



Australian Capital Territory

Land (Planning and Environment) Regulations¹ (Amendment)

Subordinate Law No. 16 of 1997²

The Australian Capital Territory Executive makes the following Regulations under the *Land (Planning and Environment) Act 1991*.

Dated 19 June 1997.

GARY HUMPHRIES
Minister

TREVOR KAINE
Minister

Commencement

1. (1) This regulation and regulation 2 commence on the day on which these regulations are notified in the *Gazette*.

(2) The remaining regulations commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

Principal Regulations

2. In these Regulations, “Principal Regulations” means the Land (Planning and Environment) Regulations.

Insertion

3. Before regulation 1 of the Principal Regulations the following heading is inserted:

“PART I—PRELIMINARY”.

Interpretation

4. Regulation 2 of the Principal Regulations is amended—

- (a) by omitting from subregulation (1) the definition of “public money of the Territory”;
- (b) by inserting in subregulation (1) the following definitions:

“ ‘adjoining’, in relation to a parcel of land which is proposed to be the subject of a development, means abutting the parcel, or separated from it only by a road, reserve, river, watercourse, or any similar division;

‘community use’ includes the uses defined as such in the Plan, but is not limited to those uses;

‘consolidation’ has the meaning given by subsection 159 (1) of the Act;

‘development’ has the meaning given by subsection 222 (1) of the Act;

‘exempt building or structure’ means—

- (a) a retaining wall that does not exceed 1 metre in height;
- (b) a carport—
 - (i) the plan area of which does not exceed 25 square metres; and
 - (ii) the height of which does not exceed 3 metres;
- (c) a pergola—
 - (i) in the case of a roofed pergola—the plan area of which does not exceed 25 square

- metres, and that does not project above the line of any adjacent guttering; and
- (ii) in any case—the height of which does not exceed 3 metres;
- (d) a shed, gazebo, greenhouse or similar structure—
 - (i) the plan area of which does not exceed 10 square metres; and
 - (ii) the height of which does not exceed 3 metres;
- (e) an external deck, terrace or landing, or external stairs, the height of which does not exceed 1 metre;
- (f) an antenna or aerial the height of which does not exceed 5 metres;
- (g) a swimming pool the capacity of which does not exceed 10 cubic metres that is designed to be installed above ground level;
- (h) an outdoor ornamental pond the depth of which does not exceed 300 millimetres;
- (i) a barbecue or other structure—
 - (i) the plan area of which does not exceed 2 square metres; and
 - (ii) the height of which does not exceed 1.8 metres; or
- (j) a water tank—
 - (i) the capacity of which does not exceed 17 kilolitres; and
 - (ii) the height of which does not exceed 2.4 metres;

‘height’, in relation to a building or structure, means the vertical distance from natural ground level to the highest point of the building or structure;

‘minor development’ means a development in relation to land, other than a lease variation, that a reasonable person

would consider to be of a minor nature, having regard to the following matters:

- (a) the views to and from the adjoining land;
- (b) the overshadowing of the adjoining land;
- (c) the privacy of the adjoining land;
- (d) the likelihood of the adjoining land being detrimentally affected by noise at the time the development is carried out or at any time in the future;
- (e) the local streetscape;
- (f) any other potential loss of amenity;
- (g) the nature, scale and any possible environmental effects of the development, including potential pollution of any sort;
- (h) any further criteria determined by the Minister by instrument;

‘minor landscape works’ means landscaping consisting of a minor development involving tree, shrub or ground cover planting or removal, grassing, paving, earthworks, drainage works, batter treatment, irrigation or erosion control, being a development affecting no area of remnant native grassland greater than 0.5 hectare;

‘rear boundary’ means a boundary which does not meet a front boundary;

‘relevant authority’ has the meaning given by subsection 222 (1) of the Act;

‘reticulated services’ means services (being electricity, water, drainage, gas, communications or similar services) the provision of which allows for direct access to and use of such services by the occupiers of individual parcels of land;

‘side boundary’ means a boundary which meets a front boundary;

‘subdivision’ has the meaning given by subsection 159 (1) of the Act;

‘Territory Land’ has the same meaning as in the *Australian Capital Territory (Planning and Land Management) Act 1988* of the Commonwealth;

‘variation’, in relation to a lease, has the meaning given by subsection 222 (3) of the Act;”;

(c) by adding at the end the following subregulation:

“(3) In these regulations—

- (a) a word or phrase has the same meaning as in the Plan, unless the contrary intention appears in these regulations or in the Act; and
- (b) a reference to an Area by means of a particular description (for example, ‘Residential Area’ or ‘Group Centre Area’) is to be taken to be a reference to the area governed by the Land Use Policy under the Plan having that description.”.

Insertion

5. After regulation 2 of the Principal Regulations the following heading is inserted:

“PART II—ENVIRONMENTAL ASSESSMENTS”.

Repeal

6. Regulations 3 and 10 of the Principal Regulations are repealed.

Insertion

7. Before regulation 11 of the Principal Regulations the following headings are inserted:

“PART III—LAND ADMINISTRATION

“Division 1—Leases”.

Insertion

8. After regulation 11 of the Principal Regulations the following regulation is inserted:

Confidential services and special dwellings—s. 175 (3) (a)

“11AA. For the purposes of paragraph 175 (3) (a) of the Act, developments of the following type are prescribed developments:

- (a) the use of premises for the provision of confidential services (such as a domestic crisis service), if the Minister has, by instrument, determined that it is in the public interest for the development to be so prescribed;
- (b) the use of residential premises as a special dwelling within the meaning of the Plan.”.

Insertion

9. After regulation 11AA of the Principal Regulations, as inserted by regulation 8 of these regulations, the following regulation is inserted:

Heavy vehicle parking (lease purposes)—s. 175 (3) (b)

“11AB. (1) For the purposes of paragraph 175 (3) (b) of the Act, the parking of a heavy vehicle on residential land in accordance with the Code of Practice is a prescribed activity.

“(2) In subregulation (1)—

‘Code of Practice’ means the code of practice approved under section 150M of the *Motor Traffic Act 1936*, being that code as in force from time to time;

‘heavy vehicle’ has the meaning given by section 150F of the *Motor Traffic Act 1936*.”.

Substitution

10. Regulations 16 and 17 of the Principal Regulations are repealed and the following headings and regulation are substituted:

“PART IV—APPROVALS AND ORDERS

“Division 1—Approvals

Prescribed period—s. 230 (2)

“16. (1) The prescribed period for the purposes of subsection 230 (2) of the Act in relation to an application to undertake a development is—

- (a) 30 working days after the date of the application;

- (b) if an objection is made under section 237 of the Act within 30 working days after the date of the application—45 working days after the date of the application; and
- (c) if the period referred to in paragraph (a) or (b) is extended pursuant to this regulation—the extended period.

“(2) If the applicant is directed to prepare a preliminary assessment under section 113 of the Act in relation to the application, the initial period is extended by a period of the same length as the period commencing on the day on which the direction is given and ending 42 days after the day on which the applicant submits the preliminary assessment to the Environment Minister.

“(3) If an Assessment is directed under section 121 of the Act in relation to the application, the initial period, as extended pursuant to subregulation (2), is further extended by a period of the same length as the period commencing on the day on which the Assessment is directed and ending on the day on which the report under section 131 of the Act is completed.

“(4) If a panel is established to conduct an Inquiry in relation to the application, the initial period, as extended (if at all) pursuant to subregulation (2) or (3), is extended, or further extended, by a period of the same length as the period commencing on the day on which the panel is established and ending on the day on which the panel’s report is laid before the Legislative Assembly under subsection 141 (1) of the Act.

“(5) The Minister may extend, or further extend, the initial period, as extended (if at all) pursuant to subregulation (2), (3) or (4), upon the written application of the applicant before the expiration of that period, or of the latest extended period, as the case may be.

“(6) In this regulation—

‘initial period’, in relation to an application, means the period referred to in paragraph (1) (a) or (b), as the case requires.”.

Prescribed period—s. 237 (1)

11. Regulation 18 of the Principal Regulations is amended—

- (a) by inserting “in relation to an application for development” after “prescribed period”; and
- (b) by omitting paragraphs (a) and (b) and substituting the following paragraphs:

- “(a) the period of 21 days commencing on the date of publication of notice of the application in a daily newspaper under paragraph 229 (1) (b) of the Act;
- (b) if paragraph 229 (1) (b) and subsection 229 (5) of the Act do not apply in relation to the development (by virtue of subregulation 22 (2))—the period of 14 days after the latest notice of the application was given under paragraph 229 (1) (a) of the Act; or
- (c) if paragraphs 229 (1) (a) and (b) and subsection 229 (5) of the Act do not apply in relation to the development (by virtue of subregulation 22 (1))—the period commencing on the day the application is made and ending at the expiration of the day before the day the application is approved or refused.”.

Substitution

12. Regulation 19 of the Principal Regulations is repealed and the following heading substituted.

“Division 2—Orders”.

Prescribed periods—s. 256 (6)

13. Regulation 20 of the Principal Regulation is amended—

- (a) by omitting from subparagraphs (a) (i), (b) (i), (c) (i) and (d) (i) “2 or 3 of Schedule 5 of” and substituting “1, 5 or 6 of Schedule 5 to”; and
- (b) by adding at the end the following subregulation:

“(2) In the application of subregulation (1) to an application under subsection 256 (1) of the Act for an order in respect of a development referred to in item 6 of Schedule 5 to the Act, a reference to an application for approval to conduct the development in respect of which the order is sought is to be read as a reference to an application for retrospective approval in respect of a development that was undertaken without approval, as referred to in subsection 226 (5) of the Act.”.

Substitution

14. Regulations 21 and 22 of the Principal Regulations are repealed and the following Division is substituted:

“Division 3—Exemptions from Part VI

Absolute exemptions from Part VI

“21. (1) For the purposes of paragraph 282 (da) of the Act, Part VI of the Act does not apply to a development listed in Schedule 1 to these regulations.

“(2) For the purposes of paragraph 282 (da) of the Act, Part VI of the Act does not apply to a development listed in Schedule 2 to these regulations if the development (as proposed) is consistent with a guideline or standard adopted by the Authority for the purposes of this subregulation, being a guideline or standard that relates to such a development.

“(3) For the purposes of paragraph 282 (da) of the Act, Part VI of the Act does not apply to a development listed in Schedule 3A to these regulations if the development is consistent with an approved implementation plan under the *Buildings (Design and Siting) Act 1964*.

“(4) Subregulations (1), (2) and (3) do not apply in relation to a development, other than the development listed at item 1 of Schedule 1, if—

- (a) the development is part of, or is carried out in association with, a development to which Part VI of the Act applies;
- (b) the development may be inconsistent with the requirements for the conservation of the heritage significance of a place, being requirements included in the Heritage Places Register or an interim Heritage Places Register; or
- (c) the development would be inconsistent with a condition of an approval, a provision of a lease or an agreement collateral to the grant of a lease.

Notification exemptions—ss. 229 (1) and (5)

“22. (1) For the purposes of paragraph 282 (da) of the Act, a development listed in Schedule 4 to these regulations is exempt from the application of subsections 229 (1) and (5) of the Act.

“(2) For the purposes of paragraph 282 (da) of the Act, a development listed in Schedule 5 to these regulations is exempt from the application of paragraph 229 (1) (b) and subsection 229 (5) of the Act.

“(3) Subregulations (1) and (2) do not apply in relation to a development if—

- (a) the development is part of, or is carried out in association with, a development not subject to an exemption—
 - (i) under this regulation; or
 - (ii) under regulation 21; or
- (b) the development may, in the opinion of the Minister, be inconsistent with the requirements for the conservation of the heritage significance of a place, being requirements included in the Heritage Places Register or an interim Heritage Places Register.

Exclusion of appeals by applicants—s. 275

“23. (1) For the purposes of paragraph 282 (da) of the Act, section 275 of the Act does not apply in relation to a decision of the relevant authority about a development listed in Schedule 6 to these regulations.

“(2) If a decision of the relevant authority relates to more than 1 development, subregulation (1) excludes from the application of section 275 of the Act only that aspect of the decision that concerns any development listed in Schedule 6 to these regulations.

Exclusion of appeals by objectors—s. 276

“24. (1) For the purposes of paragraph 282 (da) of the Act, section 276 of the Act does not apply in relation to a decision of the relevant authority about a development listed in Schedule 7 to these regulations.

“(2) If a decision of the relevant authority relates to more than 1 development, subregulation (1) excludes from the application of section 276 of the Act only that aspect of the decision that concerns any development listed in Schedule 7 to these regulations.

“(3) Subregulation (1) does not apply in relation to a development if the development may be inconsistent with the requirements for the conservation of the heritage significance of a place, being requirements included in the Heritage Places Register or an interim Heritage Places Register.”.

Substitution of Schedules

15. (1) Schedules 1 and 2 of the Principal Regulations are repealed and the Schedules in the Schedule to these regulations substituted.

(2) With effect from the day on which regulation 9 of Subordinate Law No. 7 of 1997 commences—

- (a) Schedule 3A to the Principal Regulations, as inserted by subregulation (1) of this regulation, is renumbered as “Schedule 3”; and
- (b) the reference to that Schedule in subregulation 21 (3) of the Principal Regulations, as inserted by regulation 14 of these regulations, is amended accordingly.

Transitional developments

16. (1) Regulation 18 of the Principal Regulations, as in force immediately before the commencement of this regulation, continues to apply in relation to a transitional development as if regulation 11 of these regulations had not been made.

(2) Subregulations 21 (4) to (9) (inclusive) of the Principal Regulations, as in force immediately before the commencement of this regulation, continue to apply in relation to a transitional development consisting of an activity referred to in those subregulations as if—

- (a) regulation 14 of these regulations had not been made; and
- (b) the references in subregulations 21 (6A) and (7) of the Principal Regulations to Schedule 4 of the Act were references to that Schedule as in force at the time the application for the transitional development was made.

(3) Where, before the commencement of this regulation, a transitional external design and siting application had been made—

- (a) the amendments to the Principal Regulations effected by regulation 14 of these regulations do not apply in relation to the transitional development applied for; and
- (b) section 229 or 276 of the Act, or both, does not (or do not) apply in relation to the transitional development applied for, to the extent to which either or both of those sections did not (by virtue of regulation 8A or 9 of the Buildings (Design and Siting) Regulations) apply in relation to the application at the time it was made.

(4) Where, before the commencement of this regulation, a transitional application had been made for a transitional development in relation to which the Plan specified circumstances pursuant to subparagraph 7 (3) (c)

(ii) of the Act in which persons are not entitled to apply for the review of decisions under section 275 or 276 of the Act, or both—

- (a) the amendments to the Principal Regulations effected by regulation 14 of these regulations do not apply in relation to the transitional development; and
- (b) section 275 or 276 of the Act, or both, as the case may be, does not (or do not) apply in relation to any decision made in respect of the transitional development in relation to which those circumstances apply.

(5) In this regulation—

“transitional development” means a development in respect of which a transitional application has been made within the meaning of subsection 124 (1) of the *Land (Planning and Environment) (Amendment) Act (No. 3) 1996*;

“transitional external design and siting application” means a transitional application within the meaning of subsection 124 (1) of the *Land (Planning and Environment) (Amendment) Act (No. 3) 1996* for a transitional development consisting of an external design and siting approval under the *Buildings (Design and Siting) Act 1964*.

SCHEDULE 1

UNCONDITIONAL EXEMPTIONS FROM PART VI OF THE ACT

Item	Exemption
1.	A development carried out by or on behalf of the Territory in an emergency to protect the health or safety of the public, or for the protection of public property.
2.	Internal alteration of a building, where— <ul style="list-style-type: none">(a) in the case of a residential building—the alteration would not increase the number of dwellings within the building;(b) in the case of a commercial building—the alteration would not increase the building’s gross floor area; and(c) in any case—the alteration would not result in the building’s being classified differently under the classification scheme set out in the Building Code within the meaning of the <i>Building Act 1972</i>.
3.	Construction, alteration or demolition of a building or structure, or the carrying out of earthworks or other construction work, where— <ul style="list-style-type: none">(a) the development is to be conducted on or in relation to Territory Land leased for rural purposes, or for purposes including rural purposes;(b) the development is a minor development; and(c) the development is reasonably connected with those rural purposes.
4.	Variation of a lease pursuant to a provision of the lease to effect the withdrawal by the Executive of part of the land over which the lease was granted.
5.	Variation of a lease to effect a subdivision, where— <ul style="list-style-type: none">(a) each lease to be surrendered was granted for purposes including development and subdivision; and(b) the land over which each lease was granted has been developed in accordance with the lease.
6.	A development solely undertaken for the purposes of the maintenance of a building or structure.
7.	Carrying out work that would affect the landscape of land leased for residential purposes only.
8.	Works relating to footpaths within a road reserve or pathway reserve.
9.	Surfacing a road, cycle way or carpark.

SCHEDULE—continued

Item	Exemption
10.	Works relating to traffic management devices used for pedestrian or vehicle control, including the following devices: <ul style="list-style-type: none">(a) signs;(b) lines;(c) traffic signals.
11.	Minor flood mitigation measures.
12.	Playground developments or improvements by or on behalf of the Territory.
13.	Erection, alteration or demolition of fences and free-standing walls, being fences and walls that do not exceed 1.8 metres in height and are located behind the building line.
14.	Erection or alteration of an exempt building or structure, unless— <ul style="list-style-type: none">(a) any part of the building or structure, as erected or altered, would be situated—<ul style="list-style-type: none">(i) between a front boundary and a building line;(ii) less than 1.5 metres from a side boundary; or(iii) less than 3 metres from a rear boundary (being a boundary the line of which does not meet the line of a front boundary); or(b) the building or structure is to be erected or altered so as to have reflective metal roofing, or reflective metal walling, being roofing or walling that is untreated, pre-coloured or painted white or off-white.
15.	Demolition of an exempt building or structure.
16.	Changing the external material or finish of a building where the change would not significantly affect the appearance of the building.
17.	Variation of roof pitch where the variation is not greater than 2°.
18.	Installation of a chimney, flue or vent extending not more than 1.5 metres above the surface of a roof.
19.	Resiting a building in relation to which approval has been given under the Act or under the <i>Buildings (Design and Siting) Act 1964</i> by not more than 150 millimetres horizontally, except where the approval requires that the building be built adjacent to a boundary.
20.	Installation of an external switchboard.
21.	Installation of external security lighting where the installation is a minor development.

SCHEDULE—continued

Item	Exemption
22.	Installation of services (being electricity, water, drainage, gas, communications or similar services) other than reticulated services or bulk supply services.
23.	Erection or installation of a temporary, portable or demountable building or structure for a specific event or project, where the building or structure is to be removed at the end of a period of 6 months, or such further period as is approved by the Minister in writing.
24.	External repainting of a dwelling.
25.	A development in relation to an external deck, external stairs, an external landing or a retaining wall, being a deck, stairs, landing or wall not more than 0.4 metres in height.
26.	A development in relation to a letterbox not exceeding, or that is not to exceed, 2 square metres in area or 1.8 metres in height.
27.	Erection, affixing or display of a sign or advertising material on land within a Residential Area, or on a building or structure on such land, where— <ol style="list-style-type: none">(a) the sign or material would not be animated or illuminated by exposed lamps, and would not be of a flashing or revolving nature;(b) the sign or material is restricted in content to the name and nature of any permitted use for an occupation of the land or for an institution on the land;(c) the sign or material would be affixed to or displayed on the building or structure at a height not exceeding 2.5 metres at the highest point of the sign or material; and(d) the development would not result in the surface area of any signs or material on the land or on any building or structure on the land, being signs or material relating to any single dwelling or institution on the land, exceeding 0.2 square metres.
28.	The planting or harvesting of plantation trees within a Plantation Area for the purposes of plantation forestry within the meaning of the Plan.
29.	A development referred to in paragraph (a), (b), (c) or (g) of the definition of “development” in subsection 222 (1) of the Act within a Designated Area within the meaning of the National Capital Plan.

SCHEDULE—continued

Item	Exemption
30.	Variation of a lease solely to permit a development listed elsewhere in this Schedule, other than a variation— <ul style="list-style-type: none"><li data-bbox="539 573 1209 607">(a) to change the purpose for which the land may be used; or<li data-bbox="539 611 1284 669">(b) to provide for an increase in the number of dwellings permitted on that land.

SCHEDULE 2

Subregulation 21 (2)

**EXEMPTIONS FROM PART VI OF THE ACT
SUBJECT TO AUTHORITY GUIDELINES**

Item	Exemption
1.	Installation or removal of a bus stop (including a marker, pad or seat) within a road corridor.
2.	Erection or removal of a bus shelter (other than in the Civic Centre Area, a Town Centre Area or a Group Centre Area).
3.	Installation or removal of lighting for parking or in a public area.
4.	Tree and shrub planting or removal on unleased Territory Land by or on behalf of the Territory.
5.	Minor landscape works other than works carried out in the Civic Centre Area, a Town Centre Area or a Group Centre Area.
6.	Erection or removal of interpretative or directional signs on unleased Territory Land.
7.	Erection or removal of lighting columns.
8.	Installation on or removal from unleased Territory Land of street furniture, including the following: <ul style="list-style-type: none">(a) fixed benches;(b) fixed garbage bins;(c) recycling bins;(d) parking meters;(e) street lights;(f) street signs;(g) guard rails and protective rails;(h) planter boxes.
9.	Installation or removal of reticulated services.

SCHEDULE 3A

Subregulation 21 (3)

**EXEMPTIONS FROM PART VI OF THE ACT
SUBJECT TO IMPLEMENTATION PLANS**

Item	Exemption
1.	Erection or removal of a bus shelter.
2.	Construction, modification or removal of a pathway through unleased Territory Land.
3.	Minor landscape works other than works carried out in the Civic Centre Area, a Town Centre Area or a Group Centre Area.
4.	Installation or removal of reticulated services.

SCHEDULE 4

Subregulation 22 (1)

**NOTIFICATION EXEMPTIONS
SUBSECTIONS 229 (1) AND (5) OF THE ACT**

Item	Exemption
1.	Variation of a lease to reduce the rent payable under the lease to a nominal rent.
2.	Development related to the proposed use of premises for confidential services (such as a domestic violence crisis service), where the Minister has made a determination in relation to those premises under paragraph 11AA (a) of these regulations.
3.	Development related to the proposed use of residential premises as a special dwelling.
4.	Consolidation.
5.	Variation of a lease where the whole of the land comprised in the lease is identified in the Plan for the purposes of Subdivision D of Division 3 of Part II of the Act.
6.	Variation of a lease where the lease, as varied, would permit (or would continue to permit) the use of the land for rural purposes, or for purposes including rural purposes, if— <ol style="list-style-type: none">(a) the sole effect of the variation would be to omit a provision relating to the withdrawal of land by the Territory; or(b) if the variation is to consist of the surrender of an existing lease and the grant of a new lease, as referred to in subsection 222 (3) of the Act—the differences between the existing lease and the proposed new lease are limited to any of the following:<ol style="list-style-type: none">(i) the omission of a provision in the existing lease relating to the withdrawal of land by the Territory;(ii) the date of commencement;(iii) the proposed new lease being expressed to terminate on a day before that of the existing lease.
7.	Use of land for a home business, where— <ol style="list-style-type: none">(a) the land is leased for residential purposes only;(b) such use by the applicant is currently approved under Part VI of the Act; and(c) no complaints about that use have been received by the Minister within the 12 months prior to the application.
8.	A minor development in relation to land within a Residential Area, if the Minister has reasonable grounds for considering that the enjoyment of any adjoining land would not be detrimentally affected by the development.

SCHEDULE—continued

Item	Exemption
9.	A minor development in relation to land other than within a Residential Area.
10.	<p>The erection or alteration of 1 or more dwellings, or of buildings or structures associated with 1 or more dwellings, on land within a Residential Area, where—</p> <ul style="list-style-type: none">(a) if the land has not previously been developed—<ul style="list-style-type: none">(i) the development would consist of the erection of no more than 1 dwelling, and of any associated buildings or structures; or(ii) if a multi-unit development is applied for—at the time of the application, the lease permits a development of the type applied for, or the lease was granted expressly for development and subdivision;(b) if the land has previously been developed—the development would not result in an increase in the number of dwellings on the land;(c) the setback of the dwelling, building or structure, as proposed to be erected or altered, would be no less than—<ul style="list-style-type: none">(i) in relation to the front boundary setback—<ul style="list-style-type: none">(A) 6 metres from any front boundary; or(B) if the land has not previously been developed for urban purposes, and approval for the subdivision of the land had been given after 18 October 1993 (being an approval within the meaning of paragraph D2.1 of Appendix III.1 of the Plan)—4 metres from any front boundary;(ii) 3 metres from any rear boundary;(iii) 1.5 metres from any side boundary, except where the development is a multi-unit development; and(iv) if the development is a multi-unit development—3 metres from any side boundary;(d) if the land has previously been developed—the development would not result in an increase of more than 75 square metres in the total of the following:<ul style="list-style-type: none">(i) the gross floor area of all buildings and structures on the land, except in the case of buildings or structures not enclosed by means of walls and a roof;(ii) in the case of buildings and structures not enclosed by means of walls and a roof—the plan area of each such

SCHEDULE—continued

Item	Exemption
	building and structure;
	(e) the development would not result in—
	(i) the erection of any building on the land having more than 1 storey; or
	(ii) the erection of any building or structure on the land having a height exceeding 6.5 metres; and
	(f) the development would not result in—
	(i) the alteration of any building on the land at the time of the application to add 1 or more storeys;
	(ii) the alteration of any building or structure on the land at the time of the application to increase its height, except where the height would be increased to 6.5 metres or less;
	(iii) the alteration of any building on the land at the time of the application by the construction of an extension having more than 1 storey; or
	(iv) the alteration of any building or structure on the land at the time of the application by the construction of an extension having a height exceeding 6.5 metres.
11.	Demolition of a building or structure in connection with the erection or alteration of a building or structure, where the erection or alteration is listed elsewhere in this Schedule.
12.	Development by or on behalf of the Territory on land identified in the Plan for the purposes of Subdivision D of Division 3 of Part II of the Act consisting of the erection, alteration or demolition of a building or structure, or the carrying out of earthworks or other construction work that would affect the landscape of the land.
13.	Development by or on behalf of the Territory consistent with—
	(a) an approved implementation plan under the <i>Buildings (Design and Siting) Act 1964</i> ; or
	(b) a draft implementation plan under the <i>Buildings (Design and Siting) Act 1964</i> that, as at the date of commencement of this Schedule, had been neither approved nor rejected by the Minister.
14.	Development on land in an Industrial Area consisting of the erection, fixing or display of a sign or advertising material on the land, or on a structure or building on the land.

SCHEDULE—continued

Item	Exemption
15.	Variation of a lease solely to permit a development listed elsewhere in this Schedule, other than a variation— <ul style="list-style-type: none"><li data-bbox="539 568 1209 600">(a) to change the purpose for which the land may be used; or<li data-bbox="539 607 1283 667">(b) to provide for an increase in the number of dwellings permitted on the land.

SCHEDULE 5

Subregulation 22 (2)

NOTIFICATION EXEMPTIONS

PARAGRAPH 229 (1) (b) AND SUBSECTION 229 (5) OF THE ACT

Item	Exemption
1.	Erection or alteration of a dwelling, or of a building or structure associated with a dwelling, on land within a Residential Area, where— <ul style="list-style-type: none">(a) the lease does not permit multi-unit development on the land at the time of the application; and(b) the development relates solely to a single dwelling.
2.	Demolition of a building or structure in connection with an erection or alteration of a building or structure, being an erection or alteration listed at item 1 of this Schedule.
3.	Variation of a lease solely to permit a development listed elsewhere in this Schedule, other than a variation— <ul style="list-style-type: none">(a) to change the purpose for which the land may be used; or(b) to provide for an increase in the number of dwellings permitted on the land.

SCHEDULE 6
EXCLUSION OF APPEALS BY APPLICANTS
SECTION 275 OF THE ACT

Regulation 23

Item	Exclusion
1.	A development in relation to an encroachment onto, over or under unleased Territory Land.
2.	A development the application for which is determined by the Minister under paragraph 229A (7) (a) of the Act.
3.	Variation of a lease to increase the area of land comprised in the lease.

SCHEDULE 7
EXCLUSION OF APPEALS BY OBJECTORS
SECTION 276 OF THE ACT

Item	Exclusion
1.	A development listed in Schedule 4.
2.	A development the application for which is determined by the Minister under paragraph 229A (7) (a) of the Act.
3.	Erection, fixing or display of a sign or advertising material on the land, or on a structure or building on the land.
4.	A minor development consisting of the carrying out of earthworks, or other construction work that would affect the landscape of the land.
5.	Erection or alteration of a dwelling, or of a building or structure associated with a dwelling, where— <ul style="list-style-type: none">(a) there is currently no multi-unit development on the land; and(b) the development relates solely to a single dwelling.
6.	Development on land within an Industrial Area or a Municipal Services Area— <ul style="list-style-type: none">(a) where, if the development is approved, the land would be no less than 50 metres away from any Residential Area at its nearest point;(b) where the development would not result in any of the following uses of the land being permitted:<ul style="list-style-type: none">(i) hazardous industry;(ii) hazardous waste industry;(iii) incineration facility;(iv) land fill;(v) liquid fuel depot;(vi) offensive industry;(c) where the development would not increase the gross floor area of any buildings on the land beyond a plot ratio of 1:1, calculated by reference to the area of the land as at the time of the application; and(d) where the development does not consist of—<ul style="list-style-type: none">(i) the erection of a building or structure on the land with a height greater than 10 metres; or(ii) the alteration of any building or structure on the land at the time of the application so as to increase its height, where that height would exceed 10 metres after the alteration.
7.	Development on land within a Commercial Area—

SCHEDULE—continued

Item	Exclusion
	<ul style="list-style-type: none">(a) where, if the development is approved, the land would be no less than 50 metres away from any Residential Area at its nearest point;(b) if the land has been previously developed—where the development would not increase the total gross floor area of all buildings on the land by more than 50%;(c) if at the time of the application the lease permits a community use, or a use including a community use—where the development would not have the effect of prohibiting a community use of the land;(d) where the development would not have the effect of permitting the use of the land for a corrections facility;(e) if the land is within a Commercial “E” (Corridors and Office Sites) Area—<ul style="list-style-type: none">(i) if there is no building or structure on the land at the time of the application that has more than 4 storeys—where the development would not result in any building or structure on the land having more than 4 storeys;(ii) if there is a building or structure on the land at the time of the application that has more than 4 storeys—where the development would not result in any increase in the height of such a building or structure, or in any other building or structure on the land having more than 4 storeys; and(iii) if the land is within a Corridor precinct specified in Part B2E of the Plan—where the development would result in the setback of any proposed new building being no less than 10 metres from the front boundary;(f) if the land is within a Group Centre Area—<ul style="list-style-type: none">(i) if there is no building or structure on the land at the time of the application that has more than 2 storeys—where the development would not result in any building or structure on the land having more than 2 storeys; and(ii) if there is a building or structure on the land at the time of the application that has more than 2 storeys—where the development would not result in any increase in the height of such a building or structure, or in any other building or structure on the land having more than 2 storeys; and(g) if the land is within a Local Centre Area, where—

SCHEDULE—continued

Item	Exclusion
	<ul style="list-style-type: none">(i) there is no building or structure on the land at the time of the application that has more than 2 storeys;(ii) the development would not result in any building or structure on the land having more than 2 storeys;(iii) if the lease currently permits the use of the land for a shop, or a use including the use of the land for a shop—the development would not have the effect of prohibiting the use of the land for a shop; and(iv) the development would not have the effect of permitting the erection of any dwelling on the land.
8.	<p>Development on land within an Entertainment, Accommodation and Leisure Area—</p> <ul style="list-style-type: none">(a) where, if the development is approved, the land would be no less than 50 metres away from any Residential Area at its nearest point;(b) if the land has been previously developed—where the development would not increase the total gross floor area of all buildings on the land by more than 50%;(c) if at the time of the application the lease permits a community use, or a use including a community use—where the development would not have the effect of prohibiting a community use of the land;(d) if there is no building or structure on the land at the time of the application that has more than 2 storeys—where the development would not result in any building or structure on the land having more than 2 storeys; and(e) if there is a building or structure on the land at the time of the application that has more than 2 storeys—where the development would not result in any increase in the height of such a building or structure, or in any other building or structure on the land having more than 2 storeys;
9.	<p>Development on land within a Community Facility Area or a Restricted Access Recreation Area—</p> <ul style="list-style-type: none">(a) where, if the development is approved, the land would be no less than 50 metres away from any Residential Area at its nearest point;(b) where the gross floor area of all buildings on the land at the time of the application does not exceed 300 square metres;(c) where the development would not result in the total gross floor area of all buildings on the land exceeding 300 square metres;(d) if the land has been previously developed—where the

SCHEDULE—continued

Item	Exclusion
	<p>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 by reference to the area of the land as at the time of the application;</p> <p>(e) if, at the time of the application, the lease permits a community use, or a use including a community use—where the development would not have the effect of prohibiting a community use of the land;</p> <p>(f) where the development would not have the effect of permitting the use of the land for a corrections facility;</p> <p>(g) if there is no building or structure on the land at the time of the application that has more than 1 storey—where the development would not result in any building or structure on the land having more than 1 storey; and</p> <p>(h) if there is a building or structure on the land at the time of the application that has more than 1 storey—where the development would not result in any increase in the height of such a building or structure, or in any other building or structure on the land having a height exceeding 6 metres.</p>
10.	<p>Development on land within an Urban Open Space Area, a Hills, Ridges and Buffer Area, a River Corridor Area, a Mountains and Bushlands Area or a Plantation Forestry Area—</p> <p>(a) where, if the development is approved, the land would be no less than 50 metres away from any Residential Area at its nearest point;</p> <p>(b) where 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 other than that permitted by a licence in relation to the land that is current at the time of the application;</p> <p>(c) where the development would not increase the area of the leased land by more than 1 hectare;</p> <p>(d) if the gross floor area of all buildings on the land at the time of the application does not exceed 300 square metres—where the development would not result in the total gross floor area of all buildings on the land exceeding 300 square metres;</p> <p>(e) if the gross floor area of all buildings on the land at the time of the application exceeds 300 square metres—where the development would not increase the total gross floor area of all buildings on the land;</p> <p>(f) if the total site area covered by buildings, driveways and</p>

SCHEDULE—continued

Item	Exclusion
	<p>carparking areas at the time of the application is equal to no more than 50% of the area of the land—where the development would not result in such site coverage increasing to more than 50% of the area of the land, calculated by reference to the area of the land as at the time of the application;</p> <p>(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—where the development would not increase such site coverage, calculated by reference to the area of the land as at the time of the application;</p> <p>(h) if there is no building or structure on the land at the time of the application that has more than 1 storey—where the development would not result in any 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—where the development would not result in any increase in the height of such a building or structure, or in any other building or structure on the land having a height exceeding 6 metres.</p>
11.	<p>Development on land within a Broadacre Area or a Rural Land Use Area—</p> <p>(a) where, if the development is approved, the land would be no less than 50 metres away from any Residential Area at its nearest point;</p> <p>(b) where 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 other than that permitted by a licence in relation to the land that is current at the time of the application;</p> <p>(c) where the development would not increase the area of the leased land by more than 1 hectare;</p> <p>(d) if the gross floor area of all buildings on the land at the time of the application does not exceed 2,000 square metres—where the development would not result in the total gross floor area of all buildings on the land exceeding 2,000 square metres;</p> <p>(e) if the gross floor area of all buildings on the land at the time of the application exceeds 2,000 square metres—where the development would not increase the total gross floor area of all buildings on the land;</p> <p>(f) if the total site area covered by buildings, driveways and carparking areas at the time of the application is equal to no</p>

SCHEDULE—continued

Item	Exclusion
	<p>more than 50% of the area of the land—where the development would not result in such site coverage increasing to more than 50% of the area of the land, calculated by reference to the area of the land as at the time of the application;</p> <p>(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—where the development would not increase such site coverage, calculated by reference to the area of the land as at the time of the application;</p> <p>(h) if there is no building or structure on the land at the time of the application that has more than 1 storey—where the development would not result in any 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—where the development would not result in any increase in the height of such a building or structure, or in any other building or structure on the land having a height exceeding 6 metres.</p>
12.	<p>Development within a Designated Area within the meaning of the National Capital Plan—</p> <p>(a) where, if the development is approved, the land would be no less than 50 metres away from any Residential Area at its nearest point;</p> <p>(b) where 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 other than that permitted by a licence in relation to the land that is current at the time of the application; and</p> <p>(c) if the land has been previously leased—where 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%.</p>
13.	<p>Demolition of a building or structure in connection with a development listed elsewhere in this Schedule consisting of the erection or alteration of a building or structure.</p>
14.	<p>Variation of a lease solely to permit a development listed elsewhere in this Schedule, other than a variation—</p> <p>(a) to change the purpose for which the land may be used; or</p> <p>(b) to provide for an increase in the number of dwellings permitted on the land.</p>

NOTES

Principal Regulations

1. Reprinted as at 31 January 1996. See also Nos. 20 and 21, 1996; Acts Nos. 62 and 71, 1996; No. 7, 1997.

Notification

2. Notified in the ACT Gazette on 23 June 1997.