



Australian Capital Territory

# **Planning and Development Regulation 2008**

**SL2008-2**

made under the

**Planning and Development Act 2007**

**Republication No 81**

**Effective: 17 February 2017 – 22 February 2017**

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Last amendment made by [SL2017-1](#)

## About this republication

### The republished law

This is a republication of the *Planning and Development Regulation 2008*, made under the *Planning and Development Act 2007* (including any amendment made under the [Legislation Act 2001](#), part 11.3 (Editorial changes)) as in force on 17 February 2017. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 17 February 2017.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

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### Editorial changes

The [Legislation Act 2001](#), part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see [Legislation Act 2001](#), s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register ([www.legislation.act.gov.au](http://www.legislation.act.gov.au)). For more information, see the home page for this law on the register.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the [Legislation Act 2001](#), section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$150 for an individual and \$750 for a corporation (see [Legislation Act 2001](#), s 133).



Australian Capital Territory

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made under the

**Planning and Development Act 2007**

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Australian Capital Territory

# Planning and Development Regulation 2008

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made under the

**Planning and Development Act 2007**

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## Chapter 1 Preliminary

### 1 Name of regulation

This regulation is the *Planning and Development Regulation 2008*.

### 3 Dictionary

The dictionary at the end of this regulation is part of this regulation.

*Note 1* The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition '*community use*—see the [territory plan](#) (13 Definitions).' means that the term 'community use' is defined in the [territory plan](#) and the definition applies to this regulation.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

### 4 Notes

A note included in this regulation is explanatory and is not part of this regulation.

*Note* See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

### 5 Meaning of *dwelling*

(1) In this regulation:

*dwelling*—

(a) means a class 1 building, or a self-contained part of a class 2 building, that—

(i) includes the following that are accessible from within the building, or the self-contained part of the building:

(A) at least 1 but not more than 2 kitchens;

- (B) at least 1 bath or shower;
  - (C) at least 1 toilet pan; and
  - (ii) does not have access from another building that is either a class 1 building or the self-contained part of a class 2 building; and
  - (b) includes any ancillary parts of the building and any class 10a buildings associated with the building.
- (2) In this section:
- kitchen*** does not include—
- (a) outdoor cooking facilities; or
  - (b) a barbeque in an enclosed garden room.

## Chapter 1A Draft plan variations

### 6 Draft plan variations to be notified—Act, s 63 (5) (b)

A draft plan variation that changes a zone from 1 zone category to another zone category, apart from a variation that changes the zone to any of the following zones, is prescribed:

- (a) PRZ1—urban open space zone;
- (b) NUZ3—hills, ridges and buffer zone;
- (c) NUZ4—river corridor zone;
- (d) NUZ5—mountains and bushland zone.

*Note* Zones in the [territory plan](#) fall into the following categories:

- residential (RZ)
- commercial (CZ)
- community facility (CF)
- parks and recreation (PRZ)
- transport and services (TSZ)
- non-urban zones (NUZ)
- industrial zones (IZ).

#### **Example**

a draft plan variation to change a zone from commercial (CZ) category to residential (RZ) category

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

### 7 People to be notified—Act, s 63 (5) (b)

- (1) The following people are prescribed:
  - (a) a lessee of an adjoining section;
  - (b) if land adjoining the area to which the draft variation plan applies is a rural block—a lessee of the adjoining rural block.

(2) In this section:

***adjoining***—see the [Planning and Development Act 2007](#), section 153.

***section***, in relation to land—see the [Districts Act 2002](#), dictionary.

## Chapter 2 Strategic environmental assessments

### 10 Meaning of *proposal*—ch 2

In this chapter:

*proposal*, for a strategic environmental assessment, means—

- (a) for an assessment prepared under the [Act](#), section 100 (Preparation of strategic environmental assessments)—the matter to which the assessment relates; or
- (b) for an assessment prepared under the [Act](#), section 103 (2) (Review of territory plan)—the review of the [territory plan](#) to which the assessment relates.

### 11 Development of strategic environmental assessments—[Act](#), s 101 (a)

- (1) A person developing a strategic environmental assessment must complete each of the following stages:
  - stage A—setting context and establishing baseline
  - stage B—developing alternatives and deciding scope
  - stage C—assessing environmental benefits and impacts
  - stage D—consultation
  - stage E—monitoring, if a decision is made at stage C that monitoring is required.



(2) To remove any doubt—

- (a) the person does not have to complete the stages in any particular order; and
- (b) the person may complete more than 1 stage at a time.

**Example**

A person may carry out consultation (stage D) during the course of considering alternatives (stage B) and again when assessing environmental benefits and impact (stage C).

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

## **12 Stage A—setting context and establishing baseline**

A person developing a strategic environmental assessment must, in completing stage A, set the context for the proposal and establish the baseline for the strategic environmental assessment by—

- (a) screening the proposal; and
- (b) establishing the environmental baseline; and
- (c) identifying the environmental issues; and
- (d) setting the objectives for the strategic environmental assessment.

### 13 Stage B—developing alternatives and deciding scope

- (1) A person developing a strategic environmental assessment must, in completing stage B, develop alternatives for the proposal and decide the scope of the strategic environmental assessment by—

- (a) considering alternatives to the proposal; and

**Examples—alternatives**

- 1 alternative siting within the proposed location or at another location
- 2 alternative uses of the site
- 3 alternative designs

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (b) deciding and finalising the scope of the strategic environmental assessment; and
- (c) preparing a document about the scope of the strategic environmental assessment (a ***SEA scoping document***).

- (2) The SEA scoping document must contain the following:

- (a) the aims and objectives of the strategic environmental assessment;
- (b) the relevant policies, plans and programs to be considered in the strategic environmental assessment;
- (c) the methods to be used in the strategic environmental assessment, including—
- (i) assessment requirements; and
  - (ii) indicators to be used; and
  - (iii) data requirements; and
  - (iv) the range of supporting studies to be considered, or to be commissioned;

- (d) the key environmental issues to be addressed in the strategic environmental assessment.

## 14      **Stage C—assessing environmental benefits and impacts**

A person developing a strategic environmental assessment must, in completing stage C, assess the environmental benefits and impacts of the proposal by—

- (a) assessing the effects of the proposal against the SEA scoping document having regard to the following:

*Note*      The SEA scoping document is prepared in stage B (see s 13).

- (i) the probability, duration, frequency and reversibility of the effects of the proposal;
- (ii) the cumulative nature of the effects of the proposal, both positive and negative, and any identified alternatives to the proposal;
- (iii) whether the effects of the proposal are likely to extend outside the ACT;
- (iv) the risks to any identified environmental values;

### **Examples—identified environment values**

- 1 environmental values identified in the SEA scoping document
- 2 environmental values identified or targeted in relevant:
  - plans (eg the [Territory Plan 2008](#))
  - strategies (eg the [ACT Planning Strategy](#))
  - threatened species management plans

*Note*      An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (v) the magnitude and spatial extent of the effects of the proposal;

- (vi) the effects of the proposal on areas or landscapes that have a recognised local, regional or national protection status; and
- (b) considering how the environmental impacts can be managed through mitigation, offsetting, avoidance or another way.

## 15 Stage D—consultation

- (1) A person developing a strategic environmental assessment must, in completing stage D, carry out consultation about the strategic environmental assessment by—
  - (a) preparing a plan (a **consultation plan**) for the consultation; and
    - Note* The consultation plan must be agreed to by either the Minister or chief planning executive (see s (3)).
  - (b) carrying out consultation in accordance with the consultation plan; and
  - (c) after consultation is complete, preparing a report (a **consultation report**) about the consultation that includes comments received during consultation.
- (2) The consultation plan must—
  - (a) identify the approach to be taken for public consultation; and
  - (b) include a list of stakeholders.
- (3) Before carrying out the consultation, the person must have the following person's agreement to the consultation plan:
  - (a) for a strategic environmental assessment prepared at the Minister's direction under the [Act](#), section 100 (1) (Preparation of strategic environmental assessments)—the Minister;
  - (b) for a strategic environmental assessment prepared under the [Act](#), section 100 (2) or section 103 (2) (Review of territory plan)—the chief planning executive.

**16 Stage E—monitoring**

A person developing a strategic environmental assessment must, in completing stage E, monitor the strategic environmental assessment by—

- (a) developing a monitoring plan; and
- (b) if required by the monitoring plan—establishing a monitoring regime; and
- (c) if appropriate—carrying out remedial action.

*Note* This stage is required only if a decision is made at stage C that monitoring is required (see s 11).

**17 Contents of strategic environmental assessments—  
Act, s 101 (b)**

- (1) A strategic environmental assessment must contain the following:
  - (a) a non-technical summary of the strategic environmental assessment, including a summary of the recommendations;
  - (b) an outline of—
    - (i) the content of the proposal; and
    - (ii) the main objectives of the proposal; and
    - (iii) the proposal's relationship (if any) with any relevant plans (for example, *The Canberra Spatial Plan*) or planning policies;

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (c) a description, including a description of the environmental, social and economic characteristics of—
  - (i) the area covered by the proposal; and
  - (ii) the region around the area covered by the proposal;

- (d) a description of the environmental characteristics of any area likely to be significantly affected by the proposal, including—
  - (i) any existing environmental issues that are relevant to the proposal, including those relating to any areas of particular environmental importance; and
  - (ii) any plans to improve environmental management objectives relating to territory and national legislation and agreed policies;

**Examples—policies**

- 1 climate change policy
- 2 COAG climate change adaptation framework

- (e) details of all processes and methods used in the strategic environmental assessment;
- (f) an assessment of the likely environmental effects of the proposal, including the results and findings of the matters identified in the SEA scoping document;

*Note* The SEA scoping document is prepared in stage B (see s 13). Assessment of environmental benefits and impacts is carried out in stage C (see s 14).

- (g) a discussion of the alternatives for the proposal including—
  - (i) an outline of the reasons for selecting, or not selecting, the alternatives; and
  - (ii) a description of how the alternatives were assessed; and
  - (iii) details of any difficulties in assessing the alternatives;

**Examples—difficulties**

- 1 technical deficiencies
- 2 lack of expertise

*Note* Development of alternatives is carried out in stage B (see s 13).

- (h) the measures proposed to avoid or manage any significant adverse environmental effects of implementing the proposal, including a description of any measures required for monitoring;
  - (i) recommendations about how conclusions of the strategic environmental assessment should be considered in future planning.
- (2) The following documents must be attached to the strategic environmental assessment:
  - (a) the SEA scoping document;
  - (b) the consultation plan;
  - (c) the consultation report.

*Note* The SEA scoping document is prepared in stage B (see s 13). The consultation plan and consultation report are prepared in stage D (see s 15).

## **Chapter 3 Development approvals**

### **Part 3.1AA Development proposals requiring EIS**

#### **19 Development proposals requiring EIS—electricity generating stations—Act, sch 4, pt 4.2, item 2, par (c) (i) (A)**

- (1) For an electricity generating station that generates electricity from gas or gas and another energy source, more than 10MW of electrical power is prescribed.
- (2) For an electricity generating station that generates electricity from any of the following energy sources, more than 20MW of electrical power is prescribed:
  - (a) wind;
  - (b) solar;
  - (c) hydro;
  - (d) biomass;
  - (e) geothermal.



## Part 3.1 Exemptions from requirement for development approval

### 20 Exempt developments—Act, s 133, def *exempt development*

- (1) Development that complies with schedule 1 (Exemptions from requirement for development approval) is exempt from requiring development approval.

*Note* For other exemptions, see the [Act](#), div 7.2.6 (Exempt development).

- (2) Also, development is exempt from requiring development approval if—
- (a) the development would comply with schedule 1, or would be exempt from requiring development approval under the relevant development table for the development, other than for a matter (the *relevant matter*) to which schedule 1A (Permitted variations to approved and exempt developments) applies; and
  - (b) the relevant matter complies with the criteria for the matter in schedule 1A; and
  - (c) a designated development for the development, as changed by the relevant matter, complies with the general exemption criteria that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see sch 1, s 1.2.

*Note 2* **General exemption criteria**, for a development—see sch 1, s 1.10.

*Note 3* **Relevant development table**—see the [Act](#), dictionary.

*Note 4* The development may still need building approval, or further building approval, under the [Building Act 2004](#).

*Note 5* The development must also comply with the lease for the land on which it is carried out.

- (3) Also, development that is exempt under this section does not require development approval for a modification of the development if—
- (a) the development has not been completed; and
  - (b) the modification would not need development approval if the modification were made after completion of the development.

**Example—exemption**

Construction of a dwelling that is an exempt development is in progress. The developer wishes to change the slope of the roof by less than 2° (see sch 1, s 1.24). The developer may construct the dwelling with the changed roofslope (the *modification*) without seeking approval for the modification.

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (4) Also, development that is exempt under this section does not require development approval for a variation of the development if—
- (a) the development has not been completed; and
  - (b) the variation consists of adding an exempt development to the development.

**Example—exemption**

Construction of a dwelling that is an exempt development is in progress. The developer wishes to incorporate a skylight that complies with the conditions in sch 1, s 1.26, and so is an exempt development. The developer may construct the dwelling with the skylight (the *variation*) without seeking approval for the variation.

- (5) Also, a development (the *composite development*) is exempt from requiring development approval if the development can be notionally separated into components, each of which is an exempt development.

**Example—composite development**

A development consists of a dwelling with a garage, windows, doors, chimney and an aerial (the *components*). As each of the components is an exempt development, the composite development is an exempt development.

- (6) However, subsections (3), (4) and (5) do not apply in relation to a development if the modification, variation or composite development results in non-compliance with 1 or more of the following:
- (a) schedule 1, section 1.17 (Criterion 7—no multiple occupancy dwellings);
  - (b) the requirement under schedule 1, section 1.41 that there be not more than 2 exempt class 10 buildings in a boundary clearance area in conjunction with schedule 1, section 1.18 (Criterion 8—compliance with other applicable exemption criteria);
  - (c) the requirement under schedule 1, section 1.100 (Compliant single dwellings—old residential land) that there be not more than 1 dwelling on a block.

## Part 3.1AB      Pre-application matters

### 20A      Prescribed development proposal for community consultation—Act, s 138AE

- (1) A development proposal for 1 or more of the following is prescribed:
  - (a) a building for residential use with 3 or more storeys and 15 or more dwellings;
  - (b) a building with a gross floor area of more than 5000m<sup>2</sup>;
  - (c) a building or structure more than 25m above finished ground level;
  - (d) a variation of a lease to remove its concessional status.
- (2) However, subsection (1) does not apply to the following:
  - (a) a development proposal for development on land in an area designated as an industrial zone in the [territory plan](#);
  - (b) a development proposal for development in an area outlined in bold on the plans in schedule 1B.
- (3) The planning and land authority must, at least once every 5 years, review the operation of subsection (2).
- (4) In this section:  
*residential use*—see the [territory plan](#) (13 Definitions).

## **Part 3.1A                      Exemption assessment matters**

### **21                      Number of copies of plans—Act, s 138B (2) (a) (ii)**

The number of copies prescribed is—

- (a) 1 in electronic form; and
- (b) if the person to whom the application is made asks for paper copies—3 copies.

### **22                      Details to be included in exemption assessment application—Act, s 138B (2) (a) (iii)**

The following details are prescribed:

- (a) in relation to the parcel—
  - (i) the block and section number and division; and
  - (ii) the street name and number; and
  - (iii) if the land is under a land sublease—the sublease plan number;
- (b) in relation to the applicant—
  - (i) if the applicant is an entity—the full name of the entity; and
  - (ii) if the applicant is a company—the company name and the Australian Company Number (ACN); and
  - (iii) the postal address; and
  - (iv) if the applicant has an email address—the email address; and
  - (v) the contact telephone number; and
  - (vi) if the applicant has a fax number—the fax number;
- (c) a brief description of the development;

- (d) whether the development has been undertaken and, if so, the commencement and completion dates of the development.

**22A      Exemption assessment applications—Act,  
s 138B (2) (a) (iii)**

- (1) This section applies if an application is made for an exemption assessment relating to a development proposal to which schedule 1, section 1.19 applies.
- (2) The application must include a written notice that the section has been complied with.

**Example—written notice**

a copy of any form prepared for s 1.19 under the [Act](#), s 425 and a statement about how and when it was given

*Note*      An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

**23      Exemption assessment D notices—Act, s 138D (2) (b) (ii)**

The following are prescribed:

- (a) any information that was used by the works assessor or building surveyor in assessing whether the development is exempt or not;
- (b) if the works assessor or building surveyor assesses that the development is exempt—whether the development is exempt under—
- (i) a development table, and if so, which table; or
- (ii) the [Act](#), section 134; or
- (iii) a regulation, and if so, which regulation;
- (c) the works assessor or building surveyor's name, signature and licence number;
- (d) the date of the notice.

**24 Exemption assessment D notice—attached documents—  
Act, s 138D (2) (b) (ii)**

- (1) The following documents are prescribed:
  - (a) a copy of any plans that were used by the works assessor or building surveyor in assessing whether the development is exempt or not;
  - (b) if the works assessor or building surveyor assesses that a single dwelling is exempt under schedule 1, section 1.100 (Compliant single dwellings—old residential land)—a copy of the survey certificate that was used by the works assessor or building surveyor in assessing that the dwelling is exempt.
- (2) If the works assessor or building surveyor assesses that the development is exempt—
  - (a) the works assessor or building surveyor must—
    - (i) identify any of the following relied on to assess the development as exempt development:
      - (A) a provision of the *Planning and Development Regulation 2008*;
      - (B) if a provision mentioned in subsubparagraph (A) incorporated a Territory Plan code—the code; and
    - (ii) state in the exemption assessment D notice that the provisions mentioned in subparagraph (i) were satisfied; and
    - (iii) initial, date and mark the works assessor or building surveyor's licence number on each page of the plans; and
  - (b) the exemption must be marked on, or attached to, or partly marked on or partly attached to, each page of the plans used by the works assessor or building surveyor in the assessment.

- (3) However, if, because of the size of the plans, it is impractical to mark the exemption on each page of the plans, the works assessor or building surveyor may, instead of marking the exemption under subsection (2) (a), mark each page of the plans with—
- (a) the works assessor or building surveyor's initials and licence number and the date; and
  - (b) an indication that the details of the exemption are in the exemption assessment D notice.
- (4) The pages of any document attached to an exemption assessment D notice must be numbered consecutively through each document, starting with the number 1 and each page must state the total number of pages comprising the attached documents.

**Example**

An exemption assessment D notice has 3 attached documents that total 25 pages. Each page of the attachments, starting from the first page, is numbered as 'page 1 of 25', 'page 2 of 25' and so on, until the last page of the final attachment which is numbered 'page 25 of 25'.

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).



## Part 3.2 Development applications

### 25 When survey certificate not required for development applications—Act, s 139 (2) (j)

- (1) A survey certificate need not accompany a development application if the proposed development is—

- (a) the demolition only of a building or structure; or

*Note* **Structure**—see the [Act](#), dictionary.

- (b) public works on unleased land, or land leased to the Territory, if the works are—

- (i) at least 50m from land in a residential zone; and

*Note* **Zone** means a zone identified in the [territory plan](#) (see [Act](#), dict).

- (ii) a new building, or structure, with a plan area of not more than 75m<sup>2</sup> and a height of not more than 5m above finished ground level; or

*Note* **Finished ground level**—see the [territory plan](#) (13 Definitions).

- (c) a sign located completely within a lease; or

- (d) the installation of an attachment to the roof of an existing building or structure if the attachment—

- (i) does not extend more than 600mm beyond the existing building's or structure's plan area; and

- (ii) is completely within the lease on which the existing building or structure stands; or

*Note 1* **Attachment**—see s (4).

*Note 2* **Plan area**—see the dictionary.

(e) the alteration of a building on a block in a residential zone if the alteration—

(i) does not increase the gross floor area of the building; and

(ii) does not change the siting of the building on the block.

*Note 1*    **Gross floor area**—see the [territory plan](#) (13 Definitions).

*Note 2*    Some alterations of buildings may be exempt from the requirement for development approval (see sch 1, s 1.21 and s 1.21A).

(2) A survey certificate need not accompany a development application for land leased for residential development if the proposed development is an addition to an existing building or structure and the addition—

(a) has a plan area of not more than 75m<sup>2</sup>; and

(b) is located completely within the lease on which the existing building or structure stands.

(3) A survey certificate need not accompany a development application for land leased for non-residential development if the proposed development is an addition to an existing building or structure and the addition—

(a) has a plan area of not more than 150m<sup>2</sup>; and

(b) is located completely within the lease on which the existing building or structure stands.

(4) In this section:

**attachment**—

(a) means a structure; and

*Note*      **Structure**—see the [Act](#), dictionary.

(b) includes a chimney, flue, vent, satellite dish, air conditioning unit, solar panel or similar installation.

**25A Prescribed encroachment for development encroaching on adjoining territory land—Act, s 137AC (1) (b)**

A distance of 20m is prescribed.

**26 Referral of certain development applications—Act, s 148 (1)**

- (1) The following entities are prescribed for a development application in the impact track:

- (a) Icon Water Limited;
- (b) ActewAGL Distribution;
- (c) the conservator of flora and fauna;

*Note* The conservator's advice must contain certain things (see [Nature Conservation Act 2014](#), ch 13, particularly s 318).

- (d) the emergency services commissioner;
- (e) the environment protection authority;
- (f) the heritage council;
- (g) the director-general of the administrative units responsible for the following matters:
  - (i) health policy;
  - (ii) municipal services;
- (h) if the application relates to unleased land or public land—the custodian of the land;

*Note* **Custodian**—see the [Act](#), s 333.

- (i) if the planning and land authority, or the Minister, may impose an offset condition on the development approval for the application, and the offset condition would affect—
  - (i) leased land—the lessee of the land; or

- (ii) unleased land or public land—the custodian of the land.

*Note*      **Offset condition**, for a development approval—see the [Act](#), s 165B.

- (2) The following entities are prescribed for a development application in the merit track:
- (a) if the application relates to any part of a declared site within the meaning of the [Tree Protection Act 2005](#)—the conservator of flora and fauna;
  - (b) if the application relates to unleased land or public land—the custodian of the land.
- (3) If the [territory plan](#) requires a development application to be referred to an entity, the entity is prescribed.

*Note*      **Entity** includes an unincorporated body and a person (including a person occupying a position) (see [Legislation Act](#), dict, pt 1).

- (4) In this section:

**ActewAGL Distribution** means Icon Distribution Investments Limited (ABN 83 073 025 224) and Jemena Networks (ACT) Pty Ltd (ABN 24 008 552 663) working in partnership as ActewAGL Distribution (ABN 76 670 568 688).

## 27      **Public notification of merit track development applications—Act, s 152 (1) (a) and (2)**

- (1) An application mentioned in subsections (2) and (3) is prescribed for the [Act](#), section 152 (1) (a).
- (2) An application for a development proposal in the merit track for an estate development plan in a future urban area must be notified in accordance with the [Act](#), section 152 (2) (a).
- (3) An application for a development proposal in the merit track mentioned in schedule 2 (Limited public notification of certain merit

track development applications) must be notified in accordance with the [Act](#), section 152 (2) (b).

**28 Public notification period—Act, s 157, def *public notification period*, par (a)**

The following periods are prescribed:

- (a) for a development application notified in accordance with the [Act](#), section 152 (1) (a)—
  - (i) if the development application is for an estate development plan that has an ongoing provision included in the plan under the [Act](#), section 94 (3) (g)—20 working days; and
  - (ii) in any other case—10 working days;
- (b) for a development application notified in accordance with the [Act](#), section 152 (1) (b)—
  - (i) if the development application is for an estate development plan that has an ongoing provision included in the plan under the [Act](#), section 94 (3) (g)—20 working days; and
  - (ii) in any other case—15 working days.

**29 Conditions for code track proposals—Act, s 165 (4)**

The following conditions are prescribed:

- (a) that information relating to compliance with stated conditions be given to the planning and land authority;
- (b) that the development be carried out within a stated period;
- (c) that stated action be taken to manage the impact of the development, whether on or off the development site, including—
  - (i) storing and disposing of waste; and
  - (ii) managing hazardous material; and

- (iii) protecting trees; and
- (iv) minimising erosion;
- (d) that a bond be entered into securing performance against the conditions of the approval;
- (e) that stated documents be maintained and kept at the development site;
- (f) that an approval under another Act be given;
- (g) that a stated thing be registered under the *Land Titles Act 1925*;
- (h) that 1 of the following is granted in relation to the occupation or use of the land:
  - (i) a licence under the Act;
  - (ii) a sign approval or work approval under the *Public Unleased Land Act 2013*;
  - (iii) a public unleased land permit under the *Public Unleased Land Act 2013*;
- (i) that stated conditions be complied with within a stated period.

## Part 3.3 Development approvals—when amendment not required

### 35 When development approvals do not require amendment—Act, s 198C (3)

- (1) Development in accordance with the changed development proposal is taken to be in accordance with the development approval if—
  - (a) the change relates only to a matter (the *relevant matter*) to which schedule 1A (Permitted variations to approved and exempt developments) applies; and
  - (b) the change complies with the criteria for the relevant matter in schedule 1A; and
  - (c) a designated development for the development, as changed by the relevant matter, complies with the general exemption criteria that are applicable to the development except to the extent that the development approval allows the development to not comply with the criteria.

*Note 1* **Designated development**, in relation to land—see sch 1, s 1.2.

*Note 2* **General exemption criteria**, for a development—see sch 1, s 1.10.

*Note 3* The development may still need building approval, or further building approval, under the [Building Act 2004](#).

*Note 4* The development must also comply with the lease for the land on which it is carried out.

- (2) Also, development in accordance with the changed development proposal is taken to be in accordance with the development approval

if the change would not need development approval if the change were made after completion of the development.

**Example—change**

Construction of a dwelling has development approval. The developer wishes to change the slope of the roof by less than 2° (see sch 1, s 1.24). The developer may construct the dwelling with the changed roofslope without seeking approval for the change.

*Note 1* The change may still need building approval, or further building approval, under the [Building Act 2004](#).

*Note 2* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (3) Also, development in accordance with the changed development proposal is taken to be in accordance with the development approval if the change consists of adding an exempt development to the development.

**Example—change**

Construction of a dwelling has development approval. The developer wishes to incorporate a skylight that complies with the conditions in sch 1, s 1.26, and so is an exempt development. The developer may construct the dwelling with the skylight without seeking approval for the skylight.

- (4) However, subsections (2) and (3) do not apply if the change results in non-compliance with 1 or more of the following:
- (a) schedule 1, section 1.17 (Criterion 7—no multiple occupancy dwellings);
  - (b) the requirement under schedule 1, section 1.41 that there be not more than 2 exempt class 10 buildings in a boundary clearance area in conjunction with schedule 1, section 1.18 (Criterion 8—compliance with other applicable exemption criteria);
  - (c) the requirement under schedule 1, section 1.100 (Compliant single dwellings—old residential land) that there be not more than 1 dwelling on a block.

*Note* **Exempt developments**—see the [Act](#), s 133 and this regulation, s 20.





## **Chapter 4 Environmental impact statements and inquiries**

### **Part 4.1 Environmental impact statements**

#### **50 Preparation of EIS—Act, s 208 (1)**

- (1) An EIS in relation to a development proposal that is to be assessed by the Territory in accordance with a bilateral agreement under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth) must address the matters mentioned in the *Environment Protection and Biodiversity Conservation Regulations 2000* (Cwlth), schedule 4.
- (2) An EIS in relation to a development proposal (including a proposal to which subsection (1) applies) must include the following:
  - (a) a non-technical summary of the EIS, including a summary of its recommendations;
  - (b) a glossary of technical terms and any abbreviations and acronyms used in the EIS;
  - (c) a description of the proposal, including—
    - (i) the location of the land to which the proposal relates; and
    - (ii) if the land is leased—the lessee’s name; and
    - (iii) if the land is unleased land or public land—the custodian of the land; and

*Note* **Custodian**—see the [Act](#), s 333.

  - (iv) the purposes for which the land may be used; and

- (v) if the land is leased—
  - (A) the block and section number and division of the land and the volume and folio of the Crown lease; or
  - (B) if the land is under a land sublease—the sublease plan number and the volume and folio of the Crown lease; and
- (vi) a statement of the proposal's objectives; and
- (vii) the time for implementation of the proposal, including for any stage; and
- (viii) details of any action that has been, or is being, taken by the proponent, or any other entity, in relation to the land to which the proposal relates; and

*Note* **Entity** includes an unincorporated body and a person (including a person occupying a position) (see [Legislation Act](#), dict, pt 1).

- (ix) details of any alternatives to the proposal considered in developing the proposal;

**Examples—alternatives**

- 1 alternative siting within the land to which the proposal relates
- 2 alternative designs, methods of construction, materials and sources of materials
- 3 alternative locations for the development
- 4 alternative uses of the land to which the proposal relates

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (d) a description of the EIS process, including—
  - (i) any statutory approval obtained or required for the proposal; and

- (ii) the base information used for predicting each potentially significant environmental impact identified in the scoping document for the EIS; and
  - (iii) the criteria used for assessing the significance of each environmental impact and the performance of any alternative to the proposal considered under paragraph (c) (ix);
- (e) a statement about the proposal's compatibility with the principles for environmental sustainability in the [territory plan](#) (2 Strategic Direction);
- (f) for each potentially significant environmental impact identified in the scoping document for the development proposal—
  - (i) an identification of the relevant environmental values; and
  - (ii) an identification of the findings and results of any environmental investigation in relation to the land to which the proposal relates; and
  - (iii) a description of the effects of the environmental impact (including cumulative and indirect effects) on physical and ecological systems and human communities; and
  - (iv) an analysis of the significance of the potential environmental impact of the development; and
  - (v) a statement of the approach proposed to be taken to the environmental management of the land to which the proposal relates, including any proposed impact prevention, mitigation or offsetting measures to deal with the environmental impact of the proposal;

*Note* An EIS must also address each matter raised in the scoping document for the development proposal, see the [Act](#), s 216 (2) (a) and s 221 (3) (a).

- (g) a description of consultation undertaken for the EIS;

- (h) for a revised EIS—a summary of the representations made within the public consultation period;

*Note* For other requirements in relation to the representations, see the [Act](#), s 221 (3) (b).

- (i) the EIS's recommendations.

- (3) For subsection (2) (f), each potentially significant environmental impact identified in the scoping document for the EIS must be addressed in its own part of the EIS.
- (4) For subsection (2) (f) (v), the approach proposed to be taken to the environmental management of the land may be set out in a management plan for the land.
- (5) An EIS must be prepared in accordance with any requirement set out in the scoping document for the EIS.
- (6) In this section:

*EIS* means an environmental impact statement proposed to be prepared for the Act.

**50A EIS exemption application—consultation with entities—  
Act, s 211E**

The entities prescribed are the entities mentioned in section 26 (1) (Referral of certain development applications—Act, s 148 (1)).

**51 Entities relevant for preparation of scoping documents—  
Act, s 212 (4)**

- (1) In preparing a scoping document for a development proposal, the planning and land authority must consult with the entities prescribed by section 26 (1) (Referral of certain development applications—[Act](#), s 148 (1)).

- (2) However, if an entity to which subsection (1) applies is the proponent of the development proposal, the planning and land authority must not consult the entity.
- (3) The planning and land authority may also consult with the following in preparing a scoping document for a development proposal:
  - (a) the ACT community (including a part of the community);
  - (b) an entity that the authority is not required to consult with under subsection (1).

**Examples—entities**

- 1 a territory-owned corporation
- 2 the director-general of an administrative unit not mentioned in s 26 (1)
- 3 a NSW local council
- 4 a government department or body established under a Commonwealth or NSW Act
- 5 a non-government organisation
- 6 an expert in a relevant environmental matter

*Note 1* **Entity** includes an unincorporated body and a person (including a person occupying a position) (see [Legislation Act](#), dict, pt 1).

*Note 2* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

## **52 Time for consulting entities on preparation of scoping documents**

- (1) This section applies if the planning and land authority receives an application under the [Act](#), section 212 (Scoping of EIS) in relation to a development proposal.
- (2) Within 5 working days after the day the planning and land authority receives the application, the authority must, as far as practicable, give each entity that must be consulted under section 51, and any other entity the authority considers appropriate—
  - (a) the scoping documentation for the development proposal; and

- (b) a written notice that—
  - (i) invites written comments on the scoping documentation; and
  - (ii) gives the entity 15 working days after the day the entity receives the notice to make written comments to the authority on the scoping documentation.
- (3) An entity given the scoping documentation is taken to have made no comments on the proposal to which the scoping documentation relates if the entity fails to give the planning and land authority comments on the scoping documentation within—
  - (a) the 15-working day period under subsection (2) (b) (ii); or
  - (b) if the period is extended under section 53—the extended period.
- (4) In this section:  
*scoping documentation*, in relation to an application, means—
  - (a) the application; and
  - (b) a draft of the scoping document for the development proposal to which the application relates; and
  - (c) any other documents the planning and land authority considers are relevant to the proposal.

### **53      Extension of time for giving comments on scoping documentation**

- (1) An entity given scoping documentation under section 52 may, before the end of the 15-working day period mentioned in a notice under section 52 (2), apply to the chief planning executive for the period to be extended.
- (2) The application must—
  - (a) be in writing; and

- (b) state the reasons for making the application; and
  - (c) state the additional period the entity considers necessary for making comments.
- (3) If the chief planning executive allows an extension of the period, the planning and land authority must tell each entity given the documentation under section 52 about the extended period for giving comments.

*Note*      *Scoping documentation*—see s 52 (4).

## **54      Content of scoping documents—Act, s 213 (1)**

- (1) A scoping document for an EIS must contain the following:
- (a) the name, address, telephone number and email address of the people who prepared the document;
  - (b) a list of the entities that provided comments in accordance with an invitation under section 52 (Time for consulting entities on preparation of scoping documents) for the preparation of the scoping document;
  - (c) a list of entities that the proponent must consult in preparing the EIS;
  - (d) each potentially significant environmental impact that must be addressed in the EIS;
  - (e) if the scoping document relates to a s 125-related EIS—the issues that must be addressed in the EIS in relation to the public health impact of the development proposal to which the EIS relates;

*Note*      For *s 125-related EIS*, see the [Act](#), s 208.

- (f) any current relevant information held by the Territory, of which the planning and land authority is aware, that would be of use in preparing the EIS;



- (g) the requirements for the form and format of the EIS;

**Examples—requirements about format of EIS**

- 1 the structure of the EIS
- 2 how factual information is to be referenced in the EIS

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (h) the number of copies of the EIS to be given to the planning and land authority.
- (2) For subsection (1) (c), the scoping document may include requirements that affected groups with particular communication needs have adequate opportunity to comment on the EIS.
- (3) A scoping document for an EIS may also include any of the following:
- (a) requirements in relation to the methods of assessment to be used in the EIS;
  - (b) for each potentially significant environmental impact identified in the scoping document—
    - (i) a requirement that the proponent of the development proposal to which the scoping document relates consider ongoing management, monitoring or reporting regimes; or
    - (ii) a requirement that the EIS contain a statement indicating—
      - (A) whether an offset is likely to be required for the impact; and
      - (B) if an offset is likely to be required—whether an offset management plan is likely to be required for the offset;

*Note 1* If an offset is required, the Minister may impose an offset condition on the development approval (see [Act](#), s 165 (3) (ha)). An offset condition may require the proponent to prepare an offset management plan for the offset (see [Act](#), s 165B).

*Note 2* Offsets are dealt with in the [Act](#), ch 6A.

*Note 3* **Significant** adverse environmental impact—see the [Act](#), s 124A. **Offset**, for a development—see the [Act](#), s 111C. **Offset condition**, for a development approval—see the [Act](#), s 165B.

- (c) a list of impacts that are not significant environmental impacts that can be addressed through an altered design or in some other way.

*Note* The planning and land authority may, in a scoping document for a development proposal, require the proponent to engage a consultant who satisfies the criteria prescribed by regulation to help prepare an EIS for the proposal (see [Act](#), s 213 (2) and (3), def *consultant*).

## 55 Criteria for consultants—[Act](#), s 213 (3), def *consultant*

The criteria are that the planning and land authority is satisfied the person holds relevant professional qualifications in relation to the preparation of environmental impact statements and has—

- (a) experience in the preparation of environmental impact statements; or  
(b) the capacity to prepare environmental impact statements.

## Part 4.2 Inquiry panels

### 70 Definitions—pt 4.2

In this part:

*member* means a member of an inquiry panel.

*presiding member*, of an inquiry panel, means the member nominated under the [Act](#), section 229 (2) as the presiding member of the panel.

### 71 List of experts for inquiry panels

- (1) The planning and land authority may keep a list of people who may be appointed to an inquiry panel.
- (2) A person may, in writing, apply to the planning and land authority to be included on the list.
- (3) The planning and land authority may include a person on the list if satisfied the person—
  - (a) holds professional qualifications relevant to inquiries; or
  - (b) has expertise in an area relevant to inquiries.

#### Examples—areas of expertise

- environmental science
- urban, transport and landscape planning
- infrastructure planning and management
- economics

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (4) The planning and land authority must review the list at least once every 3 years.

**72 Conflict of interests to be considered in appointing panel members**

The Minister may appoint a person as a member of an inquiry panel for an EIS only if the Minister has received a declaration from the person whether—

- (a) the person has a direct or indirect financial or personal interest in a matter to which the EIS to be considered by the panel relates; and
- (b) the interest could conflict with the proper exercise of the person's functions as a member of the panel in relation to the panel's consideration of the EIS.

**73 Disclosure of interests by panel members**

- (1) This section applies if—
  - (a) a member of an inquiry panel has a direct or indirect financial or personal interest in an issue being considered, or to be considered, by the panel; and
  - (b) the interest could conflict with the proper exercise of the member's functions in relation to the panel's consideration of the issue.
- (2) As soon as practicable after the relevant facts come to the member's knowledge, the member must—
  - (a) disclose the nature of the interest to a meeting of the inquiry panel; and
  - (b) tell the parties to the inquiry about the interest; and
  - (c) not take part, or continue to take part, in the inquiry, or exercise any function in relation to the inquiry, unless each party consents to the person taking part, or continuing to take part, in the inquiry.

- (3) If the presiding member becomes aware that a member of an inquiry panel has an interest mentioned in subsection (1) (b) in relation to the inquiry, the presiding member must direct the person not to take part, or continue to take part, in the inquiry unless each party to the inquiry gives its consent in accordance with subsection (2) (c).
- (4) Within 14 days after the day an interest is disclosed to the presiding member under this section, the presiding member must give the Minister a statement of the disclosure.

#### **74 Presiding member's functions**

The presiding member of an inquiry panel has the following functions:

- (a) managing the affairs of the panel, including ensuring the expeditious conduct of the inquiry and issuing directions in relation to the conduct of the inquiry;
- (b) ensuring, as far as practicable, that there is a good working relationship between the panel and all relevant parties;
- (c) ensuring the Minister is kept informed about the operations of the panel.

#### **75 Constitution of inquiry panels**

- (1) An inquiry panel must not exercise its functions unless—
  - (a) all members of the panel are present; or
  - (b) the panel is reconstituted in accordance with this section.
- (2) If, before the inquiry panel has completed its inquiry, 1 of the members stops being a member of the panel or is unable to continue to be a member of the panel, the Minister must, in writing—
  - (a) end the inquiry by the panel and appoint a new panel to conduct the inquiry afresh; or
  - (b) appoint a new member to reconstitute the panel.

- (3) If the inquiry panel is reconstituted, the panel may, for the purposes of the inquiry, have regard to any record of the inquiry before the panel as previously constituted, including a record of any evidence taken.

## **76 Inquiries to be public**

- (1) An inquiry panel must conduct its inquiry in public.
- (2) However, an inquiry panel may—
  - (a) direct that the inquiry or any part of it be conducted in private, and give directions about who may be present during any private hearing; or
  - (b) give directions prohibiting or restricting the publication of information given to the inquiry, or of matters contained in documents lodged with the inquiry.
- (3) In making a direction under subsection (2), an inquiry panel must consider—
  - (a) the principle that it is desirable that the inquiry should be conducted in public, and that information given to the inquiry, and documents lodged with the inquiry, should be available to interested people and to the public; and
  - (b) in the circumstances, whether confidentiality is required.
- (4) A person must not contravene a direction under subsection (2).  
Maximum penalty: 10 penalty units.
- (5) An offence against this section is a strict liability offence.

## 77 General procedure for inquiry panels

(1) In this section:

*interested person*, for an inquiry in relation to an EIS, means each of the following:

- (a) the proponent of the development proposal to which the EIS relates;
- (b) an owner or prospective owner of land located near the land to which the EIS relates;
- (c) anyone who made a representation about the EIS under the [Act](#), section 219 (Representations about draft EIS);
- (d) anyone else who has, in the inquiry panel's opinion, a proper interest in the inquiry.

(2) An inquiry panel—

- (a) must conduct the inquiry as informally as practicable; and
- (b) is not bound by the rules of evidence, and may inform itself—
  - (i) in any way it considers appropriate; and
  - (ii) without notice to any person who has made a submission to the inquiry; and
- (c) may consider submissions by an interested person without hearing the person who made the submission if the person is not present or represented at the time the inquiry is considering the submission; and
- (d) may refuse to hear anyone who has failed to comply with a direction given by the presiding member of the panel; and

*Note* **Fail** includes refuse (see [Legislation Act](#), dict, pt 1).

- (e) subject to this part, may otherwise decide its own procedures.

- (3) The presiding member of an inquiry panel may, in writing, request a person to produce to the panel documents relating to an inquiry by the panel that it reasonably requires for the exercise of its functions.
- (4) Unless otherwise required by an inquiry panel, an interested person may make a submission to the panel orally or in writing or partly orally and partly in writing.
- (5) An interested person may appear and be heard by an inquiry panel in person or may be represented by another person.
- (6) Meetings of an inquiry panel are to be held when and where the presiding member decides in consultation with the other members of the panel.

## **78 Arrangements for the use of staff and facilities**

- (1) An inquiry panel may make arrangements with the planning and land authority for the use of the following:
  - (a) the services of public servants in the authority;
  - (b) facilities of the authority.
- (2) While a public servant is exercising functions for an inquiry panel, he or she must exercise the functions in accordance with the directions of the presiding member of the panel.



## Chapter 5 Leases generally

### Part 5.1 Direct sale of leases

#### Division 5.1.1 Interpretation—pt 5.1

##### 100 Definitions—pt 5.1

In this part:

***allocated land***, in relation to the housing commissioner, means land that has been placed under the commissioner's control under the [Housing Assistance Act 2007](#), section 32 (Placing unleased land under housing commissioner's control).

***Australian National University*** means the Australian National University under the [Australian National University Act 1991](#) (Cwlth).

***business-case criteria***, in relation to the direct sale of a lease to a person—see section 101.

***business-case documentation***, in relation to a proposed development by a person—see section 101.

***City West precinct***—see section 102.

***City West precinct deed*** means the precinct deed between the Territory and the Australian National University dated 21 December 2004.

***constitution***, for a corporation (other than an incorporated association under the [Associations Incorporation Act 1991](#))—see the [Corporations Act](#), dictionary.

*Note* For an incorporated association, see the definition of ***rules***.

***direct sale***, in relation to a lease, means the grant of the lease under the [Act](#), section 238 (1) (d).

**educational establishment**—see the [territory plan](#) (13 Definitions).

**retirement complex**—see section 170A (2).

**rules**, for an incorporated association—see the [Associations Incorporation Act 1991](#), dictionary.

**supportive accommodation** means any of the following:

- (a) a retirement complex;
- (b) residential care accommodation within the meaning of the [territory plan](#) (13 Definitions);
- (c) a retirement village within the meaning of the [territory plan](#) (13 Definitions);
- (d) supportive housing within the meaning of the [territory plan](#) (13 Definitions).

**territory entity** does not include the housing commissioner.

*Note 1* **Territory authority, territory instrumentality** and **territory-owned corporation**—see the [Legislation Act](#), dictionary, part 1.

*Note 2* For direct sales to the housing commissioner, see s 109 and s 130.

## 101 **Meaning of *business-case criteria* and *business-case documentation*—pt 5.1**

In this part:

**business-case criteria**—the following are the **business-case criteria** in relation to the direct sale of a lease to a person:

- (a) the person has the financial capacity, and relevant experience, qualifications, expertise and other resources, to develop and manage the land;
- (b) the community has a genuine need for the proposed use of the land;
- (c) the person has a genuine need for the land.

***business-case documentation***, in relation to a proposed development by a person, means the following:

- (a) a plan that outlines the nature and scale of the development that includes (but is not limited to) the following:
  - (i) how the land will be developed and used, including any staging requirements for the proposed development;
  - (ii) details of the proposed buildings and car parking facilities for the land;
  - (iii) details of the proposed public access to the land;
- (b) a business plan for the land that includes (but is not limited to) the following:
  - (i) the proposed strategies for the successful development and use of the land;
  - (ii) an estimate of the development costs for the land;
  - (iii) details of the goods or services to be provided from the land;
- (c) a list of all land in the ACT in which the person has an interest or that is occupied by the person;

*Note*     **Interest**—see the [Legislation Act](#), dictionary, part 1.
- (d) if the person is a corporation—proof of its incorporation and a copy of its constitution or rules.

## **102     Meaning of *City West precinct*—pt 5.1**

- (1) In this part:

***City West precinct*** means the following land:

- (a) district of Acton, section 63, block 6;

(b) the following in the district of City:

- (i) section 4, blocks 2 and 7;
- (ii) section 20, blocks 2 and 3;
- (iii) section 21, blocks 1 and 2;
- (iv) section 28, blocks 5, 10 and 15;
- (v) section 30, block 3;
- (vi) section 68, blocks, 2, 4 and 5.

(2) However, *City West precinct* does not include land mentioned in subsection (1) if the land ceases to form part of the City West precinct in accordance with the City West precinct deed.

*Note* For the expiry of this section and related provisions, see s 402.

## Division 5.1.2 Direct sales approved by Executive

### 105 Direct sales requiring approval by Executive— Act, s 240 (1) (a)

The following leases are prescribed:

(a) a lease granted to any of the following:

(i) a territory entity;

*Note* **Territory entity**—see the [Act](#), dictionary.

(ii) a Commonwealth entity;

*Note* **Commonwealth entity**—see the [Act](#), dictionary.

(iii) a non-government educational establishment;

(b) a lease to the housing commissioner if the land is not allocated land;

*Note* **Allocated land**—see s 100.

(c) a lease of public land to the lessee of a contiguous lease;

(d) a lease of land in the City West precinct to the Australian National University;

(e) a lease to a community organisation;

*Note* **Community organisation**—see the [Act](#), dictionary.

(f) a lease for supportive accommodation;

*Note* **Supportive accommodation**—see s 100.

(g) a rural lease.

*Note* The Executive may also approve the direct sale of a lease under the [Act](#), s 240 (2).

#### **106 Direct sale criteria for territory entities— Act, s 240 (1) (a) (i)**

The criteria for the direct sale of a lease to a territory entity are—

- (a) the land is the most suitable land for the entity's proposed use of the land, having regard to the entity's functions; and
- (b) an amount has been appropriated, or is otherwise available, to develop and manage the land; and
- (c) the proposed use of the land by the entity is consistent with the entity's operations.

*Note* **Territory entity**—see the [Act](#), dictionary.

#### **107 Direct sale criteria for Commonwealth entities— Act, s 240 (1) (a) (i)**

- (1) The criteria for the direct sale of a lease to a Commonwealth entity are—
  - (a) the land is the most suitable land for the entity's proposed use of the land, having regard to the entity's functions; and
  - (b) an amount has been appropriated, or is otherwise available, to develop and manage the land; and

- (c) the proposed use of the land by the entity is consistent with the entity's operations.

*Note* **Commonwealth entity**—see the [Act](#), dictionary.

- (2) This section does not apply to the direct sale to the Australian National University of a lease of land in the City West precinct.

## **108 Direct sale criteria for non-government educational establishments—Act, s 240 (1) (a) (i)**

- (1) The criteria for the direct sale of a lease to a person for an educational establishment are—

- (a) the person is—

- (i) a registered non-government school; or

*Note* **Registered non-government school**—see the [Education Act 2004](#), dictionary (see s (5)).

- (ii) if the land is for an additional campus for a registered non-government school—registered under the [Education Act 2004](#), section 88B (Registration at additional campus); or

- (iii) a registered training organisation under the [National Vocational Education and Training Regulator Act 2011](#) (Cwlth), section 3; or

- (iv) a registered higher education provider under the [Tertiary Education Quality and Standards Agency Act 2011](#) (Cwlth); and

- (b) the person meets the business-case criteria in relation to the proposed development and—

- (i) the use of the land for an educational establishment will promote any ACT or Commonwealth government policies in relation to educational services; or

- (ii) the educational establishment will meet an education need in the ACT that is not being met by existing education providers by providing—
  - (A) opportunities for education or training in an area of shortage of appropriately qualified or skilled people in the ACT; or
  - (B) education to people who, because of a group to which they belong, may suffer disadvantage in the provision of educational services unless their special needs are met.

**Examples of groups—s (1) (b) (ii) (B)**

- 1 Aboriginal or Torres Strait Islander people
- 2 people with a physical or medical disability
- 3 people who are socially or financially disadvantaged
- 4 people who cannot communicate, or who have difficulty communicating, in English

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (2) For subsection (1) (b), the person must provide the business-case documentation for the proposed development.
- (3) For subsection (1) (b) (ii), the person must provide details of how the development and use of the land will meet any relevant ACT or Commonwealth government policies applicable to the proposed use of the land, including (but not limited to) written evidence of the following:
  - (a) the support of any ACT or Commonwealth government agency responsible for implementing policy in relation to the land use;
  - (b) if the person is eligible for funding by an ACT or Commonwealth government agency—the person’s eligibility.

(4) This section does not apply to the direct sale to the Australian National University of a lease of land in the City West precinct.

(5) In this section:

*registered non-government school*—see the [Education Act 2004](#), dictionary.

**109 Direct sale criterion for unallocated land for housing commissioner—Act, s 240 (1) (a) (i)**

The criterion for the direct sale of a lease of land that is not allocated land to the housing commissioner is that the commissioner requires the land for housing within the meaning of the [Housing Assistance Act 2007](#).

*Note* *Allocated land*—see s 100.

**110 Direct sale criteria for leases of contiguous unleased land that is public land—Act, s 240 (1) (a) (i)**

(1) The criteria for the direct sale of a lease of public land (the *proposed lease*) to the lessee of a lease (the *existing lease*) that is contiguous with the proposed lease are that—

(a) the grant of the proposed lease will—

(i) rectify an existing encroachment on the proposed lease by a building or structure on the existing lease for the purpose of consolidating the proposed and existing leases for subdivision under the [Unit Titles Act 2001](#); or

(ii) facilitate the achievement of a good planning outcome; and

**Example—good planning outcome**

the incorporation of several small areas of unleased land into an existing lease to improve the use and maintenance of the land and to rationalise the land custodian's responsibilities in relation to land in areas near the lease



*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (b) the proposed use of the land is compatible with Territory or Commonwealth government policies applicable to the proposed use; and
- (c) because of the size, location or configuration of the proposed lease, it is not reasonable or viable to grant the proposed lease as a separate independent lease; and
- (d) the grant of the proposed lease—
  - (i) will not detract from the amenity of the surrounding area; and
  - (ii) will promote better land management; and
  - (iii) will not unreasonably restrict public access to other land.

*Note* **Public land**—see the [Act](#), dictionary.

- (2) In this section:

**encroachment** includes a projection at, above or below ground level.

## **111 Direct sale criteria for City West precinct land for Australian National University—Act, s 240 (1) (a) (i)**

- (1) The criteria for the direct sale of a lease of land in the City West precinct to the Australian National University are—
  - (a) a development deed for the land has been entered into between the university and the land agency; and
  - (b) the university has given the planning and land authority a development proposal for the land; and
  - (c) the planning and land authority is satisfied that the university has the financial capacity, and relevant experience,

qualifications, expertise and other resources, to develop and manage the land.

(2) In this section:

*development deed*—see the City West precinct deed, clause 1.1.

*development proposal*—see the City West precinct deed, clause 1.1.

*Note* For the expiry of this section and related provisions, see s 402.

## 112 **Direct sale criteria for community organisations— Act, s 240 (1) (a) (i)**

(1) The criteria for the direct sale of a lease to a community organisation are—

- (a) the community organisation meets the business-case criteria in relation to the proposed development; and
- (b) the proposed use of the land is—
  - (i) consistent with the community organisation’s constitution or rules; and
  - (ii) compatible with ACT or Commonwealth government policies applicable to the proposed use.

*Note* **Community organisation**—see the [Act](#), dictionary.

- (2) For subsection (1) (a), the community organisation must provide the business-case documentation for the proposed development.
- (3) For subsection (1) (b) (ii), the community organisation must provide details of how the development and use of the land will meet any relevant ACT or Commonwealth government policies applicable to the proposed use of the land, including (but not limited to) written evidence of the following:
  - (a) the support of any ACT or Commonwealth government agency responsible for implementing policy in relation to the land use;

- (b) if the community organisation is eligible for funding by an ACT or Commonwealth government agency—the community organisation’s eligibility.

**113 Direct sale criteria for supportive accommodation—  
Act, s 240 (1) (a) (i)**

- (1) The criteria for the direct sale of a lease for supportive accommodation are—

- (a) the proposed lessee is a community organisation; and

*Note* **Community organisation**—see the [Act](#), dictionary.

- (b) if the proposed lessee requires an approval (however described) under a territory law or Commonwealth law to provide the supportive accommodation to which the proposed use of the land relates—the proposed lessee holds the approval; and

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

- (c) the proposed lessee meets the business-case criteria in relation to the proposed development; and

- (d) the proposed use of the land—

- (i) is consistent with the proposed lessee’s constitution or rules; and
- (ii) will promote any ACT or Commonwealth government policies in relation to supportive accommodation; or
- (iii) will meet a need for additional supportive accommodation in the ACT.

*Note* **Supportive accommodation**—see s 100.

- (2) For subsection (1) (c), the proposed lessee must provide the business-case documentation for the proposed development.

- (3) For subsection (1) (d) (ii), the proposed lessee must provide details of how the development and use of the land will meet any relevant ACT or Commonwealth government policies applicable to the proposed use of the land, including (but not limited to) written evidence of the following:
- (a) the support of any ACT or Commonwealth government agency responsible for implementing policy in relation to the land use;
  - (b) if the person is eligible for funding by an ACT or Commonwealth government agency—the person’s eligibility.

**114 Direct sale criteria for rural leases—Act, s 240 (1) (a) (i)**

- (1) The criteria for the direct sale of a rural lease to a person are—
- (a) for at least 5 years before applying for the direct sale, the person has—
    - (i) lawfully occupied the land; or
    - (ii) been the occupier (whether as lessee, sublessee or licence-holder) of contiguous land; and
  - (b) the land’s custodian agrees to the grant.
- (2) For subsection (1) (b), the person must provide written evidence that the land’s custodian agrees to the grant.

*Note* The person must have also signed a land management agreement in relation to the land, see the [Act](#), s 283.

### **Division 5.1.3      Direct sales approved by Minister**

#### **120      Direct sales requiring approval by Minister— Act, s 240 (1) (b)**

The following leases are prescribed:

- (a) a lease granted to the Territory, other than a lease to which section 130 (1) (g) (Certain direct sales not requiring approval—[Act, s 240 \(1\) \(d\)](#)) applies;
- (b) a lease of unleased land, other than public land, to the lessee of a contiguous lease.

#### **121      Direct sale criteria for Territory—Act, s 240 (1) (b) (i)**

The criteria for the direct sale of a lease to the Territory are—

- (a) the land is suitable for the proposed use; and
- (b) an amount has been appropriated to develop and manage the land.

#### **122      Direct sale criteria for leases of contiguous unleased land other than public land—Act, s 240 (1) (b) (i)**

- (1) The criteria for the direct sale of a lease of unleased land other than public land (the *proposed lease*) to the lessee of a lease (the *existing lease*) that is contiguous with the proposed lease are that—
  - (a) the grant of the proposed lease will—
    - (i) rectify an existing encroachment on the proposed lease by a building or structure on the existing lease for the purpose of consolidating the proposed and existing leases for subdivision under the [Unit Titles Act 2001](#); or

- (ii) facilitate the achievement of a good planning outcome; and

**Example—good planning outcome**

the incorporation of several small areas of unleased land into an existing lease to improve the use and maintenance of the land and to rationalise the land custodian's responsibilities in relation to land in areas near the lease

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (b) the proposed use of the land is compatible with Territory or Commonwealth government policies applicable to the proposed use; and
- (c) because of the size, location or configuration of the proposed lease, it is not reasonable or viable to grant the proposed lease as a separate independent lease; and
- (d) the grant of the proposed lease—
- (i) will not detract from the amenity of the surrounding area; and
  - (ii) will promote better land management; and
  - (iii) will not unreasonably restrict public access to other land.

*Note* **Public land**—see the [Act](#), dictionary.

- (2) In this section:

**encroachment** includes a projection at, above or below ground level.

## **Division 5.1.4      Certain direct sales not requiring approval**

*Note*      For other direct sales not requiring approval, see the [Act](#), s 240 (1) (e) to (g).

### **130      Certain direct sales not requiring approval—Act, s 240 (1) (d)**

- (1) The direct sale of the following leases is prescribed:
- (a) a lease offered at auction but not sold;
  - (b) a lease of land (the *new lease*) if—
    - (i) a lease of the land was offered by tender but not sold; and
    - (ii) the new lease includes conditions materially similar to the conditions of the lease offered by tender, other than any conditions relevant only to the tender process;
  - (c) a lease offered at ballot but not sold;
  - (d) a lease sold at ballot but the contract of sale is rescinded or otherwise ended before the lease is granted under the contract;
  - (e) a lease of allocated land to the housing commissioner;  
*Note*      *Allocated land*—see s 100.
  - (f) a lease to Community Housing Canberra Limited, ACN 081 354 752;
  - (g) a lease of land to the Territory if the land is used or occupied by the Territory;
  - (h) a lease of land to an eligible former owner of the land;
  - (i) a lease of land in relation to a surrendered residential block;
  - (j) a lease of land that was an eligible impacted lease at the time the lease was sold to the Territory.

(2) In this section:

***affected residential premises register***—see the [Dangerous Substances Act 2004](#), section 47N (1).

***auction***, in relation to a lease, means an auction of the lease under the [Act](#), section 238 (1) (a).

***ballot***, in relation to a lease, means a ballot of the lease under the [Act](#), section 238 (1) (c).

***eligible former owner*** means—

- (a) a person who—
  - (i) was the lessee of an affected lease or eligible impacted lease; and
  - (ii) for a lessee of an affected lease—
    - (A) surrendered the affected lease to the Territory under the LAIE buyback program; and
    - (B) in the deed to surrender the affected lease elected to receive a first right of refusal to purchase a new lease of the land; and
  - (iii) for a lessee of an eligible impacted lease—
    - (A) sold the lease to the Territory under the eligible impacted property buyback program; and
    - (B) in the contract for the sale of the eligible impacted lease elected to receive a first right of refusal to purchase a new lease of the land; or
- (b) if the person mentioned in paragraph (a) dies—a person who would have obtained an interest in the affected lease or eligible impacted lease if the lease had not been surrendered or sold; or



- (c) if the person mentioned in paragraph (a) is a party to a divorce or the ending of a civil partnership or civil union—a person who would have obtained an interest in the affected lease or eligible impacted lease under a court order if the lease had not been surrendered or sold.

*Note*     **LAIE buyback program**—see s 213.

**eligible impacted lease** means a lease of land on which there are improvements including an eligible impacted property.

**eligible impacted property buyback program**—see the [Civil Law \(Sale of Residential Property\) Act 2003](#), section 9A (1).

**surrendered residential block** means a block—

- (a) for which a lease has been surrendered under the LAIE buyback program; and
- (b) that is included as a surrendered block on the affected residential premises register.

**tender**, in relation to a lease, means a tender for the lease under the [Act](#), section 238 (1) (b).

## Part 5.2                      Grants of leases generally

### 140              **Period for failure to accept and execute lease—Act, s 250 (1)**

The period is 20 working days after the day when the planning and land authority notifies the person who is entitled to the grant of the lease that the lease is available for execution.

### 141              **Exemptions from restrictions on dealings with certain single dwelling house leases—Act, s 251 (1) (c) (ii)**

A single dwelling house lease is prescribed if the lease provides that the lessee cannot deal with the land, or part of the land, comprised in the lease without the prior written consent of the planning and land authority.

*Note*      *Single dwelling house lease* means a lease granted under the [Act](#), s 240 (1) (e) (see [Act](#), s 234).

### 142              **Exemptions from restrictions on dealings with certain leases—Act, s 251 (5)**

The following leases are exempt from the [Act](#), section 251 (1) (b) and (c):

- (a) a lease to Community Housing Canberra Limited, ACN 081 354 752;
- (b) a lease granted under the [Act](#), section 238 (1) by auction, tender or ballot if—
  - (i) the class of people eligible or ineligible for the grant was restricted under the [Act](#), section 239; and
  - (ii) the lease is sold for market value; and
  - (iii) the [Act](#), section 251 (1) (a) or (d) does not apply to the lease;

- (c) a lease (the *exempt lease*) of public land granted under the [Act](#), section 238 (1) (d) to the lessee of a lease that is contiguous with the exempt lease;
- (d) a lease (the *exempt lease*) of unleased land, other than public land, granted under the [Act](#), section 238 (1) (d) to the lessee of a lease that is contiguous with the exempt lease;
- (e) a lease granted under the [Act](#), section 241 if—
  - (i) the lease is sold for market value; and
  - (ii) the [Act](#), section 251 (1) (a) or (d) does not apply to the lease.

## Part 5.3                      Grants of further leases

### 150              **Criteria for grant of further leases for unit title schemes— Act, s 254 (1) (f)**

- (1) The following are the criteria for a further lease of a unit or the common property in a units plan:
  - (a) the application for the further lease is made by the owners corporation for the units plan;
  - (b) the application is supported by an ordinary resolution of the owners corporation;
  - (c) a certificate under the *Unit Titles (Management) Act 2011*, schedule 3, section 3.19 about the resolution is attached to the application;
  - (d) the planning and land authority is granting further leases for all the units and the common property in the units plan;
  - (e) the further leases are all granted for the same term.

- (2) In this section:

*ordinary resolution*—see the *Unit Titles (Management) Act 2011*, dictionary.

*owners corporation*—see the *Unit Titles (Management) Act 2011*, dictionary.

*unit*—see the *Unit Titles Act 2001*, section 9.

*units plan*—see the *Unit Titles Act 2001*, dictionary.

### 151              **Criteria for grant of further leases for community title schemes—Act, s 254 (1) (f)**

- (1) The following are the criteria for a further lease of a lot in a community title scheme:
  - (a) the application is made by the body corporate for the scheme;

- (b) the application is supported by an ordinary resolution of the body corporate;
  - (c) attached to the application is a certificate under the seal of the body corporate stating that at a general meeting of the body corporate held on a stated day a resolution was passed for paragraph (b) in the terms set out in the certificate;
  - (d) the planning and land authority is granting further leases for all the lots in the scheme;
  - (e) the further leases are all granted for the same term.
- (2) In this section:

**body corporate**—see the [Community Title Act 2001](#), dictionary.

**community title scheme**—see the [Community Title Act 2001](#), dictionary.

**lot**—see the [Community Title Act 2001](#), dictionary.

**ordinary resolution**—see the [Community Title Act 2001](#), dictionary.

## Part 5.4                      Lease variations

### 160              **Lease classes for variation to pay out rent— Act, s 272A (1)**

The classes of lease are as follows:

- (a) rental leases granted for the full market rental value of the lease;  
*Note      Rental lease*—see the [Act](#), s 234.
- (b) concessional leases, other than a concessional lease—
  - (i) that is a recently commenced lease within the meaning of section 180 (Meaning of *recently commenced lease*—div 5.5.3); or
  - (ii) granted to a community organisation under the [Land \(Planning and Environment\) Act 1991](#), section 163 (Leases to community organisations).

### 161              **Decision on rent payout lease variation application— Act, s 272B (1)**

The period of 20 working days is prescribed.

## Part 5.5 Lease variation charges

### Division 5.5.1 Chargeable variations

#### 170 Exempt variations—Act, s 276, def *chargeable variation*, par (c)

(1) The following are prescribed:

- (a) a variation of a holding lease;
- (b) a variation to authorise the use of the land under the lease for a secondary residence;

*Note* **Secondary residence**—see the [territory plan](#) (13 Definitions).

- (c) a variation of a perpetual Crown lease held by the University of Canberra;
- (d) a variation, if the only effect of the variation is to—
  - (i) authorise the use of the land under the lease for a childcare centre; or
  - (ii) do both of the following:
    - (A) authorise the use of the land under the lease for a childcare centre;
    - (B) limit the maximum number of children provided care in the childcare centre permitted under the lease; or
  - (iii) increase the maximum number of children provided care in the childcare centre permitted under the lease; or
  - (iv) increase the maximum gross floor area of any building or structure permitted for use as a childcare centre on the land under the lease.

(2) In this section:

*childcare centre*—see the *Children and Young People Act 2008*, section 733 (1).

**170A S 276E chargeable variations—Act, s 276A (1), def s 276E chargeable variation, par (h)**

(1) The following chargeable variations are prescribed:

- (a) for a retirement complex—a variation to increase the maximum number of—
  - (i) self-care units in the complex permitted under the lease; or
  - (ii) care beds in the complex permitted under the lease;
- (b) for a nominal rent lease that authorises an incorporated association to use the land in the lease for a stated purpose—a variation to remove the reference in the lease to the association in relation to the stated purpose;

**Example**

A lease authorises an incorporated association to use land for office accommodation. The lessee applies for development approval to vary the lease to remove the reference to the association so that the lease may be used for office accommodation by anyone.

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see *Legislation Act*, s 126 and s 132).



- (c) a variation to limit the number of non-residential units (however described) permitted on the land under a non-residential lease.

**Example**

A non-residential lease authorises commercial use of the land under the lease but does not limit the number of permitted buildings, units or structures on the land. The lessee proposes to subdivide the land under the [Unit Titles Act 2001](#) and to develop a warehouse on the land into commercial and retail units. That Act, s 20 (4) does not allow the lease to be subdivided unless the lease states the number of units (however described) permitted on the land. The lessee must vary the lease to limit the number of units permitted on the land before subdividing the land.

- (2) In this section:

***care bed***, in a retirement complex, means a bed used by a person 55 years old or older who requires residential care services under the [Aged Care Act 1997](#) (Cwlth).

***incorporated association*** means an association incorporated under the [Associations Incorporation Act 1991](#) or a law of another jurisdiction corresponding, or substantially corresponding, to that Act.

***non-residential lease***—see the [Act](#), section 276A (2).

***retirement complex*** means premises used for—

- (a) permanent residential accommodation for people 55 years old or older, in self-care units; and
- (b) one or more of the following:
  - (i) a hostel;
  - (ii) a nursing home.

*Note* Self-care units that are part of a retirement complex may also be within the meaning of ‘retirement village’ in the [territory plan](#) (13 Definitions).

*self-care unit*, in a retirement complex, means a unit for use by a person 55 years old or older who is not provided, as a condition of occupancy of the unit, residential care or similar services (excluding access to facilities or services provided within the complex).

**Example—facilities or services provided within the complex**

gymnasium, medical centre, swimming pool, therapy room, kiosk facility

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

**170B Lease variation charge—working out charge for combination of s 276E and s 277 chargeable variations—Act, s 276C (2) (c)**

The lease variation charge is the total of—

- (a) for each s 276E chargeable variation for which a charge is determined in an LVC determination—the determined charge for the variation; and
- (b) for each s 277 chargeable variation—the charge worked out under section 277 for the variation.

**Division 5.5.2 Independent valuation of s 277 lease variation charge**

**171 Appointment of independent valuer—Act, s 277D (4) (b) (ii)**

The president of the ACT division of the Australian Property Institute Incorporated ABN 49 007 505 866 is prescribed.

**172 Requirements for independent valuer—Act, s 277D (4) (c)**

A valuer preparing an independent valuation must be a current member of the Australian Property Institute Incorporated ABN 49 007 505 866.

## Division 5.5.3 Increase of lease variation charge

### 179 Meaning of *added value*—div 5.5.3

- (1) In this division:

*added value*, for the variation of a nominal rent lease, means the amount worked out as follows:

$$V_1 - V_2$$

- (2) In this section:

*V1*—see the [Act](#), section 277 (2).

*V2*—see the [Act](#), section 277 (2).

### 180 Meaning of *recently commenced lease*—div 5.5.3

- (1) In this division:

*recently commenced lease*, in relation to the variation of a lease, means—

- (a) a lease that commenced not more than 5 years before the application for the variation is made; or
- (b) a further lease granted under the [Act](#), section 254 following the surrender of a lease that commenced not more than 5 years before the application for the variation is made; or
- (c) a lease regranted following the surrender of a lease if—
  - (i) the regranted lease includes all or part of the land comprised in the surrendered lease and is not in an area identified in the [territory plan](#) as a future urban area; and
  - (ii) the surrendered lease commenced not more than 5 years before the application for the variation is made; or

- (d) a market value lease granted following the surrender of a concessional lease if—
  - (i) the market value lease is granted to the same lessee as the surrendered lease; and
  - (ii) the surrendered lease commenced not more than 5 years before the application for the variation is made; or
- (e) a lease granted following the surrender of 2 or more leases of the same size if any of the leases commenced not more than 5 years before the application for the variation is made; or
- (f) a lease granted following the surrender of 2 or more leases of at least 2 different sizes if the largest lease commenced not more than 5 years before the application for the variation is made.

- (2) In this section:

***largest lease***, of the surrendered leases, means the lease, or any of the leases, with the largest area.

***regrant***, of a surrendered lease, means the grant of a new lease, subject to different provisions, to the same lessee as the surrendered lease.

## **181 Increase of lease variation charge for concessional leases—Act, s 279 (1) and (2)**

- (1) The variation of a concessional lease is prescribed if—
- (a) the variation is for a use other than a community use; or  
*Note* ***Community use***—see the [territory plan](#) (13 Definitions).
  - (b) the lease was not granted to the housing commissioner for a term beginning before 17 December 1987; or
  - (c) if the lease as varied is a consolidated or subdivided concessional lease—
    - (i) the lease is a recently commenced lease; and

- (ii) the amount payable under section 182 in relation to the variation is less than the amount payable under this section for the variation.
- (2) The lease variation charge for the variation must be increased by an amount equal to 25% of the added value for the variation.
- (3) In this section:  
*consolidated or subdivided concessional lease*—see the [Act](#), section 235A (4).

**182 Increase of lease variation charge for recently commenced leases—Act, s 279 (1) and (2)**

- (1) The variation of a recently commenced lease is prescribed if—
  - (a) the variation is not only to correct an error in the surrendered lease; or
  - (b) the lease is a concessional lease and the amount payable under section 181 in relation to the variation is less than the amount payable under this section for the variation.

*Note* *Concessional lease*—see the [Act](#), s 235A.
- (2) The lease variation charge for the variation must be increased by an amount equal to 25% of the added value for the variation.

## Part 5.6                      Discharge amounts for rural leases

### 190              Definitions—pt 5.6

In this part:

***earlier index number***, in relation to a lease, means—

- (a) the index number published before the lease commenced; or
- (b) if the Australian statistician changes the reference base for the consumer price index after the lease commenced but before the calculation under this part of the later index number for the lease—the index number that would have been applicable if the new reference base had been in effect when the lease commenced.

*Note*      ***Australian statistician***—see the [Legislation Act](#), dict, pt 1.

***excluded amount***, in relation to a lease, means the value of any lessee-owned improvements to the land comprised in the lease.

***index number***—

- (a) means the *All Groups Consumer Price Index* number published by the Australian statistician from time to time; but
- (b) does not include a substituted index number published by the Australian statistician if the substituted index number for a period has been recalculated for a reason other than a change in the reference base for the *All Groups Consumer Price Index*.

***special Pialligo lease*** means a lease of the district of Majura, section 2, block 6, 12, 13, 14, 15, 19, 20 or 52.

**191 Discharge amount for rural leases other than special Pialligo leases—Act, s 282, def *discharge amount***

- (1) The discharge amount in relation to a dealing with a rural lease, other than a defined rural lease, is the amount worked out as follows:

$$\frac{\text{last amount} - \text{indexed first amount}}{2} + \text{owed amount}$$

*Note Deal* with a lease—see the [Act](#), s 234.

- (2) The discharge amount in relation to a dealing with a defined rural lease is the owed amount plus \$10 for each year, or part of a year, of the remainder of the holding period for the lease.

*Note Holding period*—see the [Act](#), s 282.

- (3) This section does not apply to a dealing with a special Pialligo lease.  
(4) In this section:

***defined rural lease*** means a rural lease—

- (a) for a term shorter than 21 years; and
- (b) that commenced at least 2 years before the discharge amount is paid.

***first amount*** means—

- (a) for a nominal rent lease—the consideration for the lease when it was granted less the excluded amount; or
- (b) for a lease granted for a term shorter than 21 years—the value of the lease when it was granted less the excluded amount; or
- (c) for any other lease—the consideration for the lease when it was granted plus any amount to be paid under the lease less the excluded amount.

***indexed first amount*** means the amount worked out as follows:

$$\text{first amount} \times \frac{\text{later index number}}{\text{earlier index number}}$$

***last amount***, in relation to a dealing with a lease, means—

- (a) the market value of the lease less the excluded amount if—
  - (i) there is no consideration for the dealing; or
  - (ii) the dealing relates only to part of the land in the lease; or
  - (iii) the consideration for the dealing is less than the market value of the lease; or
- (b) in any other case—the consideration for the dealing less the excluded amount.

***later index number***, in relation to a lease, means the last index number published before the last amount is worked out for the lease.

***owed amount***, in relation to a dealing with a lease, means—

- (a) for a lease for a term shorter than 21 years—any rent plus interest payable under the lease on the day of the dealing with the lease; or
- (b) for a lease for a term of 21 years or longer—any amount remaining to be paid under the lease, even if the amount is not yet owing.



**192 Discharge amount for special Pialligo leases—Act, s 282,  
def *discharge amount***

- (1) The discharge amount for a special Pialligo lease that commenced less than 1 year before the discharge amount is paid is the amount worked out as follows:

amount paid + owed amount

- (2) The discharge amount for a special Pialligo lease that commenced at least 1 year before the discharge amount is paid is the amount worked out as follows:

amount paid - (cpi adjusted amount  $\times \frac{\text{whole years}}{10}$ ) + owed amount

- (3) In this section:

***amount paid*** means—

- (a) for a nominal rent lease—the consideration for the lease when it was granted less the excluded amount; or
- (b) for any other lease—the consideration for the lease when it was granted plus any amount to be paid under the lease less the excluded amount.

***cpi adjusted amount*** means the amount worked out as follows:

amount paid  $\times \frac{\text{later index number}}{\text{earlier index number}}$

***later index number***, in relation to a lease, means the last index number published before the discharge amount for the lease is paid.

***owed amount***, in relation to a lease, means any amount remaining to be paid under the lease, even if the amount is not yet owing.

***whole years***, in relation to a lease, means the number of whole years since the lease commenced.

## **Part 5.7**                      **Transfer or assignment of leases subject to building and development provision**

### **Division 5.7.1**            **Transfer of land subject to building and development provision**

#### **200**            **Personal reasons for noncompliance with building and development provision—Act, s 298 (2) (b) (i)**

- (1) The following are prescribed:
- (a) mental or physical illness or trauma to the lessee, or a member of the lessee's immediate family, after the purchase of the lease that has a demonstrable effect on the lessee's ability to develop the lease;
  - (b) the lessee moving to a place interstate or overseas because the lessee's or the lessee's domestic partner's employment is or will be at the place;
- Note*      **Domestic partner**—see the [Legislation Act](#), s 169 (1).
- (c) the lessee, or the lessee's domestic partner, has been unemployed for at least 3 months before the request for the assignment or transfer of the lease is made, if the lessee satisfies the planning and land authority that reasonable attempts have been made to obtain alternative employment.
- (2) For subsection (1) (a), the planning and land authority must consider any medical certificate by a doctor about the mental or physical illness or trauma.

(3) In this section:

*immediate family*, of a lessee, means—

- (a) the lessee's domestic partner; or
- (b) a parent or sibling of the lessee; or
- (c) an adult child of the lessee; or
- (d) another relative of the lessee who is a member of the same household as the lessee; or
- (e) a sole or primary carer who is living with a person mentioned in paragraph (a) to (d).

## 201 **Matters for transfer or assignment of leases—Act, s 298 (5)**

The following matters are prescribed in deciding whether to consent to the transfer or assignment of a lease under the [Act](#), section 298 (2):

- (a) the proposed transferee's or assignee's financial ability to comply with the lease's building and development provision;
- (b) the proposed transferee's or assignee's history of compliance with building and development provisions in relation to leases in which the proposed assignee or transferee has, or has had, an interest;

*Note* **Interest**—see the [Legislation Act](#), dictionary, part 1.

- (c) the lessee's history of compliance with building and development provisions in relation to leases in which the lessee has, or has had, an interest;
- (d) the time remaining for compliance with the lease's building and development provision when the application to the planning and land authority for its consent to the transfer or assignment of the lease is made;

- (e) a written undertaking from the proposed transferee that the transferee will comply with the lease's building and development provision.

## **Division 5.7.2 Extension of time to complete required works**

### **202 Extension of time to complete works—Act, s 298D (4), def A**

- (1) This section applies to an extension of time to complete works in relation to a lease.
- (2) The prescribed figure for **A** for a year, or part of a year, is the figure mentioned in table 202, column 3 in relation to the year of the period of extension mentioned in column 2.

**Table 202 General rule**

<b>column 1 item</b>	<b>column 2 year</b>	<b>column 3 figure</b>
1	1st to 4th years	0
2	5th or later year	1

- (3) In this section:

*period of extension* means the period of extension under the [Act](#), section 298B (Extension of time to complete works) or section 298C (Extension of time to complete works—decision by planning and land authority).

### **203 Application for extension of time—general rule—Act, s 298C (3), def A**

- (1) This section applies to an application for an extension of time in relation to a lease (other than an application to which section 204, section 205, section 206 or section 207 applies).

- (2) If a year, or part of a year, of the period of extension falls on or after 22 June 2012, the prescribed figure for *A* for that year, or part of the year, is the figure mentioned in table 203.1, column 3 in relation to the year of the period of extension mentioned in column 2.

**Table 203.1 General rule**

column 1 item	column 2 year	column 3 figure
1	1st to 4th year	0.01
2	5th or later year	5

- (3) If a year, or part of a year, of the period of extension falls before 22 June 2012, the prescribed figure for *A* for that year, or part of the year, is the figure mentioned in table 203.2, column 3 in relation to the year of the period of extension mentioned in column 2.

**Table 203.2 General rule**

column 1 item	column 2 year	column 3 figure
1	1st year	1
2	2nd year	2
3	3rd year	3
4	4th year	4
5	5th or later year	5

- (4) In this section:  
*period of extension*—see the [Act](#), section 298C (3).

**204 Application for extension of time—hardship reason—Act, s 298C (3), def A**

- (1) This section applies to an application for an extension of time in relation to a single dwelling house lease or a lease granted to a community organisation (other than an application to which section 205 or section 206 applies) if the planning and land authority is satisfied that—
- (a) a hardship reason applies in relation to the lessee; and
  - (b) the extension sought is necessary because of the hardship reason.

*Note* **Single dwelling house lease** means a lease granted under the [Act](#), s 240 (1) (e) (see [Act](#), s 234).

- (2) If a year, or part of a year, of the period of extension falls on or after 22 June 2012, the prescribed figure for **A** for that year, or part of the year, is the figure mentioned in table 204.1, column 3 in relation to the year of the period of extension mentioned in column 2.

**Table 204.1 Hardship reason**

column 1 item	column 2 year	column 3 figure
1	1st and 2nd year	0
2	3rd and 4th year	0.01
3	5th or later year	4

- (3) If a year, or part of a year, of the period of extension falls before 22 June 2012, the prescribed figure for **A** for that year, or part of the

year, is the figure mentioned in table 204.2, column 3 in relation to the year of the period of extension mentioned in column 2.

**Table 204.2    Hardship reason**

column 1 item	column 2 year	column 3 figure
1	1st and 2nd year	0
2	3rd year	2
3	4th year	3
4	5th or later year	4

- (4) However, this section does not apply to an application for an extension of time in relation to a single dwelling house lease if the lessee—
- (a) is the lessee of another lease; and
  - (b) has applied for, or been granted, an extension of time to commence or complete development in relation to that lease.
- (5) In this section:
- hardship reason***, in relation to a lessee, means—
- (a) if the lessee is an individual—a reason mentioned in the [Act](#), section 298 (2) (b) (i), (ii) or (iii); and
  - (b) in any other case—a reason mentioned in the [Act](#), section 298 (2) (b) (ii) or (iii).
- period of extension***—see the [Act](#), section 298C (3).

## 205        **Application for extension of time—external reason—Act, s 298C (3), def A**

- (1) This section applies to an application for an extension of time in relation to a lease if the planning and land authority is satisfied that—
- (a) an external reason applies in relation to the lessee; and

- (b) the extension sought is necessary because of the external reason.
- (2) The prescribed figure for *A* is 0.
- (3) In this section:

***external reason***—each of the following is an ***external reason*** in relation to a lessee:

- (a) the lessee is unable to commence or complete the works required under the building and development provision for the lease because—
  - (i) road or traffic infrastructure to be provided by the Territory is not complete; or
  - (ii) a sewerage, electricity, water or gas service to be provided by the Territory is not installed or connected;
- (b) the lessee is unable to commence or complete the works required under the building and development provision for the lease because of a delay in obtaining a statutory approval required for the works, other than a delay caused in whole or part by—
  - (i) the lessee; or
  - (ii) a decision to refuse, or impose a condition on, a statutory approval required for the works.

**206 Application for extension of time—lease transferred or assigned in special circumstances—Act, s 298C (3), def A**

- (1) This section applies to an application for an extension of time in relation to a lease if—
  - (a) the lease was transferred or assigned in circumstances mentioned in subsection (3); and
  - (b) the extension sought is for a period that—
    - (i) starts on or after the day of the transfer or assignment; and



- (ii) is not longer than the period allowed under the building and development provision when the lease was granted.
- (2) The prescribed figure for *A* is 0.
- (3) For subsection (1) (a), the circumstances are that—
  - (a) the lessee has died; or
  - (b) the transfer or assignment is made under any of the following orders:
    - (i) an order of the Family Court;
    - (ii) an order of another court having jurisdiction under the *Family Law Act 1975* (Cwlth);
    - (iii) an order under the *Domestic Relationships Act 1994*, division 3.2 adjusting the property interests of the parties in a domestic relationship; or
  - (c) the transfer or assignment happened by operation of, or under, bankruptcy or insolvency; or
  - (d) the transfer or assignment happened in the exercise by an authorised deposit taking institution or finance company of a power of sale under the *Land Titles Act 1925*, section 94 that arose from a default in payment by the lessee.

**207 Application for extension of time—certain leases granted before 31 March 2008—Act, s 298C (3), def A**

- (1) This section applies to an application for an extension of time in relation to a lease (other than a single dwelling lease or a lease granted to a community organisation for community use) if—
  - (a) the lease was granted before 31 March 2008; and

- (b) the planning and land authority is satisfied that the time for commencing or completing the works required under the building and development provision was not sufficient when the lease was granted; and
  - (c) the period of extension sought is—
    - (i) for an application to commence the required works—not more than 1 year after the end of the period allowed under the building and development provision when the lease was granted; or
    - (ii) for an application to complete the required works—not more than 2 years after the end of the period allowed under the building and development provision when the lease was granted.
- (2) The prescribed figure for *A* is 0.

## **Part 5.8**                      **Surrendering and terminating leases**

### **Division 5.8.1**            **Payment of amount on surrender or termination of leases—certain leases**

#### **209**            **Application—div 5.8.1**

- (1) This division applies to the following leases:
- (a) a residential lease granted for not more than 3 residential dwellings;
  - (b) a lease granted to a community organisation;
  - (c) a lease terminated for breach of a building and development provision.

*Note*        **Community organisation**—see the [Act](#), dictionary.

*Note*        **Building and development provision**, in relation to a lease—see the [Act](#), s 234.

- (2) However, this division does not apply to a lease surrendered under—
- (a) the LAIE buyback program; or
  - (b) the eligible impacted property buyback program.
- (3) In this section:

**eligible impacted property buyback program**—see the [Civil Law \(Sale of Residential Property\) Act 2003](#), section 9A (1).

*Note*        **LAIE buyback program**—see s 213.

**210 Amount of refund on surrender or termination of certain leases—Act, s 300 (2)**

The prescribed amount is the lesser of the following amounts:

- (a) the amount paid for the grant or transfer of the lease to the lessee less any amount payable to, or incurred by, the Territory under section 211;
- (b) the market value of the lease less any amount payable to, or incurred by, the Territory under section 211.

**211 Limitations for refund on surrender or termination of leases—Act, s 300 (3)**

The planning and land authority may pay an amount mentioned in section 210 if—

- (a) the application for payment is made by the lessee—
  - (i) before the period for the lease’s building and development provision has ended; or
  - (ii) because the lease has been terminated; and
- (b) the planning and land authority is satisfied that it is not appropriate to consent to a transfer of the lease under the [Act](#), section 298; and
- (c) all outstanding amounts payable to the Territory in relation to the lease (including rates, land tax, stamp duty and land rent) have been paid; and

*Note* Any application fee must also have been paid, see the [Legislation Act](#), s 57 (2).

- (d) all amounts incurred by the Territory in relation to the surrender or termination of the lease have been paid.

## Division 5.8.2      Payment of amount on surrender of leases—loose-fill asbestos insulation eradication buyback program

### 212      **Meaning of *affected lease* and *affected residential premises***

- (1) In this regulation:

*affected lease* means a lease of land on which there are improvements including affected residential premises.

*affected residential premises* means—

- (a) residential premises that contain, or have contained, loose-fill asbestos insulation; or
- (b) premises listed on the affected residential premises register.

- (2) In this section:

*affected residential premises register*—see the [Dangerous Substances Act 2004](#), section 47N.

*residential premises* means premises, or a part of premises, that are a class 1 or class 2 building.

### 213      **Meaning of *loose-fill asbestos insulation eradication buyback program***

In this regulation:

*loose-fill asbestos insulation eradication buyback program (LAIE buyback program)* means the program—

- (a) involving the surrender of affected leases; and
- (b) for which funding was appropriated under the [Appropriation \(Loose-fill Asbestos Insulation Eradication\) Act 2014-2015](#).

**214 Meaning of *LAIE buyback program valuation procedure***

In this regulation:

*LAIE buyback program valuation procedure* means the procedure set out in schedule 2A.

**215 Payment amount—contract entered on or before 18 February 2014—Act, s 300 (2)**

- (1) This section applies if—
  - (a) a lessee entered into a contract for sale to purchase land comprised in an affected lease on or before 18 February 2014; and
  - (b) the contract was completed on or before 28 October 2014; and
  - (c) the lessee surrenders the affected lease under the LAIE buyback program.
- (2) The prescribed amount is the greater of the following amounts:
  - (a) the amount payable to the lessee for the surrender under the LAIE buyback program valuation procedure;
  - (b) the amount payable to the lessee under the [Act](#), section 291 (Authority to pay for certain improvements).

*Note* The [Act](#), s 291 applies to a surrendered lease as if the lease had expired on the day the lease was surrendered (see [Act](#), s 293).

**216 Payment amount—contract entered after 18 February 2014 and completed on or before 28 October 2014—Act, s 300 (2)**

- (1) This section applies if—
  - (a) a lessee entered into a contract for sale of land comprised in an affected lease after 18 February 2014; and

- (b) the contract for sale was completed on or before 28 October 2014; and
  - (c) the lessee surrenders the affected lease under the LAIE buyback program.
- (2) The prescribed amount is the greater of the following amounts:
- (a) the amount of the purchase price set out in the contract for sale;
  - (b) the amount payable to the lessee under the [Act](#), section 291 (Authority to pay for certain improvements).
- Note* The [Act](#), s 291 applies to a surrendered lease as if the lease had expired on the day the lease was surrendered (see [Act](#), s 293).
- (3) However, subsection (4) applies if—
- (a) a lessee makes a submission to the planning and land authority before surrendering the affected lease, stating that the lessee undertook improvements to the land after the day the contract for sale was completed and on or before 28 October 2014 (the *after-purchase improvements*); and
  - (b) the planning and land authority is satisfied that the after-purchase improvements have had a significant effect on the value of the affected lease including improvements.
- (4) The prescribed amount is the greater of the following amounts:
- (a) the amount of the purchase price set out in the contract for sale, plus the value of the after-purchase improvements;
  - (b) the amount payable to the lessee under the [Act](#), section 291.

**217 Payment amount—contract entered after 18 February 2014 and completed after 28 October 2014—Act, s 300 (2)**

- (1) This section applies if—
- (a) a lessee entered into a contract for sale of land comprised in an affected lease after 18 February 2014 but before 28 October 2014; and
  - (b) the contract for sale was completed after 28 October 2014; and
  - (c) the lessee surrenders the affected lease under the LAIE buyback program.
- (2) The prescribed amount is the greater of the following amounts:
- (a) the amount of the purchase price set out in the contract for sale;
  - (b) the amount payable to the lessee under the [Act](#), section 291 (Authority to pay for certain improvements).

*Note* The [Act](#), s 291 applies to a surrendered lease as if the lease had expired on the day the lease was surrendered (see [Act](#), s 293).

**218 Payment amount—lease acquired before 18 February 2014 other than by contract—Act, s 300 (2)**

- (1) This section applies if a lessee—
- (a) on or before 18 February 2014, acquired an interest in land comprised in an affected lease other than by entering into a contract for sale; and
  - (b) surrenders the affected lease under the LAIE buyback program.



- (2) The prescribed amount is the greater of the following amounts:
- (a) the amount payable to the lessee for the surrender under the LAIE buyback program valuation procedure;
  - (b) the amount payable to the lessee under the [Act](#), section 291 (Authority to pay for certain improvements).

*Note* The [Act](#), s 291 applies to a surrendered lease as if the lease had expired on the day the lease was surrendered (see [Act](#), s 293).

**219 Payment amount—lease acquired after 18 February 2014 other than by contract, and transferor acquired lease before 18 February 2014—Act, s 300 (2)**

- (1) This section applies if—
- (a) a person (the *transferor*) acquired an interest in land comprised in an affected lease on or before 18 February 2014; and
  - (b) after 18 February 2014, a lessee acquired from the transferor an interest in the land other than by entering into a contract for sale; and
  - (c) the lessee surrenders the affected lease under the LAIE buyback program.
- (2) The prescribed amount is the greater of the following amounts:
- (a) the amount payable to the lessee for the surrender under the LAIE buyback program valuation procedure;
  - (b) the amount payable to the lessee under the [Act](#), section 291 (Authority to pay for certain improvements).

*Note* The [Act](#), s 291 applies to a surrendered lease as if the lease had expired on the day the lease was surrendered (see [Act](#), s 293).

**219A Payment amount—lease acquired after 18 February 2014 other than by contract, and transferor acquired lease after 18 February 2014—Act, s 300 (2)**

- (1) This section applies if—
- (a) a person (the *transferor*) entered into a contract for sale of land comprised in the affected lease after 18 February 2014 but before 28 October 2014; and
  - (b) after 18 February 2014, a lessee acquired from the transferor an interest in the land other than by entering into a contract for sale; and
  - (c) the lessee surrenders the affected lease under the LAIE buyback program.
- (2) The prescribed amount is the greater of the following amounts:
- (a) the amount of the purchase price set out in the contract for sale;
  - (b) the amount payable to the lessee under the [Act](#), section 291 (Authority to pay for certain improvements).
- Note* The [Act](#), s 291 applies to a surrendered lease as if the lease had expired on the day the lease was surrendered (see [Act](#), s 293).
- (3) However, subsection (4) applies if—
- (a) a lessee makes a submission to the planning and land authority before surrendering the affected lease, stating that the transferor or lessee undertook improvements to the land after the day the transferor completed the contract for sale and on or before 28 October 2014 (the *after-purchase improvements*); and
  - (b) the planning and land authority is satisfied that the after-purchase improvements have had a significant effect on the value of the affected lease including improvements.

- (4) The prescribed amount is the greater of the following amounts:
- (a) the amount of the purchase price set out in the contract for sale, plus the value of the after-purchase improvements;
  - (b) the amount payable to the lessee under the [Act](#), section 291.

**219B      Limitation on payment amount—LAIE buyback program—  
Act, s 300 (3)**

The planning and land authority may pay an amount mentioned in section 215 to section 219A only if all outstanding amounts payable to the Territory in relation to the lease (including rates, land tax, stamp duty and land rent) have been paid.

**219C      Payment amount under this division includes payment  
for improvements**

An amount paid to a lessee under any of the following provisions is taken to include any payment the planning and land authority may be liable to pay to the lessee under the [Act](#), section 291 (Authority to pay for certain improvements) in relation to the surrender:

- (a) section 215 (2) (a);
- (b) section 216 (2) (a), (3) (a);
- (c) section 217 (2) (a);
- (d) section 218 (2) (a);
- (e) section 219 (2) (a);
- (f) section 219A (2) (a), (3) (a).

## Part 5.9                      Subletting of leases

### 220                      Criteria for giving approval of sublease of land—Act, s 308 (3) (a)

- (1) The following are prescribed:
  - (a) the sublease must be for a use authorised by the lease;
  - (b) for a land sublease—
    - (i) must not be for a term longer than 99 years; and
    - (ii) if the sublease authorises residential use of the land under the sublease—the sublease must state the number, or a maximum number, of dwellings permitted on the land under the sublease; and
    - (iii) if the sublease authorises non-residential use of the land under the sublease—the sublease must state the maximum total gross floor area of buildings and structures permitted for non-residential use on the land under the sublease.

- (2) In this section:

*designated development* means the building of a building or structure.

### 221                      Prescribed matters in land sublease—Act, s 308 (7)

- (1) A land sublease must—
  - (a) if the sublease is a declared land sublease—state that it is a declared land sublease; and
  - (b) include a purpose clause consistent with the Crown lease under which the sublease is granted; and
  - (c) state the commencement date and term of the sublease; and

- (d) include a plan of the land—
  - (i) prepared in accordance with any relevant practice direction under the *Surveyors Act 2007*, section 55; and
  - (ii) signed by the surveyor-general; and
- (e) include a provision dealing with termination of the sublease, including breach of the sublease, that is fair and equitable between the parties having regard to the parties' circumstances and the nature and circumstances of the termination; and
- (f) include a provision dealing with the resolution of disputes between the parties in relation to the sublease, that is fair and equitable between the parties having regard to the parties' circumstances and the nature and circumstances of the dispute; and
- (g) include or be accompanied by—
  - (i) a written statement from relevant utility providers that the utility services are available to the land under the land sublease; and
  - (ii) plans in accordance with any relevant Australian Standard showing that the utility services are available to the land under the land sublease; and
- (h) include or be accompanied by plans in accordance with any relevant Australian Standard showing that satisfactory road access for municipal services is available to the land under the land sublease.

**Examples—municipal services**

waste removal and recycling services, fire and other emergency services

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see *Legislation Act*, s 126 and s 132).

- (2) For this section, a ***utility service is available to the land under a land sublease*** if the service can be connected at the boundary of the land sublease to enable the service to be provided on the land under the land sublease.
- (3) In this section:
- electricity services*** means the services described in the [Utilities Act 2000](#), section 6.
- gas services*** means the services described in the [Utilities Act 2000](#), section 9.
- sewerage services*** means the services described in the [Utilities Act 2000](#), section 13.
- telecommunications network***—see the [Telecommunications Act 1997](#) (Cwlth), section 7.
- telecommunications services*** means communications carried by a telecommunications network.
- utility services*** means electricity services, gas services, sewerage services, telecommunication services and water services.
- water services*** means the services described in the [Utilities Act 2000](#), section 11.

## Chapter 7      Controlled activities

### **300      Period for deemed refusal of application for controlled activity order—Act, s 351 (4)**

- (1) This section applies to a controlled activity other than an activity mentioned in section 301 or section 302.
- (2) The period is 20 working days after the end of the 10-working day period within which the lessee may give the planning and land authority written reasons under the [Act](#), section 350 (4) (b).

### **301      Period for deemed refusal of application for controlled activity order if development application approved—Act, s 351 (4)**

- (1) This section applies if—
  - (a) an activity is a controlled activity mentioned in the [Act](#), schedule 2, item 1, 3 or 4; and
  - (b) a development application has been made in relation to the controlled activity within 20 working days after the day the planning and land authority gives a show cause notice under the [Act](#), section 350 (3); and
  - (c) the development application is approved.
- (2) The period is 10 working days after the day the approval takes effect.

*Note*      For when an approval takes effect, see the [Act](#), div 7.3.9. If the approval is made by order of the ACAT, see the [ACT Civil and Administrative Tribunal Act 2008](#), s 69.

**302      Period for deemed refusal of application for controlled activity order if development application refused—  
Act, s 351 (4)**

- (1) This section applies if—
  - (a) an activity is a controlled activity mentioned in the [Act](#), schedule 2, item 1, 3 or 4; and
  - (b) a development application has been made in relation to the controlled activity within 20 working days after the day the planning and land authority gives a show cause notice under the [Act](#), section 350 (3); and
  - (c) the development application is refused.
- (2) The period is 20 working days after the day the development application is refused.
- (3) For this section, a development application is *refused* on the latest of the following days that apply to the development application:
  - (a) if there is no right to make a reconsideration application or apply to the ACAT for review of the decision on the development application—the day notice of the decision to refuse is given to the applicant;
  - (b) if there is a right to make a reconsideration application and—
    - (i) no application is made—the day the period for making the reconsideration application ends; or
    - (ii) an application is made—the day notice of the decision to refuse, as confirmed or substituted on reconsideration, is given under the [Act](#), section 195;



- (c) if there is a right to apply to the ACAT for review of the decision on the development application and—
  - (i) no application is made—the day the period for making the application for review ends; or
  - (ii) an application is made—
    - (A) the day the decision to refuse the development application, as confirmed, varied or substituted by the ACAT, takes effect under the *ACT Civil and Administrative Tribunal Act 2008*, section 69 (Effect of orders for administrative review); or
    - (B) the day the application for review is withdrawn, dismissed or struck out.

**303      Period for deemed decision not to make controlled activity order—Act, s 354 (1) (b)**

- (1) This section applies to a controlled activity other than an activity mentioned in section 304 or section 305.
- (2) The period is 20 working days after the end of the 10-working day period within which the lessee may give the planning and land authority written reasons under the *Act*, section 353 (4) (a).

**304      Period for deemed decision not to make controlled activity order if development application approved—Act, s 354 (1) (b)**

- (1) This section applies if—
  - (a) an activity is a controlled activity mentioned in the *Act*, schedule 2, item 1, 3 or 4; and
  - (b) a development application has been made in relation to the controlled activity within 20 working days after the day the

planning and land authority gives a show cause notice under the [Act](#), section 353 (2); and

(c) the development application is approved.

(2) The period is 10 working days after the day the approval takes effect.

*Note*      For when an approval takes effect, see the [Act](#), div 7.3.9. If the approval is made by order of the ACAT, see the [ACT Civil and Administrative Tribunal Act 2008](#), s 69.

**305      Period for deemed decision not to make controlled activity order if development application refused—  
Act, s 354 (1) (b)**

(1) This section applies if—

(a) an activity is a controlled activity mentioned in the [Act](#), schedule 2, item 1, 3 or 4; and

(b) a development application has been made in relation to the controlled activity within 20 working days after the day the planning and land authority gives a show cause notice under the [Act](#), section 353 (2); and

(c) the development application is refused.

(2) The period is 20 working days after the day the development application is refused.

(3) For this section, a development application is *refused* on the latest of the following days that apply to the development application:

(a) if there is no right to make a reconsideration application or apply to the ACAT for review of the decision on the development application—the day notice of the decision to refuse is given to the applicant;

(b) if there is a right to make a reconsideration application and—

(i) no application is made—the day the period for making the reconsideration application ends; or

- (ii) an application is made—the day notice of the decision to refuse, as confirmed or substituted on reconsideration, is given under the [Act](#), section 195;
- (c) if there is a right to apply to the ACAT for review of the decision on the development application and—
  - (i) no application is made—the day the period for making the application for review ends; or
  - (ii) an application is made—
    - (A) the day the decision to refuse the development application, as confirmed, varied or substituted by the ACAT, takes effect under the [ACT Civil and Administrative Tribunal Act 2008](#), section 69 (Effect of orders for administrative review); or
    - (B) the day the application for review is withdrawn, dismissed or struck out.

## Chapter 8      Reviewable decisions

### **350      Merit track decisions exempt from third-party ACAT review—Act, sch 1, item 4, col 2, par (b)**

A development application in relation to a matter mentioned in schedule 3 (Matters exempt from third-party ACAT review), part 3.2 (Merit track matters exempt from third-party ACAT review) is exempt.

### **351      Impact track decisions exempt from third-party ACAT review—Act, sch 1, item 6, col 2**

A development application in relation to a matter mentioned in schedule 3 (Matters exempt from third-party ACAT review), part 3.3 (Impact track matters exempt from third-party ACAT review) is exempt.

## Chapter 9      Bushfire emergency rebuilding

### 370      Main object—ch 9

The main object of this chapter is to assist people who suffered property damage because of fires that happened during the bushfire emergency to redevelop their land.

### 371      Definitions—ch 9

- (1) In this part:

*bushfire emergency*—see section 372.

*height*, for a building or structure, means the reduced level of the building's or structure's highest point.

*fire-caused rebuilding development*—see section 373.

*previously approved*—see section 374.

- (2) In this section:

*reduced level*—see the [territory plan](#) (13 Definitions).

### 372      Meaning of *bushfire emergency*—ch 9

For this chapter, the *bushfire emergency* is the period that began on 18 January 2003 and ended on 28 January 2003.

**373 Fire-caused rebuilding developments—ch 9**

- (1) For this chapter, a *fire-caused rebuilding development* is a development consisting of the construction or alteration of 1 or more buildings or structures on land mentioned in the applicable land declaration if—
- (a) any building or structure to be constructed replaces a building or structure of the same kind that was located on the land immediately before the beginning of the bushfire emergency, and that was damaged during the bushfire emergency; and
  - (b) any building or structure to be altered was damaged during the bushfire emergency.

- (2) In this section:

*applicable land declaration* means the *Land (Planning and Environment) Bushfire Emergency (Applicable Land) Declaration 2003 (No 2)* (NI2003-114).

**374 Previous approval—ch 9**

- (1) For this chapter, a development, or a design or siting feature of a building or structure, is *previously approved* if, before the beginning of the bushfire emergency, it had been approved under the *Land Act*, division 6.2 (Approvals) or the *Buildings (Design and Siting) Act 1964*.
- (2) However, a development, or a design or siting feature, is not *previously approved* if—
- (a) the approval was given under the *Land Act*, division 6.2 for the development or feature before the beginning of the bushfire emergency; and

- (b) immediately before the beginning of the bushfire emergency—
  - (i) the period for applying to the administrative appeals tribunal for a review of a decision in relation to the approval under the [Land Act](#), section 276 (3) (Review of decisions—objectors and third parties to approvals) had not ended; or
  - (ii) an application to the tribunal for a review of the decision had been made and the application had not been finally disposed of by the tribunal.
- (3) In this section:
  - design or siting feature***, of a building or structure, means—
    - (a) its height or gross floor area; or
    - (b) a dwelling or dwellings for which it is used; or
    - (c) its setbacks.

*Note* **Gross floor area** and **setback**—see the [territory plan](#) (13 Definitions).

**Land Act** means the [Land \(Planning and Environment\) Act 1991](#).

**375 Rebuilding in accordance with previous approvals—  
Act, s 133, def exempt development, par (c)**

- (1) A fire-caused rebuilding development is an exempt development if—
  - (a) the development has been previously approved, whether or not any development in accordance with the approval has ever been undertaken; and
  - (b) the development would not result in any of the following:
    - (i) the height of any new or altered building or structure being greater than the previously approved height of the building or structure that is replaced or altered;

- (ii) the gross floor area of any new or altered building or structure being more than 15% greater than the previously approved gross floor area of the building or structure that is replaced or altered;
- (iii) any new or altered building or structure being used for a greater number of dwellings than were previously approved;
- (iv) the setbacks for any new or altered building or structure not complying with the lesser of the following:
  - (A) the setbacks under Residential Zones—Single Dwelling Housing Development Code;
  - (B) any setbacks that were previously approved for the building or structure that is replaced or altered; and
- (c) the lessee of the land to which the development relates is the lessee of the land at the beginning of the bushfire emergency; and
- (d) before the development commences, the lessee gives the following to the planning and land authority:
  - (i) notice in writing of when the development will commence;
  - (ii) a plan of the development;
  - (iii) a written statement by a certifier that the development shown on the plan will not result in any of the matters mentioned in paragraph (b); and
- (e) at the completion of the development, a certifier gives the planning and land authority a written statement that the development as constructed is in accordance with the plan given to the planning and land authority under paragraph (d).



(2) In this section:

***certifier*** means a certifier within the meaning of the [Building Act 2004](#).

***lessee***, of land at the beginning of the bushfire emergency, includes a person who, before the beginning of the bushfire emergency, had entered into an agreement with the lessee of the land giving the person a right to the transfer of the lease but to whom, at the beginning of the emergency, no transfer had been registered under the [Land Titles Act 1925](#) in accordance with the agreement.

## Chapter 10      Miscellaneous

### 400      Disapplication of Legislation Act, s 47 (5) and (6)— regulation

- (1) The [Legislation Act](#), section 47 (5) does not apply to the City West precinct deed.
- (2) The [Legislation Act](#), section 47 (6) does not apply to the following:
  - (a) *All Groups Consumer Price Index*;
  - (b) AS 1742 (Manual of Uniform Traffic Control Devices);
  - (c) AS/NZS 3500 (Plumbing and Drainage Set);
  - (d) AS/NZS 3845 (Road Safety Barrier Systems).

*Note 1*    The text of an applied, adopted or incorporated instrument, whether applied as in force from time to time or at a particular time, is taken to be a notifiable instrument if the operation of the [Legislation Act](#), s 47 (5) or (6) is not disapplied (see s 47 (7)).

*Note 2*    These standards may be purchased at [www.standards.org.au](http://www.standards.org.au).

*Note 3*    A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

- (3) In this section:  
*City West precinct deed*—see section 100.

### 401      Disapplication of Legislation Act, s 47 (6) for certain territory plan instruments—Act, s 422A (1)

An instrument mentioned in schedule 4 (Prescribed territory plan instruments) is prescribed.

**402 Expiry of City West precinct provisions**

This section and the following provisions expire on 5 April 2020:

- (a) section 100, definitions of *Australian National University*, *City West precinct* and *City West precinct deed*;
- (b) section 102 (Meaning of *City West precinct*—pt 5.1);
- (c) section 105 (d) (Direct sales requiring approval by Executive—[Act](#), s 240 (1) (a));
- (d) section 107 (2) (Direct sale criteria for Commonwealth entities—[Act](#), s 240 (1) (a) (i));
- (e) section 108 (4) (Direct sale criteria for non-government educational establishments—[Act](#), s 240 (1) (a) (i));
- (f) section 111 (Direct sale criteria for City West precinct land for Australian National University—[Act](#), s 240 (1) (a) (i));
- (g) section 400 (1) and (3);
- (h) dictionary, definitions of *Australian National University*, *City West precinct* and *City West precinct deed*.

**404 Application of Planning and Development Amendment Regulation 2008 (No 5) and Planning and Development Amendment Regulation 2009 (No 1)**

This regulation, as amended by the [Planning and Development Amendment Regulation 2008 \(No 5\)](#) and the [Planning and Development Amendment Regulation 2009 \(No 1\)](#), applies to developments that are started, and development applications that are made, before or after the commencement of the [Planning and Development Amendment Regulation 2008 \(No 5\)](#).

## Schedule 1 Exemptions from requirement for development approval

(see s 20 (1))

### Part 1.1 Preliminary

#### 1.1 Definitions—sch 1

In this schedule:

*basic paling fence*—see the [Act](#), section 416A.

*building line*—see the [territory plan](#) (13 Definitions).

*carport*—see the [territory plan](#) (13 Definitions).

*clearing* native vegetation—see the [Nature Conservation Act 2014](#), section 234.

*native vegetation*—see the [Nature Conservation Act 2014](#), section 232.

*open space boundary*—see the [Act](#), section 416A.

*party wall*—see the [Common Boundaries Act 1981](#), section 27.

*type*, for a sign, means the sign type for the sign in the Signs General Code, appendix A.

#### 1.2 Meaning of *designated development*—sch 1

In this schedule:

*designated development*, in relation to land, means—

- (a) building, altering or demolishing of a building or structure on the land; or

- (b) carrying out earthworks or other construction work on or under the land; or
- (c) carrying out work that would affect the landscape of the land.

### **1.3 Inconsistency between codes and this schedule**

- (1) This section applies if—
  - (a) this schedule applies to a development; and
  - (b) the schedule applies a code in relation to the development; and
  - (c) there is an inconsistency between the code and the schedule.
- (2) This schedule prevails over the code to the extent of the inconsistency unless the code provides otherwise.

### **1.4 Exemption does not affect other territory laws**

- (1) An exemption under this schedule in relation to a development does not affect the operation of any other territory law relating to land use or the provision of services for the development.

**Examples—laws not affected**

- [\*Building Act 2004\*](#)
- [\*Electricity Safety Act 1971\*](#)
- [\*Scaffolding and Lifts Act 1912\*](#)
- [\*Utilities Act 2000\*](#)
- [\*Water and Sewerage Act 2000\*](#)

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (2) To remove any doubt, the following provisions of this schedule do not limit the operation of subsection (1):
- (a) section 1.14 (Criterion 4—heritage, tree, environment and conservation);
  - (b) section 1.15 (Criterion 5—compliance with lease and agreement collateral to lease).

## **Part 1.2                      General exemption criteria**

### **1.10            Exempt developments—general criteria**

The following are the *general exemption criteria* for a development:

- (a) section 1.11 (Criterion 1—easement and other access clearances);
- (b) section 1.12 (Criterion 2—plumbing and drainage clearances);
- (c) section 1.14 (Criterion 4—heritage, tree, environment and conservation);
- (d) section 1.15 (Criterion 5—compliance with lease and agreement collateral to lease);
- (e) section 1.17 (Criterion 7—no multiple occupancy dwellings);
- (f) section 1.18 (Criterion 8—compliance with other applicable exemption criteria).

### **1.11            Criterion 1—easement and other access clearances**

- (1) A development must not cause any part of a building or structure to be located in—
  - (a) an easement or proposed easement; or
  - (b) a utility infrastructure access or protection space.
- (2) Subsection (1) (a) does not apply if the location of a part of a building or structure in an easement or proposed easement is agreed to, in writing, by—
  - (a) for an easement—
    - (i) the owner of the land benefited by the easement; or
    - (ii) the person in whose favour the easement is registered.

- (b) for a proposed easement—
  - (i) the person who, on registration of the easement, would be the owner of the land benefited by the easement; or
  - (ii) the person in whose favour the easement is proposed to be registered.
- (3) Subsection (1) (b) does not apply if the location of a part of a building or structure in a utility infrastructure access or protection space is agreed to, in writing, by the utility benefited by the utility infrastructure access or protection space.
- (4) In this section:

***easement*** means an easement registered, or shown on a certificate of title, under the [Land Titles Act 1925](#).

***proposed easement*** means a proposed easement shown on a deposited plan under the [Districts Act 2002](#) or units plan under the [Unit Titles Act 2001](#).

***utility infrastructure access or protection space*** means the space required under a utility rule—

- (a) for a utility to have access to its infrastructure; or
- (b) to protect or maintain clearances from utility infrastructure, for example, water supply pipes, sewerage systems, gas pipes and electricity conductors.

**Examples**

- 1 The electricity service and installation rules made under the [Utilities \(Technical Regulation\) Act 2014](#) require buildings or other structures to be kept clear of power lines by a stated dimension, to protect the powerlines from damage or to protect the electricity supply from interruption.
- 2 The water and sewerage service and installation rules made under the [Utilities \(Technical Regulation\) Act 2014](#) require access to stated utility infrastructure at the rear of a block to not be impeded by structures and an unhindered access



route to the infrastructure of a stated width to be provided down at least one side of the block.

*Note 1* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

*Note 2* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

**utility rule** means a rule, as in force from time to time, made under a technical code, as in force from time to time, made under the [Utilities \(Technical Regulation\) Act 2014](#).

*Note* Technical codes made under the [Utilities \(Technical Regulation\) Act 2014](#) are accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au). Rules for the service and installation of water and sewerage are accessible at [www.iconwater.com.au](http://www.iconwater.com.au). Rules for the service and installation of electricity are accessible at [www.actewagl.com.au](http://www.actewagl.com.au).

## **1.12 Criterion 2—plumbing and drainage clearances**

A development must not cause a clearance for a pipe fitting opening or pipe fitting outlet to contravene AS/NZS 3500 (*Plumbing and Drainage Set*), as in force from time to time.

### **Example**

A sewer vent must be above the surrounding surface. A development must not create a situation where surface water can flow into the vent.

*Note 1* **Surface water**—see the [Water Resources Act 2007](#), s 8.

*Note 2* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

## **1.14 Criterion 4—heritage, tree, environment and conservation**

(1) A development must not contravene—

- (a) the [Heritage Act 2004](#); or
- (b) the [Tree Protection Act 2005](#); or

- (c) the *Environment Protection Act 1997*; or
- (d) the *Nature Conservation Act 2014*.

*Note* Other applicable laws must also be complied with (see s 1.4).

- (2) A development (other than a class 10 building or structure) must not—
  - (a) be located at a place or on an object included in the heritage register or under a heritage agreement; or
  - (b) cause any part of a building or structure (other than a class 10 building or structure) to be located at a place or on an object included in the heritage register or under a heritage agreement.
- (3) Subsection (2) does not apply if the heritage council gives the planning and land authority written advice that, in the council's opinion, the development—
  - (a) will not diminish the heritage significance of the place or object; or
  - (b) is in accordance with—
    - (i) heritage guidelines; or
    - (ii) a conservation management plan approved by the council under the *Heritage Act 2004*, section 61K; or
  - (c) is an activity described in a statement of heritage effect approved by the council under the *Heritage Act 2004*, section 61H .
- (4) In this section:

***conservation management plan***—see the *Heritage Act 2004*, section 61J.

***heritage agreement***—see the *Heritage Act 2004*, section 99.

***heritage guidelines***—see the *Heritage Act 2004*, section 25.

*heritage register*—see the [Heritage Act 2004](#), section 20.

*Note* The ACT Heritage Register is accessible at [www.tams.act.gov.au](http://www.tams.act.gov.au).

*heritage significance*—see the [Heritage Act 2004](#), section 10.

*statement of heritage effect*—see the [Heritage Act 2004](#), section 61G.

### **1.15 Criterion 5—compliance with lease and agreement collateral to lease**

A development must not be inconsistent with—

- (a) a provision of a lease to which the development relates; or
- (b) an agreement collateral to the grant of a lease to which the development relates.

#### **Example**

a land management agreement (see [Act](#), s 283)

*Note 1* Under the [Act](#), s 133 an *exempt development* does not include a development that is inconsistent with a provision of a development approval for other development on the land if the development approval is given on the condition that the provision is complied with.

*Note 2* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

### **1.17 Criterion 7—no multiple occupancy dwellings**

A development must not increase the number of dwellings on a block to 2 or more dwellings.

**1.18      Criterion 8—compliance with other applicable exemption criteria**

A development must comply with any other criteria in part 1.3 (Exempt developments) that apply to the development.

**Examples—other criteria applying to development**

- 1    changing a house roof from metal sheet to tiles (see s 1.22) must also comply with the criteria in section 1.24 (Buildings—roof slope changes)
- 2    the replacement of a roof flue for a building (see s 1.22) must also comply with section 1.25 (Buildings—chimneys, flues and vents)

*Note*      An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

## Part 1.2A Exempt developments—certain development proposals

### 1.19 Information about certain development proposals

- (1) This section applies—
- (a) in relation to a development proposal for—
    - (i) a development mentioned in section 1.100 or section 1.100A; or
    - (ii) a development mentioned in section 1.100B if the development is not required to be carried out urgently to address a risk of death or injury to a person, serious harm to the environment or significant damage to property; and
  - (b) if—
    - (i) a place (the *adjoining place*) other than unleased land adjoins the place (the *developing place*) to which the development proposal relates; and
    - (ii) the adjoining place has 1 or more dwellings on it.

*Note Dwelling*—see s 5.

- (2) The proponent of the development proposal must take reasonable steps to give written information about the proposal to an occupier (a *resident*) of each dwelling.

*Note 1* If a form is approved under the [Act](#), s 425 for this provision, the form must be used.

*Note 2* If particular information is to be included in the form for the written information, or a particular document must be attached to or given with the form, the form is properly completed only if the requirement is complied with (see [Legislation Act](#), s 255 (5)).

- (3) However, the proponent need not give written information under subsection (2) to a resident of a dwelling on an adjoining place if the resident is the proponent or a person for whom the proponent has been appointed to act as agent.
- (4) The proponent may give the written information to a resident of a dwelling by leaving it at the dwelling.

**Examples**

- 1 if the dwelling is an apartment—leaving it in the letterbox for the apartment
- 2 placing it under a door that gives access into the dwelling

*Note 1* The written information may be given in other ways (see [Legislation Act](#), pt 19.5).

*Note 2* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (5) In this section:

***adjoins***—see the [Planning and Development Act 2007](#), section 153.

***resident***, of a dwelling, includes a person believed on reasonable grounds to be occupying the dwelling.

*Note 1* If application is made for an exemption assessment D notice relating to a development proposal to which this section applies, the application must include a written notice that this section was complied with (see s 22A).

*Note 2* If application is made for building approval for building work, and the development to which the building work relates is a development proposal to which this section applies, the application must be accompanied by a written notice that this section was complied with within 2 years before the day the application is made (see [Building Act 2004](#), s 26 (2) (h)).

*Note 3* If building work the subject of an application for an exemption assessment B notice relates to a development proposal mentioned in s 1.19 (1) (a) (i) to which this section applies, the application must be accompanied by a written notice that this section was complied with within 2 years before the day the application is made (see [Building \(General\) Regulation 2008](#), s 7B (2)).

## **Part 1.3 Exempt developments**

### **Division 1.3.1 Exempt developments—minor building works**

#### **1.20 Internal alterations of buildings**

- (1) In this section:

***non-residential building*** means a building, or part of a building, that is—

- (a) not used for residential purposes; and
- (b) not a class 10 building associated with a building used for residential purposes.

***prescribed general exemption criteria*** means the general exemption criteria, other than section 1.18 (Criterion 8—compliance with other applicable exemption criteria).

*Note* ***General exemption criteria***, for a development—see s 1.10.

- (2) A designated development for the internal alteration of a building if—

- (a) the alteration does not do either of the following:

- (i) change the building's class under the building code;

*Note* ***Class***, for a building—see the dictionary.

- (ii) increase the gross floor area of a non-residential building;  
and

- (b) the designated development complies with the prescribed general exemption criteria that are applicable to the development.

*Note* ***Designated development***, in relation to land—see s 1.2.

## 1.21 Installation, alteration and removal of low impact external doors and windows in buildings

A designated development for the installation, alteration or removal (the *relevant change*) of an external door or window in a building if—

- (a) the height of the building’s finished floor level, or other trafficable surface, immediately adjacent to the relevant change is not more than 1m above natural ground level; and

### **Example—trafficable surface**

paving

*Note 1* **Natural ground level**—see the [territory plan](#) (13 Definitions).

*Note 2* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (b) if the relevant change is to an existing door or window—the relevant change involves no more than the following:
  - (i) replacing the door or window with either a door or a window without changing the width of the opening in the wall;
  - (ii) increasing the width of the door or window by not more than 340mm;
  - (iii) increasing the height of the door or window by not more than 340mm;
  - (iv) reducing the height or width, or both, of the window or door;



- (v) installing a wall instead of the door or window or a part of the door or window; and

**Example—par (b)**

an existing window is replaced by a door that is 200mm higher and 300mm wider than the window

*Note* The change in relation to the door or window need not involve all of the matters mentioned in par (b).

- (c) if the relevant change is not to an existing door or window—the relevant change involves no more than removing part of a wall and installing a door or window with an external horizontal opening of not more than 2m; and
- (d) no part of the relevant change is less than either of the following for the block on which the building is located:
  - (i) 1.5m from a side boundary;
  - (ii) 3m from a rear boundary; and
- (e) the designated development complies with the general exemption criteria that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

*Note 3* Changing the external appearance, material or finish of a building or structure may be subject to other laws, including heritage laws and energy efficiency provisions of building laws.

**1.21A Installation, alteration and removal of high impact external doors and windows in buildings**

A designated development for the installation, alteration or removal (the *relevant change*) of an external door or window in a building if—

- (a) the height of the building's finished floor level, or other trafficable surface, immediately adjacent to the relevant change is 1m or more above natural ground level; and

*Note* See the example and notes to s 1.21 (a).

- (b) the relevant change involves no more than the following:
  - (i) replacing the door or window with either a door or a window without changing the width of the opening in the wall;
  - (ii) increasing the width of the door or window by not more than 340mm;
  - (iii) increasing the height of the door or window by not more than 340mm;
  - (iv) reducing the height or width, or both, of the window or door;
  - (v) installing a wall instead of the door or window or a part of the door or window; and

*Note* The change in relation to the door or window need not involve all of the matters mentioned in par (b).

- (c) no part of the relevant change is less than either of the following for the block on which the building is located:
  - (i) 1.5m from a side boundary;
  - (ii) 3m from a rear boundary; and

- (d) the designated development complies with the general exemption criteria that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

*Note 3* Changing the external appearance, material or finish of a building or structure may be subject to other laws, including heritage laws and energy efficiency provisions of building laws.

## **1.22 Exterior refinishing of buildings and structures**

- (1) In this section:

**excluded item** means—

- (a) an external door or window; or
- (b) a skylight for a building.

*Note* For external doors and windows, see s 1.21 and s 1.21A and for skylights, see s 1.26.

**exterior item** means any of the following on the exterior of a building or structure:

- (a) a wall, sill or fascia or an eave lining;
- (b) a downpipe or flashing or guttering;
- (c) trim;
- (d) roofing or a roof duct, flue, gutter or vent;
- (e) a vent pipe;
- (f) a step or landing;
- (g) a handrail or balustrade or other barrier that functions as a balustrade;
- (h) a pole or post.

**structure** does not include a fence for an open space boundary.

*Note* For external doors and windows, see s 1.21 and 1.21A and for skylights, see s 1.26.

(2) A designated development for altering the exterior material or finish of a building or structure if—

(a) the alteration involves—

(i) painting the exterior of the building or structure to change its appearance, other than—

(A) painting a design or sign on the exterior of the building or structure; or

(B) painting the building for maintenance; or

*Note* For maintenance, see s 1.23.

(ii) replacing or covering an exterior item (other than an excluded item) of the building or structure with the same or a different material; and

**Examples**

- 1 changing a house roof from metal sheet to tile
- 2 changing weatherboard cladding to brick-veneer
- 3 rendering exterior brickwork with cement render

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

(b) the designated development complies with the general exemption criteria that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

*Note 3* Changing the external appearance, material or finish of a building or structure may be subject to other laws, including heritage laws and energy efficiency provisions of building laws.

## 1.23 Maintenance of buildings and structures

A designated development (other than a development to which section 1.22 applies) for the maintenance of a building or structure if—

- (a) the maintenance does not involve changing the kind of material used for the part of the building or structure to which the maintenance relates; and

### Examples—maintenance

- 1 replacing a building's rotted timber window frames to maintain the building's appearance and to weatherproof the building
- 2 repairing a building's plant and equipment

*Note 1* Replacing items such as windows might be subject to other laws, including heritage laws.

*Note 2* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (b) the designated development complies with the general exemption criteria, other than section 1.14 (2) (Criterion 4—heritage, tree, environment and conservation), that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

*Note 3* Changing the external appearance, material or finish of a building or structure may be subject to other laws, including heritage laws and energy efficiency provisions of building laws.

## 1.24 Buildings—roof slope changes

- (1) A designated development for changing the slope of all or part of a building's roof if—

- (a) the change does not do any of the following:

- (i) change the slope by more than 2°;

- (ii) increase the volume or floor area of an existing attic;
- (iii) create a new attic; and
- (b) the designated development complies with the general exemption criteria that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

- (2) In this section:

**attic**—see the [territory plan](#) (13 Definitions).

## 1.25 Buildings—chimneys, flues and vents

A designated development for a chimney, flue or vent for a building if—

- (a) the chimney, flue or vent—
  - (i) penetrates, or is attached to, the building’s roof; and
  - (ii) does not extend more than 1.5m above the lowest point of the roof where the chimney, flue or vent penetrates, or attaches to, the roof; and
- (b) the designated development complies with the general exemption criteria that are applicable to the development.

### Example—chimney that is an exempt development

A chimney penetrates a sloping roof. The vertical distance from the top of the chimney to the point where the chimney emerges from the roof’s surface, on the downhill side of the chimney, is 1.45m.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

*Note 3* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

## 1.26 Buildings—skylights

A designated development for a skylight in the roof of a building if—

- (a) the external area of the skylight is not more than 2m<sup>2</sup>; and
- (b) the skylight does not project more than 150mm above the surface of the roof adjacent to the skylight; and
- (c) if the skylight is on a block to which a relevant solar building envelope applies—the skylight does not project beyond the relevant solar building envelope; and
- (d) the designated development complies with the general exemption criteria that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

*Note 3* Changing the external appearance, material or finish of a building or structure may be subject to other laws, including heritage laws and energy efficiency provisions of building laws.

## 1.26A Buildings—external shades

- (1) In this section:

**external shade** means a device used to shade a window or door externally, and includes a pole, post or any other item associated with an external shade.

### Examples

awning, blind, louvre, shutter

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (2) A designated development for an external shade if—

- (a) the external shade, when opened to its full capacity, is within the boundary of the block; and

- (b) the designated development complies with the general exemption criteria that are applicable to the development.

## **1.27 External heaters and coolers**

- (1) A designated development for an externally mounted service for a block if—
  - (a) no part of the service is within 1.5m of a side boundary or rear boundary of the block; and
  - (b) if the service is mounted on a roof—
    - (i) the distance from the top of the service to the closest point of the roof is not more than 1.5m; and
    - (ii) if the service is on a block to which a relevant solar building envelope applies—the service does not project beyond the relevant solar building envelope; and
  - (c) if the service is mounted on the ground—no part of the service is between a front boundary and a building line for the block; and
  - (d) the designated development complies with the general exemption criteria, other than section 1.18 (Criterion 8—compliance with other applicable exemption criteria), that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria** for a development—see s 1.10.

- (2) In this section:

**service**—

- (a) means a solar water heater, air conditioner or evaporative cooler; and
- (b) includes the support structures (if any) for the heater, air conditioner or evaporative cooler.



*solar water heater*—see the *Building (General) Regulation 2008*, schedule 1, section 1.1.

### **1.27A External photovoltaic panels**

- (1) A designated development for an externally mounted photovoltaic panel for a block if—
- (a) no part of the panel is within 1.5m of a side boundary or rear boundary of the block; and
  - (b) if the panel is on a block to which a relevant solar building envelope applies—no part of the panel projects beyond the relevant solar building envelope; and
  - (c) if the panel is a protruding panel on a block to which a relevant solar building envelope does not apply—
    - (i) no part of the panel is more than 300mm above the closest point of the roof; or
    - (ii) no part of the panel restricts solar access to another block; and
  - (d) if the panel is mounted on the ground—no part of the panel is between a front boundary and a building line for the block; and
  - (e) the designated development complies with the general exemption criteria, other than section 1.18 (Criterion 8—compliance with other applicable exemption criteria), that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria** for a development—see s 1.10.

- (2) In this section:

***protruding panel*** means a roof mounted photovoltaic panel any part of which is higher than a plane projected at 30° above horizontal from a height of 3m above the natural ground level at a boundary of the block.

**restrict**—a protruding panel on a block **restricts** solar access to another block if, on the winter solstice when the sun's angle is 30° above the horizon, the shadow cast by the panel at natural ground level on the other block is larger than the shadow that would be cast on the other block by the roof if the protruding panels were not mounted on it.

## **1.28 Buildings—external switchboards**

A designated development for a switchboard on the exterior of a building if the designated development complies with the general exemption criteria that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

## **1.29 Buildings—external area lighting**

- (1) A designated development for area lighting on the exterior of a building if the designated development complies with the general exemption criteria that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

*Note 3* Other laws, including the [Environment Protection Act 1997](#) (see dict, def **pollutant**, par (d)), apply in relation to the emission of electromagnetic radiation, including light.

- (2) In this section:

**area lighting** means lighting to assist people to avoid obstacles while moving around the exterior of a building.

## **1.30 Residential leases—driveway crossings of road verges**

- (1) A designated development for a driveway across a road verge for a residential lease granted for a single dwelling if—

- (a) only 1 dwelling has been built on the lease and a development application for another dwelling has not been made in relation to the lease; and
- (b) the construction of the driveway will result in not more than 2 driveways across the road verge for the lease; and
- (c) the director-general of the administrative unit responsible for municipal services has agreed, in writing, to the provision of the driveway; and
- (d) the driveway is constructed in accordance with the consent; and
- (e) the designated development complies with the general exemption criteria that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

*Note 3* **Residential lease**—see the [Act](#), s 234.

- (2) In this section:

**road verge** means the area between the trafficable part of a road and the boundary of a lease adjacent to the road.

*Note* This item does not apply to that part of a driveway that is on the residential lease, but other provisions in this schedule might apply to that part of a driveway.

### **1.30A Resealing existing driveways**

A designated development for resealing an existing driveway if—

- (a) 1 or more of the following materials is used:
  - (i) concrete (including coloured or patterned concrete);
  - (ii) bitumen;
  - (iii) pavers, including bricks;
  - (iv) timber;

- (v) grass, including stabilising treatment; and
- (b) the designated development complies with the general exemption criteria that are applicable to the development.

*Note* A driveway in an existing school campus may also be exempt under s 1.99R.

### 1.31 Temporary buildings and structures

- (1) In this section:

**event** means a fair, circus, carnival, celebration, market, show, concert, display, exhibition, competition, training event, recreational event or publicity event or similar activity.

**prescribed general exemption criteria** means the general exemption criteria, other than section 1.18 (Criterion 8—compliance with other applicable exemption criteria).

*Note* **General exemption criteria**, for a development—see s 1.10.

- (2) A designated development for a temporary, portable or demountable building or structure if—
- (a) the building or structure is for use at the site of another development or an event; and
  - (b) if the building or structure is for use at the site of another development—the building or structure is associated with carrying out the other development; and
  - (c) the building or structure is removed before the end of the longer of the following periods:
    - (i) 1 year after the day the designated development for the building or structure begins;
    - (ii) if the planning and land authority extends, in writing, the 1-year period—the period as extended; and

- (d) the designated development complies with the prescribed general exemption criteria that are applicable to the development.

*Note*     **Designated development**, in relation to land—see s 1.2.

## **Division 1.3.2            Exempt developments—non-habitable buildings and structures**

### **Subdivision 1.3.2.1   Preliminary**

#### **1.40            Meaning of *class 10a building*—div 1.3.2**

In this division:

***class 10a building*** includes the following:

- (a) a garage, carport or shed;
- (b) a conservatory, greenhouse, gazebo, pergola, shelter, shade structure or hail protection structure, studio, workshop or cubbyhouse;
- (c) a stable, storeroom or other outbuilding;
- (d) a deck, verandah, porch, landing, stairs or ramp.

*Note 1*     **Class**, for a building or structure, means the class of building or structure under the building code (see dict).

*Note 2*     A swimming pool is not a class 10a building (see building code).

## **1.41 Class 10 buildings and structures—2nd exempt building or structure within boundary clearance area**

- (1) In this section:

*boundary clearance area*, for a side boundary or rear boundary of a block, means the area between the boundary and a line drawn 1.5m inside the block and parallel to the boundary.

*class 10 building or structure* does not include a sign installed on land.

*relevant cross-section area*, of a building or structure partially or fully within a boundary clearance area, means the area of the largest cross-section of the building or structure at any point in the area when measured in a plane parallel to the boundary.

- (2) A designated development for a class 10 building or structure (the **2nd thing**) in a boundary clearance area of a block if—
- (a) an existing class 10 building or structure (the **1st thing**) is partially or fully in a boundary clearance area of the block; and
  - (b) the 2nd thing would be exempt under another section of this schedule if the 1st building were not located partially or fully within the boundary clearance area; and
  - (c) the 2nd thing is not a boundary fence; and

- (d) the 1st thing and 2nd thing—
- (i) are the only class 10 buildings or structures (other than a boundary fence) that are partially or fully within the boundary clearance area; and
  - (ii) have a combined relevant cross-section area above natural ground level of not more than 30m<sup>2</sup>; and
- (e) the designated development complies with the general exemption criteria that are applicable to the development.

**Example—par (d) (ii)**

A regular-shaped, flat-roofed, garden shed faces parallel to and is 1m from the boundary of a block. Its relevant cross-section area is the area of the rectangles bounded by the shed wall that faces the boundary and the edge of its roof, a total area of 15m<sup>2</sup>.

The block's owner proposes to build a 2nd class 10a building which is a circular rotunda with a domed roof. Its relevant cross-section area is the largest cross-section of the rotunda at any point in the boundary clearance area when measured in a plane parallel to the boundary, an area of 18m<sup>2</sup>.

Because the combined relevant cross-section areas of shed and rotunda are more than 30m<sup>2</sup>, the rotunda does not comply with this section and is not exempt from a development application.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

*Note 3* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (3) To remove any doubt, this section applies in relation to the boundary clearance area of each side boundary and rear boundary of a block.

## **Subdivision 1.3.2.2 Class 10a buildings**

### **1.45 Roofed class 10a buildings—enclosed or open on 1 side**

- (1) A designated development for a class 10a building on a block if—
- (a) the building is not an external deck or external verandah; and
    - Note* For external decks, see s 1.48 and for external verandahs, see s 1.49.
  - (b) the building is enclosed by a roof and has walls on—
    - (i) each of its sides; or
    - (ii) each of its sides except for 1 side; and
  - (c) the height of the building is not more than—
    - (i) if subsection (2) applies—4m above natural ground level; or
    - (ii) in any other case—3m above natural ground level; and
      - Note* **Natural ground level**—see the [territory plan](#) (13 Definitions).
  - (d) the building does not exceed the size limitation for the block; and
  - (e) the building complies with the setback requirement for the block; and
  - (f) if any part of the building is within 1.5m of a side boundary or rear boundary of the block—
    - (i) the building is the only class 10 building or structure (other than a boundary fence) that has any part of it that is within 1.5m of the boundary; or
    - (ii) section 1.41 (Class 10 buildings and structures—2nd exempt building or structure within boundary clearance area) applies to the building; and



- (g) the designated development complies with the general exemption criteria that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

- (2) This subsection applies to a building that—

- (a) is more than 3m above natural ground level; but
- (b) has no part higher than a plane projecting at 30° above the horizontal from a height 3m above the natural ground level at a boundary.

- (3) In this section:

**setback requirement**, for a building in relation to a block, means—

- (a) if the building has a plan area of not more than 10m<sup>2</sup>—the building is behind the building line for the block; or
- (b) if the building has a plan area of more than 10m<sup>2</sup>—the building is behind the building line for the block and at least 15m from the block's front boundary

*Note 1* **Building line** and **front boundary**—see the [territory plan](#) (13 Definitions).

*Note 2* **Plan area**—see the dictionary.

**size limitation**, for a building in relation to a block, means—

- (a) if the size of the block is less than 500m<sup>2</sup>—the building has a plan area of not more than 10m<sup>2</sup>; or
- (b) if the size of the block is 500m<sup>2</sup> or more but less than 600 m<sup>2</sup>—the building has a plan area of not more than 25m<sup>2</sup>; or
- (c) if the size of the block is 600m<sup>2</sup> or more—the building has a plan area of not more than 50m<sup>2</sup>.

**1.46      Roofed class 10a buildings—unenclosed or partially open**

(1) A designated development for a class 10a building on a block if—

(a) the building is not an external deck or external verandah; and

*Note*      For external decks, see s 1.48 and for external verandahs, see s 1.49.

(b) the height of the building is not more than—

(i) if subsection (2) applies—4m above natural ground level; or

(ii) in any other case—3m above natural ground level; and

*Note*      **Natural ground level**—see the [territory plan](#) (13 Definitions).

(c) the building—

(i) is enclosed by a roof which has a plan area of not more than 50m<sup>2</sup>; and

*Note*      **Plan area**—see the dictionary.

(ii) has walls on not more than 2 of its sides; and

(d) the building is behind the building line for the block; and

*Note*      **Building line**—see the [territory plan](#) (13 Definitions).

(e) if the building has a floor—the height of the finished floor level is not more than—

(i) for any part of the building that is within 1.5m of a side boundary or rear boundary of the block—0.4m above natural ground level; and

(ii) in any other case—1m above finished ground level; and

- (f) if any part of the building is within 1.5m of a side boundary or rear boundary of the block—
  - (i) the building is the only class 10 building or structure (other than a boundary fence) that has any part of it that is within 1.5m of the boundary; or
  - (ii) section 1.41 (Class 10 buildings and structures—2nd exempt building or structure within boundary clearance area) applies to the building; and
- (g) the designated development complies with the general exemption criteria that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

- (2) This subsection applies to a building that—
  - (a) is more than 3m above natural ground level; but
  - (b) has no part higher than a plane projecting at 30° above the horizontal from a height 3m above the natural ground level at a boundary.

#### **1.47 Class 10a buildings—unroofed and unenclosed**

- (1) A designated development for a building on a block if—
  - (a) the building is not an external deck or external verandah; and
    - Note* For external decks, see s 1.48 and for external verandahs, see s 1.49.
  - (b) the building does not have a roof or any walls; and
  - (c) the height of the building is not more than—
    - (i) if subsection (2) applies—4m above natural ground level; or

- (ii) in any other case—3m above natural ground level; and

*Note* **Natural ground level**—see the [territory plan](#) (13 Definitions).

- (d) if the building has a floor—the height of the finished floor level is not more than—

- (i) for any part of the building that is within 1.5m of a side boundary or rear boundary of the block—0.4m above natural ground level; and

- (ii) in any other case—1m above finished ground level; and

- (e) the building is behind the building line for the block; and

*Note* **Building line**—see the [territory plan](#) (13 Definitions).

- (f) if any part of the building is within 1.5m of a side boundary or rear boundary of the block—

- (i) the building is the only class 10 building or structure (other than a boundary fence) that has any part of it that is within 1.5m of the boundary; or

- (ii) section 1.41 (Class 10 buildings and structures—2nd exempt building or structure within boundary clearance area) applies to the building; and

- (g) the designated development complies with the general exemption criteria that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

- (2) This subsection applies to a building that—

- (a) is more than 3m above natural ground level; but
  - (b) has no part higher than a plane projecting at 30° above the horizontal from a height 3m above the natural ground level at a boundary.

## **1.48 Class 10a buildings—external decks**

(1) In this section:

*balustrade* includes a barrier that acts as a balustrade.

*deck* includes any of the following for the deck:

- (a) external stairs or ramp;
- (b) an external landing;
- (c) a retaining wall.

(2) A designated development for an external deck on a block if—

- (a) the deck does not have a roof; and
- (b) the height of the finished floor level of the deck is not more than—
  - (i) for any part of the deck that is either between a front boundary and a building line for the block or within 1.5m of a side boundary or rear boundary of the block—0.4m above natural ground level; and
  - (ii) in any other case—1m above finished ground level; and

*Note* **Building line**, **front boundary** and **natural ground level**—see the [territory plan](#) (13 Definitions).

- (c) if any part of the deck is between a front boundary and a building line for the block—that part of the deck does not have a balustrade; and
- (d) if any part of the deck is behind a building line for the block—the height of any balustrade for that part of the deck is not more than 1.2m above the finished floor level for the deck; and

- (e) if any part of the deck is higher than 0.4m above natural ground level and within 1.5m of a side boundary or rear boundary of the block—
  - (i) the deck is the only class 10 building or structure (other than a boundary fence) that has any part of it that is within 1.5m of the boundary; or
  - (ii) section 1.41 (Class 10 buildings and structures—2nd exempt building or structure within boundary clearance area) applies to the deck; and
- (f) the designated development complies with the general exemption criteria that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

## **1.49 Class 10a buildings—external verandahs**

- (1) In this section:

**verandah** includes any of the following for the verandah:

- (a) external stairs or ramp;
- (b) an external landing;
- (c) a retaining wall.

- (2) A designated development for an external verandah on a block if—

- (a) the verandah is attached to, or immediately adjacent to, a dwelling on the block; and
- (b) the plan area of the verandah is not more than 10m<sup>2</sup>; and

*Note* **Plan area**—see the dictionary.

(c) no part of the verandah is—

(i) higher than 3m above natural ground level; or

*Note* **Natural ground level**—see the [territory plan](#) (13 Definitions).

(ii) within 5.5m from the front boundary of the block; or

(iii) within 1.5m of a side boundary or rear boundary of the block; and

(d) if the verandah has a floor—the height of the finished floor level is not more than 1m above finished ground level; and

(e) the designated development complies with the general exemption criteria that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

### **Subdivision 1.3.2.3 Class 10b structures**

#### **1.50 Class 10b structures—plan area not more than 2m<sup>2</sup>**

*Note* Class 10b structures include the following:

- a fence, retaining wall or freestanding wall
- a mast or antenna
- a swimming pool.

(1) A designated development for a class 10b structure, other than a sign, on a block if—

(a) the plan area of the structure is not more than 2m<sup>2</sup>; and

*Note* **Plan area**—see the dictionary.

(b) the structure is not—

(i) wider than 2m; or

- (ii) higher than 1.85m above natural ground level; and

*Note* **Natural ground level**—see the [territory plan](#) (13 Definitions).

- (c) if the structure has a floor—the height of the finished floor level is not more than 0.4m above natural ground level; and

- (d) if the structure is not a single letterbox—no part of the structure is between a front boundary and a building line for the block; and

*Note* **Building line** and **front boundary**—see the [territory plan](#) (13 Definitions).

- (e) the height of any part of the structure that is within 1.5m of a side boundary or rear boundary of the block is not more than 0.4m above natural ground level; and

- (f) if any part of the structure is within 1.5m of a side boundary or rear boundary of the block—

- (i) the structure is the only class 10 building or structure (other than a boundary fence) that has any part of it that is within 1.5m of the boundary; or

- (ii) section 1.41 (Class 10 buildings and structures—2nd exempt building or structure within boundary clearance area) applies to the structure; and

- (g) the designated development complies with the general exemption criteria that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.



## 1.51 Fences and freestanding walls generally

- (1) In this section:

***excluded criteria*** means any other criteria in division 1.3.2 (Exempt developments—non-habitable buildings and structures), other than section 1.41, that apply to the development.

*Note* The general exemption criteria include s 1.18 (Criterion 8—compliance with other applicable exemption criteria) which provides that a development must comply with any other criteria in pt 1.3 that apply to the development.

***fence***—

- (a) includes a gate that forms part of, or functions as, a fence; but
- (b) does not include a fence for an open space boundary.

***wall*** includes a gate that forms part of, or functions as, a wall.

- (2) A designated development for a fence for, or freestanding wall on, a block if—

- (a) the fence or wall is not higher than—
  - (i) for a mesh fence in an industrial zone—2.7m above natural ground level; or
  - (ii) in any other case—
    - (A) for a panel of a fence or wall—2.3m above natural ground level; or
    - (B) for the support post or column of a fence or wall—2.5m above natural ground level; and

*Note* ***Natural ground level***—see the [territory plan](#) (13 Definitions).

- (b) no part of the fence or wall is between a front boundary and a building line for the block; and

*Note* **Building line** and **front boundary**—see the [territory plan](#) (13 Definitions).

- (c) no part of the fence or wall diverts or concentrates the flow of surface water—

(i) in a way that causes ponding; or

(ii) onto other land; and

*Note* **Surface water**—see the [Water Resources Act 2007](#), s 8.

- (d) the designated development complies with the general exemption criteria, other than the excluded criteria, that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

## 1.52 Basic open space boundary fences

*Note* The [Act](#), s 416A defines **open space boundary** as meaning a boundary between leased and unleased land (see this sch, s 1.1).

- (1) A designated development for a fence for an open space boundary for a block if—

- (a) a development requirement for the block requires the building of a basic paling fence for the boundary; and

*Note* **Basic paling fence**—see the [Act](#), s 416A.

- (b) the fence—

(i) is not higher than 1.85m above natural ground level; and

(ii) is a basic paling fence or complies with subsection (2); and

(c) no part of the fence diverts or concentrates the flow of surface water—

- (i) in a way that causes ponding; or
- (ii) onto other land; and

*Note* **Surface water**—see the [Water Resources Act 2007](#), s 8.

(d) the designated development complies with the general exemption criteria that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

(2) A fence for an open space boundary for a block complies with this subsection if—

- (a) the fence's panels and support structure are—
  - (i) made of unperforated metal; and
  - (ii) finished in a precoloured proprietary finish; and
  - (iii) used in accordance with the manufacturer's relevant written instructions; and
- (b) all sharp edges of metal sheets are capped; and
- (c) for any one side of the fence—
  - (i) the panels are of the same material, flatness and corrugation (if any); and
  - (ii) all of the visible components (other than fasteners, footings and the cut ends of components) are the same external colour as the panels; and
  - (iii) the component's colour is a solid colour that is, or closely matches, a colour from AS 2700 (*Colour Standards for General Purposes*) mentioned in part 1.4 (Permitted open space boundary fence colours); and

- (iv) the form, finish and colour of the fence is the same for the full length of the open space boundary for the block for that side of the fence.

- (3) In this section:

*development requirement*—see the [Act](#), section 416A.

### **1.53 Retaining walls**

- (1) A designated development for a retaining wall on a block if—
  - (a) if the retaining wall is between a front boundary and a building line for the block—the retaining wall is not higher than 0.4m above natural ground level on the lowest side of the wall; and

*Note* **Building line** and **front boundary**—see the [territory plan](#) (13 Definitions).
  - (b) the retaining wall is not higher than—
    - (i) if it is a cut-in retaining wall—
      - (A) for any part of the wall that is within 1.5m of a side boundary or rear boundary of the block—0.4m above natural ground level on the lowest side of the wall; and
      - (B) for any other part of the wall—1.2m above natural ground level on the lowest side of the wall; and
    - (ii) if it is a fill retaining wall—
      - (A) for any part of the wall that is within 1.5m of a side boundary or rear boundary of the block—0.4m above natural ground level on the lowest side of the wall; and
      - (B) for any other part of the wall—1m above natural ground level on the lowest side of the wall; and

(iii) if it is a combination retaining wall—

(A) for any part of the wall that is within 1.5m of a side boundary or rear boundary of the block—0.4m above natural ground level on the lowest side of the wall; and

(B) for any other part of the wall—1.2m above natural ground level on the lowest side of the wall; and

*Note* **Natural ground level**—see the [territory plan](#) (13 Definitions).

(c) if any part of the retaining wall is higher than 0.4m above natural ground level on the lowest side of the wall and within 1.5m of a side boundary or rear boundary of the block—

(i) the retaining wall is the only class 10 building or structure (other than a boundary fence) that has any part of it that is within 1.5m of the boundary; or

(ii) section 1.41 (Class 10 buildings and structures—2nd exempt building or structure within boundary clearance area) applies to the retaining wall; and

(d) the designated development complies with the general exemption criteria that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

(2) In this section:

**combination retaining wall** means a retaining wall that is both a cut-in retaining wall and a fill retaining wall.

**cut-in retaining wall** means a wall, or that part of a wall, retaining earth below natural ground level.

**fill retaining wall** means a wall, or that part of a wall, retaining earth above natural ground level.

## 1.54 Swimming pools

- (1) A designated development for a swimming pool on a block if—
- (a) no part of the pool, or an associated structure, is—
    - (i) between a front boundary and a building line for the block; or
    - (ii) within 1.5m of a side boundary or rear boundary for the block; and
  - (b) if the pool includes an associated structure with an elevated floor—the height of the finished floor level is not more than 1m above finished ground level; and

*Note* **Natural ground level**—see the [territory plan](#) (13 Definitions).

- (c) the height of the pool's reservoir is not more than 1.5m above natural ground level; and
- (d) the designated development complies with the general exemption criteria that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

- (2) In this section:

**associated structure**, in relation to a swimming pool—

- (a) includes a deck, landing, stairs or ramp, for the pool; but
- (b) does not include a retaining wall or landscaping for the pool.

**swimming pool**—see the [Building \(General\) Regulation 2008](#), schedule 1, section 1.1.

## **1.59 Dish antennas**

- (1) In this section:

***dish antenna*** means a parabolic antenna with a solid, wire or mesh dish and includes the support structures for the antenna.

- (2) A designated development for a dish antenna on a block if—

- (a) the antenna is a receiving antenna only or an antenna that can send and receive a signal; and
- (b) if the antenna is mounted on the ground—
  - (i) the diameter of the antenna is not more than 1.55m; and
  - (ii) the height of the antenna is not more than 3m above natural ground level; and

*Note* **Natural ground level**—see the [territory plan](#) (13 Definitions).

- (c) if the antenna is externally mounted on a building in a residential area—
  - (i) the diameter of the antenna is not more than 0.65m; and
  - (ii) if the building is a single dwelling where the closest point of the dwelling's roof to the antenna is lower than the highest point of the antenna—the distance from the highest point of the antenna to the closest point on the roof is not more than 1.5m; and
- (d) if the antenna is externally mounted on a building in a non-residential area—
  - (i) the diameter of the antenna is not more than 1.55m; and
  - (ii) if the closest point of the building's roof to the antenna is lower than the highest point of the antenna—the distance from the highest point of the antenna to the closest point on the roof is not more than 2m; and

- (iii) the antenna is screened so that it cannot be seen by a 2m tall person standing on the ground less than 100m from the antenna; and
- (iv) the antenna's colour matches the adjacent colour of the building or is the colour of the antenna as manufactured; and
- (e) if any part of the antenna is within 1.5m of a side boundary or rear boundary of the block—
  - (i) the antenna is the only class 10 building or structure (other than a boundary fence) that has any part of it that is within 1.5m of the boundary; or
  - (ii) section 1.41 (Class 10 buildings and structures—2nd exempt building or structure within boundary clearance area) applies to the antenna; and
- (f) the designated development complies with the general exemption criteria that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

## **1.60 Mast antennas**

- (1) In this section:  
**mast antenna** means a tower, pole or aerial structure and includes the support structures for the antenna.
- (2) A designated development for a mast antenna on a block if—
  - (a) the antenna is a receiving antenna only or an antenna that can send and receive a signal; and
  - (b) the diameter of the antenna is not more than 0.75m; and



- (c) if the antenna is mounted on the ground—
  - (i) the height of the antenna is not more than 6m above natural ground level; or
  - (ii) if any part of the antenna is within 1.5m of a side boundary or rear boundary of the block—no part of the antenna is more than 6m above natural ground level; and
- (d) if the antenna is mounted on a building—
  - (i) no part of the antenna is more than 1.5m above the highest point of the building; and
  - (ii) the antenna's colour matches the colour of the building; and
- (e) if any part of the antenna is within 1.5m of a side boundary or rear boundary of the block—
  - (i) the antenna is the only class 10 building or structure (other than a boundary fence) that has any part of it that is within 1.5m of the boundary; or
  - (ii) section 1.41 (Class 10 buildings and structures—2nd exempt building or structure within boundary clearance area) applies to the antenna; and
- (f) the designated development complies with the general exemption criteria, other than the excluded criteria, that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

- (3) In this section:

***excluded criteria*** means any other criteria in division 1.3.2 (Exempt developments—non-habitable buildings and structures), other than section 1.41, that apply to the development.

*Note* The general exemption criteria include s 1.18 (Criterion 8—compliance with other applicable exemption criteria) which provides that a development must comply with any other criteria in pt 1.3 that apply to the development.

## **1.61 Flag poles**

- (1) In this section:

***flag pole*** includes a lanyard, flag or other item associated with a flag pole.

- (2) A designated development for building or installing a flag pole if—
- (a) the height of the flag pole is not more than 10m above finished ground level; and
  - (b) the designated development complies with the general exemption criteria that are applicable to the development.

*Note* A flag pole in an existing school campus may also be exempt under s 1.99L.

## **Subdivision 1.3.2.4 Other structures**

### **1.62 Water tanks**

A designated development for a water tank on a block if—

- (a) the tank does not have a capacity of more than 20kL; and
- (b) if any part of the tank is located between a front boundary and a building line for the block—the whole tank is buried under the natural ground level; and

*Note* ***Natural ground level***—see the [territory plan](#) (13 Definitions).

- (c) in any other case—the height of the tank is not more than 3m above natural ground level; and
- (d) the designated development complies with the general exemption criteria that are applicable to the development.

*Note* **Designated development**, in relation to land—see s 1.2.

### **1.63 External ponds**

A designated development for an external pond on a block if—

- (a) the pond is not for, or used for, swimming, wading or bathing; and
- (b) the maximum depth of water the pond can hold is not more than 300mm; and
- (c) no part of the pond is within 1.5m of a side boundary or rear boundary of the block; and
- (d) no part of the pond is located between a front boundary and a building line for the block; and

*Note* **Building line** and **front boundary**—see the [territory plan](#) (13 Definitions).

- (e) the designated development complies with the general exemption criteria that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

### **1.64 Animal enclosures**

- (1) A designated development for an animal enclosure on a block if—
  - (a) the enclosure's plan area is not more than 10m<sup>2</sup>; and

*Note* **Plan area**—see the dictionary.

- (b) the enclosure's height is not more than 3m above natural ground level; and

*Note* **Natural ground level**—see the [territory plan](#) (13 Definitions).

- (c) no part of the enclosure is between a front boundary and a building line for the block; and

*Note* **Building line** and **front boundary**—see the [territory plan](#) (13 Definitions).

- (d) the designated development complies with the general exemption criteria, other than the excluded criteria, that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

*Note 3* Other laws, including animal welfare laws, may be relevant (see s 1.4).

- (2) In this section:

**excluded criteria** means any other criteria in division 1.3.2 (Exempt developments—non-habitable buildings and structures), other than section 1.41, that apply to the development.

*Note* The general exemption criteria include s 1.18 (Criterion 8—compliance with other applicable exemption criteria) which provides that a development must comply with any other criteria in pt 1.3 that apply to the development.

## 1.64A Clothes lines

- (1) A designated development for a clothes line on a block if—
- (a) the clothes line's height (including any extendable part extended) is not more than 3m above natural ground level; and
- Note* **Natural ground level**—see the [territory plan](#) (13 Definitions).
- (b) total line length is not more than 60m and the span or cantilever of any support is not more than 3m; and

- (c) no part of the clothes line is between a front boundary and a building line for the block; and

*Note* **Building line** and **front boundary**—see the [territory plan](#) (13 Definitions).

- (d) the designated development complies with the general exemption criteria, other than the excluded criteria, that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

- (2) In this section:

**excluded criteria** means any other criteria in division 1.3.2 (Exempt developments—non-habitable buildings and structures), other than section 1.41, that apply to the development.

*Note* The general exemption criteria include s 1.18 (Criterion 8—compliance with other applicable exemption criteria) which provides that a development must comply with any other criteria in pt 1.3 that apply to the development.

### **Division 1.3.3 Exempt developments—signs**

#### **1.65 Public works signs excluded—div 1.3.3**

This division does not apply to the putting up, attaching or displaying of a sign that is for public works under section 1.90.

#### **1.66 Meaning of *prescribed general exemption criteria*—div 1.3.3**

In this division:

**prescribed general exemption criteria** means the general exemption criteria, other than section 1.18 (Criterion 8—compliance with other applicable exemption criteria).

*Note* **General exemption criteria**, for a development—see s 1.10.

## 1.67 Signs attached etc to buildings, structures and land

The putting up, attaching or displaying of a sign (whether permanent or temporary) on land, or to a building or structure on land, if—

- (a) the sign is put up, attached or displayed in such a way that the sign cannot be removed without—
  - (i) for a sign attached to or displayed on a building or structure—damaging the sign, building or structure or unfastening the sign; and
  - (ii) for a sign put up or displayed on the ground—disturbing the ground; and
- (b) the sign is of a type mentioned in part 1.5 (Tables of exempt signs) and is located in a zone for which the letter ‘A’ appears in the column for the zone in which the building, structure or land is located; and

*Note*     **Type**, of sign—see s 1.1.

- (c) the sign complies with the relevant rules of the Signs General Code; and
- (d) the putting up, attaching or displaying of the sign complies with the prescribed general exemption criteria that are applicable to the development.

*Note 1*     **Prescribed general exemption criteria**—see s 1.66.

*Note 2*     Fixed signs that encroach into unleased land require a licence under the [Act](#), pt 9.11.

*Note 3*     Other laws, including the [Public Unleased Land Act 2013](#), deal with placement of signs.

## **1.68      Moveable signs on public unleased land**

- (1) The display of a moveable sign on public unleased land if—
- (a) the sign does not impede public access to a place (including public unleased land); and
  - (b) the surface area of any side of the sign is not more than 1.5m<sup>2</sup>; and
  - (c) the vertical distance from the top of any side of the sign to the bottom of the side is not more than 1.5m; and
  - (d) the display of the sign complies with the prescribed general exemption criteria that are applicable to the development.

*Note 1*    **Prescribed general exemption criteria**—see s 1.66.

*Note 2*    Other laws, including the [Public Unleased Land Act 2013](#), deal with placement of signs.

- (2) In this section:

**moveable sign** means a sign that is not fixed to a building or structure.

**public unleased land**—see the [Public Unleased Land Act 2013](#), section 8.

## **1.69      Temporary signs**

Putting up, attaching or displaying a sign if—

- (a) the sign is of a type mentioned in part 1.5 (Tables of exempt signs) and is located in a zone for which the letter ‘T’ appears in the column for the zone in which the building, structure or land is located; and

*Note*      **Type**, of sign—see s 1.1.

- (b) the sign complies with the requirements (if any) of the Signs General Code in relation to the sign; and

- (c) the sign is put up, attached or displayed for not more than 2 weeks in any 1 calendar year; and
- (d) the putting up, attaching or displaying of the sign complies with the prescribed general exemption criteria that are applicable to the development.

*Note 1* **Prescribed general exemption criteria**—see s 1.66.

*Note 2* Temporary signs that encroach into unleased land require a licence under the [Act](#), pt 9.11.

*Note 3* Other laws, including the [Public Unleased Land Act 2013](#), deal with placement of signs.

## **1.70 Signs—information about future urban areas**

Putting up, attaching or displaying a sign containing information about a future urban area if—

- (a) the information on the sign—
  - (i) is approved by the Territory; and
  - (ii) is not about the marketing or sale of the land; and
- (b) neither of the horizontal or vertical dimensions of the sign are longer than 2m; and
- (c) not more than 1 dimension of the sign is longer than 1.5m; and
- (d) the height of the sign is not more than 2.5m above finished ground level; and
- (e) the putting up, attaching or displaying of the sign complies with the prescribed general exemption criteria that are applicable to the development.

*Note 1* **Prescribed general exemption criteria**—see s 1.66.

*Note 2* **Future urban area**—see the [Act](#), dictionary.



## 1.71 Signs—required under Building Act

The putting up, attaching or displaying of a sign if—

- (a) the sign is required to be put up, attached or displayed under the [Building Act 2004](#), section 37A (Sign to be displayed for certain building work) or section 37B (Sign to be displayed for building work in prescribed development); and
- (b) the sign complies with the requirements for it under that Act.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

## Division 1.3.3A Exempt developments—community gardens

### 1.72 Definitions—div 1.3.3A

In this division:

***boundary*** means the boundary of—

- (a) the unleased territory land on which a community garden is established; or
- (b) the existing school campus on which a community garden is established.

***class 10a building*** means any of the following buildings that are class 10a buildings under the building code:

- (a) a shed
- (b) a greenhouse;
- (c) a gazebo;
- (d) a pergola;
- (e) a hail protection structure;

- (f) a storeroom or other out-building.

*Note* **Class**, for a building or structure, means the class of building or structure under the building code (see dict).

**class 10b structure** means any of the following structures that are class 10b structures under the building code:

- (a) an arbour;
- (b) an arch;
- (c) a fence;
- (d) a freestanding wall;
- (e) a garden bed;
- (f) a pole.

*Note* **Class**, for a building or structure, means the class of building or structure under the building code (see dict).

**community garden**—

- (a) means the use of land for the cultivation of produce primarily for personal use by the individuals undertaking the gardening; and
- (b) includes demonstration gardening or other activities to encourage the involvement of school groups, youth groups or others in gardening activities.

**Example**

a garden in a school that is cultivated by students and grows produce for use in the school canteen

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

### 1.73 Application—div 1.3.3A

- (1) This division applies to a community garden if—
- (a) the garden is established on—
    - (i) unleased territory land under a licence granted under the [Act](#), part 9.11 (Licences for unleased land); or
    - (ii) an existing school campus.

*Note* **Existing school campus**—see s 1.97.

- (2) If this division applies to a community garden the following sections of schedule 1 do not apply in relation to a development in the community garden:
- (a) section 1.41 (Class 10 buildings and structures—2nd exempt building or structure within boundary clearance area);
  - (b) section 1.45 (Roofed class 10a buildings—enclosed or open on 1 side);
  - (c) section 1.46 (Roofed class 10a buildings—unenclosed or partially open);
  - (d) section 1.47 (Class 10a buildings—unroofed and unenclosed);
  - (e) section 1.50 (Class 10b structures—plan area not more than 2m<sup>2</sup>);
  - (f) section 1.51 (Fences and freestanding walls generally);
  - (g) section 1.52 (Basic open space boundary fences);
  - (h) section 1.62 (Water tanks);
  - (i) section 1.63 (External ponds);
  - (j) section 1.100 (Compliant single buildings—old residential land).

*Note* The provisions of sch 1 that are not mentioned in this section may apply in relation to a development in a community garden.

## **1.74 Community gardens—general exemption criteria**

Unless otherwise stated in a provision, a development to which this division applies must comply with the general exemption criteria, other than section 1.18 (Criterion 8—compliance with other applicable exemption criteria), that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria** for a development—see s 1.10.

### **1.74A Community gardens—class 10a building**

A designated development for building or installing a class 10a building in a community garden if—

- (a) the height of the building is—
  - (i) not more than 3m above natural ground level; or
  - (ii) if no part of the building is higher than a plane projecting at 30° above horizontal from a height of 3m above the natural ground level at a boundary—not more than 4m above natural ground level; and

*Note* **Natural ground level**—see the [territory plan](#) (13 Definitions).

- (b) the plan area of the building is—
  - (i) if the community garden is less than 600m<sup>2</sup>—not more than 10m<sup>2</sup>; or
  - (ii) if the community garden is 600m<sup>2</sup> or more—not more than 50m<sup>2</sup>; and
- (c) the height of the finished floor level of the building that has a floor is—
  - (i) if the building is within 1.5m of a boundary—not more than 0.4m above natural ground level; or

- (ii) in any other case—not more than 1m above finished ground level; and

*Note*     **Finished ground level**—see the [territory plan](#) (13 Definitions).

- (d) the minimum setback between the building and any street frontage is—
  - (i) if the plan area of the building is not more than 10m<sup>2</sup>—6m; or
  - (ii) if the plan area of the building is more than 10m<sup>2</sup> and not more than 50m<sup>2</sup>—15m; and
- (e) if any part of the building is within 1.5m of a boundary that does not align with any street frontage—
  - (i) the building is the only class 10 building or structure (other than a boundary fence) that has any part of it within 1.5m of the boundary; or
  - (ii) section 1.74C applies to the building.

#### **1.74B     Community gardens—class 10b structures**

- (1) A designated development for building or installing a garden bed in a community garden if—
  - (a) the bed has a plan area of not more than 50m<sup>2</sup>; and
  - (b) the bed is not more than 1m high.
- (2) A designated development for building or installing a fence in a community garden if—
  - (a) the fence is made of mesh; and
  - (b) the fence is not more than 2.3m high; and
  - (c) if the fence is a boundary fence—it does not divert or concentrate the flow of surface water in a way that causes the water to pond or be diverted onto other land.

- (3) A designated development for building or installing a class 10b structure (other than a garden bed or a fence) in a community garden if the structure—
- (a) has a plan area of not more than 2m<sup>2</sup>; and
  - (b) is not wider than 2m; and
  - (c) is not higher than 1.85m above natural ground level; and
  - (d) if the structure has a floor—the floor is not more than 0.4m above natural ground level; and
  - (e) if any part of the structure is within 1.5m of a boundary—
    - (i) the structure is the only class 10 building or structure (other than a boundary fence) that has any part of it within 1.5m of the boundary; or
    - (ii) section 1.74C applies to the structure.

#### **1.74C Community gardens—boundary clearance area**

- (1) In this section:

***boundary clearance area*** means the area between a boundary and a line drawn 1.5m inside and parallel to the boundary.

***class 10 building or structure*** does not include a sign installed on a community garden.

***relevant cross-section area***, of a building or structure partially or fully within a boundary clearance area, means the area of the largest cross-section of the building or structure at any point in the area when measured in a plane parallel to the boundary.

- (2) A designated development for a class 10 building or structure (the ***2nd thing***) in a boundary clearance area if—
- (a) an existing class 10 building or structure (the ***1st thing***) is partially or fully in a boundary clearance area; and

- (b) the 2nd thing would be exempt under another section of this division if the 1st thing were not partially or fully within the boundary clearance area; and
- (c) the 2nd thing is not a boundary fence; and
- (d) the 1st thing and 2nd thing—
  - (i) are the only class 10 buildings or structures (other than a boundary fence) that are partially or fully within the boundary clearance area; and
  - (ii) have a combined relevant cross-section area above natural ground level of not more than 30m<sup>2</sup>.

**1.74D Community gardens—water tanks**

A designated development for building or installing a water tank in a community garden if—

- (a) the capacity of the tank is not more than 20kL; and
- (b) the height of the tank is not higher than 3m above natural ground level; and
- (c) no part of the tank is within 1.5m of a boundary.

**1.74E Community gardens—ponds**

A designated development for building or installing an external pond in a community garden if—

- (a) the pond is not for, or used for, swimming, wading or bathing; and
- (b) the maximum depth of water the pond can hold is not more than 300mm; and
- (c) no part of the pond is within 1.5m of a boundary.

#### **1.74F Community gardens—shade structures**

A designated development for building or installing a shade structure (and carrying out any related earthworks or other construction work on or under the land) in a community garden if—

- (a) the height of the shade structure is not more than 4m above existing ground level; and
- (b) the plan area of the shade structure is not more than 50m<sup>2</sup>; and
- (c) the shade structure is unenclosed on at least 2 sides.

### **Division 1.3.4 Exempt developments—lease variations**

#### **1.75 Lease variations—exempt developments**

The variation of a lease for the purpose only of allowing a development that is exempt under another section of this schedule.

#### **1.76 Lease variations—withdrawal of part of land**

The variation of a lease for the withdrawal of part of the land comprised in the lease.

#### **1.78 Lease variations—subdivisions**

The variation of a lease for the purpose of subdividing the land if—

- (a) the lease was granted for purposes including development and subdivision; and
- (b) the land over which the lease was granted has been developed in accordance with the lease.



## **Division 1.3.4A      Exempt developments—outdoor eating or drinking places**

### **1.79      Definitions—div 1.3.4A**

In this division:

*outdoor eating or drinking place*—see the [Smoke-Free Public Places Act 2003](#), section 9A.

*public unleased land*—see the [Public Unleased Land Act 2013](#), section 8.

### **1.80      Application—div 1.3.4A**

This division applies to an outdoor eating or drinking place if it is established on—

- (a) unleased territory land under a licence granted under the [Act](#), part 9.11 (Licences for unleased land); or
- (b) public unleased land for which a permit has been issued under the [Public Unleased Land Act 2013](#).

### **1.81      Outdoor eating or drinking places—general exemption criteria**

Unless otherwise stated in a provision, a development to which this division applies must comply with the general exemption criteria, other than section 1.18 (Criterion 8—compliance with other applicable exemption criteria), that are applicable to the development.

*Note*      **General exemption criteria**, for a development—see s 1.10.

## 1.82 Outdoor eating or drinking places—removable objects

- (1) A designated development for building or installing an object in an outdoor eating or drinking place if the object (a ***removable object***) can, within 48 hours and with or without limited mechanical assistance, be removed from the outdoor eating or drinking place to return that place to the condition it was in immediately before the object was installed.

### Examples—removable objects

- awnings
- glass screens
- portable barriers
- serving stations
- umbrellas attached to the ground

*Note 1* ***Designated development***, in relation to land—see s 1.2.

*Note 2* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (2) In this section:

***limited mechanical assistance*** includes the use of a crowbar, a pallet jack, or a trolley but does not include the use of an excavator, a forklift, or a jackhammer.

***removable object*** includes any of the following:

- (a) an object that is attached to the ground, a building or structure;
- (b) a socket, sleeve, bracket or similar device that attaches an object to the ground, a building or a structure;
- (c) an object that, though not attached, remains in place when the outdoor eating or drinking place is not in use.

## Division 1.3.5 Exempt developments—rural leases

### 1.85 Rural lease developments generally

- (1) In this section:

*prescribed general exemption criteria* means the general exemption criteria, other than 1.18 (Criterion 8—compliance with other applicable exemption criteria).

*Note* *General exemption criteria*, for a development—see s 1.10.

- (2) A designated development on a rural lease if—

- (a) if the development is the building or alteration of a building or structure—the development has a plan area of not more than 100m<sup>2</sup>; and

*Note* *Plan area*—see the dictionary.

- (b) the development does not result in the clearing of more than 0.5ha of native vegetation in a native vegetation area; and

*Note* *Clearing* native vegetation—see the *Nature Conservation Act 2014*, s 234.  
*Native vegetation*—see the *Nature Conservation Act 2014*, s 232.  
*Native vegetation area*—see the *Nature Conservation Act 2014*, s 233.

- (c) the development is not contrary to a land management agreement; and

- (d) the development does not require any of the following:

- (i) a licence under the *Water Resources Act 2007*;  
(ii) an environmental authorisation or environmental protection agreement under the *Environment Protection Act 1997*;

- (iii) an approval under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth); and

*Note 1* Under the *Water Resources Act 2007* a licence may be required to do development work for water, including work on a water bore, increasing the quantity of ground water or taking water from a waterway.

*Note 2* Under the *Environment Protection Act 1997* an environmental authorisation or environmental protection agreement may be required to do certain development work, including work causing pollution.

*Note 3* Under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth) an approval may be required to do certain development work, including work that reduces the population of certain species.

- (e) the designated development complies with the prescribed general exemption criteria that are applicable to the development.

*Note* **Designated development**, in relation to land—see s 1.2.

## **1.86 Rural leases—consolidation of rural leases**

The consolidation of rural leases if the consolidation of the leases complies with the general exemption criteria that are applicable to the development.

*Note 1* For restrictions on the consolidation of rural leases, see the *Act*, div 9.7.2 and this regulation, pt 5.6.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

## Division 1.3.6 Exempt developments—Territory developments

### 1.90 Public works

- (1) A designated development for public works carried out by or for the Territory if—
- (a) the development—
    - (i) does not require an environmental authorisation or environmental protection agreement under the *Environment Protection Act 1997* (the *Act*); or
    - (ii) if an environmental authorisation or environmental protection agreement is required in relation to the development under the *Act*—
      - (A) an authorisation has been granted under the *Act*, section 49 (Grant) in relation to the development; or
      - (B) the environment protection authority has entered into an environmental protection agreement under the *Act*, section 38 (Entering agreements) in relation to the activity with the person who is conducting, or proposing to conduct, the activity; and
  - (b) the designated development complies with the general exemption criteria that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* Other territory laws must be complied with (see s 1.4).

*Note 3* **General exemption criteria**, for a development—see s 1.10.

(2) In this section:

***ancillary sporting structure***—

- (a) means a structure that is designed, or can be used, in relation to playing organised sport; but
- (b) does not include a grandstand.

**Examples**

goal posts, sight screens, fencing

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

***bicycle parking facility*** means a structure built for parking a bicycle with a height not more than 2.4m.

***kiosk*** means a structure in an open space that is used to provide food or drinks to people using the open space mainly for another purpose.

***landscaping*** means work that affects the landscape of land if the work does not involve any of the following:

- (a) clearing more than 0.5ha of native vegetation in a native vegetation area;

*Note* ***Clearing*** native vegetation—see the [Nature Conservation Act 2014](#), s 234.  
***Native vegetation***—see the [Nature Conservation Act 2014](#), s 232.  
***Native vegetation area***—see the [Nature Conservation Act 2014](#), s 233.

- (b) clearing a tract of a forest or arboretum.

***playing field*** means an open space that is designed, or can be used, for playing organised sport.

**Examples—playing fields**

tennis court, football oval, athletics track, basketball court, cricket oval

***public amenities*** means toilets, showers and change rooms that are available for public use.

*public works* means—

- (a) installation or maintenance of street and park furniture; or
- (b) maintenance of a road or car park; or
- (c) construction or maintenance of a footpath, bicycle path, bicycle parking facility, walking track or other pedestrian area; or

**Examples—construction or maintenance of other pedestrian area**

tree planting and repaving, reconstruction of kerbs and gutters

- (d) maintenance of stormwater drainage or a flood mitigation structure; or

**Examples**

stormwater canals and drains, floodways, flood gates, bank protection, earth levees, reservoirs, detention basins

- (e) maintenance of a water quality treatment device; or

**Examples**

litter traps, bioretention systems, wetlands, wetponds, pollutant traps, swales, buffer strips, infiltration trenches

- (f) installation or maintenance of an ancillary sporting structure on or beside a playing field; or

- (g) maintenance of a playing field; or

**Example**

resurfacing oval with artificial grass

- (h) bushland regeneration, landscaping, gardening, tree planting, tree maintenance, tree removal or fire fuel reduction, construction or maintenance of a fire trail; or

- (i) construction, installation or maintenance of a water tank; or

- (j) installation or maintenance of a temporary structure for an event; or

- (k) installation or maintenance of public amenities; or

- (l) installation or maintenance of a kiosk.

**Examples**

marquee, portable toilet, stage, tent, television screen, scaffolding

***street and park furniture*** means the conventional equipment of urban streets and parks.

**Examples**

- 1 a seat, bench, table, rubbish bin, recycling bin, barbecue, playground equipment, gazebo, bridge, staircase, boardwalk, rotunda, stage, shade sail, water fountain, bus shelter
- 2 a bollard, planter box, street tree guard and root cover, guard rail, portico, awning, canopy, flagpole, pergola
- 3 a parking meter, parking ticket machine, street sign, parking control sign, traffic control device, telephone booth, streetlight, playing field light, variable messaging sign

## **1.90A Public artworks**

- (1) A designated development for the installation of a public artwork if—
- (a) the development is funded completely or partly by the Territory; and
  - (b) the public artwork will be located on territory land or land occupied by the Territory; and
  - (c) the director-general of the administrative unit responsible for municipal services has agreed, in writing, to the location of the public artwork; and
  - (d) the public artwork has a height of not more than—
    - (i) for an artwork located adjacent to an arterial road or proposed arterial road—12m above finished ground level; or
    - (ii) in any other case—6m above finished ground level; and



- (e) the development does not require an environmental authorisation or environmental protection agreement under the [Environment Protection Act 1997](#); and
- (f) the public artwork is not a habitable structure; and
- (g) the designated development complies with the general exemption criteria, other than section 1.17 (Criterion 7—no multiple occupancy dwellings), that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

- (2) In this section:

**arterial road** means a road with a speed limit of at least 80km/h.

**Examples**

limited access road, parkway, freeway

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

**public artwork** means an artwork to be displayed in a place open to and accessible by the public.

**Examples**

sculpture, statue, structure, painting

## 1.92 Plantation forestry

- (1) The planting or harvesting of plantation trees by or for the Territory in a plantation forestry area if the planting or harvesting of the trees complies with the general exemption criteria that are applicable to the development.

*Note* **General exemption criteria**, for a development—see s 1.10.

(2) In this section:

**plantation forestry area** means an area identified on a precinct map in the [territory plan](#) as an area where plantation forestry is permitted subject to development assessment.

**plantation tree**—

- (a) means a tree cultivated to produce a harvest; and
- (b) includes a tree naturally generated by a plantation tree.

### **1.93 Waterway protection work**

(1) A designated development carried out by or for the Territory for the protection of waterways if—

- (a) the director-general of the administrative unit responsible for municipal services has agreed, in writing, to the work; and
- (b) the work does not result in the clearing of more than 0.5ha of native vegetation in a native vegetation area; and

*Note*     **Clearing** native vegetation—see the [Nature Conservation Act 2014](#), s 234.  
**Native vegetation**—see the [Nature Conservation Act 2014](#), s 232.  
**Native vegetation area**—see the [Nature Conservation Act 2014](#), s 233.

- (c) the work is not contrary to a land management agreement; and
- (d) the work does not require any of the following:
  - (i) a licence under the [Water Resources Act 2007](#);
  - (ii) an environmental authorisation or environmental protection agreement under the [Environment Protection Act 1997](#);

- (iii) an approval under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth); and

*Note 1* Under the *Water Resources Act 2007* a licence may be required to do development work for water, including work on a water bore, increasing the quantity of ground water or taking water from a waterway.

*Note 2* Under the *Environment Protection Act 1997* an environmental authorisation or environmental protection agreement may be required to do certain development work, including work causing pollution.

*Note 3* Under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth) an approval may be required to do certain development work, including work that reduces the population of certain species.

- (e) the designated development complies with the general exemption criteria that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

- (2) In this section:

**waterway**—see the *Water Resources Act 2007*, section 10.

## **1.94 Emergencies affecting public health or safety or property**

- (1) A development carried out by or for the Territory if the development is carried out because of an emergency to protect—

- (a) public health or safety; or  
(b) property.

*Note* Other territory laws must be complied with (see s 1.4).

- (2) In this section:

**emergency**—see the *Emergencies Act 2004*, dictionary.

<b>Schedule 1</b>	Exemptions from requirement for development approval
<b>Part 1.3</b>	Exempt developments
<b>Division 1.3.6A</b>	Exempt developments—schools
Section 1.95	

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## 1.95 Temporary flood mitigation measures

A designated development carried out by or for the Territory if the development is carried out for temporary flood mitigation.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* Other territory laws must be complied with (see s 1.4).

## Division 1.3.6A Exempt developments—schools

### Subdivision 1.3.6A.1 Preliminary

#### 1.96 Definitions—div 1.3.6A

In this division:

**commencement day** means the day this division commences.

**existing ground level** means the ground level of the relevant area on the commencement day.

**young child**—see the *Children and Young People Act 2008*, section 733 (3).

#### 1.96A Meaning of *existing school*—div 1.3.6A

(1) In this division:

**existing school** means—

- (a) 1 of the following that exists on the commencement day:
  - (i) a government school within the meaning of the *Education Act 2004*;
  - (ii) a non-government school within the meaning of the *Education Act 2004*;

- (iii) a childcare centre, licensed under the *Children and Young People Act 2008*, section 747, primarily for the education of young children; or

**Examples—education of young children**

preschool, early learning centre

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see *Legislation Act*, s 126 and s 132).

- (b) land that—

- (i) either—

(A) has been a type of school mentioned in paragraph (a) (i) to (iii) that existed before the commencement day; or

(B) is adjacent to something mentioned in paragraph (a); and

- (ii) is being developed or redeveloped to be, or be part of, a type of school mentioned in paragraph (a) (i) to (iii); and

- (iii) is declared by the Minister to be an existing school.

**Examples**

- 1 land adjacent to a primary school that is being developed as part of a staged expansion of the school
- 2 a site that was a high school but is not currently operating while being redeveloped as a school

- (2) A declaration for subsection (1) (b) (iii) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act*.

## **1.97 Meaning of *existing school campus*—regulation**

In this regulation:

*existing school campus* means the grounds, including the boundary, of an existing school on the commencement day.

**1.98 Application—div 1.3.6A**

This division applies to a development or other activity only if it is on an existing school campus.

**1.99 General exemption criteria**

Unless otherwise stated in a provision, a development to which this division applies must comply with the general exemption criteria (other than schedule 1, section 1.18) that are applicable to the development.

*Note 1* **General exemption criteria**, for a development—see s 1.10.

*Note 2* Section 1.18 deals with compliance with other general exemption criteria that apply to the development.

**1.99A Activities not developments**

An activity mentioned in this division that is not a development is not taken to be a development only because it is exempt under this division.

**Subdivision 1.3.6A.2 Exemptions—schools**

**1.99C Schools—new buildings or alterations to buildings**

A designated development for building a new building or altering or demolishing an existing building (and carrying out any related earthworks or other construction work on or under the land) if—

- (a) the building is—
  - (i) a class 3 building; or

- (ii) a class 9b building; and

**Example—class 3 building**

dormitory

**Examples—class 9b buildings**

hall, auditorium, gymnasium, library, classroom, environment learning centre

*Note 1* **Class**, for a building or structure, means the class of building or structure under the building code (see dict).

*Note 2* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (b) the building is not within 6m of the boundary of a block in a residential zone; and
- (c) the height of the building is not more than—
- (i) if the building is within 30m of the boundary of a block in a residential zone—6m above existing ground level; or
- (ii) in any other case—12m above existing ground level.

**1.99E Schools—entrances**

- (1) In this section:

***school entrance***—

- (a) means a public entrance to the school whether freestanding or part of a building; and
- (b) includes any associated structure.

**Examples—associated structures**

portico, awning, canopy, landing, access ramp

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (2) A designated development for building or installing a school entrance (and carrying out any related earthworks or other construction work on or under the land) if—
  - (a) the entrance—
    - (i) does not have a roof; or
    - (ii) is not enclosed on all sides; and
  - (b) the height of the entrance is not more than 6m above existing ground level.

#### **1.99F      Schools—verandahs etc**

- (1) In this section:  
*verandah* includes a balcony, awning, portico or landing.
- (2) A designated development for building or installing a verandah (and carrying out any related earthworks or other construction work on or under the land) if—
  - (a) the height of the verandah is not more than—
    - (i) if the verandah is within 30m of the boundary of a block in a residential zone—6m above existing ground level; or
    - (ii) in any other case—12m above existing ground level; and
  - (b) the verandah is not within 6m of the boundary of a block in a residential zone; and
  - (c) the verandah is unenclosed on at least 1 side.

*Note*      An external verandah may also be exempt under s 1.49.



## **1.99G Schools—signs**

- (1) Putting up, attaching or displaying a sign or altering or removing a sign if—
- (a) the sign displays, or is intended to display, only school information; and
  - (b) the height of the sign is not more than 3.6m above existing ground level; and
  - (c) the sign is not both illuminated and animated.

**Example—both illuminated and animated**  
flashing neon

*Note 1* A sign may also be exempt under div 1.3.3.

*Note 2* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (2) In this section:

***school information*** includes—

- (a) the name of the school; or
- (b) the school motto; or
- (c) information about the school's facilities; or
- (d) directional information; or
- (e) information about upcoming events for the school; or
- (f) information about the school's achievements; or
- (g) information about the source of funding for works undertaken at the school.

## **1.99H Schools—playground and exercise equipment**

- (1) In this section:

*playground and exercise equipment* includes swings, monkey bars, slippery dips, cubby houses, ropes and nets.

- (2) A designated development for building or installing playground and exercise equipment (and carrying out any related earthworks or other construction work on or under the land).

## **1.99I Schools—fences**

- (1) In this section:

*fence* includes—

- (a) a fence around the boundary, or part of the boundary, of an existing school campus; and
- (b) a fence within an existing school campus, including a fence—
  - (i) around, or partly around, a playground or playing field; or
  - (ii) between buildings; and
- (c) a gate that forms part of, or functions as, a fence.

*playing field* means an open space that is designed, or can be used, for playing or practising organised sport.

### **Examples—playing fields**

tennis court, football oval, athletics track, basketball court, cricket oval, cricket practice nets

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (2) A designated development for building or installing a fence (and carrying out any related earthworks or other construction work on or under the land) if—
- (a) the height of the fence is not more than—
    - (i) if the fence is around, or partly around, a playing field—4m above existing ground level; or
    - (ii) in any other case—2.4m above existing ground level; and
  - (b) no vertical component of the fence is spiked.

**1.99J Schools—shade structures**

A designated development for building or installing a shade structure (and carrying out any related earthworks or other construction work on or under the land) if—

- (a) the height of the shade structure is not more than 10m above existing ground level; and
- (b) the plan area of the shade structure is not more than 200m<sup>2</sup>; and
- (c) the shade structure is unenclosed on at least 2 sides.

**1.99K Schools—covered external walkways**

A designated development for building or installing a covered walkway (and carrying out any related earthworks or other construction work on or under the land) if—

- (a) the height of the walkway is not more than—
  - (i) if the walkway is within 30m of the boundary of a block in a residential zone—6m above existing ground level; or
  - (ii) in any other case—12m above existing ground level; and
- (b) the walkway is unenclosed on at least 1 side.

### **1.99L Schools—flag poles**

- (1) In this section:

*flag pole* includes a lanyard, flag or other item associated with a flag pole.

- (2) A designated development for building or installing a flag pole (and carrying out any related earthworks or other construction work on or under the land) if the height of the flag pole is not more than 10m above existing ground level.

### **1.99M Schools—water tanks**

A designated development for building or installing a water tank (and carrying out any related earthworks or other construction work on or under the land) if the water tank has a diameter of 8m or less.

*Note* A water tank may also be exempt under s 1.62.

### **1.99N Schools—landscape gardening**

- (1) A designated development for landscape gardening (other than the construction of a retaining wall), and carrying out any related earthworks or other construction work on or under the land, if—

- (a) the landscape gardening is defined landscaping; and
- (b) if the landscape gardening affects an existing public pedestrian access way, footpath or bicycle path—the landscape gardening maintains existing public access to the access way, footpath or bicycle path.

*Note 1* For retaining walls generally, see s 1.53. (Other provisions, eg decks (see s 1.48) and swimming pools (see s 1.54) may be relevant.)

*Note 2* Work by the Territory that affects the landscape of land may also be exempt under s 1.91.

- (2) For subsection (1) (b), section 1.11 (Criterion 1—easement and other access clearances) does not apply to the landscape gardening unless the landscape gardening involves the construction or installation of a structure.

- (3) In this section:

***defined landscaping*** means landscaping in relation to 1 or more of the following:

- (a) a footpath;
- (b) a landing;
- (c) artificial grass;
- (d) any other landscape structure (other than a retaining wall), or earthworks, if the vertical distance from the top of the structure or earthworks to existing ground level is not more than—
  - (i) if the top of the structure or earthworks is above existing ground level—0.4m; or
  - (ii) if the top of the structure or earthworks is below finished ground level—1.2m.

*Note* ***Finished ground level***—see the [territory plan](#) (13 Definitions).

## **1.99O Schools—car parks**

- (1) A designated development for building or installing a car park (and carrying out any related earthworks or other construction work on or under the land) on existing ground level if the car park does not reduce the area of a playing field.

(2) In this section:

***playing field*** means an open space that is designed, or can be used, for playing organised sport.

**Examples—playing fields**

tennis court, football oval, athletics track, basketball court, cricket oval

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

**1.99P Schools—bicycle enclosures**

A designated development for building or installing a bicycle enclosure (and carrying out any related earthworks or other construction work on or under the land).

**1.99Q Schools—toilet and change room facilities**

A designated development for building or installing a toilet facility or change room facility (and carrying out any related earthworks or other construction work on or under the land) if the facility is not within 6m of the boundary of a block in a residential zone.

**1.99R Schools—driveways**

A designated development for sealing or resealing a driveway (and carrying out any related earthworks or other construction work on or under the land) if 1 or more of the following materials is used:

- (a) concrete (including coloured or patterned concrete);
- (b) bitumen;
- (c) pavers, including bricks;
- (d) timber;
- (e) grass, including stabilising treatment.

**1.99S Schools—security cameras**

Installing a security camera.

**1.99T Schools—external lighting**

Installing external lighting, including security lighting and flood lighting (other than flood lighting for a playing field).

**1.99U Schools—demountable and transportable buildings**

A designated development for building or installing a demountable or transportable building (and carrying out any related earthworks or other construction work on or under the land) if the building is not within 6m of the boundary of a block in a residential zone.

**1.99V Schools—class 10b structures**

A designated development for building or installing a class 10b structure (and carrying out any related earthworks or other construction work on or under the land) if—

- (a) the structure is not within 6m of the boundary of a block in a residential zone; and
- (b) the development is not otherwise exempt under this division.

**Examples—class 10b structures**

retaining or freestanding wall, mast or antenna, swimming pool

*Note 1* A class 10b structure may also be exempt under subdiv 1.3.2.3.

*Note 2* A fence may be exempt under section 1.99I.

*Note 3* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

## Division 1.3.7 Exempt developments—other exemptions

### 1.100 Compliant single dwellings—old residential land

- (1) Building a single dwelling (the *dwelling*) or altering a single dwelling (the *alteration*) on a block if—
  - (a) the dwelling will be the only dwelling on the block; and
  - (b) a dwelling has previously been built on the block; and
  - (c) the dwelling or alteration, as built, complies with—
    - (i) the relevant rules in any relevant precinct code that would apply if the dwelling or alteration were not exempt; and
    - (ii) to the extent that they are not inconsistent with the relevant rules in a relevant precinct code—the relevant rules in the Residential Zones—Single Dwelling Housing Development Code that would apply if the dwelling or alteration were not exempt; and
    - (iii) to the extent that they are not inconsistent with the relevant rules in a relevant precinct code or the Residential Zones—Single Dwelling Housing Development Code—the prescribed general exemption criteria; and
  - (d) the dwelling or alteration will be in a residential zone; and
  - (e) section 1.19 (Information about certain development proposals) has been complied with in relation to building or altering the dwelling.

*Note 1* **Relevant rules**, for a development proposal—see the [Act](#), dictionary. See also s (2).

*Note 2* Other territory laws, including the [Heritage Act 2004](#), must be complied with (see s 1.4 and s 1.14).



- (2) To remove any doubt, a code requirement is not inconsistent with the code requirements of another code only because one code deals with a matter and the other does not.

- (3) In this section:

*prescribed general exemption criteria* means the general exemption criteria, other than the following:

- (a) section 1.17 (Criterion 7—no multiple occupancy dwellings);
- (b) section 1.18 (Criterion 8—compliance with other applicable exemption criteria).

*single dwelling* does not include a dwelling that has a party wall.

#### **1.100AA Compliant single dwellings—new residential land**

- (1) Building a single dwelling on a block if—
- (a) the dwelling will be the only dwelling on the block; and
  - (b) another dwelling has not been built on the block; and
  - (c) if the block is a preliminary block—the dwelling is built by the lessee of the holding lease; and
  - (d) the dwelling as built complies with—
    - (i) the relevant rules in any relevant precinct code that would apply if the dwelling were not exempt; and
    - (ii) to the extent that they are not inconsistent with the relevant rules in a relevant precinct code—the relevant rules in the Residential Zones—Single Dwelling Housing Development Code that would apply if the dwelling were not exempt; and
    - (iii) to the extent that they are not inconsistent with the relevant rules in a relevant precinct code or the Residential Zones—Single Dwelling Housing Development Code—the prescribed general exemption criteria; and

- (e) the dwelling will be in a residential zone.

*Note 1* **Relevant rules**, for a development proposal—see the [Act](#), dictionary. See also s (3).

*Note 2* Other territory laws, including the [Heritage Act 2004](#), must be complied with (see s 1.4 and s 1.14).

- (2) For subsection (1) (c), a dwelling is taken to be **built** by the lessee even if some or all of the building work is done by an employee or contractor of the lessee.
- (3) To remove any doubt, a code requirement is not inconsistent with the code requirements of another code only because one code deals with a matter and the other does not.
- (4) In this section:

**block** includes a preliminary block.

**preliminary block**—land is taken to be a **preliminary block** if—

- (a) the land is part of a holding lease; and
- (b) a development application for the development of an estate has been approved in relation to the lease; and

*Note* A development application for the development of an estate must be accompanied by an estate development plan (see [Act](#), s 139 (2) (n)).

- (c) the estate development plan accompanying the development application identifies the land as a block; and
- (d) information about the boundaries of, and the distinguishing name or number for the land is recorded in the database maintained by the planning and land authority under the [Districts Act 2002](#), section 17 (Digital cadastral database); and
- (e) the land is not otherwise a block under the [Districts Act 2002](#).

*Note* **Estate development plan**—see the [Act](#), s 94.

*prescribed general exemption criteria* means the general exemption criteria, other than the following:

- (a) section 1.17 (Criterion 7—no multiple occupancy dwellings);
- (b) section 1.18 (Criterion 8—compliance with other applicable exemption criteria).

**1.100A Otherwise non-compliant single dwellings—old residential land**

- (1) Building a single dwelling (the *dwelling*) or altering a single dwelling (the *alteration*) on a block if—
  - (a) the building of the dwelling or alteration would be exempt under section 1.100, apart from the encroachment of the dwelling or alteration in 1 or more of the following ways:
    - (i) beyond the front, side or rear setback required under the defined rules;
    - (ii) beyond the building envelope that applies, under the defined rules, to the block where the dwelling or alteration is being built;
    - (iii) into the minimum private open space required under the defined rules; and
  - (b) the planning and land authority declares (an *exemption declaration*) that the dwelling or alteration does not stop being an exempt development because of a non-compliance with the defined rules identified in the declaration; and
  - (c) section 1.19 (Information about certain development proposals) has been complied with in relation to the building or altering of the dwelling.

(2) An exemption declaration must state the following distances (each of which is an *extended distance*):

- (a) the distance by which any setback for the dwelling or alteration, that is required by the defined rules, is reduced to allow for the encroachment;
- (b) the distance that any element of the dwelling or alteration may extend beyond the building envelope that applies, under the defined rules, to the block where the dwelling or alteration is being built;
- (c) the distance by which any element of the dwelling or alteration may encroach into the minimum private open space required under the defined rules.

(3) Not later than 10 working days after a person applies to the planning and land authority for an exemption declaration the authority must—

- (a) make the declaration; or
- (b) refuse to make the declaration.

*Note 1* If a form is approved under the [Act](#), s 425 for this provision, the form must be used.

*Note 2* A fee may be determined under the [Act](#), s 424 for this provision.

*Note 3* The requirement to make a decision under s (4) does not lapse if the 10-day time limit is not met (see [Legislation Act](#), s 152).

(4) However, the planning and land authority must not make an exemption declaration in relation to a non-compliant dwelling or alteration unless satisfied that—

- (a) the non-compliance is minor; and
- (b) building the dwelling or alteration other than in accordance with the defined rules—
  - (i) will not adversely affect someone other than the applicant; and

- (ii) will not increase the environmental impact of the dwelling or alteration more than minimally.

(5) In this section:

*defined rules* means—

- (a) the relevant rules in any relevant precinct code that would apply if the dwelling or alteration were not exempt; or
- (b) the relevant rules in the Residential Zones—Single Dwelling Housing Development Code that would apply if the dwelling or alteration were not exempt.

*setback*—see the [territory plan](#) (13 Definitions).

#### **1.100AB Otherwise non-compliant single dwellings—new residential land**

(1) Building a single dwelling on a block if—

- (a) the building of the dwelling would be exempt under section 1.100AA, apart from the encroachment of the dwelling in 1 or more of the following ways:
  - (i) beyond the front, side or rear setback required under the defined rules;
  - (ii) beyond the building envelope that applies, under the defined rules, to the block where the dwelling is being built;
  - (iii) into the minimum private open space required under the defined rules; and
- (b) the planning and land authority declares (an *exemption declaration*) that the dwelling does not stop being an exempt development because of a non-compliance with the defined rules identified in the declaration.

- (2) An exemption declaration must state the following distances (each of which is an *extended distance*):
- (a) the distance by which any setback for the dwelling that is required by the defined rules, is reduced to allow for the encroachment;
  - (b) the distance that any element of the dwelling may extend beyond the building envelope that applies, under the defined rules, to the block where the dwelling is being built;
  - (c) the distance by which any element of the dwelling may encroach into the minimum private open space required under the defined rules.
- (3) Not later than 10 working days after a person applies to the planning and land authority for an exemption declaration the authority must—
- (a) make the declaration; or
  - (b) refuse to make the declaration.
- Note 1* If a form is approved under the [Act](#), s 425 for this provision, the form must be used.
- Note 2* A fee may be determined under the [Act](#), s 424 for this provision.
- Note 3* The requirement to make a decision under s (4) does not lapse if the 10-day time limit is not met (see [Legislation Act](#), s 152).
- (4) However, the planning and land authority must not make an exemption declaration in relation to a non-compliant dwelling unless satisfied that—
- (a) the non-compliance is minor; and
  - (b) building the dwelling other than in accordance with the defined rules—
    - (i) will not adversely affect someone other than the applicant; and

- (ii) will not increase the environmental impact of the dwelling more than minimally.

- (5) In this section:

**block**—see section 1.100AA (4).

**defined rules** means—

- (a) the relevant rules in any relevant precinct code that would apply if the dwelling were not exempt; or
- (b) the relevant rules in the Residential Zones—Single Dwelling Housing Development Code that would apply if the dwelling were not exempt.

**preliminary block**—see section 1.100AA (4).

**setback**—see the [territory plan](#) (13 Definitions).

### **1.100B Single dwellings—demolition**

- (1) The demolition of a single dwelling, or part of a single dwelling, if—
  - (a) the demolition complies with section 1.14 (Criterion 4—heritage, tree, environment and conservation); and
  - (b) if section 1.19 (Information about certain development proposals) applies in relation to the demolition—that section has been complied with in relation to the demolition.

*Note* Other territory laws, including the [Building Act 2004](#), must be complied with (see s 1.4).

- (2) In this section:

**single dwelling** does not include a dwelling that has a party wall.

### **1.101 Buildings and structures—demolition**

- (1) The demolition of a building or structure, or part of a building or structure, if—

- (a) if the building or structure is a class 10 building or structure—
  - (i) the building or structure is on land in a residential zone; and
  - (ii) the demolition complies with section 1.14 (Criterion 4—heritage, tree, environment and conservation); or
- (b) in any other case—
  - (i) were the building or structure, or the part of the building or structure, to be built the building or structure would be an exempt development; and
  - (ii) the demolition complies with section 1.14 (Criterion 4—heritage, tree, environment and conservation).

*Note* Other territory laws, including the [Building Act 2004](#) and [Heritage Act 2004](#), must be complied with (see s 1.4 and s 1.14).

- (2) In this section:

***building*** does not include a single dwelling.

## **1.102 Temporary use of land for emergency services training etc**

- (1) In this section:

***authorised entity*** means—

- (a) the Australian Defence Force; or
- (b) the Australian Federal Police; or
- (c) an emergency service; or

*Note* ***Emergency service***—see the [Legislation Act](#), dictionary, part 1.

- (d) any other Territory, Commonwealth or State entity authorised in writing by the planning and land authority.



***notifiable activity***, in relation to a block of land, means—

- (a) damaging a building or structure on the land; or
  - (b) simulating a violent incident in relation to the land; or
  - (c) simulating an emergency response in relation to the land.
- (2) A designated development for the use of land for training or testing of things by an authorised entity if—
- (a) if the training or testing includes a notifiable activity—
    - (i) the training or testing is carried out on the land during ordinary business hours on not more than 2 consecutive days in any year; and
    - (ii) at least 5 days before the day the training or testing is to be carried out, the authorised entity gives written notice of the following to the occupier of each place (other than unleased land) adjoining the land:
      - (A) when the training or testing will be carried out;
      - (B) the general nature of the training or testing; and
  - (b) the designated development or use complies with the general exemption criteria that are applicable to the development.

*Note* For how documents may be given, see the [Legislation Act](#), pt 19.5.

*Note 1* ***Designated development***, in relation to land—see s 1.2.

*Note 2* ***General exemption criteria***, for a development—see s 1.10.

*Note 3* ***Use land***—see the [Act](#), s 8.

### 1.103 Utility and telecommunications services

- (1) The following developments if the development complies with the general exemption criteria that are applicable to the development:
- (a) the installation of a connection of not more than 50m connecting a consumer's premises to an electricity, water, sewerage, stormwater, gas or telecommunications service;
  - (b) the installation of an electricity, water, sewerage, gas or telecommunications service in accordance with an approved estate development plan;
  - (c) the installation of minor utility infrastructure with a height not more than 2m above natural ground level;
  - (d) maintenance carried out only to maintain an electricity, water, sewerage, stormwater, gas or telecommunication service.

**Examples—par (c)**

weather station cabinets, sewerage and water supply controls

**Examples—par (d)**

replacing pipes with pipes that are the same or substantially the same, digging trenches needed to replace pipes

*Note 1* **General exemption criteria**, for a development—see s 1.10.

*Note 2* **Estate development plan**—see the [Act](#), s 94.

*Note 3* **Natural ground level**—see the [territory plan](#) (13 Definitions).

*Note 4* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (2) In this section:

***premises*** includes land.

## **1.104 Landscape gardening**

- (1) Landscape gardening, other than the construction of a retaining wall, that affects the landscape of land if—
- (a) the landscape gardening is—
    - (i) on land leased for residential use; or
    - (ii) prescribed landscaping (whether or not the land is leased for residential use); and

*Note* **Prescribed landscaping**—see s (3).

- (b) if the landscape gardening is subject to a condition in a development approval in relation to the land—the condition has been complied with; and
- (c) if the landscape gardening affects an existing public pedestrian access way, footpath or bicycle path—the landscape gardening maintains the existing public access to the access way, footpath or bicycle path; and
- (d) the landscape gardening complies with the general exemption criteria that are applicable to the development.

*Note 1* **General exemption criteria**, for a development—see s 1.10.

*Note 2* For retaining walls generally, see s 1.53. (Other provisions, eg decks (see s 1.48) and swimming pools (see s 1.54) may be relevant.)

*Note 3* If unleased land is affected by the landscape gardening, a licence under the Act or a public unleased land permit under the [Public Unleased Land Act 2013](#) may be required.

- (2) For subsection (1) (d), section 1.11 (Criterion 1—easement and other access clearances) does not apply to the landscape gardening if it does not involve the construction or installation of a structure.

(3) In this section:

***prescribed landscaping*** means landscaping in relation to any of the following:

- (a) a footpath;
- (b) a landing;
- (c) any other landscape structure (other than a retaining wall), or earthworks, if the vertical distance from the top of the structure or earthworks to natural ground level is not more than—
  - (i) if the top of the structure or earthworks is above the natural ground level—0.4m; or
  - (ii) if the top of the structure or earthworks is below finished ground level—1.2m.

*Note* ***Natural ground level*** and ***finished ground level***—see the [territory plan](#) (13 Definitions).

***residential use***—see the [territory plan](#), (13 Definitions).

## **1.105 Works under Water Resources Act by non-territory entities**

- (1) A designated development if—
  - (a) the development is to give effect to a direction under any of the following provisions of the [Water Resources Act 2007](#):
    - (i) section 72 (1) (Direction to modify or remove water structure);
    - (ii) section 73 (2) (Direction to rectify effect of unauthorised activity etc);
    - (iii) section 74 (2) (Direction to prevent or rectify damage to bed or bank of waterway); and

- (b) the designated development complies with the general exemption criteria that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria**, for a development—see s 1.10.

- (2) To remove any doubt, this section does not apply to a designated development in accordance with the [Water Resources Act 2007](#), section 74 (1) (which places a duty on the owner or occupier to take reasonable steps to prevent damage to the bed or banks of the waterway).

## **1.108 Home businesses conducted from residential leases**

- (1) The conduct of a home business from a residential lease if—

*Note* **Residential lease**—see the [Act](#), s 234.

- (a) not more than 2 people work on the lease at any time; and
- (b) anyone who works on the lease in the business genuinely lives on the lease; and
- (c) all goods and materials relating to the business (other than goods or materials kept on another lease) must be kept—
  - (i) in buildings or structures that are lawfully on the lease; and
  - (ii) in a way that the goods and materials cannot be seen from outside the lease; and

### **Examples—building or structure lawfully on lease—subpar (i)**

- 1 the building or structure is exempt from the [Building Act 2004](#) or has been certified under that Act, s 48 and has development approval under the [Planning and Development Act 2007](#) or is an exempt development under that Act
- 2 an ex-government house that did not require building approval for its construction

### **Example—building not lawfully on lease—subpar (i)**

A shed, when constructed, is exempt from the [Building Act 2004](#) and an exempt development under the [Planning and Development Act 2007](#). It is

lawful. However, the shed is subsequently altered in a way that makes it not exempt under 1 of the Acts. The shed is then not lawfully on the lease.

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (d) the area of the lease used for the business (including storage) is not more than 40m<sup>2</sup>; and
- (e) any vehicles at the lease for the purposes of the business are parked—
  - (i) on the lease in a driveway, garage, carport or location screened from any part of the road on which the lease is located; or
  - (ii) if the business is operated from a unit under the [Unit Titles Act 2001](#)—in parking for the unit; and
- (f) the conduct of the business complies with the [Environment Protection Act 1997](#); and

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

- (g) averaged over a period of 7 days, the conduct of the business does not generate more than 5 vehicle arrivals each day at the lease; and
- (h) any sign relating to the business is exempt from requiring development approval under this schedule, division 1.3.3 (Exempt developments—signs); and
- (i) the conduct of the home business complies with the general exemption criteria that are applicable to the development.

*Note* **General exemption criteria**, for a development—see s 1.10.

- (2) In this section:

**home business**—see the [Act](#), section 247 (3).

### **1.109 Designated areas—developments not involving lease variations**

A development in a designated area if the development does not involve the variation of a lease.

*Note* **Designated area**—see the [Australian Capital Territory \(Planning and Land Management\) Act 1988](#) (Cwlth), s 4.

### **1.110 Rebuilding damaged buildings and structures**

(1) A designated development to rebuild a damaged building or structure if—

(a) the development has been previously approved, whether or not any development in accordance with the approval has ever been undertaken; and

(b) the development would not result in any of the following:

(i) the height of any new or altered building or structure being more than the previously approved height of the damaged building or structure, both of which are measured from the natural ground level;

(ii) the gross floor area of any new or altered building or structure being more than 15% larger than the previously approved gross floor area of the damaged building or structure;

*Note* **Gross floor area**—see the [territory plan](#) (13 Definitions).

(iii) any new or altered building or structure being used for more dwellings than were previously approved;

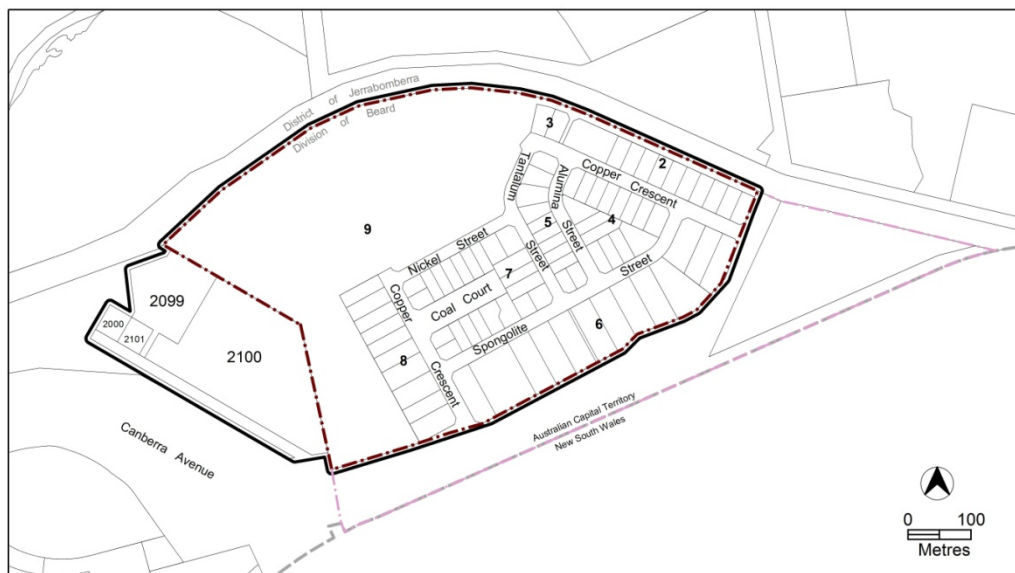
(iv) the setbacks for any new or altered building or structure not complying with the lesser of the following:

(A) the relevant setbacks under Residential Zones—Single Dwelling Housing Development Code;

- (B) any setbacks that were previously approved for the building or structure that is replaced or altered; and
  - (c) before the development commences, the lessee gives the following to the planning and land authority:
    - (i) notice in writing of when the development will commence;
    - (ii) a plan of the development;
    - (iii) a written statement by a certifier that the development shown on the plan will not result in any of the matters mentioned in paragraph (b); and
  - (d) at the completion of the development, a certifier gives the planning and land authority a written statement that the development as constructed is in accordance with the plan given to the planning and land authority under paragraph (c).
- (2) This section does not apply to a designated development to rebuild a damaged building or structure in—
- (a) one of the following zones identified in the [territory plan](#):
    - (i) IZ1 General Industrial Zone;
    - (ii) IZ2 Mixed Use Industrial Zone; or
  - (b) the area outlined in bold in plan 1.110.



**Plan 1.110**



(3) In this section:

**certifier** means a certifier, for building work, within the meaning of the [Building Act 2004](#).

**damage**, in relation to a building or structure, means damage caused by an act or event, other than an act done by the lessee of the land with the intention of causing the damage.

**Examples—act or event causing damage**

natural disaster, electrical fire, vandalism

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

**lessee**, of land before the act or event that damaged the building or structure—

(a) means for land under a land sublease—the sublessee; and

- (b) includes a person who, before the act or event, had entered into an agreement with the lessee of the land giving the person a right to the transfer of the lease but to whom no transfer had been registered under the *Land Titles Act 1925* in accordance with the agreement.

***plan***, of a development, means—

- (a) a plan that complies with AS 1100; or
- (b) unless the building or structure will differ from the previously approved development—the plan for the previously approved development.

***previously approved***—a development has been ***previously approved*** if the development was approved under—

- (a) the *Land (Planning and Environment) Act 1991*; or
- (b) the *Buildings (Design and Siting) Act 1964*; or
- (c) the Act, unless, immediately before the act or event that damaged the building or structure—
  - (i) the period for applying to the ACAT for review of the decision to approve the development had not ended; or
  - (ii) if an application to the ACAT for a review of the decision had been made—the application had not been finally disposed of by the ACAT.

## **1.111 Bores**

- (1) A designated development in relation to a bore if the development complies with the general exemption criteria that apply to the development.

*Note 1* **General exemption criteria**, for a development—see s 1.10.

*Note 2* Other territory laws, including the *Water Resources Act 2007* and the *Environment Protection Act 1997*, must be complied with (see s 1.4).

- (2) In this section:

*bore*—see the [Water Resources Act 2007](#), dictionary.

### **1.112 Subdivisions—Unit Titles Act**

The subdivision of land under a unit title application under the [Unit Titles Act 2001](#).

### **1.113 Vehicle charging point**

- (1) A designated development for a vehicle charging point if the development complies with the general exemption criteria, other than section 1.18 (Criterion 8—compliance with other applicable exemption criteria), that are applicable to the development.

*Note 1* **Designated development**, in relation to land—see s 1.2.

*Note 2* **General exemption criteria** for a development—see s 1.10.

- (2) In this section:

**vehicle charging point** means a fixture that allows for the electric charging of a vehicle if the fixture—

- (a) is attached to a building or structure and has a vertical surface area of not more than 0.5m<sup>2</sup>; or
- (b) is attached to a free standing column or bollard that is not more than 1.8m high and the plan area is not more than 1m<sup>2</sup>.

## **Part 1.4**

### **Permitted open space boundary fence colours**

*Note* This part relates to s 1.52 (Basic open space boundary fences).

<b>column 1 item</b>	<b>column 2 colour</b>
1	B53 (Dark Grey Blue)
2	G14 (Moss Green)
3	G15 (Rainforest Green)
4	G16 (Traffic Green)
5	G23 (Shamrock)
6	G24 (Fern Green)
7	G25 (Olive)
8	G34 (Avocado)
9	G52 (Eucalyptus)
10	G53 (Banksia)
11	G54 (Mist Green)
12	G55 (Lichen)
13	G56 (Sage Green)
14	G62 (River Gum)
15	G64 (Slate)
16	G65 (Ti-Tree)
17	G66 (Environment Green)
18	N54 (Basalt)
19	N55 (Lead Grey)
20	N63 (Pewter)
21	N64 (Dark Grey)
22	N65 (Graphite Grey)

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<b>column 1 item</b>	<b>column 2 colour</b>
23	P42 (Mulberry)
24	P52 (Plum)
25	R44 (Possum)
26	R45 (Ruby)
27	R52 (Terra Cotta)
28	R53 (Red Gum)
29	R54 (Raspberry)
30	R55 (Claret)
31	R62 (Venetian Red)
32	R63 (Red Oxide)
33	R64 (Deep Indian Red)
34	T14 (Malachite)
35	T51 (Mountain Blue)
36	T53 (Peacock Blue)
37	X41 (Buff)
38	X42 (Biscuit)
39	X43 (Beige)
40	X45 (Cinnamon)
41	X51 (Tan)
42	X52 (Coffee)
43	X53 (Golden Tan)
44	X54 (Brown)
45	X55 (Nut Brown)
46	X61 (Wombat)
47	X62 (Dark Earth)
48	Y44 (Sand)

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**Schedule 1**  
**Part 1.4**

Exemptions from requirement for development approval  
Permitted open space boundary fence colours

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<b>column 1 item</b>	<b>column 2 colour</b>
49	Y45 (Manila)
50	Y51 (Bronze Olive)
51	Y52 (Chamois)
52	Y53 (Sandstone)
53	Y54 (Oatmeal)
54	Y55 (Deep Stone)
55	Y56 (Merino)
56	Y62 (Sugar Cane)
57	Y63 (Khaki)
58	Y65 (Mushroom)
59	Y66 (Mudstone)

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## Part 1.5 Tables of exempt signs

*Note* This part relates to s 1.67 (Signs attached etc to buildings, structures and land) and s 1.69 (Temporary signs).

**Table 1.5.1 Exempt signs: commercial and industrial zones**

	Commercial and industrial zones							
	CZ1	CZ2	CZ3	CZ4	CZ5	CZ6	IZ1	IZ2
<b>Type of sign</b>								
Awning/fascia sign	A	A	A	A	A		A	A
Blind sign	A	A	A	A			A	A
Business plate sign	A	A	A	A	A	A	A	A
Canopy sign	A	A	A	A			A	A
Changeable message sign	A	A	A	A	A		A	A
Construction site fence sign	A	A	A	A	A	A	A	A
Display home/development site sales sign	T	T	T	T	T	T	T	T
Event sign	T	T	T	T	T	T	T	T
Fence sign								
Flag pole sign								
Ground sign	A	A	A	A	A		A	A
Hamper sign	A	A	A	A	A		A	A
High rise building sign								
Inflatable sign								
Information sign	A	A	A	A	A	A	A	A
Lantern sign	A	A	A	A	A	A	A	A
Mobile sign								
Pole sign	A	A	A	A	A			
Projecting sign								
Pylon/column sign								
Roof sign								
Stallboard sign	A	A	A	A	A		A	A
Territory signs							A	A

**Schedule 1**  
**Part 1.5**

Exemptions from requirement for development approval  
Tables of exempt signs

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	Commercial and industrial zones							
	CZ1	CZ2	CZ3	CZ4	CZ5	CZ6	IZ1	IZ2
<b>Type of sign</b>								
Under awning sign	A	A	A	A	A		A	A
Vertical banner building sign							A	A
Vertical banner freestanding sign							A	A
Wall sign							A	A
Window sign	A	A	A	A	A		A	A



**Table 1.5.2 Exempt signs: zones other than commercial and industrial zones**

	Zones other than commercial and industrial zones									
	RZ1	RZ2	RZ3	RZ4	RZ5	RZ6	CFZ	PRZ1	PRZ2	other
<b>Type of sign</b>										
Awning/fascia sign										
Blind sign							A			
Business plate sign	A	A	A	A	A	A	A	A	A	A
Canopy sign										
Changeable message sign										
Construction site fence sign	A	A	A	A	A	A	A	A	A	A
Display home/development site sales sign										
Event sign							T		T	
Fence sign										

**Schedule 1** Exemptions from requirement for development approval  
**Part 1.5** Tables of exempt signs

	<b>Zones other than commercial and industrial zones</b>									
	<b>RZ1</b>	<b>RZ2</b>	<b>RZ3</b>	<b>RZ4</b>	<b>RZ5</b>	<b>RZ6</b>	<b>CFZ</b>	<b>PRZ1</b>	<b>PRZ2</b>	<b>other</b>
<b>Type of sign</b>										
Flag pole sign										
Ground sign										
Hamper sign										
High rise building sign										
Inflatable sign										
Information sign	A	A	A	A	A	A	A		A	A
Lantern sign	A	A	A	A	A	A	A	A	A	A
Mobile sign										
Pole sign										
Projecting sign										
Pylon/column sign										
Roof sign										
Stallboard sign										
Territory signs										

	<b>Zones other than commercial and industrial zones</b>									
	<b>RZ1</b>	<b>RZ2</b>	<b>RZ3</b>	<b>RZ4</b>	<b>RZ5</b>	<b>RZ6</b>	<b>CFZ</b>	<b>PRZ1</b>	<b>PRZ2</b>	<b>other</b>
<b>Type of sign</b>										
Under awning sign										
Vertical banner building sign										
Vertical banner freestanding sign										
Wall sign										
Window sign										

## Schedule 1A      Permitted variations to approved and exempt developments

(see s 20 (2) and s 35)

### Part 1A.1      Preliminary

#### 1A.1      Definitions—sch 1A

In this schedule:

*approved development* means a development that is covered by a development approval.

*exempt development* means—

- (a) a sch 1 exempt development; or
- (b) a development that is exempt from requiring development approval under the relevant development table.

*sch 1 exempt development* means a development that is exempt from requiring development approval under section 20 (1).

### Part 1A.2      Permitted construction tolerances

#### 1A.10      Permitted variations—horizontal siting tolerances for buildings and structures

- (1) This section applies to the horizontal siting on a block of a building or structure that does not comply with the applicable siting criteria.
- (2) This section does not apply if—

- (a) a relevant solar building envelope applies to the block; and
  - (b) any point of the building or structure extends beyond the relevant solar building envelope (an *encroachment*); and
  - (c) the encroachment is not permitted by a relevant development approval.
- (3) The building or structure must be horizontally sited so that—
- (a) for any point of the building or structure that the applicable siting criteria allows or requires to be sited on, or not more than 900mm horizontally from, a boundary of the block—
    - (i) for a boundary fence—the point is sited so that the centre of the fence’s panelling is not more than 50mm horizontally from the boundary; and
    - (ii) in any other case—the point is sited wholly on the block and not more than 50mm horizontally from where the applicable siting criteria allow or require it to be sited; and
  - (b) for any point of the building or structure that the applicable siting criteria allows or requires to be sited more than 900mm horizontally from a boundary of the block—the point is sited wholly on the block and not more than 340mm horizontally from where the applicable siting criteria allow or require it to be sited; and
  - (c) compared to the approved development or exempt development, the building or structure does not do either or both of the following:
    - (i) increase the diversion or concentration of the flow of surface water—
      - (A) in a way that causes ponding; or
      - (B) onto other land;

*Note* **Surface water**—see the [Water Resources Act 2007](#), s 8.

- (ii) change the number of stories in the building or structure.

**Examples—s (2)**

- 1 An exemption for the construction of a house requires a wall to be sited not closer than 900mm horizontally from the western boundary of the block. The house is constructed so that its western wall is 850mm horizontally from the boundary (50mm less than required). The siting of the house is within the allowed tolerance under par (a) (ii) because it breaches the siting requirement under the exemption by not more than 50mm.
- 2 If the resiting of the wall under example 1 moves the wall onto an easement, the resiting of the wall does not comply with this section because the resiting breaches general exemption criterion 1 (see s 1.11) about easements.
- 3 If the resiting of the wall under example 1 increases the gross floor area of the house because the other walls of the house were not correspondingly resited, the resiting of the wall would not comply with this section if it breaches a requirement under the lease about plot ratio or the house's gross floor area (see general exemption criterion 5 (s 1.15 (a))). However, if the house were constructed under an exemption in a development table and the resiting of the wall only breaches a requirement about plot ratio in the exemption in the relevant development table, the resiting is not prevented by this section because a breach of a plot ratio requirement in the development table is not excluded by this section or the general exemption criteria.
- 4 An external deck with a finished floor level of 1m is built so that one side of it is 1.4m from a side boundary. Under sch 1, s 1.48 (2) (b) any part of the deck that is within 1.5m of the side boundary must have a finished floor level of not more than 0.4m above natural ground level. The siting of the deck is within the allowed tolerance under par (b) because it breaches the siting requirement by only 100mm.

*Note 1* The development, as changed in accordance with this section, must also comply with the general exemption criteria, see s 20 (2) and s 35.

*Note 2* A change to the height of the finished floor level of the level immediately above a basement may mean that the space is counted as a storey and may also affect the calculation of gross floor area (see [territory plan](#) (13 Definitions), defs *basement* and *storey*).

*Note 3* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (4) If the planning and land authority makes an exemption declaration that extends the permitted horizontal dimension of a dwelling, the distance of 340mm mentioned in subsection (3) (b) is reduced—
- (a) if the dimension is extended by not more than 290mm—by the extended distance stated in relation to the dimension in the exemption declaration; or
  - (b) if the dimension is extended by more than 290mm—by 290mm.
- (5) In this section:
- exemption declaration***—see section 1.100A (1) (b).
- (6) In this section:
- applicable siting criteria***, in relation to a point of a building or structure on a block, means the criteria about the horizontal siting of the point on the block under—
- (a) if the building or structure would be covered by a development approval other than for its horizontal siting on the block—the approval; or
  - (b) if the building or structure would be a sch 1 exempt development other than for its horizontal siting on the block—schedule 1, part 1.3 (Exempt developments); or
  - (c) if the building or structure would be an exempt development under the relevant development table other than for its horizontal siting on the block—the table.

***easement*** means an easement registered, or shown on a certificate of title, under the [Land Titles Act 1925](#).

***on***, a block, or a boundary of a block, includes above or below ground level for the block or boundary.

## 1A.11 Permitted variations—height tolerances for buildings and structures

- (1) This section applies to the vertical siting on a block of a building or structure that does not comply with the applicable height criteria.
- (2) This section does not apply if—
  - (a) a relevant solar building envelope applies to the block; and
  - (b) any point of the building or structure extends beyond the relevant solar building envelope (an *encroachment*); and
  - (c) the encroachment is not permitted by a relevant development approval.
- (3) The building or structure must be vertically sited so that—
  - (a) for any point of the building or structure that the applicable height criteria allows or requires to be sited at a particular height—
    - (i) the point is sited wholly within the lease to which the point relates and is not more than 340mm above or below where the applicable height criteria allow or require the point to be sited; but
    - (ii) if the point is the sill of an exterior window—the sill is not more 50mm closer to the finished floor level immediately adjacent to the window's sill; and

### Example—subpar (i)

A multistorey block of apartments is divided into separate units under the [Unit Titles Act 2001](#). Each apartment must be within the spatial lease for the unit.

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (b) compared to the approved development or exempt development, the building or structure does not do any of the following:



- (i) increase the diversion or concentration of the flow of surface water—

- (A) in a way that causes ponding; or

- (B) onto other land;

*Note* **Surface water**—see the [Water Resources Act 2007](#), s 8.

- (ii) reduce the accessibility of the building or structure for people with disabilities;

- (iii) change the number of stories in the building or structure.

*Note 1* The development, as changed in accordance with this section, must also comply with the general exemption criteria, see s 20 (2) and s 35.

*Note 2* A change to the height of the finished floor level of the level immediately above a basement may mean that the space is counted as a storey and may also affect the calculation of gross floor area (see [territory plan](#) (13 Definitions), defs **basement** and **storey**).

- (4) If the planning and land authority makes an exemption declaration that extends a permitted height criterion of a dwelling, the distance of 340mm mentioned in subsection (3) (a) (i) is reduced—

- (a) if the criterion is extended by not more than 290mm—by the extended distance stated in the exemption declaration for the criterion; or

- (b) if the criterion is extended by more than 290mm—by 290mm.

- (5) In this section:

**applicable height criteria**, in relation to a point of a building or structure, means the criteria about the height of the point under—

- (a) if the building or structure would be covered by a development approval other than for the height of the point—the approval; or

- (b) if the building or structure would be a sch 1 exempt development other than for the height of the point—schedule 1, part 1.3 (Exempt developments); or

- (c) if the building or structure would be an exempt development under the relevant development table other than for the height of the point—the table.

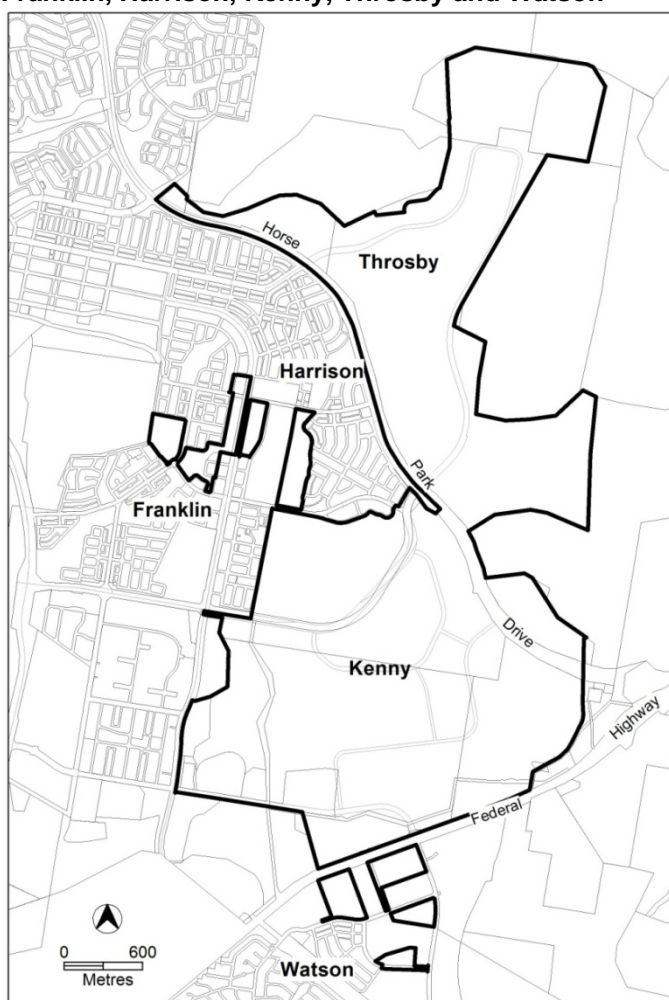
***exemption declaration***—see schedule 1, section 1.100A (1) (b).

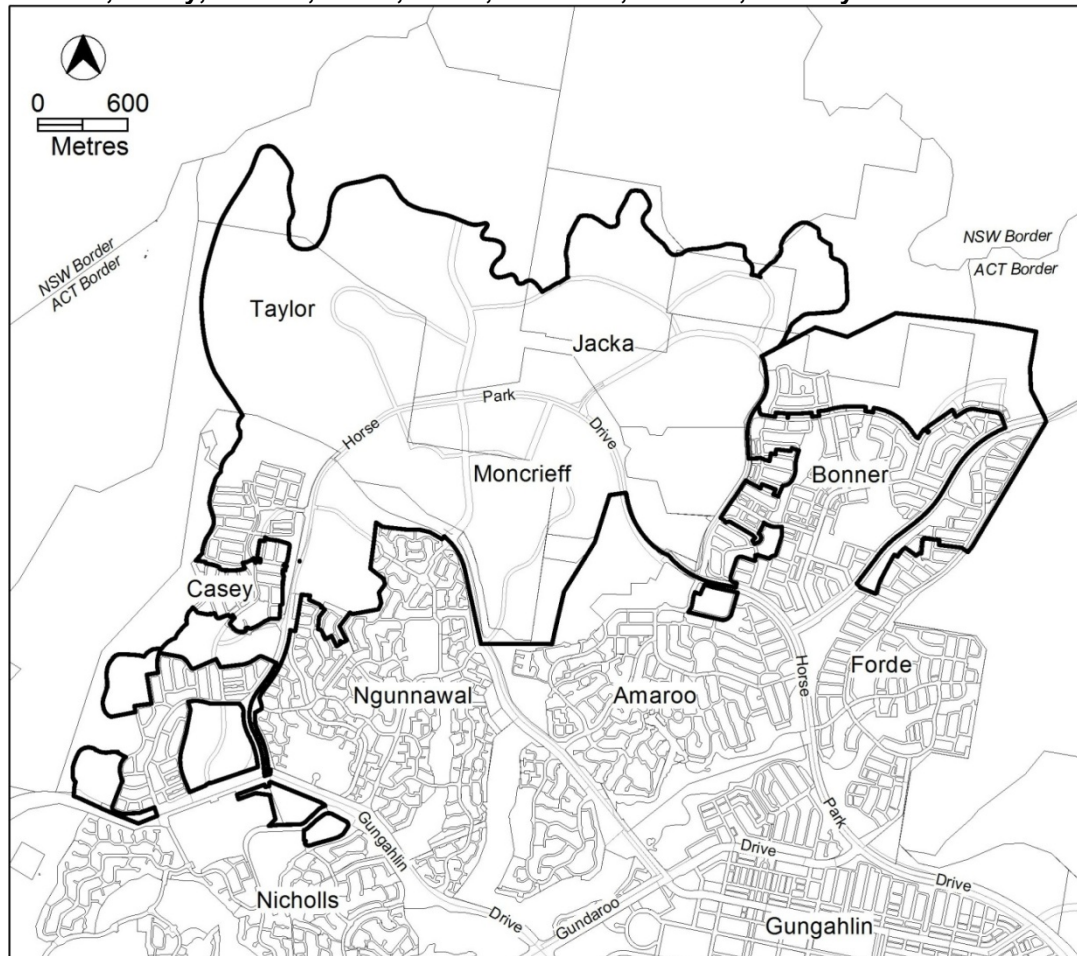
***lease*** includes a land sublease.

## **Schedule 1B      Land not requiring community consultation for development proposal**

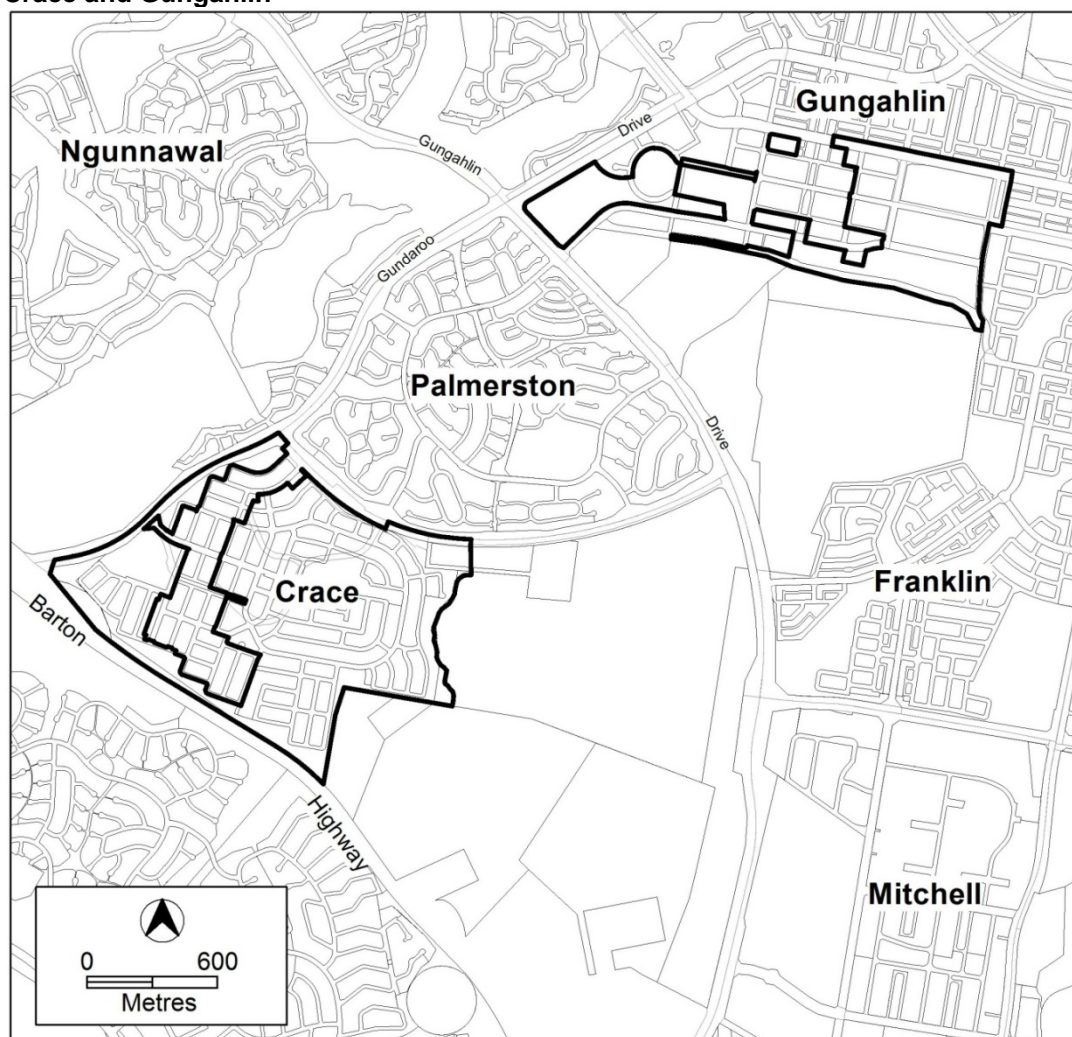
(s 20A (2) (b))

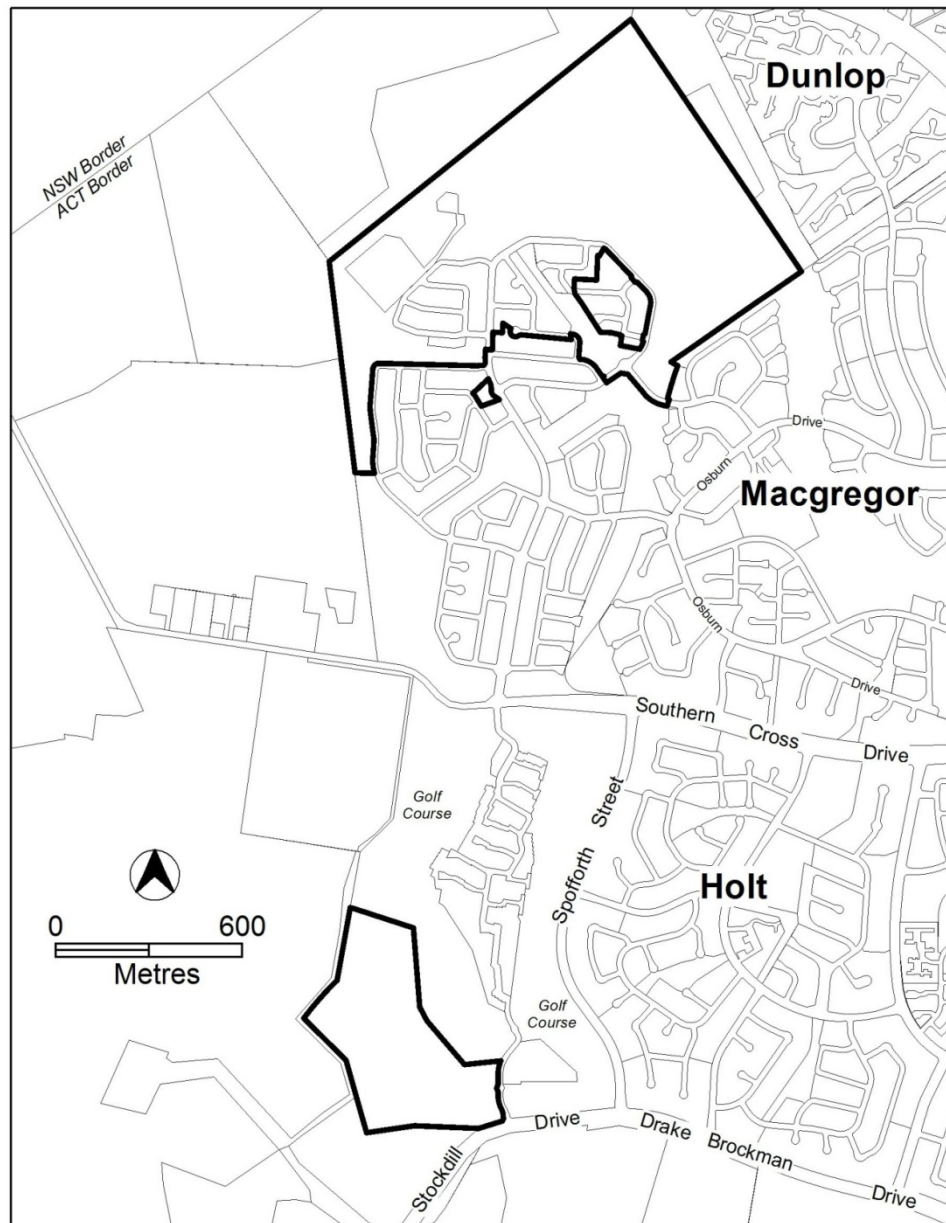
### **Franklin, Harrison, Kenny, Throsby and Watson**



**Amaroo, Casey, Bonner, Forde, Jacka, Moncrieff, Nicholls, and Taylor**

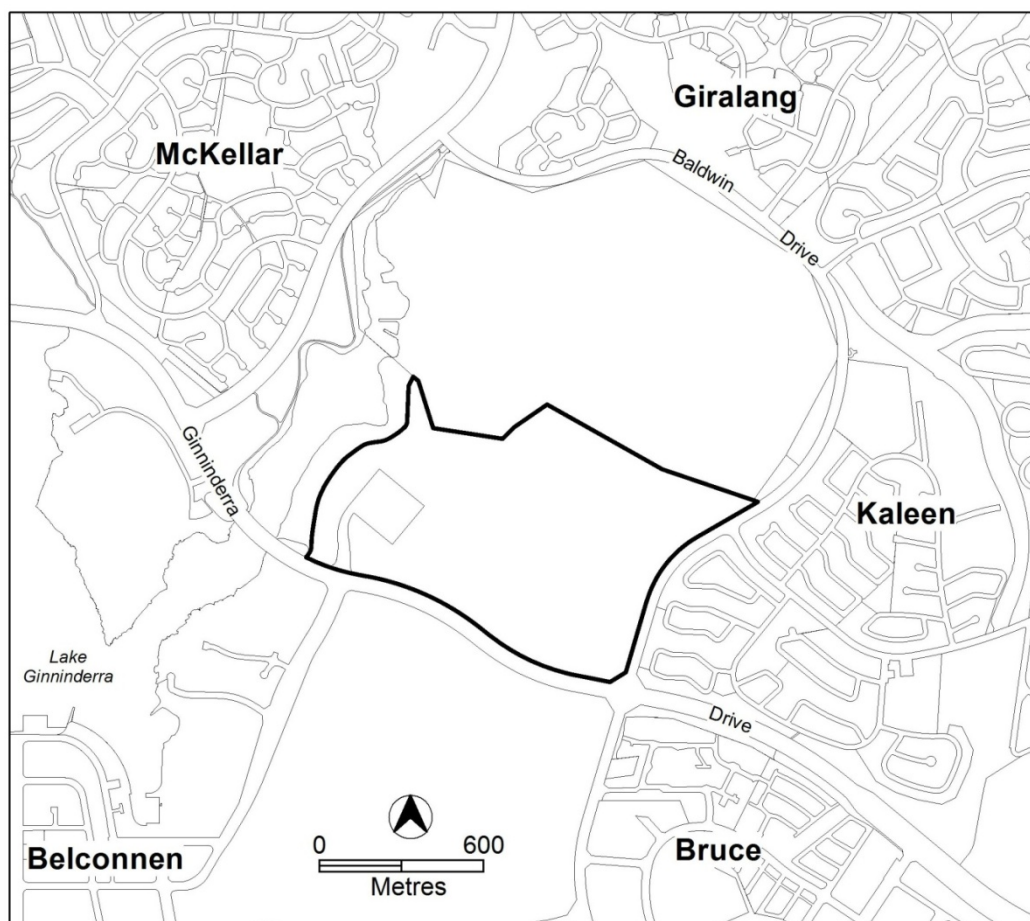
**Crace and Gungahlin**

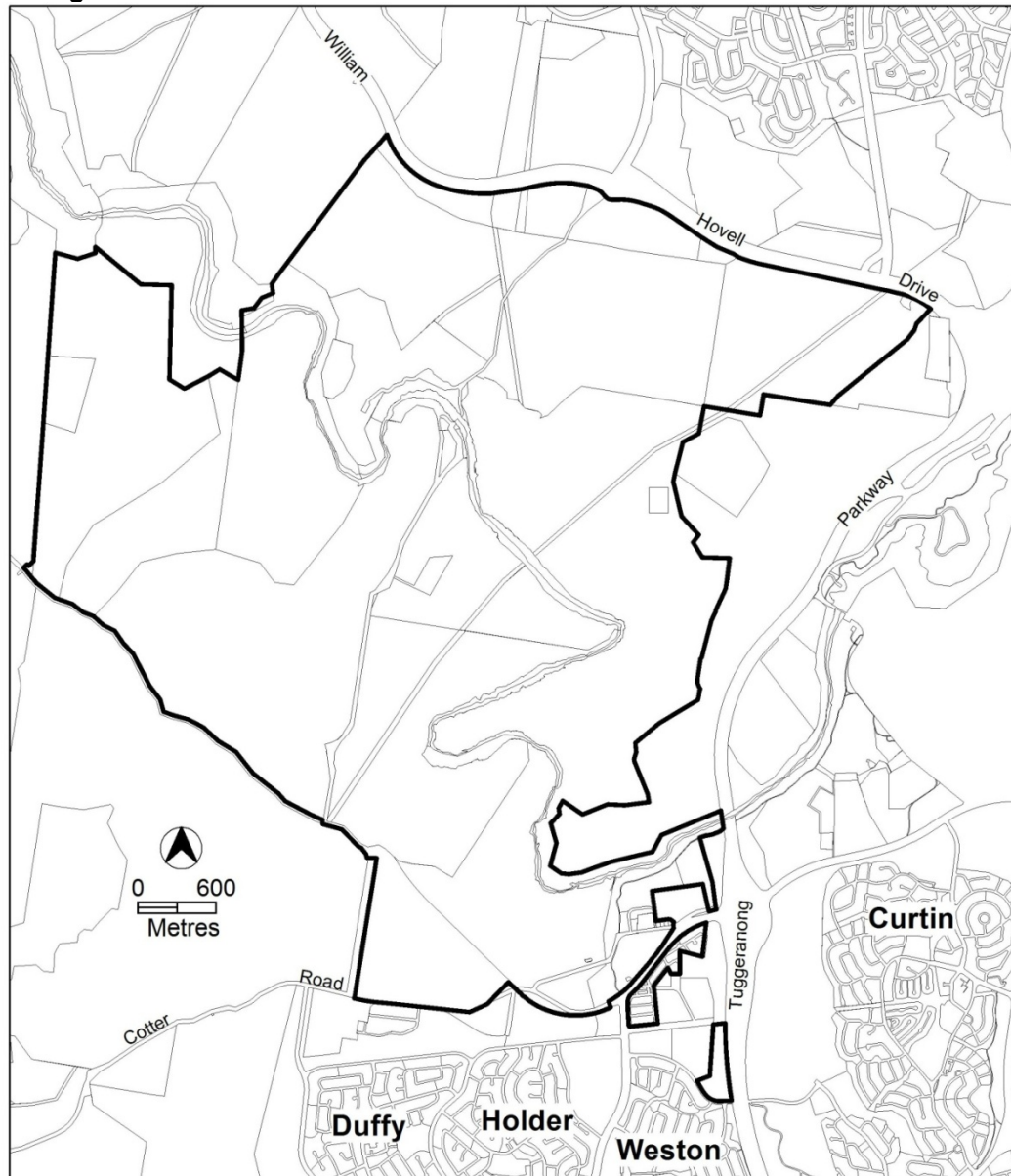


**Holt and Macgregor**



**Lawson**



**Molonglo and Weston North**



## Schedule 2      Limited public notification of certain merit track development applications

(see s 27)

column 1 item	column 2 matters
1	<p>The building or alteration of 2 or more dwellings, or buildings or structures associated with the dwellings, on a block that has ceased to be in a future urban area under the <a href="#">Act</a>, section 96 (3) if—</p> <ul style="list-style-type: none"> <li>(a) at the time of the application, the lease for the block permits a development of the type applied for, or the lease was granted for development and subdivision; and</li> <li>(b) if the area of the block is not more than 450m<sup>2</sup>—no setback is required by the <a href="#">territory plan</a> for the dwellings, buildings or structures in relation to 1 side boundary only; and</li> <li>(c) if the area of the block is more than 450m<sup>2</sup>—the setback of the dwellings, buildings or structures is required by the <a href="#">territory plan</a> to be at least— <ul style="list-style-type: none"> <li>(i) 4m from any front boundary; and</li> <li>(ii) 3m from any rear boundary; and</li> <li>(iii) 3m from any side boundary; and</li> </ul> </li> <li>(d) the development would not result in the building on the block of— <ul style="list-style-type: none"> <li>(i) a building having more than 1 storey; or</li> <li>(ii) a building or structure having a height of more than 6.5m above natural ground level; and</li> </ul> </li> </ul> <p><i>Note</i>      <b>Natural ground level</b>—see the <a href="#">territory plan</a> (13 Definitions).</p>

column 1 item	column 2 matters
	<ul style="list-style-type: none"> <li>(e) the development would not result in the alteration of a building on the block at the time of application— <ul style="list-style-type: none"> <li>(i) to add 1 or more storeys; or</li> <li>(ii) by the construction of an alteration having more than 1 storey; and</li> </ul> </li> <li>(f) the development would not result in the alteration of a building or structure on the block at the time of application— <ul style="list-style-type: none"> <li>(i) to increase its height to more than 6.5m above natural ground level; or</li> <li>(ii) by the construction of an alteration having a height of more than 6.5m above natural ground level.</li> </ul> </li> </ul>
2	The demolition of a building or structure in connection with the building or alteration of a building or structure to which item 1 applies.
3	Public works in a future urban area if the works are— <ul style="list-style-type: none"> <li>(a) the building, alteration or demolition of a building or structure; or</li> <li>(b) the carrying out of earthworks or other construction work that would affect the landscape of the area.</li> </ul>
4	The building, alteration or demolition of a single dwelling, if the development would not result in more than 1 dwelling being on a block.
5	The demolition of a building or structure in connection with the building or alteration of a single dwelling, if the development would not result in more than 1 dwelling being on a block.

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column 1 item	column 2 matters
6	<p>The building, alteration or demolition of a class 10 building or structure.</p> <p><i>Note</i> A class 10 building or structure is a non-habitable building or structure (see building code).</p>
7	<p>An addition or alteration to a residential unit in a multi-unit residential development if the addition or alteration either—</p> <p>(a) does not increase the gross floor area of the unit by more than 10%; or</p> <p>(b) does not add more than more than 20m<sup>2</sup> to the gross floor area (whether or not it increases the gross floor area by more than 10%).</p> <p><i>Note</i> Some alterations of buildings may be exempt from the requirement for development approval (see sch 1, s 1.21 and s 1.21A).</p>
8	<p>The putting up, attaching or displaying of a sign (whether permanent or temporary) on land, or to a building or structure on land.</p> <p><i>Note</i> A sign may be exempt from the requirement for development approval under sch 1, div 1.3.3.</p>

## Schedule 2A Buyback program valuation procedure

(see s 214)

### 2A.1 Definitions—sch 2A

In this schedule:

*Asbestos Response Taskforce* means the Asbestos Response Taskforce established by the ACT government in June 2014.

*assessment day* means 28 October 2014.

*reasonable value*, of an affected lease, means the value of the lease, including the improvements, assuming that the lease, including the improvements, were offered for sale on the open market on the assessment day on the reasonable terms and conditions that a genuine seller might require.

*Note* *Affected lease*—see s 212.

### 2A.2 Valuation as at assessment day, not including asbestos etc

- (1) Two valuations of the reasonable value of an affected lease must be carried out.
- (2) The affected lease, including the improvements, must be valued as at the assessment day.
- (3) A valuation must not have regard to—
  - (a) the presence of loose-fill asbestos insulation at the affected residential premises on the affected lease; or
  - (b) minor maintenance work needing to be carried out on the affected residential premises on the affected lease as at the assessment day; or

- (c) minor maintenance work or cosmetic improvements carried out on the affected residential premises on the affected lease after the assessment day.

### **2A.3 Accredited valuers to carry out valuation**

- (1) Each valuation of the reasonable value of an affected lease must be carried out by a valuer who is—
  - (a) an accredited valuer; and
  - (b) independent of the other valuer carrying out a valuation of the affected lease; and
  - (c) independent of the territory and the lessee.
- (2) Each valuer must be selected by the Australian Property Institute Incorporated (ABN 49 007 505 866).

### **2A.4 Valuation to be given to lessee and Asbestos Response Taskforce**

A valuer who carries out a valuation of the reasonable value of an affected lease must give a copy of the valuation to—

- (a) the lessee of the affected lease; and
- (b) the Asbestos Response Taskforce.

### **2A.5 Presidential determination—request by Asbestos Response Taskforce**

- (1) This section applies if the Asbestos Response Taskforce is given 2 valuations of the reasonable value of an affected lease.
- (2) If the difference between the valuations is 10% or more, but less than 10.5%, of the lower valuation, the Asbestos Response Taskforce may ask for a presidential determination of the reasonable value of the affected lease.

*Note* **Presidential determination**—see s 2A.8.

- (3) In deciding whether to ask for a presidential determination, the Asbestos Response Taskforce must consider—
  - (a) the views of the lessee of the affected lease; and
  - (b) the difference between the valuations; and
  - (c) the cost involved in obtaining a presidential determination.
- (4) If the difference between the valuations is 10.5% or more of the lower valuation, the Asbestos Response Taskforce must ask for a presidential determination of the reasonable value of the affected lease.
- (5) If the Asbestos Response Taskforce asks for a presidential determination, the Asbestos Response Taskforce—
  - (a) must tell the lessee; and
  - (b) is liable for the cost of the determination.

## **2A.6 Buyback program valuation**

The *buyback program valuation* for an affected lease is worked out as follows:

$$\frac{V1+V2}{2}$$

**V1** means the first valuation of the reasonable value of the affected lease.

**V2** means the second valuation of the reasonable value of the affected lease.

## **2A.7 Presidential determination—request by lessee**

- (1) If a lessee of an affected lease rejects a buyback program valuation for the affected lease, the lessee may ask for a presidential determination of the reasonable value of the affected lease.

*Note*     **Presidential determination**—see s 2A.8.

- (2) If the lessee asks for a presidential determination, the lessee is liable for the cost of the determination.

## **2A.8 Presidential determination**

- (1) This section applies if the Asbestos Response Taskforce or the lessee asks for a presidential determination of the reasonable value of an affected lease.
- (2) The president of the ACT Division of the Australian Property Institute Incorporated must appoint a valuer (a *presidential valuer*) to carry out a valuation (a *presidential determination*) of the reasonable value of the affected lease.
- (3) The presidential valuer must be—
  - (a) an accredited valuer; and
  - (b) independent of the valuers who carried out the valuations of the affected lease under section 2A.3; and
  - (c) independent of the Territory and the lessee.
- (4) The lessee may give any information or material to the presidential valuer that the lessee considers relevant to the valuation—
  - (a) if the Asbestos Response Taskforce asks for the presidential determination—before the presidential valuer starts the presidential determination; or
  - (b) if the lessee asks for the presidential determination—at the time the lessee asks for the presidential determination.
- (5) The presidential valuer must make a presidential determination in the same way as the valuations of the reasonable value of the affected lease were carried out.
- (6) A presidential determination is binding on the lessee and the Asbestos Response Taskforce.

**2A.9 Amount payable for surrender of affected lease**

- (1) This section applies if a lessee of an affected lease surrenders the lease under the buyback program.
- (2) The amount payable to the lessee for the surrender of the affected lease is—
  - (a) if a presidential determination is made of the reasonable value of the affected lease—the reasonable value determined by the presidential determination; or
  - (b) in any other case—the buyback program valuation for the affected lease.



## **Schedule 3**      **Matters exempt from third-party ACAT review**

(see s 350 and s 351)

### **Part 3.1**      **Definitions**

#### **3.1**      **Definitions—sch 3**

In this schedule:

***Belconnen town centre*** means the area outlined in bold on the plan in this schedule, division 3.4.2.

***city centre*** means the area outlined in bold on the plan in this schedule, division 3.4.1.

***corrections facility***—see the [territory plan](#) (13 Definitions).

***Gungahlin town centre*** means the area outlined in bold on the plan in this schedule, division 3.4.3.

***Kingston Foreshore*** means the area outlined in bold on the plan in this schedule, division 3.4.6.

***town centre*** means the Belconnen town centre, the Gungahlin town centre, the Tuggeranong town centre or the Woden town centre.

***Tuggeranong town centre*** means the area outlined in bold on the plan in this schedule, division 3.4.4.

***University of Canberra site*** means the area outlined in bold on the plan in this schedule, division 3.4.7.

***Woden town centre*** means the area outlined in bold on the plan in this schedule, division 3.4.5.

## **Part 3.2**

### **Merit track matters exempt from third-party ACAT review**

<b>column 1 item</b>	<b>column 2 matters</b>
1	A development to which schedule 2 (Limited public notification of certain merit track development applications) applies.
2	The putting up, attaching or displaying of a sign or advertisement on land or to a building or structure on land.
3	The building, alteration or demolition of a single dwelling, if the development would not result in more than 1 dwelling being on a block.
4	A development on land in— <ul style="list-style-type: none"><li>(a) the city centre; or</li><li>(b) a town centre; or</li><li>(c) an industrial zone; or</li><li>(d) the Kingston Foreshore.</li></ul>

column 1 item	column 2 matters
5	<p>A development on land in a transport zone and services zone, other than land in the city centre or a town centre, if—</p> <ul style="list-style-type: none"><li>(a) the land is at least 50m from land in a residential zone; and</li><li>(b) the development would not result in any of the following uses of the land being permitted:<ul style="list-style-type: none"><li>(i) a hazardous waste facility;</li><li>(ii) an incineration facility;</li><li>(iii) a land fill site; and</li></ul></li><li>(c) the development would not increase the gross floor area of buildings on the land to more than a plot ratio of 1:1 (calculated on the area of the land at the time of the application); and</li><li>(d) the development does not consist of—<ul style="list-style-type: none"><li>(i) the building of a building or structure with a height of more than 10m above natural ground level; or</li><li>(ii) the alteration of a building or structure to increase its height to more than 10m above natural ground level.</li></ul></li></ul> <p><i>Note</i> <b>Natural ground level</b>—see the <a href="#">territory plan</a> (13 Definitions).</p>
6	<p>A development on land in a commercial zone, other than land in the city centre, a town centre or the Kingston Foreshore, if—</p> <ul style="list-style-type: none"><li>(a) the land is at least 50m from land in a residential zone; and</li><li>(b) if the land has been previously developed—the development would not increase the total gross floor area of all buildings on the land by more than 50%; and</li></ul>

**Schedule 3**  
**Part 3.2**

Matters exempt from third-party ACAT review  
Merit track matters exempt from third-party ACAT review

column 1 item	column 2 matters
	<ul style="list-style-type: none"><li>(c) if at the time of the application the lease permits a community use, or a use including a community use—the development would not have the effect of prohibiting a community use of the land; and</li><li>(d) the development would not have the effect of permitting the use of the land for a corrections facility; and</li><li>(e) if the land is in a commercial CZ2 (Business Zone) zone in Deakin, a commercial CZ5 (Mixed Use Zone) zone in Bruce or a commercial CZ2 (Business Zone) zone or commercial CZ5 (Mixed Use Zone) zone on Northbourne Avenue, Canberra Avenue, Yamba Drive or Drakeford Drive—<ul style="list-style-type: none"><li>(i) if no building or structure on the land at the time of the application has more than 4 storeys—the development would not result in a building or structure on the land having more than 4 storeys; and</li><li>(ii) if a building or structure on the land at the time of the application has more than 4 storeys—the development would not result in any increase in the height of the building or structure or any other building or structure on the land having more than 4 storeys; and</li><li>(iii) if the land is in a commercial CZ2 (Business Zone) zone or commercial CZ5 (Mixed Use Zone) zone on Northbourne Avenue, Canberra Avenue, Yamba Drive or Drakeford Drive—the development would result in the setback of any proposed new building by at least 10m from the land’s front boundary; and</li></ul></li></ul>

<b>column 1 item</b>	<b>column 2 matters</b>
	<p>(f) if the land is in a commercial CZ1 (Core Zone) zone, commercial CZ2 (Business Zone) zone or commercial CZ3 (Services Zone) zone and is listed in the Group Centres Precinct Code—</p> <p>(i) if no building or structure on the land at the time of the application has more than 2 storeys—the development would not result in a building or structure on the land having more than 2 storeys; and</p> <p>(ii) if a building or structure on the land at the time of the application has more than 2 storeys—the development would not result in any increase in the height of the building or structure or any other building or structure on the land having more than 2 storeys; and</p> <p>(g) if the land is in a commercial CZ4 (Local Centres Zone) zone—</p> <p>(i) there is no building or structure on the land at the time of the application that has more than 2 storeys; and</p> <p>(ii) the development would not result in a building or structure on the land having more than 2 storeys; and</p> <p>(iii) if the lease, or land sublease, at the time of the application permits the use of the land for a shop, or a use including a shop—the development would not have the effect of prohibiting the use of the land for a shop; and</p> <p>(iv) the development would not have the effect of permitting the building of a dwelling on the land.</p>

**Schedule 3**  
**Part 3.2**

Matters exempt from third-party ACAT review  
Merit track matters exempt from third-party ACAT review

<b>column 1 item</b>	<b>column 2 matters</b>
7	<p>A development on land in a commercial CZ5 (Mixed Use Zone) zone in Kingston or a commercial CZ6 (Leisure and Accommodation Zone) zone other than land in the city centre, a town centre or the Kingston Foreshore, if—</p> <ul style="list-style-type: none"><li>(a) the land is at least 50m from land in a residential zone; and</li><li>(b) if the land has been previously developed—the development would not increase the total gross floor area of all buildings on the land by more than 50%; and</li><li>(c) if at the time of the application the lease permits a community use, or a use including a community use—the development would not have the effect of prohibiting a community use of the land; and</li><li>(d) if no building or structure on the land at the time of the application has more than 2 storeys—the development would not result in a building or structure on the land having more than 2 storeys; and</li><li>(e) if a building or structure on the land at the time of the application has more than 2 storeys—the development would not result in any increase in the height of the building or structure or any other building or structure on the land having more than 2 storeys.</li></ul>
8	<p>A development on land in a community facility zone or PRZ2 (Restricted Access Recreation Zone) zone, other than land in the city centre or a town centre, if—</p> <ul style="list-style-type: none"><li>(a) the land is at least 50m from land in a residential zone; and</li><li>(b) the gross floor area of all buildings on the land at the time of the application is not more than 300m<sup>2</sup>; and</li><li>(c) the development would not result in the total gross floor area of all buildings on the land being more than 300m<sup>2</sup>; and</li></ul>

column 1 item	column 2 matters
	<p>(d) if the land has been previously developed—the development would not increase the proportion of the total site area on the land covered by buildings, driveways and carparking areas by more than 50% (calculated on the area of the land at the time of the application); and</p> <p>(e) if, at the time of the application, the lease, or land sublease, permits a community use, or a use including a community use—the development would not have the effect of prohibiting a community use of the land; and</p> <p>(f) the development would not have the effect of permitting the use of the land for a corrections facility; and</p> <p>(g) if no building or structure on the land at the time of the application has more than 1 storey—the development would not result in a building or structure on the land having more than 1 storey; and</p> <p>(h) if a building or structure on the land at the time of the application has more than 1 storey—the development would not result in any increase in the height of the building or structure or any other building or structure on the land having a height of more than 6m above natural ground level.</p> <p><i>Note</i> <b>Natural ground level</b>—see the <a href="#">territory plan</a> (13 Definitions).</p>
9	<p>A development on land in an urban open space zone, a hills, ridges and buffer zone, a river corridor zone, a mountains and bushland zone or an area identified on a precinct map in the <a href="#">territory plan</a> as an area where plantation forestry is permitted subject to development assessment, other than land in the city centre, a town centre or the Kingston Foreshore, if—</p> <p>(a) the land is at least 50m from land in a residential zone; and</p>

**Schedule 3**  
**Part 3.2**

Matters exempt from third-party ACAT review  
Merit track matters exempt from third-party ACAT review

column 1 item	column 2 matters
	<ul style="list-style-type: none"><li>(b) the development would not have the effect of permitting the use of the land for a purpose other than that for which it is leased at the time of the application or permitted by a licence under the Act that is current at the time of the application; and</li><li>(c) the development would not increase the area of the leased land by more than 1ha; and</li><li>(d) if the gross floor area of all buildings on the land at the time of the application is not more than 300m<sup>2</sup>—the development would not result in the total gross floor area of all buildings on the land being more than 300m<sup>2</sup>; and</li><li>(e) if the gross floor area of all buildings on the land at the time of the application is more than 300m<sup>2</sup>—the development would not increase the total gross floor area of all buildings on the land; and</li><li>(f) if the total site area covered by buildings, driveways and carparking areas at the time of the application is equal to not more than 50% of the area of the land—the development would not result in the site coverage by buildings, driveways and carparking areas increasing to more than 50% of the area of the land (calculated on the area of the land at the time of the application); and</li><li>(g) if the total site area covered by buildings, driveways and carparking areas at the time of the application is more than 50% of the area of the land—the development would not increase the site coverage by buildings, driveways and carparking areas (calculated on the area of the land at the time of the application); and</li></ul>



column 1 item	column 2 matters
	<p>(h) if there is no building or structure on the land at the time of the application that has more than 1 storey—the development would not result in a building or structure on the land having more than 1 storey; and</p> <p>(i) if there is a building or structure on the land at the time of the application that has more than 1 storey—the development would not result in any increase in the height of the building or structure or any other building or structure on the land having a height of more than 6m above natural ground level.</p> <p><i>Note</i> <b>Natural ground level</b>—see the <a href="#">territory plan</a> (13 Definitions).</p>
10	<p>A development on land in a broadacre zone or rural zone if—</p> <p>(a) the land is at least 50m from land in a residential zone; and</p> <p>(b) the development would not have the effect of permitting the use of the land for a purpose other than that for which it is leased at the time of the application or permitted by a licence under the Act that is current at the time of the application; and</p> <p>(c) the development would not increase the area of the leased land by more than 1ha; and</p> <p>(d) if the gross floor area of all buildings on the land at the time of the application is not more than 2 000m<sup>2</sup>—the development would not result in the total gross floor area of all buildings on the land being more than 2 000m<sup>2</sup>; and</p> <p>(e) if the gross floor area of all buildings on the land at the time of the application is more than 2 000m<sup>2</sup>—the development would not increase the total gross floor area of all buildings on the land; and</p>

**Schedule 3**  
**Part 3.2**

Matters exempt from third-party ACAT review  
Merit track matters exempt from third-party ACAT review

column 1 item	column 2 matters
	(f) if the total site area covered by buildings, driveways and carparking areas at the time of the application is equal to not more than 50% of the area of the land—the development would not result in the site coverage by buildings, driveways and carparking areas increasing to more than 50% of the area of the land (calculated on the area of the land at the time of the application); and
	(g) if the total site area covered by buildings, driveways and carparking areas at the time of the application is more than 50% of the area of the land—the development would not increase the site coverage by buildings, driveways and carparking areas (calculated on the area of the land at the time of the application); and
	(h) if there is no building or structure on the land at the time of the application that has more than 1 storey—the development would not result in a building or structure on the land having more than 1 storey; and
	(i) if there is a building or structure on the land at the time of the application that has more than 1 storey—the development would not result in any increase in the height of the building or structure or any other building or structure on the land having a height of more than 6m above natural ground level.

*Note*     **Natural ground level**—see the [territory plan](#) (13 Definitions).

<b>column 1 item</b>	<b>column 2 matters</b>
11	A development on land in a designated area, other than land in the city centre or a town centre, if— <ul style="list-style-type: none"><li>(a) the land is at least 50m from land in a residential zone; and</li><li>(b) the development would not have the effect of permitting the use of the land for a purpose other than that for which it is leased at the time of the application or permitted by a licence under the Act that is current at the time of the application; and</li><li>(c) if the land has been previously leased—the development would not increase the total gross floor area of all buildings permitted by the lease at the time of the application by more than 50%.</li></ul>
12	The demolition of a building or structure in connection with a development consisting of the building or alteration of a building or structure to which this schedule applies.
13	Public works consisting of the building, alteration or demolition of— <ul style="list-style-type: none"><li>(a) electricity, water, gas or communication services; or</li><li>(b) a floodway or sewerage or drainage works; or</li><li>(c) a public road, public path, cycleway or car park.</li></ul>
14	The building, alteration or demolition of public facilities on unleased land, including barbecues, seating and playground equipment, or related landscaping.
15	A development in relation to the Symonston mental health facility.
16	A development on land in the University of Canberra site.
17	A development proposal that is related to light rail, other than a development involving a protected matter.

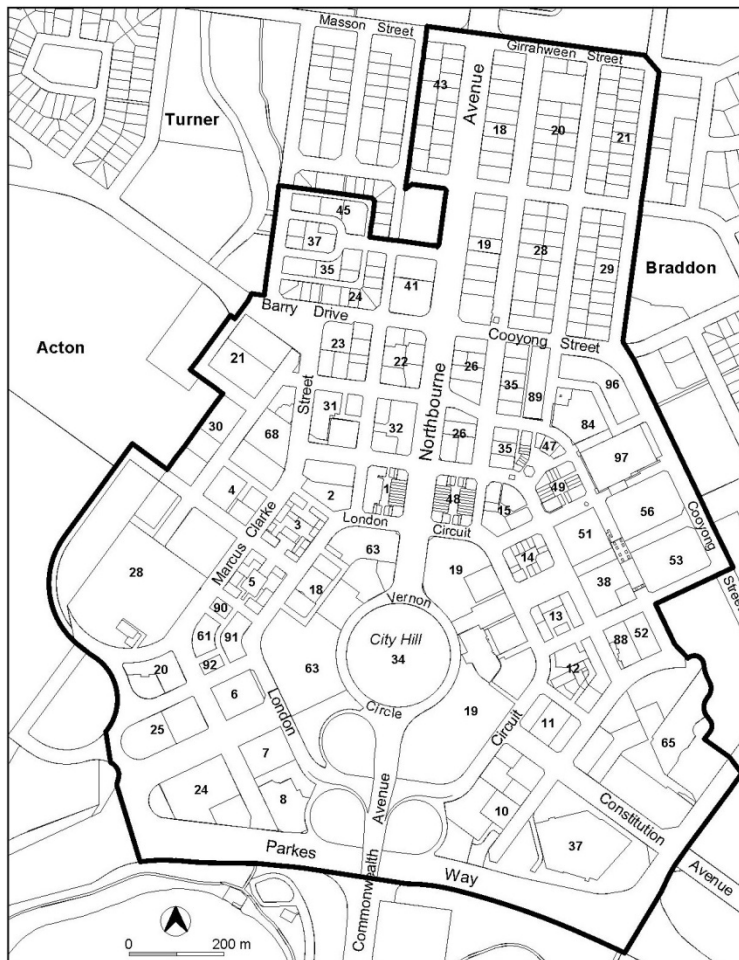
## **Part 3.3**

### **Impact track matters exempt from third-party ACAT review**

<b>column 1 item</b>	<b>column 2 matters</b>
1	The building, alteration or demolition of public facilities on unleased land, including barbecues, seating and playground equipment, or related landscaping.
2	A development in relation to the Symonston mental health facility.
3	A development proposal that is related to light rail, other than a development involving a protected matter.

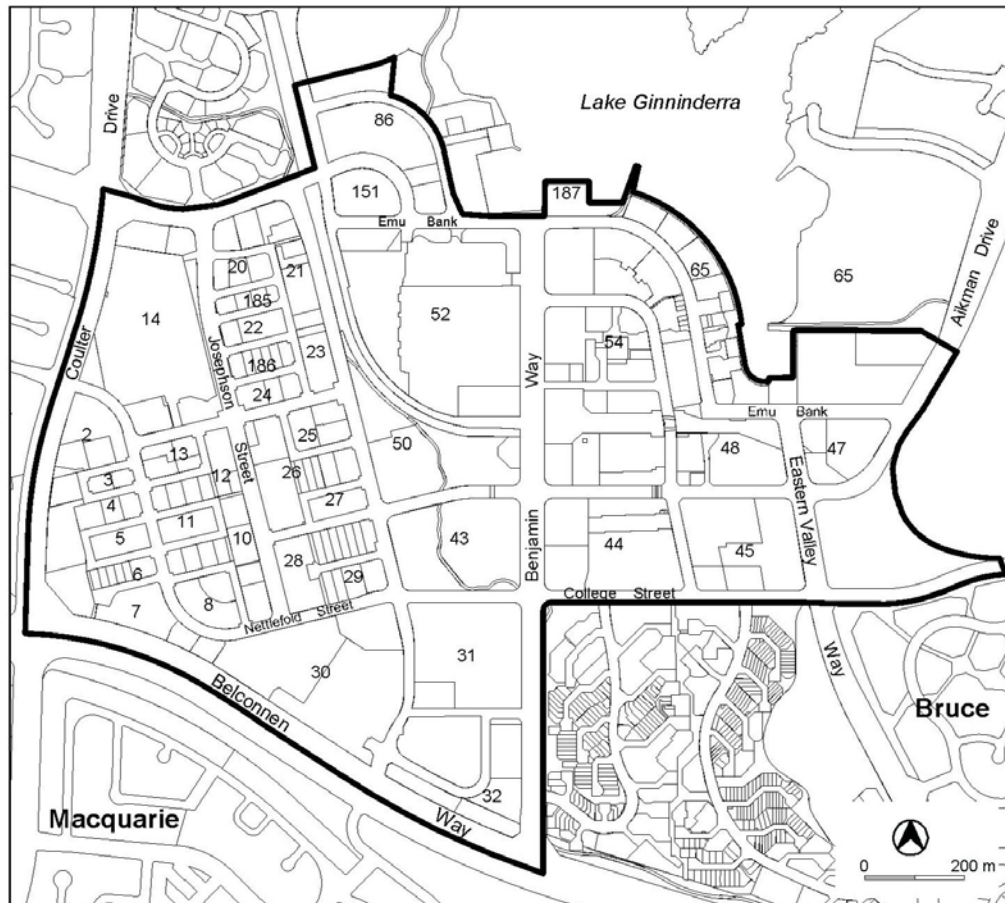
## Part 3.4 Maps

### Division 3.4.1 City centre

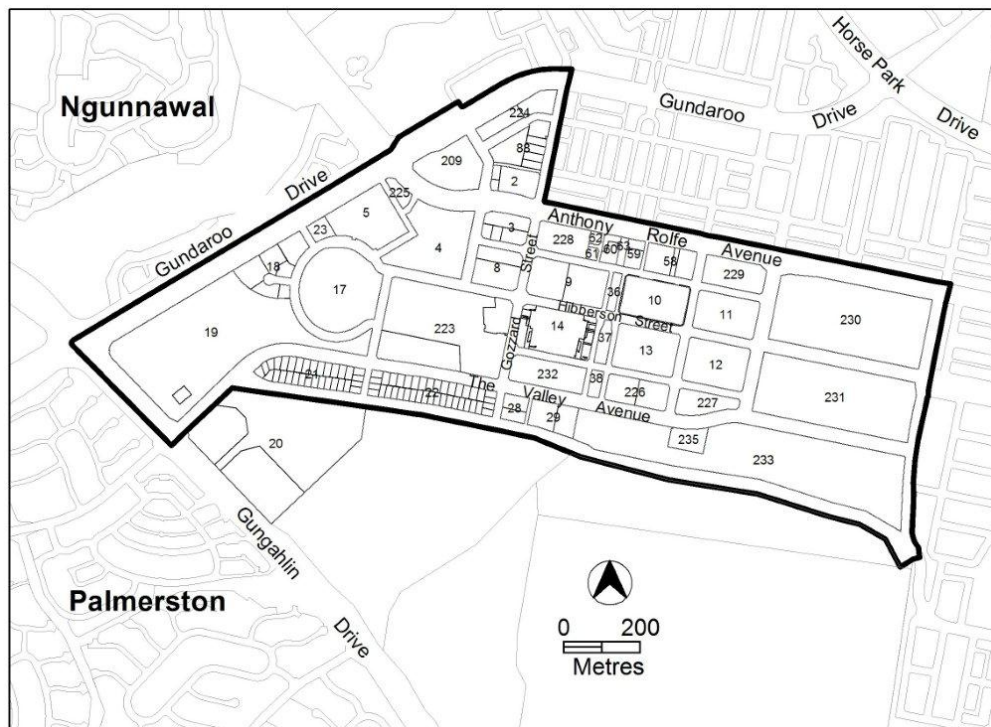


<b>Schedule 3</b>	Matters exempt from third-party ACAT review
<b>Part 3.4</b>	Maps
<b>Division 3.4.2</b>	Belconnen town centre

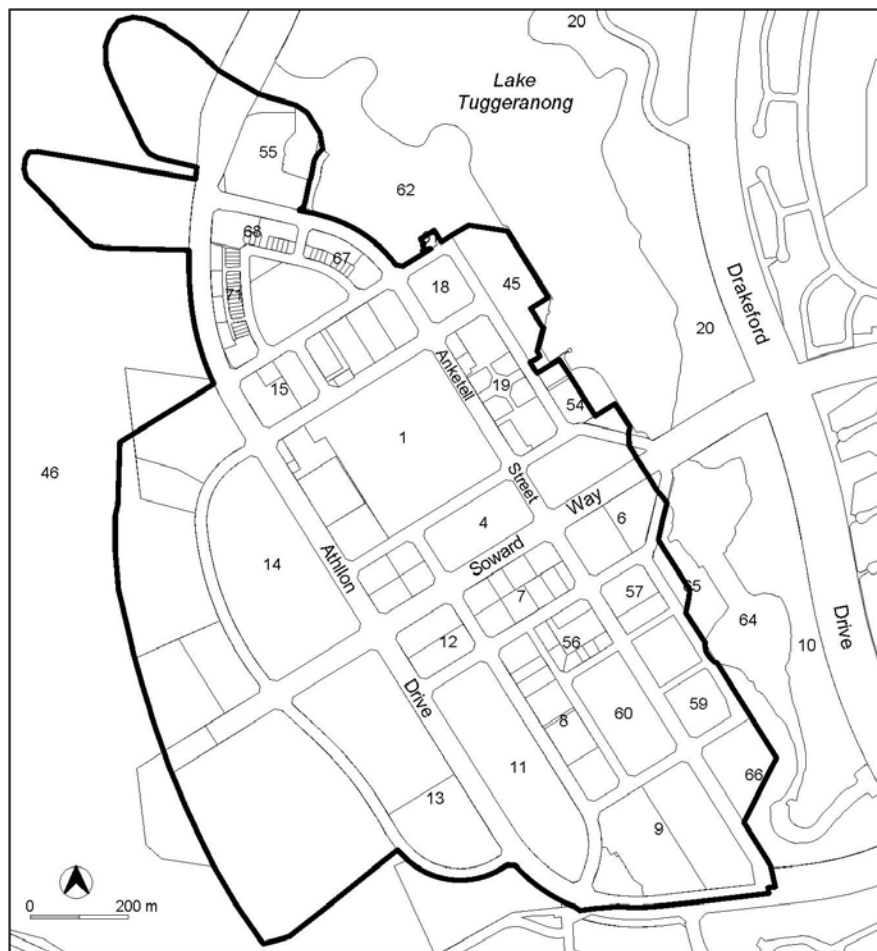
## Division 3.4.2 Belconnen town centre



## Division 3.4.3      Gungahlin town centre



## Division 3.4.4 Tuggeranong town centre

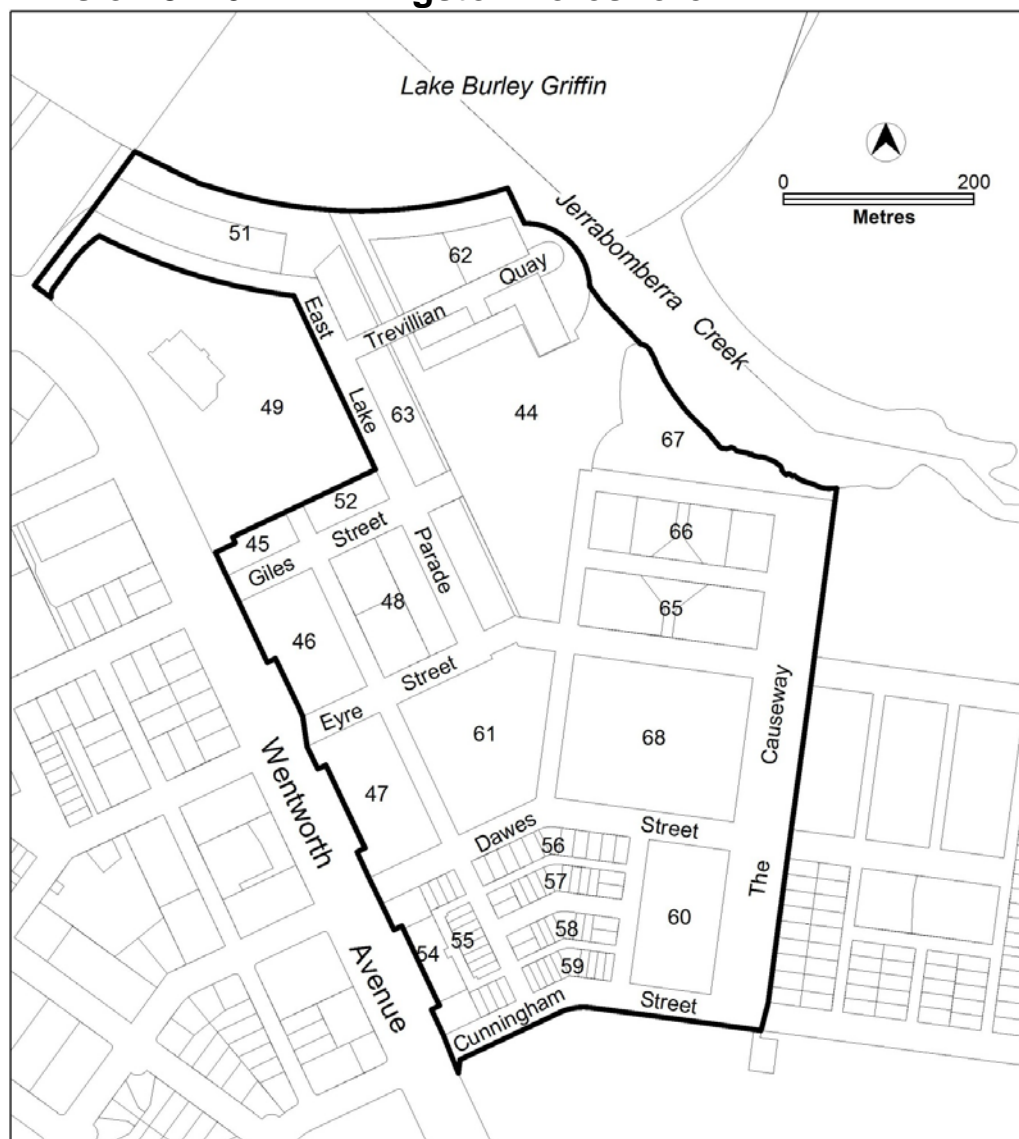




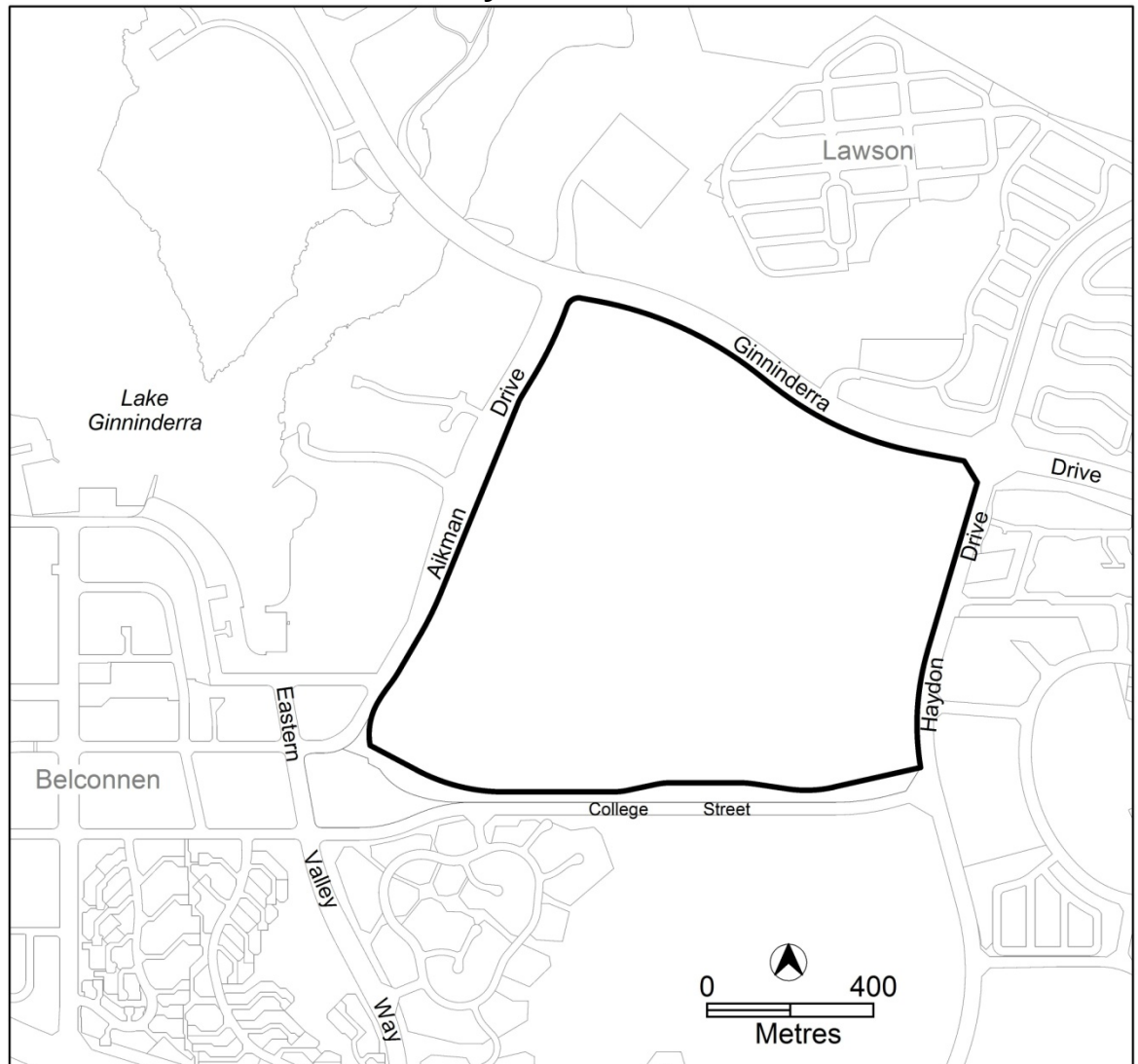
## Division 3.4.5      Woden town centre



## Division 3.4.6 Kingston Foreshore



**Division 3.4.7 University of Canberra site**



## **Schedule 4      Prescribed territory plan instruments**

(see s 401)

### **Part 4.1              Australian standards**

*Note*      These standards may be purchased at [www.standards.org.au](http://www.standards.org.au).

- AS 1158.1 (The lighting of urban roads and other public thoroughfares)
- AS 1158.1.3 (Pedestrian Lighting)
- AS 1158.3.1 (Road lighting - Pedestrian area (Category P) lighting - Performance and installation design requirements)
- AS 1428.1 (Design for Access and Mobility - General Requirements for Access - New Building Work)
- AS 1428.2 (Design for Access and Mobility - Enhanced and Additional Requirements - Buildings and Facilities)
- AS 1428.3 (Design for Access and Mobility - Requirements for Children and Adolescents with Physical Disabilities)
- AS 1428.4 (Design for Access Mobility - Tactile Indicators)
- AS 1668.1 (The Use of Ventilation and Air-conditioning in Buildings)
- AS 1680.0 (Interior Lighting - Safe Movement)
- AS 1735.7 (Lifts, Escalators and Moving Walks - Stairway Lifts)
- AS 1735.12 (Lifts, Escalators and Moving Walks - Facilities for Persons With Disabilities)
- AS 1735.14 (Lifts for people with limited mobility - restricted use - low rise platforms)
- AS 1742.10 (Manual of Uniform Traffic Control Devices – Pedestrian Control and Protection)

- 
- AS 2107 (Acoustics - Recommended Design Sound Levels and Reverberation Times for Building Interiors)
  - AS 2220.2 (Emergency Warning and Intercommunication Systems in Buildings - System Design, Installation and Commissioning)
  - AS 2700 (Colour Standards for General Purposes)
  - AS 2890.1 (Parking Facilities: Part 1 - Off Street Car Parking)
  - AS 2899 (Public Information Symbol Signs - Part 1 General Information Signs)
  - AS 3671 (Acoustics - Road Traffic Noise Intrusion, Building and Siting Construction)
  - AS 3769 (Automatic Teller Machines - User access)
  - AS 4282 (Control of the Obtrusive Effects of Outdoor Lighting)
  - AS 4299 (Adaptable Housing)
  - AS 4586 (Slip Resistance Classification of New Pedestrian Surface materials)

## Part 4.2 Computer modelling software

- *Aquacycle*, Cooperative Research Centre for Catchment Hydrology
- *DRAINS (ILSAX)*, Watercom Pty Ltd
- *MUSIC* (Model for Urban Stormwater Conceptualisation), Cooperative Research Centre for Catchment Hydrology
- *NSW BASIX* (New South Wales Building Sustainability Index), NSW Department of Planning
- *PURRS* (Probabilistic Urban Rainwater and Wastewater Reuse Simulator), University of Newcastle
- *RORB*, Monash University
- *WBNM* (Watershed Bounded Network Model), University of Wollongong
- *XP-AQUALM*, XP Software
- *XP-RAFTS* (Runoff and Flow Training Simulation), XP Software

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## **Part 4.3**                      **Other instruments**

- *ACT Crime Prevention and Urban Design Resource Manual*, ACT Planning and Land Management, 2000
- *ACT Draft Noise Management Guideline*, ACT Planning Authority, 1996
- *ACT Government Strategic Plan - Contaminated Sites Management*, Department of Urban Services, 1995
- *Australia Post Terms and Conditions, Appendix 2: Street Mail Service - Conditions of Delivery*, Australia Post, 2001
- *Contaminated Sites Environmental Protection Policy*, Environment ACT, 2000
- *Design Standards for Urban Infrastructure*, Department of Urban Services
- *Development Control Code for Best Practice Waste Management in the ACT*, Department of Urban Services, 1999
- *Environment Protection Guidelines for Construction and Land Development in the ACT*, ACT Environment Protection Authority, 2007
- *Guide to Traffic Engineering Practice Part 13 - Pedestrians*, Austroads, 1995
- *Guide to Traffic Engineering Practice Part 14 - Bicycles*, Austroads, 1999
- *Neighbourhood Plans*, ACT Planning and Land Authority

## Dictionary

(see s 3)

*Note 1* The [Legislation Act](#) contains definitions and other provisions relevant to this regulation.

*Note 2* For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- ACAT
- conservator of flora and fauna
- heritage council
- person (see s 160)
- surveyor-general
- territory authority
- territory instrumentality
- the Territory
- working day.

*Note 3* Terms used in this regulation have the same meaning that they have in the [Planning and Development Act 2007](#) (see [Legislation Act](#), s 148). For example, the following terms are defined in the [Planning and Development Act 2007](#), dict:

- accredited valuer
- chargeable variation (see s 276)
- community organisation
- concessional lease (see s 235A)
- declared land sublease
- development (see s 7)
- EIS exemption
- exempt
- inquiry panel
- land agency
- land management agreement
- land sublease
- lease (see s 235)
- light rail



- nominal rent lease
- offset
- protected matter (see s 111A)
- related to light rail (see s 137A)
- s 276E chargeable variation (see s 276A)
- s 277 chargeable variation (see s 276A)
- structure
- Symonston mental health facility (see s 85A)
- territory entity
- territory plan ([www.legislation.act.gov.au](http://www.legislation.act.gov.au))
- zone.

***added value***, for the variation of a nominal rent lease, for division 5.5.3 (Increase of lease variation charge)—see section 179.

***affected lease***—see section 212.

***affected residential premises***—see section 212.

***allocated land***, in relation to the housing commissioner, for part 5.1 (Direct sale of leases)—see section 100.

***approved development***, for schedule 1A (Permitted variations to approved and exempt developments)—see schedule 1A, section 1A.1.

***Asbestos Response Taskforce***, for schedule 2A (Buyback program valuation procedure)—see schedule 2A, section 2A.1.

***assessment day***, for schedule 2A (Buyback program valuation procedure)—see schedule 2A, section 2A.1.

***Australian National University***, for part 5.1 (Direct sale of leases)—see section 100.

***basic paling fence***, for schedule 1 (Exemptions from requirement for development approval)—see the [Act](#), section 416A.

***Belconnen town centre***, for schedule 3 (Matters exempt from third-party ACAT review)—see schedule 3, section 3.1.

**block** means—

- (a) a block under the [Districts Act 2002](#); or
- (b) for land under a land sublease—the land identified in the registered sublease plan.

**boundary**, for schedule 1, division 1.3.3A (Exempt developments—community gardens)—see schedule 1, section 1.72.

**building line**, for schedule 1 (Exemptions from requirement for development approval)—see the [territory plan](#) (13 Definitions).

**bushfire emergency**, for chapter 9 (Bushfire emergency rebuilding)—see section 372.

**business-case criteria**, in relation to the direct sale of a lease to a person, for part 5.1 (Direct sale of leases)—see section 101.

**business-case documentation**, in relation to a proposed development by a person, for part 5.1 (Direct sale of leases)—see section 101.

**buyback program valuation**, for schedule 2A (Buyback program valuation procedure)—see schedule 2A, section 2A.6.

**buyback program valuation procedure**—see section 214.

**carport**, for schedule 1 (Exemptions from requirement for development approval)—see the [territory plan](#) (13 Definitions).

**city centre**, for schedule 3 (Matters exempt from third-party ACAT review)—see schedule 3, section 3.1.

**City West precinct**, for part 5.1 (Direct sale of leases)—see section 102.

**City West precinct deed**, for part 5.1 (Direct sale of leases)—see section 100.

**class**, for a building or structure, means the class of building or structure under the building code.

*Note* **Building code**—see the [Legislation Act](#), dict, pt 1.

***class 10a building—***

- (a) for schedule 1, division 1.3.2 (Exempt developments—non-habitable buildings and structures)—see schedule 1, section 1.40; and
- (b) for schedule 1, division 1.3.3A (Exempt developments—community gardens)—see schedule 1, section 1.72.

***class 10b structure***, for schedule 1, division 1.3.3A (Exempt developments—community gardens)—see schedule 1, section 1.72.

***clearing*** native vegetation, for schedule 1 (Exemptions from requirement for development approval)—see the [Nature Conservation Act 2014](#), section 234.

***commencement day***, for schedule 1, division 1.3.6A (Exempt developments—schools)—see schedule 1, section 1.96.

***community garden***, for schedule 1, division 1.3.3A (Exempt developments—community gardens)—see schedule 1, section 1.72.

***community use***—see the [territory plan](#) (13 Definitions).

***constitution***, for a corporation, for part 5.1 (Direct sale of leases)—see section 100.

***consultation plan***, in relation to a strategic environmental assessment—see section 15.

***consultation report***, in relation to a strategic environmental assessment—see section 15.

***corrections facility***, for schedule 3 (Matters exempt from third-party ACAT review)—see the [territory plan](#) (13 Definitions).

***designated area***—see the [Australian Capital Territory \(Planning and Land Management\) Act 1988](#) (Cwlth), section 4, definition of *Designated Area*.

***designated development***, in relation to land—see schedule 1 (Exemptions from requirement for development approval), section 1.2.

***direct sale***, for part 5.1 (Direct sale of leases)—see section 100.

***dwelling***—see section 5.

***earlier index number***, in relation to a lease, for part 5.6 (Discharge amounts for rural leases)—see section 190.

***educational establishment***, for part 5.1 (Direct sale of leases)—see the [territory plan](#) (13 Definitions).

***excluded amount***, in relation to a lease, for part 5.6 (Discharge amounts for rural leases)—see section 190.

***exempt development***, for schedule 1A (Permitted variations to approved and exempt developments)—see schedule 1A, section 1A.1.

***existing ground level***, for schedule 1, division 1.3.6A (Exempt developments—schools)—see schedule 1, section 1.96.

***existing school***, for schedule 1, division 1.3.6A (Exempt developments—schools)—see schedule 1, section 1.96A.

***existing school campus***—see schedule 1, section 1.97.

***finished floor level***—see the [territory plan](#) (13 Definitions).

***finished ground level***—see the [territory plan](#) (13 Definitions).

***fire-caused rebuilding development***, for chapter 9 (Bushfire emergency rebuilding)—see section 373.

***front boundary***—see the [territory plan](#) (13 Definitions).

***general exemption criteria***, for a development—see schedule 1 (Exemptions from requirement for development approval), section 1.10.

***gross floor area***—see the [territory plan](#) (13 Definitions).

***Gungahlin town centre***, for schedule 3 (Matters exempt from third-party ACAT review)—see schedule 3, section 3.1.

**height** means—

- (a) for a thing (including a building or structure)—
  - (i) in relation to finished ground level—the largest of the vertical distances measured at all points for the thing between finished ground level for each point to the top of the thing above the point; or
  - (ii) in relation to natural ground level—the largest of the vertical distances measured at all points for the thing between natural ground level for each point to the top of the thing above the point; or
  - (iii) in relation to something else (the **baseline**)—the largest of the vertical distances measured at all points for the thing between the baseline for each point to the top of the thing above the point; and
- (b) for a building or structure, for chapter 9 (Bushfire emergency rebuilding)—see section 371.

**holding lease**—see the [Districts Act 2002](#), section 7 (7).

**index number**, for part 5.6 (Discharge amounts for rural leases)—see section 190.

**Kingston Foreshore**, for schedule 3 (Matters exempt from third-party ACAT review)—see schedule 3, section 3.1.

**LAIE buyback program valuation procedure**—see section 214.

**loose-fill asbestos insulation**—see the [Dangerous Substances Act 2004](#), section 47M.

**loose-fill asbestos insulation eradication buyback program (LAIE buyback program)**—see section 213.

**member**, for part 4.2 (Inquiry panels)—see section 70.

**native vegetation**, for an area, for schedule 1 (Exemptions from requirement for development approval)—see the [Nature Conservation Act 2014](#), section 232.

**native vegetation area**, for schedule 1 (Exemptions from requirement for development approval)—see the [Nature Conservation Act 2014](#), section 233.

**natural ground level**—see the [territory plan](#) (13 Definitions).

**open space boundary**, for schedule 1 (Exemptions from requirement for development approval)—see schedule 1, section 1.1.

**owner**, of land, means, for land under a land sublease, the sublessee.

**party wall**, for schedule 1 (Exemptions from requirement for development approval)—see schedule 1, section 1.1.

**plan area**, of a building or structure, means the total horizontal area of the building or structure if viewed from above.

**Example**

- 1 If viewed from above, the outer edge of a house's roof gutters, front patio and rear pergola are visible as the building's outermost perimeter. Therefore, the plan area of the house is the horizontal area bounded by the outer edges of the gutters, pergola and patio.
- 2 If viewed from above, an office building is a square ring shape with a large open courtyard in the centre. The courtyard does not contain structures that are related to the building. The plan area of the building excludes the area of the courtyard.

**Note** An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

**prescribed general exemption criteria**, for schedule 1, division 1.3.3 (Exempt developments—signs)—see schedule 1, section 1.66.

**presidential determination**, for schedule 2A (Buyback program valuation procedure)—see schedule 2A, section 2A.8.

**presidential valuer**, for schedule 2A (Buyback program valuation procedure)—see schedule 2A, section 2A.8.

**presiding member**, for part 4.2 (Inquiry panels)—see section 70.

**previously approved**, for chapter 9 (Bushfire emergency rebuilding)—see section 374.

**proposal**, for a strategic environmental assessment, for chapter 2 (Strategic environmental assessments)—see section 10.

**rear boundary** means a boundary that is not a front boundary and does not meet a front boundary.

**reasonable value**, of an affected lease, for schedule 2A (Buyback program valuation procedure)—see schedule 2A, section 2A.1.

**recently commenced lease**, for division 5.5.3 (Increase of lease variation charge)—see section 180.

**relevant solar building envelope** means—

- (a) for a development of a single dwelling on a block in an estate development plan approved under a development application on or after 5 July 2013—the solar building envelope that applies to the block under the [territory plan](#), Residential Zones—Single Dwelling Housing Development Code; or
- (b) for a development of multi unit housing on a block in an estate development plan approved under a development application on or after 5 July 2013—the solar building envelope that applies to the block under the [territory plan](#), Residential Zones—Multi Unit Housing Development Code.

**residential lease**—see the [Act](#), section 234.

**retirement complex**—for part 5.1 (Direct sale of leases)—see section 100.

**rules**, for an incorporated association, for part 5.1 (Direct sale of leases)—see section 100.

**rural lease**—see the [Act](#), section 234.

**sch 1 exempt development**, for schedule 1A (Permitted variations to approved and exempt developments)—see schedule 1A, section 1A.1.

**SEA scoping document**, in relation to a strategic environmental assessment—see section 13.

***setback***—see the [territory plan](#) (13 Definitions).

***side boundary*** means a boundary that meets a front boundary.

***special Pialligo lease***, for part 5.6 (Discharge amounts for rural leases)—see section 190.

***subdivision***—see the [Act](#), section 234.

***supportive accommodation***, for part 5.1 (Direct sale of leases)—see section 100.

***surface water***—see the [Water Resources Act 2007](#), section 8.

***town centre***, for schedule 3 (Matters exempt from third-party ACAT review)—see schedule 3, section 3.1.

***Tuggeranong town centre***, for schedule 3 (Matters exempt from third-party ACAT review)—see schedule 3, section 3.1.

***type***, for a sign, for schedule 1 (Exemptions from requirement for development approval)—see schedule 1, section 1.1.

***University of Canberra site***, for schedule 3 (Matters exempt from third-party ACAT review)—see schedule 3, section 3.1.

***Woden town centre***, for schedule 3 (Matters exempt from third-party ACAT review)—see schedule 3, section 3.1.

***young child***, for schedule 1, division 1.3.6A (Exempt developments—schools)—see schedule 1, section 1.96.



## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the [Legislation Act 2001](#), part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

#### **Planning and Development Regulation 2008 SL2008-2**

notified LR 3 March 2008

s 1, s 2 commenced 3 March 2008 (LA s 75 (1))

remainder commenced 31 March 2008 (s 2 and see [Planning and Development Act 2007](#) A2007-24, s 2 and [CN2008-1](#))

as amended by

#### **[Planning and Development Amendment Regulation 2008 \(No 1\) SL2008-8](#)**

notified LR 27 March 2008

s 1, s 2 commenced 27 March 2008 (LA s 75 (1))

remainder commenced 31 March 2008 (s 2 and see [Planning and Development Regulation 2008 SL2008-2](#), s 2, [Planning and Development Act 2007](#) A2007-24, s 2 and [CN2008-1](#))

#### **[Planning and Development Amendment Regulation 2008 \(No 2\) SL2008-27](#)**

notified LR 30 June 2008

s 1, s 2 commenced 30 June 2008 (LA s 75 (1))

remainder commenced 1 July 2008 (s 2)

#### **[Planning and Development Amendment Regulation 2008 \(No 3\) SL2008-33](#)**

notified LR 5 August 2008

s 1, s 2 commenced 5 August 2008 (LA s 75 (1))

remainder commenced 6 August 2008 (s 2)

#### **[Statute Law Amendment Act 2008 A2008-28 sch 3 pt 3.44](#)**

notified LR 12 August 2008

s 1, s 2 commenced 12 August 2008 (LA s 75 (1))

sch 3 pt 3.44 commenced 26 August 2008 (s 2)

#### **[ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 \(No 2\) A2008-37 sch 1 pt 1.82](#)**

notified LR 4 September 2008

s 1, s 2 commenced 4 September 2008 (LA s 75 (1))

sch 1 pt 1.82 commenced 2 February 2009 (s 2 (1) and see [ACT Civil and Administrative Tribunal Act 2008](#) A2008-35, s 2 (1) and [CN2009-2](#))

**Planning and Development Amendment Regulation 2008 (No 4)****SL2008-41**

notified LR 15 September 2008  
s 1, s 2 commenced 15 September 2008 (LA s 75 (1))  
remainder commenced 16 September 2008 (s 2)

**Planning and Development Amendment Regulation 2008 (No 5)****SL2008-52**

notified LR 22 December 2008  
s 1, s 2 commenced 23 December 2008 (LA s 75 (1))  
remainder commenced 23 December 2008 (s 2)

**Planning and Development Amendment Regulation 2009 (No 1)****SL2009-3**

notified LR 24 February 2009  
s 1, s 2 commenced 24 February 2009 (LA s 75 (1))  
remainder commenced 25 February 2009 (s 2)

**Planning and Development Amendment Regulation 2009 (No 2)****SL2009-8**

notified LR 20 March 2009  
s 1, s 2 commenced 20 March 2009 (LA s 75 (1))  
remainder commenced 24 March 2009 (s 2 and [CN2009-8](#))

**Planning and Development Amendment Regulation 2009 (No 3)****SL2009-9**

notified LR 20 March 2009  
s 1, s 2 commenced 20 March 2009 (LA s 75 (1))  
remainder never commenced  
*Note* [SL2009-9](#) rep 2 April 2009 under LA s 64 (2).

**Planning and Development Amendment Regulation 2009 (No 4)****SL2009-14**

notified LR 23 April 2009  
s 1, s 2 commenced 23 April 2009 (LA s 75 (1))  
remainder commenced 24 April 2009 (s 2)

**Planning and Development Amendment Regulation 2009 (No 5)****SL2009-15**

notified LR 24 April 2009  
s 1, s 2 commenced 24 April 2009 (LA s 75 (1))  
remainder commenced 25 April 2009 (s 2)

## Endnotes

3 Legislation history

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### **Planning and Development Amendment Regulation 2009 (No 6)**

#### **SL2009-18**

notified LR 7 May 2009  
s 1, s 2 commenced 7 May 2009 (LA s 75 (1))  
remainder commenced 8 May 2009 (s 2)

### **Planning and Development Amendment Regulation 2009 (No 7)**

#### **SL2009-31**

notified LR 23 June 2009  
s 1, s 2 commenced 23 June 2009 (LA s 75 (1))  
remainder commenced 24 June 2009 (s 2)

### **Planning and Development Amendment Regulation 2009 (No 8)**

#### **SL2009-35**

notified LR 30 June 2009  
s 1, s 2 commenced 30 June 2009 (LA s 75 (1))  
remainder commenced 1 July 2009 (s 2)

### **Planning and Development Amendment Regulation 2009 (No 9)**

#### **SL2009-38**

notified LR 23 July 2009  
s 1, s 2 commenced 23 July 2009 (LA s 75 (1))  
remainder commenced 24 July 2009 (s 2)

### **Planning and Development Amendment Regulation 2009 (No 10)**

#### **SL2009-39**

notified LR 23 July 2009  
s 1, s 2 commenced 23 July 2009 (LA s 75 (1))  
remainder commenced 24 July 2009 (s 2)

### **Planning and Development Amendment Regulation 2009 (No 11)**

#### **SL2009-40**

notified LR 23 July 2009  
s 1, s 2 commenced 23 July 2009 (LA s 75 (1))  
remainder commenced 24 July 2009 (s 2)

### **Planning and Development (Concessional Leases) Amendment Regulation 2009 (No 1) SL2009-41**

notified LR 5 August 2009  
s 1, s 2 commenced 5 August 2009 (LA s 75 (1))  
remainder commenced 6 August 2009 (s 2)

**Planning and Development Amendment Act 2009 A2009-30 pt 3**

notified LR 25 September 2009

s 1, s 2 commenced 25 September 2009 (LA s 75 (1))

pt 3 commenced 2 October 2009 (s 2)

**Planning and Development Amendment Act 2010 A2010-4 pt 3**

notified LR 17 February 2010

s 1, s 2 commenced 17 February 2010 (LA s 75 (1))

pt 3 commenced 26 February 2010 (s 2 and [CN2010-1](#))

**Planning and Development Amendment Regulation 2010 (No 1)  
SL2010-8**

notified LR 12 March 2010

s 1, s 2 commenced 12 March 2010 (LA s 75 (1))

remainder commenced 13 March 2010 (s 2)

**Planning and Development Amendment Regulation 2010 (No 2)  
SL2010-11**

notified LR 29 March 2010

s 1, s 2 commenced 29 March 2010 (LA s 75 (1))

remainder commenced 30 March 2010 (s 2)

**Planning and Development Amendment Regulation 2010 (No 3)  
SL2010-14**

notified LR 6 May 2010

s 1, s 2 commenced 6 May 2010 (LA s 75 (1))

remainder commenced 7 May 2010 (s 2)

**Planning and Development Amendment Regulation 2010 (No 4)  
SL2010-22**

notified LR 21 June 2010

s 1, s 2 commenced 21 June 2010 (LA s 75 (1))

remainder commenced 22 June 2010 (s 2)

**Planning and Development (Transitional) Amendment  
Regulation 2010 (No 1) SL2010-34**

notified LR 12 August 2010

s 1, s 2 commenced 12 August 2010 (LA s 75 (1))

remainder commenced 13 August 2010 (s 2)

## Endnotes

3 Legislation history

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**Unit Titles Amendment Regulation 2010 (No 1) SL2010-37 ss 9-11**

notified LR 7 September 2010

s 1, s 2 commenced 7 September 2010 (LA s 75 (1))

ss 9-11 commenced 8 September 2010 (s 2)

**Planning and Development (Concessional Leases) Amendment Act 2010 A2010-37 pt 3**

notified LR 30 September 2010

s 1, s 2 commenced 30 September 2010 (LA s 75 (1))

pt 3 commenced 7 October 2010 (s 2)

**Planning and Development (Environmental Impact Statements) Amendment Act 2010 A2010-56 s 34**

notified LR 21 December 2010

s 1, s 2 commenced 21 December 2010 (LA s 75 (1))

s 34 commenced 1 February 2011 (s 2 and [CN2011-1](#))

**Planning and Development (Direct Sales) Amendment Regulation 2011 (No 1) SL2011-5**

notified LR 21 February 2011

s 1, s 2 commenced 21 February 2011 (LA s 75 (1))

remainder commenced 22 February 2011 (s 2)

**Planning and Development (Lease Variation Charges) Amendment Act 2011 A2011-19 pt 3**

notified LR 30 June 2011

s 1, s 2 commenced 30 June 2011 (LA s 75 (1))

pt 3 commenced 1 July 2011 (s 2)

**Administrative (One ACT Public Service Miscellaneous Amendments) Act 2011 A2011-22 sch 1 pt 1.121**

notified LR 30 June 2011

s 1, s 2 commenced 30 June 2011 (LA s 75 (1))

sch 1 pt 1.121 commenced 1 July 2011 (s 2 (1))

**Planning and Building Legislation Amendment Act 2011 A2011-23 pt 8**

notified LR 6 July 2011

s 1, s 2 commenced 6 July 2011 (LA s 75 (1))

pt 1 commenced 6 July 2011 (s 2 (1))

pt 8 commenced 7 July 2011 (s 2 (5))

**Constructions Occupations Legislation (Exemption Assessment) Amendment Regulation 2011 (No 1) SL2011-21 pt 3**

notified LR 7 July 2011  
s 1, s 2 commenced 7 July 2011 (LA s 75 (1))  
pt 3 commenced 8 July 2011 (s 2 and see [Construction Occupations Legislation \(Exemption Assessment\) Amendment Act 2010 A2010-24](#), s 2)

**Planning and Development (Lease Variation Charges) Amendment Regulation 2011 (No 1) SL2011-22**

notified LR 15 July 2011  
s 1, s 2 commenced 15 July 2011 (LA s 75 (1))  
commenced 16 July 2011 (s 2)

**Unit Titles (Management) Act 2011 A2011-41 sch 5 pt 5.9**

notified LR 3 November 2011  
s 1, s 2 commenced 3 November 2011 (LA s 75 (1))  
sch 5 pt 5.9 commenced 30 March 2012 (s 2 and [CN2012-6](#))

**Planning and Development Amendment Regulation 2011 (No 1) SL2011-30 (as am by AR2012-1)**

notified LR 14 November 2011  
s 1, s 2 commenced 14 November 2011 (LA s 75 (1))  
remainder commenced 15 November 2011 (s 2)

**Statute Law Amendment Act 2011 (No 3) A2011-52 sch 3 pt 3.42**

notified LR 28 November 2011  
s 1, s 2 commenced 28 November 2011 (LA s 75 (1))  
sch 3 pt 3.42 commenced 12 December 2011 (s 2)

**Planning and Building Legislation Amendment Act 2011 (No 2) A2011-54 pt 7**

notified LR 13 December 2011  
s 1, s 2 commenced 13 December 2011 (LA s 75 (1))  
pt 7 commenced 13 December 2012 (s 2 (2))

**Planning and Development Amendment Regulation 2011 (No 2) SL2011-37**

notified LR 16 December 2011  
s 1, s 2 commenced 16 December 2011 (LA s 75 (1))  
remainder commenced 17 December 2011 (s 2)

## Endnotes

3 Legislation history

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### **Planning and Development Amendment Regulation (No 1) Amendment Resolution 2012 AR2012-1**

notified LR 20 February 2012

commenced 21 February 2012 (LA s 68 (3))

*Note* This Assembly resolution only amends the [Planning and Development Amendment Regulation 2011 \(No 1\)](#) SL2011-30.

### **Planning and Development Amendment Regulation 2012 (No 1) SL2012-18**

notified LR 10 May 2012

s 1, s 2 commenced 10 May 2012 (LA s 75 (1))

remainder commenced 11 May 2012 (s 2)

### **Planning and Development Amendment Regulation 2012 (No 2) SL2012-19**

notified LR 17 May 2012

s 1, s 2 commenced 17 May 2012 (LA s 75 (1))

remainder commenced 18 May 2012 (s 2)

### **Planning, Building and Environment Legislation Amendment Act 2012 A2012-23 pt 5**

notified LR 28 May 2012

s 1, s 2 commenced 28 May 2012 (LA s 75 (1))

s 31 commenced 13 December 2012 (LA s 79A and see [Planning and Building Legislation Amendment Act 2011 \(No 2\)](#) A2011-54 s 2 (2))

pt 5 remainder commenced 29 May 2012 (s 2)

### **Planning and Development Amendment Regulation 2012 (No 3) SL2012-23**

notified LR 21 June 2012

s 1, s 2 commenced 21 June 2012 (LA s 75 (1))

remainder commenced 22 June 2012 (s 2)

### **Planning and Development Amendment Regulation 2012 (No 4) SL2012-40**

notified LR 13 September 2012

s 1, s 2 commenced 13 September 2012 (LA s 75 (1))

remainder commenced 14 September 2012 (s 2)



**Planning and Development Amendment Regulation 2012 (No 5)****SL2012-42**

notified LR 20 September 2012  
s 1, s 2 commenced 20 September 2012 (LA s 75 (1))  
remainder commenced 21 September 2012 (s 2)

**Planning and Development Regulation Resolution Notice 2013 (No 1)****NI2013-132**

notified LR 26 March 2013  
s 1, s 2 commenced 26 March 2013 (LA s 75 (1))  
remainder commenced 27 March 2013 (s 2)

**Public Unleased Land Act 2013 A2013-3 sch 2 pt 2.8**

notified LR 21 February 2013  
s 1, s 2 commenced 21 February 2013 (LA s 75 (1))  
sch 2 pt 2.8 commenced 1 July 2013 (s 2 and [CN2013-9](#))

**Planning, Building and Environment Legislation Amendment Act 2013 A2013-15 pt 8**

notified LR 21 May 2013  
s 1, s 2 commenced 21 May 2013 (LA s 75 (1))  
pt 8 commenced 22 May 2013 (s 2)

**Statute Law Amendment Act 2013 A2013-19 sch 3 pt 3.33**

notified LR 24 May 2013  
s 1, s 2 commenced 24 May 2013 (LA s 75 (1))  
sch 3 pt 3.33 commenced 14 June 2013 (s 2)

**Planning and Development (Territory Plan Variations) Amendment Act 2013 A2013-23 pt 3**

notified LR 13 June 2013  
s 1, s 2 commenced 13 June 2013 (LA s 75 (1))  
pt 3 commenced 14 June 2013 (s 2)

**Planning, Building and Environment Legislation Amendment Act 2013 (No 2) A2013-40 pt 6**

notified LR 6 November 2013  
s 1, s 2 commenced 6 November 2013 (LA s 75 (1))  
pt 6 commenced 27 January 2014 (s 2 and [CN2014-1](#))

## Endnotes

3 Legislation history

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**Planning and Development Amendment Regulation 2013 (No 1)  
SL2013-30**

notified LR 5 December 2013  
s 1, s 2 commenced 5 December 2013 (LA s 75 (1))  
remainder commenced 6 December 2013 (s 2)

**Planning, Building and Environment Legislation Amendment  
Act 2013 (No 2) A2013-40 pt 6**

notified LR 6 November 2013  
s 1, s 2 commenced 6 November 2013 (LA s 75 (1))  
pt 6 commenced 27 January 2014 (s 2 and [CN2014-1](#))

**Planning and Development (Extension of Time) Amendment Act 2014  
A2014-13 pt 3**

notified LR 20 May 2014  
s 1, s 2 commenced 20 May 2014 (LA s 75 (1))  
pt 3 commenced 21 May 2014 (s 2)

**Planning, Building and Environment Legislation Amendment  
Act 2014 A2014-23 pt 5**

notified LR 26 May 2014  
s 1, s 2 commenced 26 May 2014 (LA s 75 (1))  
pt 5 commenced 27 May 2014 (s 2)

**Planning and Development (Symonston Mental Health Facility)  
Amendment Act 2014 A2014-26 sch 1 pt 1.2**

notified LR 12 June 2014  
s 1, s 2 commenced 12 June 2014 (LA s 75 (1))  
sch 1 pt 1.2 commenced 13 June 2014 (s 2)

**Planning and Development (Bilateral Agreement) Amendment  
Act 2014 A2014-41 sch 1 pt 1.2**

notified LR 2 October 2014  
s 1, s 2 commenced 2 October 2014 (LA s 75 (1))  
sch 1 pt 1.2 commenced 2 April 2015 (s 2 and LA s 79)

**Planning, Building and Environment Legislation Amendment  
Act 2014 (No 2) A2014-45 pt 5**

notified LR 5 November 2014  
s 1, s 2 commenced 5 November 2014 (LA s 75 (1))  
pt 5 commenced 6 November 2014 (s 2)

**Red Tape Reduction Legislation Amendment Act 2014 A2014-47 pt 9**

notified LR 6 November 2014

s 1, s 2 commenced 6 November 2014 (LA s 75 (1))

pt 9 commenced 7 November 2014 (s 2)

**Training and Tertiary Education Amendment Act 2014 A2014-48 sch 1 pt 1.14**

notified LR 6 November 2014

s 1, s 2 commenced 6 November 2014 (LA s 75 (1))

sch 1 pt 1.14 commenced 20 November 2014 (s 2)

**Nature Conservation Act 2014 A2014-59 sch 2 pt 2.12**

notified LR 11 December 2014

s 1, s 2 commenced 11 December 2014 (LA s 75 (1))

amdt 2.88 commenced 11 June 2015 (s 2 (2) (b))

sch 2 pt 2.12 remainder commenced 11 June 2015 (s 2 (1) and LA s 79)

**Planning and Development (Loose-fill Asbestos Insulation Eradication) Amendment Regulation 2014 (No 1) SL2014-35**

notified LR 18 December 2014

s 1, s 2 commenced 18 December 2014 (LA s 75 (1))

remainder commenced 19 December 2014 (s 2)

**Planning and Development (University of Canberra) Amendment Regulation 2015 (No 1) SL2015-4**

notified LR 19 February 2015

s 1, s 2 commenced 19 February 2015 (LA s 75 (1))

remainder commenced 20 February 2015 (s 2)

**Planning and Development (City West Precinct) Amendment Regulation 2015 (No 1) SL2015-5**

notified LR 19 February 2015

s 1, s 2 commenced 19 February 2015 (LA s 75 (1))

remainder commenced 20 February 2015 (s 2)

## Endnotes

3 Legislation history

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### **Planning and Development (Capital Metro) Legislation Amendment Act 2015 A2015-2 pt 4**

notified LR 25 February 2015

s 1, s 2 commenced 25 February 2015 (LA s 75 (1))

s 17, s 19 commenced 2 April 2015 (s 2 (1) and see Planning and Development (Bilateral Agreement) Amendment Act 2014 [A2014-41](#), s 2 and LA s 79)

pt 4 remainder commenced 2 April 2015 (s 2 (2) and [CN2015-2](#))

### **Dangerous Substances (Loose-fill Asbestos Eradication) Legislation Amendment Act 2015 A2015-6 sch 1 pt 1.7**

notified LR 31 March 2015

s 1, s 2 commenced 31 March 2015 (LA s 75 (1))

sch 1 pt 1.7 commenced 17 April 2015 (s 2 and [CN2015-6](#))

### **Planning, Building and Environment Legislation Amendment Act 2015 A2015-12 pt 7**

notified LR 20 May 2015

s 1, s 2 commenced 20 May 2015 (LA s 75 (1))

pt 7 commenced 21 May 2015 (s 2)

### **Statute Law Amendment Act 2015 A2015-15 sch 3 pt 3.48**

notified LR 27 May 2015

s 1, s 2 commenced 27 May 2015 (LA s 75 (1))

sch 3 pt 3.48 commenced 10 June 2015 (s 2)

### **Planning and Development (University of Canberra and Other Leases) Legislation Amendment Act 2015 A2015-19 pt 16**

notified LR 11 June 2015

s 1, s 2 commenced 11 June 2015 (LA s 75 (1))

pt 16 commenced 1 July 2015 (s 2 and [CN2015-9](#))

### **Planning and Development Amendment Regulation 2015 (No 1) SL2015-30**

notified LR 21 September 2015

s 1, s 2 commenced 21 September 2015 (LA s 75 (1))

remainder commenced 22 September 2015 (s 2)

**Planning and Development (Loose-fill Asbestos Eradication)  
Amendment Regulation 2015 (No 1) SL2015-31**

notified LR 6 October 2015  
s 1, s 2 commenced 6 October 2015 (LA s 75 (1))  
remainder commenced 7 October 2015 (s 2)

**Building (Loose-fill Asbestos Eradication) Legislation Amendment  
Act 2015 A2015-42 pt 11**

notified LR 5 November 2015  
s 1, s 2 commenced 5 November 2015 (LA s 75 (1))  
pt 11 commenced 13 November 2015 (s 2 (1) and [CN2015-21](#))

**Planning and Development (Bushfire Preparedness) Amendment  
Regulation 2015 (No 1) SL2015-38**

notified LR 26 November 2015  
s 1, s 2 commenced 26 November 2015 (LA s 75 (1))  
remainder commenced 27 November 2015 (s 2)

**Planning, Building and Environment Legislation Amendment Act  
2016 A2016-2 pt 8**

notified LR 23 February 2016  
s 1, s 2 commenced 23 February 2016 (LA s 75 (1))  
pt 8 commenced 24 February 2016 (s 2)

**Planning and Development (Lease Variation Charge Exemption)  
Amendment Regulation 2016 (No 1) SL2016-6**

notified LR 18 March 2016  
s 1, s 2 commenced 18 March 2016 (LA s 75 (1))  
remainder commenced 19 March 2016 (s 2)

**Planning and Development (Lease Variation Charge Exemption—  
Childcare Centres) Amendment Regulation 2016 (No 1) SL2016-7**

notified LR 8 April 2016  
s 1, s 2 commenced 8 April 2016 (LA s 75 (1))  
remainder commenced 9 April 2016 (s 2)

**Planning and Development (Efficiencies) Amendment Act 2016  
A2016-18 pt 3**

notified LR 14 April 2016  
s 1, s 2 commenced 14 April 2016 (LA s 75 (1))  
pt 3 commenced 15 April 2016 (s 2)

## Endnotes

3 Legislation history

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**Planning, Building and Environment Legislation Amendment Act 2016 (No 2) A2016-24 pt 10**

notified LR 11 May 2016  
s 1, s 2 commenced 11 May 2016 (LA s 75 (1))  
pt 10 commenced 12 May 2016 (s 2 (1))

**Planning and Development (Solar Access) Amendment Regulation 2016 (No 1) SL2016-24**

notified LR 29 August 2016  
s 1, s 2 commenced 29 August 2016 (LA s 75 (1))  
remainder commenced 7 September 2016 (s 2 and [CN2016-19](#))

**Planning and Development Amendment Regulation 2017 (No 1) SL2017-1**

notified LR 16 February 2017  
s 1, s 2 commenced 16 February 2017 (LA s 75 (1))  
remainder commenced 17 February 2017 (s 2)

## 4 Amendment history

### Commencement

s 2 om LA s 89 (4)

### Meaning of *dwelling*

s 5 am [SL2012-18](#) s 4

### Draft plan variations

ch 1A hdg ins [A2012-23](#) s 30

### Draft plan variations to be notified—Act, s 63 (5) (b)

s 6 ins [A2012-23](#) s 30

### People to be notified—Act, s 63 (5) (b)

s 7 ins [A2012-23](#) s 30

### Stage C—assessing environmental benefits and impacts

s 14 am [A2013-19](#) amdt 3.233

### Development proposals requiring EIS

pt 3.1AA hdg pt 3.1AA hdg ins [A2011-54](#) s 13 renum as pt 3.1AB hdg  
ins [SL2012-19](#) s 4

### Development proposals requiring EIS—electricity generating stations—Act, sch 4, pt 4.2, item 2, par (c) (i) (A)

s 19 ins [SL2012-19](#) s 4

### Exempt developments—Act, s 133, def *exempt development*

s 20 hdg sub [A2011-54](#) s 12  
s 20 am [SL2008-8](#) s 4  
sub [SL2008-33](#) s 4  
am [SL2009-3](#) s 4; [SL2009-15](#) s 4

### Pre-application matters

pt 3.1AB hdg (prev pt 3.1AA hdg) ins [A2011-54](#) s 13  
renum as pt 3.1AB hdg R48 LA

### Prescribed development proposal for community consultation—Act, s 138AE

s 20A ins [A2011-54](#) s 13  
am [A2012-23](#) s 31

### Exemption assessment matters

pt 3.1A hdg ins [SL2011-21](#) s 6

### Number of copies of plans—Act, s 138B (2) (a) (ii)

s 21 ins [SL2011-21](#) s 6

### Details to be included in exemption assessment application—Act, s 138B (2) (a) (iii)

s 22 ins [SL2011-21](#) s 6  
am [A2015-19](#) s 99

## Endnotes

4 Amendment history

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**Exemption assessment applications—Act, s 138B (2) (a) (iii)**

s 22A ins [A2012-23](#) s 32

**Exemption assessment D notices—Act, s 138D (2) (b) (ii)**

s 23 ins [SL2011-21](#) s 6  
sub [A2012-23](#) s 33

**Exemption assessment D notice—attached documents—Act, s 138D (2) (b) (ii)**

s 24 hdg sub [A2014-45](#) s 31  
s 24 ins [A2012-23](#) s 33  
am [A2014-45](#) s 32, s 33

**When survey certificate not required for development applications—Act, s 139 (2) (j)**

s 25 hdg sub [A2016-2](#) s 25  
s 25 am [SL2009-40](#) s 4; [A2014-23](#) s 17

**Prescribed encroachment for development encroaching on adjoining territory land—Act, s 137AC (1) (b)**

s 25A ins [A2016-21](#) s 77

**Referral of certain development applications—Act, s 148 (1)**

s 26 am [A2011-22](#) amdt 1.352; [A2014-41](#) amdt 1.3, amdt 1.4;  
[A2015-15](#) amdt 3.188, amdt 3.189; [A2014-59](#) amdt 2.88

**Public notification of merit track development applications—Act, s 152 (1) (a) and (2)**

s 27 sub [SL2008-8](#) s 5  
am [SL2009-31](#) s 4  
(4) exp 30 June 2012 (s 407 (1))

**Public notification period—Act, s 157, def *public notification period*, par (a)**

s 28 hdg am [A2011-23](#) s 38  
s 28 sub [SL2008-8](#) s 5  
am [SL2009-31](#) s 5  
(2) exp 30 June 2012 (s 407 (1))  
am [A2013-23](#) s 20

**Conditions for code track proposals—Act, s 165 (4)**

s 29 am [A2013-3](#) amdt 2.25

**Development approvals—when amendment not required**

pt 3.3 hdg ins [SL2008-33](#) s 5

**When development approvals do not require amendment—Act, s 198C (3)**

s 35 hdg sub [SL2010-11](#) s 4  
s 35 ins [SL2008-33](#) s 5  
am [SL2009-3](#) s 5; am [SL2009-15](#) s 5; [A2013-15](#) s 15



**Expiry—pt 3.3**

s 36 ins [SL2008-33](#) s 5  
om [SL2010-11](#) s 5

**Preparation of EIS—Act, s 208 (1)**

s 50 am [A2015-19](#) s 100

**EIS exemption application—consultation with entities—Act, s 211E**

s 50A ins [SL2012-23](#) s 4  
sub [A2014-41](#) amdt 1.5

**Entities relevant for preparation of scoping documents—Act, s 212 (4)**

s 51 hdg sub [A2013-15](#) s 16  
s 51 am [A2011-22](#) amdt 1.352

**Content of scoping documents—Act, s 213 (1)**

s 54 am [A2010-56](#) s 34; pars renum R28 LA; [A2011-23](#) s 39;  
ss renum R31 LA; [A2014-41](#) amdt 1.6

**Definitions—pt 4.2**

s 70 def *inquiry panel* om [A2008-28](#) amdt 3.136

**Concessional leases**

pt 5.1A hdg (prev ch 6 hdg) reloc and renum as pt 5.1A hdg R17  
[SL2009-41](#) s 7  
om [A2010-37](#) s 42

**Concessional lease exclusions—Act, s 235 (1), def *concessional lease*, par (c) (v)**

s 99 (prev s 240) am [SL2008-41](#) s 8, s 9; [SL2009-41](#) s 4, s 5  
reloc and renum as s 99 R17 [SL2009-41](#) s 6, s 7  
om [A2010-37](#) s 42

**Definitions—pt 5.1**

s 100 def *Australian National University* exp 5 April 2020  
(s 402 (a))  
def *City West precinct* exp 5 April 2020 (s 402 (a))  
def *City West precinct deed* exp 5 April 2020 (s 402 (a))  
def *Commonwealth entity* om [A2010-37](#) s 43  
def *retirement complex* ins [SL2011-37](#) s 4  
def *supportive accommodation* sub [SL2011-37](#) s 5  
def *territory entity* am [SL2008-8](#) s 6  
sub [A2010-37](#) s 44

**Meaning of *City West precinct*—pt 5.1**

s 102 am [SL2008-8](#) s 7  
exp 5 April 2020 (s 402 (b))

**Direct sales requiring approval by Executive—Act, s 240 (1) (a)**

s 105 am [SL2009-38](#) s 4; [A2010-37](#) ss 45-47  
(d) exp 5 April 2020 (s 402 (c))

## Endnotes

4 Amendment history

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**Direct sale criteria for territory entities—Act, s 240 (1) (a) (i)**

s 106 am [SL2009-38](#) s 5; [A2010-37](#) s 48

**Direct sale criteria for Commonwealth entities—Act, s 240 (1) (a) (i)**

s 107 am [SL2009-38](#) s 6; [A2010-37](#) s 49  
(2) exp 5 April 2020 (s 402 (d))

**Direct sale criteria for non-government educational establishments—Act, s 240 (1) (a) (i)**

s 108 am [SL2011-5](#) s 4, s 5; [A2014-48](#) amdt 1.30, amdt 1.31;  
[A2015-15](#) amdt 3.190  
(4) exp 5 April 2020 (s 402 (e))

**Direct sale criteria for leases of contiguous unleased land that is public land—Act, s 240 (1) (a) (i)**

s 110 am [SL2010-8](#) s 4; pars renum R20 LA; [SL2011-5](#) s 6

**Direct sale criteria for City West precinct land for Australian National University—Act, s 240 (1) (a) (i)**

s 111 am [SL2008-8](#) s 8  
exp 5 April 2020 (s 402 (f))

**Direct sale criteria for community organisations—Act, s 240 (1) (a) (i)**

s 112 sub [SL2009-38](#) s 7  
am [A2010-37](#) s 50; [SL2011-5](#) s 7, s 8

**Direct sale criteria for supportive accommodation—Act, s 240 (1) (a) (i)**

s 113 am [SL2008-33](#) s 6; [A2010-37](#) s 51; [SL2011-5](#) s 9, s 10

**Direct sale criteria for rural leases—Act, s 240 (1) (a) (i)**

s 114 am [SL2011-5](#) s 10

**Direct sales requiring approval by Minister—Act, s 240 (1) (b)**

s 120 am [SL2008-8](#) s 9

**Direct sale criteria for Territory—Act, s 240 (1) (b) (i)**

s 121 am [SL2011-5](#) s 11

**Direct sale criteria for leases of contiguous unleased land other than public land—Act, s 240 (1) (b) (i)**

s 122 am [SL2010-8](#) s 5; pars renum R20 LA; [SL2011-5](#) s 11

**Certain direct sales not requiring approval**

div 5.1.4 hdg ins [SL2008-8](#) s 10

**Certain direct sales not requiring approval—Act, s 240 (1) (d)**

s 130 ins [SL2008-8](#) s 10  
am [SL2011-5](#) s 12, s 13; pars renum R29 LA; [SL2015-31](#) s 4, s 5;  
[A2015-42](#) s 44, s 45; [SL2017-1](#) s 4, s 5

**Exemptions from restrictions on dealings with certain single dwelling house leases—Act, s 251 (1) (c) (ii)**

s 141 ins [SL2008-8](#) s 11

**Exemptions from restrictions on dealings with certain leases—Act, s 251 (5)**

s 142 hdg sub [A2010-37](#) s 52  
 s 142 ins [SL2008-8](#) s 11  
 am [SL2009-38](#) s 8; [A2010-4](#) s 96, s 97; ss renum R19 LA

**Criteria for grant of further leases for unit title schemes—Act, s 254 (1) (f)**

s 150 am [A2011-41](#) amdt 5.27, amdt 5.28

**Lease classes for variation to pay out rent—Act, s 272A (1)**

s 160 hdg sub [SL2008-8](#) s 12

**Decision on rent payout lease variation application—Act, s 272B (1)**

s 161 ins [SL2008-8](#) s 13

**Lease variation charges**

pt 5.5 hdg sub [A2011-19](#) s 20

**Chargeable variations**

div 5.5.1 hdg sub [SL2011-22](#) s 4

**Exempt variations—Act, s 276, def *chargeable variation*, par (c)**

s 170 sub [SL2011-22](#) s 4; [SL2013-22](#) s 4  
 am [SL2016-6](#) s 4; [SL2016-7](#) s 4, s 5

**S 276E chargeable variations—Act, s 276A (1), def s 276E *chargeable variation*, par (h)**

s 170A ins [SL2011-22](#) s 4  
 am [SL2011-37](#) s 6; [SL2016-7](#) s 6, s 7; pars renum R77 LA

**Lease variation charge—working out charge for combination of s 276E and s 277 chargeable variations—Act, s 276C (2) (c)**

s 170B ins [SL2011-22](#) s 4

**Lease variation charge—when charge taken to be worked out for transitional applications—Act, s 276D (2) (b)**

s 170C ins [SL2011-22](#) s 4  
 exp 1 July 2012 (s 170C (3))

**Independent valuation of s 277 lease variation charge**

div 5.5.2 hdg sub [A2011-19](#) s 21

**Appointment of independent valuer—Act, s 277D (4) (b) (ii)**

s 171 ins [A2011-19](#) s 21

**Requirements for independent valuer—Act, s 277D (4) (c)**

s 172 ins [A2011-19](#) s 21

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**Remission of change of use charges generally—Act, s 278 (1) and (2)**

s 175 am [SL2009-35](#) ss 4-8  
(6)-(8) exp 1 October 2009 (s 175 (8) (LA s 88 declaration applies))  
am [SL2010-8](#) s 6  
(1) (a) (vii), (3), (5) exp 1 December 2010 (s 175 (5))  
ss renum R27 LA  
om [A2011-19](#) s 21

**Remission of change of use charges for housing commissioner—Act, s 278 (1) and (2)**

s 176 om [A2011-19](#) s 21

**Policy directions about remission of change of use charges—Act, s 278 (1) and (2)**

s 177 om [A2011-19](#) s 21

**Increase of lease variation charge**

div 5.5.3 hdg am [A2011-19](#) s 22

**Meaning of *added value*—div 5.5.3**

s 179 ins [SL2011-22](#) s 5

**Increase of lease variation charge for concessional leases—Act, s 279 (1) and (2)**

s 181 hdg am [A2011-19](#) s 23  
s 181 am [A2010-37](#) s 53; [A2011-19](#) s 23

**Increase of lease variation charge for recently commenced leases—Act, s 279 (1) and (2)**

s 182 hdg am [A2011-19](#) s 23  
s 182 am [A2010-37](#) s 54; [A2011-19](#) s 23

**Discharge amount for rural leases other than special Pialligo leases—Act, s 282, def *discharge amount***

s 191 am [SL2010-22](#) ss 4-7; ss renum R23 LA

**Transfer of land subject to building and development provision**

div 5.7.1 hdg ins [SL2008-41](#) s 4

**Matters for transfer or assignment of leases—Act, s 298 (5)**

s 201 am [SL2012-18](#) s 5

**Extension of time to complete required works**

div 5.7.2 hdg ins [SL2008-41](#) s 5  
sub [A2014-13](#) s 12

**Extension of time to complete works—Act, s 298D (4), def A**

s 202 hdg sub [SL2010-4](#) s 98  
s 202 ins [SL2008-8](#) s 14  
sub [SL2008-41](#) s 5; [SL2009-35](#) s 9; [A2014-13](#) s 12

**Application for extension of time—general rule—Act, s 298C (3), def A**

s 203 hdg sub [SL2009-35](#) s 10; [A2010-4](#) s 99  
 s 203 ins [SL2008-8](#) s 14  
 sub [SL2008-41](#) s 5  
 am [SL2009-35](#) s 11; [A2010-4](#) s 100; [SL2012-40](#) s 4, s 5;  
 ss renum R46 LA

**Application for extension of time—hardship reason—Act, s 298C (3), def A**

s 204 hdg sub [SL2009-35](#) s 12; [A2010-4](#) s 101  
 s 204 ins [SL2008-41](#) s 5  
 am [SL2009-35](#) s 13, s 14; [SL2009-38](#) s 9; [A2010-4](#) s 102;  
[SL2012-40](#) s 6; ss renum R46 LA

**Application for extension of time—external reason—Act, s 298C (3), def A A**

s 205 hdg sub [SL2009-35](#) s 15; [A2010-4](#) s 103  
 s 205 ins [SL2008-41](#) s 5  
 am [SL2009-35](#) s 16

**Application for extension of time—lease transferred or assigned in special circumstances—Act, s 298C (3), def A**

s 206 hdg sub [SL2009-35](#) s 17; [A2010-4](#) s 104  
 s 206 ins [SL2008-41](#) s 5  
 am [SL2009-35](#) s 18

**Application for extension of time—certain leases granted before 31 March 2008—Act, s 298C (3), def A**

s 207 hdg sub [SL2009-35](#) s 19; [A2010-4](#) s 105  
 s 207 ins [SL2008-41](#) s 5  
 am [SL2009-35](#) s 20

**Payment of amount on surrender or termination of leases—certain leases**

div 5.8.1 hdg ins [SL2014-35](#) s 4

**Application—div 5.8.1**

s 209 ins [SL2014-35](#) s 4  
 am [A2015-42](#) s 46

**Amount of refund on surrender or termination of certain leases—Act, s 300 (2)**

s 210 hdg sub [A2008-28](#) amdt 3.137  
 s 210 am [SL2008-41](#) s 6; [SL2009-38](#) s 10; [A2010-37](#) s 55;  
[SL2014-35](#) s 5  
 (3), (4) exp 1 November 2011 (s 210 (4))

**Limitations for refund on surrender or termination of leases—Act, s 300 (3)**

s 211 hdg sub [A2008-28](#) amdt 3.138  
 s 211 am [SL2008-41](#) s 7; [SL2009-38](#) s 11; [SL2014-35](#) s 6

**Payment of amount on surrender of leases—loose-fill asbestos insulation eradication buyback program**

div 5.8.2 hdg ins [SL2014-35](#) s 7

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**Meaning of *affected lease* and *affected residential premises***

s 212 ins [SL2014-35](#) s 7  
am [SL2015-31](#) s 6, s 7

**Meaning of *loose-fill asbestos insulation eradication buyback program***

s 213 ins [SL2014-35](#) s 7  
sub [A2015-42](#) s 48

**Meaning of *LAIE buyback program valuation procedure***

s 214 ins [SL2014-35](#) s 7  
sub [A2015-42](#) s 47

**Payment amount—contract entered on or before 18 February 2014—  
Act, s 300 (2)**

s 215 ins [SL2014-35](#) s 7  
am [A2015-42](#) s 48

**Payment amount—contract entered after 18 February 2014 and completed  
on or before 28 October 2014—Act, s 300 (2)**

s 216 ins [SL2014-35](#) s 7  
am [A2015-42](#) s 48

**Payment amount—contract entered after 18 February 2014 and completed  
after 28 October 2014—Act, s 300 (2)**

s 217 ins [SL2014-35](#) s 7  
am [A2015-42](#) s 48

**Payment amount—lease acquired before 18 February 2014 other than by  
contract—Act, s 300 (2)**

s 218 ins [SL2014-35](#) s 7  
am [A2015-42](#) s 48

**Payment amount—lease acquired after 18 February 2014 other than by  
contract, and transferor acquired lease before 18 February 2014—Act,  
s 300 (2)**

s 219 ins [SL2014-35](#) s 7  
am [A2015-42](#) s 48

**Payment amount—lease acquired after 18 February 2014 other than by  
contract, and transferor acquired lease after 18 February 2014—Act, s 300 (2)**

s 219A ins [SL2014-35](#) s 7  
am [A2015-42](#) s 48

**Limitation on payment amount—LAIE buyback program—Act, s 300 (3)**

s 219B hdg sub [A2015-42](#) s 49  
s 219B ins [SL2014-35](#) s 7

**Payment amount under this division includes payment for improvements**

s 219C ins [SL2014-35](#) s 7

**Concessional leases**

ch 6 hdg reloc and renum as pt 5.1A hdg

**Criteria for giving approval of sublease of land—Act, s 308 (3) (a)**

s 220 hdg sub [A2015-19](#) s 101  
am [A2015-19](#) s 102

**Prescribed matters in land sublease—Act, s 308 (7)**

s 221 ins [A2015-19](#) s 103

**Concessional lease exclusions—Act, s 235 (1), def *concessional lease*, par (c) (v)**

s 240 reloc and renum as s 99

**Period for deemed refusal of application for controlled activity order—Act, s 351 (4)**

s 300 sub [SL2010-8](#) s 7

**Time for deemed decision not to make controlled activity order—Act, s 354 (1) (b)**

s 301 sub [SL2010-8](#) s 7

**Period for deemed refusal of application for controlled activity order if development application refused—Act, s 351 (4)**

s 302 ins [SL2010-8](#) s 7

**Period for deemed decision not to make controlled activity order—Act, s 354 (1) (b)**

s 303 ins [SL2010-8](#) s 7

**Period for deemed decision not to make controlled activity order if development application approved—Act, s 354 (1) (b)**

s 304 ins [SL2010-8](#) s 7

**Period for deemed decision not to make controlled activity order if development application refused—Act, s 354 (1) (b)**

s 305 ins [SL2010-8](#) s 7

**Merit track decisions exempt from third-party ACAT review—Act, sch 1, item 4, col 2, par (b)**

s 350 sub [A2008-37](#) amdt 1.353

**Impact track decisions exempt from third-party ACAT review—Act, sch 1, item 6, col 2**

s 351 sub [A2008-37](#) amdt 1.353

**Disapplication of Legislation Act, s 47 (5) and (6)—regulation**

s 400 hdg sub [SL2008-8](#) s 15  
s 400 am [SL2010-8](#) s 8, s 9; [A2016-24](#) s 52, s 53  
(1), (3) exp 5 April 2020 (s 402 (g))

**Disapplication of Legislation Act, s 47 (6) for certain territory plan instruments—Act, s 422A (1)**

s 400A renum as s 401

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**Disapplication of Legislation Act, s 47 (6) for certain territory plan instruments—Act, s 422A (1)**

s 401                    **orig s 401**  
                              renum as s 402  
                              **pres s 401**  
                              (prev s 400A) ins [SL2008-8](#) s 16  
                              renum as s 401 [SL2008-8](#) s 18

**Expiry of City West precinct provisions**

s 402                    (prev s 401) am [SL2008-8](#) s 17  
                              renum as s 402 [SL2008-8](#) s 18  
                              am [SL2015-5](#) s 4, s 5  
                              exp 5 April 2020 (s 402)

**Securing things seized under the Act, pt 12.3**

s 403                    ins [SL2008-8](#) s 19  
                              om [A2010-4](#) s 106

**Application of Planning and Development Amendment Regulation 2008 (No 5) and Planning and Development Amendment Regulation 2009 (No 1)**

s 404                    ins [SL2009-3](#) s 6

**Meaning of *declared funding program***

s 405                    ins [SL2009-9](#) s 4 (s 405 never commenced [SL2009-9](#) rep by  
  LA s 64 (2)); [SL2009-14](#) s 4  
  exp 31 March 2013 (s 407 (2))

**Declaring programs and developments**

s 406                    ins [SL2009-14](#) s 4  
                              am [SL2009-31](#) s 6  
                              exp 31 March 2013 (s 407 (2))

**Expiry**

s 407                    ins [SL2009-14](#) s 4  
                              am [SL2009-31](#) s 7  
                              exp 31 March 2013 (s 407 (2))

**Modification of Act, ch 15—Act, s 429**

s 410                    ins [SL2008-8](#) s 20  
                              am [SL2008-33](#) s 7  
                              om [A2009-30](#) s 35

**Modification of Act, ch 15—Act, s 429**

s 411                    ins [SL2010-34](#) s 4  
                              exp 31 March 2013 (s 411 (2))

**Exemptions from requirement for development approval**

sch 1                    am [SL2008-33](#) s 8



**Definitions—sch 1**

sch 1 s 1.1 def **basic paling fence** ins [SL2008-8](#) s 21  
 def **clearing** sub [A2014-59](#) amdt 2.89  
 def **designated development** om [SL2008-33](#) s 9  
 def **finished floor level** om [SL2008-33](#) s 9  
 def **general exemption criteria** om [SL2008-33](#) s 9  
 def **native vegetation** sub [A2014-59](#) amdt 2.89  
 def **open space boundary** ins [SL2008-8](#) s 21  
 def **party wall** ins [SL2013-30](#) s 4  
 def **surface water** om [SL2008-33](#) s 9

**Exemption does not affect other territory laws**

sch 1 s 1.4 am [SL2010-8](#) s 10; [SL2012-18](#) s 6, s 7; [A2013-19](#) amdt 3.234;  
[A2014-23](#) s 18, s 19

**General exemption criteria**

sch 1 pt 1.2 hdg sub [SL2008-33](#) s 10

**Exempt developments—general criteria**

sch 1 s 1.10 am [SL2009-3](#) s 7; pars renum R8 LA; [SL2009-40](#) s 5;  
 pars renum R16 LA; [SL2010-8](#) s 11; [SL2012-18](#) s 7;  
[A2013-19](#) amdt 3.235; [A2014-23](#) s 20

**Criterion 1—easement and other access clearances**

sch 1 s 1.11 am [SL2010-8](#) ss 12-14; ss renum R20 LA; [A2013-19](#)  
 amdt 3.236; [A2016-24](#) s 54, s 55

**Criterion 2—plumbing and drainage clearances**

sch 1 s 1.12 am [SL2008-33](#) s 11

**Criterion 3—metallic, white and off-white exterior finishes in residential zones**

sch 1 s 1.13 am [SL2008-8](#) s 22  
 om [SL2009-40](#) s 6

**Criterion 4—heritage, tree, environment and conservation**

sch 1 s 1.14 hdg sub [SL2012-18](#) s 8; [A2014-23](#) s 21  
 sch 1 s 1.14 am [SL2010-8](#) s 15; [SL2012-18](#) s 9; [A2014-23](#) s 22; [A2014-59](#)  
 amdt 2.90; [SL2015-30](#) s 4, s 5

**Criterion 5—compliance with lease and agreement collateral to lease**

sch 1 s 1.15 hdg sub [SL2010-8](#) s 16  
 sch 1 s 1.15 am [SL2008-33](#) s 12; [SL2009-3](#) s 8; [A2010-4](#) s 107, s 108;  
 ss and pars renum R19 LA; [SL2010-8](#) s 17  
 sub [SL2010-14](#) s 4

**Criterion 6—development approval not otherwise required**

sch 1 s 1.16 am [SL2008-8](#) s 23; [SL2008-33](#) s 13  
 om [SL2009-3](#) s 9

**Exempt developments—certain development proposals**

sch 1 pt 1.2A hdg ins [A2012-23](#) s 34

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#### Information about certain development proposals

sch 1 s 1.19 om [SL2008-8](#) s 24  
ins [A2012-23](#) s 34

#### Internal alterations of buildings

sch 1 s 1.20 sub [SL2008-8](#) s 25

#### Installation, alteration and removal of low impact external doors and windows in buildings

sch 1 s 1.21 am [SL2008-8](#) s 26  
sub [SL2008-33](#) s 14

#### Installation, alteration and removal of high impact external doors and windows in buildings

sch 1 s 1.21A ins [SL2008-33](#) s 14

#### Exterior refinishing of buildings and structures

sch 1 s 1.22 am [SL2008-8](#) s 27; [SL2008-33](#) s 15; [SL2009-40](#) s 7

#### Maintenance of buildings and structures

sch 1 s 1.23 am [SL2010-8](#) ss 18-21; [SL2012-18](#) s 10; [A2014-23](#) s 23

#### Buildings—skylights

sch 1 s 1.26 am [SL2016-24](#) s 4; pars renum R80 LA

#### Buildings—external shades

sch 1 s 1.26A ins [SL2009-40](#) s 8

#### External heaters and coolers

sch 1 s 1.27 sub [SL2012-18](#) s 11  
am [SL2016-24](#) s 5

#### External photovoltaic panels

sch 1 s 1.27A ins [SL2012-18](#) s 11  
am [SL2016-24](#) s 6; pars renum R80 LA

#### Residential leases—driveway crossings of road verges

sch 1 s 1.30 am [SL2010-8](#) s 22; [A2011-22](#) amdt 1.352

#### Resealing existing driveways

sch 1 s 1.30A ins [SL2009-40](#) s 9

#### Temporary buildings and structures

sch 1 s 1.31 ins [SL2008-8](#) s 28  
am [SL2009-40](#) s 10

#### Exempt developments—non-habitable buildings and structures

sch 1 div 1.3.2 hdg sub [SL2008-8](#) s 29

#### Preliminary

sch 1 sdiv 1.3.2.1  
hdg ins [SL2008-8](#) s 29

**Meaning of class 10a building—div 1.3.2**sch 1 s 1.40 sub [SL2008-8](#) s 29**Class 10 buildings and structures—2nd exempt building or structure within boundary clearance area**sch 1 s 1.41 sub [SL2008-8](#) s 29**Class 10a buildings—outdoor verandas**sch 1 s 1.42 om [SL2008-8](#) s 29**Class 10b structures—plan area not more than 2m<sup>2</sup>**sch 1 s 1.43 om [SL2008-8](#) s 29**Fences and freestanding walls generally**sch 1 s 1.44 om [SL2008-8](#) s 29**Class 10a buildings**sch 1 sdiv 1.3.2.2  
hdg ins [SL2008-8](#) s 29**Roofed class 10a buildings—enclosed or open on 1 side**sch 1 s 1.45 ins [SL2008-8](#) s 29  
am [SL2009-40](#) ss 11-14; ss renum R16 LA**Roofed class 10a buildings—unenclosed or partially open**sch 1 s 1.46 sub [SL2008-8](#) s 29  
am [SL2009-40](#) ss 15-17**Class 10a buildings—unroofed and unenclosed**sch 1 s 1.47 sub [SL2008-8](#) s 29  
am [SL2009-40](#) s 18, s 19**Class 10a buildings—external decks**sch 1 s 1.48 sub [SL2008-8](#) s 29  
am [SL2012-18](#) s 12**Class 10a buildings—external verandahs**sch 1 s 1.49 sub [SL2008-8](#) s 29**Class 10b structures**sch 1 sdiv 1.3.2.3  
hdg ins [SL2008-8](#) s 29**Class 10b structures—plan area not more than 2m<sup>2</sup>**sch 1 s 1.50 sub [SL2008-8](#) s 29**Fences and freestanding walls generally**sch 1 s 1.51 sub [SL2008-8](#) s 29  
am [SL2008-33](#) s 16; [SL2008-41](#) ss 10-12; [SL2009-40](#) s 20**Basic open space boundary fences**sch 1 s 1.52 sub [SL2008-8](#) s 29  
am [SL2008-33](#) s 16

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#### Retaining walls

sch 1 s 1.53 sub [SL2008-8](#) s 29  
am [SL2012-18](#) s 13, s 14

#### Swimming pools

sch 1 s 1.54 sub [SL2008-8](#) s 29  
am [SL2009-40](#) s 21; pars renum R16 LA

#### Water tanks

sch 1 s 1.55 **orig sch 1 s 1.55**  
om [SL2008-8](#) s 30  
**prev sch 1 s 1.55**  
reloc and renum as sch 1 s 1.62

#### External ponds

sch 1 s 1.56 **orig sch 1 s 1.56**  
om [SL2008-8](#) s 30  
**prev sch 1 s 1.56**  
reloc and renum as sch 1 s 1.63

#### Animal enclosures

sch 1 s 1.57 **orig sch 1 s 1.57**  
om [SL2008-8](#) s 30  
**prev sch 1 s 1.57**  
reloc and renum as sch 1 s 1.64

#### Clothes lines

sch 1 s 1.58 **orig sch 1 s 1.58**  
om [SL2008-8](#) s 30  
**prev sch 1 s 1.58**  
reloc and renum as sch 1 s 1.64A

#### Dish antennas

sch 1 s 1.59 ins [SL2008-8](#) s 29

#### Mast antennas

sch 1 s 1.60 ins [SL2008-8](#) s 29

#### Flag poles

sch 1 s 1.61 ins [SL2009-40](#) s 26

#### Other structures

sch 1  
subdiv 1.3.2.4 hdg ins [SL2010-8](#) s 27

#### Water tanks

sch 1 s 1.62 (prev sch 1 s 1.55) ins [SL2008-8](#) s 29  
am [SL2009-40](#) ss 22-24; [SL2010-8](#) s 23; pars renum R20 LA  
reloc and renum as sch 1 s 1.62 [SL2010-8](#) s 26

**External ponds**

sch 1 s 1.63 (prev sch 1 s 1.56) ins [SL2008-8](#) s 29  
 am [SL2009-40](#) s 25; pars renum R16 LA  
 reloc and renum as sch 1 s 1.63 [SL2010-8](#) s 26

**Animal enclosures**

sch 1 s 1.64 (prev sch 1 s 1.57) ins [SL2008-8](#) s 29  
 am [SL2010-8](#) s 24; pars renum R20 LA  
 reloc and renum as sch 1 s 1.64 [SL2010-8](#) s 26

**Clothes lines**

sch 1 s 1.64A (prev sch 1 s 1.58) ins [SL2008-8](#) s 29  
 am [SL2010-8](#) s 25; pars renum R20 LA  
 reloc and renum as sch 1 s 1.64A [SL2010-8](#) s 26

**Exempt developments—signs**

sch 1 div 1.3.3 hdg sub [SL2008-8](#) s 30

**Public works signs excluded—div 1.3.3**

sch 1 s 1.65 ins [SL2008-8](#) s 30  
 sub [SL2010-8](#) s 28

**Meaning of *prescribed general exemption criteria*—div 1.3.3**

sch 1 s 1.66 ins [SL2008-8](#) s 30  
 sub [SL2009-40](#) s 27

**Signs attached etc to buildings, structures and land**

sch 1 s 1.67 ins [SL2008-8](#) s 30  
 am [A2013-3](#) amdt 2.26

**Moveable signs in public places**

sch 1 s 1.68 ins [SL2008-8](#) s 30  
 am [A2013-3](#) amdt 2.27

**Temporary signs**

sch 1 s 1.69 ins [SL2008-8](#) s 30  
 am [A2013-3](#) amdt 2.28

**Signs—information about future urban areas**

sch 1 s 1.70 **orig s 1.70**  
 renum as s 1.75  
**pres s 1.70**  
 ins [SL2008-8](#) s 30

**Signs—required under Building Act**

sch 1 s 1.71 **orig s 1.71**  
 renum as s 1.76  
**pres s 1.71**  
 ins [A2011-54](#) s 14

**Exempt developments—community gardens**

sch 1 div 1.3.3A hdg ins [SL2012-18](#) s 15

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### **Definitions—div 1.3.3A**

sch 1 s 1.72      **orig s 1.72**  
renum as s 1.77  
**pres s 1.72**  
ins [SL2012-18](#) s 15  
def **boundary** ins [SL2012-18](#) s 15  
def **class 10a building** ins [SL2012-18](#) s 15  
def **class 10b structure** ins [SL2012-18](#) s 15  
def **community garden** ins [SL2012-18](#) s 15

### **Application—div 1.3.3A**

sch 1 s 1.73      **orig s 1.73**  
renum as s 1.78  
**pres s 1.73**  
ins [SL2012-18](#) s 15

### **Community gardens—general exemption criteria**

sch 1 s 1.74      ins [SL2012-18](#) s 15

### **Community gardens—class 10a building**

sch 1 s 1.74A      ins [SL2012-18](#) s 15

### **Community gardens—class 10b structures**

sch 1 s 1.74B      ins [SL2012-18](#) s 15

### **Community gardens—boundary clearance area**

sch 1 s 1.74C      ins [SL2012-18](#) s 15

### **Community gardens—water tanks**

sch 1 s 1.74D      ins [SL2012-18](#) s 15

### **Community gardens—ponds**

sch 1 s 1.74E      ins [SL2012-18](#) s 15

### **Community gardens—shade structures**

sch 1 s 1.74F      ins [SL2012-18](#) s 15

### **Lease variations—exempt developments**

sch 1 s 1.75      (prev s 1.70) renum as s 1.75 [SL2008-8](#) s 31  
sub [SL2009-40](#) s 28

### **Lease variations—withdrawal of part of land**

sch 1 s 1.76      (prev s 1.71) renum as s 1.76 [SL2008-8](#) s 31  
sub [SL2009-40](#) s 28

### **Lease variations—subdivision for unit titles**

sch 1 s 1.77      (prev s 1.72) renum as s 1.77 [SL2008-8](#) s 31  
sub [SL2009-40](#) s 28  
om [SL2010-8](#) s 29

**Lease variations—subdivisions**

sch 1 s 1.78 (prev s 1.73) renum as s 1.78 [SL2008-8](#) s 31  
 am [SL2008-33](#) s 17  
 sub [SL2009-40](#) s 28  
 am [SL2010-8](#) s 30

**Exempt developments—outdoor eating or drinking places**

sch 1 div 1.3.4A hdg ins [A2014-47](#) s 14

**Definitions—div 1.3.4A**

sch 1 s 1.79 ins [A2014-47](#) s 14  
 def **outdoor eating or drinking place** ins [A2014-47](#) s 14  
 def **public unleased land** ins [A2014-47](#) s 14

**Application—div 1.3.4A**

sch 1 s 1.80 om [SL2008-8](#) s 32  
 ins [A2014-47](#) s 14

**Outdoor eating or drinking places—general exemption criteria**

sch 1 s 1.81 **orig s 1.81**  
 renum as s 1.86 [SL2008-8](#) s 33  
**pres s 1.81**  
 ins [A2014-47](#) s 14

**Outdoor eating or drinking places—removable objects**

sch 1 s 1.82 ins [A2014-47](#) s 14

**Rural lease developments generally**

sch 1 s 1.85 ins [SL2008-8](#) s 32  
 am [SL2009-40](#) s 29; [A2014-59](#) amdt 2.91

**Rural leases—consolidation of rural leases**

sch 1 s 1.86 (prev s 1.81) renum as s 1.86 [SL2008-8](#) s 33

**Public works**

sch 1 s 1.90 am [SL2008-8](#) s 34, s 35  
 sub [SL2010-8](#) s 31  
 am [SL2012-18](#) ss 16-19; [A2014-59](#) amdt 2.92; [SL2015-38](#) s 4

**Public artworks**

sch 1 s 1.90A ins [SL2010-8](#) s 31  
 am [A2011-22](#) amdt 1.352

**Landscape works**

sch 1 s 1.91 om [SL2010-8](#) s 32

**Plantation forestry**

sch 1 s 1.92 am [A2015-12](#) s 43, s 44

**Waterway protection work**

sch 1 pt 1.93 am [A2011-22](#) amdt 1.352; [A2014-59](#) amdt 2.93

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### Temporary flood mitigation measures

sch 1 s 1.95 am [SL2008-8](#) s 36

### Exempt developments—schools

sch 1  
div 1.3.6A hdg ins [SL2009-8](#) s 4

### Preliminary

sch 1  
sdiv 1.3.6A.1 hdg ins [SL2009-8](#) s 4

### Definitions—div 1.3.6A

sch 1 s 1.96 ins [SL2009-8](#) s 4  
def *commencement day* ins [SL2009-8](#) s 4  
def *existing ground level* ins [SL2009-8](#) s 4  
def *existing school* ins [SL2009-8](#) s 4  
om [SL2009-39](#) s 4  
def *young child* ins [SL2009-8](#) s 4

### Meaning of *existing school*—div 1.3.6A

sch 1 s 1.96A ins [SL2009-39](#) s 5

### Meaning of *existing school campus*—regulation

sch 1 s 1.97 ins [SL2009-8](#) s 4

### Application—div 1.3.6A

sch 1 s 1.98 ins [SL2009-8](#) s 4

### General exemption criteria

sch 1 s 1.99 ins [SL2009-8](#) s 4

### Activities not developments

sch 1 s 1.99A ins [SL2009-8](#) s 4

### Review of division

sch 1 s 1.99B ins [SL2009-8](#) s 4  
exp 31 March 2013 (s 1.99B (6))

### Exemptions—schools

sch 1  
sdiv 1.3.6A.2 hdg ins [SL2009-8](#) s 4

### Schools—new buildings or alterations to buildings

sch 1 s 1.99C ins [SL2009-8](#) s 4  
am [SL2009-38](#) s 12; [SL2012-18](#) s 20  
(2)-(5) exp 27 March 2013 (s 1.99C (5) by Assembly resolution  
(see [NI2013-132](#)))

### Schools—minor alterations

sch 1 s 1.99D ins [SL2009-8](#) s 4  
exp 31 March 2013 (s 1.99D (2))



**Schools—entrances**

sch 1 s 1.99E ins [SL2009-8](#) s 4

**Schools—verandahs etc**

sch 1 s 1.99F ins [SL2009-8](#) s 4  
am [SL2009-38](#) s 12

**Schools—signs**

sch 1 s 1.99G ins [SL2009-8](#) s 4

**Schools—playground and exercise equipment**

sch 1 s 1.99H ins [SL2009-8](#) s 4

**Schools—fences**

sch 1 s 1.99I ins [SL2009-8](#) s 4

**Schools—shade structures**

sch 1 s 1.99J ins [SL2009-8](#) s 4

**Schools—covered external walkways**

sch 1 s 1.99K ins [SL2009-8](#) s 4  
am [SL2009-38](#) s 12

**Schools—flag poles**

sch 1 s 1.99L ins [SL2009-8](#) s 4

**Schools—water tanks**

sch 1 s 1.99M ins [SL2009-8](#) s 4  
am [SL2010-8](#) s 33

**Schools—landscape gardening**

sch 1 s 1.99N ins [SL2009-8](#) s 4

**Schools—car parks**

sch 1 s 1.99O ins [SL2009-8](#) s 4

**Schools—bicycle enclosures**

sch 1 s 1.99P ins [SL2009-8](#) s 4

**Schools—toilet and change room facilities**

sch 1 s 1.99Q ins [SL2009-8](#) s 4  
am [SL2009-38](#) s 12

**Schools—driveways**

sch 1 s 1.99R ins [SL2009-8](#) s 4

**Schools—security cameras**

sch 1 s 1.99S ins [SL2009-8](#) s 4

**Schools—external lighting**

sch 1 s 1.99T ins [SL2009-8](#) s 4

## Endnotes

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### **Schools—demountable and transportable buildings**

sch 1 s 1.99U ins [SL2009-8](#) s 4  
am [SL2009-38](#) s 12

### **Schools—class 10b structures**

sch 1 s 1.99V ins [SL2009-8](#) s 4  
am [SL2009-38](#) s 12

### **Compliant single dwellings—old residential land**

sch 1 s 1.100 hdg sub [SL2009-3](#) s 10; [SL2009-15](#) s 6  
sch 1 s 1.100 sub [SL2008-8](#) s 37  
am [SL2008-52](#) ss 4-6; ss and pars renum R6 LA; [SL2009-15](#)  
s 7, s 8; [SL2009-40](#) s 30, s 31; pars renum R16 LA  
sub [A2012-23](#) s 35  
am [SL2013-30](#) s 5; [A2014-45](#) s 34

### **Compliant single dwellings—new residential land**

sch 1 s 1.100AA ins [A2012-23](#) s 35  
am [A2014-45](#) s 35

### **Otherwise non-compliant single dwellings—old residential land**

sch 1 s 1.100A hdg sub [A2012-23](#) s 36  
sch 1 s 1.100A ins [SL2009-3](#) s 11  
sub [SL2009-15](#) s 9  
am [A2012-23](#) s 37, s 38

### **Otherwise non-compliant single dwellings—new residential land**

sch 1 s 1.100AB ins [A2012-23](#) s 39

### **Single dwellings—demolition**

sch 1 s 1.100B hdg sub [A2012-23](#) s 40  
sch 1 s 1.100B ins [SL2009-15](#) s10  
am [SL2012-18](#) s 21; [A2012-23](#) s 40; [A2013-19](#) amdt 3.237;  
[SL2013-30](#) s 6; [A2014-23](#) s 24

### **Buildings and structures—demolition**

sch 1 s 1.101 sub [SL2009-15](#) s 11  
am [SL2009-40](#) s 32; [SL2012-18](#) s 21; [A2014-23](#) s 25

### **Temporary use of land for emergency services training etc**

sch 1 s 1.102 am [SL2008-33](#) s 18

### **Utility and telecommunications services**

sch 1 s 1.103 am [SL2009-40](#) s 33

### **Landscape gardening**

sch 1 s 1.104 am [SL2008-8](#) s 38, s 39; [SL2010-37](#) ss 9-11; pars renum  
R25 LA  
am [A2013-3](#) amdt 2.29

**Resiting of buildings with development approval**

sch 1 s 1.106 sub [SL2008-8](#) s 40  
om [SL2008-33](#) s 19

**Resiting of exempt buildings**

sch 1 s 1.107 sub [SL2008-8](#) s 40  
om [SL2008-33](#) s 19

**Designated areas—developments not involving lease variations**

sch 1 s 1.109 sub [SL2008-8](#) s 41

**Rebuilding damaged buildings and structures**

sch 1 s 1.110 ins [SL2009-40](#) s 34  
am [A2011-52](#) amdt 3.159; [SL2012-42](#) s 4; ss renum R47 LA;  
[A2015-19](#) s 104

**Bores**

sch 1 s 1.111 ins [SL2009-40](#) s 34

**Subdivisions—Unit Titles Act**

sch 1 s 1.112 ins [SL2010-8](#) s 34

**Vehicle charging point**

sch 1 s 1.113 ins [SL2012-18](#) s 22

**Permitted open space boundary fence colours**

sch 1 pt 1.4 ins [SL2008-8](#) s 42

**Tables of exempt signs**

sch 1 pt 1.5 hdg note sub [SL2008-8](#) s 43

**Permitted variations to approved and exempt developments**

sch 1A hdg ins [SL2008-33](#) s 20

**Preliminary**

sch 1A pt 1A.1 hdg ins [SL2008-33](#) s 20

**Definitions—sch 1A**

sch 1A s 1A.1 ins [SL2008-33](#) s 20  
def **approved development** ins [SL2008-33](#) s 20  
def **exempt development** ins [SL2008-33](#) s 20  
def **sch 1 exempt development** ins [SL2008-33](#) s 20

**Permitted construction tolerances**

sch 1A pt 1A.2 hdg ins [SL2008-33](#) s 20

**Permitted variations—horizontal siting tolerances for buildings and structures**

sch 1A s 1A.10 ins [SL2008-33](#) s 20  
am [SL2009-3](#) s 12, s 13; ss renum R8 LA; [A2013-40](#) s 15;  
[SL2016-24](#) s 7; ss renum R80 LA

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### **Permitted variations—height tolerances for buildings and structures**

sch 1A s 1A.11 ins [SL2008-33](#) s 20  
am [SL2009-3](#) s 14; ss renum R8 LA; [A2013-40](#) s 16;  
[A2015-19](#) s 105, s 106; ss renum R70 LA; [SL2016-24](#) s 8; ss  
renum R80 LA

### **Other permitted variations**

sch 1A pt 1A.3 hdg ins [SL2008-33](#) s 20  
om [SL2009-3](#) s 15

### **Other permitted variations to approved developments and exempt developments**

sch 1A s 1A.20 ins [SL2008-33](#) s 20  
om [SL2009-3](#) s 15

### **Land not requiring community consultation for development proposal**

sch 1B ins [A2011-54](#) s 15

### **Limited public notification of certain merit track development applications**

sch 2 item 1 am [SL2008-8](#) s 44, s 45  
sch 2 item 7 ins [SL2009-9](#) s 5 (am never commenced [SL2009-9](#) rep by  
LA s 64 (2)); [SL2009-14](#) s 5  
exp 31 March 2013 (s 407 (2))  
ins [A2014-23](#) s 26  
sch 2 item 8 ins [SL2009-9](#) s 5 (am never commenced [SL2009-9](#) rep by  
LA s 64 (2)); [SL2009-14](#) s 5  
exp 31 March 2013 (s 407 (2))  
ins [A2014-23](#) s 26  
sch 2 item 9 ins [SL2009-31](#) s 8  
exp 30 June 2012 (s 407 (1))  
sch 2 item 10 ins [SL2009-31](#) s 8  
exp 30 June 2012 (s 407 (1))  
sch 2 item 11 ins [SL2009-31](#) s 8  
exp 30 June 2012 (s 407 (1))

### **Buyback program valuation procedure**

sch 2A hdg ins [SL2014-35](#) s 8

### **Definitions—sch 2A**

sch 2A s 2A.1 ins [SL2014-35](#) s 8  
def **Asbestos Response Taskforce** ins [SL2014-35](#) s 8  
def **assessment day** ins [SL2014-35](#) s 8  
def **reasonable value** ins [SL2014-35](#) s 8

### **Valuation as at assessment day, not including asbestos etc**

sch 2A s 2A.2 ins [SL2014-35](#) s 8

### **Accredited valuers to carry out valuation**

sch 2A s 2A.3 ins [SL2014-35](#) s 8

**Valuation to be given to lessee and Asbestos Response Taskforce**sch 2A s 2A.4 ins [SL2014-35](#) s 8**Presidential determination—request by Asbestos Response Taskforce**sch 2A s 2A.5 ins [SL2014-35](#) s 8**Buyback program valuation**sch 2A s 2A.6 ins [SL2014-35](#) s 8**Presidential determination—request by lessee**sch 2A s 2A.7 ins [SL2014-35](#) s 8**Presidential determination**sch 2A s 2A.8 ins [SL2014-35](#) s 8**Amount payable for surrender of affected lease**sch 2A s 2A.9 ins [SL2014-35](#) s 8**Matters exempt from third-party ACAT review**sch 3 hdg am [A2008-37](#) amdt 1.355**Definitions—sch 3**sch 3 s 3.1 def *Kingston Foreshore* ins [SL2011-30](#) s 4def *University of Canberra site* ins [SL2015-4](#) s 4**Merit track matters exempt from third-party ACAT review**sch 3 pt 3.2 hdg am [A2008-37](#) amdt 1.355sch 3 pt 3.2 item 4 am [SL2011-30](#) s 5sch 3 pt 3.2 item 5 am [SL2008-8](#) s 46sch 3 pt 3.2 item 6 am [SL2011-30](#) s 6; [A2015-19](#) s 107sch 3 pt 3.2 item 7 am [SL2011-30](#) s 7sch 3 pt 3.2 item 8 am [SL2008-8](#) s 47; [A2015-19](#) s 108sch 3 pt 3.2 item 9 am [SL2008-8](#) s 48; [SL2011-30](#) s 8; [A2015-12](#) s 45sch 3 pt 3.2 item 10 am [SL2008-8](#) s 49sch 3 pt 3.2 item 15 ins [A2014-26](#) amdt 1.2sch 3 pt 3.2 item 16 ins [SL2015-4](#) s 5sch 3 pt 3.2 item 17 ins [A2015-2](#) s 16am [A2015-2](#) s 17**Impact track matters exempt from third-party ACAT review**sch 3 pt 3.3 hdg am [A2008-37](#) amdt 1.355sch 3 pt 3.3 item 2 ins [A2014-26](#) amdt 1.3sch 3 pt 3.3 item 3 ins [A2015-2](#) s 18am [A2015-2](#) s 19**Maps**sch 3 pt 3.4 hdg sub [A2015-12](#) s 46**Gungahlin town centre**sch 3 div 3.4.3 sub [SL2012-18](#) s 23

## Endnotes

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### Kingston Foreshore

sch 3 div 3.4.6 ins [SL2011-30](#) s 9 (as am by [AR2012-1](#))

### University of Canberra site

sch 3 div 3.4.7 ins [SL2015-4](#) s 6

### Prescribed territory plan instruments

sch 4 ins [SL2008-8](#) s 50

### Modification of Act

sch 20 (prev sch 5) ins [SL2008-8](#) s 51  
am [SL2008-27](#) ss 4-7; [SL2008-33](#) ss 21-23  
renum as sch 20 [SL2008-33](#) s 24  
am [SL2008-41](#) ss 13-18; [SL2009-18](#) s 4, s 5; [SL2009-35](#) s 21;  
[SL2009-38](#) s 13  
om [A2009-30](#) s 36

### Modification of Act

sch 21 ins [SL2010-34](#) s 5  
mod 21.3 (s 468 renum as s 467A R24 LA)  
sch 21 exp 31 March 2013 (s 411 (2))

### Dictionary

dict am [SL2008-33](#) s 25; [A2008-28](#) amdt 3.139; [A2008-37](#)  
amdt 1.354; [SL2009-31](#) s 9; [SL2009-41](#) s 8; [A2010-37](#) s 56;  
[A2011-19](#) s 24; [SL2011-22](#) s 6; [A2014-26](#) amdt 1.4;  
[SL2014-35](#) s 9; [A2014-41](#) amdt 1.7; [A2015-2](#) s 20; [A2015-19](#)  
s 109, s 110  
def **added value** ins [A2011-19](#) s 25  
sub [SL2011-22](#) s 7  
def **affected lease** ins [SL2014-35](#) s 10  
def **affected residential premises** ins [SL2014-35](#) s 10  
def **affected residential premises register** ins [SL2015-31](#) s 7  
def **approved development** ins [SL2008-33](#) s 26  
def **Asbestos Response Taskforce** ins [SL2014-35](#) s 10  
def **assessment day** ins [SL2014-35](#) s 10  
def **Australian National University** exp 5 April 2020  
(s 402 (h))  
def **basic paling fence** ins [SL2008-8](#) s 52  
def **Belconnen town centre** am [A2008-37](#) amdt 1.355  
def **block** sub [A2015-19](#) s 111  
def **boundary** ins [SL2012-18](#) s 24  
def **buyback program** ins [SL2014-35](#) s 10  
om [A2015-42](#) s 50  
def **buyback program valuation** ins [SL2014-35](#) s 10  
def **buyback program valuation procedure** ins [SL2014-35](#)  
s 10  
def **city centre** am [A2008-37](#) amdt 1.355  
def **City West precinct** exp 5 April 2020 (s 402 (h))

def **City West precinct deed** exp 5 April 2020 (s 402 (h))  
 def **class 10a building** ins [SL2008-8](#) s 52  
     sub [SL2012-18](#) s 25  
 def **class 10b structure** ins [SL2012-18](#) s 26  
 def **clearing** sub [A2014-59](#) amdt 2.94  
 def **commencement day** ins [SL2009-8](#) s 6  
 def **Commonwealth entity** om [A2010-37](#) s 57  
 def **community garden** ins [SL2012-18](#) s 27  
 def **community organisation** om [A2010-37](#) s 57  
 def **corrections facility** am [A2008-37](#) amdt 1.355  
 def **declared funding program** ins [SL2009-14](#) s 6  
     exp 31 March 2013 (s 407 (2))  
 def **designated development** sub [SL2008-33](#) s 27  
 def **educational establishment** am [A2013-19](#) amdt 3.238  
 def **exempt development** ins [SL2008-33](#) s 28  
 def **existing ground level** ins [SL2009-8](#) s 6  
 def **existing school** ins [SL2009-8](#) s 6  
     sub [A2011-52](#) amdt 3.160  
 def **existing school campus** ins [SL2009-8](#) s 6  
 def **finished floor level** sub [SL2008-33](#) s 29  
 def **general exemption criteria** sub [SL2008-33](#) s 29  
 def **Gungahlin town centre** am [A2008-37](#) amdt 1.355  
 def **height** sub [SL2008-8](#) s 53  
 def **holding lease** ins [SL2008-52](#) s 7  
 def **inquiry panel** om [A2008-28](#) amdt 3.140  
 def **Kingston Foreshore** ins [SL2011-30](#) s 10  
 def **LAIE buyback program valuation procedure** ins  
     [A2015-42](#) s 51  
 def **loose-fill asbestos insulation** ins [SL2014-35](#) s 10  
     am [A2015-6](#) amdt 1.14  
 def **loose-fill asbestos insulation eradication buyback  
 program (LAIE buyback program)** ins [A2015-42](#) s 51  
 def **multi-unit housing** ins [SL2009-31](#) s 10  
     exp 30 June 2012 (s 407 (1))  
 def **native vegetation** sub [A2014-59](#) amdt 2.94  
 def **native vegetation area** ins [A2014-59](#) amdt 2.95  
 def **open space boundary** ins [SL2008-8](#) s 54  
 def **owner** ins [A2015-19](#) s 112  
 def **party wall** ins [SL2013-30](#) s 7  
 def **period of extension** ins [SL2008-41](#) s 19  
     om [A2009-30](#) s 37  
 def **presidential determination** ins [SL2014-35](#) s 10  
 def **presidential valuer** ins [SL2014-35](#) s 10  
 def **reasonable value** ins [SL2014-35](#) s 10  
 def **recently commenced lease** am [A2011-19](#) s 26  
 def **relevant solar building envelope** ins [SL2016-24](#) s 9  
 def **retirement complex** ins [SL2011-37](#) s 7

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def ***sch 1 exempt development*** ins [SL2008-33](#) s 30  
def ***surface water*** sub [SL2008-33](#) s 31  
def ***territory entity*** om [A2010-37](#) s 57  
def ***town centre*** am [A2008-37](#) amdt 1.355  
def ***Tuggeranong town centre*** am [A2008-37](#) amdt 1.355  
def ***University of Canberra site*** ins [SL2015-4](#) s 7  
def ***Woden town centre*** am [A2008-37](#) amdt 1.355  
def ***young child*** ins [SL2009-8](#) s 6



## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 31 Mar 2008	31 Mar 2008– 30 June 2008	<a href="#">SL2008-8</a>	new regulation and amendments by <a href="#">SL2008-8</a>
R2 1 July 2008	1 July 2008– 5 Aug 2008	<a href="#">SL2008-27</a>	amendments by <a href="#">SL2008-27</a>
R3 6 Aug 2008	6 Aug 2008– 25 Aug 2008	<a href="#">SL2008-33</a>	amendments by <a href="#">SL2008-33</a>
R4 26 Aug 2008	26 Aug 2008– 15 Sept 2008	<a href="#">A2008-28</a>	amendments by <a href="#">A2008-28</a>
R5 16 Sept 2008	16 Sept 2008– 22 Dec 2008	<a href="#">SL2008-41</a>	amendments by <a href="#">SL2008-41</a>
R6 23 Dec 2008	23 Dec 2008– 1 Feb 2009	<a href="#">SL2008-52</a>	amendments by <a href="#">SL2008-52</a>
R7 2 Feb 2009	2 Feb 2009– 24 Feb 2009	<a href="#">SL2008-52</a>	amendments by <a href="#">A2008-37</a>
R8 25 Feb 2009	25 Feb 2009– 23 Mar 2009	<a href="#">SL2009-3</a>	amendments by <a href="#">SL2009-3</a>
R9 24 Mar 2009	24 Mar 2009– 2 Apr 2009	<a href="#">SL2009-9</a>	amendments by <a href="#">SL2009-8</a>
R10 3 Apr 2009	3 Apr 2009– 23 Apr 2009	<a href="#">SL2009-8</a>	repeal of <a href="#">SL2009-9</a> under LA s 64 (2)
R11 24 Apr 2009	24 Apr 2009– 24 Apr 2009	<a href="#">SL2009-14</a>	amendments by <a href="#">SL2009-14</a>
R12 25 Apr 2009	25 Apr 2009– 7 May 2009	<a href="#">SL2009-15</a>	amendments by <a href="#">SL2009-15</a>

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Republication No and date	Effective	Last amendment made by	Republication for
R13 8 May 2009	8 May 2009– 23 June 2009	<a href="#">SL2009-18</a>	amendments by <a href="#">SL2009-18</a>
R14 24 June 2009	24 June 2009– 30 June 2009	<a href="#">SL2009-31</a>	amendments by <a href="#">SL2009-31</a>
R15 1 July 2009	1 July 2009– 23 July 2009	<a href="#">SL2009-35</a>	amendments by <a href="#">SL2009-35</a>
R16 24 July 2009	24 July 2009– 5 Aug 2009	<a href="#">SL2009-40</a>	amendments by <a href="#">SL2009-38</a> , <a href="#">SL2009-39</a> and <a href="#">SL2009-40</a>
R17 6 Aug 2009	6 Aug 2009– 1 Oct 2009	<a href="#">SL2009-41</a>	amendments by <a href="#">SL2009-41</a>
R18 2 Oct 2009	2 Oct 2009– 25 Feb 2010	<a href="#">A2009-30</a>	commenced expiry and amendments by <a href="#">A2009-30</a>
R19 26 Feb 2010	26 Feb 2010– 12 Mar 2010	<a href="#">A2010-4</a>	amendments by <a href="#">A2010-4</a>
R20 13 Mar 2010	13 Mar 2010– 29 Mar 2010	<a href="#">SL2010-8</a>	amendments by <a href="#">SL2010-8</a>
R21 30 Mar 2010	30 Mar 2010– 6 May 2010	<a href="#">SL2010-11</a>	amendments by <a href="#">SL2010-11</a>
R22 7 May 2010	7 May 2010– 21 June 2010	<a href="#">SL2010-14</a>	amendments by <a href="#">A2010-14</a>
R23 22 June 2010	22 June 2010– 12 August 2010	<a href="#">SL2010-22</a>	amendments by <a href="#">SL2010-22</a>
R24 13 Aug 2010	13 Aug 2010– 7 Sept 2010	<a href="#">SL2010-34</a>	amendments by <a href="#">SL2010-34</a>
R25 8 Sept 2010	8 Sept 2010– 6 Oct 2010	<a href="#">SL2010-37</a>	amendments by <a href="#">SL2010-37</a>
R26 7 Oct 2010	7 Oct 2010– 1 Dec 2010	<a href="#">A2010-37</a>	amendments by <a href="#">A2010-37</a>
R27 2 Dec 2010	2 Dec 2010– 31 Jan 2011	<a href="#">A2010-37</a>	commenced expiry

<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R28 1 Feb 2011	1 Feb 2011– 21 Feb 2011	<a href="#">A2010-56</a>	amendments by <a href="#">A2010-56</a>
R29 22 Feb 2011	22 Feb 2011– 30 June 2011	<a href="#">SL2011-5</a>	amendments by <a href="#">SL2011-5</a>
R30 1 July 2011	1 July 2011– 6 July 2011	<a href="#">A2011-22</a>	amendments by <a href="#">A2011-22</a>
R31 7 July 2011	7 July 2011– 7 July 2011	<a href="#">A2011-23</a>	amendments by <a href="#">A2011-23</a>
R32 8 July 2011	8 July 2011– 15 July 2011	<a href="#">SL2011-21</a>	amendments by <a href="#">SL2011-21</a>
R33 16 July 2011	16 July 2011– 1 Nov 2011	<a href="#">SL2011-22</a>	amendments by <a href="#">SL2011-22</a>
R34 2 Nov 2011	2 Nov 2011– 14 Nov 2011	<a href="#">SL2011-22</a>	expiry of provision (s 210 (3), (4))
R35 15 Nov 2011	15 Nov 2011– 11 Dec 2011	<a href="#">SL2011-30</a>	amendments by <a href="#">SL2011-30</a>
R36 12 Dec 2011	12 Dec 2011– 16 Dec 2011	<a href="#">A2011-52</a>	amendments by <a href="#">A2011-52</a>
R37 17 Dec 2011	17 Dec 2011– 20 Feb 2012	<a href="#">SL2011-37</a>	amendments by <a href="#">SL2011-37</a>
R38 21 Feb 2012	21 Feb 2012– 29 Mar 2012	<a href="#">AR2012-1</a>	amendments by <a href="#">SL2011-30</a> as amended by <a href="#">AR2012-1</a>
R39 30 Mar 2012	30 Mar 2012– 10 May 2012	<a href="#">AR2012-1</a>	amendments by <a href="#">A2011-41</a>
R40 11 May 2012	11 May 2012– 17 May 2012	<a href="#">SL2012-18</a>	amendments by <a href="#">SL2012-18</a>
R41 18 May 2012	18 May 2012– 28 May 2012	<a href="#">SL2012-19</a>	amendments by <a href="#">SL2012-19</a>
R42 29 May 2012	29 May 2012– 21 June 2012	<a href="#">A2012-23</a>	amendments by <a href="#">A2012-23</a>
R43 22 June 2012	22 June 2012– 30 June 2012	<a href="#">SL2012-23</a>	amendments by <a href="#">SL2012-23</a>

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5 Earlier republications

Republication No and date	Effective	Last amendment made by	Republication for
R44 1 July 2012	1 July 2012– 1 July 2012	<a href="#">SL2012-23</a>	expiry of provisions (s 27 (4), s 28 (2), sch 2 items 9-11, and def <b>multi-unit housing</b> (dict))
R45 2 July 2012	2 July 2012– 13 Sept 2012	<a href="#">SL2012-23</a>	expiry of provision (s 170C)
R46 14 Sept 2012	14 Sept 2012– 20 Sept 2012	<a href="#">SL2012-40</a>	amendments by <a href="#">SL2012-40</a>
R47 21 Sept 2012	21 Sept 2012– 12 Dec 2012	<a href="#">SL2012-42</a>	amendments by <a href="#">SL2012-42</a>
R48 13 Dec 2012	13 Dec 2012– 27 Mar 2013	<a href="#">SL2012-42</a>	amendments by <a href="#">A2011-54</a> and <a href="#">A2012-23</a>
R49 28 Mar 2013	28 Mar 2013– 31 Mar 2013	<a href="#">SL2012-42</a>	expiry of provisions (s 1.99C (2)-(5) by Assembly resolution (see NI2013-132)
R50 1 Apr 2013	1 Apr 2013– 21 May 2013	<a href="#">SL2012-42</a>	expiry of provisions (ss 405-407, s 411, sch 1 s 1.99B, sch 1 s 1.99D, sch 2 items 7, 8, sch 21 and def <b>declared funding program</b> (dict))
R51 22 May 2013	22 May 2013– 13 June 2013	<a href="#">A2013-15</a>	amendments by <a href="#">A2013-15</a>
R52 14 June 2013	14 June 2013– 30 June 2013	<a href="#">A2013-23</a>	amendments by <a href="#">A2013-19</a> and <a href="#">A2013-23</a>
R53* 1 July 2013	1 July 2013– 23 Aug 2013	<a href="#">A2013-23</a>	amendments by <a href="#">A2013-3</a>
R54 24 Aug 2013	24 Aug 2013– 5 Dec 2013	<a href="#">SL2013-22</a>	amendments by <a href="#">SL2013-22</a>

Republication No and date	Effective	Last amendment made by	Republication for
R55 6 Dec 2013	6 Dec 2013– 26 Jan 2014	<a href="#">SL2013-30</a>	amendments by <a href="#">SL2013-30</a>
R56 27 Jan 2014	27 Jan 2014– 20 May 2014	<a href="#">A2013-40</a>	amendments by <a href="#">A2013-40</a>
R57 21 May 2014	21 May 2014– 26 May 2014	<a href="#">A2014-13</a>	amendments by <a href="#">A2014-13</a>
R58 27 May 2014	27 May 2014– 12 June 2014	<a href="#">A2014-23</a>	amendments by <a href="#">A2014-23</a>
R59* 13 June 2014	13 June 2014– 5 Nov 2014	<a href="#">A2014-26</a>	amendments by <a href="#">A2014-26</a>
R60 6 Nov 2014	6 Nov 2014– 6 Nov 2014	<a href="#">A2014-45</a>	amendments by <a href="#">A2014-45</a>
R61 7 Nov 2014	7 Nov 2014– 19 Nov 2014	<a href="#">A2014-47</a>	amendments by <a href="#">A2014-47</a>
R62 20 Nov 2014	20 Nov 2014– 18 Dec 2014	<a href="#">A2014-48</a>	amendments by <a href="#">A2014-48</a>
R63 19 Dec 2014	19 Dec 2014– 19 Feb 2015	<a href="#">SL2014-35</a>	amendments by <a href="#">SL2014-35</a>
R64 20 Feb 2015	20 Feb 2015– 1 Apr 2015	<a href="#">SL2015-5</a>	amendments by <a href="#">SL2015-4</a> and <a href="#">SL2015-5</a>
R65 2 Apr 2015	2 Apr 2015– 16 Apr 2015	<a href="#">A2015-2</a>	amendments by <a href="#">A2014-41</a> and <a href="#">A2015-2</a>
R66 17 Apr 2015	17 Apr 2015– 20 May 2015	<a href="#">A2015-6</a>	amendments by <a href="#">A2015-6</a>
R67 21 May 2015	21 May 2015– 9 June 2015	<a href="#">A2015-12</a>	amendments by <a href="#">A2015-12</a>
R68 10 June 2015	10 June 2015– 10 June 2015	<a href="#">A2015-15</a>	amendments by <a href="#">A2015-15</a>
R69 11 June 2015	11 June 2015– 30 June 2015	<a href="#">A2015-15</a>	amendments by <a href="#">A2014-59</a>
R70 1 July 2015	1 July 2015– 21 Sept 2015	<a href="#">A2015-19</a>	amendments by <a href="#">A2015-19</a>

## Endnotes

### 5 Earlier republications

Republication No and date	Effective	Last amendment made by	Republication for
R71 22 Sept 2015	22 Sept 2015- 6 Oct 2015	<a href="#">SL2015-30</a>	amendments by <a href="#">SL2015-30</a>
R72 7 Oct 2015	7 Oct 2015- 12 Nov 2015	<a href="#">SL2015-31</a>	amendments by <a href="#">SL2015-31</a>
R73 13 Nov 2015	13 Nov 2015- 26 Nov 2015	<a href="#">A2015-42</a>	amendments by <a href="#">A2015-42</a>
R74 27 Nov 2015	27 Nov 2015- 23 Feb 2016	<a href="#">SL2015-38</a>	amendments by <a href="#">SL2015-38</a>
R75 24 Feb 2016	24 Feb 2016- 18 Mar 2016	<a href="#">A2016-2</a>	amendments by <a href="#">A2016-2</a>
R76 19 Mar 2016	19 Mar 2016- 8 April 2016	<a href="#">SL2016-6</a>	amendments by <a href="#">SL2016-6</a>
R77 9 Apr 2016	9 Apr 2016- 14 Apr 2016	<a href="#">SL2016-7</a>	amendments by <a href="#">SL2016-7</a>
R78 15 Apr 2016	15 Apr 2016- 11 May 2016	<a href="#">A2016-21</a>	amendments by <a href="#">A2016-21</a>
R79 12 May 2016	12 May 2016- 6 Sept 2016	<a href="#">A2016-24</a>	amendments by <a href="#">A2016-24</a>
R80 7 Sept 2016	7 Sept 2016- 16 Feb 2017	<a href="#">SL2016-24</a>	amendments by <a href="#">SL2016-24</a>

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