

ADVISORY NOTICE LEGISLATION

03/15

Advisory Notices are issued to assist in the interpretation of the Development Act 1993

June 2015

On 25 June 2015 the *Development (Miscellaneous) Variation Regulations 2015* were made. These regulations vary the *Development Regulations 2008* under the *Development Act 1993* to—

- Delete obsolete references to the *Commonwealth Nation Building Program* and the *Local Government Infrastructure Program* in Regulations 3, 15, 24, 38 and 92;
- Clarify information requirements in relation to requests for concurrence in Regulation 25;
- Clarify in Regulation 38(5) that only if a person or persons making a representation on a development application desires to be heard that they must indicate this fact. This resolves an issue with the previous wording of the regulation whereby it had interpreted in some instances that a failure to indicate whether or not the person or persons desired to be heard invalidated the representation;
- Delete Regulation 74A that relates to the provision of truss information by manufacturers as this regulation is no longer required;
- Update Regulation 76C as brush fence controls have now been incorporated into the Building Code of Australia negating the need for a *Minister's Specification* on brush fences;
- Clarify in Regulation 82 that in assigning a classification to a building a council must, if relevant, specify the maximum number of persons who may occupy the building or part of a building and that if the building has more than 1 classification, identify which parts of the building that each classification applies;
- Prescribe in Regulation 84, for the purposes of Section 75(5) of Act, that the report to be considered by the Minister on a designated mining matter is a report of the Development Assessment Commission;
- Update the definition of *approved building industry accreditation authority* in Regulations 87 and 91;
- Clarify information and documentation requirements for private certifiers in Regulations 92 and 102;
- Amend Regulations 103A and 103AB to extend the dates by which Building Rules assessment audits and Development Plan assessment audits are required;
- Amend Clause 5 of Schedule 1A that generally exempts domestic swimming pools from the requirement to obtain development plan consent to exclude domestic swimming pools in the Municipal Council of Roxby Downs from the operation of this clause;
- Clarify in Clause 5 of Schedule 1A that the general exclusion for domestic swimming pools from the requirement to obtain development plan consent also applies where a dwelling has been approved but not yet constructed as well as where the dwelling is existing;
- Amend Schedule 1A to exclude building work on railway land from the requirement to obtain development plan consent;

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- Update references to Watercourse and Flood Zone and Policy Areas in Clause 3 of Schedule 2;
- Clarify the circumstances in Clause 3(2) of Schedule 3 where the general exemption from the definition of development for the grant of a lease or licence to occupy part only of an allotment for a period exceeding 6 years does not apply (i.e. where the lease or licence is to occupy part only of an allotment for residential purposes);
- Amend Clause 3(2) of Schedule 3 to extend the exemption from the definition of development to the grant of lease or licence to occupy part only of an allotment for a period exceeding 6 years related to the installation of alteration of telecommunication facilities or wind turbine generators and associated infrastructure;
- Delete obsolete zone references in Clause 4 of Schedule 3 and clarify references to masonry fences in Clauses 4 of Schedules 3 and 3A;
- Clarify definitions relating to railway activities in Clause 13 of Schedule 3;
- Clarify in Clause 2A(2) of Schedule 4 that the clause which applies to single storey additions and alterations to existing detached or semi-detached dwellings can also apply where such a dwelling has been approved but not yet constructed;
- Clarify in Clause 2B(4) of Schedule 4 and Clause A2 of Schedule 5 that the clauses which relate to new detached or semi-detached dwellings being complying development not applying where the site is, or may have been, contaminated, not just as result of activity on the land but also activity in the vicinity of the land (example.g. as a result of migrating contaminated ground water);
- Clarify in Clause 2B(5) of Schedule 4 that the requirements in the clause that apply to an existing dwelling on the allotment are to apply after the completion of the development;
- Amend the description and definition of the Minister's roof framing information requirements under Clause 1(6a) of Schedule 5;
- Amend Clause 2A of Schedule 5 to provide that the statement relating electricity infrastructure in this clause is not required for development intended to house electricity infrastructure;
- Update various references to zones in Clause 1(4) of Schedule 8 that are prescribed for the purposes of Item 19 in the Table in Clause 2 of Schedule 8. Noting, however, that the exemption from referral in the prescribed zones for the activities in Item 19(g)(i) does not include the construction of a building or the undertaking of an act or activity specified in Clause 3 of Schedule 2 in a watercourse or other water resource that forms part of the River Murray system or on a bank or shore within 5 metres of such an area;
- Clarify in Item 4 in the Table in Clause 2 of Schedule 8 that it relates to advertising displays on land abutting arterial roads as well as on the arterial roads;

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- Clarify in Item 9B in the Table in Clause 2 of Schedule 8 that it does not apply to a building that is intended to house electricity infrastructure;
- Amend Item 19(g) in the Table in Clause 2 of Schedule 8 to exempt from referral the construction of an enclosed shed, garage or outbuilding that is ancillary to and existing building, will not exceed 60m² floor area, will have removable panels or opposite doors so as to not impede floodwaters and will not be closer to the River Murray than the building to which it is ancillary;
- Amend Clause 2(d) of Schedule 9 to assign to Category 1 for public notification purpose the construction of a carport, garage, shed, pergola, verandah, fence, swimming pool, spa pool or outbuilding if it is ancillary to a dwelling and to delete the corresponding Clause 20 of Schedule 9 which previously assigned such developments to Category 2. Noting, however, that pursuant to Regulation 32(6), other than in the case of *residential code development*, to the extent of any inconsistency, the assignment to a public notice category provided by a Development Plan will prevail over the assignment to Category 1 by this clause;
- Update various zone references in Schedules 9 and 10;
- Update the reference to the Land Management Corporation in Clause 1(1)(b) of Schedule 10 to the Urban Renewal Authority;
- Amend Clause 2 of Schedule 10 to remove a subjective consideration for Councils in the determination of the relevant authority under this clause;
- Amend Clause 9(2)(a) of Schedule 10 so that it only applies to land divisions that create additional allotments;
- Delete Clause 11 of Schedule 10;
- Amend Schedule 14 to increase the number of minor State agency developments that are exempt from approval;
- Amend Clause 1(g)(i) of Schedule 14A to increase the height of security fences required for electricity substations or other electricity infrastructure that are exempt from approval.

Useful Links

[Development Act](#)

[Development Regulations](#)

[Government gazette](#)

Further information

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