



Australian Capital Territory

Planning and Development Amendment Regulation 2008 (No 1)

Subordinate Law SL2008-8

The Australian Capital Territory Executive makes the following regulation under the *Planning and Development Act 2007*.

Dated 26 March 2008.

ANDREW BARR
Minister

SIMON CORBELL
Minister



Australian Capital Territory

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1 Name of regulation

This regulation is the *Planning and Development Amendment Regulation 2008 (No 1)*.

2 Commencement

This regulation commences on the commencement of the *Planning and Development Regulation 2008*.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Legislation amended

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

4 Section 20, notes

substitute

Note For other exemptions, see the Act, div 7.2.6 (Exempt development).

5 Sections 27 and 28

substitute

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 a 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 consultation period—Act, s 157, def *public consultation period*, par (a)

The following periods are prescribed:

- (a) for a development application notified in accordance with the Act, section 152 (1) (a)—10 working days after the day the application is notified;
- (b) for a development application notified in accordance with the Act, section 152 (1) (b)—15 working days after the day the application is notified.

6 Section 100, definition of *territory entity*, note 2

substitute

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

7 Section 102 (2), note

omit

s 401

substitute

s 402

8 Section 111 (2), note

omit

s 401

substitute

s 402

9 Section 120 (a)

substitute

- (a) a lease granted to the Territory, other than a lease to which section 130 (1) (f) (Certain direct sales not requiring approval—Act, s 240 (1) (ca)) applies;

10 New division 5.1.4

insert

Division 5.1.4 Certain direct sales not requiring approval

Note For other direct sales not requiring approval, see the Act, s 240 (1) (cb) to (e).

130 Certain direct sales not requiring approval—Act, s 240 (1) (ca)

- (1) The direct sale of the following leases is prescribed:
- (a) a lease offered at auction but not sold;
 - (b) a lease offered at ballot but not sold;
 - (c) a lease sold at ballot but the contract of sale is rescinded or otherwise ended before the lease is granted under the contract;
 - (d) a lease of allocated land to the housing commissioner;

Note **Allocated land**—see s 100.

(e) a lease to Community Housing Canberra Limited, ACN 081 354 752;

(f) a lease of land to the Territory if the land is used or occupied by the Territory.

(2) In this section:

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).

11 New sections 141 and 142

in part 5.2, insert

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) (cb) (see Act, s 234).

142 Exemptions from restrictions on dealings with certain leases—Act, s 251 (2A)

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

(a) a concessional lease;

(b) a rural lease.

Note For restrictions on dealings with concessional leases and rural leases, see the Act, s 265 and s 284.

-
- (2) 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 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.

12 Section 160 heading

substitute

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

13 New section 161

in part 5.4, insert

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

The period of 20 working days is prescribed.

14 New sections 202 and 203

in part 5.7, insert

202 Application for extension of time to commence or complete building and development—Act, s 298A (5), def A, par (b)

- (1) The prescribed figure is 1 if a hardship reason applies to 1 or more of the lessees (whether or not the lessees are individuals only).
- (2) The prescribed figure is 3 if—
 - (a) subsection (1) does not apply; and
 - (b) the lessee is 1 or more individuals only; and
 - (c) none of the individuals has made an application under the Act, section 298A in relation to another lease within the 3-year period before the day the application is made.
- (3) In this section:

hardship reason, in relation to a lessee, means—

 - (a) a reason mentioned in the Act, section 298 (2) (b) (ii) or (iii); and
 - (b) for a lessee who is an individual—a reason mentioned in section 200.

203 Extension of time to complete building or development on hardship grounds—Act, s 298B (6), def *prescribed period*, par (b)

The period is 5 years if the planning and land authority is satisfied that—

- (a) the applicant cannot comply with the building and development provision within the period stated in the lease (the *original period*) because of a reason mentioned in the Act—
 - (A) if the lessee is an individual—section 298 (2) (b) (i), (ii) or (iii); and
 - (B) if the lessee is a corporation—section 298 (2) (b) (ii) and (iii); and
- (b) the lessee is reasonably likely to be able to comply with the building and development provision by the end of the original period as extended by the period approved by the authority under the Act, section 298B.

Note Also, the planning and land authority may approve the extension only if satisfied on reasonable grounds that the extension for the period sought would not cause an unacceptable delay to another development or land release (see Act, s 298B (3)).

15 Section 400 heading

substitute

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

16 New section 400A

insert

400A 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.

17 Section 401 (g)

substitute

(g) section 400 (1) (a) and (3);

18 Sections 400A and 401 (as amended)

renumber as sections 401 and 402

19 New section 403

insert

403 Securing things seized under the Act, pt 12.3

- (1) This section applies to a thing seized by an inspector under the Act, part 12.3 (Powers of inspectors).
- (2) The inspector may—
 - (a) remove the thing from the premises where it was seized (the *place of seizure*) to another place; or
 - (b) leave the thing at the place of seizure but restrict access to it.
- (3) A person commits an offence if—
 - (a) the person interferes with a seized thing, or anything containing a seized thing, to which access has been restricted under subsection (2); and

(b) the person does not have an inspector's approval to interfere with the thing.

Maximum penalty: 10 penalty units.

(4) An offence against this section is a strict liability offence.

20 New section 410

insert

410 Modification of Act, ch 15—Act, s 429

(1) The Act, chapter 15 is modified by schedule 5.

(2) This section, and schedule 5, expire on 31 March 2010.

21 Schedule 1, section 1.1, new definitions

insert

basic paling fence—see the Act, section 416A.

open space boundary—see the Act, section 416A.

22 Schedule 1, section 1.13 (2)

after

A development in a residential zone that involves the building of a fence

insert

, other than a fence for an open space boundary,

23 Section 1.16, examples

substitute

Examples

- 1 A rear deck and pergola are to be built with a house as a combined development. The house requires development approval. Accordingly, the deck and pergola are not exempt from requiring development approval.
- 2 A rear deck and pergola are to be added as a combined development to an existing house. The deck, if built on its own, would be exempt from requiring development approval. The pergola, if built on its own, is not exempt because it exceeds the height limitations in section 1.47. The deck is not exempt from requiring development approval because it is part of a combined development with the pergola that requires development approval.

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).

24 Schedule 1, section 1.19

omit

25 Schedule 1, section 1.20

substitute

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***—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***—see s 1.2.

26 Schedule 1, section 1.21 (c)

substitute

- (c) the height of the building’s finished floor level, or other trafficable surface, immediately adjacent to the relevant activity is not more than 500mm above natural ground level; and

Example—trafficable surface

paving

Note 1 ***Natural ground level***—see the territory plan, vol 2, pt 3 (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).

27 Schedule 1, section 1.22 (1), new definition of *structure*

insert

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

Note For fences for open space boundaries, see s 1.52.

28 Schedule 1, new section 1.31

in division 1.3.1, insert

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 the following:

- (a) section 1.13 (Criterion 3—metallic, white and off-white exterior finishes in residential zones);
- (b) section 1.18 (Criterion 8—compliance with other applicable exemption criteria).

Note *General exemption criteria*—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*—see s 1.2.

29 Schedule 1, division 1.3.2

substitute

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 30m²; 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 15m².

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 18m².

Because the combined relevant cross-section areas of shed and rotunda are more than 30m², the rotunda does not comply with this section and is not exempt from a development application.

Note 1 **Designated development**—see s 1.2.

Note 2 **General exemption criteria**—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 3m above natural ground level; and
- Note* **Natural ground level**—see the territory plan, vol 2, pt 3 (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**—see s 1.2.

Note 2 **General exemption criteria**—see s 1.10.

- (2) 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 10m²—the building is behind the building line for the block; or

- (b) if the building has a plan area of more than 10m^2 —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, vol 2, pt 3 (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 not more than 500m^2 —the building has a plan area of not more than 10m^2 ; or
- (b) if the size of the block is 500m^2 or more but less than 600m^2 —the building has a plan area of not more than 25m^2 ; or
- (c) if the size of the block is 600m^2 or more—the building has a plan area of not more than 36m^2 .

1.46 **Roofed class 10a buildings—unenclosed or partially open**

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 3m above natural ground level; and

Note **Natural ground level**—see the territory plan, vol 2, pt 3 (Definitions).

- (c) the building—

- (i) is enclosed by a roof which has a plan area of not more than 25m^2 ; 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, vol 2, pt 3 (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**—see s 1.2.

Note 2 **General exemption criteria**—see s 1.10.

1.47 Class 10a buildings—unroofed and unenclosed

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 3m above natural ground level; and

Note **Natural ground level**—see the territory plan, vol 2, pt 3 (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, vol 2, pt 3 (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**—see s 1.2.

Note 2 **General exemption criteria**—see s 1.10.

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, vol 2, pt 3 (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 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**—see s 1.2.

Note 2 **General exemption criteria**—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 10m²; 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, vol 2, pt 3 (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**—see s 1.2.

Note 2 **General exemption criteria**—see s 1.10.

Subdivision 1.3.2.3 Class 10b structures

1.50 Class 10b structures—plan area not more than 2m²

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 2m²; 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, vol 2, pt 3 (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, vol 2, pt 3 (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**—see s 1.2.

Note 2 **General exemption criteria**—see s 1.10.

1.51 Fences and freestanding walls generally

- (1) In this section:

fence does not include a basic paling fence for an open space boundary.

Note **Basic paling fence**—see the Act, s 416A (see this sch, s 1.1).

- (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—1.85m above natural ground level; and

Note **Natural ground level**—see the territory plan, vol 2, pt 3 (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, vol 2, pt 3 (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

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

Note 1 **Designated development**—see s 1.2.

Note 2 **General exemption criteria**—see s 1.10.

Note 3 A metal fence must not have a white, off-white or metallic exterior finish (see s 1.13).

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

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

Note 1 *Designated development*—see s 1.2.

Note 2 *General exemption criteria*—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) no part of the retaining wall is between a front boundary and a building line for the block; and
 - Note* **Building line** and **front boundary**—see the territory plan, vol 2, pt 3 (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, vol 2, pt 3 (Definitions).
- (c) if any part of the retaining wall is 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—see s 1.2.

Note 2 General exemption criteria—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, vol 2, pt 3 (Definitions).
 - (c) the pool's capacity is not more than 45kL; and
 - (d) the height of the pool's reservoir is not more than 1.5m above natural ground level; and

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

Note 1 Designated development—see s 1.2.

Note 2 General exemption criteria—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.

1.55 Water tanks

- (1) In this section:

prescribed general exemption criteria means the general exemption criteria, other than section 1.13 (Criterion 3—metallic, white and off-white exterior finishes in residential zones).

Note General exemption criteria—see s 1.10.

- (2) 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) the height of the tank is not more than 2.45m above natural ground level; and

Note Natural ground level—see the territory plan, vol 2, pt 3 (Definitions).

- (c) no part of the tank is located between a front boundary and a building line for the block; and

- (d) if any part of the tank is within 1.5m of a side boundary or rear boundary of the block—
 - (i) the tank 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 tank; and
- (e) the designated development complies with the prescribed general exemption criteria that are applicable to the development.

Note **Designated development**—see s 1.2.

1.56 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) the surface area of the water in the pond is not more than 6m² when the pond is filled to its maximum water level (without overtopping effects); and
- (d) no part of the pond is within 1.5m of a side boundary or rear boundary of the block; and
- (e) 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, vol 2, pt 3 (Definitions).

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

Note 1 **Designated development**—see s 1.2.

Note 2 **General exemption criteria**—see s 1.10.

1.57 **Animal enclosures**

- (1) A designated development for an animal enclosure on a block if—
- (a) the enclosure's plan area is not more than 10m²; 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, vol 2, pt 3 (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, vol 2, pt 3 (Definitions).
- (d) if any part of the enclosure is within 1.5m of a side boundary or rear boundary of the block—
- (i) the enclosure 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 enclosure; and

- (e) the designated development complies with the general exemption criteria, other than the excluded criteria, that are applicable to the development.

Note 1 **Designated development**—see s 1.2.

Note 2 **General exemption criteria**—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.

1.58 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
 - (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 **Natural ground level**—see the territory plan, vol 2, pt 3 (Definitions).

Note **Building line** and **front boundary**—see the territory plan, vol 2, pt 3 (Definitions).

- (d) if any part of the clothes line is within 1.5m of a side boundary or rear boundary of the block—
 - (i) the clothes line 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 clothes line; and
- (e) the designated development complies with the general exemption criteria, other than the excluded criteria, that are applicable to the development.

Note 1 Designated development—see s 1.2.

Note 2 General exemption criteria—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.

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, vol 2, pt 3 (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—see s 1.2.

Note 2 General exemption criteria—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**—see s 1.2.

Note 2 **General exemption criteria**—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.

30 Schedule 1, division 1.3.3

substitute

Division 1.3.3 Exempt developments—signs**1.65 Minor 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 minor public works within the meaning of 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 the following:

- (a) section 1.13 (Criterion 3—metallic, white and off-white exterior finishes in residential zones);
- (b) section 1.18 (Criterion 8—compliance with other applicable exemption criteria).

Note *General exemption criteria*—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 *Roads and Public Places Act 1937*, may regulate the placement of the sign.

1.68 Moveable signs in public places

- (1) The display of a moveable sign in a public place if—
 - (a) the sign does not impede public access to a place (including a public place); and
 - (b) the surface area of any side of the sign is not more than 1.5m²; 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 *Roads and Public Places Act 1937*, may regulate the placement of the sign.

- (2) In this section:

moveable sign means a sign that is not fixed to a building or structure.

public place—see the *Roads and Public Places Act 1937*, dictionary.

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 *Roads and Public Places Act 1937*, may regulate the placement of the sign.

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.

31 Schedule 1, division 1.3.4, sections 1.70 to 1.73

renumber as sections 1.75 to 1.78

32 Schedule 1, section 1.80

substitute

1.85 Rural lease developments generally

(1) In this section:

prescribed general exemption criteria means the general exemption criteria, other than the following:

- (a) section 1.13 (Criterion 3—metallic, white and off-white exterior finishes in residential zones);
- (b) section 1.18 (Criterion 8—compliance with other applicable exemption criteria).

Note ***General exemption criteria***—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 100m²; and

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

- (b) the development does not result in the clearing of more than 0.5ha of native vegetation; and

Note ***Native vegetation***—see the *Nature Conservation Act 1980*, s 73.

- (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**—see s 1.2.

33 Schedule 1, section 1.81

renumber as section 1.86

34 Schedule 1, section 1.90 (1) (b) (iii)

substitute

- (iii) the installation of a parking control sign or traffic control device—the sign or device is of a kind—
 - (A) to which AS 1742 (*Manual of Uniform Traffic Control Devices*), as in force from time to time, applies; or
 - (B) approved by the planning and land authority; or

Note An approval is a notifiable instrument (see s (3)).

35 Schedule 1, section 1.90 (3)

substitute

(3) An approval of the following is a notifiable instrument:

- (a) a bus shelter master plan;
- (b) a kind of parking control sign or traffic control device.

Note A notifiable instrument must be notified under the Legislation Act.

36 Schedule 1, section 1.95, notes 2 and 3

substitute

Note 2 Other territory laws must be complied with (see s 1.4).

37 Schedule 1, section 1.100

substitute

1.100 Single dwellings—new residential land

- (1) The building of a single dwelling on a block if—
 - (a) another dwelling has not been built on the block; and
 - (b) the dwelling complies with—
 - (i) the relevant rules in any relevant precinct code; 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 House Development Code.

Note 1 **Relevant rules**—see the Act, dictionary. See also s (2).

Note 2 The general exemption criteria are not applied because the relevant rules in the territory plan include requirements to similar effect as the criteria.

Note 3 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.

38 Schedule 1, section 1.104 (1), note 2

substitute

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.)

39 Schedule 1, section 1.104 (3), definition of *prescribed landscaping*, paragraph (c)

substitute

- (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, vol 2, pt 3 (Definitions).

40 Schedule 1, sections 1.106 and 1.107

substitute

1.106 Resiting of buildings with development approval

- (1) In this section:

prescribed general exemption criteria means the general exemption criteria, other than section 1.16 (Criterion 6—development approval not otherwise required).

Note ***General exemption criteria***—see s 1.10.

- (2) The horizontal resiting of a building on a block if—
- (a) development approval has been given for the building; and
 - (b) the development approval does not require the building be built immediately adjacent to a boundary of the block; and
 - (c) the building is resited not more than 150mm horizontally from where the approval shows the building is to be sited; and
 - (d) the resiting does not result in the building being located less than 900mm from a boundary of the block; and
 - (e) the resiting of the building complies with the prescribed general exemption criteria that are applicable to the development.

Example—par (c)

The development approval for a building requires the horizontal distance between the building and an adjacent boundary to be 2000mm. The building is built with the distance being 1900mm (100mm less than required). This resiting of the building is an exempt development.

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).

1.107 Resiting of exempt buildings

- (1) In this section:

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*—see s 1.10.

- (2) The horizontal resiting of a building on a block if—

- (a) apart from this section, the building is exempt from requiring development approval because it is located within a horizontal location criterion that must be met for the building to be exempt; and
- (b) the criterion does not require the building be built 150mm off a boundary of the block; and
- (c) the resiting does not result in the building contravening the criterion by more than 50mm horizontally; and
- (d) the resiting of the building complies with the prescribed general exemption criteria that are applicable to the development.

Example—par (b)

Construction of a house is exempt from requiring a development approval if the house will comply with the exemption criteria in a code under the territory plan. One criterion requires the house to be no closer than 1.50m to a side boundary. The house is constructed 1.45m horizontally from the boundary (50mm less than required). The resiting of the house is an exempt development because the resiting contravenes the criterion by no more than 50mm.

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).

41 Schedule 1, section 1.109*substitute***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.

42 Schedule 1, new part 1.4*insert*

Part 1.4 Permitted open space boundary fence colours

Note This part relates to s 1.52 (Basic open space boundary fences).

column 1 item	column 2 colour
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)

column 1 item	column 2 colour
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)
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)

column 1 item	column 2 colour
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)
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)

43 Schedule 1, part 1.5 heading, note

substitute

Note This part relates to s 1.67 (Signs attached etc to buildings, structures and land) and s 1.69 (Temporary signs).

44 Schedule 2, item 1, column 2, paragraph (d) (ii)

substitute

- (ii) a building or structure having a height of more than 6.5m above natural ground level; and

Note *Natural ground level*—see the territory plan, vol 2, pt 3 (Definitions).

45 Schedule 2, item 1, column 2, paragraph (f)

substitute

- (f) the development would not result in the alteration of a building or structure on the block at the time of application—
 - (i) to increase its height to more than 6.5m above natural ground level; or
 - (ii) by the construction of an alteration having a height of more than 6.5m above natural ground level.

46 Schedule 3, part 3.2, item 5, column 2, paragraph (d)

substitute

- (d) the development does not consist of—
 - (i) the building of a building or structure with a height of more than 10m above natural ground level; or

- (ii) the alteration of a building or structure to increase its height to more than 10m above natural ground level.

Note **Natural ground level**—see the territory plan, vol 2, pt 3 (Definitions).

47 Schedule 3, part 3.2, item 8, column 2, paragraph (h)

substitute

- (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.

Note **Natural ground level**—see the territory plan, vol 2, pt 3 (Definitions).

48 Schedule 3, part 3.2, item 9, column 2, paragraph (i)

substitute

- (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, vol 2, pt 3 (Definitions).

49 Schedule 3, part 3.2, item 10, column 2, paragraph (i)

substitute

- (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, vol 2, pt 3 (Definitions).

50 New schedule 4

insert

Schedule 4 Prescribed territory plan instruments

(see s 401)

Part 4.1 Australian standards

- 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

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

51 New schedule 5

insert

Schedule 5 Modification of Act

(see s 410)

[5.1] New section 429A

insert

429A Modification of Act, ch 15—Act, s 429

Section 298A (5), definition of *D* and note apply as if they were omitted and the following substituted:

D means—

- (a) the number of days for which the extension is sought; or
- (b) if more than 1 extension for the lease is sought in the application—the highest of the number of days for which the extensions are sought.

Example—par (b)

if both a 6-month extension is being sought to commence building work and a 12-month extension to complete the building work, the number for **D** is 365

Note 1 The required fee may be waived under the *Financial Management Act 1996*, s 131.

Note 2 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).’

[5.2] Section 442 (1)

substitute

- (1) This section applies if—
 - (a) before commencement day, a person applied for—
 - (i) an approval under the repealed Act, section 226 (Application to undertake development); or
 - (ii) an amendment of an approval under the repealed Act, section 247 (Minor amendments); and
 - (b) immediately before commencement day, the planning and land authority had not finally decided the application.

[5.3] New section 442 (4)

insert

- (4) In this section:

finally decided—an application for approval under the repealed Act, section 226 is ***finally decided*** if—

 - (a) the period for making an application under the repealed Act, section 246 for reconsideration of the planning and land authority’s decision on the application for approval has ended and no application for reconsideration has been made; or

- (b) if an application under the repealed Act, section 246 for reconsideration of the planning and land authority's decision on the application for approval is made within the reconsideration period—
- (i) the authority has made a decision on the application for reconsideration under the repealed Act, section 246A (1) (b); or
 - (ii) the authority is taken to have confirmed the original decision under the repealed Act, section 246B.

reconsideration period means the period within which an application must be made under the repealed Act, section 246 (3).

[5.4] Section 444

substitute

444 Transitional—approvals under repealed Act

- (1) This section applies if—
- (a) immediately before commencement day, a person had an approval under the repealed Act, part 6 (Approvals and orders); or
 - (b) the planning and land authority gives an approval under the repealed Act after the commencement day.

Note The repealed Act applies to applications for approvals not decided immediately before commencement day (see s 442 as modified by regulation).

- (2) The approval—
- (a) is taken to be a development approval under this Act; and
 - (b) unless extended under this Act, continues in force until the time when it would have ended under the repealed Act; and

(c) for the Act, section 198 (2) (Deciding applications to amend development applications) is taken to relate to a proposal in the merit track.

- (3) If the application to which the approval relates was not required to be publicly notified under the repealed Act, an application under this Act for the amendment of the approval need not be notified under this Act.

Note If an application for reconsideration has not been finally decided by the planning and land authority, the repealed Act (including rights of AAT review under the repealed Act) continues to apply to the application (see s 442 as modified by regulation).

[5.5] Section 445 (2) (a)

substitute

(a) is taken to be a development approval under this Act; and

[5.6] Section 447

omit

52 Dictionary, new definitions of *basic paling fence* and *class 10a building*

insert

basic paling fence, for schedule 1 (Exemptions from requirement for development approval)—see the Act, section 416A.

class 10a building, for schedule 1, division 1.3.2 (Exempt developments—non-habitable buildings and structures)—see schedule 1, section 1.40.

53 Dictionary, definition of *height*

substitute

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.

54 Dictionary, new definitions of *open space boundary* and *prescribed general exemption criteria*

insert

open space boundary, for schedule 1 (Exemptions from requirement for development approval)—see schedule 1, section 1.1.

prescribed general exemption criteria, for schedule 1, division 1.3.3 (Exempt developments—signs)—see schedule 1, section 1.66.

Endnotes

1 Notification

Notified under the Legislation Act on 27 March 2008.

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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