
From: Paul Mickan <[REDACTED]>
Sent: Friday, 29 November 2019 3:10 PM
To: DPTI:Planning Reform Submissions
Subject: Planning and Design Code for Phase 2 - Submission on the treatment of acts and activities in Schedule 4 of the regulations where development approval required

While the following comments are personal comments as a planning practitioner, they repeat comments from The Barossa Council on the Phase 1 Code. In this regard it is disappointing they need to be raised again during the Phase 2 consultation...

Schedule 4 of the *Planning, Development and Infrastructure (General) Regulations 2017* provides for a large number of developments and activities which are exempt from development approval subject to satisfying various criteria. Where a development does not meet the exempt criteria it is, by default, development which requires development approval.

Typically a person undertaking the development would then refer to the Code for guidance on any requirements to be met, but more importantly would look to the Code as to the relevant assessment pathway to follow. It is noted that while the Code identifies relevant assessment pathways and associated requirements for many of the Schedule 4 items, the various zones within the Phase 2 Code do not specifically list, or only randomly list, other common forms of development as Accepted or Deemed-to-Satisfy meaning they default to Performance assessed development. Examples of common developments which might require development approval due to size or scale include:

- Retaining wall
- Fence
- Post and wire fence
- Deck
- Windmill
- Flagpole
- Detached incinerator
- Tree house or cubby house

In the Phase 2 Code 'retaining wall' is listed as Performance assessed development in a number of zones, all of which are urban, township or commercial in nature. In one or more of these zones this development would require notification where the site of the development is adjacent land to land in a different zone – a characteristic not uncommon in small rural towns. In all other zones this development defaults to Performance assessed, but then also requires public notification.

Pursuant to the Procedural Matters in each zone the above forms of development, where they are not specifically listed, will default to Performance assessed development, and would require notification as they would fall under the 'All other Code Assessed Development' in the respective Performance Assessed Development tables.

It is presumed the planning reforms did not envisage for these forms of development to be performance assessed, requiring notification and requiring decision by an assessment panel. Accordingly it is recommended that all acts and activities listed in Schedule 4 are explicitly referenced in each zone in the Code to address instances where they require development approval, together with rational assessment pathways and decision making authority taking into account the scale of development –i.e. identify them as either Accepted, Deemed-to-Satisfy or Performance assessed. As an example, it seems unreasonable for a deck of 500 mm height to be exempt from approval, but one of just 100 mm higher at 600 mm to then 'jump' to the other end of the assessment spectrum, where intervening triggers might be applied whereby a less onerous assessment pathway might apply depending on height and setback from boundaries for example.

I consent to these comments being public.

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