

South Australia

# Planning, Development and Infrastructure (General) Regulations 2017

under the *Planning, Development and Infrastructure Act 2016*

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## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *Planning, Development and Infrastructure (General) Regulations 2017*.

### 3—Interpretation

(1) In these regulations—

*Act* means the *Planning, Development and Infrastructure Act 2016*;

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

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

*coastal land* means land that is within the Coastal Areas Overlay under the Planning and Design Code;

*designated airport building heights area* means an area identified under the Planning and Design Code (whether by use of an overlay or otherwise) as a designated airport building heights area;

*designated building* means a building, or class of building, designated by the Minister in a notice under Schedule 8, clause 4(1)(j);

*designated building product* means a building product, or kind of building product, designated by the Minister in a notice under Schedule 8, clause 4(1)(j);

*designated environmental zone, subzone or overlay* means an environmental zone, subzone or overlay identified under the Planning and Design Code as a designated environmental zone, subzone or overlay;

*designated flood zone, subzone or overlay* means a flood zone, subzone or overlay identified under the Planning and Design Code as a designated flood zone, subzone or overlay;

*designated regulated tree overlay* means an overlay identified under the Planning and Design Code as a designated regulated tree overlay;

*essential safety provisions* means—

- (a) in relation to a building erected or altered after 17 June 1991—any safety systems, equipment or other provisions defined as such, or required to be installed under the Building Rules or a Ministerial building standard, any former regulations under the *Development Act 1993* or the *Building Act 1971*, or any Minister's Specification under the *Development Act 1993*; or
- (b) in relation to a building erected or altered after 1 January 1974 but before 17 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 a council, and in the case of log books, to be maintained and kept;

**fire authority** means—

- (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—the South Australian Metropolitan Fire Service;
- (b) in relation to any other part of the State—the South Australian Country Fire Service;

**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 any of the following:
  - (i) assistance by more than 1 person who is not a resident in the dwelling;
  - (ii) use (whether temporarily or permanently) of a floor area exceeding 30 m<sup>2</sup>;
  - (iii) the imposition on the services provided by a public utility organisation of any demand or load greater than that which is ordinarily imposed by other users of the services in the locality;
  - (iv) the display of goods in a window or about the dwelling or its curtilage;
  - (v) the use of a vehicle exceeding 3 tonne tare in weight;

**Metropolitan Adelaide** means Metropolitan Adelaide as defined by GRO Plan 639/93;

**outbuilding** does not include a private bushfire shelter;

**private bushfire shelter** means a building, associated with a Class 1a building under the Building Code, that may as a last resort provide shelter for occupants from the immediate life threatening effects of a bushfire event;

**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.

- (2) The Planning and Design Code may identify—
  - (a) different airport building heights areas as designated airport building heights areas; and
  - (b) different environmental zones, subzones or overlays as designated environmental zones, subzones or overlays; and
  - (c) different flood zones, subzones or overlays as designated flood zones, subzones or overlays,

in relation to different provisions of these regulations.

- (3) Subject to these regulations and the Planning and Design Code, if requirements for minimum finished floor levels expressed by reference to ARI or AHD are set out under the Planning and Design Code in respect of a zone, subzone or overlay, the zone, subzone or overlay will be taken to be a designated flood zone, subzone or overlay for the purposes of these regulations.
- (4) For the purposes of these regulations, a reference to the natural surface of the ground, in relation to proposed development, is a reference to the existing ground level before the development is undertaken (disregarding any preparatory work or related work that has been (or is to be) undertaken for the purposes of the development).
- (5) For the purposes of these regulations, a reference to a particular level or class of accredited professional is a reference to that level or class of accredited professional under the *Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019*.

### **3A—Application of Act (section 8)**

- (1) In accordance with section 8 of the Act, sections 151, 152 and 153 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 that is not within the area of a council.
- (2) In accordance with section 8(2) of the Act, section 102(1)(d)(viii) of the Act does not apply in respect of development that does not involve the creation of a new boundary—
  - (a) that separates 2 or more sole occupancy units within an existing building; or
  - (b) that bounds a public corridor within an existing building; or
  - (c) that is within a prescribed separation distance from an existing building.
- (3) In accordance with section 8(2) of the Act, section 102 subsection (9) of the Act applies, in respect of development to which subsection (1)(d)(viii) of that section applies (taking into account the operation of subregulation (2)), on the basis that a reference to the Building Rules is a reference to Section C of Volume 1, and P 2.3.1 of Volume 2, of the Building Code.
- (4) In this regulation—

*prescribed separation distance*, in relation to a building, means the separation distance that applies to the building under the Building Code for the purpose of determining requirements for fire-resistance of building elements under the Code;

*sole occupancy unit* has the same meaning as in the Building Code.

### **3B—Additions to definition of *development***

An act or activity in relation to land specified in Schedule 3 is declared to constitute development for the purposes of the Act.

### **3C—Exclusions from definition of *development*—general**

- (1) Subject to this regulation, an act or activity specified in Schedule 4 is declared not to constitute development for the purposes of the Act.
- (2) An exclusion under Schedule 4 is subject to any condition or limitation prescribed by Schedule 4 for the relevant act or activity.

- (3) An exclusion under Schedule 4 does not apply in respect of a State heritage place.
- (4) An exclusion under Schedule 4 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.
- (5) Nothing in this regulation or Schedule 4 affects the operation of Schedule 5.

### **3D—Exclusions from definition of *development*—State heritage areas**

- (1) Subject to this regulation, an act or activity specified in Schedule 5 that is to be undertaken within the State Heritage Area Overlay under the Planning and Design Code is declared not to constitute development for the purposes of the Act.
- (2) An exclusion under Schedule 5 is subject to any condition or limitation prescribed by Schedule 5 for the relevant act or activity.
- (3) An exclusion under Schedule 5 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.

### **3E—Change in classification of buildings**

Any work or activity that results in a change to the classification of a building under the Building Code is prescribed as building work for the purposes of the Act.

### **3F—Regulated and significant trees**

- (1) Subject to this regulation, the following are declared to constitute classes of regulated trees for the purposes of paragraph (a) of the definition of *significant tree* in section 3(1) of the Act, namely trees within a designated regulated tree overlay that have a trunk with a circumference of 2 m or more or, in the case of trees that have multiple trunks, that have trunks with a total circumference of 2 m or more and an average circumference of 625 mm or more, measured at a point 1 m above natural ground level.
- (2) Subject to this regulation—
  - (a) a prescribed criterion for the purposes of paragraph (b) of the definition of *significant tree* in section 3(1) of the Act is that a regulated tree under subregulation (1) has a trunk with a circumference of 3 m or more or, in the case of a tree with multiple trunks, has trunks with a total circumference of 3 m or more and an average circumference of 625 mm or more, measured at a point 1 m above natural ground level; and
  - (b) regulated trees under subregulation (1) that are within the prescribed criterion under paragraph (a) are to be taken to be significant trees for the purposes of the Act.
- (3) For the purposes of subregulations (1) and (2), the measurement of the circumference of the trunks of a tree with multiple trunks is to be undertaken on the basis of the actual circumference of each trunk and without taking into account any space between the trunks.

- (4) Subregulations (1) and (2) do not apply—
- (a) to a tree located within 10 m of an existing dwelling or an existing in-ground swimming pool, other than a tree within 1 of the following species (or genus) of trees:
- Agonis flexuosa* (Willow Myrtle)
  - Eucalyptus* (any tree of the genus); or
- (b) to a tree within 1 of the following species of trees:
- Acer negundo* (Box Elder)
  - Acer saccharinum* (Silver Maple)
  - Ailanthus altissima* (Tree of Heaven)
  - Alnus acuminata* subsp. *Glabrata* (Evergreen Alder)
  - Celtis australis* (European Nettle Tree)
  - Celtis sinensis* (Chinese Nettle Tree)
  - Cinnamomum camphora* (Camphor Laurel)
  - Cupressus macrocarpa* (Monterey Cypress)
  - Ficus* spp. (Figs), other than *Ficus macrophylla* (Morton Bay Fig) located more than 15 m from a dwelling
  - Fraxinus angustifolia* (Narrow-leaved Ash)
  - Fraxinus angustifolia* ssp. *Oxycarpa* (Desert Ash)
  - Pinus radiata* (Radiata Pine/Monterey Pine)
  - Platanus x acerifolia* (London Plane)
  - Populus alba* (White Poplar)
  - Populus nigra* var. *italica* (Lombardy Poplar)
  - Robinia pseudoacacia* (Black Locust)
  - Salix babylonica* (Weeping Willow)
  - Salix chilensis* 'Fastigiata' (Chilean Willow, Evergreen Willow, Pencil Willow)
  - Salix fragilis* (Crack Willow)
  - Salix x rubens* (White Crack Willow, Basket Willow)
  - Salix x sepulcralis* var. *chrysocoma* (Golden Weeping Willow)
  - Schinus areira* (Peppercorn Tree); or
- (c) to a tree belonging to a class of plants to which a declaration by the Minister under Chapter 8 Part 1 of the *Natural Resources Management Act 2004* applies; or
- (d) to a tree that may not be cleared without the consent of the Native Vegetation Council under the *Native Vegetation Act 1991*; or

- (e) to a tree planted as part of a woodlot, orchard or other form of plantation created for the purpose of growing and then harvesting trees or any produce.
- (5) For the purposes of subregulation (4), the distance between a dwelling or swimming pool and a tree will be measured from the base of the trunk of the tree (or the nearest trunk of the tree to the dwelling or swimming pool) to the nearest part of the dwelling or swimming pool at natural ground level.

**Note—**

The scheme set out in subregulations (1) to (5) relates to the declaration of trees to be regulated trees or significant trees by regulations under the Act. A tree may also be declared to be a significant tree by the Planning and Design Code, and such a declaration has effect independently from those subregulations.

- (6) For the purposes of the definition of *tree damaging activity* in section 3(1) of the Act, pruning—
  - (a) that does not remove more than 30% of the crown of the tree; and
  - (b) that is required to remove—
    - (i) dead or diseased wood; or
    - (ii) branches that pose a material risk to a building; or
    - (iii) branches to a tree that is located in an area frequently used by people and the branches pose a material risk to such people,

is excluded from the ambit of that definition.

### **3G—Aboveground and inflatable pools**

- (1) Any work or activity involving the construction of an aboveground or inflatable swimming pool which is capable of being filled to a depth exceeding 300 mm is prescribed under paragraph (b) of the definition of *building work* in section 3(1) of the Act.
- (2) However—
  - (a) subregulation (1) does not apply if—
    - (i) the swimming pool is being placed where, or approximately where, the pool, or another pool capable of being filled to a depth exceeding 300 mm, has been previously located within the last 2 years; and
    - (ii) the placing of the pool, or another pool, at that location (or approximately that location)—
      - (A) has been previously granted approval under this Act or the repealed Act, other than where any safety features required on account of that approval have been removed; or
      - (B) occurred before 1 January 2004, other than where the pool that was previously so located did not incorporate a filtration system; and
  - (b) subregulation (1) applies subject to any exclusions from the ambit of the definition of *development* under Schedule 4 or 5.

- (3) In this regulation—  
*swimming pool* includes—
- (a) a paddling pool; and
  - (b) a spa pool (but not a spa bath).

### **3H—Public notice**

- (1) For the purposes of the definition of *public notice* under the Act, public notice is a notice that is—
- (a) published in a newspaper circulating generally in the area of the State that is relevant to the matter in relation to which public notice is to be given; and
  - (b) published on the SA planning portal; and
  - (c) for the purposes of section 113(5)(b) and (10)(b) of the Act, published in a newspaper circulating generally throughout the State; and
  - (d) for the purposes of section 131(13) of the Act, placed on the relevant land in accordance with the requirements of regulation 107(6).
- (2) Subregulation (1)(d) does not apply—
- (a) in relation to any part of the State that is not within the area of a council; or
  - (b) in relation to development that is to be carried out wholly on land covered by water.

### **3I—Prescribed period (section 44(12)(b))**

For the purposes of section 44(12)(b) of the Act, the period of 15 business days is prescribed.

## **Part 2—Administration and structural matters**

### **5—Annual report—Commission**

For the purposes of section 32(2) of the Act, an annual report of the Commission must also contain the following information:

- (a) information about any strategic or other similar objective adopted by the Commission for the coming year or years;
- (b) information about the extent to which the principles referred to in section 14 of the Act are being reflected in the planning system established under the Act;
- (c) information about—
  - (i) any performance targets set under Schedule 4 of the Act during the relevant financial year; and
  - (ii) the work of the Commission under clause 1 of Schedule 4 of the Act during the relevant financial year;
- (d) information about any review under clause 3 of Schedule 4 of the Act concluded during the relevant financial year.

## **6—Annual reports—joint planning boards**

- (1) For the purposes of section 36(2)(e) of the Act, a joint planning board must, on or before 30 September in every year, forward to the Minister and to the Commission a report on the joint planning board's operations for the preceding financial year.
- (2) An annual report must also contain the following information:
  - (a) information about the membership of the joint planning board during the relevant financial year;
  - (b) the audited annual financial statements of the joint planning board for the relevant financial year;
  - (c) information about the activities of the joint planning board's committees during the relevant financial year;
  - (d) information about the implementation and operation of the joint planning board's regional plan under section 64 of the Act during the relevant financial year.
- (3) The Minister must, within 6 sitting days after receiving a report under this regulation, cause copies of the report to be laid before both Houses of Parliament.

## **6A—Provision of documents and notices via the SA planning portal**

- (1) For the purposes of these regulations, any requirement to provide, furnish or lodge an application, document or other information to or with a person, body or other entity, or to provide or give a notification, may be satisfied by providing the application, document or other information, or by providing the notification, (as the case may be) via the SA planning portal, subject to complying with any relevant requirements applying under Part 4 Division 2 of the Act.
- (2) However—
  - (a) subregulation (1) applies (and only applies) to the extent to which the SA planning portal has the facilities to allow the provision of an application, document or other information, or the provision of a notice, in the particular circumstances; and
  - (b) to the extent that the SA planning portal does not have the facilities envisaged by subregulation (1), or envisaged by any other provision of these regulations, an application, document or other information, or a notice, may be provided, furnished or lodged—
    - (i) by email, using the main or designated email address of the relevant person, body or other entity; or
    - (ii) by delivering the application, document, information or notice to the principal office or address of the relevant person, body or entity.
- (3) For the purposes of subregulation (2), the designated email address of a person, body or other entity is an email address designated by the person, body or other entity as being an email address to be used under the Act or these regulations.

## 7—SA planning portal—certification and verification of information

For the purposes of section 52(1) of the Act, a prescribed requirement is—

- (a) that the instrument is published on a part of the SA planning portal that states that instruments published on that part are certified by the Chief Executive under section 52(1) of the Act; or
- (b) that the instrument has a statement appearing as a heading to the instrument, or at the foot of each page of the instrument, to the effect that it is certified by the Chief Executive under section 52(1) of the Act.

## 8—Disclosure of financial interests

- (1) In this regulation—

*financial benefit*, in relation to a person, means—

- (a) any remuneration, fee or other pecuniary sum exceeding \$1 000 received by the person in respect of a contract of service entered into, or paid office held by, the person; and
- (b) any remuneration, fee or other pecuniary sum received by the person in respect of a trade, vocation, business or profession engaged in by the person where the total exceeds \$1 000,

but does not include an allowance, fee or other sum payable to the person under the Act;

*income source*, in relation to a person, means—

- (a) any person or body of persons with whom the person entered into a contract of service or held any paid office; and
- (b) any trade, vocation, business or profession engaged in by the person;

*ordinary return* means a return under clause 2(1)(b) of Schedule 1 of the Act;

*primary return* means a return under clause 2(1)(a) of Schedule 1 of the Act;

*return period*, in relation to the ordinary return of a prescribed member, means—

- (a) in the case of a prescribed member whose last return was a primary return—the period between the date of the primary return and 30 June next following;
- (b) in any other case—the period of 12 months expiring on 30 June on or within 60 days after which the ordinary return is required to be submitted.

- (2) A word or expression used in this regulation that is referred to in clause 1 of Schedule 1 of the Act has the same meaning in this regulation as in that clause.
- (3) For the purposes of this regulation, a person is an investor in a body if—
- (a) the person has deposited money with, or lent money to, the body that has not been repaid and the amount not repaid equals or exceeds \$10 000; or
  - (b) the person holds, or has a beneficial interest in, shares in, or debentures of, the body or a policy of insurance issued by the body.

- (4) For the purposes of clause 2(1)(a) of Schedule 1 of the Act, a primary return must be in the form set out in Schedule 1 of these regulations and contain the following information:
- (a) a statement of any income source that the prescribed member required to submit the return or a person related to the prescribed member has or expects to have in the period of 12 months after the date of the primary return;
  - (b) the name of any company, or other body, corporate or unincorporate, in which the prescribed member or a member of the prescribed member's family holds office whether as a director or otherwise, for the purposes of obtaining financial gain (including at sometime in the future);
  - (c) the information required by subregulation (7).
- (5) For the purposes of clause 2(1)(b) of Schedule 1 of the Act, an ordinary return must be submitted within 60 days after 30 June in each year.
- (6) For the purposes of clause 2(1)(b) of Schedule 1 of the Act, an ordinary return must be in the form set out in Schedule 2 and contain the following information:
- (a) if the prescribed member required to submit the return or a person related to the prescribed member received, or was entitled to receive, a financial benefit during any part of the return period—the income source of the financial benefit;
  - (b) if the prescribed member or a member of the prescribed member's family held an office whether as a director or otherwise in any company or other body, corporate or unincorporate, during the return period for the purposes of obtaining financial gain (including at some time in the future)—the name of the company or other body;
  - (c) the information required by subregulation (7).
- (7) For the purposes of this regulation, a return (whether primary or ordinary) must contain the following information:
- (a) the name or description of any company, partnership, association or other body in which the prescribed member required to submit the return or a person related to the prescribed member is an investor;
  - (b) a concise description of any trust (other than a testamentary trust) of which the prescribed member or a person related to the prescribed member is a beneficiary or trustee (including the name and address of each trustee);
  - (c) the address or description of any land in which the prescribed member or a person related to the prescribed member has a beneficial interest other than by way of security for any debt;
  - (d) any fund in which the prescribed member or a person related to the prescribed member has an actual or prospective interest to which contributions are made by a person other than the prescribed member or a person related to the prescribed member;
  - (e) if the prescribed member or a person related to the prescribed member is indebted to another person (not being related to the prescribed member or to a member of the prescribed member's family by blood or marriage) in an amount equal to or exceeding \$10 000—the name and address of that person;

- (f) if the prescribed member or a person related to the prescribed member is owed money by a natural person (not being related to the prescribed member or to a member of the prescribed member's family by blood or marriage) in an amount equal to or exceeding \$10 000—the name and address of that person;
  - (g) any other substantial interest of a pecuniary nature of the prescribed member or of a person related to the prescribed member of which the prescribed member is aware and which the prescribed member considers might appear to raise a material conflict between the prescribed member's private interest and the duty that the prescribed member has or may subsequently have as a member of a designated entity.
- (8) A prescribed member is required by this regulation only to disclose information that is known to the prescribed member or ascertainable by the prescribed member by the exercise of reasonable diligence.
  - (9) Nothing in this regulation requires a prescribed member to disclose information relating to a person as trustee of a trust unless the information relates to the person in the person's capacity as trustee of a trust by reason of which the person is related to the prescribed member.
  - (10) A prescribed member may include in a return such additional information as the prescribed member thinks fit.
  - (11) Nothing in this regulation will be taken to prevent a prescribed member from disclosing information required by this regulation in such a way that no distinction is made between information relating to the prescribed member personally and information relating to a person related to the prescribed member.
  - (12) Nothing in this regulation requires disclosure of the actual amount or extent of a financial benefit or interest.
  - (13) For the purposes of paragraph (b) of the definition of *relevant official* in clause 1(1) of Schedule 1 of the Act in relation to an assessment panel appointed by a council, the chief executive officer of the council is prescribed as the relevant official.

## 9—Compliance with code of conduct—Commission

- (1) In this regulation—

*code of conduct* means the code of conduct to be observed by members of the Commission adopted by the Minister under clause 1(1)(a) of Schedule 3 of the Act.
- (2) A person may make a complaint to the Minister if the person believes that a member of the Commission has acted in contravention of the code of conduct.
- (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 approval of the Minister, a complaint must not be lodged with the Minister more than 6 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 there is some other good reason not to proceed (or to proceed further) with the matter under this regulation.
- (7) The Minister may, as the Minister's first step in dealing with a complaint—
  - (a) refer the matter to the member of the Commission to whom the complaint relates for a response; or
  - (b) refer the matter to the presiding member of the Commission for consideration and report; or
  - (c) if the complaint relates to the member of the Commission who holds office under section 18(1)(b) of the Act—refer the matter to the Chief Executive.
- (8) The Minister may take such other action as the Minister thinks fit (including by deciding not to proceed further with the matter).
- (9) The Minister may, whether or not the Minister has acted under subregulation (7), appoint a person to investigate the complaint.
- (10) If the Minister appoints an investigator—
  - (a) the Minister must inform the member of the Commission to whom the complaint relates of the appointment of the investigator and furnish formal notification about the nature of the complaint; and
  - (b) the investigator must conduct an investigation into the complaint as soon as practicable after the appointment has been made; and
  - (c) the investigator must give the member of the Commission to whom the complaint relates a reasonable opportunity to make representations to the investigator about the complaint; and
  - (d) the investigator may require—
    - (i) the complainant; and
    - (ii) the member of the Commission to whom the complaint relates; and
    - (iii) the presiding member of the Commission; and
    - (iv) if the complaint relates to the member of the Commission who holds office under section 18(1)(b) of the Act—the Chief Executive,  
to provide to the investigator any document or other information relevant to the investigation of the complaint (verified, if the investigator so requires, by statutory declaration); and

- (e) the investigator—
  - (i) must otherwise comply with the rules of natural justice; and
  - (ii) subject to subparagraph (i), may conduct the investigation in such manner as the investigator thinks fit (including by undertaking such other consultations and undertaking such other inquiries as the investigator thinks fit).
- (11) If during an investigation the investigator is satisfied that there is a matter about which another complaint could have been made against the member of the Commission, the investigator 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.
- (12) The investigator—
  - (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 the investigation.
- (13) The Minister must provide the person to whom the complaint relates with a copy of a report presented under subregulation (12)(b) (and the Minister may, if the Minister thinks fit, invite a response from the person).
- (14) The Minister may, on the receipt of a report under subregulation (12)(b), or at the conclusion of any other process that the Minister has adopted in the alternative—
  - (a) decide to take no further action on the complaint; or
  - (b) refer the matter to the presiding member of the Commission for further consideration and, if appropriate, further action or response; or
  - (c) undertake any consultation or further inquiry as the Minister thinks fit; or
  - (d) if the complaint relates to an appointed member of the Commission—decide to make a recommendation to the Governor that the member be removed from office; or
  - (e) if the complaint relates to the member of the Commission who holds office under section 18(1)(b) of the Act—replace the person under that section of the Act; or
  - (f) take any other action as the Minister thinks fit.
- (15) The Minister must inform the complainant of the outcome of the complaint under subregulation (14).

## 10—Compliance with code of conduct—joint planning boards

- (1) In this regulation—

*code of conduct* means the code of conduct to be observed by members of a joint planning board adopted by the Minister under clause 1(1)(b) of Schedule 3 of the Act.
- (2) A person may make a complaint to the Minister if the person believes that a member of a joint planning board has acted in contravention of the code of conduct.
- (3) A complaint must—
  - (a) be in writing; and

- (b) contain particulars of the allegation on which the complaint is based; and
  - (c) be verified by statutory declaration.
- (4) Except with the approval of the Minister, a complaint must not be lodged with the Minister more than 6 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 by the complaint is trivial; or
  - (c) that the complaint is frivolous or vexatious or is not made in good faith; or
  - (d) that there is some other good reason not to proceed (or further proceed) with the matter under this regulation.
- (7) The Minister may, as the Minister's first step in dealing with a complaint, refer the matter to the member of the joint planning board to whom the complaint relates for a response.
- (8) The Minister may take such other action as the Minister thinks fit (including deciding not to proceed further with the matter).
- (9) The Minister may, whether or not the Minister has acted under subregulation (7), appoint a person to investigate a complaint.
- (10) If the Minister appoints an investigator—
  - (a) the Minister must inform the member of the joint planning board to whom the complaint relates of the appointment of an investigator and furnish formal notification about the nature of the complaint; and
  - (b) the investigator must conduct an investigation into the complaint as soon as practicable after the appointment has been made; and
  - (c) the investigator must give the member of the joint planning board to whom the complaint relates a reasonable opportunity to make representations to the investigator about the complaint; and
  - (d) the investigator may require—
    - (i) the complainant; and
    - (ii) the member of the joint planning board to whom the complaint relates,  
to provide to the investigator any document or other information relevant to the investigation of the complaint (verified, if the investigator so requires, by statutory declaration); and
  - (e) the investigator—
    - (i) must otherwise comply with the rules of natural justice; and

- (ii) subject to subparagraph (i), may conduct the investigation in such manner as the investigator thinks fit (including by undertaking such other consultations and undertaking such other inquiries as the investigator thinks fit).
- (11) If during an investigation the investigator is satisfied that there is a matter about which another complaint could have been made against the member of the joint planning board, the investigator may, after consultation with the Minister, deal with the matter as if a complaint had been made about the matter.
- (12) The investigator—
  - (a) may report to the Minister at any stage of the investigation; and
  - (b) must present a report to the Minister at the conclusion of the investigation.
- (13) The Minister must provide the person to whom the complaint relates with a copy of a report presented under subregulation (12)(b) (and the Minister may, if the Minister thinks fit, invite a response from the person).
- (14) The Minister may, on the receipt of a report under subregulation (12)(b), or at the conclusion of any other process that the Minister has adopted in the alternative—
  - (a) decide to take no further action on the complaint; or
  - (b) undertake any consultation or further inquiry as the Minister thinks fit; or
  - (c) take action to have the member of the joint planning board to whom the complaint relates removed from office; or
  - (d) take any other action as the Minister thinks fit.
- (15) The Minister must inform the complainant of the outcome of a complaint under subregulation (14).

## **11—Compliance with code of conduct—assessment panels**

- (1) In this regulation—

*code of conduct* means the code of conduct to be observed by members of an assessment panel adopted by the Minister under clause 1(1)(c) of Schedule 3 of the Act.
- (2) A person may make a complaint to the Commission if the person believes that a member of an assessment panel has acted in contravention of the code of conduct.
- (3) A complaint must—
  - (a) be in writing; and
  - (b) contain particulars of the allegation on which the complaint is based; and
  - (c) be verified by statutory declaration.
- (4) Except with the approval of the Commission, a complaint must not be lodged with the Commission more than 6 months after the day on which the complainant first had notice of the matters alleged in the complaint.
- (5) The Commission may require the complainant to give further particulars of the complaint (verified, if the Commission so requires, by statutory declaration).

- (6) The Commission 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 Commission—
  - (a) that the complainant does not have a sufficient interest in the matter to which the complaint relates; or
  - (b) that the matter raised by the complaint is trivial; or
  - (c) that the complaint is frivolous or vexatious or is not made in good faith; or
  - (d) that there is some other good reason not to proceed (or further proceed) with the matter under this regulation.
- (7) The Commission may, as the Commission's first step in dealing with a complaint, refer the matter to the member of the assessment panel to whom the complaint relates for a response.
- (8) The Commission may take such further action as the Commission thinks fit (including deciding not to proceed further with the matter).
- (9) The Commission may, whether or not the Commission has acted under subregulation (7), appoint a person to investigate a complaint.
- (10) If the Commission appoints an investigator—
  - (a) the Commission must inform the member of the assessment panel to whom the complaint relates of the appointment of an investigator and furnish formal notification of the nature of the complaint; and
  - (b) the investigator must conduct an investigation into the complaint as soon as practicable after the appointment has been made; and
  - (c) the investigator must give the member of the assessment panel to whom the complaint relates a reasonable opportunity to make representations to the investigator about the complaint; and
  - (d) the investigator may require—
    - (i) the complainant; and
    - (ii) the member of the assessment panel to whom the complaint relates, to provide to the investigator any document or other information relevant to the investigation of the complaint (verified, if the investigator so requires, by statutory declaration); and
  - (e) the investigator—
    - (i) must otherwise comply with the rules of natural justice; and
    - (ii) subject to subparagraph (i), may conduct the investigation in such a manner as the investigator thinks fit (including by undertaking such other consultations and undertaking such other inquiries as the investigator thinks fit).
- (11) If during an investigation the investigator is satisfied that there is a matter about which another complaint could have been made against the member of the assessment panel, the investigator may, after consultation with the Commission, deal with the matter as if a complaint had been made about the matter.

- (12) The investigator—
- (a) may report to the Commission at any stage of the investigation; and
  - (b) must present a report to the Commission at the conclusion of the investigation.
- (13) The Commission must provide the person to whom the complaint relates with a copy of a report presented under subregulation (12)(b) (and the Commission may, if the Commission thinks fit, invite a response from the person).
- (14) The Commission may, on the receipt of a report under subregulation (12)(b), or at the conclusion of any process that the Commission has adopted in the alternative—
- (a) decide to take no further action on the complaint; or
  - (b) undertake any consultation or further inquiry as the Commission thinks fit; or
  - (c) take action to have the member of the assessment panel to whom the complaint relates removed from office; or
  - (d) take such other action as the Commission thinks fit.
- (15) The Commission must inform the complainant of the outcome of a complaint under subregulation (14).
- (16) Without limiting a preceding subregulation, the Commission may, at any time, consult with or provide a report to—
- (a) the Minister; and
  - (b) in the case of a complaint that relates to a member of an assessment panel appointed by a joint planning board or a council, the joint planning board or the council (as the case requires),
- about a complaint that has been made under this regulation.
- (17) Nothing in this regulation limits or restricts any action or proceedings that may be taken against or in relation to a member of an assessment panel on account of the member being an accredited professional under the Act.

## **Part 3—Assessment panels—procedures**

### **12—Application**

This Part applies to and in relation to the procedures of an assessment panel established under section 83 of the Act or clause 12 or 13 of Schedule 8 of the Act.

### **13—Public access to meetings**

- (1) In connection with the conduct of the proceedings of an assessment panel, members of the public are entitled to attend a meeting of the panel other than as set out in subregulation (2).
- (2) An assessment panel may exclude the public from attendance at a meeting—
- (a) during so much of the meeting as is necessary to receive, discuss or consider in confidence any of the following matters:

- (i) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
- (ii) information the disclosure of which—
  - (A) could unreasonably be expected to confer a commercial advantage on a person, or to prejudice the commercial position of a person; and
  - (B) would, on balance, be contrary to the public interest;
- (iii) information the disclosure of which would reveal a trade secret;
- (iv) commercial information of a confidential nature (not being a trade secret) the disclosure of which—
  - (A) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
  - (B) would, on balance, be contrary to the public interest;
- (v) matters affecting the safety or security of any person or property;
- (vi) information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;
- (vii) matters that should be considered in confidence in order to ensure that the assessment panel, or any other entity, does not breach any law, or any order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;
- (viii) legal advice;
- (ix) information relating to actual litigation, or litigation that the assessment panel believes on reasonable grounds will take place;
- (x) information the disclosure of which—
  - (A) would divulge information provided on a confidential basis by or to a Minister of the Crown, the Commission, or another public authority or official; and
  - (B) would, on balance, be contrary to the public interest; and
- (b) during so much of the meeting that consists of its discussion or determination of any application or other matter that falls to be determined by the assessment panel.

#### **14—Minutes and other documents**

- (1) An assessment panel must ensure that accurate minutes are kept of its proceedings.
- (2) A disclosure by a member of an assessment panel of a direct or indirect pecuniary interest in any aspect of a development or any body associated with any aspect of a development required under the Act must be recorded in the minutes of the assessment panel.

- (3) Members of the public are entitled to reasonable access to—
  - (a) the agendas for meetings of an assessment panel; and
  - (b) the minutes of meetings of an assessment panel.
- (4) However, an assessment panel may, before it releases a copy of any minutes under subregulation (3), exclude from the minutes information about any matter dealt with on a confidential basis by the assessment panel.
- (5) Minutes must be available under subregulation (3) within 5 business days after their adoption by the members of the assessment panel.

### **15—Quorum**

A quorum at a meeting of an assessment panel is a number obtained by dividing the total number of members of the assessment panel for the time being in office by 2, ignoring any fraction resulting from the division, and adding 1.

### **16—Voting**

- (1) Each member of an assessment panel present at a meeting of the assessment panel is entitled to 1 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.
- (2) Subregulation (1) does not apply to a person who is taken to be a member of an assessment panel under section 85 of the Act.

### **17—Validity of proceedings**

A proceeding of an assessment panel (and any decision made by an assessment panel) is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

### **18—Other matters**

Except insofar as a procedure is prescribed by the Act or these regulations, the procedures of an assessment panel in relation to the conduct of its business will be as determined by the assessment panel (and an assessment panel is accordingly a specified body for the purposes of section 246(6)(d) of the Act).

## **Part 4—Statutory instruments**

### **19—Incorporation of material (section 71(b))**

For the purposes of section 71(b) of the Act, the following bodies are prescribed:

- (a) the Minister, in relation to Ministerial building standards;
- (b) Standards Australia;
- (c) the Commonwealth Scientific and Industrial Research Organisation;
- (d) any body prescribed by these regulations for the purposes of section 122 of the Act.

## **20—Notice of Code amendment (section 73(6)(d))**

For the purposes of section 73(6)(d) of the Act, a notice must—

- (a) identify the piece or pieces of land in relation to which the specific impact will apply; and
- (b) describe the impact; and
- (c) indicate where and when the relevant amendment to the Planning and Design Code may be inspected; and
- (d) provide information about the consultation that is to occur under the Community Engagement Charter.

## **21—Minor or operational amendments (section 76)**

The following documents are prescribed for the purposes of section 76(1)(d)(ii) 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 Places Act 1993*;
- (e) any regulation relating to the development of land under the *Electricity Act 1996*;
- (f) a management plan (or part of a management plan) under the *Fisheries Management Act 2007*;
- (g) an aquaculture policy under the *Aquaculture Act 2001*;
- (h) an NRM plan (or a part of any such plan) prepared under Chapter 4 of the *Natural Resources Management Act 2004*.

## **Part 5—Relevant authorities and accredited professionals**

### **22—Prescribed scheme (section 93)**

For the purposes of section 93 of the Act—

- (a) an assessment manager may act as a relevant authority for the purposes of giving planning consent in relation to—
  - (i) development that is classified as deemed-to-satisfy development under section 106 of the Act (including where there may be 1 or more minor variations under section 106(2) of the Act); and
  - (ii) development that is to be assessed under section 107 of the Act, other than where notice of the application must be given under section 107(3) of the Act; and

- (b) an Accredited professional—planning level 3 may act as a relevant authority for the purposes of giving planning consent in relation to development that may be assessed as deemed-to-satisfy development under section 106 of the Act (including where there may be 1 or more minor variations under section 106(2) of the Act); and
- (c) an Accredited professional—planning level 4 may act as a relevant authority for the purposes of giving planning consent in relation to development that may be assessed as deemed-to-satisfy development under section 106 of the Act, other than where there are 1 or more minor variations under section 106(2) of the Act; and
- (d) an Accredited professional—surveyor may act as a relevant authority for the purposes of giving planning consent in relation to development that is constituted solely by the division of 1 or more allotments and that may be assessed as deemed-to-satisfy development under section 106 of the Act, other than where there are 1 or more minor variations under section 106(2) of the Act; and
- (e) an assessment manager may act as a relevant authority for the purposes of giving consent under section 102(1)(c) or (d) of the Act.

### **23—State Planning Commission (section 94)**

- (1) For the purposes of section 94(1)(a)(ii) of the Act, the Commission is the relevant authority in relation to development of a class specified in Schedule 6.
- (2) If the Commission is the relevant authority under section 94(1) of the Act—
  - (a) in a case where the Minister has acted under section 94(1)(h) of the Act—
    - (i) the entity that would otherwise be the relevant authority must provide to the Commission any application received by the relevant authority under the Act and these regulations in relation to the matter, together with any accompanying documentation or information and fees (other than where the Commission has indicated that the entity may retain some or all of the fees), within 5 business days after receipt of a copy of the Minister's notice under that section; and
    - (ii) the Commission may, as it thinks fit—
      - (A) adopt any act or decision in relation to the assessment of the application that has already been made by a relevant authority (including an act or decision under Part 7 of these regulations);
      - (B) disregard or reject any act or decision of a relevant authority that has already been made in relation to the assessment of the application; and

- (b) in any case relating to development within the area of a council—the Commission must give the chief executive officer of the council for the area in which the development is to be undertaken a reasonable opportunity to provide the Commission with a report (on behalf of the council) on any matter specified under subregulation (3) that is relevant to the particular case (but if a report is not received by the Commission within 15 business days after the request is made to the chief executive officer, or within such longer period as the Commission may allow, the Commission may presume that the chief executive officer does not desire to provide a report).
- (3) The following matters are specified for the purposes of a report under subregulation (2)(b):
  - (a) the impact of the proposed development on the following at the local level:
    - (i) essential infrastructure;
    - (ii) traffic;
    - (iii) waste management;
    - (iv) stormwater;
    - (v) public open space;
    - (vi) other public assets and infrastructure;
  - (b) the impact of the proposed development on any local heritage place;
  - (c) any other matter determined by the Commission and specified by the Commission for the purposes of subregulation (2)(b).

#### **24—Assessment managers (section 96)**

- (1) This regulation applies in addition to the cases prescribed under regulation 22.
- (2) For the purposes of section 96 of the Act, and subject to these regulations, an assessment manager may act as a relevant authority for the purposes of giving consent under section 102(1)(e) or (f) of the Act.

#### **25—Accredited professionals (section 97)**

- (1) This regulation applies in addition to the cases prescribed under regulation 22.
- (2) For the purposes of section 97 of the Act, and subject to these regulations, an Accredited professional—building level 1 may act as a relevant authority—
  - (a) for the purposes of giving planning consent in relation to deemed-to-satisfy development of a class determined by the Minister for the purposes of this subregulation (other than where there may be 1 or more variations); and
  - (b) for the purposes of giving building consent in relation to any class of development.
- (3) For the purposes of section 97 of the Act, and subject to these regulations, if the requirement of subregulation (5) is satisfied, an Accredited professional—building level 2 may act as a relevant authority for the purposes of giving building consent in relation to building work that relates to a building that does not have, or will not have when the development is completed—
  - (a) a rise in storeys exceeding 3; or

- (b) a floor area exceeding 2 000 m<sup>2</sup>.
- (4) For the purposes of section 97 of the Act, and subject to these regulations, if the requirement of subregulation (5) is satisfied, an Accredited professional—building level 3 may act as a relevant authority for the purposes of giving building consent in relation to building work that relates to a Class 1 or 10 building under the Building Code that does not have, or will not have when the development is completed—
  - (a) a rise in storeys exceeding 2; or
  - (b) a floor area exceeding 500 m<sup>2</sup>.
- (5) This subregulation requires that the calculations used for the purposes of the relevant building work referred to in subregulation (3) or (4) have been certified by an independent technical expert.
- (6) In addition, for the purposes of section 97 of the Act, and subject to these regulations, an Accredited professional—building level 1, 2 or 3 may act as a relevant authority (in respect of development for which they are authorised to give building consent under a preceding subregulation) in relation to the following:
  - (a) the issue of a schedule of essential safety provisions;
  - (b) the assignment of a classification to a building under these regulations;
  - (c) the provision of a Statement of Compliance.
- (7) In this regulation—

***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 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 the accreditation authority under the *Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019*, a relevant professional association, or another relevant registration or accreditation authority, qualify the person to act as a technical expert under this regulation.

## **26—Requirement to obtain advice of accredited professional**

- (1) For the purposes of section 235(2) of the Act, if the Commission or an assessment panel does not act under section 99(1) of the Act in relation to development that involves the performance of building work, the Commission or assessment panel (as the case may be) must, in assessing the development in respect of the Building Rules, seek and consider the advice of an accredited professional who would be qualified to give building consent in relation to the building work if the accredited professional were acting as a relevant authority in the particular case.

- (2) For the purposes of section 235(2) of the Act, a council acting under section 99(2)(a)(i) of the Act must, in assessing the development in respect of the Building Rules, seek and consider the advice of an accredited professional who would be qualified to give building consent in relation to the building work if the accredited professional were acting as a relevant authority in the particular case.

## **Part 6—Development assessment—related principles**

### **27—Impact assessed development—categorisation**

- (1) For the purposes of section 108(7) of the Act, the following sections of Part 7 Division 2 will apply in relation to a project that is the subject of a declaration under section 108(1)(c) of the Act:
- (a) section 109(1)(b) and (2)(b);
  - (b) section 111(2)(d) and (3);
  - (c) sections 113 and 114;
  - (d) section 116(a);
  - (e) section 117.
- (2) For the purposes of section 108(9) of the Act, the following principles are prescribed:
- (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.
- (3) For the purposes of taking into account the principles prescribed by subregulation (2), consideration must be given to—
- (a) the extent of impacts by an analysis of their—
    - (i) type; and
    - (ii) size; and
    - (iii) scope; and
    - (iv) intensity; and
    - (v) duration; and
  - (b) the nature of impacts by an analysis of—
    - (i) the degree to which the impacts are predictable; and

- (ii) the resilience of the environment to cope with change; and
  - (iii) the degree to which the impacts can be reversed; and
  - (iv) the degree to which the impacts can be managed or mitigated; and
  - (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; and
  - (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 Minister.

## **28—Complying building work**

- (1) For the purposes of section 118(1) of the Act, building work assessed by a relevant authority as being in a form specified in Schedule 7 must be granted building consent.
- (2) Subregulation (1) does not apply in relation to—
  - (a) building work that affects a State heritage place; or
  - (b) building work to the extent excluded under a provision of Schedule 7.

## **Part 7—Assessment—processes and assessment facilitation**

### **Division 1—Applications**

#### **29—Application to relevant authority**

- (1) Subject to these regulations, an application for a development authorisation under section 101 or 102(1) of the Act in relation to a proposed development may—
  - (a) be lodged electronically via the SA planning portal (and in accordance with any relevant requirements applying under Part 4 Division 2 of the Act); or
  - (b) be lodged with the relevant authority at the principal office of the relevant authority in accordance with the requirements of these regulations.
- (2) An application to be lodged with an accredited professional (other than an assessment manager) will be lodged with the accredited professional in such manner as the accredited professional may require.
- (3) A person who is lodging an application must comply with any other relevant requirement specified by a practice direction.
- (4) A relevant authority who receives an application under subregulation (1)(b) or (2) must lodge the application on the SA planning portal within 5 business days after receipt of the application.

### 30—Plans, fees and related provisions

- (1) An application to a relevant authority under section 119(1) of the Act must be accompanied by a copy of the plans, drawings, specifications and other documents and information relating to the proposed development required under Schedule 8 (prepared in accordance with the requirements of that Schedule).
- (2) However—
  - (a) an applicant must not be required to comply with a requirement under Schedule 8 unless the requirement is directly relevant to the application; and
  - (b) if the application seeks consent for some, but not all, of the relevant matters referred to in section 102(1) of the Act, the plans, drawings, specifications and other documents and information must accord with Schedule 8 to such extent as may be appropriate to the matters to which the consent is sought.

### 31—Verification of application

- (1) Subject to subregulation (2), on the receipt of an application under section 119 of the Act, and in addition to any other requirement under these regulations, a relevant authority that has received the application must, in order to ensure that an application has been correctly lodged and can be assessed in accordance with the Act—
  - (a) determine the nature of the development; and
  - (b) if the application is for planning consent—determine—
    - (i) whether the development involves 2 or more elements and, if so, identify each of those elements for the purposes of assessment against the provisions of the Planning and Design Code; and
    - (ii) the category or categories of development that apply for the purposes of development assessment; and
  - (c) determine whether the relevant authority is the correct entity to assess the application under the Act; and
  - (d) if the relevant authority is the correct entity to assess the application (or any part of the application)—
    - (i) check that the appropriate documents and information have been lodged with the application; and
    - (ii) confirm the fees required to be paid at that point under the *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019*; and
    - (iii) provide an appropriate notice via the SA planning portal; and
  - (e) if the relevant authority is not the correct entity to assess the application (or any part of the application)—
    - (i) provide the application (or any relevant part of the application), and any relevant plans, drawings, specifications and other documents and information in its possession, to the entity that it considers to be the correct relevant authority in accordance with any practice direction; and
    - (ii) provide an appropriate notice via the SA planning portal.

- (2) The following provisions apply in connection with subregulation (1):
  - (a) the relevant authority must comply with subregulation (1) within 5 business days after receiving the application; and
  - (b) an entity that receives an application under subregulation (1)(e) (or a notice provided via the SA planning portal) must repeat the steps envisaged by that subregulation in relation to the application.
- (3) This regulation does not apply in relation to a council acting as a relevant authority under section 99 of the Act.

### **32—Application for accepted development**

If a relevant authority for the purposes of providing planning consent under the Act determines that the development falls within the category of accepted development, the relevant authority must (within 5 business days after receiving the application) advise the applicant accordingly.

### **33—Application and further information**

- (1) For the purposes of section 119(4) of the Act (but subject to this regulation), deemed-to-satisfy development that only comprises 1 or more of the following elements is prescribed:
  - (a) the construction of 1 or more dwellings;
  - (b) an alteration or addition to an existing dwelling;
  - (c) the construction of an outbuilding, garage, verandah, pergola or swimming pool associated with residential development.
- (2) For the purposes of section 119(5) of the Act (but subject to this regulation), the following classes are prescribed:
  - (a) deemed-to-satisfy development that does not fall within the ambit of subregulation (1);
  - (b) development that will be assessed under section 107 of the Act.
- (3) Subregulations (1) and (2) do not apply to the extent that the relevant authority, acting under section 119(9)(a) of the Act, permits an applicant—
  - (a) to vary an application; or
  - (b) to vary any plans, drawings, specifications or other documents that accompanied the application.
- (4) Subregulations (1) and (2) do not apply in relation to seeking clarification about any document or information that has been provided by the applicant.
- (5) For the purposes of section 119(5)(d), the period of 10 business days from the day on which notice has been provided under regulation 31(1) or, if a later day, the day on which the appropriate fees have been paid by the applicant, is prescribed.
- (6) This regulation does not apply in relation to any documents or information that the applicant determines or agrees to provide in any event.

### 34—Period for additional information and other matters

- (1) In accordance with section 119(6)(b) of the Act, if a request is made by a relevant authority under section 119(3) of the Act, the request must be complied with by the applicant within the period of 60 business days from the date of the request, or within such longer period as the relevant authority may allow.
- (2) For the purposes of section 119(11) of the Act, any period of time in excess of 1 year required by the applicant to act as contemplated by that subsection is to be included in the time within which the relevant authority is required to decide the application.

### 35—Amended applications

- (1) If a relevant authority permits an applicant to vary an application under section 119(9) 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 Division 4, be taken to be the relevant day.
- (2) However, subregulation (1) does not apply if the variations to the application are not substantial.
- (3) If an application is varied following referral under Division 2 or giving of notice under Division 3, the relevant authority may, if the variations are not substantial, consider the application without the need to repeat an action otherwise required under Division 2 or Division 3.
- (4) If a variation would change the essential nature of a proposed development (as referred to in section 119(9)(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.

### 36—Certification of building industry insurance

- (1) In this regulation—

*certificate of insurance*, in relation to domestic building work, means the certificate required under Part 5 Division 3 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 Part 5 Division 3 of that Act.
- (2) The owner of land on which domestic building work is to be performed must ensure that a copy of a certificate of insurance in relation to that work is lodged with the relevant authority—
  - (a) —

- (i) if a domestic building work contract for that building work has been entered into before the lodgment of an application for building consent under section 102(1)(b) of the Act; or
    - (ii) if the domestic building work is to be performed by a builder on the builder's own behalf,at the same time as the application for building consent is lodged under these regulations; or
  - (b) in any other case—on or before the giving of notice of the intended commencement of the building work under Part 10 Division 2 of these regulations.
- (3) A person must not commence domestic building work unless or until a copy of a certificate of insurance in relation to that work has been lodged in accordance with subregulation (2).
- Maximum penalty: \$2 500.
- Expiation fee: \$500.

### **37—Regulated and significant trees**

For the purposes of subsections (7) and (8) of section 119 of the Act, the qualifications of a person providing an expert or technical report within the contemplation of either subsection is a Diploma in Arboriculture recognised in the Australian tertiary training system, or a comparable or higher qualification.

### **38—Withdrawing/lapsing applications**

- (1) If an application is withdrawn by the applicant under section 119(14) of the Act, the relevant authority must notify—
- (a) any agency to which the application has been referred under Division 2; and
  - (b) any person who has made a representation in relation to the application under Division 3,
- of the withdrawal.
- (2) A relevant authority may lapse an application for a development authorisation under Part 7 of the Act if at least 1 year has passed since the date on which the application was lodged with the relevant authority under the Act.
- (3) A relevant authority must, before it takes action to lapse an application under subregulation (2)—
- (a) take reasonable steps to notify the applicant of the action under consideration; and
  - (b) allow the applicant a reasonable opportunity to make submissions to the relevant authority (in a manner and form determined by the relevant authority) about the proposed course of action.
- (4) An applicant is not entitled to a refund of any fees if an application is lapsed under this regulation.

- (5) If—
- (a) an application relates to development that is to be assessed under section 107 of the Act, or to development classified as restricted development; and
  - (b) at least 1 year has passed since the date on which notice of the application was given under section 107(3)(a) or 110 of the Act (as the case may be),
- the relevant authority must not give a planning consent under section 102(1) of the Act unless a new notice of the application has been given under section 107(3) or 110 of the Act.

### **39—Contravening development**

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.

### **40—Court proceedings**

Subject to section 214(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.

## **Division 2—Referrals**

### **41—Referrals**

- (1) For the purposes of section 122 of the Act—
  - (a) the classes of development set out in Schedule 9 are prescribed; and
  - (b) the bodies set out in Schedule 9 are prescribed in relation to the respective classes of development; and
  - (c) the relevant periods set out in Schedule 9 are prescribed in relation to the respective bodies.
- (2) A prescribed body must, immediately after making a request under section 122(3) of the Act, notify the relevant authority of the request via the SA planning portal (and, in doing so, provide reasonable information about what is requested).
- (3) A request under section 122(3) of the Act must be made within 10 business days after the prescribed body receives the application.
- (4) Two or more prescribed bodies may provide a joint response for the purposes of section 122 of the Act.

### **42—Additional information or amended plans**

- (1) If a relevant authority has referred an application to a prescribed body under this Division 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.

#### **43—River Murray**

- (1) In this regulation—  
*related operational Act* means a related operational Act under the *River Murray Act 2003*.
- (2) If an application for the consent or approval of a proposed development must be referred under Schedule 9 to the Minister for the time being administering the *River Murray Act 2003*, that Minister—
- (a) must, in considering the application, take into account any matter raised by another Minister or other authority responsible for, or involved in, the administration of a related operational Act that is provided to that Minister in response to the referral of the application by that Minister to the other Minister or authority for comment and that is provided to that Minister within a period specified by that Minister; and
  - (b) may, in providing a response to the relevant authority under section 122 of the Act, make that response on the basis of a matter referred to in paragraph (a).

#### **44—Appeals**

In accordance with section 122(6) of the Act, no appeal lies against—

- (a) a refusal of an application if the relevant authority is acting at the direction of the Technical Regulator under item 14 of the table in Schedule 9 clause 3; or
- (b) a condition imposed by a relevant authority in accordance with a direction by the Technical Regulator under item 14 of the table in Schedule 9 clause 3.

#### **45—Building matters**

- (1) If a relevant authority, in assessing an application for building consent, considers that—
- (a) a proposed performance solution within the meaning of the Building Code requires assessment against a performance requirement of the Building Code which provides for the intervention of a fire authority; or
  - (b) the proposed development is at variance with a performance requirement of the Building Code which provides for the intervention of a fire authority; or
  - (c) special problems for fire fighting could arise due to hazardous conditions of a kind described in Section E of the Building Code,

then 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) If, in respect of an application referred to a fire authority under this regulation, the fire authority—
  - (a) recommends against the granting of building consent; or
  - (b) concurs in the granting of consent on conditions specified in its report,but the relevant authority—
  - (c) proposes to grant building consent despite a recommendation referred to in paragraph (a); or
  - (d) does not propose to impose the conditions referred to in paragraph (b), or proposes to impose the conditions in varied form, on the grant of consent,the relevant authority—
  - (e) must refer the application to the Commission; and
  - (f) must not grant consent unless the Commission concurs in the granting of the consent.
- (5) A relevant authority must provide to the Commission a copy of any report received from a fire authority under subregulation (1) that relates to an application that is referred to the Commission under the Act.
- (6) For the purposes of section 118(5) of the Act, building work comprising or including the construction or installation of a private bushfire shelter must not be granted a building consent unless the Commission concurs in the granting of the consent.

#### **46—Preliminary advice and agreement (section 123)**

- (1) In this regulation—

***prescribed body*** means a prescribed body under section 122 of the Act.
- (2) An application to a prescribed body for the purposes of section 123 of the Act—
  - (a) must be made in a form determined by the Minister for the purposes of this regulation (being a form published by the Minister in the Gazette); and
  - (b) must be accompanied by such plans, drawings, specifications or other documents as may be determined by the Minister in publishing a form under paragraph (a).
- (3) For the purposes of section 123(2)(c) of the Act, an agreement of a prescribed body—
  - (a) must be endorsed or certified by the prescribed body; and
  - (b) must be accompanied by such plans, drawings, specifications or other documents submitted under subregulation (2)(b) that are relevant to the agreement, being documents endorsed or certified by the prescribed body.
- (4) For the purposes of section 123(3)(a) of the Act, the prescribed fee is equal to the fee that would be payable under the *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019* for a referral to a prescribed body had the application been for planning consent rather than under section 123 of the Act.

- (5) If an applicant for planning consent proposes to rely on an agreement under section 123 of the Act, the applicant must ensure that the application lodged under regulation 29 is accompanied by a copy of the agreement and other documents endorsed or certified under subregulation (3).
- (6) If—
- (a) a relevant authority permits an applicant to vary an application under section 119(9) of the Act; and
  - (b) the relevant authority determines that the application no longer accords with the agreement indicated by the prescribed body,
- then the application must (unless withdrawn) be referred to the prescribed body—
- (c) to obtain a variation to the agreement under section 123 of the Act; or
  - (d) to obtain a response from the prescribed body for the purposes of section 122 of the Act (and the requirements of that section, and these regulations in relation to such a referral, other than for the payment of a fee under the *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019*, will then apply).
- (7) If—
- (a) an application is withdrawn by the applicant; and
  - (b) the applicant sought to rely on an agreement under section 123 of the Act in connection with the application,
- the relevant authority must notify the relevant prescribed body of the withdrawal.
- (8) If—
- (a) an application is lapsed by a relevant authority under regulation 38; and
  - (b) the applicant sought to rely on an agreement under section 123 of the Act in connection with the application,
- the relevant authority must notify the relevant prescribed body of the lapsing.
- (9) If—
- (a) an applicant seeks to rely on an agreement under section 123 of the Act in connection with the application; and
  - (b) a notice of a decision on the application is issued by the relevant authority under regulation 57,
- the relevant authority must provide a copy of the notice to the prescribed body within 5 business days after the notice is given to the applicant under regulation 57.
- (10) For the purposes of section 123(2)(d) of the Act, the period of 1 year is prescribed.

## Division 3—Notice requirements and consultation

### 47—Performance assessed development and restricted development

- (1) For the purposes of sections 107(3)(a)(i) and 110(2)(a)(i) or (ii) of the Act, a notice to the owner or occupier of each piece of relevant land (being adjacent land and, if relevant, directly affected land) must—
  - (a) be in writing sent to the address of the land (or to another address used by the owner or occupier known to the relevant authority); and
  - (b) identify the land on which the development is proposed; and
  - (c) describe the nature of the proposed development; and
  - (d) indicate where and when the relevant application may be inspected; and
  - (e) explain how a representation may be made under the Act.
- (2) For the purposes of sections 107(3)(a)(ii) and 110(2)(a)(iv) of the Act, a notice placed on the relevant land must—
  - (a) be in a form determined by the Commission for the purposes of this regulation; and
  - (b) be placed in a prominent position as close as is reasonably practicable to a public road and in accordance with any other requirement specified by a relevant practice direction (if any); and
  - (c) comply with any requirements specified by a relevant practice direction (if any) relating to how any such notice is to be displayed and protected from the weather (if it is to be placed in the open).
- (3) Subject to subregulation (4), the applicant is responsible for ensuring compliance with the requirements of subregulation (2).
- (4) If—
  - (a) the applicant, in accordance with a procedure specified by a practice direction, requests the relevant authority to place a notice on land under subregulation (2); and
  - (b) pays the fee prescribed by the *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019*,the relevant authority will be responsible for placing the notice on the land.
- (5) Subregulation (4) does not apply if the relevant authority is the Minister or the Commission.
- (6) The requirement to place a notice on the relevant land under section 107(3)(a)(ii) or 110(2)(a)(iv) of the Act does not apply—
  - (a) in any part of the State that is not within the area of a council; or
  - (b) in relation to development that is to be carried out wholly on land covered with water; or

- (c) in relation to any place where the provisions of a zone, subzone or overlay under the Planning and Design Code applying to that place provide that such a notice need not be given.
- (7) A person must not damage, destroy, obscure or remove a notice placed on land under section 107(3)(a)(ii) or 110(2)(a)(iv) of the Act during the period that applies under section 107(3)(b) or 110(2)(b) (as the case may be).  
Maximum penalty: \$2 500.  
Expiation fee: \$500.
- (8) For the purposes of section 110(2)(a)(iv), a notice to the public generally must also be given by publishing a notice on the SA planning portal.
- (9) This regulation applies subject to the operation of section 107(6) of the Act.

#### **48—Notification of application of tree-damaging activity to owner of land**

If an owner of land to which an application for a tree-damaging activity in relation to a regulated tree relates is not a party to the application, the relevant authority must—

- (a) give the owner notice of the application within 5 business days after the application is made; and
- (b) give due consideration in its assessment of the application to any submission made by the owner within 10 business days after the giving of notice under paragraph (a).

#### **49—Public inspection of applications**

- (1) For the purposes of sections 107(3) and 110(2) of the Act, the relevant authority must ensure that copies of—
  - (a) the application; and
  - (b) any supporting plans, drawings, specifications and other documents or information provided to the relevant authority under section 119 of the Act,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 this Division and ending on the day on which representations must be lodged with the relevant authority under these regulations.
- (2) The relevant authority must, pursuant to a request made within the period that applies under subregulation (1), on payment of a fee fixed by the relevant authority, provide to a member of the public a copy of any document or information available under that subregulation.
- (3) A person who makes a request under subregulation (2) must, at the time of making the request, provide to the relevant authority the following information, namely the person's name, address and contact details, and must, at the request of the relevant authority, verify this information in such manner as the relevant authority thinks fit.
- (4) In addition, the relevant authority must ensure that any document or information required to be available under subregulation (1) is also available on the SA planning portal.

- (5) The preceding subregulations apply subject to the following qualifications:
- (a) the relevant authority is not required to make available any plans, drawings, specifications and 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 planning consent should be granted;
  - (b) the relevant authority is not required to make available any plans, drawings, specifications and 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.

## 50—Representations

- (1) For the purposes of sections 107(3)(b) and 110(2)(b) of the Act—
- (a) a representation to a relevant authority must be provided to the relevant authority—
    - (i) in relation to section 107(3)(b) of the Act—within 15 business days after the day on which the notice under section 107(3)(a)(i) would be expected to be received by the owner or occupier of land in the ordinary course of postage under subregulation (2); and
    - (ii) in relation to section 110(2)(b) of the Act—within 20 business days after the day on which the notice under section 110(2)(a)(i) would be expected to be received by the owner or occupier of land in the ordinary course of postage under subregulation (2); and
  - (b) a representation must include the name and address of the person (or persons) who are making the representation; and
  - (c) a representation must set out, with reasonable particularity, the reasons for the representation; and
  - (d) if a representation is made by 2 or more persons under section 110(2)(b)—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 110 of the Act.
- (2) For the purposes of subregulation (1), the ordinary course of postage will be taken to be 4 business days from the day on which the notice is sent.
- (3) If subregulation (1)(d) applies but a nomination is not made as envisaged by that subregulation, it will be taken that the first person named in, or otherwise indicated 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 subsequent step or proceedings under section 110 of the Act.
- (4) A representation under subregulation (1) must be in writing.
- (5) A relevant authority may also, if it considers that it would assist the relevant authority in making a decision on the application, allow a person—
- (a) who has made a representation under subregulation (1) in relation to development being assessed under section 107 of the Act; and
  - (b) who has indicated an interest in appearing before the relevant authority,

an opportunity (at a time determined by the relevant authority) to appear personally or by representative before it to be heard in support of the representation that has been made under subregulation (1).

- (6) If a relevant authority decides to allow a person to appear under subregulation (5), the relevant authority must also give the applicant notice of the place and time where the person has been invited to appear under that subregulation and, if the applicant appears personally or by representative, allow the applicant a reasonable opportunity, on request, to respond to any relevant matter.
- (7) This regulation applies subject to the operation of section 107(6) of the Act.

### **51—Response by applicant**

- (1) In accordance with sections 107(3)(c) and 110(2)(c) of the Act, a response to a representation must be made by the applicant within 15 business days after the relevant material is forwarded to the applicant, or within such longer period as the relevant authority may allow.
- (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.

### **52—Notice of hearing of submissions**

If in accordance with section 110(2)(c)(ii) of the Act a person is to be allowed to appear personally or by representative before the Commission to be heard in support of a representation, or to respond to any matter, the Commission must, unless the person otherwise agrees, give the person at least 5 business days notice of the place and time at which the person should appear.

## **Division 4—Determination of application**

### **53—Time within which decision must be made (section 125(1))**

- (1) In accordance with section 125 of the Act, and subject to these regulations, a relevant authority should deal with an application under Part 7 of the Act (other than where the Minister is the relevant authority under Division 2 Subdivision 4 of that Part) within the following periods, calculated from the relevant day under subregulation (2):
  - (a) if—
    - (i) the application seeks planning consent; and
    - (ii) the proposed development is of a kind prescribed as deemed-to-satisfy development under the Planning and Design Code,  
**5 business days;**
  - (b) if—
    - (i) the application seeks planning consent; and
    - (ii) the proposed development is to be assessed under section 107 of the Act,  
**20 business days;**
  - (c) if—

- (i) the application seeks planning consent; and
- (ii) the proposed development is to be assessed under section 110 of the Act,

**60 business days;**

- (d) if—
  - (i) the application seeks building consent; and
  - (ii) the building falls within the Class 1 or 10 classification under the Building Code,

**20 business days;**

- (e) in any other case—**60 business days,**

subject to the qualifications that—

- (f) if paragraph (b) applies and the relevant authority is an assessment panel or the Commission, **an additional period of 20 business days** must be added to the period that applies under that paragraph; and
- (g) if paragraph (b) or (c) applies and notice of the application for planning consent must be given under section 107(3) or 110(2) of the Act, **an additional period** equal to the period for representations under regulation 50, and for the receipt of any response from the applicant under regulation 51, must be added to the relevant period that applies under paragraph (b) or (c) (and, if relevant, paragraph (f)); and
- (h) if paragraph (b) or (c) applies and the application must be referred to a prescribed body under section 122(1) of the Act, **an additional period equal to the relevant period applying under Schedule 9 plus** any period applying under section 122(4) of the Act (or, if more than 1 period, the longest period), must be added to the relevant period that applies under paragraph (b) or (c) (and, if relevant, paragraph (f)); and
- (i) if the application must be referred to the Commission under section 118 of the Act—**an additional period of 10 business days** must be added to the period that applies under paragraph (c) or (e) (as the case may be); and
- (j) if the application must otherwise be referred to another body for a report or concurrence under the Act or 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 under paragraph (a), (b), (c), (d) or (e) (as the case may be) (and, if relevant, paragraph (f)); and
- (k) if the application is the subject of proceedings before the Court before it is decided by the relevant authority—an additional period equal to the time taken by the Court to determine the matter plus an additional period of 10 business days or such longer period as the Court may direct in the particular case.

- (2) For the purposes of subregulation (1), the relevant day is the day on which the relevant authority provides a relevant notice under regulation 31(1)(d) or, if a later day, the day on which the appropriate fees have been paid by the applicant.

- (3) If 2 or more periods apply by virtue of the operation of subregulation (1)(g), (h) or (j) in a particular case, they will run concurrently.
- (4) In addition, if an application seeks more than 1 consent under the Act from the same relevant authority at the same time, the time within which the relevant authority should deal with the application under subregulation (1) will be—
  - (a) unless paragraph (b) applies—the total of the relevant time periods that apply under that subregulation in relation to each consent; or
  - (b) if the application is for planning consent and 1 or more consents required under section 102(1)(c), (d), (e) or (f) of the Act—the longest time period that applies under that subregulation in relation to any 1 consent.
- (5) Despite a preceding subregulation, where a council is acting as the relevant authority for the purpose of granting the final development approval under the Act and the council has received notice, via a scheme applying under the SA planning portal, that all relevant consents have been granted under Part 7 of the Act (and that none of those consents have lapsed), the council must, within 5 business days—
  - (a) if the consents are consistent—grant the final development approval; or
  - (b) if 2 or more consents are inconsistent—take reasonable steps to inform the applicant of the inconsistency.
- (6) If or when the council is satisfied that the consents are consistent with each other after taking steps under subregulation (5)(b), the council must grant the final development approval within 5 business days.
- (7) In addition, if the Commission is the relevant authority for the purposes of giving final development approval, the Commission should give that development approval within 5 business days from when all relevant consents have been granted under Part 7 of the Act (and none of those consents have lapsed) and the Commission is satisfied that those consents are consistent with each other.

#### **54—Deemed consent notice (section 125(2))**

- (1) For the purposes of section 125(2) of the Act, a deemed consent notice will be in a form determined by the Commission for the purposes of this regulation (being in a form published by the Commission on the SA planning portal).
- (2) A deemed consent notice may be given to the relevant authority—
  - (a) by notice lodged on the SA planning portal (and in accordance with any relevant requirements applying under Part 4 Division 2 of the Act); or
  - (b) by registered post.

#### **55—Notification of decision—accredited professionals (section 89)**

- (1) For the purposes of section 89 of the Act, the following decisions are prescribed:
  - (a) a decision to grant a planning consent or a building consent;
  - (b) a decision to approve a variation to a planning consent or a building consent under regulation 65.

- (2) For the purposes of section 89(a) of the Act—
- (a) in relation to a proposed development that is to be undertaken in a part of the State that is not (wholly or in part) within the area of a council—the Commission is prescribed; and
  - (b) in any other case—the council for the area in which the proposed development is to be undertaken is prescribed.
- (3) For the purposes of section 89(b) of the Act, the following information or documentation must be provided to the prescribed body in a case where subregulation (1)(a) applies:
- (a) a copy of the plans, drawings, specifications and other documents and information lodged by the applicant, endorsed with the accredited professional's consent;
  - (b) a copy of any certificate, opinion or other document submitted to the accredited professional in connection with the application;
  - (c) in relation to building consent—if the accredited professional has determined under section 118(2) of the Act that it is appropriate to grant the consent despite the fact that the development is at variance with the Building Rules—
    - (i) notice specifying the variance and the grounds on which the determination is made; and
    - (ii) if relevant, evidence of any concurrence of the Commission;
  - (d) if relevant, a schedule of essential safety provisions in the appropriate form which sets out the matters to be specified under these regulations.
- (4) If an accredited professional assigns a classification to a building, or assigns a new classification to a building, the accredited professional must—
- (a) if the assignment is made in conjunction with the assessment of a development against the Building Rules and the granting of a building consent—at the time that the accredited professional notifies the council of the decision to grant the building consent; or
  - (b) in any other case—within 5 business days after making the assignment, provide to the council notification of the classification assigned by the accredited professional, including information on—
    - (c) the address or location of the building; and
    - (d) if relevant—
      - (i) the maximum number of persons who may occupy the building; and
      - (ii) if the building has more than 1 classification—the part of the building to which the classification relates and the classifications currently assigned to other parts of the building.

## **56—Issue of building consent by other bodies**

If the Minister, the Commission or an assessment panel issues a building consent, it must provide to the council for the area in which the development is to be undertaken (if any)—

- (a) a copy of the plans, drawings, specifications and other documents and information lodged by the applicant, endorsed with the relevant consent; and
- (b) if relevant, a schedule of essential safety provisions in the appropriate form which sets out the matters to be specified under these regulations.

## **57—Notice of decision (section 126(1))**

- (1) In accordance with section 126 of the Act, notice of a decision on an application under Part 7 of the Act (other than Division 2 Subdivision 4 of that Part) must be given in a form determined by the Minister for the purposes of this regulation (being a form published by the Minister in the Gazette).
- (2) A notice under subregulation (1) must be given within 2 business days after the decision is made on the application by providing notice via the SA planning portal (and, if it appears necessary, by giving notice to the applicant in some other way determined to be appropriate by the relevant authority).
- (3) If the decision provides for a planning consent or building consent, the notice must include a statement advising the applicant that building work cannot commence unless or until the development has been approved under the Act.
- (4) The relevant authority must endorse a set of any approved plans and other relevant documentation with an appropriate form of authentication.
- (5) If the decision is in respect of a development approval that has required a building consent, the relevant authority must, in acting under subregulation (4), provide to the successful applicant a copy of the plans, drawings, specifications and other documents and information lodged by the applicant in accordance with the requirements of these regulations (endorsed as required by subregulation (4)).
- (6) A notice under this regulation may include any classification assigned to a building under section 151 of the Act.
- (7) If the decision is or includes a consent with respect to proposed building work, the relevant authority issuing the notice may specify any additional stage of building work for which notice must be given to the council under regulation 93.
- (8) In addition, if the decision is or includes a consent with respect to proposed building work for which a Statement of Compliance will be required, the notice must be accompanied by a notice indicating—
  - (a) that the statement will need to be completed in accordance with the requirements of these regulations; and
  - (b) that a blank copy of a Statement of Compliance is available on the SA planning portal; and
  - (c) what (if any) certificates, reports or other documents will need to be furnished at the time of the provision of the statement.

- (9) A relevant authority that issues a notice under subregulation (1) must also provide the notice—
- (a) to any other relevant authority—
    - (i) that has already given another development authorisation that relates to the same development; or
    - (ii) that is considering an application for another development authorisation that relates to the same development; and
  - (b) if the application was referred to a prescribed body under section 122 of the Act—to the prescribed body; and
  - (c) if an owner of the land to which the application related was not a party to the application—to that owner.
- (10) The relevant authority must comply with subregulation (9) at the same time as the notice is provided under subregulation (2).

## **Division 5—Conditions**

### **58—Notice of conditions**

In accordance with section 126 of the Act, notice of a decision on an application under Part 7 of the Act must be accompanied by details of any condition to which the decision is subject (and, if any condition is imposed on the basis of a direction of a prescribed body under section 122 of the Act, the relevant authority must identify the prescribed body).

### **59—Regulated and significant trees**

- (1) For the purposes of section 127(4) of the Act, the prescribed number of trees is—
- (a) if the development authorisation relates to a regulated tree—2 trees to replace the regulated tree; or
  - (b) if the development authorisation relates to a significant tree—3 trees to replace the significant tree.
- (2) For the purposes of section 127(5), the following criteria are prescribed:
- (a) the tree cannot be a tree within a species specified under regulation 3F(4)(b);
  - (b) the tree cannot be planted within 10 m of an existing dwelling or an existing in-ground swimming pool.

## **Division 6—Other matters**

### **60—Consideration of other development authorisations**

A relevant authority must, in deciding whether to grant a development authorisation, take into account any prior development authorisation that relates to the same proposed development under the Act, and any conditions that apply in relation to that prior development authorisation.

## **61—Certificate of independent technical expert in certain cases**

- (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 Volume 1, or Part 2.1 of Volume 2, of the Building Code applies; or
  - (b) the matters referred to in Section E of Volume 1 of the Building Code; or
  - (c) the matters referred to in Section J of Volume 1, or Part 2.6 of Volume 2, of the Building Code.
- (2) For the purposes of section 118(8)(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) For the purposes of section 235(1) of the Act, a relevant authority or authorised officer may rely on a certificate of an independent technical expert in a circumstance to which this regulation applies.
- (4) In this regulation—

***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 the accreditation authority under the *Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019*, a relevant professional association, or another relevant registration or accreditation authority, qualify the person to act as a technical expert under this regulation.

## **62—Requirement to up-grade building in certain cases**

- (1) For the purposes of section 134(1)(a)(i) of the Act, 1 January 2002 is prescribed.

- (2) For the purposes of section 134(4)(a) of the Act, an alteration that involves assessment by the relevant authority of the building work against the access provisions of the Building Code or a Ministerial building standard is an alteration of a prescribed class.
- (3) If—
- (a) an application is made for a building consent for building work in the alteration of a Class 1, 2 or 3 building under the Building Code; and
  - (b) the building is in a bushfire prone area; and
  - (c) the total floor area of the building would, after the completion of the proposed building work, have increased by at least 50%, when compared to the total floor area of the building as it existed 3 years before the date of the application (or, in the case of a building constructed since that time, as it existed at the date of completion of original construction),

then the relevant authority may require, as a condition of consent, that the entire building be brought into conformity with the relevant requirements of the Building Code for bushfire protection.

- (4) In this regulation—

*access provisions* of the Building Code or a Ministerial building standard are the requirements within the Building Code or Ministerial building standard relating to access to buildings, or facilities and services within buildings, for people with a disability;

*bushfire prone area* means a bushfire prone area under regulation 98.

### 63—Urgent work

- (1) For the purposes of section 135(2)(a) or 136(2)(a) of the Act, the relevant notification must be given—
- (a) by telephone, using the main telephone number at the principal office of the relevant authority, or a number determined by the relevant authority for the purposes of this paragraph; or
  - (b) by email, using the main email address of the relevant authority, or an email address determined by the relevant authority for the purposes of this paragraph.
- (2) For the purposes of section 135(2)(c) of the Act, the period of 28 days from the commencement of the relevant work, or such longer period as the relevant authority may allow, is prescribed.
- (3) For the purposes of section 136(2)(c) of the Act, the period of 28 days from the performance of the relevant tree-damaging activity, or such longer period as the relevant authority may allow, is prescribed.

### 64—Building work affecting other land

- (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 mm below natural ground level at the boundary could be undertaken on an adjoining site.

- (2) For the purposes of section 139 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 mm below natural ground level at a boundary with an adjoining site (as depicted by the example shown as figure 1 in Schedule 10);
  - (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 2 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 10);
  - (c) any fill which is within 600 mm of an adjoining site, other than where the fill is not greater than 200 mm in depth (or height) and is for landscaping, gardening or other similar purposes.
- (3) For the purposes of section 139(2)(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 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 Engineers Australia and who has appropriate experience and competence in the field of civil or geotechnical engineering.

## **65—Variation of authorisation (section 128)**

- (1) For the purposes of section 128(2)(b) of the Act, if a person requests the variation of a development authorisation previously given under the Act (including by seeking the variation of a condition imposed with respect to the development authorisation) and the relevant authority is satisfied that the variation is minor in nature—
- (a) the relevant authority may approve the variation; and
  - (b) the request is not to be treated as a new application for development authorisation; and
  - (c) unless the variation is such that the result is an inconsistency with another consent, no further step need be taken in relation to a development approval already given (and no new approval needs to be given) but the relevant authority—

- (i) must endorse the notice that was given for the original development authorisation, including by noting the date of the minor variation and the nature of the variation; and
- (ii) must—
  - (A) make any consequential changes to any plans, drawings, specifications or other documents or information that were endorsed at the time that the original development authorisation was given, note the date of the minor variation, and make a further endorsement; or
  - (B) in the case of any new plans, drawings, specifications or other documents or information, note the minor variation and make an endorsement.
- (2) Nothing in subregulation (1) prevents a person seeking more than 1 variation of a development authorisation of a kind referred to in that subregulation (whether simultaneously or at different times).

#### **66—Scheme descriptions—community titles**

- (1) If an application under Part 7 of the Act relates to the division of land by a plan of community division and the relevant authority has endorsed a scheme description in accordance with the *Community Titles Act 1996*, a notice under regulation 57(1) 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 form set out in Schedule 11 Form 1.

#### **67—Lapse of consents or approvals (section 126(2))**

Subject to this or any other regulation, any consent or approval under Part 7 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—3 years from the operative date of the approval, unless the development has been substantially or fully completed within those 3 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 138 of the Act has been lodged with the Commission, accompanied by the Certificate of Approval Fee under the *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019*, within 12 months from the operative date of the relevant consent—3 years from the operative date of the consent.

## Part 8—Impact assessed development

### 68—Procedural matters (section 111(2))

- (1) For the purposes of section 111(2)(a) of the Act, a relevant authority must ensure that all relevant documentation (including the application and any accompanying documentation or information lodged by the proponent with the relevant authority under Part 7 Division 4 of the Act) is available to the Minister via the SA planning portal—
  - (a) in a case where section 108(1)(b) of the Act applies—within 5 business days after being requested to do so by the Minister; or
  - (b) in a case where section 108(1)(c) of the Act applies—within 5 business days after the notice is published on the SA planning portal.
- (2) A relevant authority must, at the time that documents are provided to the Minister under subregulation (1), also transmit to the Minister any fees that have been paid by the proponent under the *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019* (less any amount that the Minister determines should be retained by the relevant authority).
- (3) If—
  - (a) a proposed development is to be assessed by the Minister under section 115 of the Act; and
  - (b) the Minister indicates that an assessment of the development in respect of the Building Rules is to be referred to the council for the area in which the development is to be undertaken or to a building certifier under section 99(1) of the Act,

then, unless otherwise directed by the Minister—

- (c) the application lodged with the Minister must be accompanied by a copy of the plans, drawings, specifications and other documents and information required by Schedule 8 (in accordance with the requirements of that Schedule); and
- (d) the applicant must, at the appropriate time, also provide a copy of those plans, drawings, specifications and other documents and information to the council or building certifier (as the case may be).

### 69—Level of detail—EIS (section 112(b))

For the purposes of section 112(b) of the Act, the following persons and bodies are prescribed:

- (a) the Environment Protection Authority;
- (b) if the EIS relates to a proposed development that is to be undertaken within the Murray-Darling Basin, the Minister to whom the administration of the *River Murray Act 2003* is committed;

- (c) if the EIS relates to a proposed development that is to be undertaken within, or is likely to have a direct impact on, the Adelaide Dolphin Sanctuary, the Minister to whom the administration of the *Adelaide Dolphin Sanctuary Act 2005* is committed;
- (d) if the EIS relates to a proposed development that is to be undertaken within, or is likely to have a direct impact on, a marine park, the Minister to whom the administration of the *Marine Parks Act 2007* is committed;
- (e) if the EIS relates to proposed development that is to be undertaken within the area of the council, the council for that area.

#### **70—Level of detail—EIS (section 112(c))**

For the purposes of section 112(c) of the Act, the Commission must—

- (a) by written notice, provide an invitation to the proponent to express any view on the level of detail required in the EIS; and
- (b) allow the proponent at least 20 business days to respond to that invitation in such manner as the Commission may determine.

#### **71—EIS processes (section 113(5))**

For the purposes of section 113(5) of the Act, the period of 30 business days from the date of referral of the EIS to the authority or body is prescribed.

#### **72—Consultation (section 113(6))**

In acting under section 113(6) of the Act with respect to consultation in relation to an EIS, the Minister should have regard to the principles applying under the Community Engagement Charter for public participation in planning processes (insofar as they may be appropriately adapted to an EIS process).

#### **73—Notification of decision**

- (1) The Minister must ensure that the council for the relevant area receives notification of the outcome of the Minister's decision on a proposed development under Part 7 Division 2 Subdivision 4 of the Act.
- (2) If a Minister's decision under Part 7 Division 2 Subdivision 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 notification of the decision.
- (3) A notification under this regulation may be given—
  - (a) via the SA planning portal; or
  - (b) in such other manner as the Minister may determine to be appropriate.

#### **74—Cancellation of development authorisation (section 115(9))**

For the purposes of section 115(9) of the Act, the period of 2 years from the date of the development authorisation is prescribed.

## **Part 9—Special provisions relating to land division**

### **Division 1—Preliminary**

#### **75—Interpretation**

In this Part—

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

### **Division 2—Advice from Commission**

#### **76—Advice from Commission**

- (1) If an application relates to a proposed development that involves the division of land, the relevant authority must not, subject to subregulation (2), make a decision on the application until it has received a report from the Commission in relation to the matters under section 102(1) (as relevant).
- (2) If a report is not received from the Commission within 20 business days from the day on which the application is lodged under regulation 29 or within such longer period as the Commission may require by notice to the relevant authority, it may presume that the Commission does not desire to make a report.
- (3) A notice under subregulation (2) may be given—
  - (a) via the SA planning portal; or
  - (b) in such other manner as the Commission may determine to be appropriate.
- (4) The 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 20 business days for a response from that agency.

### **Division 3—Presumption in respect of division of certain buildings**

#### **77—Presumption in respect of division of certain buildings**

For the purposes of section 102(1)(c)(v) of the Act, if a proposed division of land relates to an existing Class 1 or 2 building under the Building Code, walls of the building exposed to a fire source feature as a result of the proposed division must comply with Section C of Volume 1 and P 2.3.1 of Volume 2, of the Building Code as in force at the time the application for consent is made (and the Commission may not issue a certificate in respect of the division under section 138 of the Act unless or until it is satisfied (in such manner as it thinks fit) that such compliance exists).

### **Division 4—Underground mains areas**

#### **78—Underground mains areas**

- (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) The council may, after having received and considered a report from the electricity authority, declare the area to be an underground mains area.
- (3) 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.
- (4) In this regulation—  
*relevant electricity authority*, in relation to an area, means a person who is authorised to operate an electricity mains in the area in accordance with a licence under the *Electricity Act 1996* or an exemption from the requirement to hold such a licence.

## **Division 5—Assessment requirements—water and sewerage**

### **79—Assessment requirements—water and sewerage**

- (1) For the purposes of section 102(1)(c)(iii) and (1)(d)(vii) of the Act, the South Australian Water Corporation (being a water industry entity under the *Water Industry Act 2012*) is identified.
- (2) For the purposes of section 102(1)(c)(iii) and (1)(d)(vii) of the Act, the South Australian Water Corporation may make and provide an assessment of the requirements of the Corporation in relation to the provision of water supply and sewerage services to land that is proposed to be divided.
- (3) An assessment, or the update of an assessment, may be updated from time to time.
- (4) An assessment, or the update of an assessment, is valid for a period of 60 business days after it is delivered to the person who proposes to divide the land.
- (5) The fees specified for the purposes of this regulation by the *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019* are payable in relation to an assessment, or the update of an assessment, by the person who proposes to divide the land.
- (6) The payment of a fee referred to in subregulation (5) for the original assessment of the requirements of the Corporation in relation to the division of land must be credited against liability for a fee, charge or other amount set out in the assessment as being payable by the person who proposes to divide the land.

## **Division 6—Prescribed requirements—general land division**

### **80—Prescribed requirements**

The requirements set out in this Division are prescribed for the purposes of sections 102(1)(c)(v) and 138(1) of the Act.

### **81—Width of roads and thoroughfares**

- (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 m or more than 35 m.

- (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 m.
- (3) Subject to subregulation (4), the width of every proposed thoroughfare, not being a road, must be not less than 2 m.
- (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 m for a length of not less than 25 m, 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.

## **82—Road widening**

- (1) Subject to subregulation (2), if 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 5 allotments—by more than 15 m; or
  - (b) if the relevant plan delineates 5 allotments or less—
    - (i) to a total width in excess of 15 m; or
    - (ii) by an area in excess of 23 m<sup>2</sup> from the corner allotment abutting a junction of 2 or more roads shown on the relevant plan for the purpose of improving visibility; or
  - (c) in any case—if 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.

## **83—Requirement as to forming of roads**

- (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 m 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).

#### **84—Construction of roads, bridges, drains and services**

- (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 Division 4.

#### **85—Supplementary provisions**

- (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 before the commencement of the work.
- (2) Subject to subregulation (4), all work referred to in regulations 83 and 84 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 before the commencement of the work.
- (3) In subregulation (2)—  
*professional engineer* means a person who is—
  - (a) a corporate member 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 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 South Australian Water Corporation are necessary and need to be laid under the surface of the proposed road, have been made.

## Division 7—Certificate in respect of division of land

### 86—Exclusion from requirement to obtain a certificate<sup>1</sup>

In accordance with section 138(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.

**Note—**

- 1 A certificate is also not required in a case involving a Crown development approved by the Minister under section 131 of the Act (see section 131(24)).

### 87—General land division

- (1) In accordance with section 138(1) of the Act, the Commission may issue a certificate under that section notwithstanding that the requirements under Division 6 have not been fully satisfied if the council advises the 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 84(5)) and that the arrangement is supported by adequate security; and
  - (b) in a case where a requirement under regulation 84(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.
- (2) In accordance with section 138(1) of the Act, the Commission may issue a certificate under that section notwithstanding that the requirements of the relevant responsible Minister relating to the provision of water supply and sewerage services have not been fully satisfied if that Minister advises the Commission that the applicant has entered into a binding arrangement with the Minister for the satisfaction of those requirements and that the arrangement is supported by adequate security.
- (3) A document approved by the Minister for the purposes of this regulation by notice published on the SA planning portal (and any alterations or amendments to any such document approved by the Minister from time to time by notice published on the SA planning portal) is recognised as a model for binding arrangements under subregulation (1) or (2), and an agreement that conforms with any such model will, to the extent that the agreement provides for the matters referred to in section 102(1)(c) of the Act, be taken to be a sufficient agreement, and to provide adequate security, for the purposes of section 138(1) of the Act in its applications to the division of the land.
- (4) In this regulation—
- electricity authority*** means a person who holds a licence under the *Electricity Act 1996* authorising the operation of a transmission or distribution network or a person exempted from the requirement to hold such a licence.

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**88—Division of land by strata title**

- (1) In accordance with section 138(1) of the Act, the 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 102(1)(d) of the Act have not been fully satisfied if the council advises the 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) A document approved by the Minister from time to time by notice published on the SA planning portal (and any alterations or amendments to any such document approved by the Minister from time to time by notice published on the SA planning portal), is recognised as a model 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 102(1)(d) of the Act, be taken to be a sufficient agreement, and to provide adequate security, for the purposes of section 138(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*.

**89—General provisions**

- (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 Commission and the relevant council, for the purposes of section 138(1) of the Act.
- (2) In addition to the requirements of section 138(1) of the Act, the Commission must not issue a certificate on an application under this Division unless the 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 198 of the Act (if any) has been paid.
- (3) A certificate under section 138 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 8, signed and dated by a duly authorised officer of the Commission, and bearing the certification approved by the Commission for the purposes of this subparagraph; 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 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 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; and
  - (ii) sets out—
    - (A) the date on which any relevant building was erected (if known); and
    - (B) the postal address of the site.
- (4) 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.
- (5) For the purposes of subregulation (3)—
  - (a) a certificate may be created and held as an electronic document; and
  - (b) a signature of a duly authorised officer may be provided by an electronic method that indicates the officer's certification in a way that is reasonably reliable.
- (6) For the purposes of section 138(4) of the Act, a copy of the certificate and plan (or certificates and plans) referred to in subregulation (3) must be furnished to the relevant council—
  - (a) by providing the council with electronic access to the relevant documents via the SA planning portal; or
  - (b) at the request of the council (provided in such manner as may be determined by the Commission), by sending a written copy to the council.
- (7) A certificate lapses at the expiration of 12 months following its issue (unless lodged with the Registrar-General under the *Real Property Act 1886* before its expiration, or extended by the Commission in response to an application made prior to the lapse of the certificate).
- (8) The Commission must consult with the relevant council (if any) before it grants an extension of the period prescribed by subregulation (7).
- (9) For the purposes of subregulation (7), a certificate will be taken to have been lodged with the Registrar-General if the Registrar-General has been provided with electronic access to the certificate via the SA planning portal under a scheme agreed between the Registrar-General and the Commission in connection with the operation of this regulation.

## **Division 8—Notification of decision**

### **90—Notification of decision**

- (1) If a relevant authority (other than the Commission) issues a development authorisation in relation to development which involves (wholly or in part) a proposed division of land, the relevant authority must provide a copy of its notice of the decision to the Commission via the SA planning portal.
- (2) The relevant authority must comply with subregulation (1) within 5 business days after the notice is given to the applicant under regulation 57.

## **Part 10—Special provisions relating to buildings and building work**

### **Division 1—Preliminary**

#### **91—Interpretation**

In this Part—

*council* has the same meaning as in Part 11 of the Act.

#### **92—Commission to act outside council areas**

Pursuant to section 145 of the Act, the Commission is prescribed for the purposes of the definition of *council* under that section.

### **Division 2—Notifications**

#### **93—Notifications during building work**

- (1) The following periods and stages are prescribed for the purposes of section 146(1) of the Act:
  - (a) 1 business day's notice of the intended commencement of building work on the site;
  - (b) in relation to the intended commencement of any stage of the building work specified by the council by notice to the building owner and to the licensed building work contractor responsible for carrying out the relevant building work (if any), when development approval is granted in respect of the work—
    - (i) in the case of development being undertaken within Metropolitan Adelaide—1 business day's notice; and
    - (ii) in the case of development being undertaken outside Metropolitan Adelaide—2 business day's notice;
  - (c) 1 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;
  - (d) without limiting a preceding paragraph—1 business day's notice of any stage specified by a relevant authority when giving a building consent in respect of the building work under regulation 57;
  - (e) without limiting a preceding paragraph—in relation to building work involving the use of a designated building product on a designated building, 1 business day's notice of the intended commencement of the installation of the designated building product;
  - (f) 1 business day's notice of completion of the building work.

- (2) A notice under subregulation (1)(a) must include—
- (a) the name, business address, email address, telephone number and builder's licence number of the licensed building work contractor responsible for carrying out the relevant building work (if any); and
  - (b) the name, residential or business address, email address and telephone number of the persons who are proposed to sign the Statement of Compliance in accordance with regulation 104 (if relevant).
- (3) A notice by a person under subregulation (1) may be given—
- (a) by notice via the SA planning portal (and in accordance with any relevant requirements applying under Part 4 Division 2 of the Act); or
  - (b) by telephone or email, using the main telephone number or email address (as the case may be) of the council; or
  - (c) by leaving a written notice with a duly authorised officer of the council.
- (4) If a notice is given under subregulation (1)(e), the person who gives the notice must, within 1 business day after the notice is given, provide to the council a duly completed prescribed supervisor's checklist relating to the installation of the designated building product, signed by a registered building work supervisor.
- (5) A person who breaches a requirement under subregulation (1) or (4) is guilty of an offence.
- Maximum penalty: \$10 000.  
Expiation fee: \$750.
- (6) In this regulation—
- prescribed supervisor's checklist* means a checklist published by the Chief Executive on the SA planning portal for the purposes of subregulation (4).

## **Division 3—Safety, health and amenity**

### **94—Essential safety provisions**

- (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* or the *Development Act 1993*.
- (2) This regulation does not apply if the building is a Class 1a or 10 building under the Building Code.
- (3) 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.
- (4) A relevant authority or council must—
- (a) on granting a building rules consent in relation to the construction of a building to which this regulation applies; or
  - (b) 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

- (c) on application by the owner of a building to which this regulation applies and payment of the appropriate fee set out in the *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019*; or
  - (d) on issuing any other certification with respect to building work complying with the Building Rules in a case where this regulation applies,
- issue a schedule in the form determined by the Chief Executive for the purposes of this regulation (being a form published by the Chief Executive on the SA planning portal) that specifies—
- (e) the essential safety provisions for the building; and
  - (f) the standards or other requirements for maintenance and testing in respect of each of those essential safety provisions as set out in any relevant Ministerial building standard.
- (5) A certificate of compliance must be provided for each essential safety provision that is specified under subregulation (4)(e).
  - (6) A certificate of compliance must be in the form determined by the Chief Executive for the purposes of this regulation (being a form published by the Chief Executive on the SA planning portal).
  - (7) A certificate of compliance—
    - (a) must be provided on completion of the installation of the essential safety provision; and
    - (b) must be signed by the person who installs the essential safety provision or, if the entity undertaking the installation is a company, by a manager or other person employed or engaged by the company who is responsible for managing the installation of the essential safety provision, in accordance with the requirements of the form; and
    - (c) must be provided to—
      - (i) the entity that will be issuing the certificate of occupancy for the relevant building; or
      - (ii) if a certificate of occupancy is not to be issued, to the council for the area in which the building is situated or, if the building is outside the area of a council, to the Commission.
  - (8) A certificate under subregulation (7)(c)(ii) must be provided within 20 business days after installation of the essential safety provision.
  - (9) The owner of a building in relation to which a schedule of essential safety provisions has been issued must not use or permit the use of the building unless maintenance and testing have been carried out, on an annual basis (according to calendar years), in respect of each essential safety provision of the building in accordance with the relevant Ministerial building standard in order to ensure that the essential safety provision is continuing to perform at least to the standard that was required when the essential safety provision was installed.

- (10) The owner of a building to which subregulation (9) applies must, not later than 60 business days after the end of each calendar year, provide to the council adequate proof of the carrying out of maintenance and testing in respect of each relevant essential safety provision for that calendar year, as required under subregulation (9), by complying with the requirements of subregulation (11).
- (11) An owner complies with the requirements of this subregulation if a verification in the form determined by the Chief Executive for the purposes of this subregulation, signed in accordance with the requirements of the form, is provided to the council (or, if the building is outside the area of a council, to the Commission) verifying—
- (a) 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 (9); and
  - (b) that there are no outstanding defects or failures reducing the effectiveness of an essential safety provision to perform at least to the standard that was required when the essential safety provision was installed or, to the extent that any such defect or failure may exist, that specified steps are being taken to rectify the defect or failure.
- (12) Subregulation (10) does not apply if—
- (a) the building is a Class 1b building under the Building Code; or
  - (b) 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 m<sup>2</sup>,
- and the building is not subject to a requirement under subregulation (13).
- (13) Despite subregulation (12), the council may require compliance with subregulation (10) if—
- (a) the essential safety provisions were installed—
    - (i) 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
    - (ii) as part of a performance solution under the Building Code; or
  - (b) the building has been the subject of a notice under section 157 of the Act.
- (14) A person who fails to comply with a requirement under subregulation (8), (9), (10) or (11) is guilty of an offence.  
Maximum penalty: \$10 000.  
Expiation fee: \$750.
- (15) The owner of a building in relation to which a schedule of essential safety provisions has been issued must, within 48 hours after being requested to do so by an authorised officer, provide to the authorised officer, for inspection by the authorised officer, written proof that the maintenance and testing required under subregulation (9) have been carried out over a period, not exceeding 2 preceding calendar years, specified by the authorised officer.  
Maximum penalty: \$2 500.  
Expiation fee: \$500.

## 95—Fire safety requirements—smoke alarms in dwellings

- (1) In this regulation—  
*approved standard* means—
  - (a) Australian Standard 3786 (as in force from time to time); or
  - (b) a Ministerial building standard published for the purposes of this regulation.
- (2) This regulation applies to Class 1 and 2 buildings under the Building Code (whenever constructed).
- (3) Subject to any other requirement in the Building Code, 1 or more smoke alarms complying with an approved standard 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.
- (4) If title of land on which a building to which this regulation applies is situated is transferred, then, within 6 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 (3) that are powered through a mains source of electricity (unless the building is not connected to a mains source of electricity) or powered by 10 year life non-replaceable, non-removable permanently connected batteries.
- (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.  
Expiation fee: \$150.
- (6) For the purposes of this regulation—
  - (a) the transfer of the interest of—
    - (i) a unit holder of a unit under the *Strata Titles Act 1988*; or
    - (ii) an owner of a community lot under the *Community Titles Act 1996*;  
or
    - (iii) an occupant of a unit in a building unit scheme,  
will be taken to be a transfer of title of land; and
  - (b) land will be taken to include a unit under the *Strata Titles Act 1988*, a community lot under the *Community Titles Act 1996* and a unit in a building unit scheme (and to the extent that such a unit or community lot comprises a building, it will be taken that the building is situated on that unit or lot); and
  - (c) a unit holder of a unit under the *Strata Titles Act 1988*, an owner of a community lot under the *Community Titles Act 1996* or an occupant of a unit in a building unit scheme will be taken to be the owner of any building comprising the unit or lot.

## 96—Fire safety requirements—brush fences

- (1) A brush fence must not be constructed closer than 3 metres to a Class 1 or 2 building under the Building Code unless any external wall of the relevant building that will, as a result of the construction of the brush fence, be closer than 3 metres to the brush fence, is fire resistant in accordance with the provisions of the Building Code relating to fire separation in respect of brush fences.
- (2) For the purposes of subregulation (1), the distance of 3 metres will be measured from any part of a proposed or existing brush fence and from any part of an external wall of the relevant building.

- (3) In this regulation—

*brush* means—

- (a) Broombrush (*Melaleuca uncinata*); and
- (b) any other form of dried vegetation material that has similar fire characteristics to Broombrush;

*brush fence* includes—

- (a) a fence that is predominantly constituted by brush;
- (b) a gate that is predominantly constituted by brush;

*construction*, in relation to a brush fence, includes an alteration of, or addition to, a brush fence but does not include the repair of an existing brush fence that does not enlarge or extend the brush fence;

*external wall* means an external wall within the meaning of the Building Code;

*fire resisting* means fire resisting within the meaning of the Building Code.

## 97—Health and amenity

- (1) 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 any adjacent site.
- (2) A person will be taken to have complied with subregulation (1) if—
  - (a) the building is connected to a public sewer; or
  - (b) sewage or sullage discharged from the building is collected, treated and disposed of by means of a system which complies with the requirements of the relevant service provider and relevant regulating authority.

## Division 4—General

### 98—Building Rules: bushfire prone areas

For the purposes of Performance Requirement GP5.1 of Volume 1, and P2.7.5 of Volume 2, of the Building Code, a building is in a bushfire prone area if it is in an area—

- (a) defined as a designated bushfire prone area in a Ministerial building standard;  
or

- (b) identified as a designated bushfire prone area under the Planning and Design Code.

## **99—Construction Industry Training Fund**

- (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 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 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 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 20 business days after the date of the notification, the relevant authority may, if it thinks fit, determine that the application has lapsed.

## **100—Fire safety relating to existing Class 2 to 9 buildings**

Pursuant to section 8(2)(b) of the Act, section 157 of the Act applies in relation to a Class 2 to Class 9 building in existence on 19 September 2017 as if it were modified as follows:

- (a) insert after subsection (3):

- (3a) Despite a preceding subsection, the fire safety of an existing Class 2 to Class 9 building will be taken to be adequate for the purposes of this section if it complies with the provisions of a Ministerial building standard relating to upgrading health and safety in existing buildings (including any provisions of such a standard that assist in the interpretation or construction of those provisions) to the extent reasonably applicable to the building.
- (b) delete subsection (14) and substitute:
  - (14) Any action taken under this section in relation to an existing Class 2 to Class 9 building should seek to achieve compliance with the provisions of a Ministerial building standard relating to upgrading health and safety in existing buildings (including any provisions of such a standard that assist in the interpretation or construction of those provisions) to the extent reasonably applicable to the building.

## Part 11—Classification and occupation of buildings

### 101—Preliminary

In this Part—

*council* has the same meaning as in Part 11 of the Act;

*designated relevant authority* means any of the following:

- (a) an Accredited professional—building level 1;
- (b) an Accredited professional—building level 2;
- (c) an Accredited professional—building level 3.

### 102—Classification of buildings

- (1) The owner of a building to which a classification has not been assigned may apply to the council or a designated relevant authority 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 or designated relevant authority may reasonably require to determine the building's classification; and
    - (ii) the appropriate fee under the *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019*.

- (4) Subject to subregulation (5), a council or a designated relevant authority must assign the appropriate classification under the Building Code to a building if 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.
- (5) If an application under this regulation is made in respect of an existing Class 2 to Class 9 building, the council or designated relevant authority may require the applicant to satisfy it that the provisions of any relevant Ministerial building standard relating to upgrading health and safety in existing buildings has been complied with (to the extent reasonably applicable to the building and its present or intended use).
- (6) On assigning a classification to a building (or part of a building), a council or designated relevant authority must, if relevant, determine and specify in the notice to the owner under section 151(3) of the Act—
  - (a) the maximum number of persons who may occupy the building (or part of the building); and
  - (b) if the building has more than 1 classification—the part or parts of the building to which each classification relates and the classifications currently assigned to the other parts of the building.

### **103—Certificates of occupancy**

- (1) Pursuant to section 152(1)(a) of the Act, a certificate of occupancy is not required in respect of a Class 10 building under the Building Code.
- (2) Pursuant to section 152(3)(b) of the Act, the following documentation is required:
  - (a) a copy of a Statement of Compliance, duly completed in accordance with the requirements of regulation 104, that relates to any relevant building work, together with any documentation required under regulation 57(8)(c);
  - (b) unless already provided—a copy of any certificate of compliance under regulation 94(7) (if relevant);
  - (c) if the development has been approved subject to conditions, such evidence as the council may reasonably require to show that the conditions have been satisfied;
  - (d) 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 1 storey—that the requirements of any relevant Ministerial building standard have been complied with;  
or
    - (ii) in any other case—that the building is suitable for occupation.

- (3) A council may, other than in relation to a designated building on which building work involving the use of a designated building product is carried out after 12 March 2018, dispense with the requirement to provide a Statement of Compliance under subregulation (2)(a) if—
- (a) the council is satisfied that a person required to complete 1 or both parts of the statement has refused or failed to complete that part and that the person seeking the issuing of the certificate of occupancy has taken reasonable steps to obtain the relevant certification or certifications; and
  - (b) it appears to the council, after undertaking an inspection, that the relevant building is suitable for occupation.
- (4) If—
- (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.
- (7) Pursuant to section 152(8) of the Act, an application for the issue of a certificate of occupancy must be decided—
- (a) unless paragraph (b) applies—within 5 business days from the day on which all documentation required by the council under subregulation (2) is received by the council; or
  - (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.
- (8) A certificate of occupancy will be in the form determined by the Chief Executive for the purposes of this regulation (being a form published by the Chief Executive on the SA planning portal).
- (9) Pursuant to section 152(13) of the Act, a council may revoke a certificate of occupancy—
- (a) if—
    - (i) there is a change in the use of the building; or
    - (ii) the classification of the building changes; or

- (iii) building work involving an alteration or extension to the building that will increase the floor area of the building by more than 300 m<sup>2</sup> is about to commence, or is being or has been carried out; or
  - (iv) the building is about to undergo, or is undergoing or has undergone, major refurbishment,
- and the council considers that in the circumstances the certificate should be revoked and a new certificate sought; or
- (b) if the council considers that the building is no longer suitable for occupation because of building work undertaken, or being undertaken, on the building, or because of some other circumstance; or
  - (c) if a schedule of essential safety provisions has been issued in relation to the building and the owner of the building has failed to comply with the requirements of regulation 94(10); or
  - (d) if the council considers—
    - (i) that a condition attached to a relevant development authorisation has not been met, or has been contravened, and that, in the circumstances, the certificate should be revoked; or
    - (ii) that a condition attached to the certificate of occupancy has not been met, or has been contravened, or is no longer appropriate.
- (10) Subject to subregulation (11), a reference in this regulation to a council will be taken to include a reference to a building certifier acting pursuant to section 154 of the Act.
- (11) Subregulations (3) and (9) only apply to councils.
- (12) If a building certifier issues a certificate of occupancy, the building certifier must, within 5 business days after issuing the certificate, provide to the council a copy of the certificate of occupancy, together with a copy of any documentation provided under subregulation (2).

#### **104—Statement of Compliance**

- (1) In this regulation—

**notice of completion** means a notice of the completion of building work under regulation 93(1)(f).
- (2) This regulation does not apply to a Class 10 building under the Building Code, other than a swimming pool or a private bushfire shelter.
- (3) If building work is carried out in a case where this regulation applies, a duly completed Statement of Compliance in the form determined by the Chief Executive for the purposes of this regulation (being a form published by the Chief Executive on the SA planning portal) must be provided to the relevant authority under subregulation (4) when a notice of completion with respect to the building work is given.
- (4) For the purposes of subregulation (3) the relevant authority is—
  - (a) if a building certifier was the relevant authority for the purposes of the assessment of the building work against the provisions of the Building Rules—that building certifier; or

- (b) in any other case—the council.
- (5) A Statement of Compliance provided under this regulation must be accompanied by any certificates, reports or other documents that the relevant authority, by notice issued at the time that the relevant building rules consent was given, indicated would need to be furnished at the time of the provision of the statement under this regulation.
- (6) A Statement of Compliance must be completed as follows:
- (a) the first part of the statement must be signed by the licensed building work contractor responsible for carrying out the relevant building work or, if there is no such person, by a registered building work supervisor or a building certifier;
  - (b) the second part must be signed by the owner of the relevant land, or by someone acting on his or her behalf.
- (7) For the purposes of subregulation (6)(a), a licensed building work contractor (the **contractor**) will be taken to be responsible for carrying out building work if the contractor is responsible, or is primarily responsible, for—
- (a) performing the work; or
  - (b) engaging another person to perform the work in a situation where the contractor retains overall responsibility for the work.
- (8) For the purposes of the first part of the Statement of Compliance, **service connections** are connections to any of the following:
- (a) a public electricity source;
  - (b) water/sewerage infrastructure (within the meaning of the *Water Industry Act 2012*);
  - (c) a sewerage system, community wastewater management system or waste control system;
  - (d) a public telecommunications system;
  - (e) any other public service or facility provided by an authority or utility.
- (9) If a requirement of this regulation (other than under subregulation (10) or (11)) is not complied with, the owner of the relevant land is guilty of an offence unless they establish that the failure to comply with the relevant requirement is due to the act or omission of another person.
- Maximum penalty: \$10 000.
- Expiation fee: \$750.
- (10) The person who signs the first part of a Statement of Compliance under subregulation (6)(a) must, within 5 business days after signing the statement, provide to the council, and to the person referred to in subregulation (6)(b), a copy of the statement together with a copy of any documentation provided for the purposes of this regulation.

- (11) If an accredited professional receives a Statement of Compliance under this regulation and a certificate of occupancy is not issued, the accredited professional must, within 5 business days of receiving the statement, provide to the council a copy of the statement together with a copy of any documentation provided for the purposes of this regulation.

## **Part 12—Crown development**

### **105—Exclusion from the definition of State agency**

For the purposes of section 131(1) of the Act, the South Australian Housing Trust is excluded from the ambit of the definition of *State agency*.

### **106—Developments excluded from approval and notice**

- (1) For the purposes of section 131(4) of the Act (but subject to this regulation), the various forms of development specified in Schedule 13, when carried on by a prescribed agency, are excluded from the provisions of section 131 of the Act.
- (2) For the purposes of section 131(28)(a) of the Act, the various forms of development set out in Schedule 13 clause 5 are declared to be minor works of a prescribed kind.
- (3) If a prescribed agency proposes to undertake any building work which is within the ambit of Schedule 13 and to be undertaken within the area of a council, the prescribed agency must, before commencing that building work—
- (a) give notice of the proposed building 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.
- (4) Subregulation (3) does not apply if the building work is within the ambit of Schedule 4, Schedule 5 or Schedule 7.
- (5) In this regulation—
- prescribed agency* means—
- (a) a State agency within the meaning of section 131 of the Act; or
  - (b) a person who is acting under a specific endorsement of a State agency under section 131(2)(c) of the Act.

### **107—General scheme**

- (1) An application under section 131(2) of the Act must be in a form determined by the Minister.
- (2) For the purposes of section 131(2) and (6) of the Act, the prescribed particulars are—
- (a) a description of the nature of the proposed development; and
  - (b) details of the location, siting, layout and appearance of the proposed work; and

- (c) if the proposed development is for the purposes of the provision of electricity generating plant with a generating capacity of more than 5 MW that is to be connected to the State's power system—a certificate from the Technical Regulator certifying that the proposed development complies with the requirements of the Technical Regulator in relation to the security and stability of the State's power system.
- (3) In subregulation (2)—
  - (a) a reference to *electricity generating plant* is a reference to electricity generating plant within the ambit of paragraph (a) of the definition of *electricity infrastructure* in section 4(1) of the *Electricity Act 1996*; and
  - (b) *power system* has the same meaning as in the *Electricity Act 1996*.
- (4) A notice under section 131(6) of the Act must be given to the council within 3 business days after the relevant application is lodged with the Commission.
- (5) For the purposes of section 131(10) of the Act, if an application relates to development of a class prescribed under Schedule 9, the Commission must refer the application, together with a copy of any relevant information provided by the State agency, to the relevant body under that Schedule for comment and report within the period of 30 business days (and this period will also be the period that applies under section 131(12) of the Act).
- (6) For the purposes of section 131(13)(a) of the Act, the requirement to give public notice includes the requirement to place a notice on the land, in a form determined by the Commission, as soon as may be reasonably possible after the relevant notice under regulation 3H(1)(b) is published on the SA planning portal (and the Commission may then cause the sign to be removed at a later time determined by the Commission).
- (7) The Commission may require the relevant State agency to place the notice on the land under subregulation (6) on behalf of the Commission (and then to remove the sign under that subregulation).
- (8) Subregulation (6) does not apply if—
  - (a) the relevant land—
    - (i) is not within the area of a council; or
    - (ii) constitutes a place that is wholly covered by water; or
  - (b) the Commission considers that it is impracticable or unnecessary to place a notice on the land under that subregulation.
- (9) For the purposes of section 131(17) of the Act, the period of 60 business days is prescribed.
- (10) A building certifier must not act under section 131(20) of the Act unless the building certifier is an accredited professional who would be qualified to give building consent in relation to the building work if the accredited professional were acting as a relevant authority in the particular case.

- (11) For the purposes of section 131(22)(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;
  - (b) that the variance is justifiable having regard to the performance requirements of the Building Code and would achieve the objects of the Act as effectively, or more effectively, than if the variance were not to be allowed.
- (12) Despite subregulation (11), if in considering a matter under section 131(21) of the Act an inconsistency exists between the Building Rules and the Planning and Design Code in relation to a State heritage place or a local heritage place—
- (a) the Planning and Design Code 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.

### **108—Lapse of approval**

- (1) Subject to this regulation, an approval under section 131 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; or
  - (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—3 years from the date of the approval, unless the development has been substantially or fully completed within those 3 years (in which case the approval will not lapse).
- (2) Subject to this regulation, an approval for the proposed division of land will lapse at the expiration of 3 years from the date of the approval.
- (3) A period prescribed under 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.

## **Part 13—Mining**

### **109—Mining production tenements**

- (1) Pursuant to section 160(2) of the Act, the appropriate Authority must refer an application for a mining production tenement to the Minister for advice if the land to be comprised in the tenement is situated in—
- (a) those parts of the State described in Schedule 14, 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 14 and the council, after consultation with the appropriate Authority, objects to the granting of the tenement within a period of 30 business days from the date on which the council receives notice of the application.
- (2) For the purposes of section 160(2) of the Act, the appropriate Authority must refer a proposed statement of environmental objectives under the *Petroleum and Geothermal Energy Act 2000* to the Minister for advice if an area to which the statement of environmental objectives would apply is within a part of the State described in Schedule 14, other than in a regional reserve under the *National Parks and Wildlife Act 1972*.
- (3) However, in a case arising under the *Petroleum and Geothermal Energy Act 2000*, subregulations (1) and (2) operate subject to the following qualifications:
  - (a) the appropriate Authority may determine not to refer an application for a mining production tenement to the Minister under subregulation (1)(a) if a proposed statement of environmental objectives that covers the activities to be undertaken under the tenement has already been, or is to be, referred to the Minister under this regulation;
  - (b) the appropriate Authority may determine not to provide an application for a mining production tenement to a council for the purposes of subregulation (1)(b) and accordingly not to refer such an application to the Minister under that subregulation if a proposed statement of environmental objectives that covers the activities to be undertaken under the tenement has already been, or is to be, referred to the council by the appropriate Authority for consultation purposes;
  - (c) the appropriate Authority may determine not to refer a proposed statement of environmental objectives to the Minister under subregulation (2) if any mining production tenement that is to be covered by the statement of environmental objectives has already been, or is to be, referred to the Minister under this regulation.
- (4) For the purposes of section 160(5) of the Act, a report of the Commission is prescribed.
- (5) For the purposes of section 161(5) of the Act, the Building Rules apply to building work 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.
- (6) If the Building Rules apply to building work under subregulation (5), the building work must not be undertaken unless it has been granted a building consent by the council or an appropriate accredited professional.

## **Part 14—Land management agreements**

### **110—Register of land management agreements (section 192)**

- (1) For the purposes of section 192(5) of the Act—
  - (a) a designated authority or greenway authority must provide to the Minister a copy of any agreement to which it is a party within 20 business days after the agreement is entered into under section 192 of the Act; and
  - (b) the Chief Executive must ensure that the agreement is entered in a register kept on the SA planning portal for the purposes of that section within 10 business days after the agreement is received by the Minister under paragraph (a).
- (2) For the purposes of section 192(6) of the Act, the register must be kept available on the SA planning portal.

### **111—Register of land management agreements (section 193)**

- (1) The Minister must establish a register of agreements entered into by the Minister, or any other designated Minister, under section 193 of the Act.
- (2) A council must establish a register of agreements entered into by the council under section 193 of the Act.
- (3) A register must contain, or provide access to, a copy of each agreement entered into by a Minister or the council (as the case may be) under section 193 of the Act and may contain other information the Minister or the council (as the case may be) considers appropriate.
- (4) For the purposes of section 193(6) of the Act, a register must be kept available on the SA planning portal.
- (5) For the purposes of section 193(16) of the Act, the period of 9 months from the operative date of the relevant development approval is prescribed.
- (6) A notice given by the relevant authority under section 193(16) of the Act—
  - (a) must be in writing; and
  - (b) must identify the relevant development approval according to the site of the proposed development and the date on which the approval is given; and
  - (c) must state that the relevant authority has decided to lapse the development approval because the agreement has not been noted against the relevant instrument of title or land (as the case may be) under section 193 of the Act within the period that applies under subregulation (5).
- (7) The relevant authority must also give a copy of a notice under subregulation (6) to—
  - (a) any owner of the land who is not a party to the agreement; and
  - (b) if the council for the area where the relevant land is situated is not a party to the agreement—the council.

(8) In this regulation—

*operative date* of an approval means—

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

whichever is the later.

## **Part 15—Performance of certain functions relating to buildings and building work**

### **112—Authorised officers and inspections**

- (1) Each council must appoint at least 1 authorised officer under section 210(1)(b) of the Act—
  - (a) who is an accredited professional who is—
    - (i) an Accredited professional—building level 1; or
    - (ii) an Accredited professional—building level 2; or
    - (iii) an Accredited professional—building level 3; or
    - (iv) an Accredited professional—building level 4; or
  - (b) who holds a current accreditation recognised by the Chief Executive for the purposes of this regulation; or
  - (c) who holds an approval from the Chief Executive.
- (2) A person who is appointed under subregulation (1)—
  - (a) is authorised to carry out inspections for the purposes of section 144 of the Act; and
  - (b) is brought within the definition of *designated authority* under section 212(1) of the Act.

### **113—Fire safety**

For the purposes of section 157(1), (2) and (17)(a)(i) of the Act, the prescribed qualifications are—

- (a) the qualifications that apply for the purposes of gaining accreditation as an accredited professional who is—
  - (i) an Accredited professional—building level 1; or
  - (ii) an Accredited professional—building level 2; or
- (b) the qualifications that allow a person to hold a current accreditation recognised by the Chief Executive for the purposes of this regulation; or
- (c) qualifications that are approved by the Chief Executive.

## **Part 16—Enforcement**

### **114—Civil penalties**

For the purposes of section 225(3)(a) of the Act, a notice to be served by the designated entity must be in the form of Schedule 15.

### **115—Offences by bodies corporate—responsibilities of officers**

- (1) For the purposes of section 220(1) of the Act, a prescribed offence is an offence against section 115, 130, 131, 141, 155(13), 157(12), 193, 215, 216 or 228(8) of the Act.
- (2) For the purposes of section 220(3) of the Act, an offence against section 83(4), 84(3), 117, 135, 136, 139, 146, 151, 152, 155(8), 156, 157(5), 157(14), 208, 211, 213, 217, 231, 235, 236 or Schedule 4 clause 3 of the Act is prescribed (being an offence to which section 220(2) does not apply).

## **Part 17—Rights of review and appeal**

### **116—Rights of review and appeal**

An application under section 202(1)(b)(i)(A) must be made in a form determined by the Minister and published on the SA planning portal.

## **Part 18—Miscellaneous**

### **117—Service of notices**

- (1) Subject to subregulation (2), and without derogating from any other regulation relating to the service of a notice or notification, or a document, which is required to be given or served on a person, or otherwise provided, under the Act or these regulations may be so given, served or provided 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
  - (e) 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

- (f) 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
  - (g) by sending it by using an email address 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); or
  - (h) via the SA planning portal in cases contemplated by these regulations or provided for service under a facility established as part of the SA planning portal by the Chief Executive.
- (2) For the purposes of subregulation (1)—
- (a) the person or authority which must give, serve or provide 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 or provision of notices or documents; and
  - (b) if a notice or document must be given or provided to, or served on, 2 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 1 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 or provided to, or served on, 2 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 1 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 or provided to, or served on, 2 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 1 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.

### 118—Prescribed rate of interest

- (1) For the purposes of section 141(6)(a), 142(4)(a), 155(7)(a), 213(7) and 214(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 this regulation—  
**prescribed bank rate**, for a financial year, means the 1 year fixed (non comparison) rate applied by the Commonwealth Bank of Australia at the commencement of the financial year.

## 119—Application of Fund

For the purposes of section 195(g) of the Act, a public work or public purpose that promotes or complements a policy or strategy contained in a state planning policy is authorised as a purpose for which the Planning and Development Fund may be applied.

## 120—Record of applications

- (1) A relevant authority must ensure that the following matters are recorded on the SA planning portal in respect of each application for a development authorisation under section 102 of the Act:
  - (a) the name and contact details of the relevant authority;
  - (b) the name and address of the applicant (or of each applicant);
  - (c) the date on which the application was lodged under section 119 of the Act;
  - (d) the date on which the application was verified under regulation 31;
  - (e) the date (or dates) on which the fees relating to the application were paid in accordance with these regulations and the *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019*;
  - (f) a description of the land which is the subject of the application;
  - (g) a brief summary of the matters, acts or things in respect of which any consent or approval is sought;
  - (h) details of any referral or concurrence on the application;
  - (i) details of any other decision made on the application by another entity exercising a power under this Act that has been notified to the relevant authority in accordance with these regulations;
  - (j) any decision on the application (including the date of the decision and any conditions that are imposed);
  - (k) the date of the commencement of any building work, and the date of the completion of any building work, as notified under regulation 93;
  - (l) if any decision on the application is the subject of an appeal, the result of the appeal.
- (2) An accredited professional must keep a register that records, in respect of each application made to the accredited professional under the Act—
  - (a) the name and address of the applicant (or of each applicant); and
  - (b) the date of the application; and
  - (c) a description of the land which is the subject of the application; and
  - (d) a brief summary of the matters, acts or things in respect of which any consent or decision is sought; and
  - (e) details of any referral or concurrence on the application; and
  - (f) any decision on the application (including the date of the decision and any conditions that are imposed); and

- (g) if any decision on the application is the subject of an appeal, the result of the appeal.
- (3) An accredited professional must keep a record required under subregulation (2) for not less than 5 years after the date on which the relevant application is determined by the accredited professional.
- (4) Nothing in this regulation requires a document to be included on the SA planning portal, or otherwise made available to the public, if to do so would—
  - (a) in the opinion of a relevant authority, or an accredited professional acting in any capacity, unreasonably jeopardise the present or future security of a building; or
  - (b) involve an infringement of copyright in matter contained in a document; or
  - (c) constitute a breach of any other law.

### **121—Documents to be provided by an accredited professional**

An accredited professional must ensure that he or she is able to produce to an authorised officer within a reasonable period (on request) and, in any event, within 5 business days, a copy of any of the following documents:

- (a) any technical details, particulars, plans, drawings, specifications or other documents or information considered by the accredited professional on an application for a development authorisation;
- (b) any certificates, opinions or other documents submitted to the accredited professional in connection with an application for a development authorisation;
- (c) any document that the accredited professional is required to provide under regulation 55;
- (d) any statement required under regulation 57(3).

### **122—Certificates of technical experts**

If any advice, opinion, certificate or other document must be provided or given by a person with prescribed qualifications for the purposes of the Act or these regulations, the document containing the advice or opinion, or the certificate or other document, must state—

- (a) the person's full name and contact details; and
- (b) the person's relevant qualifications.

### **123—Accreditation of building products**

For the purposes of section 237(1) of the Act, the following entities are prescribed:

- (a) the Minister;
- (b) a person or body duly authorised under the *Code Mark Scheme* administered by the Australian Building Codes Board.

### **124—General offence**

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

- (2) 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.
- (3) Subregulation (1) does not render the Minister, the 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 an act or omission related to the administration or operation of these regulations.

### **125—Declaration of commercial competitive interest**

- (1) For the purposes of section 208(3) of the Act, a disclosure of a commercial competitive interest under that section must be in the form determined by the Minister for the purposes of this regulation (being a form published by the Minister in the Gazette).
- (2) The form required under subregulation (1) must be given by the person required to make the relevant disclosure—
  - (a) to the registrar of the relevant court—
    - (i) in the case of a person who has commenced proceedings—at the time of lodging the application or other documentation that commences the proceedings; or
    - (ii) in the case of a person who becomes a party to the proceedings—within 10 business days after becoming a party to the proceedings; or
    - (iii) in the case of a person who provides financial assistance to another person who commences or becomes a party to any relevant proceedings—within 10 business days after the commencement of the proceedings or the date on which the other person becomes a party to the proceedings (as the case may be); and
  - (b) to each of the other parties to the proceedings—
    - (i) in the case of a person who has commenced proceedings—within 10 business days after commencing the proceedings; or
    - (ii) in the case of a person who becomes a party to the proceedings—within 10 business days after becoming a party to the proceedings; or
    - (iii) in the case of a person who provides financial assistance to another person who commences or becomes a party to any relevant proceedings—within 10 business days after the commencement of the proceedings or the date on which the other person becomes a party to the proceedings (as the case may be).

### **126—Additional expiable offences**

For the purposes of Schedule 5 item 46 of the Act, the following expiation fees are fixed in respect of the following offences against the Act:

- (a) section 151(5)—\$750;
- (b) section 152(1)—\$750;
- (c) section 155(8)—\$200;

(d) section 157(5)—\$225.

### 127—Issue of expiation notices

Authorised officers are designated persons who may give expiation notices under the Act or these regulations.

### 128—Limitation of time when action must be taken

Pursuant to section 8(2)(b) of the Act, section 159 of the Act does not apply to any defective building work—

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

## Schedule 1—Register of interest—primary return

Please read instructions and notes below before completing this return.

SURNAME

OTHER NAMES

OFFICE HELD

Registrable interests	Details
1	Provide a statement of any income source <sup>2</sup> that you have or a person related to you <sup>3</sup> has or expects to have in the period of 12 months after the date of the primary return.
2	State the name of any company or other body, corporate or unincorporate, in which you hold, or a member of your family <sup>4</sup> holds, any office whether as director or otherwise, for the purpose of obtaining financial gain (including at some time in the future).
3	State the name or description of any company, partnership, association or other body in which you or a person related to you <sup>3</sup> is an investor <sup>5</sup> .
4	Provide a concise description of any trust (other than a testamentary trust) of which you or a person related to you <sup>3</sup> is a beneficiary or trustee, and the name and address of each trustee.
5	Provide the address or description of any land in which you have or a person related to you <sup>3</sup> has any beneficial interest <sup>6</sup> other than by way of security for any debt.
6	Provide details of any fund in which you or a person related to you <sup>3</sup> has an actual or prospective interest to which contributions are made by a person other than you or a person related to you <sup>3</sup> .

Registrable interests	Details
7	If you are or a person related to you <sup>3</sup> is indebted to another person (not being related by blood or marriage) in an amount of or exceeding \$7 500—state the name and address of that other person.
8	If you are or a person related to you <sup>3</sup> is owed money by a natural person (not being related by blood or marriage) in an amount of or exceeding \$10 000—state the name and address of that person.
9	Declare any other substantial interest of yours or of a person related to you whether of a pecuniary nature or not, of which you are aware and which you consider might appear to raise a material conflict between your private interest and the duty that you have or may subsequently have as a member of a designated entity.
10	Provide any other additional information which you think fit.

Signature

Date

#### Instructions/notes

- 1 This return is to be completed in block letters except for signatures. If there is not sufficient space on this return for all of the information you are required to provide, you may attach additional papers for that purpose. Each such paper must be signed and dated.
- 2 Under the regulations—
 

*income source*, in relation to a person, means—

  - (a) any person or body of persons with whom the person entered into a contract of service or held any paid office; and
  - (b) any trade, vocation, business or profession engaged in by the person.
- 3.1 A *person related to a member* means—
  - (a) a member of the member's family;
  - (b) a family company of the member;
  - (c) a trustee of a family trust of the member.
- 3.2 A *family company* of a member means a proprietary company—
  - (a) in which the member or a member of the member's family is a shareholder; and
  - (b) in respect of which the member or a member of the member's family, or any such persons together, are in a position to cast, or control the casting or, more than one-half of the maximum number of votes that might be cast at a general meeting of the company.
- 3.3 A *family trust* of a member means a trust (other than a testamentary trust)—
  - (a) of which the member or a member of the member's family is a beneficiary; and
  - (b) which is established or administered wholly or substantially in the interests of the member or a member of the member's family, or any such persons together.

- 4 Under the Act—  
*family*, in relation to a member, means—
- (a) a spouse or domestic partner of the member; and
  - (b) a child of the member who is under the age of 18 years and normally resides with the member.
- 5 For the purpose of this return, a person is an investor in a body if—
- (a) the person has deposited money with, or lent money to, the body that has not been repaid and the amount not repaid equals or exceeds \$10 000; or
  - (b) the person holds, or has a beneficial interest in, shares in, or debentures of, the body or a policy of life insurance issued by the body.
- 6 A *beneficial interest* in property includes a right to re-acquire the property.

**Note—**

- 1 A member is required only to disclose information that is known to the member or ascertainable by the member by the exercise of reasonable diligence.
- 2 A member is not required to disclose information relating to a person as trustee of a trust unless the information relates to the person in the person's capacity as trustee of a trust by reason of which the person is related to the member.
- 3 A member may include in a return such additional information as the member thinks fit.
- 4 Nothing in this return will be taken to prevent a member from disclosing information in such a way that no distinction is made between information relating to the member personally and information relating to a person related to the member.
- 5 A member is not required to disclose the actual amount or extent of a financial benefit or interest.

**Schedule 2—Register of interest—ordinary return**

Please read instructions and notes below before completing this return.

SURNAME OTHER NAMES  
 OFFICE HELD

<b>Registrable interests</b>	<b>Details</b>
1 Provide a statement of any income source of a financial benefit <sup>2</sup> that you have or a person related to you <sup>3</sup> has received, or was entitled to receive, during the return period.	
2 State the name of any company or other body, corporate or unincorporate, in which you held, or a member of your family <sup>4</sup> held, any office during the return period whether as director or otherwise, for the purpose of obtaining financial gain (including at some time in the future).	
3 State the name or description of any company, partnership, association or other body in which you or a person related to you <sup>3</sup> is an investor <sup>5</sup> .	
4 Provide a concise description of any trust (other than a testamentary trust) of which you or a person related to you <sup>3</sup> is a beneficiary or trustee, and the name and address of each trustee.	

Registrable interests	Details
5	Provide the address or description of any land in which you have or a person related to you <sup>3</sup> has any beneficial interest <sup>6</sup> other than by way of security for any debt.
6	Provide details of any fund in which you or a person related to you <sup>3</sup> has an actual or prospective interest to which contributions are made by a person other than you or a person related to you <sup>3</sup> .
7	If you are or a person related to you <sup>3</sup> is indebted to another person (not being related by blood or marriage) in an amount of or exceeding \$7 500—state the name and address of that other person.
8	If you are or a person related to you <sup>3</sup> is owed money by a natural person (not being related by blood or marriage) in an amount of or exceeding \$10 000—state the name and address of that person.
9	Declare any other substantial interest of yours or of a person related to you whether of a pecuniary nature or not, of which you are aware and which you consider might appear to raise a material conflict between your private interest and the duty that you have or may subsequently have as a member of a designated entity.
10	Provide any other additional information which you think fit.

Signature

Date

#### Instructions/notes

- 1.1 This return is to be completed in block letters except for signatures. If there is not sufficient space on this return for all of the information you are required to provide, you may attach additional papers for that purpose. Each such paper must be signed and dated.
- 1.2 The *return period* for the purposes of this return is as follows:
- (a) if your last return was a *primary return* under the Act—the period between the date of the primary return and 30 June next following;
  - (b) in any other case—the period of 12 months expiring on 30 June, or within 60 days after 30 June in any year.
- 2.1 Under the regulations—
- income source*, in relation to a person, means—
- (a) any person or body of persons with whom the person entered into a contract of service or held any paid office; and
  - (b) any trade, vocation, business or profession engaged in by the person.

2.2 Under the regulations—

*financial benefit*, in relation to a person, means—

- (a) any remuneration, fee or other pecuniary sum exceeding \$1 000 received by the person in respect of a contract of service entered into, or paid office held by, the person; and
- (b) the total of all remuneration, fees or other pecuniary sums received by the person in respect of a trade, profession, business or vocation engaged in by the person where the total exceeds \$1 000,

but does not include an annual allowance, fees, expenses or other financial benefit payable to the person under the Act.

3.1 A *person related to a member* means—

- (a) a member of the member's family;
- (b) a family company of the member;
- (c) a trustee of a family trust of the member.

3.2 A *family company* of a member means a proprietary company—

- (a) in which the member or a member of the member's family is a shareholder; and
- (b) in respect of which the member or a member of the member's family, or any such persons together, are in a position to cast, or control the casting or, more than one-half of the maximum number of votes that might be cast at a general meeting of the company.

3.3 A *family trust* of a member means a trust (other than a testamentary trust)—

- (a) of which the member or a member of the member's family is a beneficiary; and
- (b) which is established or administered wholly or substantially in the interests of the member or a member of the member's family, or any such persons together.

4 Under the Act—

*family*, in relation to a member, means—

- (a) a spouse or domestic partner of the member; and
- (b) a child of the member who is under the age of 18 years and normally resides with the member.

5 For the purpose of this return, a person is an investor in a body if—

- (a) the person has deposited money with, or lent money to, the body that has not been repaid and the amount not repaid equals or exceeds \$10 000; or
- (b) the person holds, or has a beneficial interest in, shares in, or debentures of, the body or a policy of life insurance issued by the body.

6 A *beneficial interest* in property includes a right to re-acquire the property.

**Note—**

- 1 A member is required only to disclose information that is known to the member or ascertainable by the member by the exercise of reasonable diligence.
- 2 A member is not required to disclose information relating to a person as trustee of a trust unless the information relates to the person in the person's capacity as trustee of a trust by reason of which the person is related to the member.
- 3 A member may include in a return such additional information as the member thinks fit.
- 4 Nothing in this return will be taken to prevent a member from disclosing information in such a way that no distinction is made between information relating to the member personally and information relating to a person related to the member.
- 5 A member is not required to disclose the actual amount or extent of a financial benefit or interest.

### **Schedule 3—Additions to definition of development**

**Note—**

The acts or activities set out in this Schedule constitute development.

#### **1—Excavating or filling in identified zones or areas**

Any excavating or filling (or excavating and filling) of land in a zone or area identified under the Planning and Design Code for the purposes of this clause which involves the excavating or filling (or excavating and filling) of a volume of material which exceeds 9 m<sup>3</sup> 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.

#### **2—Excavating or filling—local heritage places**

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 9 m<sup>3</sup> in total.

#### **3—Excavating or filling in identified zones or areas subject to inundation or flooding**

Any excavating or filling (or excavating and filling) of land, or the forming of a levee or mound, in a designated flood zone, subzone or overlay, or any other zone, subzone or overlay identified under the Planning and Design Code for the purposes of this clause, 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.

#### **4—Levee, mound over 3 m in height**

Without limiting any other clause, the forming of a levee or mound with a finished height greater than 3 m above the natural surface of the ground.

#### **5—Excavating or filling—coastal land etc**

Any excavating or filling (or excavating and filling)—

- (a) within coastal land; or
- (b) within 3 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 9 m<sup>3</sup> in total.

#### **6—Coastal protection structures**

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 m landward of the coast measured from mean high water mark on the sea shore at spring tide or within 1 km seaward of the coast measured from mean high water mark on the sea shore at spring tide.

#### **7—River Murray—infrastructure**

- (1) Without limiting the operation of any other clause, the construction, installation or placement of any infrastructure for—
  - (a) the taking of water from any part of the River Murray system within the River Murray Floodplain Area; or
  - (b) the draining or depositing of any water or other substance or material into any part of the River Murray system within the River Murray Floodplain Area,  
other than—
    - (c) where the infrastructure is being constructed, installed or placed by the Minister for the River Murray (or by a person who is undertaking works for or on behalf of that Minister); or
    - (d) where the infrastructure is to be used for domestic purposes within the River Murray Flood Plain Overlay under the Planning and Design Code.
- (2) For the purposes of subclause (1), a reference to the River Murray Floodplain Area is a reference to the River Murray Protection Area so designated under the *River Murray Act 2003*.

- (3) In subclause (1)—

*infrastructure* has the same meaning as in the *River Murray Act 2003*;

*River Murray system* has the same meaning as in the *River Murray Act 2003*.

## 8—Display of advertisements

- (1) The commencement of the display of an advertisement.
- (2) For the purposes of subclause (1), a change made to the type or contents of an existing advertisement will be taken not to constitute the commencement of the display of an advertisement if—
- (a) the advertisement area is not increased; and
  - (b) the change does not involve the addition of animation or illumination.

## 9—Land division—certain Crown lands

The division of land subject to a lease under the *Crown Land Management Act 2009* or the *Irrigation Act 2009* where an application has been made to the Minister responsible for the administration of the relevant Act to surrender the lease for freehold title on the basis that the land will be granted in fee simple and then divided.

## Schedule 4—Exclusions from definition of development—general

### Note—

An act or activity specified in this Schedule is declared not to constitute development for the purposes of the Act, subject to the limitations set out in regulation 3C. For example, that regulation provides that an exclusion under Schedule 4 does not apply in respect of a State heritage place.

### 1—Advertising displays

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 (including an advertisement displayed for the purposes of a home activity), subject to the following conditions:
  - (i) that the advertisement area is not more than 0.2 m<sup>2</sup>;
  - (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;
  - (iii) that not more than 2 such advertisements are displayed in relation to the same building; or
- (e) 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, business or community 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 m above ground level;
  - (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 1 building or site is not more than 2 m<sup>2</sup>;
  - (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 1 month prior to the event and 1 week after the conclusion of the event;
  - (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;
  - (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;
- (iii) that the advertisement area is not more than 3 m<sup>2</sup>; or
- (h) that constitutes a moveable sign under the *Local Government Act 1999* 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" sign, subject to the following conditions:
  - (i) that the sign is situated on the land which is for sale or for lease;
  - (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;
  - (iii) that the sign is not more than 4 m<sup>2</sup> in advertisement area;
  - (iv) that the sign is removed within 2 weeks after the completion of the sale or the entering into of the lease.

## 2—Council works

- (1) The construction, reconstruction, alteration, repair or maintenance by or on behalf of a council of—
  - (a) a road, drain or pipe, other than the construction of a new road, drain or pipe within 100 m 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
  - (c) a structure or equipment used for or associated with the supply, conversion, transformation or control of electricity, other than—
    - (i) 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
    - (ii) within a designated airport building heights area; or
  - (d) a single wire earthed return electricity line, other than any such activity—
    - (i) in areas of the Flinders Ranges identified under the Planning and Design Code as environmental areas for the purposes of this subparagraph, excluding townships; or
    - (ii) —

- (A) in any zone, subzone or overlay identified under the Planning and Design Code for the purposes of this subsubparagraph; or
  - (B) where no such zone or area has been identified under the Planning and Design Code—in any of the following:
    - rural land which is within 500 m of the coast measured from mean high water mark on the sea shore at spring tide;
    - land within a country township, developed urban area or proposed urban area under the Planning and Design Code which is within 100 m 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 m<sup>2</sup> 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 area of the building exceeding 30 m<sup>2</sup>; or
  - (iii) the construction or alteration of, or an extension to, any building within 100 m 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 m landward of the coast measured from mean high water mark on the sea shore at spring tide or within 100 m 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, exercise or recreation equipment in a recreation area; or
- (g) an item of street furniture (including directional signs, lighting, seating, weather shelters, bollards and bicycle racks), other than the construction of street lighting within a designated airport building heights area; 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 m<sup>2</sup> in total floor area, or 10 m 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 m<sup>2</sup>, or the total height of the building exceeding 10 m; or
  - (iii) the performance of work within 10 m 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 m<sup>2</sup>;
  - (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;
  - (c) that the sign or advertisement is not within 100 m of a signalised intersection or a pedestrian actuated crossing;
  - (d) that the erection or display of the sign or advertisement is not classified as restricted development under the Planning and Design Code.
- (3) If the work is certified by a building certifier 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), excavating or filling (or excavating and filling) of up to 1 500 m<sup>3</sup> of material for the purpose of providing proper access to an existing wharf, jetty or mooring, but excluding excavating or filling where more than 1 500 m<sup>3</sup> of material has been excavated or filled at the particular place within the previous 12 months.

### 3—Land division

- (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 2 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, under—
  - (a) the *Aboriginal Lands Trust Act 2013*; or
  - (b) the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*; or
  - (c) the *Maralinga Tjarutja Land Rights Act 1984*,by virtue of which the Crown (or an agency or instrumentality of the Crown) becomes, or may become, entitled to possession or occupation of part only of an allotment.
- (3) The grant or acceptance of a lease or licence on Trust Land (within the meaning of the *Aboriginal Lands Trust Act 2013*), or the making of an agreement for a lease or licence on Trust Land, in respect of which the Aboriginal Lands Trust has given permission under section 44 of that Act and by virtue of which a person becomes, or may become, entitled to possession or occupation of part only of an allotment.
- (4) 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 or a dwelling and curtilage; or

- (b) which permits or is varied to permit the use of the leased or licensed land and any part of it for residential purposes.
- (5) The grant or acceptance of a lease or licence, or the making of an agreement for a lease or licence, related to the installation or alteration of telecommunications facilities or wind turbine generators, including any infrastructure associated with such facilities or generators.
- (6) The division of an allotment pursuant to an order under the *Encroachments Act 1944*.
- (7) 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.
- (8) The division 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.
- (9) The division of an allotment—
  - (a) for the purpose of widening or adding to an existing rail corridor or rail reserve, subject to the condition that any land that is being added to the rail corridor or rail reserve is, or is to be, vested in an owner or operator of the relevant railway; or
  - (b) for purposes associated with the construction, use, alteration, extension, repair or maintenance of any form of infrastructure, or with gaining access to any form of infrastructure, located on a rail corridor or rail reserve.

**Note—**

The infrastructure need not be rail infrastructure.

- (10) The conferral of a right to occupy a residential unit under the *Retirement Villages Act 2016*.

#### **4—Sundry minor operations**

- (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 a designated flood zone, subzone or overlay or in any other zone, subzone or overlay identified under the Planning and Design Code for the purposes of this paragraph) 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 classified as accepted development or deemed-to-satisfy development; and
    - (ii) has a total floor area not exceeding 15 m<sup>2</sup>; and
    - (iii) has no roof span (being the horizontal distance between supporting walls, posts or columns of the outbuilding) exceeding 3 m, and no part of the building being higher than 2.5 m above the natural surface of the ground; and

- (iv) 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 mm of a boundary of the land with a secondary street (if the land has boundaries on 2 or more roads); and
- (v) is not within 6 m of the intersection of 2 boundaries of the land where those boundaries both face a road, other than where a 4 x 4 m corner cut-off has already been provided (and is to be preserved);
- (b) —
  - (i) a windmill, other than a windmill in a designated airport building heights area; or
  - (ii) a flagpole,  
which is not attached to a building and is not more than 10 m in height, or which is attached to a building and is not more than 4 m in height above the topmost point of attachment to the building, exclusive of guy wires;
- (c) a swimming pool or spa pool (other than in a designated flood zone, subzone or overlay or in any other zone, subzone or overlay identified under the Planning and Design Code for the purposes of this paragraph) which is constructed in association with a dwelling and intended primarily for use by the occupants of that dwelling, and which—
  - (i) does not have a depth exceeding 300 mm; or
  - (ii) in the case of an aboveground or inflatable swimming pool or spa pool, does not incorporate a filtration system;
- (d) a fence not exceeding 2.1 m in height (measured from the lower of the 2 adjoining finished ground levels), other than—
  - (i) a fence in—
    - (A) a designated flood zone, subzone or overlay; or
    - (B) in any other zone, subzone or overlay identified under the Planning and Design Code for the purposes of this subparagraph; or
  - (ii) a fence in the Local Heritage Area Overlay under the Planning and Design Code, or any other area identified under the Planning and Design Code for the purposes of this paragraph, that is situated on the boundary of the relevant allotment with a road (other than a laneway); or
  - (iii) a fence that exceeds (or would exceed) 1 m in height within 6 m of the intersection of 2 boundaries of land where those boundaries both face a road, other than where a 4 x 4 m corner cut-off has already been provided (and is to be preserved); or
  - (iv) —
    - (A) a masonry fence; or

- (B) a fence any part of which is formed from masonry (including, for example, a fence that includes masonry piers or columns),  
that exceeds (or would exceed) 1 m in height (measured (if relevant) from the lower of the 2 adjoining finished ground levels); or
  - (v) a fence that is (or is to be) a safety fence for a swimming pool or spa pool which is approved for construction, or requires approval for construction, on or after 1 July 1993; or
  - (vi) a brush fence that is (or is to be) closer than 3 m to an existing or proposed Class 1 or 2 building under the Building Code, with the distance to be measured from any part of the brush fence and from any part of an external wall of the building (being an external wall within the meaning of the Building Code) and with this subparagraph not extending to a repair of an existing brush fence that does not enlarge or extend the brush fence;
- (e) a post and wire fence, other than a chain mesh fence, in a designated flood zone, subzone or overlay;
- (f) a retaining wall (other than in a designated flood zone, subzone or overlay, or within 100 m 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 1 m;
- (g) a water tank (and any supporting structure) which—
- (i) is part of a roof-drainage system; and
  - (ii) has—
    - (A) in the case of a tank in a Bushfire Risk area within a Hazards (Bushfire Protection) Overlay under the Planning and Design Code—a total floor area not exceeding 15 m<sup>2</sup> and a total volume not exceeding 60 000 L; or
    - (B) in any other case—a total floor area not exceeding 10 m<sup>2</sup> and a total volume not exceeding 40 000 L; and
  - (iii) is located wholly above ground; and
  - (iv) has no part higher than 4 m above the natural surface of the ground;
- (h) 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;

- (i) a deck (other than in a bushfire prone area under regulation 98, the Local Heritage Area Overlay under the Planning and Design Code or any other area identified under the Planning and Design Code for the purposes of this paragraph) 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 mm above the natural surface of the ground; and
    - (ii) will not have any portion of the deck situated within 900 mm of a boundary of the land;
  - (j) a tree house or cubby house (being a structure that is intended to be used primarily by children for recreational purposes) that is ancillary to a dwelling and that has a total floor area not exceeding 5 m<sup>2</sup>;
  - (k) the installation of a screen to 1 or more sides of a structure for the purposes of privacy if—
    - (i) the screen comprises a permeable material (such as lattice or shadecloth); and
    - (ii) neither the height nor the length of the screen exceeds the dimensions of the structure to which it is fixed;
  - (l) the installation or construction of a masonry oven or similar structure used for the purpose of outdoor domestic cooking that does not exceed a total height of 2.0 m (excluding any flue or chimney).
- (2) Other than in respect of a local heritage place or the Local Heritage Area Overlay under the Planning and Design Code, 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.
- (3) Other than in respect of a local heritage place or the Local Heritage Area Overlay under the Planning and Design Code, 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 m<sup>2</sup>; and
  - (c) no part of the sail will be more than 3 m 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.
- (4) 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 non load-bearing partitions); and

- (b) that will not adversely affect the structural soundness of the building or the health or safety of any person occupying or using it; and
  - (c) that is not inconsistent with any other provision of this Schedule.
- (5) 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 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; or
  - (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), and which does not affect the ability of the building in which it is installed to resist the spread of fire; or
  - (c) the construction of a pergola or similar structure designed to provide shade associated with an existing dwelling (whether attached to the building or freestanding)—
    - (i) which does not have a solid roof; and
    - (ii) each freestanding side of which is open (that is, not enclosed with a solid material); and
    - (iii) no part of which is higher than 4 m above the ground; and
    - (iv) which is not being constructed so that any part of the pergola or structure will be in front of any part of the building line of the dwelling to which it is ancillary that faces the primary street.
- (6) 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; or
  - (d) any electrical, gas, water, sewage and sullage, or telecommunications service (including appliances and fittings),where the item being installed—
  - (e) does not encroach on a public street or affect the ability of the place to resist the spread of fire; and
  - (f) will not, when installed, be able to be seen by a person standing at ground level in a public street.

- (7) The external painting of a local heritage place—
- (a) where the painting involves the repainting of an existing painted surface in the same or similar colours and so as to provide the same or similar texture, finish and effect; or
  - (b) without limiting paragraph (a), where the painting does not materially affect the heritage value of the place.
- (8) Subclause (7) does not apply in relation to painting of any building that is also within the ambit of Schedule 5 clause 6.
- (9) External painting of a building within an area identified under the Planning and Design Code for the purposes of paragraph (g) of the definition of *development* under section 3(1) of the Act where the painting involves the repainting of an existing painted surface in the same or similar colours and so as to provide the same or similar texture, finish and effect.
- (10) 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.
- (11) 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 60 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).
- (12) Any work undertaken solely for the purposes of fitting a smoke alarm in accordance with the requirements under regulation 95.
- (13) 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); and
  - (c) a reference to a *fence* includes any privacy screening attached to the fence.
- (14) In this clause—
- brush* means—
- (a) Broombrush (*Melaleuca uncinata*); and
  - (b) any other form of dried vegetation material that has similar fire characteristics to Broombrush;

*brush fence* includes—

- (a) a fence that is predominantly constituted by brush; and
- (b) a gate that is predominantly constituted by brush;

*masonry* means stone, brick, terracotta or concrete block or any other similar building unit or material, or a combination of any such materials;

*road* has the same meaning as in the *Local Government Act 1999* but does not include an alley, lane or right of way;

*swimming pool* includes a paddling pool.

## 5—Use of land and buildings

- (1) 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.
- (2) The following uses of land or buildings (whether or not within the ambit of subclause (1)):
  - (a) the carrying on of a home activity on land used for residential purposes;
  - (b) without limiting paragraph (a), the use of any land or building for the display and sale of food produce if—
    - (i) the total floor area of the display does not exceed 30 m<sup>2</sup>; and
    - (ii) the use of the land for the display and sale of food produce does not have a significant detrimental effect on the amenity of the locality or any part of the locality;
  - (c) the use of any land or building for the supply, conversion, transformation or control of electricity by 1 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;
  - (d) the keeping of animals, birds, or other livestock (other than horses, sheep, alpacas, cattle, pigs, goats, donkeys and wild animals) solely for the domestic needs or enjoyment of the occupants of a dwelling (and land appurtenant to a dwelling), other than the use of land for the keeping of free-flying birds within a designated airport building heights area;
  - (e) the parking of any vehicle not exceeding 3 000 kg in weight (including the weight of any attached trailer) on land used for residential purposes;
  - (f) the parking of a caravan or motor-home of any weight on land used for residential purposes by a person who is an occupant of a dwelling situated on that land;
  - (g) the carrying on of low impact entertainment on premises other than residential premises.

(3) In this clause—

***low impact entertainment***, in relation to premises, means live entertainment that is carried on—

- (a) inside a building; and
- (b) in accordance with the lawful use and occupation of the premises; and
- (c) in compliance with the *Environment Protection Act 1993*,

but does not include—

- (d) prescribed entertainment within the meaning of section 105 of the *Liquor Licensing Act 1997*; or
- (e) entertainment that is to be carried on in connection with a proposed change of use of the premises.

## **6—Special cemetery buildings**

The construction of a mausoleum in a public cemetery where—

- (a) the mausoleum is located more than 50 m from the boundaries of the cemetery; and
- (b) no part of the mausoleum is higher than 3 m 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).

## **7—Inground sewerage pumping stations**

- (1) The construction of an inground sewerage pumping station (including any associated value chamber, electrical control or switching gear, and flue extending not more than 15 m above ground level)—
  - (a) that has a total floor area not exceeding 8 m<sup>2</sup> and a depth not exceeding 10 m; and
  - (b) that is designed and constructed in accordance with specifications approved by the Minister responsible for the administration of the *Water Industry Act 2012*.
- (2) Subclause (1) does not apply to the construction of an inground sewerage pumping station with flue within a designated airport building heights area.

## **8—Inground water valve chamber**

The construction of an inground water valve chamber—

- (a) that has a total floor area not exceeding 15 m<sup>2</sup> and a depth not exceeding 4 m; and
- (b) that is designed and constructed with specifications approved by the Minister responsible for the administration of the *Water Industry Act 2012*.

## **9—Certain building work outside council areas**

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 township, or in an Airport Building Heights (Aircraft Landing Areas) Overlay, Airport Building Heights (Regulated) Overlay, Coastal Areas Overlay, Conservation Zone, Historic Shipwrecks Overlay, Local Infrastructure (Airfield) Zone, Settlement Zone, Significant Landscape Protection Overlay, Hazards (Acid Sulfate Soils) Overlay, Ramsar Wetlands Overlay, River Murray Flood Plain Overlay, Specific Use (Tourism Development) Zone, or Township Zone under the Planning and Design Code; or
- (b) in respect of a local heritage place; or
- (c) within 500 m of a Key Outback and Rural Routes Overlay under the Planning and Design Code; or
- (d) within 50 m of the boundaries of a township, or a Township Zone, Settlement Zone or Specific Use (Tourism Development) Zone under the Planning and Design Code; or
- (e) on land that is subject to the *National Parks and Wildlife Act 1972*; or
- (f) within part of the State described in Schedule 14; or
- (g) that consists of prescribed infrastructure within the meaning of clause 13 to the extent that it constitutes development under that clause.

## **10—Demolition of buildings**

The demolition of the whole of a building, other than in respect of—

- (a) a local heritage place; or
- (b) a building in a zone, subzone or overlay identified under the Planning and Design Code for the purposes of this paragraph.

## **11—Dams**

The excavation or filling (or excavation and filling) of land for the purposes of a dam, other than—

- (a) where a levee or mound with a finished height greater than 3 m above the natural surface of the ground is to be formed; or
- (b) where a retaining wall which retains a difference in ground levels exceeding 1 m is to be used or formed; or
- (c) where the dam is in—
  - (i) a designated flood zone, subzone or overlay; or
  - (ii) in any other zone, subzone or overlay identified under the Planning and Design Code for the purposes of this subparagraph; or
- (d) where the dam is to have a capacity exceeding 5 megalitres.

## 12—Amalgamation of land

- (1) The amalgamation of 2 or more contiguous allotments.
- (2) For the purposes of this clause, allotments separated only by a road or a road reserve will be regarded as contiguous.

## 13—Aerials, towers etc

- (1) Other than in respect of a local heritage place or in any other zone, subzone or overlay identified under the Planning and Design Code for the purposes of this subclause, the construction, alteration or extension of prescribed infrastructure (including any incidental excavation or filling) if—
  - (a) the total height of the prescribed infrastructure, when constructed, altered or extended, will not exceed (taking into account attachments (if any))—
    - (i) in the case of prescribed infrastructure not attached to a building—
      - (A) in Metropolitan Adelaide—7.5 m or, in the case of prescribed infrastructure to be used solely by a person who holds an amateur licence under the *Radiocommunications Act 1992* of the Commonwealth, 10 m; or
      - (B) in any other case—10 m; or
    - (ii) in the case of prescribed infrastructure attached to a building—
      - (A) in a zone, subzone or overlay primarily designated for residential use under the Planning and Design Code in Metropolitan Adelaide—2 m; or
      - (B) in any other case—4 m,  
above the topmost point of attachment to the building, disregarding any attachment by guy wires; and
  - (b) in the case of prescribed infrastructure that is or incorporates, or has as an attachment, a microwave, satellite or other form of communications dish—the diameter of the dish will not exceed—
    - (i) in a zone, subzone or overlay primarily designated for residential use under the Planning and Design Code or in the Local Heritage Area Overlay under the Planning and Design Code—1.2 m; or
    - (ii) in any other case—2.6 m.
- (2) In a zone, subzone or overlay identified under the Planning and Design Code for the purposes of this subclause, other than in respect of a local heritage place, the construction, alteration or extension of prescribed infrastructure attached to a building if—
  - (a) the total height of the prescribed infrastructure, when constructed, altered or extended, will not exceed (taking into account attachments (if any)) 2 m above the topmost point of attachment to the building, disregarding any attachment by guy wires; and
  - (b) in the case of prescribed infrastructure that is or incorporates, or has as an attachment, a microwave, satellite or other form of communications dish—the diameter of the dish will not exceed 1.2 m.

- (3) The construction, alteration or extension of prescribed subscriber connection telecommunications infrastructure at premises occupied or used by the subscriber, or in the immediate vicinity of those premises, where the infrastructure is located (or to be located) at a place that is not within the area of a council, other than infrastructure (or proposed infrastructure)—
- (a) in a township, or in an Airport Building Heights (Aircraft Landing Areas) Overlay, Airport Building Heights (Regulated) Overlay, Coastal Areas Overlay, Conservation Zone, Historic Shipwrecks Overlay, Local Infrastructure (Airfield) Zone, Settlement Zone, Significant Landscape Protection Overlay, Hazards (Acid Sulfate Soils) Overlay, Ramsar Wetlands Overlay, River Murray Flood Plain Overlay, Specific Use (Tourism Development) Zone, or Township Zone under the Planning and Design Code; or
  - (b) in respect of a local heritage place; or
  - (c) within 500 m of a Key Outback and Rural Routes Overlay under the Planning and Design Code; or
  - (d) within 50 m of the boundaries of a township, or a Township Zone, Settlement Zone or Specific Use (Tourism Development) Zone under the Planning and Design Code; or
  - (e) on land that is subject to the *National Parks and Wildlife Act 1972*; or
  - (f) within part of the State described in Schedule 14.

- (4) In this clause—

**building** does not include prescribed infrastructure;

**prescribed infrastructure** means a non load-bearing aerial, antenna, mast or open-framed tower, or other similar structure (but not including an advertising hoarding);

**prescribed subscriber connection telecommunications infrastructure** means any of the following when used (or to be used) in order to provide telecommunications facilities to a particular subscriber:

- (a) an aerial, antenna, mast, tower or pole if—
  - (i) the total height of the structure (including attachments (if any)) does not (or will not) exceed 20 m; and
  - (ii) in the case of a structure that is or incorporates, or has an attachment, a microwave, satellite or other form of communications dish—the diameter of the dish does not (or will not) exceed 2.4 m;
- (b) an equipment shelter or housing if—
  - (i) its total floor area does not (or will not) exceed 10 m<sup>2</sup>; and
  - (ii) its height does not (or will not) exceed 3.5 m;
- (c) an open-lattice frame or pole mounted with a solar panel or panels if—
  - (i) the total height of the frame or pole does not (or will not) exceed 4.5 m; and

- (ii) the total area of the panels does not (or will not) exceed 20 m<sup>2</sup>;

*subscriber* means a subscriber to a telecommunications service.

#### 14—Railway activities

- (1) Other than in respect of a local heritage place, the construction, alteration, extension, repair or maintenance (including any incidental excavation or filling) of any of the following:
- (a) railway track, other than—
    - (i) track for a new railway line, but not including a siding or passing or crossing loop outside Metropolitan Adelaide that is to be less than 1 km in length; or
    - (ii) track for an extension to an existing railway line where the length of new track is to be at least—
      - (A) within Metropolitan Adelaide—500 m;
      - (B) outside Metropolitan Adelaide—2 km;
  - (b) infrastructure associated with a railway;
  - (c) if associated with a railway—
    - (i) a culvert or drain not more than 1 m deep; or
    - (ii) a pipe not more than 1 m in diameter.
- (2) The construction, alteration, extension, repair or maintenance (including any incidental excavation or filling) of any of the following:
- (a) tram or light rail track on—
    - (i) a public street or road; or
    - (ii) land owned by, or under the care, control and management of a Crown agency or instrumentality; or
    - (iii) unalienated Crown land;
  - (b) infrastructure associated with a tramway or light railway;
  - (c) if associated with a tramway or light railway—
    - (i) a temporary builder's office, shed, store or other similar building; or
    - (ii) a retaining wall; or
    - (iii) a bridge, other than a pedestrian bridge; or
    - (iv) a culvert or drain; or
    - (v) a pipe.
- (3) Building work in relation to a Class 10 building under the Building Code on railway land which is not within the area of a council, other than where the building is, or is to be, within a township or 50 m from the boundary of a township.
- (4) The alteration, extension, repair or maintenance of—
- (a) a bridge over railway land; or

- (b) a railway tunnel, or a tunnel under railway land.
- (5) An alteration to an area used for vehicle access, carparking, or the standing of vehicles, in association with the use of a railway, tramway or light railway, or other railway, tramway or light railway activities.
- (6) For the purposes of this clause, a reference to infrastructure associated with a railway, tramway or light railway includes a reference to infrastructure and related works required for the operation or maintenance of activities related to the railway, tramway or light railway.
- (7) In this clause—

**infrastructure** means any of the following:

  - (a) track structures (including over or under track structures);
  - (b) track supports;
  - (c) any structure or equipment associated with any power, signalling, control or communications system (including signalling boxes, huts, gantries, masts, towers, poles and frames);
  - (d) installations or equipment for lighting platforms or other parts of any station, yards or sidings, other than within a designated airport buildings heights area;
  - (e) warning, directional or other signs;
  - (f) shelters and furniture, including information boards and seating, associated with any railway, tramway or light railway;
  - (g) other infrastructure related to the operation or maintenance of railway, tramway or light railway activities;

**railway land** means—

- (a) land within a rail corridor or rail reserve, including any associated sidings; and
- (b) railway yards; and
- (c) other land over which a railway track, or tram or light rail track, passes;

**railway line** includes sidings and crossing or passing loops.

## 15—Gas infrastructure

- (1) Subject to subclause (2), the construction, alteration, extension, repair or maintenance (including any incidental excavation or filling) of gas infrastructure.
- (2) Subclause (1) does not apply where the gas infrastructure is within—
  - (a) a local heritage place; or
  - (b) coastal land.
- (3) In this clause—

**gas infrastructure** has the same meaning as in the *Gas Act 1997*, but does not include a transmission pipeline within the meaning of the *Petroleum Act 2000*.

## 16—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—
  - (a) to a designated photovoltaic system with a generating capacity of more than 5 MW that is to be connected to the State's power system; or
  - (b) if the place where the designated photovoltaic system is installed is a local heritage place and, 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 kg; or
- (b) a photovoltaic system comprising solar photovoltaic panels that have a total weight exceeding 100 kg if—
  - (i) the weight load is distributed so that it does not exceed 100 kg 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 mm 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.

## 17—Aquaculture development

Any form of aquaculture development in an aquaculture zone set out in an aquaculture policy under the *Aquaculture Act 2001*.

## 18—Removal of trees in certain cases

- (1) A tree-damaging activity in relation to a regulated tree (including a tree that also constitutes a significant tree) if—
  - (a) the tree is within 1 of the following species of trees:

*Melaleuca styphelioides* (Prickly-leaved Paperbark)

*Lagunaria patersonia* (Norfolk Island Hibiscus); or
  - (b) the tree is within 20 m of a dwelling in a Medium or High Bushfire Risk area within a Hazards (Bushfire Protection) Overlay under the Planning and Design Code; or
  - (c) the tree is on land under the care and control of the Minister who has primary responsibility for the environment and conservation in the State; or

- (d) the tree is on land under the care and control of the Board of the Botanic Gardens and State Herbarium; or
  - (e) the tree is dead.
- (2) For the purposes of subclause (1)(b), the distance between a dwelling and a tree will be measured from the base of the trunk of the tree (or the nearest trunk of the tree to the dwelling) to the nearest part of the dwelling at natural ground level.

## **19—Cultana Training Area**

- (1) An act or activity carried out within the Cultana Training Area by or on behalf of, or with the authority or permission of, the Commonwealth Department of Defence or an arm of the Australian Defence Force.

- (2) In this clause—

***Cultana Training Area*** means the land comprised by the following:

- (a) the Allotment comprising Pieces 81, 82 and 83 in Deposited Plan 85852 Out of Hundreds (Port Augusta);
- (b) Allotment 6 in Deposited Plan 88907 Hundred of Handyside County of Manchester and Out of Hundreds (Port Augusta);
- (c) Sections 4, 13, 14 and 15, Hundred of Jenkins County of Manchester;
- (d) Allotment 7 in Deposited Plan 29397 Out of Hundreds (Port Augusta);
- (e) the Allotment comprising the Pieces 8, 9, 10 and 11 in Deposited Plan 29397 Out of Hundreds (Port Augusta);
- (f) Allotment 68 in Deposited Plan 85851 Hundred of Cultana County of York;
- (g) Allotment 72 in Deposited Plan 85851 Hundred of Cultana County of York;
- (h) the Allotment comprising Pieces 30, 31 and 32 in Deposited Plan 85850 Out of Hundreds (Whyalla), Out of Hundreds (Port Augusta) and Hundred of Cultana County of York;
- (i) Allotment 67 in Deposited Plan 93251, Hundred of Cultana County of York and Out of Hundreds (Port Augusta).

## **20—Recreation paths**

- (1) The following development undertaken by or on behalf of the Crown, a council or other public authority:
- (a) the construction, reconstruction, alteration, repair or maintenance of a recreation path (including on coastal land);
  - (b) any ancillary development in connection with such a path, including—
    - (i) excavation, importation of fill and other earthworks; and
    - (ii) footings and other support structures; and
    - (iii) landscaping; and
    - (iv) the installation of—
      - (A) safety features; and

- (B) directional signs, information boards, lighting, seating, weather shelters, rubbish bins or other street furniture.

(2) In this clause—

*recreation path* means a path that—

- (a) is under the care, control and management of the Crown, a council or other public authority; and
- (b) is open to the public for walking, cycling or similar recreational activities, without payment of a charge,

and includes a boardwalk.

## 21—Car parks etc in Osborne area of City of Port Adelaide Enfield

(1) The following development undertaken within the designated Osborne area:

(a) development—

- (i) for the purposes of car parks and pedestrian bridges over a railway; and
- (ii) involving the temporary placement of soil and other materials related to development in the vicinity of the designated Osborne area for the purposes of constructing a facility for the making of ships or a facility for the making of submarines (or both);

(b) development that is ancillary to development within the ambit of paragraph (a), including—

- (i) excavation, importation of fill and other earthworks; and
- (ii) footings and other support structures; and
- (iii) landscaping; and
- (iv) the installation of—
  - (A) safety features; and
  - (B) directional signs, information boards, lighting, seating, weather shelters, rubbish bins or other street furniture.

(2) In this clause—

*designated Osborne area*—the designated Osborne area is comprised of—

- (a) the area designated as "car park" in the map set out in Schedule 16; and
- (b) the area designated as "car park" in the map set out in Schedule 17.

## Schedule 5—Exclusions from definition of development—State heritage areas

Note—

An act or activity specified in this Schedule is declared not to constitute development for the purposes of the Act, subject to the limitations set out in regulation 3D.

## 1—Advertising displays

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, the 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 0.1 m<sup>2</sup>;
  - (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;
  - (iii) that not more than 2 such advertisements are displayed in relation to the same building; or
- (e) 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 m above ground level;
  - (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 1 building or site is not more than 2 m<sup>2</sup>;

- (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 1 month prior to the event and 1 week after the conclusion of the event;
- (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;
  - (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;
  - (iii) that the advertisement area is not more than 3 m<sup>2</sup>; or
- (h) that constitutes a moveable sign within the meaning of the *Local Government Act 1999* and is placed on a public street, road or footpath within an area of the council under that Act; or
- (i) that is a real estate "for sale" or "for lease" sign, subject to the following conditions:
  - (i) that the sign is situated on the land which is for sale or for lease;
  - (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;
  - (iii) that the sign is not more than 4 m<sup>2</sup> in advertisement area;
  - (iv) that the sign is removed within 2 weeks after the completion of the sale or the entering into of the lease.

## **2—Council works**

- (1) The placement, replacement, installation, construction, reconstruction, alteration, repair or maintenance by the council of playground equipment on or in a recreation area.
- (2) The repair or maintenance by the council of an item of street furniture (including directional signs, seating or rubbish bins), other than lighting infrastructure or a weather shelter.
- (3) The replacement, construction, reconstruction, alteration, repair or maintenance by the council of a road, drain or pipe that does not materially affect the heritage value of the place.

## **3—Retirement units**

The conferral of a right to occupy a residential unit under the *Retirement Villages Act 2016*.

## **4—Sundry minor operations**

- (1) The construction, reconstruction, repair or alteration of, or addition to, any of the following (including any incidental excavation or filling):
  - (a) an outbuilding in which human activity is secondary, and which—
    - (i) is behind a building or screened from view from a public road by a building; and
    - (ii) is detached from and ancillary to a building erected on the site, or for which consent has been granted by the relevant authority; and
    - (iii) has a total floor area not exceeding 10 m<sup>2</sup>, no roof span (being the horizontal distance between supporting walls, posts or columns of the outbuilding) exceeding 3 m, and no part higher than 2.5 m above the natural surface of the ground; and
    - (iv) 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 Planning and Design Code for the road (or a portion of the road);
  - (b) a television aerial or antenna that is attached to the rear side of a chimney and not more than 1 m in height above the topmost point of the chimney;
  - (c) a swimming pool constructed in association with a dwelling and intended primarily for use by the occupants of that dwelling, and which—
    - (i) does not have a depth exceeding 300 mm; and
    - (ii) is not within 10 m of a boundary of a road on to which the relevant dwelling faces, and not within 3 m of any other boundary of the relevant allotment; and
    - (iii) does not have a finished height, and would not have any associated structure (other than a fence with a finished height), exceeding 1.5 m (measured from ground level);

- (d) without limiting paragraph (c), an aboveground or inflatable swimming pool constructed in association with a dwelling and intended primarily for use by the occupants of that dwelling, and which does not incorporate a filtration system;
- (e) a spa pool constructed in association with a dwelling and intended primarily for use by the occupants of that dwelling and situated behind the dwelling, and which does not have a maximum capacity exceeding 680 L;
- (f) a fence not exceeding 2 m in height (measured (if relevant) from the lower of the 2 adjoining finished ground levels), other than—
  - (i) a fence situated on the boundary of the relevant allotment with a road (other than a laneway); or
  - (ii) —
    - (A) if there is no adjacent building facing the same road on to which the building faces—a fence situated between the building line of the main face of a building and the road on to which the building faces; or
    - (B) if there is an adjacent building facing the same road on to which the building faces—a fence situated between a notional line drawn between the nearest front corner of each building to the other building and the road on to which the buildings face,  
  
(and for the purposes of this subparagraph buildings separated only by a laneway will still be taken to be adjacent); or
  - (iii) —
    - (A) a masonry fence; or
    - (B) a fence any part of which is formed from masonry (including, for example, a fence that includes masonry piers or columns),  
  
that exceeds (or would exceed) 1 m in height (measured (if relevant) from the lower of the 2 adjoining finished ground levels); or
  - (iv) a fence that is (or is to be) a safety fence for a swimming pool approved for construction, or requires approval for construction, on or after 1 July 1993; or
  - (v) a brush fence that is (or is to be) closer than 3 m to an existing or proposed Class 1 or 2 building under the Building Code, with the distance to be measured from any part of the brush fence and from any part of an external wall of the building (being an external wall within the meaning of the Building Code) and with this subparagraph not extending to a repair of an existing brush fence that does not enlarge or extend the brush fence;
- (g) a retaining wall that retains a difference in ground levels not exceeding 1 m;
- (h) a water tank (and any supporting structure) that—
  - (i) is part of a roof-drainage system for a building; and

- (ii) has a total floor area not exceeding 6 m<sup>2</sup>; and
  - (iii) has no part higher than the eaves on the nearest part of the building; and
  - (iv) is situated behind or to the side of the building;
- (i) a temporary builder's office, shed, store or other similar building that—
  - (i) 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) is to be removed at the completion of the relevant building work; and
  - (iii) is positioned on the ground and totally within the site of the building work.
- (2) The repair, maintenance or internal alteration of a building that—
  - (a) does not involve demolition of any part of the building (other than the removal of fixtures, fittings or non load-bearing partitions); and
  - (b) will not adversely affect the structural soundness of the building or the health or safety of any person occupying or using it; and
  - (c) is not inconsistent with any other provision of this Schedule.
- (3) The installation or alteration of a building, or the making of any excavation or filling, necessary for or incidental to the installation of any electrical, gas, water or sewage and sullage 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.
- (4) The construction, reconstruction, repair or alteration of a pergola associated with an existing dwelling (whether attached to the building or freestanding)—
  - (a) that does not have a roof; and
  - (b) where each freestanding side of which is open; and
  - (c) where no part of which is higher than 4 m above the ground; and
  - (d) that is not being constructed or altered 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 Planning and Design Code for the road (or that portion of the road); and
  - (e) that is not situated in front of the dwelling.
- (5) 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) is to be installed at the back of the building, or on the side of the building but at least 6 m back from the front wall of the building; and
  - (e) does not encroach on a public street or affect the ability of the place to resist the spread of fire.
- (6) The construction of a temporary building by, or with the authorisation of, the 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 incidental to the purpose for which the building is erected).
- (7) Any work undertaken solely for the purposes of—
- (a) fitting a smoke alarm in accordance with the requirements under regulation 95; or
  - (b) installing a skylight; or
  - (c) replacing roofing materials, guttering or down-pipes with the same or similar materials or items; or
  - (d) replacing windows where the kind of materials, style and dimensions are not changing; or
  - (e) connecting a building or structure to the National Broadband Network (including the installation of fixed-line telecommunications facilities).
- (8) In this clause—
- brush** means—
- (a) Broombrush (*Melaleuca uncinata*); and
  - (b) any other form of dried vegetation material that has similar fire characteristics to *brush*;

**brush fence** includes—

- (a) a fence that is predominantly constituted by brush; and
- (b) a gate that is predominantly constituted by brush;

**masonry** means stone, brick, terracotta or concrete block or other similar building unit or material, or a combination of such materials;

**swimming pool** includes a paddling pool.

## 5—Use of land and buildings

The use of land and the use of any lawfully-erected building that 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 that 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;

- (b) the use of any land or building for the supply, conversion, transformation or control of electricity by 1 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;
- (c) the keeping of animals, birds, or other livestock (other than horses, sheep, alpacas, 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);
- (d) the parking of any vehicle not exceeding 3 000 kg in weight (including the weight of any attached trailer) on land used for residential purposes.

## **6—Painting**

Painting of a building, other than painting that involves painting a previously unpainted brick or stone exterior surface of an existing building.

## **Schedule 6—Relevant authority—Commission**

### **1—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 4 additional allotments; or
    - (iv) the construction of a detached dwelling that will be the only dwelling on the allotment; or
    - (v) a tree-damaging activity undertaken in relation to a regulated tree; or
    - (vi) development of any kind undertaken outside Metropolitan Adelaide;
  - (b) development undertaken by the Urban Renewal Authority established under the *Urban Renewal Act 1995*, 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 commencement of an advertising display in relation to a division of land if the display is not situated on the site of the division of land and if the display is a real estate "for sale" or "for lease" sign, subject to the condition 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; or
  - (iv) the construction of a dwelling on a site if approval of the division of land in relation to the site on which the dwelling is to be situated has been authorised by the Commission for use for residential purposes.
- (2) The following classes of development in the areas of all councils:
- (a) prescribed mining operations, excluding the construction or excavation of borrow pits;
  - (b) development within a precinct under the *Urban Renewal Act 1995*, other than development within the precinct that falls within a class of development specified as development that is to be taken to be deemed-to-satisfy development for the purposes of the *Planning, Development and Infrastructure Act 2016*.

## 2—Adelaide Park Lands

- (1) The following classes of development within the Adelaide Park Lands:
- (a) development undertaken by a State agency (other than in partnership or joint venture with a person or body that is not a State agency);
  - (b) development undertaken by a State agency for the purposes of essential infrastructure (whether or not in partnership or joint venture with a person or body that is not a State agency);
  - (c) development undertaken by a person where the development is initiated or supported by a State agency for the purposes of the provision of essential infrastructure and specifically endorsed by the State agency for the purposes of this clause;
  - (d) without limiting a preceding paragraph, development undertaken for the purposes of the provision of electricity infrastructure.
- (2) In subclause (1)—
- electricity infrastructure* has the same meaning as in the *Electricity Act 1996*;
- State agency* has the same meaning as in section 131 of the Act.

## 3—City of Adelaide—developments over \$10m

- (1) Development in the area of The Corporation of the City of Adelaide where the total amount to be applied to any work, when all stages of the development are completed, exceeds \$10 million.
- (2) Subject to subclause (3), development—
- (a) under an application to vary a development authorisation given by the Commission under this clause; or
  - (b) which, in the opinion of the Commission, is ancillary to or in association with a development the subject of an authorisation given by the Commission under this clause.

- (3) Subclause (2) does not apply to development involving a building in relation to which a certificate of occupancy has been issued.

#### **4—Inner Metropolitan Area—buildings exceeding 4 storeys**

- (1) Development that involves the erection or construction of a building that exceeds 4 storeys in height in any zone, subzone or overlay in Metropolitan Adelaide identified under the Planning and Design Code for the purposes of this clause.
- (2) Subject to subclause (3), development—
- (a) under an application to vary a development authorisation given by the Commission under this clause; or
  - (b) which, in the opinion of the Commission, is ancillary to or in association with a development the subject of an authorisation given by the Commission under this clause.
- (3) Subclause (2) does not apply to development involving a building in relation to which a certificate of occupancy has been issued.

#### **5—City of Port Adelaide Enfield—developments over \$3m in identified area**

- (1) Development in any zone, subzone or overlay in the City of Port Adelaide Enfield identified under the Planning and Design Code for the purposes of this clause where the total amount to be applied to any work, when all stages of the development are completed, exceeds \$3 million.
- (2) Subject to subclause (3), development—
- (a) under an application to vary a development authorisation given by the Commission under this clause; or
  - (b) which, in the opinion of the Commission, is ancillary to or in association with a development the subject of an authorisation given by the Commission under this clause.
- (3) Subclause (2) does not apply to development involving a building in relation to which a certificate of occupancy has been issued.

#### **6—West Beach Recreation Reserve**

All classes of development on that land bounded by bold black lines in the Schedule to the *West Beach Recreation Reserve Act 1987*.

#### **7—Private Open Space**

All classes of development on land subject to a proclamation continued in force and effect by virtue of Schedule 8 clause 37 of the Act or the *Statutes Repeal and Amendment (Development) Act 1993*, being a proclamation—

- (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*.

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## 8—City of Charles Sturt—developments over \$3m in identified area

- (1) Development in any zone in the City of Charles Sturt identified under the Planning and Design Code for the purposes of this clause where the total amount to be applied to any work, when all stages of the development are completed, exceeds \$3 million.
- (2) Without limitation, subclause (1) applies to—
  - (a) a variation of an application for development referred to in section 119(9)(a) of the Act if the development proposed to be varied has previously been given development authorisation under this clause by the Commission; and
  - (b) proposed development that the Commission considers to be ancillary to or in association with development that has previously been given development authorisation under this clause by the Commission,

but does not apply if—

- (c) the development that was previously given development authorisation is deemed-to-satisfy development or comprised of a building in relation to which a certificate of occupancy has been issued; or
- (d) in the case of paragraph (a)—the proposed variation is deemed-to-satisfy development; or
- (e) in the case of paragraph (b)—the proposed development is deemed-to-satisfy development.

## 9—Certain electricity generators

- (1) Development for the purposes of the provision of electricity generating plant with a generating capacity of more than 5 MW that is to be connected to the State's power system.
- (2) A reference in subclause (1) to *electricity generating plant* is a reference to electricity generating plant within the ambit of paragraph (a) of the definition of *electricity infrastructure* in section 4(1) of the *Electricity Act 1996*.
- (3) In this clause—

*power system* has the same meaning as in the *Electricity Act 1996*.

## 10—Railways

- (1) Development for purposes connected with the construction or operation of a railway that is to be undertaken on railway land.
- (2) In subclause (1)—

*railway land* has the same meaning as in Schedule 4 clause 14(7).

## 11—Show grounds

Development in a zone, subzone or overlay primarily designated for use in connection with show grounds identified under the Planning and Design Code for the purposes of this clause where the total amount to be applied to any work, when all stages of the development are completed, exceeds \$4 million.

## **12—Kangaroo Island—tourism development over \$3m in certain conservation areas**

Development for the purposes of tourism in those parts of the area of the Kangaroo Island Council identified as coastal or coastal conservation zones, subzones or overlays under the Planning and Design Code for the purposes of this clause where the total amount to be applied to any work, when all stages of the development are completed, exceeds \$3 million.

## **13—University developments over \$10m**

Development on land within Metropolitan Adelaide exceeding 10 000 m<sup>2</sup> occupied by a university if the total amount to be applied to any work, when all stages of the development are completed, exceeds \$10 million.

# **Schedule 7—Complying building work**

## **1—Dams**

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

## **2—Pergolas**

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

- (a) which does not have a solid roof; and
- (b) each freestanding side of which is open; and
- (c) no part of which is higher than 4 m above the ground.

## **3—Demolition**

The demolition of the whole of a building in respect of—

- (a) a local heritage place; or
- (b) a building in a zone, subzone or overlay identified under the Planning and Design Code for the purposes of Schedule 4 clause 10(b).

## **4—Alterations**

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 non load-bearing partitions); and
- (b) that will not adversely affect the structural soundness of the building or the health or safety of any person occupying or using it; and
- (c) that is not inconsistent with any other provision of this Schedule.

## **5—Building work outside council area**

Building work in relation to a Class 10 building under the Building Code which is not within the area of a council, other than building work within a township or 50 m from the boundary of a township.

## 6—Haysheds etc

The construction of—

- (a) a hayshed or implement shed not exceeding 500 m<sup>2</sup> in total floor area; or
- (b) a Class 10a building under the Building Code not exceeding 25 m<sup>2</sup> in total floor area,

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

- (c) will be at least 50 m from any allotment boundary; and
- (d) will be within a zone, subzone or overlay primarily designated for rural, farming, horticultural, primary industry or primary production use under the Planning and Design Code and within a part of the State outside the areas of the following councils:

- (i) Adelaide Plains Council;
- (ii) The Barossa Council;
- (iii) Barunga West Council;
- (iv) The District Council of Ceduna;
- (v) Clare and Gilbert Valleys Council;
- (vi) The Coorong District Council;
- (vii) Town of Gawler;
- (viii) Regional Council of Goyder;
- (ix) Light Regional Council;
- (x) Mid Murray Council;
- (xi) The District Council of Mount Remarkable;
- (xii) City of Playford;
- (xiii) City of Salisbury;
- (xiv) City of Victor Harbor;
- (xv) Wakefield Regional Council;
- (xvi) The District Council of Yankalilla.

## 7—Stockyards

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

## 8—Sundry minor operations

- (1) 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 15 m<sup>2</sup>, no roof span (being the horizontal distance between supporting walls, posts or columns of the outbuilding) exceeding 3 m, and no part of the building higher than 2.5 m above the natural surface of the ground; or
  - (b) a fence not exceeding 2.1 m in height, or 1 m in the case of a masonry wall or fence (both measured from the lower of the 2 adjoining finished ground levels), other than—
    - (i) a safety fence for a swimming pool which is approved for construction, or requires approval for construction, on or after 1 July 1993; or
    - (ii) a brush fence that is (or is to be) closer than 3 m to an existing or proposed Class 1 or 2 building under the Building Code, with the distance to be measured from any part of the brush fence and from any part of an external wall of the building (being an external wall within the meaning of the Building Code) and with this subparagraph not extending to a repair of an existing brush fence that does not enlarge or extend the brush fence; or
  - (c) —
    - (i) a windmill; or
    - (ii) a flagpole,  
which is not attached to a building and is not more than 10 m in height, or which is attached to a building and is not more than 4 m 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 1 m; 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 15 m<sup>2</sup> and a total volume not exceeding 60 000 L; and
    - (iii) is located wholly above ground; and
    - (iv) has no part higher than 4 m 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; or
  - (g) an electricity powerline or any associated structure.
- (2) In this clause—
- brush** means—
- (a) Broombrush (*Melaleuca uncinata*); and
  - (b) any other form of dried vegetation material that has similar fire characteristics to *brush*;
- brush fence** includes—
- (a) a fence that is predominantly constituted by brush; and
  - (b) a gate that is predominantly constituted by brush.

## 9—Aquaculture

The construction in coastal waters of an offshore marine aquaculture structure that is embedded in the sea bed or moored from a mooring point embedded in the sea bed.

## 10—Aerials, towers etc

- (1) Other than in respect of a local heritage place, the construction, alteration or extension of prescribed infrastructure (including any incidental excavation or filling) if the total height of the prescribed infrastructure, when constructed, altered or extended, will not exceed (taking into account attachments (if any))—
- (a) in the case of prescribed infrastructure not attached to a building—10 m;
  - (b) in the case of prescribed infrastructure attached to a building—4 m above the topmost point of attachment to the building, disregarding any attachment by guy wires.
- (2) In this clause—
- building** does not include prescribed infrastructure;
- prescribed infrastructure** has the same meaning as in Schedule 4 clause 13.

## 11—Railways

- (1) Other than in respect of a local heritage place, building work undertaken for the purposes of the construction, alteration, extension, repair or maintenance of railway track (including track for a siding or a crossing or passing loop), other than building work associated with a new bridge or tunnel.
- (2) In this clause—
- bridge** includes a bridge designed to be used by—
- (a) vehicles other than trains; or
  - (b) people.

## Schedule 8—Plans

### 1—Plans for certain types of development

An application for planning consent that relates to an outbuilding, carport, garage, verandah or pergola must be accompanied by—

- (a) a site plan, drawn to scale, including appropriate bar and ratio scales, showing—
  - (i) the boundaries and dimensions of the site; and
  - (ii) the position of any existing or proposed building on the site; and
  - (iii) the minimum distance between the proposed building or structure and the front, side and rear boundaries of the site; 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 location of car parking spaces on the site; and
  - (vii) the 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 *South Australian Public Health Act 2011*; and
- (b) a plan drawn to scale—
  - (i) in the case of a garage or outbuilding—showing the floor plan of the garage or outbuilding, its dimensions and the location of any windows or doors; or
  - (ii) in any other case—showing the dimensions of the structure and its attachment or relationship to the existing dwelling; and
- (c) elevation drawings, drawn to scale (including appropriate bar and ratio scales), of building heights in relation to any relevant or proposed building or structure that show—
  - (i) the front, rear and side views of the proposed building or structure; and
  - (ii) the existing ground level, proposed floor level (if relevant), roof pitch and building or structure height (both to the gutters and to the maximum roof ridge); and

- (d) a schedule of colours for any cladding.

## 2—Plans for residential alterations, additions and new dwellings

An application for planning consent that relates to 1 or more proposed dwellings, or the alteration of or addition to an existing dwelling, must be accompanied by—

- (a) a site plan, drawn to scale, including appropriate bar and ratio scales, showing—
- (i) the boundaries and dimensions of the site; and
  - (ii) the position of the minimum front and side setbacks of any existing or proposed building on the site; and
  - (iii) the minimum distance between any proposed building and the front, side and rear boundaries of the site; and
  - (iv) existing ground and floor levels (if relevant), and proposed finished floor levels and proposed site (or "bench") levels, including in relation to the top of any kerb level, showing the height and location of any earthworks or retaining walls (if relevant); and
  - (v) 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
  - (vi) the location and dimension of car parking spaces that are not fully enclosed or covered before and after completion of the proposed development; and
  - (vii) 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
  - (viii) the north point; and
  - (ix) 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 *South Australian Public Health Act 2011*; and
- (b) a floor plan drawn to scale, showing the location and purpose of rooms and other areas at the completion of the development; and
- (c) elevation drawings, drawn to scale (including appropriate bar and ratio scales), in relation to any relevant or proposed building, showing—
- (i) the elevation of each side of each proposed building; and
  - (ii) existing and proposed ground levels; and
  - (iii) proposed internal floor levels (relative to adjacent ground levels); and
  - (iv) ceiling heights; and

- (v) in relation to the roof—
    - (A) the height (relative to the adjacent ground level) of the eaves and the ridge; and
    - (B) the pitch; and
    - (C) a description of the materials comprising the roof; and
  - (vi) the dimensions of proposed eave overhangs; and
  - (vii) the dimensions of proposed external doors and windows; and
  - (viii) a description of the proposed materials and finishes of all external surfaces, including walls, doors and windows; and
  - (ix) a description of proposed measures to be applied to any windows (other than ground level windows) or balconies designed to provide for privacy; and
  - (d) in the case of an application proposing deemed-to-satisfy development involving the construction of 1 or more new dwellings—
    - (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 or in the vicinity of the land; and
    - (ii) if—
      - (A) the applicant has indicated; 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 or in the vicinity of the land, other than if the previous use or activity was for residential purposes, a site contamination audit report (within the meaning of the *Environment Protection Act 1993*) which states—
        - (C) that site contamination does not exist (or no longer exists) at the allotment; or
        - (D) 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,
- (unless the relevant authority is already in possession of such a report, or is otherwise satisfied that such a report is not required).

### 3—Plans for swimming pools

An application for planning consent that involves a swimming pool must be accompanied by a plan of the proposed swimming pool, drawn to scale (including appropriate bar and ratio scales), showing—

- (a) proposed setbacks from the boundaries of the site; and

- (b) the location of the pump and other equipment and details of any enclosure in which the pump or other equipment is to be located, including a description of the material comprising the enclosure; and
- (c) the location of any existing or proposed tanks for an on-site sewerage or waste disposal system installed or to be installed (as the case may be) in compliance with the *South Australian Public Health Act 2011*.

#### 4—Plans for building work

- (1) An application for building 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) if the building work falls within the category of accepted development and involves a garage or carport—the location and gradient 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*; and
    - (vii) the location of any regulated tree on the site or on adjoining land; and
    - (viii) the approximate north point; and
    - (ix) the location of any existing or proposed tanks for an on-site sewerage or waste disposal system installed or to be installed (as the case may be) in compliance with the *South Australian Public Health Act 2011*; and
  - (b) drawings showing—
    - (i) a dimensioned plan of each floor level, drawn to a scale of not less than 1:200; and
    - (ii) dimensioned elevations and sections of any proposed building, drawn to a scale of not less than 1:200; and
    - (iii) the sizes and locations of footings and other structural components, drawn to a scale of not less than 1:200; and

- (iv) such other details as may be necessary, drawn to a scale of not less than 1:200; 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; and
- (f) if the building work falls within the category of accepted development—
  - (i) if a vehicle access point is to be established—if relevant, documentary evidence that it has been authorised under section 221 of the *Local Government Act 1999*; and
  - (ii) information about the material and colour of any cladding that is to be used; and
- (g) if the building work involves the construction or alteration of, or addition to—
  - (i) a swimming pool or spa pool; or
  - (ii) a safety fence or barrier for a swimming pool or spa pool,  
details relating to the proposed swimming pool, spa pool, fence or barrier (as the case requires), including, in the case of the construction of a swimming pool, a plan of the proposed swimming pool, drawn to a scale of not less than 1:200 (including appropriate ratio scales), showing—
    - (iii) the dimensions of the swimming pool and swimming pool safety features; and
    - (iv) proposed setbacks from the boundaries of the site; and
    - (v) the location of the pump and other equipment; and
- (h) if the building work involves the construction or alteration of, or addition to, a retaining wall, a plan of the proposed retaining wall, drawn to a scale of not less than 1:200, including appropriate ratio scales—
  - (i) showing the location and dimensions of the proposed retaining wall, specifying the minimum and maximum height of the wall of relevant points; and
  - (ii) showing elevation drawings, drawn to scale, being a scale of not less than 1:200 (including appropriate ratio scales), showing a side view of the wall, existing ground level and minimum and maximum wall heights; and
  - (iii) describing the material comprising the retaining wall; and

- (i) if the building work involves the installation, alteration, relocation or removal and reinstatement of a roof truss within the ambit of the Minister's Schedule 8 list of roof truss information—the details relating to the truss required by the Minister's Schedule 8 list of roof truss information; and
  - (j) if the building work—
    - (i) relates to a building, or class of building, designated by the Minister by notice published in the Gazette; and
    - (ii) involves the use of a building product, or kind of building product, designated by the Minister in the notice in circumstances specified in that notice,  
the details relating to the building product required by the Minister in that same notice.
- (2) An application for building 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
  - (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) if 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 building 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 1 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 the 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 subclause (1)(b), (c), (d) and (e) (but relating to the substructure only); and
    - (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 subclause (1)(b), (c) and (d).
- (5) If a development involves—
- (a) the construction of a fence closer than 3 m to an existing or proposed Class 1 or 2 building under the Building Code; or
  - (b) the construction of a Class 1 or 2 building under the Building Code closer than 3 m to an existing or proposed fence,

at least 1 plan or other document provided for the purposes of a preceding subclause must describe or indicate the material that makes up, or is proposed to make up, the fence (as the case requires).

- (6) For the purposes of subclause (5), the distance of 3 m will be measured from any part of an existing or proposed fence and from any part of an existing or proposed external wall of the relevant building (being an external wall within the meaning of the Building Code).
- (7) In subclause (1)—  
**Minister's Schedule 8 list of roof truss information** means a list of roof truss information published by the Minister in the Gazette for the purposes of subclause (1)(i).
- (8) In subclause (5)—  
**construction**—
- (a) in relation to a fence—includes an alteration of, or addition to, a fence but does not include the repair of an existing fence that does not enlarge or extend the fence; and
  - (b) in relation to a Class 1 or 2 building—means building or re-building, erecting or re-erecting, or extending or altering, the building.

## 5—Requirements for development near coast

If a development is to be undertaken on a site any part of which is in the Coastal Areas Overlay under the Planning and Design Code, 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 m, together with a written description of the nature of the exposed surface along that profile.

## 6—Statement relating to electricity infrastructure

- (1) An application relating to development that would involve the construction of a building may be accompanied by a declaration by or on behalf of the applicant to the effect that the erection of the building would not be contrary to the regulations prescribed for the purposes of section 86 of the *Electricity Act 1996*.
- (2) Subclause (1) does not apply to a development that is intended only to house, or that constitutes, electricity infrastructure (within the meaning of the *Electricity Act 1996*) (so that an application relating to such a development is not required to be accompanied by the declaration referred to in that subclause).
- (3) The declaration must be in a form determined by the Chief Executive and published on the SA planning portal.

## 7—Requirements for general land division applications for development approval—proposal plans

- (1) This clause does not apply with respect to a division of land which is deemed-to-satisfy development under the Planning and Design Code.

**Note—**

Only a "final plan" is required for a division of land which is deemed-to-satisfy development under the Planning and Design Code.

- (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) if 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 ....."; or
    - (B) if 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 ....."; or
    - (C) if 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; or

- (D) if 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;
  - (ix) the location and gradient 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*;
  - (x) the location of any regulated tree on the site or on adjoining land, including details of the species of tree and trunk circumference; and
- (b) be drawn in accordance with the following rule of scale:
- (i) if the area of the smallest allotment is one-fifth of 1 ha or under, a scale of not less than 1:1 000;
  - (ii) if the area of the smallest allotment is over one-fifth of a hectare and under 1 ha, a scale of not less than 1:2 500;
  - (iii) if the area of the smallest allotment is 1 ha or over, a scale so that such allotment or block will be delineated by no less than 3 cm<sup>2</sup> on the plan.
- (3) A plan which provides for the division of land into more than 5 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.

## 8—Additional requirements for community plans

- (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 Act).
- (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; or
  - (b) in the case of a tertiary plan—must define the secondary lot.

### Note—

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 6 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.

## 9—Land division certificates—final plan

A land division plan lodged for—

- (a) a certificate under section 138 of the Act; and
- (b) a division of land which is deemed-to-satisfy development under the Planning and Design Code,

must comply with—

- (c) in the case of the division of land under Part 19AB of the *Real Property Act 1886*—the requirements for plans under that Act; or
- (d) 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; or
- (e) in the case of the division of land by strata plan under the *Strata Titles Act 1988*—the requirements for plans under that Act.

## 10—Activities of environmental significance

- (1) This clause applies with respect to an application that involves a development that must be referred to the Environment Protection Authority under item 16 of the table in Schedule 9 clause 3.
- (2) An application to which this clause applies 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

- (ii) the location of the proposed development and, as relevant, any place on the site where an activity specified by the Planning and Design Code as an activity of environmental significance is to be carried out; and
  - (iii) the positions, dimensions and uses of any proposed or existing structures (including fences and retaining walls), and the location and nature of any proposed or existing easements; and
  - (iv) any significant topographical features (including any creek or flood plain); and
  - (v) the levels and slope of the site; and
  - (vi) the method of drainage, and the direction of any stormwater, and any works or services that are proposed to be installed or used in connection with the management of water; and
  - (vii) the location and size of any proposed or existing dams or bores; and
  - (viii) the location and nature of any proposed or existing effluent disposal facilities that are not to be connected to disposal or treatment services; and
  - (ix) the internal layout of any proposed or existing building to be used in connection with an activity specified by the Planning and Design Code as an activity of environmental significance, and where each such activity is to be carried out; and
  - (x) the location of any proposed or existing wastewater management system to be used in connection with an activity specified by the Planning and Design Code as an activity of environmental significance; and
  - (xi) the location of any proposed or existing waste storage, processing or disposal areas; and
  - (xii) the location of any proposed or existing access points for vehicles, and any areas of the site on which vehicles may be driven; and
  - (xiii) the approximate north point; and
- (b) a plan or description of the surrounding area that identifies or describes—
- (i) the location of the site in relation to adjacent land; and
  - (ii) the distance to the nearest building (if any) on each piece of adjacent land; and
  - (iii) the use of each piece of adjacent land; and
  - (iv) the location of any lake, creek, dam or other form of surface water within 500 m of a boundary of the site; and
- (c) a detailed description of the activities to be undertaken in the site (including the proposed nature and operational capacity of the activities), and information on each of the following (insofar as may be relevant):
- (i) methods to be used to minimise potential impacts (including noise, odours, fumes, dust and other airborne emissions);

- (ii) methods to be used during any works and construction for the purposes of the development to prevent soil that is eroded;
- (iii) the type and volume of waste to be generated on the site;
- (iv) arrangements for the storage and disposal of waste, stormwater and sewage;
- (v) the predicted human health and environmental impacts of the activities;
- (vi) the type and number of vehicles using the site, traffic movements into, out of and around the site, and the kind of surfaces on which vehicles will be moving;
- (vii) the hours and days of operation or trading;
- (viii) the excavations, earthworks or embankments to be undertaken or created for the purposes of the development;
- (ix) how soil erosion will be prevented, and how sediment or pollutant that is generated by such works will be minimised and managed, and how it will be prevented from affecting adjoining land.

### **11—Water resources requirements**

- (1) This clause applies with respect to an application that involves a development that must be referred to the Chief Executive of the Department of the Minister responsible for the administration of the *Natural Resources Management Act 2004* under item 7 of the table in Schedule 9 clause 3.
- (2) An application to which this clause applies must be accompanied by a document which specifies—
  - (a) the estimated water allocation requirements for the relevant development; and
  - (b) the source or sources from which it is proposed that the water required for the purposes of the relevant development will be obtained.

### **12—Referrals with respect to River Murray Protection Areas**

- (1) This clause applies with respect to an application that involves a development that must be referred to the Minister for the time being administering the *River Murray Act 2003* under item 9 or 10 of the table in Schedule 9 clause 3.
- (2) An application to which this clause applies 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
    - (ii) the location of the proposed development and, as relevant, any place on the site where an activity specified in the relevant item of the table in Schedule 9 clause 3 is to be carried out; and
    - (iii) any significant topographical features (including the contours of the land and any creek or flood plain); and
    - (iv) the approximate location of any native vegetation; and

- (v) the method of drainage, including drainage management, and the direction of flow of any stormwater, and the location and nature of any works or services that are proposed to be installed or used in connection with the management of water (including stormwater); and
  - (vi) the location and nature of any proposed or existing effluent disposal facilities that are to be used in connection with the development and are not to be connected to disposal or treatment services; and
  - (vii) the location and method of construction of any proposed access track or road which is to give access to any waterfront (if any); and
  - (viii) the approximate north point; and
- (b) a plan or description of the surrounding area that identifies or describes—
- (i) the land uses of adjacent land; and
  - (ii) the location of any watercourse, wetland, dam or other form of surface water within 500 m of a boundary of the site; and
- (c) a detailed description of the activities to be undertaken on the site, and information on each of the following (insofar as may be relevant):
- (i) methods to be used to minimise potential impacts on the River Murray;
  - (ii) arrangements for the storage, treatment, disposal or re-use of waste, stormwater or sewage;
  - (iii) the excavations, earthworks or embankments to be undertaken or created for the purposes of the development, and how soil erosion will be prevented.
- (3) In this clause—
- native vegetation* has the same meaning as in the *Native Vegetation Act 1991*;
- River Murray* has the same meaning as in the *River Murray Act 2003*.

### **13—Referrals with respect to the use of River Murray water within the Murray-Darling Basin**

- (1) This clause applies in respect of an application that involves a development that must be referred to the Minister for the time being administering the *River Murray Act 2003* under item 11 of the table in Schedule 9 clause 3.
- (2) An application to which this clause applies 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
    - (ii) the location of any proposed or existing pumpsheds, pipes or other infrastructure for irrigation or drainage; and
    - (iii) the location and size of any proposed or existing dams or bores; and
    - (iv) the location on the site where the water is proposed to be used or applied; and

- (v) the approximate north point; and
- (b) detailed information on each of the following:
  - (i) the estimated water allocation requirements for the relevant development;
  - (ii) the source or sources from which it is proposed that the water required for the purposes of the relevant development will be obtained;
  - (iii) the capability of the soil on the site to sustain the proposed development;
  - (iv) the location of any place (whether or not on the site) from where water is proposed to be extracted.

#### **14—Additional requirements for bushfire prone areas**

An application for planning consent, building consent or consent under section 102(1)(c) or (d) of the Act that relates to development in a bushfire prone area identified under the Planning and Design Code must be accompanied by, or incorporate, the plans, drawings, specifications and other documents or drawings required under any relevant Ministerial building standard, insofar as they are relevant in the circumstances of the particular case.

#### **15—Additional requirements for certain electricity generators**

- (1) An application in respect of a proposed development for which the Commission is the relevant authority in accordance with Schedule 6 clause 9 must be accompanied by a certificate from the Technical Regulator certifying that the proposed development complies with the requirements of the Technical Regulator in relation to the security and stability of the State's power system.
- (2) In this clause—  
*power system* has the same meaning as in the *Electricity Act 1996*.

### **Schedule 9—Referrals**

#### **1—Interpretation**

- (1) In relation to each item in the table in clause 3—
  - (a) development that falls within the ambit of column 1 is prescribed as a class of development for the purposes of section 122 of the Act; and
  - (b) the body referred to in column 2 is prescribed as the body to which the relevant application is referred for the purposes of section 122 of the Act; and
  - (c) the term *Direction* specified in column 3 means that the prescribed body may direct the relevant authority (subject to any qualification referred to in the relevant item)—
    - (i) to refuse the relevant application; or

- (ii) if the relevant authority decides to consent to or approve the development—subject to any specific limitation under another Act as to the conditions that may be imposed by the prescribed body, to impose such conditions as the prescribed body thinks fit,  
(and that the relevant authority must comply with any such direction); and
  - (d) the period referred to in column 4 is prescribed for the purposes of section 122(1)(b) of the Act.
- (2) Despite the provisions of these regulations and, in particular, items 9 and 10 of the table in clause 3, an application within the ambit of an exemption from the requirement to be referred to the Minister for the River Murray under section 122 of the Act published by that Minister under section 22(18) of the *River Murray Act 2003* need not be referred to that Minister under this Schedule (and will not be subject to a fee with respect to the referral of the application under the *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019*).

**Note—**

An exemption issued by the Minister for the River Murray under section 22(18) of the *River Murray Act 2003* must be published in the Gazette. A list of the exemptions that have been issued may be found on the website of the Department for Environment and Water.

- (3) The Planning and Design Code may specify all development within an overlay or area (to which an item in the table in clause 3 applies) as a class of development for the purposes of the item.

## **2—Deferral of referral**

For the purposes of section 122(11) of the Act, the following provisions apply to a request under section 122(10) that a relevant authority defer a referral of an application under this Schedule to a particular stage in the process of assessment:

- (a) in the case of a development to which item 14 of the table in clause 3 applies—a request may only be made during the period commencing on lodgement of the application and ending on the granting of planning consent in respect of the development;
- (b) in any other case—a request may not be made in relation to the application.

## **3—Table**

**Planning, Development and Infrastructure (General) Regulations 2017—1.7.2019 to 3.12.2019**  
 Schedule 9—Referrals

<b>Development</b>	<b>Body</b>	<b>Function</b>	<b>Period</b>
<b>1—Development near the coast</b>			
Development that is—	Coast Protection Board	Direction	30 business days
(a) in the Coastal Areas Overlay under the Planning and Design Code; and			
(b) specified by the Planning and Design Code as development of a class to which this item applies.			
<b>2—Development affecting arterial roads</b>			
Development that is—	Commissioner of Highways	Direction	20 business days
(a) in the Key Outback and Rural Routes Overlay under the Planning and Design Code; and			
(b) specified by the Planning and Design Code as development of a class to which this item applies.			
<b>3—State heritage places</b>			
Development that is—	Minister for the time being administering the <i>Heritage Places Act 1993</i>	Direction	30 business days
(a) in the State Heritage Place Overlay or State Heritage Area Overlay under the Planning and Design Code; and			
(b) specified by the Planning and Design Code as development of a class to which this item applies.			
<b>4—Historic shipwrecks (State)</b>			
Development that is—	Minister for the time being administering the <i>Historic Shipwrecks Act 1981</i>	Direction	20 business days
(a) in the Historic Shipwrecks Overlay under the Planning and Design Code; and			
(b) specified by the Planning and Design Code as development of a class to which this item applies.			

Development	Body	Function	Period
<b>5—Historic shipwrecks (Commonwealth)</b>			
Development that is—	Commonwealth Minister for the time being administering the <i>Historic Shipwrecks Act 1976</i> (Commonwealth)	Direction	20 business days
(a) in the Historic Shipwrecks Overlay under the Planning and Design Code; and			
(b) specified by the Planning and Design Code as development of a class to which this item applies.			
<b>6—Activities that would otherwise require permit under <i>Natural Resources Management Act 2004</i></b>			
Development that—	The Minister responsible for the administration of the <i>Natural Resources Management Act 2004</i>	Direction	30 business days
(a) —			
(i) is in the Prescribed Watercourses Overlay under the Planning and Design Code; or (ii) relates to a dam; and			
(b) is specified by the Planning and Design Code as development of a class to which this item applies.			
<b>7—Certain activities that may give rise to water allocation issues under <i>Natural Resources Management Act 2004</i></b>			
Development that is—	The Chief Executive of the Department of the Minister responsible for the administration of the <i>Natural Resources Management Act 2004</i>	Direction	30 business days
(a) in the Prescribed Watercourses Overlay or Prescribed Wells Area Overlay under the Planning and Design Code; and			
(b) specified by the Planning and Design Code as development of a class to which this item applies.			

**Planning, Development and Infrastructure (General) Regulations 2017—1.7.2019 to 3.12.2019**  
 Schedule 9—Referrals

<b>Development</b>	<b>Body</b>	<b>Function</b>	<b>Period</b>
<b>8—Dams in water restriction areas</b>			
Development that will involve the construction or enlargement of a dam in a part of the State within the ambit of a notice under section 132 of the <i>Natural Resources Management Act 2004</i> .	The Chief Executive of the Department of the Minister responsible for the administration of the <i>Natural Resources Management Act 2004</i>	Direction	30 business days
<b>9—Development in River Murray Floodplain Area</b>			
Development that is—	Minister for the time being administering the <i>River Murray Act 2003</i>	Direction	30 business days
(a) in the River Murray Flood Plain Overlay under the Planning and Design Code; and			
(b) specified by the Planning and Design Code as development of a class to which this item applies.			
<b>10—Development in River Murray Tributaries Area</b>			
Development that is—	Minister for the time being administering the <i>River Murray Act 2003</i>	Direction	30 business days
(a) in the River Murray Tributaries Area Overlay under the Planning and Design Code; and			
(b) specified by the Planning and Design Code as development of a class to which this item applies.			

Development	Body	Function	Period
<b>11—Certain activities in Murray-Darling Basin Area</b>			
Development that is—	Minister for the time being administering the <i>River Murray Act 2003</i>	Direction	30 business days
<ul style="list-style-type: none"> <li>(a) in the Murray-Darling Basin Overlay under the Planning and Design Code; and</li> <li>(b) specified by the Planning and Design Code as development of a class to which this item applies.</li> </ul>			
<b>12—Development in high bushfire risk areas</b>			
Development that is—	South Australian Country Fire Service	Direction	30 business days
<ul style="list-style-type: none"> <li>(a) within a Hazards (Bushfire—High Risk) Overlay under the Planning and Design Code; and</li> <li>(b) specified by the Planning and Design Code as development of a class to which this item applies.</li> </ul>			
<b>13—Mining</b>			
Development that is—	Minister for the time being administering the Mining Acts	Direction	30 business days
<ul style="list-style-type: none"> <li>(a) in an Extractive Industry Zone, or any overlay in which the term "mineral resources" or "extractive industries" appears in the title, or any other overlay that relates to mineral resources or extractive industries under the Planning and Design Code; and</li> <li>(b) specified by the Planning and Design Code as development of a class to which this item applies.</li> </ul>			
<b>14—Electricity infrastructure</b>			
Development that involves the construction of a building where a declaration has not been given under Schedule 8 clause 6(1), other than—	Technical Regulator	Direction	20 business days
<ul style="list-style-type: none"> <li>(a) development of a kind referred to in Schedule 8 clause 6(2); or</li> <li>(b) development, or development of a class, excluded from the application of this item by the Planning and Design Code.</li> </ul>			

**Planning, Development and Infrastructure (General) Regulations 2017—1.7.2019 to 3.12.2019**  
 Schedule 9—Referrals

<b>Development</b>	<b>Body</b>	<b>Function</b>	<b>Period</b>
<b>15—Aquaculture development</b>			
Aquaculture development specified by the Planning and Design Code as development of a class to which this item applies, other than such development that is excluded from the application of this item by the Planning and Design Code.	Minister for the time being administering the <i>Aquaculture Act 2001</i>	Direction	20 business days
<b>16—Activities of environmental significance</b>			
Development—	Environment Protection Authority	Direction	30 business days
(a) that involves, or is for the purposes of, an activity specified by the Planning and Design Code as an activity of environmental significance, other than development, or development of a class, excluded from the application of this item by the Planning and Design Code; or			
(b) that is—			
(i) in the Mount Lofty Ranges Water Protection Area Overlay, River Murray Flood Plain Overlay or Water Protection Overlay under the Planning and Design Code; and			
(ii) specified by the Planning and Design Code as development of a class to which this item applies.			
<b>17—Airports</b>			
Development that is—	Commonwealth Minister for the time being administering the <i>Civil Aviation Act 1988</i> (Commonwealth)	Direction	20 business days
(a) in the Airport Building Heights Overlay or Building Near Airfields Overlay under the Planning and Design Code; and			
(b) specified by the Planning and Design Code as development of a class to which this item applies.			

## Schedule 10—Work that affects stability of other land or premises

FIGURE 1

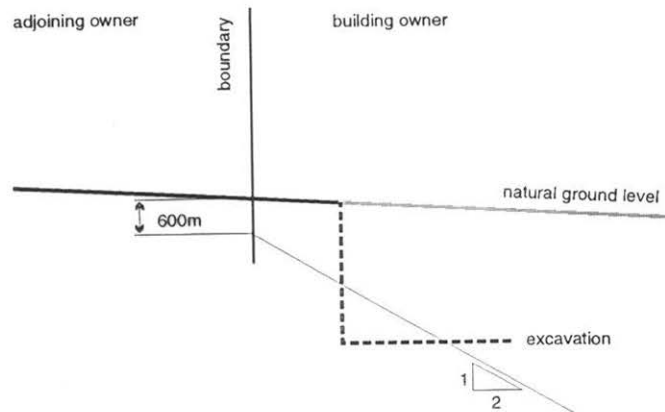
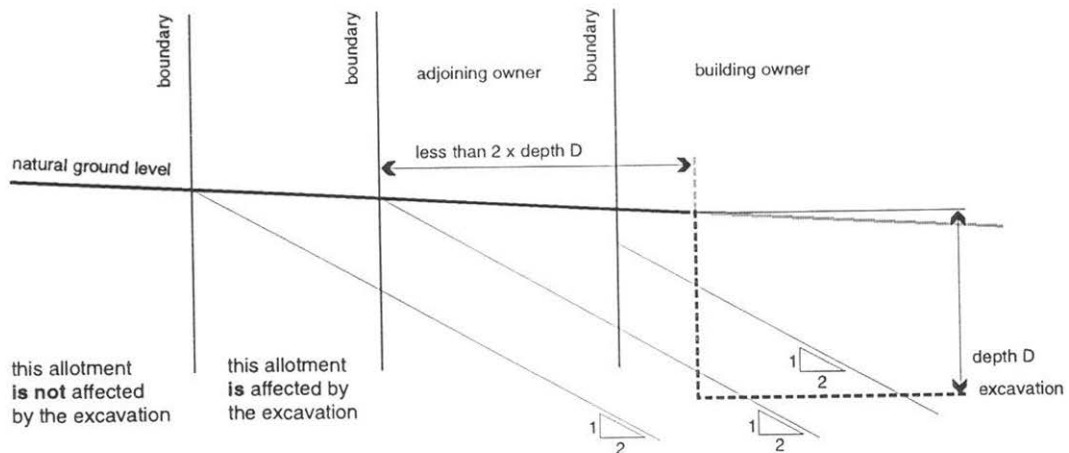


FIGURE 2



## Schedule 11—Form of endorsement of scheme description—community titles

### Form 1—Endorsement of scheme description

*Planning, Development and Infrastructure (General) Regulations 2017*

(regulation 66)

All the consents or approvals required under the *Planning, Development and Infrastructure Act 2016* 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 *Planning, Development and Infrastructure Act 2016* in relation to the division of the land (or a change in the use of the land) in accordance with this scheme description

*[Strike out whichever does not apply]*

This endorsement does not limit a relevant authority's right to refuse, or to place conditions on, development authorisation under the *Planning, Development and Infrastructure Act 2016* in relation to any other development envisaged by this scheme description

Signed:

Date:

**Note—**

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.

## **Schedule 12—Land division certificate—prescribed form**

*Planning, Development and Infrastructure Act 2016*

(section 138)

*Planning, Development and Infrastructure (General) Regulations 2017*

(regulation 89)

Approved in accordance with the requirements of section 138 of the *Planning, Development and Infrastructure Act 2016*.

Signed:

Description of signatory:

Date:

## **Schedule 13—State agency development exempt from approval**

### **1—Interpretation**

In this Schedule—

***battery storage facility*** means a facility for the purposes of 1 or more batteries of a total capacity of more than 25 MW that are capable of being charged, storing energy and discharging it into the State's power system;

***electricity generating plant*** means electricity generating plant within the ambit of paragraph (a) of the definition of ***electricity infrastructure*** in section 4(1) of the *Electricity Act 1996*;

*power system* has the same meaning as in the *Electricity Act 1996*.

## 2—General

- (1) The following forms of development, other than in relation to a State heritage place or within the Adelaide Park Lands, are excluded from the provisions of section 131 of the Act:
- (a) —
    - (i) the reconstruction (including widening), alteration, repair or maintenance of any road, bridge, railway, tramway, wharf, jetty or boat ramp (including pump-out facilities associated with a boat ramp); or
    - (ii) the maintenance of a levee bank;
  - (b) if the work is certified by a building 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 107 for the purposes of section 131 of the Act)—
    - (i) accepted development or deemed-to-satisfy development under the Planning and Design Code; or
    - (ii) the construction, reconstruction or alteration of any of the following items of infrastructure or works if only of a local nature, namely, a water treatment station, pressure regulating station, pumping station, desalination plant, waste water pumping station, water filtration plant, water storage tank, pump-out facility or sewerage works; or
    - (iii) the construction, reconstruction or alteration of any works or infrastructure that is ancillary to works or infrastructure referred to in subparagraph (ii); or
    - (iv) the construction, reconstruction or alteration of a battery storage facility for the purposes of supporting the security or reliability of the State's power system; or
    - (v) the construction, reconstruction or alteration of electricity generating plant—
      - (A) that is of a temporary nature; and
      - (B) that has a generating capacity of more than 50 MW,for the purposes of supporting the security or reliability of the State's power system; or
    - (vi) any infrastructure, structures, equipment or works associated with or ancillary to development under subparagraph (iv) or (v), including electricity powerlines, poles and fences, fuel supply infrastructure and roads or other means of access to such development; or

- (vii) 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
- (viii) the construction, reconstruction or alteration of a dwelling within an existing township, settlement or camp on—
  - (A) Trust Land within the meaning of the *Aboriginal Lands Trust Act 2013*; or
  - (B) "the lands" within the meaning of the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*; or
  - (C) "the lands" within the meaning of the *Maralinga Tjarutja Land Rights Act 1984*; or
- (ix) the development of land dedicated under the *National Parks and Wildlife Act 1972*; or
- (x) the construction, reconstruction or alteration of, or addition to a building contained within the existing security-fenced area of an existing electricity substation; or
- (xi) the construction, reconstruction or alteration of or addition to, a building which is to be located wholly underground; or
- (xii) the construction, reconstruction or alteration of, or addition to, an outbuilding (or a structure or building that is ancillary to an outbuilding), other than—
  - (A) the construction of a new building exceeding 1 storey in height; or
  - (B) where the outbuilding is not being constructed, added to or altered so that any part of the outbuilding is situated within the setback distance of the allotment prescribed under the Planning and Design Code (or, if no setback distance is so prescribed, within 900 mm of a boundary of the allotment); or
  - (C) where the relevant work would affect a local heritage place; or
- (xiii) the construction, reconstruction or alteration of, or addition to, a classroom or covered outdoor educational area within the area of an existing school, other than—
  - (A) where the building exceeds 1 storey in height; or
  - (B) where the classroom or covered outdoor educational area is not being constructed, added to or altered so that any part of the classroom or covered outdoor educational area is situated within the setback distance of the area (of the school) prescribed under the Planning and Design Code (or, if no setback distance is so prescribed, within 900 mm of a boundary of the area); or

- (C) where the building work would affect a local heritage place;  
or
- (xiv) building work associated with the alteration of, or addition to, a building within the area of an existing school, other than—
  - (A) where the work will result in—
    - the building exceeding 1 storey in height; or
    - the creation of a new access point to or from a public road or the alteration of an existing access point to or from a public road; or
    - fewer car parks on the site; or
  - (B) where the work will result in the building being situated within the setback distance of the area (of the school) prescribed under the Planning and Design Code (or, if no setback distance is so prescribed, within 900 mm of a boundary of the area); or
  - (C) where the building work would affect a local heritage place;  
or
- (xv) building work associated with the alteration of, or addition to, any other building, other than—
  - (A) where the work will result in the building exceeding 1 storey in height; or
  - (B) where the work will result in the building being situated within the setback distance of the allotment prescribed under the Planning and Design Code (or, if no setback distance is so prescribed, within 900 mm of a boundary of the allotment); or
  - (C) where the building work would affect a local heritage place;  
or
- (xvi) the alteration, repair or maintenance of, or addition to—
  - (A) a wall of an existing dam; or
  - (B) a spillway of an existing dam; or
- (xvii) the construction of advertising displays or signs, if carried out by a State agency within the meaning of section 131 of the Act; or
- (xviii) the installation, construction or alteration of playground equipment;  
or
- (xix) the construction of a shade sail if no part of the sail will be 5 m above ground or floor level (depending on where it is situated);
- (c) the construction, reconstruction, alteration, repair or maintenance of any drain, pipe or underground cable;
- (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;
- (e) the undertaking of any development for a period of not more than 2 years for the purposes of research, investigation or pilot plants;
- (f) 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;
- (g) the granting of a lease or licence in a dedicated forest reserve under the *Forestry Act 1950*;
- (h) an alteration to the cadastre arising from the administration of the *Crown Land Management Act 2009*, the *Pastoral Land Management and Conservation Act 1989*, or the *Irrigation Act 2009*, other than where 5 or more allotments are being created;
- (i) a division of land arising out of, or reasonably incidental to, the implementation of any matter referred to above;
- (j) 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;
- (k) excavating or filling (or excavating and filling) of up to 1 500 m<sup>3</sup> of material for the purpose of providing proper access to an existing wharf, jetty or mooring, but excluding excavating or filling where more than 1 500 m<sup>3</sup> of material has been excavated or filled at the particular place within the previous 12 months;
- (l) the division of land arising out of the granting of a lease under the *Harbors and Navigation Act 1993* for the purposes of aquaculture;
- (m) 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;
- (n) the construction, reconstruction or alteration of an electricity power line, other than a transmission line of 33 000 volts or more;

- (o) the construction, reconstruction, alteration, repair or maintenance of a beacon, buoy or other mark or structure (whether or not equipped with a light) intended to be an aide to navigation, other than a lighthouse, approved by the Marine Safety Section of the administrative unit of the Public Service that is responsible for assisting a Minister in the administration of the *Harbors and Navigation Act 1993*;
- (p) the construction, reconstruction, alteration, repair or maintenance of antennae and associated infrastructure or equipment related to a Global Navigation Satellite System;
- (q) the construction of an item of street furniture (including directional signs, lighting, seating, weather shelters, parking meters, parking pay stations and similar items or structures) that is associated with a development approved, or exempt from approval, under the Act, and directly related to an activity carried out at the site of the development, or on account of the development (whether or not the item is located on the site of the development or in a public place nearby);
- (r) the construction of any of the following, if carried out by a State agency within the meaning of section 131 of the Act:
  - (i) tourist information or interpretative signs;
  - (ii) structures (including billboards) at roadside information bays;
  - (iii) shade-cloth structures;
  - (iv) a post and wire fence, including a chain mesh fence;
- (s) works associated with the construction of a road on land which is—
  - (i) adjacent to the road; and
  - (ii) associated with the construction of the road;
- (t) the use of any land or building, or the construction or alteration of, or addition to, a building for the purposes of an aquifer recharge scheme;
- (u) the construction, reconstruction, alteration or addition to a security fence of an existing electricity substation or other electricity infrastructure within the meaning of the *Electricity Act 1996* subject to the following limitations:
  - (i) the fence must not exceed a height of 3.2 m (measured as a height above the natural surface of the ground);
  - (ii) —
    - (A) in the case of a fence that has a frontage to a public road—the fence must be a palisade or open metal fence or a chain mesh fence; or
    - (B) in any other case—the fence must be a palisade or open metal fence, a chain mesh fence or a fence clad in pre-colour treated sheet metal;
- (v) the construction, reconstruction or alteration of—

- (i) a correctional institution (within the meaning of the *Correctional Services Act 1982*) or training centre (within the meaning of the *Young Offenders Act 1993*); or
  - (ii) any works or infrastructure that is ancillary to such a correctional institution or training centre;
- (w) tree-damaging activity in relation to a regulated tree—
  - (i) that is on any land—
    - (A) on which a school, within the meaning of the *Education and Early Childhood Services (Registration and Standards) Act 2011*, is located or is proposed to be built; and
    - (B) that is under the care, control or management of the Minister responsible for the administration of that Act; or
  - (ii) that is on any land—
    - (A) on which a road is located or is proposed to be built or widened; and
    - (B) that is under the care, control and management of the Commissioner for Highways; or
  - (iii) that—
    - (A) is on railway land as defined in Schedule 4 clause 14(7); or
    - (B) is on land adjacent to railway land and is, in the opinion of the Rail Commissioner, detrimentally affecting the use of, or activities or operations on, the railway land.
- (2) Paragraphs (a), (b)(ii) to (vi), (b)(xi) to (xv) and (c) of subclause (1) do not apply to a proposed development if the site where the development is to be undertaken is subject to coastal processes, or in relation to which there is evidence to suggest that the site is likely to be affected by coastal processes within the foreseeable future, unless the Coast Protection Board has authorised the relevant development.
- (3) Development of a kind referred to in subparagraphs (iv) to (vi) of subclause (1)(b) may only be undertaken at a site identified by the Minister by notice published in the Gazette.
- (4) A notice published under subclause (3) may—
  - (a) identify 1 or more sites for the purposes of that subclause; and
  - (b) be varied or revoked by further notice published in the Gazette.
- (5) Except as otherwise specified in this Schedule, subclause (1) does not apply to any development which comprises a tree-damaging activity in relation to a regulated tree.
- (6) Subparagraph (v) of subclause (1)(b) expires on 1 July 2020.

### 3—Certain development in part of City of Mitcham

The following forms of development in a zone, subzone or overlay identified under the Planning and Design Code for the purposes of this clause (relating to the area of the City of Mitcham), are excluded from the provisions of section 131 of the Act:

- (a) the undertaking of any temporary development 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;
- (b) an alteration, or repairs, to a building that—
  - (i) are predominantly internal; and
  - (ii) do not change the external appearance or total floor area of the building; and
  - (iii) will not adversely affect the structural soundness of the building or the safety of any person occupying or using it.

### 4—River Murray area

The following forms of development are excluded from the provisions of section 131 of the Act, namely the construction, reconstruction, alteration, repair or maintenance of infrastructure within the meaning of the *River Murray Act 2003* by the Minister for the River Murray (or by a person who is acting for or on behalf of that Minister) where the work is being undertaken in connection with the management of water flows, or for other environmental purposes, within the River Murray system, as defined by that Act, for the purposes of the *River Murray Act 2003* or the *Murray-Darling Basin Act 1993*.

### 5—Certain development within the Park Lands

The following forms of development within the Adelaide Park Lands, other than in relation to a State heritage place, are excluded from the provisions of section 131 of the Act:

- (a) —
  - (i) the alteration, repair or maintenance of a road, bridge, railway or weir, or the reconstruction of a road where there is no increase in the area of road; or
  - (ii) the maintenance of a levee bank; or
  - (iii) the maintenance of the bank of the River Torrens or of any creek;

- (b) if the work is certified by a building certifier, or by some other 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 107 for the purposes of section 131 of the Act)—
- (i) the alteration of a local water treatment station, wastewater pumping station, pressure regulating station or pumping station; or
  - (ii) the construction, reconstruction or alteration of any works or infrastructure that is ancillary to works or infrastructure referred to in subparagraph (i); or
  - (iii) the 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 alteration of, or addition to, a building contained within the existing security-fenced area of an existing electricity substation; or
  - (v) the alteration of, or addition to, a building—
    - (A) which is to be located wholly underground; and
    - (B) which will not result in a material change to the existing landform at the site of the development; or
  - (vi) without limiting subparagraph (v), the construction or reconstruction of a building—
    - (A) which is to be located wholly underground; and
    - (B) which is intended only to house essential infrastructure; and
    - (C) which has a total floor area not exceeding 15 m<sup>2</sup> and a depth (determined according to the distance below ground level of the base of the building) not exceeding 4 m; and
    - (D) which will not result in a material change to the existing landform at the site of the development; or
  - (vii) building work associated with the alteration of, or addition to, a building within the area of an existing school, other than—
    - (A) where the work will result in—
      - the building exceeding 1 storey in height; or
      - the creation of a new access point to or from a public road or the alteration of an existing access point to or from a public road; or
      - fewer carparks on the site; or
    - (B) where the building is, or will be when the building work is completed, within 5 m of a boundary of the area of the school; or
    - (C) where the building work would affect a local heritage place; or

- (viii) tree-damaging activity in relation to a regulated tree—
- (A) that is on land—
- on which a school, within the meaning of the *Education and Early Childhood Services (Registration and Standards) Act 2011*, is located or is proposed to be built; and
  - that is under the care, control or management of the Minister responsible for the administration of that Act; or
- (B) that is on land—
- on which a road is located or is proposed to be built or widened; and
  - that is under the care, control and management of the Commissioner for Highways;
- (c) the construction, reconstruction, alteration, repair or maintenance of any drain, pipe or underground cable, other than the construction of a drain with a width or depth exceeding 1.5 m or a pipe with a diameter exceeding 1.5 m;
- (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;
- (e) an alteration to the cadastre arising from the administration of the *Adelaide Park Lands Act 2005*;
- (f) a division of land arising out of, or reasonably incidental to, the implementation of any matter referred to above;
- (g) 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;
- (h) 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;
- (i) the construction, reconstruction or alteration of an electricity power line, other than a transmission line of 33 000 volts or more;

- (j) the construction of information or directional signs (whether attached to a structure or freestanding) that are associated with a development approved by the Commission under Schedule 6 clause 2, and directly related to an activity carried out at the site of the development, or on account of the development;
- (k) the construction of any of the following, if carried out by a State agency within the meaning of section 131 of the Act:
  - (i) tourist information or interpretative signs;
  - (ii) structures (including billboards) at roadside information bays;
  - (iii) shade-cloth structures;
  - (iv) a post and wire fence, including a chain mesh fence;
  - (v) advertising displays or signs.

## **Schedule 14—Mining production tenements**

### **1—Adelaide and Environs**

The areas of the Adelaide Hills Council, the Adelaide Plains Council, the Alexandrina Council, The Barossa Council, the City of Burnside, The Corporation of the City of Campbelltown, the City of Charles Sturt, the Town of Gawler, the City of Holdfast Bay, the Light Regional Council, The Corporation of the City of Marion, the City of Mitcham, The District Council of Mount Barker, The Corporation of the City of Norwood, Payneham and St. Peters, the City of Onkaparinga, the City of Playford, the City of Port Adelaide Enfield, the City of Prospect, the City of Salisbury, the City of Tea Tree Gully, The Corporation of the City of Unley, the City of Victor Harbor, The Corporation of the Town of Walkerville and the City of West Torrens.

### **2—The Coast**

- (1) Those parts of the State situated within 800 m of the coast measured from mean high water mark on the sea shore 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*.

### **3—Other Areas**

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:
  - (i) County Dufferin—Sections 2 and 86, out of hundreds, and surrounding areas. Aboriginal tribal grounds. Flora and fauna. Approximately 39 000 ha. (No 2)
  - (ii) The Gawler Ranges and adjacent small ranges. Scenic interest; Spring Hill and Mount Nott worthy of special consideration. (No 3)

- 
- (iii) Pilepudla Water Reserve—Various species of birds, small fauna and flora. Approximately 750 ha. (No 5)
  - (iv) Cortlinye Water Conservation Reserve—flora and fauna. Approximately 490 ha. (No 6)
  - (v) 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 ha. (No 8)
  - (vi) Yalanda Tanks—Water Conservation Reserve, hundred of Yalanda. Native flora, including acacia, cassia and orchids. Approximately 240 ha. (No 9)
  - (vii) Darke Peake Range—Area of geological interest and scenic beauty. Approximately 2 100 ha. (No 13)
  - (viii) Minbrie Range—Varying mallee, salt bush, blue bush associations and scenic views. Approximately 2 200 ha. (No 15)
  - (ix) Cleve Water Reserve—Sections 327, 328, 329, hundred of Mann. A catchment area with variety of fauna. Approximately 3 300 ha. (No 17)
  - (x) Moody Tanks—Railway Reserve—Section 48, hundred of Moody. A heavily timbered area. Approximately 77 ha. (No 25)
  - (xi) Sections 415, 416, 417, hundred of Louth—Sugar gum heath with abundance of orchid species. Approximately 535 ha. (No 33)
  - (xii) Section 99, hundred of Wanilla—Uncleared sand dune vegetation. Includes mallee, acacias and banksia. Approximately 430 ha. (No 34)
  - (xiii) Caraleu Bluff—Native pines, picnic area. Approximately 90 ha. (No 43)
  - (xiv) Tcharkulda Hill—Granite outcrop. Mallee, native pine, cassia. Picnic area. Approximately 195 ha. (No 44)
  - (xv) Pillawarta Creek—Sugar and blue gums, wildflowers. Approximately 80 ha. (No 46)
  - (xvi) Corunna—in the Baxter Ranges. Scenic hills, considerable native flora and fauna of scientific interest. (No 47)
  - (xvii) Polda Rock and Little Wudinna Rock—Sections 48 & 52, hundred of Wudinna. Suitable for recreation and picnic area. Approximately 115 ha. (No 48)
  - (xviii) Corrobinnie Hill—Rock outcrop with unusual erosion. Mallee broom and acacias. Approximately 40 ha. (No 49)
  - (xix) Minnipa Hill—Suitable for recreation and picnic area. Approximately 75 ha. (No 50)
  - (xx) Talia Caves—Approximately 220 ha. (No 53)
  - (xxi) Waddikee Rocks—Monument to explorer Darke. Approximately 85 ha. (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:
  - (i) 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 ha. (No 1)
  - (ii) 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)
  - (iii) Land north of Sections 7 and 8, hundred of Borda, adjacent to Cape Torrens Conservation Park. Includes high and spectacular cliffs. Natural vegetation largely in original state. Approximately 150 ha. (No 3)
  - (iv) Part Section 14, hundred of McDonald. South coast, at mouth of South West River. Suitable for general recreation. Approximately 12 ha. (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;
- (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 to 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 ha of existing open space depicted on Map 11, and lying approximately 10 km 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.

## Schedule 15—Civil penalties

### 1—Form of notice of right to elect to be prosecuted (regulation 114)

#### **Civil penalty for contravention—notice of right to elect to be prosecuted for contravention**

*Planning, Development and Infrastructure Act 2016*—section 225(3)

Reference number:

Issued by:

Date:

To: *[insert full name, company name (if applicable), postal address and any other information relevant for service of the notice]*

#### **Notice to alleged offender**

1 The *[insert name of designated entity]* is satisfied that you have committed an offence by contravening a provision of the *Planning, Development and Infrastructure Act 2016* as follows:  
Provision contravened:  
Address or location of contravention:  
Details of contravention:

2 The purpose of this notice is to advise you that you may, by written notice to *[insert name of designated entity]*, elect to be prosecuted for the contravention (see section 225(3) of the Act).

**If you do not elect to be prosecuted, the *[insert name of designated entity]* may commence civil penalty proceedings under section 225 of the Act for the purpose of obtaining an order from the Court that you pay an amount as a civil penalty in respect of the contravention.**

In these civil proceedings, any contravention of the Act would only need to be proved on the balance of probabilities.

3 **If you elect to be prosecuted, rather than negotiating a civil penalty with the Authority or facing civil penalty proceedings, you must serve a written notice on the *[insert name of designated entity]* within 21 days after service of this notice.**

4 The following matters are relevant to the provision of a notice of election to the *[insert name of designated entity]*:

(1) The notice must be addressed to the *[insert name of designated entity]* as follows:  
*[insert relevant information]*

(2) You may choose to use the Attachment (below) or you may inform the *[insert name of designated entity]* by your own letter, quoting your name and address shown at the top of this document.

- (3) Section 225 of the Act may be found at [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au) and additional information about the Act can be obtained on the SA planning portal. Information concerning this notice can also be obtained by telephoning the following number *[insert telephone number of relevant contact at designated entity]*.
- (4) If you do not, within 21 days after service of this notice, give notice to the *[insert name of designated entity]* of election to be prosecuted, proceedings may be commenced to recover a civil penalty in the Environment, Resources and Development Court.

### **Attachment—Notice to Authority of election to be prosecuted**

To: *[insert name of designated entity]*  
*[insert address]*

Reference to notice under section 225(3) of the *Planning, Development and Infrastructure Act 2016*:  
*[insert reference number]*

#### **\* Individual**

I elect to be prosecuted for the alleged contravention specified in the notice of the reference number set out above.

Name in full:

Contact details:

Date:

Signed:

#### **\* Company**

I, having authority to act for and on behalf of the company in this matter, give notice that the company elects to be prosecuted for the alleged contravention specified in the notice of the reference number set out above.

Name of company:

Name in full of person with authority to act:

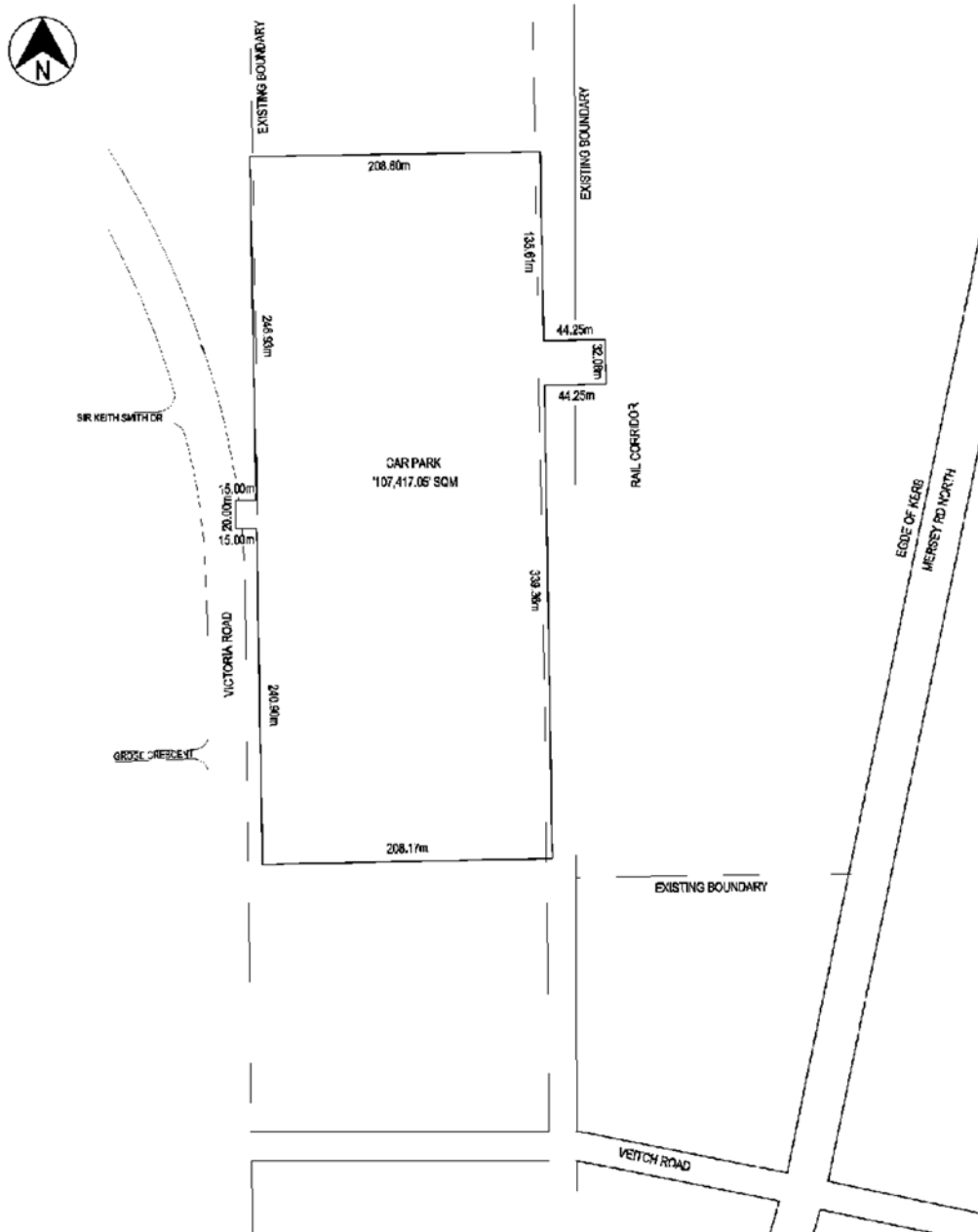
Contact details:

Date:

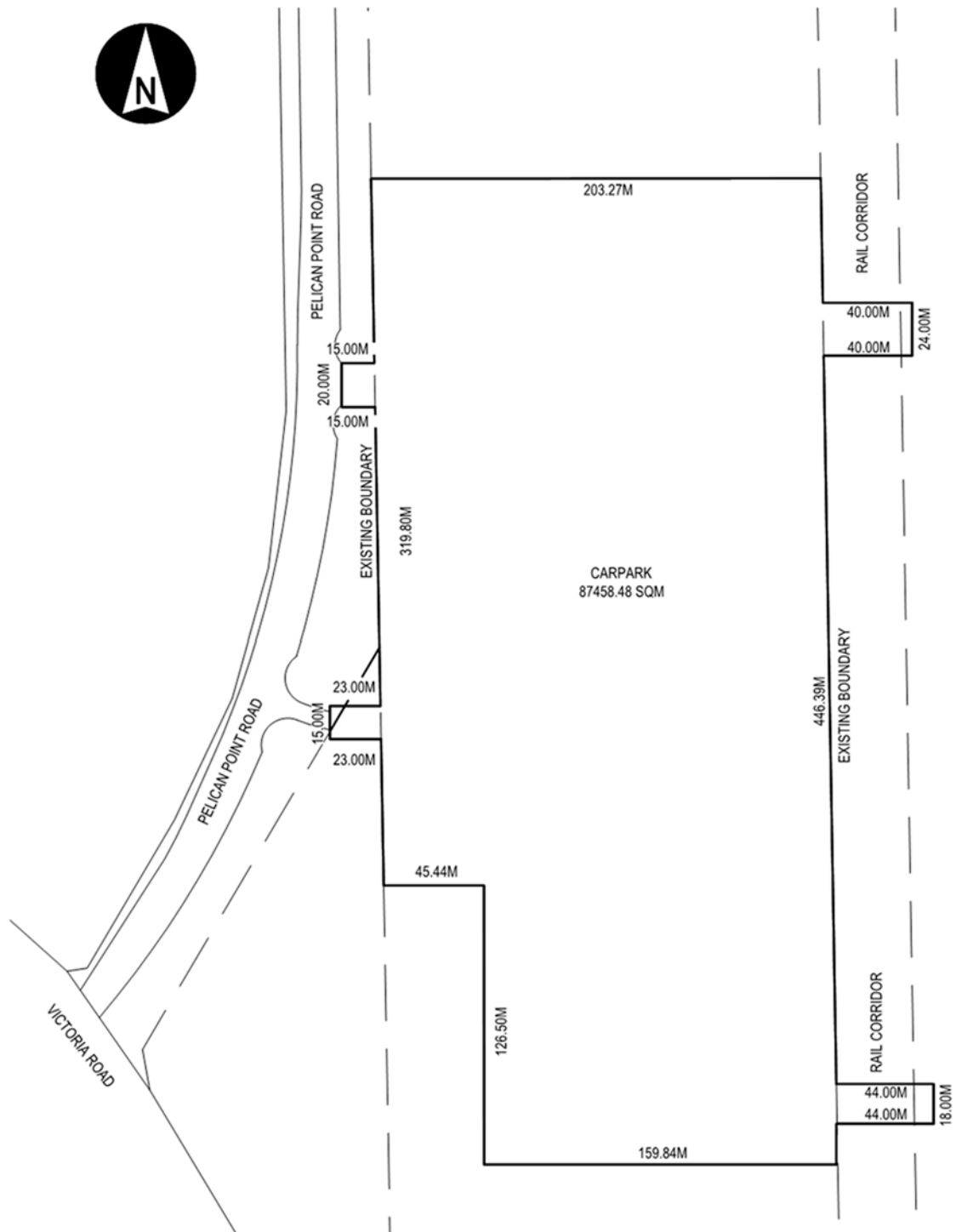
Signed:

*\*Strike out whichever is inapplicable*

## Schedule 16—Map of initial part of designated Osborne area



## Schedule 17—Map of additional part of designated Osborne area



## Legislative history

### Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2017	24	<i>Gazette 28.3.2017 p965</i>	1.4.2017: r 2
2017	209	<i>Gazette 1.8.2017 p3051</i>	1.10.2017: r 2
<b>2019</b>	<b>172</b>	<b><i>Gazette 27.6.2019 p2376</i></b>	<b>1.7.2019: r 2</b>

### Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.10.2017</i>
<b>r 3</b>		
<b>r 3(1)</b>	<b>r 3 redesignated as r 3(1) by 172/2019 r 4(2)</b>	<b>1.7.2019</b>
<b>AHD</b>	<b>inserted by 172/2019 r 4(1)</b>	<b>1.7.2019</b>
<b>ARI</b>	<b>inserted by 172/2019 r 4(1)</b>	<b>1.7.2019</b>
<b>coastal land</b>	<b>inserted by 172/2019 r 4(1)</b>	<b>1.7.2019</b>
<b>designated airport building heights area</b>	<b>inserted by 172/2019 r 4(1)</b>	<b>1.7.2019</b>
<b>designated building</b>	<b>inserted by 172/2019 r 4(1)</b>	<b>1.7.2019</b>
<b>designated building product</b>	<b>inserted by 172/2019 r 4(1)</b>	<b>1.7.2019</b>
<b>designated environmental zone, subzone or overlay</b>	<b>inserted by 172/2019 r 4(1)</b>	<b>1.7.2019</b>

<b>designated flood zone, subzone or overlay</b>	<b>inserted by 172/2019 r 4(1)</b>	<b>1.7.2019</b>
<b>designated regulated tree overlay</b>	<b>inserted by 172/2019 r 4(1)</b>	<b>1.7.2019</b>
<b>essential safety provisions</b>	<b>inserted by 172/2019 r 4(1)</b>	<b>1.7.2019</b>
<b>fire authority</b>	<b>inserted by 172/2019 r 4(1)</b>	<b>1.7.2019</b>
<b>home activity</b>	<b>inserted by 172/2019 r 4(1)</b>	<b>1.7.2019</b>
<b>Metropolitan Adelaide</b>	<b>inserted by 172/2019 r 4(1)</b>	<b>1.7.2019</b>
<b>outbuilding</b>	<b>inserted by 172/2019 r 4(1)</b>	<b>1.7.2019</b>
<b>private bushfire shelter</b>	<b>inserted by 172/2019 r 4(1)</b>	<b>1.7.2019</b>
<b>writing</b>	<b>inserted by 172/2019 r 4(1)</b>	<b>1.7.2019</b>
<b>r 3(2)—(5)</b>	<b>inserted by 172/2019 r 4(2)</b>	<b>1.7.2019</b>
<b>rr 3A—3I</b>	<b>inserted by 172/2019 r 5</b>	<b>1.7.2019</b>
Pt 2		
heading	substituted by 209/2017 r 4	1.10.2017
<b>r 4</b>	<i>deleted by 172/2019 r 6</i>	<b>1.7.2019</b>
<b>r 6A</b>	<b>inserted by 172/2019 r 7</b>	<b>1.7.2019</b>
r 8		
r 8(13)	inserted by 209/2017 r 5	1.10.2017
r 11	inserted by 209/2017 r 6	1.10.2017
Pt 3		
<b>r 18</b>	<b>varied by 172/2019 r 8</b>	<b>1.7.2019</b>
<b>Pts 4—18</b>	<b>inserted by 172/2019 r 9</b>	<b>1.7.2019</b>
<i>Schs 1 and 2</i>	<i>deleted by 172/2019 r 10</i>	<b>1.7.2019</b>
<b>Schs 1—12</b>	<b>inserted by 172/2019 r 9</b>	<b>1.7.2019</b>
<b>Sch 13</b>	<b>inserted by 172/2019 r 9</b>	<b>1.7.2019</b>
cl 2		
cl 2(1)	<b>(b)(v) expires: cl 2(6)</b>	<b>(1.7.2020)</b>
<b>Schs 14—19</b>	<b>inserted by 172/2019 r 9</b>	<b>1.7.2019</b>

## Historical versions

1.10.2017