



Australian Capital Territory

Planning and Development Amendment Regulation 2009 (No 2)

Subordinate Law SL2009-8

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

Dated 20 March 2009.

ANDREW BARR
Minister

KATY GALLAGHER
Minister



Australian Capital Territory

Planning and Development Amendment Regulation 2009 (No 2)

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made under the

Planning and Development Act 2007

1 Name of regulation

This regulation is the *Planning and Development Amendment Regulation 2009 (No 2)*.

2 Commencement

This regulation commences on a day fixed by the Minister by written notice.

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

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

3 Legislation amended

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

4 Schedule 1, new division 1.3.6A

insert

Division 1.3.6A Exempt developments—schools

Subdivision 1.3.6A.1 Preliminary

1.96 Definitions—div 1.3.6A

In this division:

commencement day means the day this division commences.

existing ground level means the ground level of the relevant area on the commencement day.

existing school means 1 of the following that exists on the commencement day:

- (a) a government school within the meaning of the *Education Act 2004*;
- (b) a non-government school within the meaning of the *Education Act 2004*;
- (c) a childcare centre, licensed under the *Children and Young People Act 2008*, section 747, primarily for the education of young children.

Examples—education of young children

preschool, early learning centre

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

young child—see the *Children and Young People Act 2008*, section 733 (3).

1.97 Meaning of *existing school campus*—regulation

In this regulation:

existing school campus means the grounds, including the boundary, of an existing school on the commencement day.

1.98 Application—div 1.3.6A

This division applies to a development or other activity only if it is on an existing school campus.

1.99 General exemption criteria

Unless otherwise stated in a provision, a development to which this division applies must comply with the general exemption criteria (other than schedule 1, section 1.18) that are applicable to the development.

Note 1 **General exemption criteria**—see s 1.10.

Note 2 Section 1.18 deals with compliance with other general exemption criteria that apply to the development.

1.99A Activities not developments

An activity mentioned in this division that is not a development is not taken to be a development only because it is exempt under this division.

1.99B Review of division

- (1) The planning and land authority must review the operation of this division not later than 30 September 2012.
- (2) In undertaking the review, the planning and land authority must assess the use and effectiveness of each type of exemption in this division.
- (3) After the review, the planning and land authority must prepare a notice (the *review notice*) stating—
 - (a) that the authority has reviewed the division; and
 - (b) the authority's findings on the review, including a summary of any comments from the community on the operation of this division.
- (4) The planning and land authority must give the review notice to the Minister.
- (5) The review notice is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.
- (6) This section expires on 31 March 2013.

Subdivision 1.3.6A.2 Exemptions—schools

1.99C Schools—new buildings or alterations to buildings

- (1) A designated development for building a new building or altering or demolishing an existing building (and carrying out any related earthworks or other construction work on or under the land) if—
 - (a) the building is—
 - (i) a class 3 building; or
 - (ii) a class 9b building; and

Example—class 3 building

dormitory

Examples—class 9b buildings

hall, auditorium, gymnasium, library, classroom

Note 1 **Class**, for a building or structure, means the class of building or structure under the building code (see dict).

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

- (b) the building is not within 6m of the boundary of a residential zone; and
 - (c) the height of the building is not more than—
 - (i) if the building is within 30m of the boundary of a residential zone—6m above existing ground level; or
 - (ii) in any other case—12m above existing ground level.
- (2) This section expires on 31 March 2013.
 - (3) However, this section does not expire under subsection (2) if, before 31 March 2013, the Legislative Assembly by resolution continues this section.
 - (4) If a resolution is passed for this section, the Speaker must ask the parliamentary counsel to notify a notice of the resolution.
 - (5) If this section continues under subsection (3), subsections (2) to (4) and this subsection expire on the day after the day the notice of the resolution is notified.

1.99D Schools—minor alterations

- (1) A designated development for altering a building (and carrying out any related earthworks or other construction work on or under the land) if—
- (a) the development will not increase the gross floor area of the building by more than 5%; and
 - (b) the development is not otherwise exempt under this division.

Examples—alterations

air lock, small utility room

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

- (2) This section expires on 31 March 2013.

1.99E Schools—entrances

- (1) In this section:

school entrance—

- (a) means a public entrance to the school whether freestanding or part of a building; and
- (b) includes any associated structure.

Examples—associated structures

portico, awning, canopy, landing, access ramp

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

- (2) A designated development for building or installing a school entrance (and carrying out any related earthworks or other construction work on or under the land) if—
- (a) the entrance—

- (i) does not have a roof; or
 - (ii) is not enclosed on all sides; and
- (b) the height of the entrance is not more than 6m above existing ground level.

1.99F Schools—verandahs etc

- (1) In this section:
verandah includes a balcony, awning, portico or landing.
- (2) A designated development for building or installing a verandah (and carrying out any related earthworks or other construction work on or under the land) if—
- (a) the height of the verandah is not more than—
 - (i) if the verandah is within 30m of the boundary of a residential zone—6m above existing ground level; or
 - (ii) in any other case—12m above existing ground level; and
 - (b) the verandah is not within 6m of the boundary of a residential zone; and
 - (c) the verandah is unenclosed on at least 1 side.

Note An external verandah may also be exempt under s 1.49.

1.99G Schools—signs

- (1) Putting up, attaching or displaying a sign or altering or removing a sign if—
- (a) the sign displays, or is intended to display, only school information; and
 - (b) the height of the sign is not more than 3.6m above existing ground level; and

- (c) the sign is not both illuminated and animated.

Example—both illuminated and animated

flashing neon

Note 1 A sign may also be exempt under div 1.3.3.

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

- (2) In this section:

school information includes—

- (a) the name of the school; or
- (b) the school motto; or
- (c) information about the school’s facilities; or
- (d) directional information; or
- (e) information about upcoming events for the school; or
- (f) information about the school’s achievements; or
- (g) information about the source of funding for works undertaken at the school.

1.99H Schools—playground and exercise equipment

- (1) In this section:

playground and exercise equipment includes swings, monkey bars, slippery dips, cubby houses, ropes and nets.

- (2) A designated development for building or installing playground and exercise equipment (and carrying out any related earthworks or other construction work on or under the land).

1.99I Schools—fences

(1) In this section:

fence includes—

- (a) a fence around the boundary, or part of the boundary, of an existing school campus; and
- (b) a fence within an existing school campus, including a fence—
 - (i) around, or partly around, a playground or playing field; or
 - (ii) between buildings; and
- (c) a gate that forms part of, or functions as, a fence.

playing field means an open space that is designed, or can be used, for playing or practising organised sport.

Examples—playing fields

tennis court, football oval, athletics track, basketball court, cricket oval, cricket practice nets

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

(2) A designated development for building or installing a fence (and carrying out any related earthworks or other construction work on or under the land) if—

- (a) the height of the fence is not more than—
 - (i) if the fence is around, or partly around, a playing field—4m above existing ground level; or
 - (ii) in any other case—2.4m above existing ground level; and
- (b) no vertical component of the fence is spiked.

1.99J Schools—shade structures

A designated development for building or installing a shade structure (and carrying out any related earthworks or other construction work on or under the land) if—

- (a) the height of the shade structure is not more than 10m above existing ground level; and
- (b) the plan area of the shade structure is not more than 200m²; and
- (c) the shade structure is unenclosed on at least 2 sides.

1.99K Schools—covered external walkways

A designated development for building or installing a covered walkway (and carrying out any related earthworks or other construction work on or under the land) if—

- (a) the height of the walkway is not more than—
 - (i) if the walkway is within 30m of the boundary of a residential zone—6m above existing ground level; or
 - (ii) in any other case—12m above existing ground level; and
- (b) the walkway is unenclosed on at least 1 side.

1.99L Schools—flag poles

- (1) In this section:

flag pole includes a lanyard, flag or other item associated with a flag pole.

- (2) A designated development for building or installing a flag pole (and carrying out any related earthworks or other construction work on or under the land) if the height of the flag pole is not more than 10m above existing ground level.

1.99M Schools—water tanks

A designated development for building or installing a water tank (and carrying out any related earthworks or other construction work on or under the land) if the water tank has a diameter of 8m or less.

Note A water tank may also be exempt under s 1.55.

1.99N Schools—landscape gardening

- (1) A designated development for landscape gardening (other than the construction of a retaining wall), and carrying out any related earthworks or other construction work on or under the land, if—
- (a) the landscape gardening is defined landscaping; and
 - (b) if the landscape gardening affects an existing public pedestrian access way, footpath or bicycle path—the landscape gardening maintains existing public access to the access way, footpath or bicycle path.

Note 1 For retaining walls generally, see s 1.53. (Other provisions, eg decks (see s 1.48) and swimming pools (see s 1.54) may be relevant.)

Note 2 Work by the Territory that affects the landscape of land may also be exempt under s 1.91.

- (2) For subsection (1) (b), section 1.11 (Criterion 1—easement and other access clearances) does not apply to the landscape gardening unless the landscape gardening involves the construction or installation of a structure.

- (3) In this section:

defined landscaping means landscaping in relation to 1 or more of the following:

- (a) a footpath;
- (b) a landing;
- (c) artificial grass;

- (d) any other landscape structure (other than a retaining wall), or earthworks, if the vertical distance from the top of the structure or earthworks to existing ground level is not more than—
 - (i) if the top of the structure or earthworks is above existing ground level—0.4m; or
 - (ii) if the top of the structure or earthworks is below finished ground level—1.2m.

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

1.99O Schools—car parks

- (1) A designated development for building or installing a car park (and carrying out any related earthworks or other construction work on or under the land) on existing ground level if the car park does not reduce the area of a playing field.
- (2) In this section:

playing field means an open space that is designed, or can be used, for playing organised sport.

Examples—playing fields

tennis court, football oval, athletics track, basketball court, cricket oval

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

1.99P Schools—bicycle enclosures

A designated development for building or installing a bicycle enclosure (and carrying out any related earthworks or other construction work on or under the land).

1.99Q Schools—toilet and change room facilities

A designated development for building or installing a toilet facility or change room facility (and carrying out any related earthworks or other construction work on or under the land) if the facility is not within 6m of the boundary of a residential zone.

1.99R Schools—driveways

A designated development for sealing or resealing a driveway (and carrying out any related earthworks or other construction work on or under the land) if 1 or more of the following materials is used:

- (a) concrete (including coloured or patterned concrete);
- (b) bitumen;
- (c) pavers, including bricks;
- (d) timber;
- (e) grass, including stabilising treatment.

1.99S Schools—security cameras

Installing a security camera.

1.99T Schools—external lighting

Installing external lighting, including security lighting and flood lighting (other than flood lighting for a playing field).

1.99U Schools—demountable and transportable buildings

A designated development for building or installing a demountable or transportable building (and carrying out any related earthworks or other construction work on or under the land) if the building is not within 6m of the boundary of a residential zone.

1.99V Schools—class 10b structures

A designated development for building or installing a class 10b structure (and carrying out any related earthworks or other construction work on or under the land) if—

- (a) the structure is not within 6m of the boundary of a residential zone; and
- (b) the development is not otherwise exempt under this division.

Examples—class 10b structures

retaining or freestanding wall, mast or antenna, swimming pool

Note 1 A class 10b structure may also be exempt under subdiv 1.3.2.3.

Note 2 A fence may be exempt under section 1.99I.

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

5 Schedule 1, section 1.101 (b) (i) and note

substitute

- (i) the relevant rules in any relevant precinct code; and

Note **Relevant rules**—see the Act, dictionary.

- (ia) 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; and

Note 1 The general exemption criteria are not applied because the relevant rules in the territory plan include requirements to similar effect as the criteria.

Note 2 Other territory laws, including the *Heritage Act 2004*, must be complied with (see s 1.4 and s 1.14).

6 Dictionary, new definitions

insert

commencement day, for schedule 1, division 1.3.6A (Exempt developments—schools)—see schedule 1, section 1.96.

existing ground level, for schedule 1, division 1.3.6A (Exempt developments—schools)—see schedule 1, section 1.96.

existing school, for schedule 1, division 1.3.6A (Exempt developments—schools)—see schedule 1, section 1.96.

existing school campus—see schedule 1, section 1.97.

young child, for schedule 1, division 1.3.6A (Exempt developments—schools)—see schedule 1, section 1.96.

Endnotes

1 Notification

Notified under the Legislation Act on 20 March 2009.

2 Republications of amended laws

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

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