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Dear Sally

**Draft Development Assessment Regulations and Practice Directions**

Thank you for the opportunity to comment on the draft *Planning, Development and Infrastructure (General) (Development Assessment) Variation Regulations 2019*, as well as four draft practice directions, which support the *Planning, Development and Infrastructure Act 2016*.

Due to reporting timelines, the attached **submissions have been prepared by senior council officers and are not the views of the elected members of Council**. Endorsement of the submissions is being sought from our Strategic Directions Committee at its 5 March 2019 [meeting](#), with any amendments to be included in updated submissions to the Commission following the meeting.

I trust our comments are helpful and contribute to the development and implementation of a successful development assessment system. I, and any of our professional officers, are available to provide further information on any of the above responses.

In the first instance, please contact Ben Victory, Principal Planner on [REDACTED]

Yours sincerely

Renée Mitchell  
**Manager Development Services**

cc: Local Government Association



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Regulation number	Extract from Regulations	Questions / Comments
5 – insertion of 3F	<p><b>3F—Significant trees</b></p> <p>(4) Subregulations (1) and (2) do not apply—                      (a) to a tree located within 10 metres 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</p> <p>(6) For the purposes of the definition of <b>tree damaging activity</b> 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.</p>	<ul style="list-style-type: none"> <li>• Should this also reference regulated trees?</li> <li>• Shoud the Corymbia genus of trees be added to this list, given they are no longer included within the Eucalyptus genus?</li> <li>• Can the 10m distance be better identified, including in relation to neighbouring properties?</li> <li>• Can the 30% pruning allowance be better defined? How long after a 30% prune can it be done again? What if 30% is pruned on one side only, unbalancing the tree and leading to a case for removal?</li> </ul>
5 – insertion of 3I	<p>For the purposes of section 44(12)(b) of the Act, the period of 21 days is prescribed.</p>	<p>Should this be 15 or 21 business days?</p>
22(1)(a)	<p>an assessment manager may act as a relevant authority for the purposes of giving planning consent in relation to—                      (ii) development that may be assessed as code assessed development under section 107 of the Act, other than...                      [as extracted from p5 of the Guide]</p> <ul style="list-style-type: none"> <li>• Developments exceeding \$5 million</li> <li>• Developments exceeding 3 storeys</li> <li>• Land divisions creating more than 20 additional allotments</li> </ul>	<ul style="list-style-type: none"> <li>• Suggest saying ‘performance assessed’ rather than ‘code assessed’.</li> <li>• What is counted toward the \$5 million development value- does it include fit-out costs, consultant fees etc?</li> <li>• A definition of &gt;3 storeys is needed. Does it include below ground level, non-habitable rooms or roof-top gardens?</li> <li>• The proposed extent of an assessment manager’s authority is significantly less than our current delegations.</li> </ul>

	<ul style="list-style-type: none"> <li>• Developments that have been referred to a Design Panel under section 121 of the Act</li> <li>• Developments that propose demolition of a local or State heritage place</li> <li>• Certain developments in the 'Hills Face' area of the Planning and Design Code</li> <li>• Activities of environmental significance (Schedules 16 and 17 of the draft Regulations)</li> </ul>	<ul style="list-style-type: none"> <li>• As set out in our submission on the Assessment Pathways Technical Discussion Paper dated 17/10/2018, our CAP only determines applications that have received valid representations requesting to be heard, or if considered by the Assessment Manager to be of economic, environmental, social or political significance.</li> <li>• This means many more development applications would be referred to the Council Assessment Panel (CAP), unless delegations from the CAP to the Assessment Manager can return to a similar position.</li> <li>• We also understand that appeals can be made against staff decisions to the CAP, which could also significantly increase the number of reports to CAP, and potentially the number of CAP meetings held, adding further expense and resource burdens to councils.</li> <li>• We also question the need for a CAP decision on the partial demolition of a building, where the portion of building being demolished is not part of a heritage listing.</li> </ul>
22(1)(c)	<p>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</p>	<ul style="list-style-type: none"> <li>• We support the limit of one minor variation, but the extent of that minor variation should be quantified, such as a maximum of 5% or 10% from the relevant deemed to satisfy provision.</li> <li>• We understand a practice direction or guideline will be prepared by the Commission in this regard. This should include the need to identify minor variations and explain why they have been determined to be acceptable.</li> </ul>
22(1)(d)	<p>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</p>	<p>We remain concerned about the potential for surveyors to grant approvals for land divisions. However, if this is to occur, we support the prevention of minor variations, and the deemed to satisfy criteria in the Planning and Design Code would need careful drafting to include matters such as regulated trees/ native vegetation on or adjoining the land, slope, adjoining road infrastructure/ trees, bushfire risk etc.</p>

<p>23(2)(b)</p>	<p>If the Commission is the relevant authority under section 94(1) of the Act—                  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).</p>	<ul style="list-style-type: none"> <li>• 15 business days will often be insufficient time for council staff to coordinate and provide comments, particularly if technical/property advice or elected member endorsement is required.</li> <li>• We suggest the time be increased to 30 business days to match the reporting times for state agencies. Of course, we will always endeavour to comment quicker, particularly if internal referrals and/or elected member endorsement is not required.</li> </ul>
<p>23(3)</p>	<p>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).</p>	<p>We are concerned about the proposed limitations here, which do not presently exist. Planning is not even included, which is odd given the comments are likely to be coordinated by planning staff with the intention of addressing relevant Development Plan provisions.</p>
<p>25</p>	<p>(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</p>	<ul style="list-style-type: none"> <li>• Level 3 Assistant Building Surveyors should be able to assess and inspect single storey Class 2-9 buildings under 500m<sup>2</sup>.</li> <li>• Existing Level 3 Assistant Building Surveyors should be able to transition across to be able to assess and inspect single storey</li> </ul>

	<p>Building Code that does not have, or will not have when the development is completed—</p> <p>(a) a rise in storeys exceeding 2; or</p> <p>(b) a floor area exceeding 500 square metres.</p> <p>(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 relation to the following:</p> <p>(a) the issue of a schedule of essential safety provisions;</p> <p>(b) the assignment of a classification to a building under these regulations;</p> <p>(c) the provision of a Statement of Compliance.</p>	<p>Class 2-9 buildings under 500m<sup>2</sup>.</p> <ul style="list-style-type: none"> <li>• Examples: farm buildings / haysheds, minor shop fitouts, small light industrial buildings - Level 3 &amp; 4 cannot assess or inspect.</li> <li>• Subregulations 4 and 6 appear to contradict themselves in that a Level 3 Assistant Building Survey cannot assess and inspect Class 2-9, however they can issue ESPs and assign a building classification.</li> </ul>
27	<p>If an application under section 102 of the Act requires a relevant authority to assess a proposed development against the provisions of the Planning and Design Code, the relevant authority should determine whether the development involves 2 or more elements and, if so, clearly identify each element for the purposes of assessment against the provisions of the Planning and Design Code (and any related planning consent).</p>	<p>It may not be simple to determine if a development involves two or more elements, meaning the initial 'verification' or initial assessment process may not be able to determine this quickly enough to set the correct assessment path and determine further information requests within the expected timeframes. A practice direction/ guideline from the Commission may assist with this.</p>
29	<p><b>Complying building work</b></p> <p>(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.</p> <p>(2) Subregulation (1) does not apply in relation to—</p> <p>(a) building work that affects a State heritage place; or</p> <p>(b) building work to the extent excluded under a provision of Schedule 7</p>	<p>Why is building consent required just because planning consent is required for work affecting a state or local heritage place, when it would otherwise not be development?</p>
32	<p><b>Lodging application on SA planning portal on behalf of an applicant</b></p> <p>A relevant authority who receives an application under regulation 30(1)(b) or (2) must lodge the application on the SA planning</p>	<p>This is fine, provided councils can charge an appropriate fee for the associated administrative work.</p>

	portal within 5 business days after receipt of the application.	
35	<b>Verification of application and determination of nature of development</b>	5 business days may not be sufficient time for councils to undertake all that is required in the verification process, particularly during times of low resources. What happens if the 5 days is not met?
36(6)	<p>Further requests (extract from Guide p14)</p> <p>Once the information is submitted to the authority...the authority may decide they cannot make a decision on the application due to some outstanding matter. Draft regulation 36(6) then allows them to make a further request for information, but only with the agreement of the applicant. If the applicant believes the additional request for information is unwarranted they can opt not to provide the requested information and wait until the assessment timeframe has expired. At this point they could serve a deemed planning consent notice. In such cases, the relevant authority can appeal a deemed planning consent to the Environment, Resources and Development Court if they are of the view that consent should not have been granted.</p>	This provision potentially allows applicants to not provide further information in order to force a deemed planning consent, with the possible result of more cases going to court. Rather, the relevant authority should be able to refuse the application and give the applicant the option to appeal.
37(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.	<ul style="list-style-type: none"> <li>• It is unclear whether the relevant authority should lapse or refuse an application after one year of waiting for further information, and why this additional time is counted as assessment time.</li> <li>• Can a deemed consent be issued after this time? If anything, a deemed refusal would be more appropriate unless a further extension of time is agreed to.</li> </ul>
40	For the purposes of subsections (7) and (8) of section 39 of the Act, the qualifications of a person providing an expert or technical report within the contemplation of either subsection is a Diploma	<ul style="list-style-type: none"> <li>• This should refer to s119 rather than s39.</li> <li>• Query why this regulation appears here, rather than</li> </ul>

	in Arboriculture, or a comparable or higher qualification.	consolidated with other regulations relating to trees.
44(2)	A response for the purposes of section 122 of the Act may be made by providing the response electronically via the SA planning portal	We suggest 'must' rather than 'may'. Other authorities or agencies should be capable of responding electronically via the portal.
49	<b>Preliminary advice and agreement (section 123)</b>	How long is the advice/agreement valid for?
50	<b>Notice requirements and consultation</b>	Notification signs on proposed development sites: <ul style="list-style-type: none"> <li>• concerns of visibility and accessibility in rural areas, particularly on arterial roads – perhaps alternative notification procedures can apply in rural areas?</li> <li>• need for appropriate fees to fully recoup costs for council installation and removal, particularly for larger council areas requiring longer travel times for staff to undertake this work</li> <li>• potential process consequences if signs are vandalised.</li> </ul>
51	<b>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...</b>	Does the term 'regulated trees' cover both 'regulated' and 'significant'?
56(5)	<b>Application and further information</b> For the purposes of section 119(5)(d), the period of 10 business days from the date of the application being lodged with the relevant authority is prescribed.	This period of time may be insufficient to request further information in a reasonable manner, particularly given that section 119(5)(c) only allows a request for additional documents or information on one occasion.
57	<b>Deemed consent notice (section 125(2))</b>	<ul style="list-style-type: none"> <li>• We suggest SCAP oversight for deemed consents, particularly significant/ unusual developments, land divisions etc, to ensure appropriate conditions, rather than relying on applicant/ portal generated standard conditions from a practice direction.</li> <li>• We also query if a deemed consent will be valid for land divisions, particularly if council has not consented to the vesting of roads, reserves, infrastructure, drainage arrangement etc.</li> </ul>

58	<b>Notification of decision—accredited professionals (section 89)</b>	All notifications should be in electronic form via the portal.
60(2)	<b>Notice of decision</b> A notice under subregulation (1) must be given— (b) in the case of a decision under section 99(3) of the Act—within 2 business days after the decision is made on the application.	This appears to be a decrease from 5 business days to 2 for undertaking a consistency check between consents and grant development approval. If so, it should stay at 5 to ensure adequate time.
60(5)	Subregulation subregulation (4) does not apply to a council is acting as a relevant authority under section 99(3) of the Act.	Rewording needed, and also query intent – final plans for development approval should always be stamped as such to confirm the approved plans for compliance purposes.
64	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 of the reason for the imposition of the condition	Query the need to always detail the reason for a condition – the reasons are usually obvious and self-explanatory.
65	<b>Regulated and significant trees</b>  (3) For the purposes of section 127(6) of the Act, the amount payable will be \$x for each replacement tree that is not planted.	<ul style="list-style-type: none"> <li>Practice directions/ guidelines need to guide conditions for the size and type of replacement trees, both at the time of planting and at maturity.</li> <li>Consider increasing the fee to an appropriate amount reflecting the cost of councils undertaking tree planting and management, and to compensate for local loss of visual amenity and biodiversity.</li> </ul>
70(5) and elsewhere	Definition of ‘professional engineer’	Repeated elsewhere in Regulations, so could instead be part of other definitions.
71	<b>Variation of authorisation (section 128)</b>	<ul style="list-style-type: none"> <li>A practice direction/ guideline is needed to inform process and limitations for variations and minor variations.</li> </ul>

		<ul style="list-style-type: none"> <li>An appropriate fee is needed that isn't necessarily based on development cost (which usually doesn't increase much if at all).</li> </ul>
89(5)	<p>Requirement as to forming of roads</p> <p>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.</p>	<ul style="list-style-type: none"> <li>This could be a chance to include other necessary infrastructure in land divisions, including street lighting, furniture, signage, landscaping etc.</li> <li>Standards for open space reserves would also be of assistance.</li> </ul>
99(3)(c)	<p><b>Notifications during building work</b></p> <p>3) A notice by a person under subregulation (1) may be given—                  (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; or                  (c) by leaving a written notice with a duly authorised officer of the council.</p>	<ul style="list-style-type: none"> <li>Lodging a notice on the portal must be simple and quick for building supervisors to use it. Perhaps an app can be developed for this purpose?</li> <li>What authorisations are needed for council officers? Can customer service or development support officers be authorised?</li> </ul>
99(4)	<p>(4) If a notice is given under subregulation (1)(d), 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.</p>	<ul style="list-style-type: none"> <li>It appears the supervisor's checklist requirement for roof framing has been removed.</li> </ul>
100	<p><b>Essential safety provisions</b></p> <p>(2) This regulation does not apply if the building is a Class 1a or 10 building under the Building Code.</p> <p>(7) The owner of a building in relation to which a schedule of essential safety provisions has been issued must, within 60 business days after the end of each calendar year, provide to the council adequate proof of the carrying out of maintenance and</p>	<ul style="list-style-type: none"> <li>Should Class 10c bushfire shelters be included?</li> <li>Sub regulations (7) and (9) require further clarification - does a single storey 1000m<sup>2</sup> 7b still require a form 3?</li> <li>Can the building fire safety committee still request an annual return?</li> </ul>

	<p>testing in respect of those safety provisions for that calendar year as required under subregulation (6).</p> <p>(9) Subregulation (7) does not apply if—                  (a) the building is a Class 1b building under the Building Code; or                  (b) the building is a Class 2 building under the Building Code that does not have a rise in storeys exceeding 3 and does not have a floor area exceeding 2 000 square metres; or                  (c) the building is a Class 3, 4, 5, 6, 7, 8 or 9b building under the Building Code that does not have a rise in storeys exceeding 2 and does not have a floor area exceeding 500 square metres,</p>	
<p>107</p>	<p><b>Classification of buildings</b></p>	<p>A separate subsection could include Class 1b and 10c buildings that should be required to be upgraded, and practice directions/ guidelines may also assist.</p>
<p>108</p>	<p><b>Certificates of Occupancy</b> (extract from Guide p32)</p> <p>The most significant change in this regulation (compared to regulation 83 under the <i>Development Regulations 2008</i>) is the requirement for a certificate of occupancy for class 1a buildings, which are single dwellings.</p> <p>This change has been included following feedback that owners and occupiers, upon completion of the construction of house, should be able to receive confirmation that their dwelling is suitable for occupation. This change is proposed to bring South Australia into alignment with other jurisdictions.</p> <p>In recognition that current building work undertaken against approved plans often does not include every element that is on the approved plans (for example stormwater connections, rainwater tanks, landscaping), there is an identified need to ensure that, following the ‘statement of compliance’ stage, proper evidence is provided to the owner/occupier confirming their house</p>	<p>This change is supported. Dwelling builders often leave certain approved works to the owner to complete, and such works should be detailed for the builder, owner and relevant authority (normally councils) to understand and ensure completion.</p>

	is ready for occupancy.	
109	<p><b>Statement of Compliance</b></p> <p>(2) This regulation does not apply to a Class 10 building under the Building Code.</p>	<ul style="list-style-type: none"> <li>Should 10c private bushfire shelters require a statement of compliance?</li> <li>For enforcement/ expiation purposes, statements of compliance should be forwarded to council from the building certifier within 5 days.</li> </ul>
118	<p><b>Authorised officers and inspections</b></p> <p>(1) Each council must appoint at least 1 authorised officer under section 210(1)(b) of the Act</p>	Issues for regional councils employing a building level 3 or 4 accredited professional as they cannot assess or inspect any class 2-9 developments.
119(a)	<p><b>Fire safety</b></p> <p>For the purposes of section 157(1), (2) and (17)(a)(i) of the Act, the prescribed qualifications are—</p> <p>(a) the qualifications that apply for the purposes of gaining accreditation as an accredited professional who is—</p> <p>(i) an Accredited professional—building level 1: or</p> <p>(ii) an Accredited professional—building level 2: or</p> <p>(iii) an Accredited professional—building level 3: or</p> <p>(iv) an Accredited professional—building level 4: or</p>	If Level 3 and Level 4 Accredited professionals cannot assess or inspect class 2-9 buildings, is it right to enable them to sit on building fire safety committees where more complex buildings are involved?
119(b)(ii)	(ii) a current as an Assistant Building Surveyor issued by a building industry accreditation authority approved by the Chief Executive for the purposes of this regulation	Should reference to Assistant Building Surveyor – (AIBS -Level 3) actually refer to Building Surveyor Limited (AIBS – Level 2)?
125	<p><b>Application of fund</b></p> <p>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</p>	We are concerned about the potential for the fund to be used for purposes unrelated to public open space improvements. Proposed details for how the fund may be used should be released for consultation.

	which the Planning and Development Fund may be applied.	
126	(1) A relevant authority (other than an accredited professional exercising the powers of a relevant authority under the Act) must keep available for public inspection without fee during its normal office hours a register of applications for consent, approval, or the assignment of building classifications under the Act.	A register kept by an accredited professional should also be publicly available, with all registers available on or via the portal.
Schedule 3 Additions to definition of development	<p><b>8—Display of advertisements</b></p> <p>(1) The commencement of the display of an advertisement.</p> <p>(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—</p> <p>(a) the advertisement area is not increased; and</p> <p>(b) the change does not involve the addition of animation or illumination.</p>	<ul style="list-style-type: none"> <li>• This should capture the change of an advertisement from one relating to a lawful land use, to an unrelated ‘third-party’ purpose.</li> <li>• Provisions relating to third party advertising should also be included in the Planning and Design Code, and generally not be supported.</li> </ul>
Schedule 4 Exclusions from definition of development	<p><b>1—Advertising displays</b></p> <p>(h) that constitutes a moveable sign under the <i>Local Government Act 1999</i> and is placed on a public street, road or footpath within an area of a council under that Act</p> <p><b>4—Sundry minor operations</b></p> <p>(1)(a) an outbuilding...in which human activity is secondary...</p> <p>(4)(c) &amp; (d)...swimming pools and spa pools constructed in association with a dwelling...</p> <p>(1)(f)(v) a fence that is (or is to be) a safety fence for a swimming pool which is approved for construction, or requires approval for construction, on or after 1 July 1993; or</p>	<p>(h) Query if signage exclusions, where not also building work, can be extended to all council land, given separate council controls through Local Government Act permits.</p> <p>(1)(a) – suggest a definition for ‘outbuilding’ to consider uses such as domestic animal enclosures, cubby houses etc.</p> <p>4(c) &amp; (d) - suggest adding ‘or installed’ after the word constructed, if portable pools and spas are intended to be captured.</p> <p>(1)(f)(v) - suggest removal of concession for pre 1 July 1993 pools, and query if spa pools should be added.</p>

<p>(1)(h)...retaining wall and fence combination</p> <p>(1)(j) 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 Metropolitan Adelaide—a total floor area not exceeding 10 square metres and a total volume not exceeding 40 000 litres; or                  (B) in any other case—a total floor area not exceeding 15 square metres and a total volume not exceeding 60 000 litres; and</p> <p>(1)(m) a tree 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 square metres</p> <p>(1)(n)(ii)...neither the height nor the length of the screen exceeds the dimensions of the structure to which it is fixed</p> <p>(7), (8) &amp; (9)...external painting...</p> <p>(14)...<i>masonry</i> means stone, brick, terracotta or concrete block or any other similar building unit or material, or a combination of any such materials</p> <p><b>10—Demolition of single storey buildings</b></p>	<p>(1)(h) suggest combination be limited to a retaining wall up to 1m high and fence up to 2.1m high, rather than just a combined total of 3.1m high.</p> <p>(1)(j) Given the intention is to enable appropriate bushfire protection measures to be undertaken without requiring approval, the restriction of in or out of Metropolitan Adelaide should be changed to the relevant bushfire risk areas in the Code maps. The City of Onkaparinga is within Metropolitan Adelaide but has general, medium and high bushfire risk areas in the current Development Plan. Note also that the CFS have certain standards for water supply and equipment, and the tanks will need to satisfy their conditions of approval.</p> <p>(1)(m) Do tree houses include cubby houses or are they outbuildings? What about a cubby house on stilts?</p> <p>(1)(n)(ii) - clarification on the intent of the conditions for the screen height and dimensions. What if there is no existing structure and the screen is constructed as a new fence-type structure? Will the height limit be 2.1m?</p> <p>(7), (8) &amp; (9) - should rendering be included as this is not normally development?</p> <ul style="list-style-type: none"> <li>• (14) definition of masonry should include AAC material.</li> </ul> <p>A demolition notification should be provided to councils for record-keeping purposes, land valuation and rates etc.</p> <p>It is noted on p33 of the Guide that separate swimming pool</p>
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		<p>regulations will be drafted to provide revised swimming pool safety and upgrade requirements.</p> <p>Refer also to our previous submission dated 17/10/2018 for other suggestions relating to exempt and DTS development. This included allowances for decks and pools/spas closer to boundaries, air conditioning units on roofs, temporary shipping containers etc.</p>
Schedule 7	<p>2 - The construction of a pergola associated with an existing dwelling (whether attached to the building or freestanding)—</p> <p>(a) which does not have a roof...</p>	<p>We suggest wording as 'a solid roof', to be consistent with schedule 4 clause 4(5)(c)(i).</p>
Schedule 8	<p><b>Plans</b></p>	<ul style="list-style-type: none"> <li>• A current certificate of title should be provided with all development applications to confirm land ownership, allotment boundaries and the presence of any easements, land management agreements or other relevant information.</li> <li>• All plans for building work should include a 'siteworks plan' detailing relevant matters such as:             <ul style="list-style-type: none"> <li>○ stormwater management and disposal</li> <li>○ earthworks (cut, fill, retaining, batters etc)</li> <li>○ existing contours</li> <li>○ proposed site and floor levels</li> <li>○ driveways, inverts and crossovers</li> <li>○ road/verge infrastructure</li> <li>○ existing trees, etc.</li> </ul> </li> </ul>
Schedule 8	<p>9(7) - In subclause (1)— <i>Minister's Schedule 5 list of roof truss information</i> means a list of roof truss information published by the Minister in the Gazette for the purposes of subclause (1)(i).</p>	<ul style="list-style-type: none"> <li>• For all types of building consents, sections, details and elevations should be of a scale of not less than 1:100, to be reasonably legible for assessment purposes.</li> <li>• (1)(j) &amp; (7) – amend 'Schedule 5' to 'Schedule 8', to reflect draft PDI Regs rather than existing Development Regs.</li> <li>• (2) &amp; (3) delete references to 'Rules' in 'Building Rules consent' for consistency.</li> </ul>

<p>Schedule 8 2(a)(x)</p>	<p><b>2—Plans for residential alterations, additions and new dwellings</b>                  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, being a scale of not less than 1:500, including appropriate ratio scales, showing—                  (x) any areas of landscaping and areas finished with a hard surface</p>	<p>To address the shortfall of replacement landscaping in infill areas, for the capture and re-use of stormwater and to meet council and state greening targets, more emphasis should be placed on landscaping requirements. Suggested rewording:</p> <p>(x) any areas and details of landscaping, deep soil, permeable surfaces and areas finished with a hard surface</p>
<p>General Comments</p>	<p>Development Regulations 2008 Regulation 78(2)                  If—                  (a) application is made for building rules consent for building work in the nature of an alteration to a Class 1, 2 or 3 building under the Building Code; and                  (b) the building is in a bushfire prone area under subregulation (1); 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 Rules for bushfire protection.</p>	<p>This existing regulation does not appear in the draft PDI regulations. Why has this been removed and what power does council have to request existing buildings in bushfire prone areas are upgraded to comply with current requirements?</p>

## DRAFT DEVELOPMENT ASSESSMENT PRACTICE DIRECTIONS

SUBMISSION February 2019 (staff advice yet to be endorsed by Council)



Practice Direction	Comments / suggestions
DEEMED PLANNING CONSENT – STANDARD CONDITIONS 2019	
General comments	<ul style="list-style-type: none"><li>• We suggest SCAP oversight is necessary for deemed consents, particularly significant/ unusual developments, land divisions etc, to ensure appropriate conditions, rather than relying on applicant/ portal generated standard conditions from a practice direction.</li><li>• Conditions always need to be tailored to particular developments to ensure appropriateness, as standard wording will often not be completely relevant.</li><li>• Planning assessment, decisions and conditions are not always simple and straight forward.</li><li>• We also query if a deemed consent will be valid for a land division, particularly if council has not consented to the vesting of roads, reserves, infrastructure, drainage arrangements etc.</li><li>• We assume that deemed planning consents do not extend to land division consents (as distinct from planning and building consents), as many standard conditions for council requirements would also be necessary.</li></ul>
General conditions <i>The building and site must be maintained in good condition at all times.</i>	Not all DAs will include one building. Suggested rewording: <i>The site and any buildings must be maintained in good condition at all times.</i>
Landscaping <i>A detailed landscaping plan must be submitted to the relevant authority, to the reasonable satisfaction of the relevant authority, prior to development approval being granted for the proposed development. The landscaping plan must identify a mixture of native groundcovers, shrubs and trees to be planted throughout the development site.</i>	This first condition should refer to a specific Design Standard or provisions of the Planning and Design Code for the landscaping sought for particular types of development. The second drafted condition for where landscaping is nominated in the application documentation should not assume it is an acceptable landscaping plan, unless perhaps it has been prepared by a registered Landscape Architect.

## DRAFT DEVELOPMENT ASSESSMENT PRACTICE DIRECTIONS

SUBMISSION February 2019 (staff advice yet to be endorsed by Council)



Practice Direction	Comments / suggestions
<p><i>Site Management</i> All trade waste and other rubbish must be stored in covered containers prior to removal and must be kept screened from public view.</p>	<p>Need to allow for recycling and green waste storage collection as well as general landfill bins.</p>
<p><i>External lighting</i> All external lighting on the site must be designed and constructed to conform to Australian Standard (AS 4282-1997). Such lighting must be operational during the hours of darkness at all times.</p>	<p>Without knowledge of the relevant AS details, we query the need for lighting to be operational during the hours of darkness at all times. It should only be necessary when in use, perhaps with motion sensors, to prevent energy waste and neighbour nuisance.</p>
<p>Stormwater A Stormwater Management Plan must be submitted, in consultation with the relevant council, to the satisfaction of the relevant authority. The details of the plan must be submitted to the relevant authority for approval prior to the issue of development approval, and be implemented prior to occupation or use of the development.</p>	<p><b>This condition should also be used for developments other than just 'where the application proposes a commercial or industrial development on a site exceeding 1000 m<sup>2</sup>', such as for residential developments with more than one dwelling.</b></p>
<p>Regulated/Significant Trees <i>Semi-mature native trees (&gt;1m in height)</i></p>	<p>The condition should require the species of replacement trees to be capable of growing to a regulated/ significant size at maturity.</p>

## DRAFT DEVELOPMENT ASSESSMENT PRACTICE DIRECTIONS

SUBMISSION February 2019 (staff advice yet to be endorsed by Council)



Practice Direction	Comments / suggestions
<i>indigenous to the local area must be planted...</i>	
<p>Land Division</p> <p><i>Prior to clearance being issued under section 138 of the Planning, Development and Infrastructure Act 2016, all existing buildings and deleterious materials such as concrete slabs, footings, retaining walls, irrigation pipes and other rubbish must be cleared from the subject land to the reasonable satisfaction of the relevant authority.</i></p>	<p>As above in our general comments, we are particularly concerned about deemed consents for land divisions and we suggest it not be an option. Resulting allotments could be totally inappropriate for future reasonable development and not adequately serviced. Consents may be invalid if council has not consented to the vesting of roads, reserves, infrastructure, drainage arrangements etc.</p> <p>We also assume deemed planning consents do not extend to land division consents, as this would require a long list of council requirements for infrastructure.</p>
NOTICE OF PERFORMANCE ASSESSED DEVELOPMENT APPLICATIONS 2019	
<p><b>7 – Responsibility to undertake notification</b></p> <p><i>(4) Should the applicant request the relevant authority to place the notice on the land and pay the relevant fee in accordance with clause 7(3)(b) of this practice direction, the relevant authority will be responsible (either personally or by engagement of a contractor) for giving notice of the application to members of the public by notice placed on the relevant land in</i></p>	<p>Appropriate fees are needed to recoup costs for council installation and removal, particularly for larger council areas requiring longer travel times for staff to undertake this work.</p>

## DRAFT DEVELOPMENT ASSESSMENT PRACTICE DIRECTIONS

SUBMISSION February 2019 (staff advice yet to be endorsed by Council)



Practice Direction	Comments / suggestions
<i>accordance with Section 107(3)(a)(ii) of the Act.</i>	
<b>11 – Notice on land</b>	<ul style="list-style-type: none"> <li>Concerns of visibility and accessibility in rural areas, particularly on arterial roads – perhaps alternative notification procedures can apply in rural areas?</li> <li>Potential process consequences if signs are vandalised.</li> </ul>
<p><b>15 - Attachments</b></p> <p>Both the letter and sign templates require the relevant authority to list any deemed-to-satisfy elements of the proposal that are not subject to public comment.</p>	<p>At this stage, we are unsure how easy it will be determine and succinctly express the elements that are (or are not) deemed-to-satisfy.</p>
CONDITIONS 2019	
<p><b>5 – Conditions a relevant authority thinks fit to impose</b></p> <p><i>(6) A development condition must not— (a) require a person other than the applicant to carry out works for the development; or (b) require a person to enter into an infrastructure agreement</i></p>	<ul style="list-style-type: none"> <li>It may also be the owner/s or future owner/s of the land required to carry out works for the development.</li> <li>In our experience, sometimes the general terms of an infrastructure agreement will be negotiated and agreed to prior to planning consent being granted, but for the sake of expediency and by mutual agreement, the final drafting and signing process is conditioned to occur prior to development approval being granted. We suggest the practice direction contemplate the circumstances in which this is appropriate.</li> </ul>

## DRAFT DEVELOPMENT ASSESSMENT PRACTICE DIRECTIONS

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Practice Direction	Comments / suggestions
RESTRICTED AND IMPACT ASSESSED DEVELOPMENT 2019	
<p><b>6 – How the Commission will proceed with assessment of a restricted development</b></p> <p>(5)...The Commission may also choose take into account the following...matters:</p> <p>(f) Any comments or report from the relevant council</p>	<p>This effectively replaces the previous need for concurrence between council and the Commission to grant consent to non-complying development applications. Accordingly, we suggest a stronger emphasis where the Commission must have regard to comments or reports from the relevant council.</p>