

South Australia

Development (Residential Code) Variation Regulations 2012

under the *Development Act 1993*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Development (Residential Code) Variation Regulations 2012*.

2—Commencement

These regulations will come into operation on 1 August 2012.

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 regulation 15—Application to relevant authority

- (1) Regulation 15(11)—delete "The relevant authority" and substitute:
Subject to subregulation (12), the relevant authority
-

(2) Regulation 15—after subregulation (11) insert:

- (12) The relevant authority must not modify the requirements of Schedule 5 in relation to an application if the application is in relation to *residential code* development.

5—Variation of regulation 16—Nature of development

Regulation 16—after subregulation (2) insert:

- (3) If an application in relation to a proposed development identifies the development as *residential code* development or designated development and the relevant authority is of the opinion that the development is *residential code* development or designated development, the relevant authority must, within 5 business days of receipt of the application, by notice in writing, inform the applicant of that fact.
- (4) If an application in relation to a proposed development identifies the development as *residential code* development or designated development, but the relevant authority is of the opinion that the development is not *residential code* development or designated development, the relevant authority must, within 5 business days of receipt of the application, by notice in writing, inform the applicant of that fact and the reasons for the relevant authority's opinion.
- (5) In this regulation—

designated development means development that falls within the ambit of any of clauses 3 to 9 (inclusive) of Schedule 1A.

6—Variation of Schedule 1A—Development that does not require development plan consent

- (1) Schedule 1A, clause 1(2), definition of *attributable walls or structures*—delete the definition and substitute:

AHD, in relation to the potential for inundation, means *Australian height datum*;

ARI means *average recurrence interval* of a flood event;

building line, in relation to a building on a site, means a line drawn parallel to the wall on the building closest to the boundary of the site that faces the primary street (and any existing projection from the building such as a carport, verandah, porch or bay window is not to be taken to form part of the building for the purposes of determining the relevant wall of the building);

- (2) Schedule 1A, clause 1(2), definition of *Flood Management Zone/Area*—delete "shown as being subject to flooding or inundation in the relevant Development Plan" and substitute:

delineated as such a zone or area in a map in the relevant Development Plan, or otherwise indicated by requirements in the relevant Development Plan for minimum finished floor levels expressed by reference to ARI or AHD

- (3) Schedule 1A, clause 1(2)—after the definition of *Historic Conservation Zone/Area* insert:
- relevant wall or structure** means any wall or structure that is due to development that has occurred, or is proposed to occur, on the relevant allotment but does not include any fence or retaining wall between the relevant allotment and an adjoining allotment;
- (4) Schedule 1A, clause 1(3)(a)—delete paragraph (a) and substitute:
- (a) the primary street in relation to an existing or proposed building on a site is—
- (i) in the case of a site that has a frontage to only 1 road—that road; or
- (ii) in the case of a site that has a frontage to 2 roads—
- (A) if the frontages are identical in length—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*; or
- (B) in any other case—the road in relation to which the site has a shorter frontage; or
- (iii) in any other case—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
- (5) Schedule 1A, clause 3—delete "a Flood Management Zone/Area,"
- (6) Schedule 1A, clause 3(b)(i)—delete "that faces the primary street"
- (7) Schedule 1A, clause 3(e)(i)—delete "attributable walls or structures" and substitute:
- relevant walls or structures
- (8) Schedule 1A, clause 3(e)(i)—delete "50%" and substitute:
- 45%
- (9) Schedule 1A, clause 3(e)(i)—delete ", disregarding the distance of any front setback of the building to which the outbuilding is ancillary"
- (10) Schedule 1A, clause 3(e)(ii)—delete "attributable wall or structure" and substitute:
- relevant wall or structure
- (11) Schedule 1A, clause 3(e)(ii)—after "boundary" insert:
- , unless on an adjacent site on that boundary there is an existing wall of a building that would be adjacent to or abut a proposed relevant wall or structure (in which case this subparagraph does not apply)
- (12) Schedule 1A, clause 3(g)(iii)—delete subparagraph (iii) and substitute:
- (iii) the garage is located so that vehicle access—

- (A) will use an existing or authorised driveway or access point under section 221 of the *Local Government Act 1999*, including a driveway or access point for which consent under the Act has been granted as part of an application for the division of land; or
 - (B) will use a driveway that—
 - is not located within 6 metres of an intersection of 2 or more roads or a pedestrian actuated crossing; and
 - will not interfere with an item of street furniture (including directional signs, lighting, seating and weather shelters), other infrastructure, or a tree; or
 - (C) will not require a driveway because the kerbing is formed in a manner that allows a vehicle to roll over it; and
- (13) Schedule 1A, clause 3(g)(iv)—delete "1:5 in any place and 1:8" and substitute:
1:4
- (14) Schedule 1A, clause 3(i)—delete paragraph (i) and substitute:
(i) does not involve—
 - (i) excavation exceeding a vertical height of 1 metre; or
 - (ii) filling exceeding a vertical height of 1 metre,and, if the development involves both excavation and filling, the total combined excavation and filling must not exceed a vertical height of 2 metres.
- (15) Schedule 1A, clause 3—after its present contents (now to be designated as subclause (1)) insert:
(2) This clause does not apply to development in a Flood Management Zone/Area unless—
 - (a) the relevant Development Plan—
 - (i) provides that outbuildings may be built in the Flood Management Zone/Area; and
 - (ii) prescribes requirements for such developments relating to finished floor levels (expressed by reference to AHD or ARI); and
 - (b) the development complies with the requirements relating to finished floor levels specified in the Development Plan.
- (16) Schedule 1A, clause 4—delete "a Flood Management Zone/Area,"
- (17) Schedule 1A, clause 4(b)—delete "that faces the primary street"
- (18) Schedule 1A, clause 4(e)—delete "attributable walls or structures" and substitute:
relevant walls or structures

- (19) Schedule 1A, clause 4(e)—delete "50%" and substitute:
45%
- (20) Schedule 1A, clause 4(e)—delete ", disregarding the distance of any front setback of the building to which the designated structure is ancillary"
- (21) Schedule 1A, clause 4(g)(iii)—delete subparagraph (iii) and substitute:
- (iii) the carport is located so that vehicle access—
 - (A) will use an existing or authorised driveway or access point under section 221 of the *Local Government Act 1999*, including a driveway or access point for which consent under the Act has been granted as part of an application for the division of land; or
 - (B) will use a driveway that—
 - is not located within 6 metres of an intersection of 2 or more roads or a pedestrian actuated crossing; and
 - will not interfere with an item of street furniture (including directional signs, lighting, seating and weather shelters), other infrastructure, or a tree; or
 - (C) will not require a driveway because the kerbing is formed in a manner that allows a vehicle to roll over it; and
- (22) Schedule 1A, clause 4(g)(iv)—delete "1:5 in any place and 1:8" and substitute:
1:4
- (23) Schedule 1A, clause 4—after its present contents (now to be designated as subclause (1)) insert:
- (2) This clause does not apply to development in a Flood Management Zone/Area unless—
 - (a) the relevant Development Plan—
 - (i) provides that designated structures may be built in the Flood Management Zone/Area; and
 - (ii) prescribes requirements for such developments relating to finished floor levels (expressed by reference to AHD or ARI); and
 - (b) the development complies with the requirements relating to finished floor levels specified in the Development Plan.
- (24) Schedule 1A, clause 5(1)(c)—delete "that faces the primary street"
- (25) Schedule 1A, clause 6(c)—delete "that faces the primary street"
- (26) Schedule 1A, clause 7—delete "a Flood Management Zone/Area,"
- (27) Schedule 1A, clause 7(d)—delete "that faces the primary street"
- (28) Schedule 1A, clause 7(f)—delete "attributable walls or structures" and substitute:
relevant walls or structures

- (29) Schedule 1A, clause 7(f)—delete "50%" and substitute:
45%
- (30) Schedule 1A, clause 7(f)—delete ", disregarding the distance of any front setback of any building to which the sail and any supporting structure are ancillary"
- (31) Schedule 1A, clause 7—after its present contents (now to be designated as subclause (1)) insert:
- (2) This clause does not apply to development in a Flood Management Zone/Area unless—
- (a) the relevant Development Plan—
- (i) provides that shade sails may be built in the Flood Management Zone/Area; and
- (ii) prescribes requirements for such developments relating to finished ground levels (expressed by reference to AHD or ARI); and
- (b) the development complies with the requirements relating to finished ground levels specified in the Development Plan.
- (32) Schedule 1A, clause 8—delete ", the Hills Face Zone, a Flood Management Zone/Area, or a River Murray Zone," and substitute:
or the Hills Face Zone,
- (33) Schedule 1A, clause 8(e)—delete "that faces the primary street"
- (34) Schedule 1A, clause 9A(a)—delete "that faces the primary street"

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

- (1) Schedule 3, clause 4(1)(a)—delete "shown as being subject to flooding or inundation in the relevant Development Plan" and substitute:
delineated as such a zone or area in a map in the relevant Development Plan, or otherwise indicated by requirements in the relevant Development Plan for minimum finished floor levels expressed by reference to ARI or AHD
- (2) Schedule 3, clause 4(1)(c)—delete "shown as being subject to flooding or inundation in the relevant Development Plan" and substitute:
delineated as such a zone or area in a map in the relevant Development Plan, or otherwise indicated by requirements in the relevant Development Plan for minimum finished floor levels expressed by reference to ARI or AHD
- (3) Schedule 3, clause 4(1)(f)(i)(A)—delete "shown as being subject to flooding or inundation in the relevant Development Plan" and substitute:
delineated as such a zone or area in a map in the relevant Development Plan, or otherwise indicated by requirements in the relevant Development Plan for minimum finished floor levels expressed by reference to ARI or AHD

- (4) Schedule 3, clause 4(1)(h)—delete "shown as being subject to flooding or inundation in the relevant Development Plan" and substitute:

delineated as such a zone or area in a map in the relevant Development Plan, or otherwise indicated by requirements in the relevant Development Plan for minimum finished floor levels expressed by reference to ARI or AHD

- (5) Schedule 3, clause 4(1)(i)—delete "shown as being subject to flooding or inundation in the relevant Development Plan" and substitute:

delineated as such a zone or area in a map in the relevant Development Plan, or otherwise indicated by requirements in the relevant Development Plan for minimum finished floor levels expressed by reference to ARI or AHD

- (6) Schedule 3, clause 4(8)—before the definition of *brush* insert:

AHD, in relation to the potential for inundation, means *Australian height datum*;

ARI means *average recurrence interval* of a flood event;

8—Variation of Schedule 4—Complying development

- (1) Schedule 4, clause 1(2)—delete "or in a Watercourse Zone, a Flood Zone or Flood Plain delineated by the relevant Development Plan or any other zone or area shown as being subject to flooding or inundation in the relevant Development Plan,"

- (2) Schedule 4, clause 1(2)(e)(i)—delete "attributable walls or structures" and substitute:

relevant walls or structures

- (3) Schedule 4, clause 1(2)(e)(i)—delete "50%" and substitute:

45%

- (4) Schedule 4, clause 1(2)(e)(i)—delete ", disregarding (in the case of a side boundary) the distance of any front setback of the building to which the outbuilding is ancillary"

- (5) Schedule 4, clause 1(2)(e)(ii)—delete "attributable wall or structure" and substitute:

relevant wall or structure

- (6) Schedule 4, clause 1(2)(e)(ii)—after "boundary" insert:

, unless on an adjacent site on that boundary there is an existing wall of a building that would be adjacent to or abut a proposed relevant wall or structure (in which case this subparagraph does not apply)

- (7) Schedule 4, clause 1(2)(g)(iii)—delete subparagraph (iii) and substitute:

(iii) the garage is located so that vehicle access—

(A) will use an existing or authorised driveway or access point under section 221 of the *Local Government Act 1999*, including a driveway or access point for which consent under the Act has been granted as part of an application for the division of land; or

(B) will use a driveway that—

- is not located within 6 metres of an intersection of 2 or more roads or a pedestrian actuated crossing; and
 - will not interfere with an item of street furniture (including directional signs, lighting, seating and weather shelters), other infrastructure, or a tree; or
- (C) will not require a driveway because the kerbing is formed in a manner that allows a vehicle to roll over it; and
- (8) Schedule 4, clause 1(2)(g)(iv)—delete "1:5 in any place and 1:8" and substitute:
1:4
- (9) Schedule 4, clause 1(2)(i)—delete paragraph (i) and substitute:
- (i) the development does not involve—
 - (i) excavation exceeding a vertical height of 1 metre; or
 - (ii) filling exceeding a vertical height of 1 metre,and if the development involves both excavation and filling, the total combined excavation and filling must not exceed a vertical height of 2 metres; and
- (10) Schedule 4, clause 1—after subclause (2) insert:
- (2a) Subclause (2) does not apply to development in a Flood Management Zone/Area unless—
 - (a) the relevant Development Plan—
 - (i) provides that outbuildings may be built in the Flood Management Zone/Area; and
 - (ii) prescribes requirements for such developments relating to finished floor levels (expressed by reference to AHD or ARI); and
 - (b) the development complies with the requirements relating to finished floor levels specified in the Development Plan.
- (11) Schedule 4, clause 1(3)—delete "or in a Watercourse Zone, a Flood Zone or Flood Plain delineated by the relevant Development Plan or any other zone or area shown as being subject to flooding or inundation in the relevant Development Plan,"
- (12) Schedule 4, clause 1(3)(e)—delete "attributable walls or structures" and substitute:
relevant walls or structures
- (13) Schedule 4, clause 1(3)(e)—delete "50%" and substitute:
45%
- (14) Schedule 4, clause 1(3)(e)—delete ", disregarding (in the case of a side boundary) the distance of any front setback of the building to which the designated structure is ancillary"
- (15) Schedule 4, clause 1(3)(g)(iii)—delete subparagraph (iii) and substitute:
- (iii) the carport is located so that vehicle access—

- (A) will use an existing or authorised driveway or access point under section 221 of the *Local Government Act 1999*, including a driveway or access point for which consent under the Act has been granted as part of an application for the division of land; or
 - (B) will use a driveway that—
 - is not located within 6 metres of an intersection of 2 or more roads or a pedestrian actuated crossing; and
 - will not interfere with an item of street furniture (including directional signs, lighting, seating and weather shelters), other infrastructure, or a tree; or
 - (C) will not require a driveway because the kerbing is formed in a manner that allows a vehicle to roll over it; and
- (16) Schedule 4, clause 1(3)(g)(iv)—delete "1:5 in any place and 1:8" and substitute:
1:4
- (17) Schedule 4, clause 1(3)(h)—delete paragraph (h) and substitute:
- (h) the development does not involve—
 - (i) excavation exceeding a vertical height of 1 metre; or
 - (ii) filling exceeding a vertical height of 1 metre,and if the development involves both excavation and filling, the total combined excavation and filling must not exceed a vertical height of 2 metres.
- (18) Schedule 4, clause 1—after subclause (3) insert:
- (4) Subclause (3) does not apply to development in a Flood Management Zone/Area unless—
 - (a) the relevant Development Plan—
 - (i) provides that designated structures may be built in the Flood Management Zone/Area; and
 - (ii) prescribes requirements for such developments relating to finished floor levels (expressed by reference to AHD or ARI); and
 - (b) the development complies with the requirements relating to finished floor levels specified in the Development Plan.
- (19) Schedule 4, clause 1(10a)—delete paragraph (a) and substitute:
- (a) the primary street in relation to an existing or proposed building on a site is—
 - (i) in the case of a site that has a frontage to only 1 road—that road; or
 - (ii) in the case of a site that has a frontage to 2 roads—

- (A) if the frontages are identical in length—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*; or
 - (B) in any other case—the road in relation to which the site has a shorter frontage; or
 - (iii) in any other case—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
- (20) Schedule 4, clause 1(11), definition of ***attributable walls or structures***—delete the definition and substitute:

AHD, in relation to the potential for inundation, means *Australian height datum*;

ARI means *average recurrence interval* of a flood event;

building line, in relation to a building on a site, means a line drawn parallel to the wall on the building closest to the boundary of the site that faces the primary street (and any existing projection from the building such as a carport, verandah, porch or bay window is not to be taken to form part of the building for the purposes of determining the relevant wall of the building);

Flood Management Zone/Area means a Watercourse Zone, a Flood Zone or Flood Plain delineated by the relevant Development Plan, or any other zone or area delineated as such a zone or area in a map in the relevant Development Plan, or otherwise indicated by requirements in the relevant Development Plan for minimum finished floor levels expressed by reference to ARI or AHD;

relevant wall or structure means any wall or structure that is due to development that has occurred, or is proposed to occur, on the relevant allotment but does not include any fence or retaining wall between the relevant allotment and an adjoining allotment;

- (21) Schedule 4, clause 2A(1)—delete ", the Hills Face Zone, or a Flood Management Zone/Area" and substitute:

or the Hills Face Zone

- (22) Schedule 4, clause 2A—after subclause (1) insert:

(1a) This clause does not apply to development in a Flood Management Zone/Area unless—

(a) the relevant Development Plan—

- (i) provides that detached or semi-detached dwellings may be altered or added to in the Flood Management Zone/Area; and

- (ii) prescribes requirements for such developments relating to finished floor levels (expressed by reference to AHD or ARI); and
 - (b) the development complies with the requirements relating to finished floor levels specified in the Development Plan.
- (23) Schedule 4, clause 2A(2)(d)(iii)—delete "attributable walls or structures" and substitute:
- relevant walls or structures
- (24) Schedule 4, clause 2A(2)(d)(iii)(A)—delete "attributable walls and structures" and substitute:
- relevant walls and structures
- (25) Schedule 4, clause 2A(2)(d)(iii)(A)—delete "50%" and substitute:
- 45%
- (26) Schedule 4, clause 2A(2)(d)(iii)(A)—delete ", disregarding the distance of any front setback of the building to which the wall is ancillary"
- (27) Schedule 4, clause 2A(2)(d)(iii)(B)—delete "attributable wall or structure" and substitute:
- relevant wall or structure
- (28) Schedule 4, clause 2A(2)(d)(iii)(B)—after "boundary" insert:
- , unless on an adjacent site on that boundary there is an existing wall of a building that would be adjacent to or abut a proposed relevant wall or structure (in which case this subsubparagraph does not apply)
- (29) Schedule 4, clause 2A(2)(f)—delete paragraph (f)
- (30) Schedule 4, clause 2A(2)(i)(ii)—delete "that faces the primary street"
- (31) Schedule 4, clause 2A(2)(i)(v)—delete subparagraph (v) and substitute:
- (v) is located so that vehicle access—
 - (A) will use an existing or authorised driveway or access point under section 221 of the *Local Government Act 1999*, including a driveway or access point for which consent under the Act has been granted as part of an application for the division of land; or
 - (B) will use a driveway that—
 - is not located within 6 metres of an intersection of 2 or more roads or a pedestrian actuated crossing; and
 - will not interfere with an item of street furniture (including directional signs, lighting, seating and weather shelters), other infrastructure, or a tree; or
 - (C) will not require a driveway because the kerbing is formed in a manner that allows a vehicle to roll over it; and

- (32) Schedule 4, clause 2A(2)(i)(vi)—delete "1:5 in any place and 1:8" and substitute:
1:4
- (33) Schedule 4, clause 2A(2)(m)—delete paragraph (m) and substitute:
- (m) the development does not involve—
 - (i) excavation exceeding a vertical height of 1 metre; or
 - (ii) filling exceeding a vertical height of 1 metre,and if the development involves both excavation and filling, the total combined excavation and filling must not exceed a vertical height of 2 metres; and
- (34) Schedule 4, clause 2A(3)(b)—delete paragraph (b) and substitute:
- (b) the primary street in relation to an existing or proposed building on a site is—
 - (i) in the case of a site that has a frontage to only 1 road—that road; or
 - (ii) in the case of a site that has a frontage to 2 roads—
 - (A) if the frontages are identical in length—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*; or
 - (B) in any other case—the road in relation to which the site has a shorter frontage; or
 - (iii) in any other case—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
- (35) Schedule 4, clause 2A(4)—before the definition of **ARI** insert:
AHD, in relation to the potential for inundation, means *Australian height datum*;
- (36) Schedule 4, clause 2A(4), definition of **attributable walls or structures**—delete the definition and substitute:
building line, in relation to a building on a site, means a line drawn parallel to the wall on the building closest to the boundary of the site that faces the primary street (and any existing projection from the building such as a carport, verandah, porch or bay window is not to be taken to form part of the building for the purposes of determining the relevant wall of the building);

- (37) Schedule 4, clause 2A(4), definition of ***Flood Management Zone/Area***—delete "shown as being subject to flooding or inundation in the relevant Development Plan" and substitute:

delineated as such a zone or area in a map in the relevant Development Plan, or otherwise indicated by requirements in the relevant Development Plan for minimum finished floor levels expressed by reference to ARI or AHD

- (38) Schedule 4, clause 2A(4)—after the definition of ***Historic Conservation Zone/Area*** insert:

relevant wall or structure means any wall or structure that is due to development that has occurred, or is proposed to occur, on the relevant allotment but does not include any fence or retaining wall between the relevant allotment and an adjoining allotment;

- (39) Schedule 4, clause 2B(3)(b)(iii)—delete subparagraph (iii) and substitute:

(iii) a Flood Management Zone/Area unless—

(A) the relevant Development Plan—

- provides that new detached or semi-detached dwellings may be built in the Flood Management Zone/Area; and
- prescribes requirements for such developments relating to finished floor levels (expressed by reference to AHD or ARI); and

(B) the development complies with the requirements relating to finished floor levels specified in the Development Plan.

- (40) Schedule 4, clause 2B(4)—delete subclause (4) and substitute:

(4) If in connection with the relevant application for development plan consent—

(a) the applicant has indicated that the allotment is, or may have been, subject to site contamination as a result of a previous use of the land or a previous activity on the land, other than if the previous use or activity was for residential purposes;
or

(b) the relevant authority has reason to believe that the allotment is, or may have been, subject to site contamination as a result of a previous use of the land or a previous activity on the land, other than if the previous use or activity was for residential purposes,

this clause will not apply unless—

(c) the applicant is able to furnish, or the relevant authority is in possession of, a site contamination audit report under Part 10A of the *Environment Protection Act 1993* to the effect—

(i) that site contamination does not exist (or no longer exists) at the allotment; or

- (ii) that any site contamination at the allotment has been cleared or addressed to the extent necessary to enable the allotment to be suitable for unrestricted residential use; or
- (d) consent under the Act was granted on or after 1 September 2009 in relation the division of the land.
- (41) Schedule 4, clause 2B(5)(a)—after "Development Plan" insert:
- (and if the relevant Development Plan prescribes different minimum site areas and minimum frontage requirements for detached and semi-detached dwellings respectively, the areas and frontage requirements that are lesser in size are to be taken to be the minimum site area and minimum frontage requirements for the purposes of this paragraph)
- (42) Schedule 4, clause 2B(5)(b)(iii)—delete subparagraph (iii) and substitute:
- (iii) in relation to any proposed garage or carport, the garage or carport—
- (A) will be set back at least 5.5 metres from the primary street; and
- (B) is or will be situated so that no part of the garage or carport will be in front of any part of the building line of the dwelling; and
- (C) will not have an opening or openings for vehicle access that exceed, in total, 7 metres in width; and
- (D) is not designed or located so as to provide vehicle access from an alley, lane or right of way that is less than 6.2 metres wide along the boundary of the allotment; and
- (E) —
- is located so that vehicle access will use an existing or authorised driveway or access point under section 221 of the *Local Government Act 1999*, including a driveway or access point for which consent under the Act has been granted as part of an application for the division of land; or
 - will use a driveway that is not located within 6 metres of an intersection of 2 or more roads or a pedestrian actuated crossing and will not interfere with an item of street furniture (including directional signs, lighting, seating and weather shelters), other infrastructure, or a tree; or
 - will not require a driveway because the kerbing is formed in a manner that allows a vehicle to roll over it; and
- (F) is located so that the gradient from the place of access on the boundary of the allotment to the finished floor level at the front of the garage or carport when work is completed is not steeper than 1:4 on average.

- (43) Schedule 4, clause 2B(6)(d)—delete "attributable"
- (44) Schedule 4, clause 2B(6)(d)(iii)—delete "attributable walls or structures" and substitute:
relevant walls or structures
- (45) Schedule 4, clause 2B(6)(d)(iii)(A)—delete "attributable walls and structures" and substitute:
relevant walls and structures
- (46) Schedule 4, clause 2B(6)(d)(iii)(A)—delete "50%" and substitute:
45%
- (47) Schedule 4, clause 2B(6)(d)(iii)(A)—delete ", disregarding the distance of any front setback of the building to which the wall is ancillary"
- (48) Schedule 4, clause 2B(6)(d)(iii)(B)—delete "attributable wall or structure" and substitute:
relevant wall or structure
- (49) Schedule 4, clause 2B(6)(d)(iii)(B)—after "boundary" insert:
, unless on an adjacent site on that boundary there is an existing wall of a building that would be adjacent to or abut a proposed relevant wall or structure (in which case this subsubparagraph does not apply)
- (50) Schedule 4, clause 2B(6)(f)—delete paragraph (f)
- (51) Schedule 4, clause 2B(6)(i)—delete "or a reserve" and substitute:
(including any road reserve) or a reserve (including any land held as open space)
- (52) Schedule 4, clause 2B(6)(i)(ii)—delete "will be an awning window hinged at the top and"
- (53) Schedule 4, clause 2B(6)(j)—after "where" insert:
the longest side of
- (54) Schedule 4, clause 2B(6)(j)—delete ", or reserve," and substitute:
(including any road reserve), or reserve (including any land held as open space),
- (55) Schedule 4, clause 2B(6)(k)(ii)—delete "that faces the primary street"
- (56) Schedule 4, clause 2B(6)(k)(v)—delete subparagraph (v) and substitute:
(v) is located so that vehicle access—
(A) will use an existing or authorised driveway or access point under section 221 of the *Local Government Act 1999*, including a driveway or access point for which consent under the Act has been granted as part of an application for the division of land; or
(B) will use a driveway that—

- is not located within 6 metres of an intersection of 2 or more roads or a pedestrian actuated crossing; and
 - will not interfere with an item of street furniture (including directional signs, lighting, seating and weather shelters), other infrastructure, or a tree; or
- (C) will not require a driveway because the kerbing is formed in a manner that allows a vehicle to roll over it; and
- (57) Schedule 4, clause 2B(6)(k)(vi)—delete "1:5 in any place and 1:8" and substitute:
1:4
- (58) Schedule 4, clause 2B(6)(o)—delete paragraph (o) and substitute:
- (o) the development does not involve—
- (i) excavation exceeding a vertical height of 1 metre; or
 - (ii) filling exceeding a vertical height of 1 metre,
- and if the development involves both excavation and filling, the total combined excavation and filling must not exceed a vertical height of 2 metres; and
- (59) Schedule 4, clause 2B(6)(p)—delete paragraph (p) and substitute:
- (p) in relation to the site—that the site is, for the purposes of a dwelling, capable of being connected to a sewage system or a waste control system (being a system which complies with the requirements of the *Public and Environmental Health Act 1987*); and
- (60) Schedule 4, clause 2B(7)(d)—delete paragraph (d) and substitute:
- (d) the primary street in relation to an existing or proposed building on a site is—
- (i) in the case of a site that has a frontage to only 1 road—that road; or
 - (ii) in the case of a site that has a frontage to 2 roads—
 - (A) if the frontages are identical in length—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*; or
 - (B) in any other case—the road in relation to which the site has a shorter frontage; or
 - (iii) in any other case—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

- (61) Schedule 4, clause 2B(8)—before the definition of *ARI* insert:

AHD, in relation to the potential for inundation, means *Australian height datum*;

- (62) Schedule 4, clause 2B(8), definition of *attributable walls or structures*—delete the definition

- (63) Schedule 4, clause 2B(8)—after the definition of *battle-axe allotment* insert:

building line, in relation to a building on a site, means a line drawn parallel to the wall on the building closest to the boundary of the site that faces the primary street (and any existing projection from the building such as a carport, verandah, porch or bay window is not to be taken to form part of the building for the purposes of determining the relevant wall of the building);

- (64) Schedule 4, clause 2B(8), definition of *Flood Management Zone/Area*—delete "shown as being subject to flooding or inundation in the relevant Development Plan" and substitute:

delineated as such a zone or area in a map in the relevant Development Plan, or otherwise indicated by requirements in the relevant Development Plan for minimum finished floor levels expressed by reference to *ARI* or *AHD*

- (65) Schedule 4, clause 2B(8)—after the definition of *Historic Conservation Zone/Area* insert:

relevant wall or structure means any wall or structure that is due to development that has occurred, or is proposed to occur, on the relevant allotment but does not include any fence or retaining wall between the relevant allotment and an adjoining allotment;

9—Variation of Schedule 5—Requirements as to plans and specifications

- (1) Schedule 5, clauses A1 and A2—delete clauses A1 and A2 and substitute:

A1—Plans for certain classes of *complying* development

An application for development plan consent that relates to an outbuilding, carport or verandah that is *complying* development under Schedule 4 clause 1(2) or (3) must be accompanied by—

- (a) a site plan, drawn to scale, being a scale of not less than 1:200, including appropriate bar and ratio scales, showing—
 - (i) the boundaries and dimensions of the site; and
 - (ii) the position and dimensions of the minimum front and side setbacks of any existing or proposed building on the site; and
 - (iii) existing and proposed finished floor levels; and
 - (iv) the location of any regulated tree on the site or on adjoining land that might be affected by the work, or that might affect the work, proposed to be performed; and

- (v) if the proposed building is to be a garage or carport—the location and finished ground level at each end of any driveway or proposed driveway and, if relevant, its location in relation to an existing or proposed vehicle access point under section 221 of the *Local Government Act 1999*, including a driveway or access point for which consent under the Act has been granted as part of an application for the division of land; and
 - (vi) the approximate north point; and
 - (vii) the location of any existing or proposed tanks and areas where the disposal of sewage may soak into the ground for an on-site sewerage or waste disposal system installed or to be installed in compliance with the *Public and Environmental Health Act 1987*; and
- (b) if a vehicle access point is to be established—if required under Schedule 4 clause 1(2) or (3), documentary evidence that it has been authorised under section 221 of the *Local Government Act 1999*; and
 - (c) elevation drawings, drawn to scale, being a scale of not less than 1:100, including appropriate bar and ratio scales, of building heights in relation to any relevant or proposed building; and
 - (d) if relevant—a schedule of colours for any cladding.

**A2—Plans for alterations, additions and new dwellings—
complying development**

An application for development plan consent that relates to *complying* development under Schedule 4 clause 2A or 2B must be accompanied by—

- (a) a site plan, drawn to scale, being a scale of not less than 1:200, including appropriate bar and ratio scales, showing—
 - (i) the boundaries and dimensions of the site; and
 - (ii) the position and dimensions of the minimum front and side setbacks of any existing or proposed building on the site; and
 - (iii) existing and proposed finished floor levels; and
 - (iv) the location of any regulated tree on the site or on adjoining land that might be affected by the work, or that might affect the work, proposed to be performed; and
 - (v) the location and dimension of car parking spaces that are not fully enclosed or covered before and after completion of the proposed development; and

- (vi) if a proposed building is to be or incorporate a garage or carport—the location and finished ground level at each end of any driveway or proposed driveway and, if relevant, its location in relation to an existing or proposed vehicle access point under section 221 of the *Local Government Act 1999*, including a driveway or access point for which consent under the Act has been granted as part of an application for the division of land; and
 - (vii) the true North point; and
 - (viii) the location of any existing or proposed tanks and areas where the disposal of sewage may soak into the ground for an on-site sewerage or waste disposal system installed or to be installed in compliance with the *Public and Environmental Health Act 1987*; and
- (b) if a new vehicle access point is to be established—if required under Schedule 4 clause 2A or 2B, documentary evidence that it has been authorised under section 221 of the *Local Government Act 1999*; and
 - (c) if relevant under clause 2A and in all cases under clause 2B—a floor plan drawn to scale, being a scale of not less than 1:100, showing the number and location of bedrooms and other habitable rooms at the completion of the development; and
 - (d) elevation drawings, drawn to scale, being a scale of not less than 1:100, including appropriate bar and ratio scales, of building heights in relation to any relevant or proposed building; and
 - (e) drawings showing how the proposed development generally relates to the closest walls of buildings on adjoining sites (other than any site to the rear of the site of the proposed development); and
 - (f) in the case of an application within the ambit of Schedule 4 clause 2B—
 - (i) a declaration by or on behalf of the applicant indicating whether or not, to the best of his or her knowledge and belief, the allotment is, or may have been, subject to site contamination as a result of a previous use of the land or a previous activity on the land; and

- (ii) if the indication is that the allotment is or may have been so subject to site contamination—a report that complies with the requirements of Schedule 4 clause 2B(4) (unless the relevant authority is already in possession of such a report, or is otherwise satisfied in accordance with Schedule 4 clause 2B(4) that such a report is not required).
- (2) Schedule 5, clause 1(1)(a)(va)—after "driveway and" insert:
 - , if relevant,
- (3) Schedule 5, clause 1(1)(a)(vii)—delete "tanks proposed" and substitute:
 - existing or proposed tanks
- (4) Schedule 5, clause 1(1)(a)(vii)—delete "to be installed" and substitute:
 - installed or to be installed (as the case may be)
- (5) Schedule 5, clause 1(1)(f)(i)—before "documentary" insert:
 - if relevant,

10—Variation of Schedule 8—Referrals and concurrences

- (1) Schedule 8, clause 2, table, item 1(c)—after "Development Plan" insert:
 - , other than if the development is *complying* development under Schedule 4 clause 2B
- (2) Schedule 8, clause 2, table, item 19(g)(ii)—delete "6, 7,"

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's Deputy

with the advice and consent of the Executive Council
on 31 May 2012

No 150 of 2012

UPA0071/11CS