

LG Alert – Accredited Professionals Scheme and Fees commence operation and the draft “Outback Code” is released for public consultation.

Accreditation Scheme

On 7 February 2019, the *Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019* and the *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019* were Gazetted. The Accreditation Scheme will commence on 1 April 2019.

There are a few notable changes between the draft version of the Scheme which was released for public consultation and the final Scheme. Each of the changes are summarised below.

- Land surveyors are able to apply for accreditation as an “Accredited professional – surveyor”. According to regulation 22(1)(d) of the Planning, Development and Infrastructure (General) Variation Regulations 2019, accredited professionals will be able to grant planning consent to certain deemed-to-satisfy land divisions provided that there are no minor variations from deemed-to-satisfy requirements. The nature of the land divisions that can be approved by accredited professionals will be left to the Code.
- Applications for accreditation must be lodged on the SA Planning Portal, which currently does not appear to be an operational facility. Presumably this will occur in the coming weeks.
- The accreditation authority (i.e. the Chief Executive of DPTI) is now able to accept that where an applicant has accreditation under a scheme provided for by a professional body, that the applicant has suitable qualifications and experience to qualify as an accredited professional under the Scheme. This means that AIBS accredited persons and PIA Registered Planners will qualify as accredited professionals at corresponding levels within the Scheme without being re-assessed under the Scheme.
- Annual applications for continuation of accreditation will be required to be made on an approved form (yet to be provided). It is reasonable to expect that this form will require accredited professionals to confirm CPD undertaken and, if relevant, that they have maintained their accreditation with an external professional body.

On the current program set for the reform schedule, building and planning professionals practicing in areas that are outside of council areas, will require accreditation by July 2019 (on the expectation that the SA Planning Portal will be upgraded to allow applications to be made online).

For building and planning professionals practicing in regional areas, the deadline to obtain accreditation is likely to be 1 November 2019, and for Greater Adelaide, 1 July 2020.

The “Outback Code”

The draft “Planning and Design Code in the Outback (land not within a council area)” was released for public consultation on 5 February 2019. Consultation is open until 29 March 2019.

This version of the Code applies to all land outside of a council area, including coastal waters and island areas.

As envisaged in the *Planning, Development and Infrastructure Act 2016*, the Code is structured into Zones, Subzones, Overlays and a General Section.

Each Zone, etc contains a “Desired Outcome” – an overarching objective – and a table of performance outcomes and deemed-to-satisfy provisions.

Of particular significance to councils:

- each Zone includes a table which specifies when public notification for performance assessed development is required. For councils, this is an opportunity to consider Zones and areas where public notification (which requires placement of a sign on the development site) should and should not occur;
- the General Development Provisions section is included, which section which is intended to (eventually) apply to the whole State;
- a Land Use Definitions Table is included.

Each of the above should be carefully reviewed and submissions made to ensure that appropriate amendments occur before the Code is applied to council areas.

Concerning the General Section:

- there is no deemed-to-satisfy requirement for advertisements to be connected with a non-residential land use;
- deemed-to-satisfy criteria exist for separation distances between wind turbines and dwellings, etc;
- solar access deemed-to-satisfy criteria is specified in the Interface between Land Uses module;
- there are no deemed-to-satisfy criteria within the Open Space and Recreation module.

Regarding Land Use Definitions Table, section 66 of the PDI Act provides that definitions of land uses and established land use classes can be included in the Planning and Design Code. This is in contrast from the present system, where land uses can be defined in the

Development Regulations 2008 (in Schedule 1 presently) or in a Development Plan (current only the Adelaide (City) Development Plan contains definitions).

The draft Table and its preamble have some positive aspects:

- in addition to specifying names for particular land uses, the table expressly includes forms of development which are included in and excluded from the particular definition. For instance, the definition of “Animal keeping” includes dog kennelling but excludes aquaculture;
- the preamble clarifies that developments excluded from a definition prevail over developments which are included to the extent of any inconsistency;
- new definitions are included such as low intensity animal husbandry, retail fuel outlet, protective tree netting structure, renewable energy facility, stock sales yard and wind farm.

The definitions of detached dwelling, semi-detached dwelling and row dwelling from the present *Development Regulations 2008* remain the same and have not been improved

Each of these definitions still require that the relevant dwelling occupy a “site held exclusively with that dwelling”. The requirement for an allotment to exist, or for land division to be lodged for registration prior to a development application being lodged for a dwelling therefore stands.

The definitions of “animal keeping” and “intensive animal husbandry” could be refined to ensure that puppy and kitten farms are expressly included in the definition of “intensive animal husbandry” and excluded from “animal keeping”.

A definition of “recreation area” should be considered, particularly one which includes building work located within recreation area so as to avoid legal disputes arising from council or community/sporting group proposals to develop and improve such areas.

Definitions of “supported accommodation”, “student accommodation”, “workers accommodation” and “tourist accommodation” should be considered to ensure that these terms are clearly defined given that they are used within the Code and appear to be intended to be distinguished from “dwellings”.

Whilst this version of the Code will not apply in council areas, it nonetheless provides an important “snap shot” into how the Code may evolve to include council areas. We encourage all councils to carefully consider this draft Code and to make submissions on it so as to ensure that further iterations of it evolve appropriately.

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