete "2.4" and substitute:
- 2.6

(13) Schedule 3, after clause 14 insert:

15—Solar photovoltaic panels

- (1) Subject to subclause (2), the installation, alteration, repair or maintenance of a designated photovoltaic system on the roof of a building.
- (2) Subclause (1) does not apply if the place where the designated photovoltaic system is installed is a local heritage place if, when installed, it is able to be seen by a person standing at ground level in a public street.
- (3) In this clause—

designated photovoltaic system means—

- (a) a photovoltaic system comprising solar photovoltaic panels that have a total weight not exceeding 100 kilograms; or
- (b) a photovoltaic system comprising solar photovoltaic panels that have a total weight exceeding 100 kilograms if—
 - (i) the weight load is distributed so that it does not exceed 100 kilograms at any 1 point of attachment to the roof; and
 - (ii) the panels (and any associated components) do not overhang any part of the roof; and
 - (iii) the panels are fitted parallel to the roof with the underside surface of the panels being not more than 100 millimetres above the surface of the roof; and
 - (iv) the panels are installed by a person who holds an accreditation under a scheme recognised by the Minister for the purposes of this paragraph.

5—Variation of Schedule 4—Complying development

- (1) Schedule 4, clause 1(d)—delete "2 metres" and substitute:
2.1 metres
- (2) Schedule 4, clause 14(1)(a)—delete "10 square metres" and substitute:
15 square metres
- (3) Schedule 4, clause 14(1)(b)—delete "2 metres" and substitute:
2.1 metres
- (4) Schedule 4, clause 14(1)(e)—after subparagraph (ii) insert:
(iia) is located wholly above ground; and

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 11 December 2008

No 307 of 2008

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