

CONSULTATION DRAFT

(Prepared by Parliamentary Counsel's Office)

Planning (Exempt Development) Regulation 2022

Subordinate Law SL2022-

The Australian Capital Territory Executive makes the following regulation under the *Planning Act 2022*.

Dated 2022.

Chief Minister

Minister

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Part 1 Preliminary

1 Name of regulation

This regulation is the *Planning (Exempt Development) Regulation 2022*.

2 Commencement

This regulation commences on the commencement of the *Planning Act 2022*, section 524 (Regulation-making power).

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

3 Dictionary

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

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

For example, the signpost definition ‘*surface water*, for schedule 1 (Exemptions from requirement for development approval)—see the *Water Resources Act 2007*, section 8.’ means that the term ‘surface water’ is defined in section 8 of that Act and the definition applies to schedule 1 of this regulation.

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

4 Notes

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

5 Terms defined in territory plan

A term defined in the territory plan as in force from time to time has the same meaning in this regulation.

Part 2 Exempt development

6 Exempt development—Act, s 141 (1), def *exempt development*, par (b)

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

Note 1 For other exemptions, see the Act, s 143 (Exempt development—authorised use).

Note 2 Development that is significant development cannot be exempt development (see Act, s 141 (2) (a)) and development approval must be obtained. For provisions about development approval, see the Act, pt 7.6.

Note 3 Under the Act, s 141 (2) (b) *exempt development* does not include development that is inconsistent with an essential design element identified in a development approval.

- (2) Also, development is exempt from requiring development approval if—

- (a) the development would comply with schedule 1, other than for a matter (the *relevant matter*) to which the *Planning (General) Regulation 2022*, schedule 2 (Permitted variations to approved and exempt development) applies; and
- (b) the relevant matter complies with the criteria for the matter in the *Planning (General) Regulation 2022*, schedule 2; and
- (c) designated development for the development, as changed by the relevant matter, complies with the general exemption criteria that are applicable to the development.

Note 1 The development may still need building approval, or further building approval, under the *Building Act 2004*.

Note 2 The development must also comply with the lease for the land on which it is carried out.

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

Example—modification not requiring approval

Construction of a dwelling that is an exempt development is in progress. The developer wishes to change the slope of the roof by less than 5° (see sch 1, s 1.21). The developer may construct the dwelling with the changed roof slope (the *modification*) without seeking approval for the modification.

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

Example—variation not requiring approval

Construction of a dwelling that is an exempt development is in progress. The developer wishes to incorporate a skylight that complies with the conditions in sch 1, s 1.23, and so is an exempt development. The developer may construct the dwelling with the skylight (the *variation*) without seeking approval for the variation.

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

Example—composite development

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

- (6) However, subsections (3), (4) and (5) do not apply in relation to development if the modification, variation or composite development results in non-compliance with 1 or more of the following:
- (a) schedule 1, section 1.12 (Criterion 5—no multiple occupancy dwellings);
 - (b) the requirement under schedule 1, section 1.33 (Class 10 buildings and structures—2nd exempt building or structure in boundary clearance area) that there be not more than 2 exempt class 10 buildings in a boundary clearance area in conjunction with schedule 1, section 1.14 (Criterion 7—compliance with other applicable exemption);
 - (c) the requirement under schedule 1, section 1.102 (Compliant single dwellings) that there be not more than 1 dwelling on a block.

Part 3 Exemption assessment matters

7 Approval of exemption assessment application—Act, s 147 (2) (b)

If an application for an exemption assessment is made by someone other than the lessee of the land to which the exemption assessment relates, the application must be approved, in writing, by the following:

- (a) if the land to which the application relates is subject to a lease—the lessee of the land;
- (b) if the land to which the application relates is public land or unleased land—the custodian for the land;
- (c) in any other case—the territory planning authority.

8 Information for exemption assessment application—Act, s 147 (2) (c)

The following information is prescribed:

- (a) in relation to the parcel—
 - (i) the block and section number and division; and
 - (ii) the street name and number; and
 - (iii) if the land is under a land sublease—the sublease plan number;
- (b) in relation to the applicant—
 - (i) the applicant's name; and
 - (ii) if the applicant is a company registered under the Corporations Act—the ACN for the company under that Act; and
 - (iii) the applicant's contact details;

- (c) a brief description of the development;
- (d) whether the development has been carried out and, if so, the start and completion dates of the development.

9 Plans for exemption assessment application—Act, s 147 (2) (c)

The following plans are prescribed:

- (a) one copy of the plans for the development in electronic form;
- (b) if the person to whom the application is made asks for paper copies of the plans—3 copies.

10 Documents for exemption assessment application—Act, s 147 (2) (c)

- (1) This section applies if an application is made for an exemption assessment relating to a development proposal to which schedule 1, section 1.15 (Information about certain development proposals) applies.
- (2) The following documents are prescribed:
 - (a) a written notice that schedule 1, section 1.15 has been complied with;
 - (b) a copy of the written information given under schedule 1, section 1.15.

Example—written notice

a copy of any form prepared for sch 1, s 1.15 and a statement about how and when it was given

**11 Content of exemption assessment D notice—Act,
s 148 (2) (b) (ii)**

The following details are prescribed:

- (a) a summary of the information used by the exemption assessor for the exemption assessment;
- (b) if the exemption assessor concludes that the development is an exempt development—
 - (i) whether the development is exempt from requiring development approval under section 6 (Exempt development—Act, s 141 (1), def *exempt development*, par (b)) or the Act, section 143 (Exempt development—authorised use); and
 - (ii) for development exempt from requiring development approval under section 6—
 - (A) any other provisions of this regulation relied on by the exemption assessor to conclude that the development is an exempt development; and
 - (B) if any of the provisions of this regulation apply a provision of the territory plan in relation to the development—information identifying the relevant territory plan provision; and
 - (C) a statement that the provisions are satisfied;
- (c) the exemption assessor's name, endorsement and licence number;
- (d) the date of the notice;
- (e) if the development has already been carried out—the start and completion dates of the development.

12 Documents for exemption assessment D notice—Act, s 148 (2) (b) (ii)

- (1) The following documents are prescribed:
 - (a) a copy of any plans used by the exemption assessor for the exemption assessment;
 - (b) if the exemption assessor concludes that a single dwelling is exempt under schedule 1, section 1.102 (Compliant single dwellings)—a copy of the survey certificate used by the exemption assessor for the exemption assessment.
- (2) If the exemption assessor concludes that the development is an exempt development—
 - (a) the exemption assessor must endorse, date and mark the exemption assessor's licence number on each page of the plans; and
 - (b) the exemption must be marked on, or attached to, or partly marked on or partly attached to, each page of the plans.
- (3) However, if it is impractical to meet the requirement mentioned in subsection (2) (b) because of the size of the plans, the exemption assessor may instead indicate on each page of the plans that details of the exemption are in the exemption assessment D notice.
- (4) Each page of a document attached to an exemption assessment D notice—
 - (a) if it is the only document attached—must be paginated with reference to the total number of pages in the document; or

- (b) if more than 1 document is attached—must be paginated consecutively with reference to the combined total number of pages in the documents.

Example—par (b)

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

Schedule 1 Exemptions from requirement for development approval

(see s 6)

Part 1.1 Preliminary

1.1 Definitions—sch 1

In this schedule:

affected residential premises—see the Dangerous Substances Act 2004, section 47I.

clearing native vegetation—see the *Nature Conservation Act 2014*, section 234.

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

native vegetation—see the *Nature Conservation Act 2014*, section 232.

native vegetation area—see the *Nature Conservation Act 2014*, section 233.

open space boundary—see the Act, section 517 (3).

party wall—see the *Common Boundaries Act 1981*, section 27.

surface water—see the *Water Resources Act 2007*, section 8.

1.2 *Meaning of designated development—sch 1*

In this schedule:

designated development, in relation to land, means—

- (a) building, altering or demolishing a building or structure on the land; or
- (b) carrying out earthworks or other construction work on or under the land; or
- (c) carrying out work that would affect the landscape of the land.

1.3 *Meaning of dwelling—sch 1*

(1) In this schedule:

dwelling—

- (a) means a class 1 building, or a self-contained part of a class 2 building, that—
 - (i) includes the following that are accessible from within the building, or the self-contained part of the building:
 - (ii) at least 1 but not more than 2 kitchens;
 - (A) at least 1 bath or shower;
 - (B) at least 1 toilet; and
 - (iii) does not have access from another building that is either a class 1 building or the self-contained part of a class 2 building; and
- (b) includes any ancillary parts of the building and any class 10a buildings associated with the building.

(2) In this section:

kitchen does not include outdoor cooking facilities or a barbeque in an enclosed garden room.

1.4 Diagrams—sch 1

A diagram of something in this schedule is an illustrative example of the thing, but does not represent its dimensions or the dimensions of any part of it (or its comparative size in relation to something else).

Note A diagram in this regulation is part of the regulation (see Legislation Act, s 126 (4)).

1.5 Inconsistency between territory plan provisions and this schedule

- (1) This section applies if this schedule—
 - (a) applies to development; and
 - (b) applies a territory plan provision in relation to the development; and
 - (c) is inconsistent with the territory plan provision.
- (2) This schedule prevails over the territory plan provision to the extent of the inconsistency.

1.6 Exemption does not affect other territory laws

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

Examples—laws not affected

- *Building Act 2004*
- *Electricity Safety Act 1971*
- *Scaffolding and Lifts Act 1912*
- *Utilities Act 2000*
- *Water and Sewerage Act 2000*

- (2) To remove any doubt, the following provisions of this schedule do not limit the operation of subsection (1):
 - (a) section 1.10 (Criterion 3—heritage, tree, environment and conservation);
 - (b) section 1.11 (Criterion 4—compliance with lease and agreement collateral to lease).

Part 1.2 General exemption criteria

1.7 General exemption criteria

- (1) Development mentioned in part 1.4 (Development exempt from development approval) is exempt from requiring development approval if it meets each of the following criteria (the ***general exemption criteria***):
 - (a) section 1.8 (Criterion 1—easement and other access clearances);
 - (b) section 1.9 (Criterion 2—plumbing and drainage clearances);
 - (c) section 1.10 (Criterion 3—heritage, tree, environment and conservation);
 - (d) section 1.11 (Criterion 4—compliance with lease and agreement collateral to lease);
 - (e) section 1.12 (Criterion 5—no multiple occupancy dwellings);
 - (f) section 1.13 (Criterion 6—affected residential premises);
 - (g) section 1.14 (Criterion 7—compliance with other applicable exemption).
- (2) However, if a provision in part 1.4 provides that a criterion does not apply to the development, the development is exempt from requiring development approval despite not meeting the criterion.

Example

Section 1.16 (2) disapplies the criterion in s 1.14. Therefore, designated development mentioned in s 1.16 (1) need not meet criterion 7 to be exempt from requiring development approval.

1.8 Criterion 1—easement and other access clearances

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

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

utility—see the *Utilities Act 2000*, dictionary.

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

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

Examples

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

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

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

1.9 Criterion 2—plumbing and drainage clearances

Development must not cause a clearance for a pipe fitting opening or pipe fitting outlet to contravene AS/NZS 3500 (*Plumbing and drainage set*) as in force from time to time.

Example

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

Note AS/NZS 3500 does not need to be notified under the Legislation Act because s 47 (6) does not apply (see Act, s 524 (3) and Legislation Act, s 47 (7)). The standard may be purchased at www.standards.org.au.

1.10 Criterion 3—heritage, tree, environment and conservation

(1) Development must not contravene any of the following:

- (a) the *Environment Protection Act 1997*;
- (b) the *Heritage Act 2004*;
- (c) the *Nature Conservation Act 2014*;
- (d) the *Tree Protection Act 2005*.

Note Other applicable laws must also be complied with (see s 1.6).

(2) Development (other than a class 10 building or structure located behind the front zone) must not—

- (a) be located at a place or on an object included in the heritage register or under a heritage agreement; or
- (b) cause any part of a building or structure (other than a class 10 building or structure located behind the front zone) to be located at a place or on an object included in the heritage register or under a heritage agreement.

- (3) Subsection (2) does not apply if the heritage council gives the territory planning authority written advice that, in the council's opinion, the development—
- (a) will not diminish the heritage significance of the place or object;
or
 - (b) is in accordance with—
 - (i) heritage guidelines; or
 - (ii) a conservation management plan approved by the council under the *Heritage Act 2004*, section 61K; or
 - (c) is an activity described in a statement of heritage effect approved by the council under the *Heritage Act 2004*, section 61H.
- (4) In this section:

conservation management plan—see the *Heritage Act 2004*, dictionary.

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

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

heritage register—see the *Heritage Act 2004*, section 20.

Note The ACT Heritage Register is accessible at www.environment.act.gov.au.

heritage significance—see the *Heritage Act 2004*, section 10.

statement of heritage effect—see the *Heritage Act 2004*, section 61G.

1.11 Criterion 4—compliance with lease and agreement collateral to lease

Development must not be inconsistent with—

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

Example—par (b)

a land management agreement (see Act, s 342 (2) (a))

1.12 Criterion 5—no multiple occupancy dwellings

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

1.13 Criterion 6—affected residential premises

- (1) Development must not involve affected residential premises unless the development is for the following:
 - (a) the demolition of an affected building on the premises, including asbestos removal related to the demolition;
 - (b) work essential for health, safety or reasonable living conditions at affected residential premises.
- (2) The Minister may make guidelines about work mentioned in subsection (1) (b).
- (3) A guideline is a notifiable instrument.
- (4) In this section:

affected building—see the *Dangerous Substances Act 2004*, section 47I.

1.14 Criterion 7—compliance with other applicable exemption

If 2 or more provisions in part 1.4 (Development exempt from development approval) apply to development, the development must comply with each applicable provision.

Examples—other provisions applying to development

- 1 changing a house roof from metal sheet to tiles (see s 1.19) must also comply with s 1.21 (Buildings—roof slope changes)
- 2 the replacement of a roof flue for a building (see s 1.19) must also comply with s 1.22 (Buildings—chimneys, flues and vents)

Part 1.3 Certain development proposals

1.15 Information about certain development proposals

- (1) This section applies—
 - (a) in relation to a development proposal for—
 - (i) development mentioned in section 1.102 (Compliant single dwellings) or section 1.103 (Single dwellings where declaration authorises minor non-compliance); or
 - (ii) development mentioned in section 1.104 (Single dwellings—demolition) if the development is not required to be carried out urgently to address a risk of death or injury to a person, serious harm to the environment or significant damage to property; and
 - (b) if—
 - (i) a place (the *adjoining place*) other than unleased land adjoins the place (the *developing place*) to which the development proposal relates; and
 - (ii) the adjoining place has 1 or more dwellings on it.

- (2) The proponent of the development proposal must take reasonable steps to give written information about the proposal to an occupier (a **resident**) of each dwelling.
- (3) The written information must include the following:
 - (a) site plans and elevation plans for the development proposal;
 - (b) if any point of a building or structure in the proposal extends beyond any relevant solar building envelope (an **encroachment**)—shadow diagrams of the encroachment;
 - (c) any additional information required by the territory planning authority and included in a notice published on the authority website.
- (4) However, the proponent need not give written information to a resident of a dwelling on an adjoining place if the resident is the proponent or a person for whom the proponent has been appointed to act as agent.
- (5) The proponent may give the written information to a resident of a dwelling by leaving it at the dwelling.

Examples

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

Note The written information may be given in other ways (see Legislation Act, pt 19.5).

- (6) In this section:
adjoins—a place **adjoins** another place if the place touches the other place, or is separated from the other place only by a road, reserve, river, watercourse or similar division.

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

Note 1 If an application is made for an exemption assessment D notice relating to a development proposal to which this section applies, the application must include a written notice that this section was complied with (see s 10 (2) (a)).

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

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

Part 1.4 Development exempt from development approval

Note In order to be exempt from requiring development approval, development must comply with each of the general exemption criteria, unless a provision in this part provides that a criterion does not apply to the development (see s 1.7 (General exemption criteria)).

Division 1.4.1 Minor building works

1.16 Internal alterations of buildings

- (1) Designated development for the internal alteration of a building if the alteration does not do either of the following:
 - (a) change the building's class under the building code;
 - (b) increase the gross floor area of a non-residential building.

(2) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.

(3) 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.

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

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

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

Example—trafficable surface

paving

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

- (iv) reducing the height or width, or both, of the window or door;
- (v) installing a wall instead of the door or window or a part of the door or window; and

Example—par (b)

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

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

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

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

1.18 Installation, alteration and removal of high impact external doors and windows in buildings

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

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

Note See the example to s 1.17 (a).

- (b) the relevant change involves no more than the following:
- (i) replacing the door or window with either a door or a window without changing the width of the opening in the wall;
 - (ii) increasing the width of the door or window by not more than 340mm;
 - (iii) increasing the height of the door or window by not more than 340mm;
 - (iv) reducing the height or width, or both, of the window or door;
 - (v) installing a wall instead of the door or window or a part of the door or window; and
- Note* The change in relation to the door or window need not involve all of the matters mentioned in par (b).
- (c) no part of the relevant change is less than either of the following for the block on which the building is located:
- (i) 1.5m from a side boundary;
 - (ii) 3m from a rear boundary.

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

1.19 Exterior refinishing of buildings and structures

- (1) Designated development for altering the exterior material or finish of a building or structure if the alteration involves—
- (a) painting the exterior of the building or structure to change its appearance, other than—
 - (i) painting a design or sign on the exterior of the building or structure; or

- (ii) painting the building for maintenance; or

Note For maintenance, see s 1.20.

- (b) replacing or covering an exterior item (other than an excluded item) of the building or structure with the same or a different material.

Examples—par (b)

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

- (2) In this section:

excluded item means—

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

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

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

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

Note 1 For external doors and windows, see s 1.17 and s 1.18 and for skylights, see s 1.23.

Note 2 Changing the external appearance, material or finish of a building or structure may be subject to other laws, including heritage laws and energy efficiency provisions of building laws.

1.20 Maintenance of buildings and structures

- (1) Designated development (other than development to which section 1.19 applies) for the maintenance of a building or structure if the maintenance does not involve changing the kind of material used for the part of the building or structure to which the maintenance relates.

Examples—maintenance

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

Note Changing the external appearance, material or finish of a building or structure, or replacing items such as windows, may be subject to other laws, including heritage laws and energy efficiency provisions of building laws.

- (2) Section 1.10 (Criterion 3—heritage, tree, environment and conservation) does not apply to the designated development.

1.21 Buildings—roof slope changes

Designated development for changing the slope of all or part of a building's roof if the change does not do any of the following:

- (a) change the slope by more than 5°;
- (b) cause the roof to project beyond any relevant solar building envelope;
- (c) increase the volume or floor area of an existing attic;

- (d) create a new attic.

1.22 Buildings—chimneys, flues and vents

Designated development for a chimney, flue or vent for a building if the chimney, flue or vent—

- (a) penetrates, or is attached to, the building's roof; and
- (b) does not extend more than 1.5m above the lowest point of the roof where the chimney, flue or vent penetrates, or attaches to, the roof.

Example—chimney that is an exempt development

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

1.23 Buildings—skylights

Designated development for a skylight in the roof of a building if—

- (a) the external area of the skylight is not more than 2m²; and
- (b) the skylight does not project more than 150mm above the surface of the roof adjacent to the skylight; and
- (c) the skylight does not project beyond any relevant solar building envelope.

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

1.24 Buildings—external shades

- (1) Designated development for an external shade if the external shade, when opened to its full capacity, is within the boundary of the block.
- (2) In this section:

external shade means a device used to shade a window or door externally, and includes a pole, post or any other item associated with an external shade.

Examples

awning, blind, louvre, shutter

1.25 External heaters and coolers

- (1) Designated development for an externally mounted service for a block if—
 - (a) no part of the service is within 1.5m of a side boundary or rear boundary of the block; and
 - (b) if the service is mounted on a roof—
 - (i) the distance from the top of the service to the closest point of the roof is not more than 1.5m; and
 - (ii) the service does not project beyond any relevant solar building envelope; and
 - (c) if the service is mounted on the ground—no part of the service is between a front boundary and a building line for the block.

Note Noise emitted from external heaters and coolers is regulated under the *Environment Protection Regulation 2005*.

- (2) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.

(3) In this section:

service—

- (a) means a solar water heater, air conditioner or evaporative cooler; and
- (b) includes the support structures (if any) for the heater, air conditioner or evaporative cooler.

solar water heater—see the *Building (General) Regulation 2008*, schedule 1, section 1.1.

1.26 External photovoltaic panels

- (1) Designated development for an externally mounted photovoltaic panel for a block if—
 - (a) no part of the panel is within 1.5m of a side boundary or rear boundary of the block; and
 - (b) no part of the panel projects beyond any relevant solar building envelope; and
 - (c) if the panel is a protruding panel on a block to which no solar building envelope would apply under the relevant performance outcome of the territory plan—
 - (i) no part of the panel is more than 300mm above the closest point of the roof; or
 - (ii) no part of the panel restricts solar access to another block; and
 - (d) if the panel is mounted on the ground—no part of the panel is between a front boundary and a building line for the block.
- (2) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.

- (3) In this section:

protruding panel means a roof mounted photovoltaic panel any part of which is higher than a plane projected at 30° above horizontal from a height of 3m above the natural ground level at a boundary of the block.

restrict—a protruding panel on a block ***restricts*** solar access to another block if, on the winter solstice when the sun's angle is 30° above the horizon, the shadow cast by the panel at natural ground level on the other block is larger than the shadow that would be cast on the other block by the roof if the protruding panels were not mounted on it.

1.27 Buildings—external switchboards

Designated development for a switchboard on the exterior of a building.

1.28 Buildings—external area lighting

- (1) Designated development for area lighting on the exterior of a building.

Note Other laws, including the *Environment Protection Act 1997*, apply in relation to the emission of electromagnetic radiation, including light.

- (2) In this section:

area lighting means lighting to assist people to avoid obstacles while moving around the exterior of a building.

1.29 Residential leases—driveway crossings of road verges

- (1) Designated development for a driveway across a road verge for a residential lease granted for a single dwelling if—

- (a) only 1 dwelling has been built on the lease and a development application for another dwelling has not been made in relation to the lease; and

- (b) the construction of the driveway will result in not more than 2 driveways across the road verge for the lease; and
- (c) the director-general of the administrative unit responsible for municipal services has agreed, in writing, to the construction of the driveway; and
- (d) the driveway is constructed in accordance with the agreement.

(2) In this section:

road verge means the area between the trafficable part of a road and the boundary of a lease adjacent to the road.

Note This item does not apply to that part of a driveway that is on the residential lease, but other provisions in this schedule might apply to that part of a driveway.

1.30 Resealing existing driveways

Designated development for resealing an existing driveway 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.

Note A driveway in an existing school campus may also be exempt under s 1.97 (Schools—driveways).

1.31 Temporary buildings and structures

- (1) 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 territory planning authority extends, in writing, the 1-year period—the period as extended.
- (2) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.
- (3) 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.

Division 1.4.2 Non-habitable buildings and structures

Subdivision 1.4.2.1 Preliminary

1.32 Meaning of *class 10a building*—div 1.4.2

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 A swimming pool is not a class 10a building (see building code).

1.33 Class 10 buildings and structures—2nd exempt building or structure in boundary clearance area

- (1) 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 partly 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 thing were not located partly or fully in 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 partly or fully in the boundary clearance area; and
 - (ii) have a combined relevant cross-section area above natural ground level of not more than 30m^2 .

Example—par (d) (ii)

A regular-shaped, flat-roofed, garden shed faces parallel to and is 1m from the boundary of a block. Its relevant cross-section area is the area of the rectangles bounded by the shed wall that faces the boundary and the edge of its roof, a total area of 15m^2 .

The block's owner proposes to build a 2nd class 10a building which is a circular rotunda with a domed roof. Its relevant cross-section area is the largest cross-section of the rotunda at any point in the boundary clearance area when measured in a plane parallel to the boundary, an area of 18m^2 .

Because the combined relevant cross-section areas of shed and rotunda are more than 30m^2 , the rotunda does not comply with this section and is not exempt from a development application.

- (2) To remove any doubt, this section applies in relation to the boundary clearance area of each side boundary and rear boundary of a block.
- (3) 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.

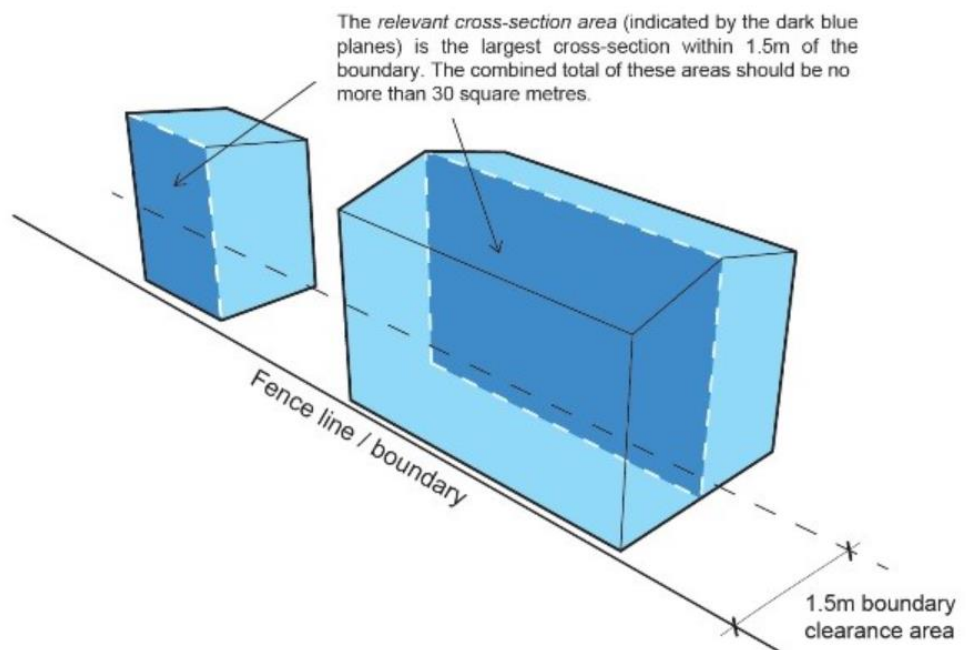
relevant cross-section area, of a building or structure partly or fully in a boundary clearance area, means the area of the largest vertical cross-section of the building or structure at any point in the area when measured in a plane parallel to the boundary, as shown in diagram 1.33.

Schedule 1	Exemptions from requirement for development approval
Part 1.4	Development exempt from development approval
Division 1.4.2	Non-habitable buildings and structures
Section 1.33	

Examples—relevant cross-section area

- 1 A rectangular shed encroaches on the boundary clearance area of a block and is parallel to the boundary. The wall facing the boundary is 2m high and 3m wide. The roof does not increase the profile of the structure. The relevant cross-section area of the shed is 6m².
- 2 A pergola has no walls, encroaches on the boundary clearance area of a block, and is parallel to the boundary. The side facing the boundary is 2m high and 3m wide. However, the uprights have a total area facing the boundary of 0.6m² and the crossbeam has a total area facing the boundary of 0.9m². The relevant cross-section area of the pergola is 1.5m².

Diagram 1.33 **Relevant cross-section area**



Subdivision 1.4.2.2 Class 10a buildings

1.34 Roofed class 10a buildings—enclosed or open on 1 side

- (1) 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 1.37 and for external verandahs, see s 1.38.
 - (b) the building is enclosed by a roof and has walls on—
 - (i) each of its sides; or
 - (ii) each of its sides except for 1 side; and
 - (c) the height of the building is not more than—
 - (i) if subsection (2) applies—4m above natural ground level; or
 - (ii) in any other case—3m above natural ground level; and
 - (d) no part of the building extends beyond any relevant solar building envelope; and
 - (e) the building does not exceed the size limitation for the block; and
 - (f) the building complies with the setback requirement for the block; and
 - (g) 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 1.33 (Class 10 buildings and structures—2nd exempt building or structure in boundary clearance area) applies to the building.

- (2) This subsection applies to a building that—
- (a) is more than 3m above natural ground level; but
 - (b) has no part higher than a plane projecting at 30° above the horizontal from a height 3m above the natural ground level at a boundary.
- (3) In this section:

setback requirement, for a building in relation to a block, means—

- (a) if the building has a plan area of not more than 10m²—the building is behind the building line for the block; or
- (b) if the building has a plan area of more than 10m²—the building is behind the building line for the block and at least 15m from the block's front boundary

size limitation, for a building in relation to a block, means—

- (a) if the size of the block is less than 500m²—the building has a plan area of not more than 10m²; or
- (b) if the size of the block is 500m² or more but less than 600m²—the building has a plan area of not more than 25m²; or
- (c) if the size of the block is 600m² or more—the building has a plan area of not more than 50m².

1.35 Roofed class 10a buildings—unenclosed or partly open

- (1) 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 1.37 and for external verandahs, see s 1.38.
 - (b) the height of the building is not more than—
 - (i) if subsection (2) applies—4m above natural ground level; or

- (ii) in any other case—3m above natural ground level; and
 - (c) no part of the building extends beyond any relevant solar building envelope; and
 - (d) the building—
 - (i) is enclosed by a roof which has a plan area of not more than 50m²; and
 - (ii) has walls on not more than 2 of its sides; and
 - (e) the building is behind the building line for the block; and
 - (f) 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
 - (g) 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 1.33 (Class 10 buildings and structures—2nd exempt building or structure in boundary clearance area) applies to the building.
- (2) This subsection applies to a building that—
- (a) is more than 3m above natural ground level; but
 - (b) has no part higher than a plane projecting at 30° above the horizontal from a height 3m above the natural ground level at a boundary.

1.36 Class 10a buildings—unroofed and unenclosed

- (1) 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 1.37 and for external verandahs, see s 1.38.
 - (b) the building does not have a roof or any walls; and
 - (c) the height of the building is not more than—
 - (i) if subsection (2) applies—4m above natural ground level; or
 - (ii) in any other case—3m above natural ground level; and
 - (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
 - (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 1.33 (Class 10 buildings and structures—2nd exempt building or structure in boundary clearance area) applies to the building.
- (2) This subsection applies to a building that—
- (a) is more than 3m above natural ground level; but

- (b) has no part higher than a plane projecting at 30° above the horizontal from a height 3m above the natural ground level at a boundary.

1.37 Class 10a buildings—external decks

- (1) 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
 - (c) if any part of the deck is between a front boundary and a building line for the block—that part of the deck does not have a balustrade; and
 - (d) if any part of the deck is behind a building line for the block—the height of any balustrade for that part of the deck is not more than 1.2m above the finished floor level for the deck; and
 - (e) if any part of the deck is higher than 0.4m above natural ground level and within 1.5m of a side boundary or rear boundary of the block—
 - (i) the deck is the only class 10 building or structure (other than a boundary fence) that has any part of it that is within 1.5m of the boundary; or
 - (ii) section 1.33 (Class 10 buildings and structures—2nd exempt building or structure in boundary clearance area) applies to the deck.

(2) 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.

1.38 Class 10a buildings—external verandahs

(1) 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
- (c) no part of the verandah is—
 - (i) higher than 3m above natural ground level; or
 - (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.

(2) 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.

Subdivision 1.4.2.3 Class 10b structures

1.39 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.

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
- (b) the structure is not—
 - (i) wider than 2m; or
 - (ii) higher than 1.85m above natural ground level; and
- (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
- (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 1.33 (Class 10 buildings and structures—2nd exempt building or structure in boundary clearance area) applies to the structure.

1.40 Fences and freestanding walls generally

- (1) Designated development for a fence for, or freestanding wall on, a block if—
 - (a) the fence or wall is not higher than—
 - (i) for a mesh fence in an industrial zone—2.7m above natural ground level; or
 - (ii) in any other case—
 - (A) for a panel of a fence or wall—2.3m above natural ground level; or
 - (B) for the support post or column of a fence or wall—2.5m above natural ground level; and
 - (b) no part of the fence or wall is between a front boundary and a building line for the block; and
 - (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.
- (2) The excluded criteria do not apply to the designated development.
- (3) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development to the extent that the section would apply to the excluded criteria.

Note The general exemption criteria include s 1.14, which provides that development must comply with any other provisions in this part that apply to the development.

- (4) In this section:

excluded criteria means any other criteria in this division, other than section 1.33, that would apply to the development.

fence—

- (a) includes a gate that forms part of, or functions as, a fence; but
- (b) does not include a fence for an open space boundary.

wall includes a gate that forms part of, or functions as, a wall.

1.41 Basic open space boundary fences

Note The Act, s 517 (3) defines ***open space boundary*** as meaning a boundary between leased and unleased land.

- (1) 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
 - (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.
- (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 pre-coloured 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*) as in force from time to time, mentioned in part 1.5 (Permitted open space boundary fence colours); and
- Note* AS 2700 does not need to be notified under the Legislation Act because s 47 (6) does not apply (see Act, s 524 (3) and Legislation Act, s 47 (7)). The standard may be purchased at www.standards.org.au.
- (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:
- basic paling fence***—see the Act, section 517 (3).
- development requirement***—see the Act, section 517 (3).

1.42 Retaining walls

- (1) Designated development for a retaining wall on a block if—
 - (a) if the retaining wall is between a front boundary and a building line for the block—the retaining wall is not higher than 0.4m above natural ground level on the lowest side of the wall; and

- (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
- (c) if any part of the retaining wall is higher than 0.4m above natural ground level on the lowest side of the wall and within 1.5m of a side boundary or rear boundary of the block—
 - (i) the retaining wall is the only class 10 building or structure (other than a boundary fence) that has any part of it that is within 1.5m of the boundary; or

- (ii) section 1.33 (Class 10 buildings and structures—2nd exempt building or structure in boundary clearance area) applies to the retaining wall.

- (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.

1.43 Swimming pools

- (1) Designated development for a swimming pool on a block if—
 - (a) no part of the pool, or an associated structure, is—
 - (i) either—
 - (A) if the development includes a courtyard wall forward of a building line for the block—between a front boundary and the courtyard wall; or
 - (B) in any other case—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
 - (c) the height of the pool’s reservoir is not more than 1.5m above natural ground level.

- (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.

1.44 Dish antennas

- (1) 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
 - (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'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 1.33 (Class 10 buildings and structures—2nd exempt building or structure in boundary clearance area) applies to the antenna.
- (2) In this section:
- dish antenna*** means a parabolic antenna with a solid, wire or mesh dish and includes the support structures for the antenna.

1.45 Mast antennas

- (1) 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 1.33 (Class 10 buildings and structures—2nd exempt building or structure in boundary clearance area) applies to the antenna.
- (2) The excluded criteria do not apply to the designated development.
- (3) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development to the extent that the section would apply to the excluded criteria.

Note The general exemption criteria include s 1.14, which provides that development must comply with any other provisions in this part that apply to the development.

- (4) In this section:

excluded criteria means any other criteria in this division, other than section 1.33, that would apply to the development.

mast antenna means a tower, pole or aerial structure and includes the support structures for the antenna.

1.46 Flag poles

- (1) Designated development for building or installing a flag pole if the height of the flag pole is not more than 10m above finished ground level.

Note A flag pole in an existing school campus may also be exempt under s 1.91 (Schools—flag poles).

- (2) In this section:

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

Subdivision 1.4.2.4 Other structures

1.47 Water tanks

Designated development for a water tank on a block if—

- (a) the tank does not have a capacity of more than 20kL; and
- (b) if any part of the tank is located between a front boundary and a building line for the block—the whole tank is buried under the natural ground level; and
- (c) in any other case—the height of the tank is not more than 3m above natural ground level.

1.48 External ponds

Designated development for an external pond on a block if—

- (a) the pond is not for, or used for, swimming, wading or bathing; and
- (b) the maximum depth of water the pond can hold is not more than 300mm; and
- (c) no part of the pond is within 1.5m of a side boundary or rear boundary of the block; and

- (d) no part of the pond is located between a front boundary and a building line for the block.

1.49 Animal enclosures

- (1) Designated development for an animal enclosure on a block if—
 - (a) the enclosure's plan area is not more than 10m²; and
 - (b) the enclosure's height is not more than 3m above natural ground level; and
 - (c) no part of the enclosure is between a front boundary and a building line for the block.
- (2) The excluded criteria do not apply to the designated development.
- (3) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development to the extent that the section would apply to the excluded criteria.

Note The general exemption criteria include s 1.14, which provides that development must comply with any other provisions in this part that apply to the development.

- (4) In this section:

excluded criteria means any other criteria in this division, other than section 1.33, that would apply to the development.

Note Other laws, including animal welfare laws, may be relevant (see s 1.6).

1.50 Clothes lines

- (1) 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.

- (2) The excluded criteria do not apply to the designated development.
- (3) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development to the extent that the section would apply to the excluded criteria.

Note The general exemption criteria include s 1.14, which provides that development must comply with any other provisions in this part that apply to the development.

- (4) In this section:

excluded criteria means any other criteria in this division, other than section 1.33, that would apply to the development.

Division 1.4.3 Signs

1.51 Public works signs excluded—div 1.4.3

This division does not apply to putting up, attaching or displaying a sign that is for public works under section 1.70.

1.52 Signs attached etc to buildings, structures and land

- (1) Putting up, attaching or displaying 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 1.6 (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
 - (c) the sign complies with the relevant provisions of the Signs General Code.
- (2) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to development to which this section applies.

Note 1 Fixed signs that encroach into unleased land require a licence under the Act, pt 10.13.

Note 2 Other laws, including the *Public Unleased Land Act 2013*, deal with placement of signs.

1.53 Moveable signs on public unleased land

- (1) Displaying a moveable sign on public unleased land if—
- (a) the sign does not impede public access to a place (including public unleased land); and
 - (b) the surface area of any side of the sign is not more than 1.5m²; 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.
- (2) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to development to which this section applies.

Note Other laws, including the *Public Unleased Land Act 2013*, deal with placement of signs.

- (3) In this section:

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

public unleased land—see the *Public Unleased Land Act 2013*, section 8.

1.54 Temporary signs

- (1) Putting up, attaching or displaying a sign if—
 - (a) the sign is of a type mentioned in part 1.6 (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
 - (a) the sign complies with the requirements (if any) of the Signs General Code in relation to the sign; and
 - (b) the sign is put up, attached or displayed for not more than 2 weeks in any calendar year.
- (2) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to development to which this section applies.

Note 1 Temporary signs that encroach into unleased land require a licence under the Act, pt 10.13.

Note 2 Other laws, including the *Public Unleased Land Act 2013*, deal with placement of signs.

1.55 Signs—information about future urban areas

- (1) 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.
- (2) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to development to which this section applies.

1.56 Signs—required under Building Act 2004

Putting up, attaching or displaying a sign if—

- (a) the sign is required to be put up, attached or displayed under the *Building Act 2004*, section 37A (Sign to be displayed for certain building work) or section 37B (Sign to be displayed for building work in prescribed development); and
- (b) the sign complies with the requirements for the sign under that Act.

Division 1.4.4 Community gardens

1.57 Application—div 1.4.4

- (1) This division applies to a community garden if the garden is established on—
 - (a) unleased territory land under a licence granted under the Act, part 10.13 (Licences for unleased land); or
 - (b) an existing school campus.
- (2) If this division applies to a community garden, the following provisions of this schedule do not apply in relation to development in the community garden:
 - (a) section 1.33 (Class 10 buildings and structures—2nd exempt building or structure in boundary clearance area);
 - (b) section 1.34 (Roofed class 10a buildings—enclosed or open on 1 side);

- (c) section 1.35 (Roofed class 10a buildings—unenclosed or partly open);
- (d) section 1.36 (Class 10a buildings—unroofed and unenclosed);
- (e) section 1.39 (Class 10b structures—plan area not more than 2m²);
- (f) section 1.40 (Fences and freestanding walls generally);
- (g) section 1.41 (Basic open space boundary fences);
- (h) section 1.47 (Water tanks);
- (i) section 1.48 (External ponds).

Note The provisions of this schedule that are not mentioned in this section may apply in relation to development in a community garden.

1.58 Definitions—div 1.4.4

In this division:

boundary means the boundary of—

- (a) the unleased territory land on which a community garden is established; or
- (b) the existing school campus on which a community garden is established.

class 10a building means any of the following buildings that are class 10a buildings under the building code:

- (a) a shed;
- (b) a greenhouse;
- (c) a gazebo;
- (d) a pergola;
- (e) a hail protection structure;

- (f) a storeroom or other out-building.

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

class 10b structure means any of the following structures that are class 10b structures under the building code:

- (a) an arbour;
- (b) an arch;
- (c) a fence;
- (d) a freestanding wall;
- (e) a garden bed;
- (f) a pole.

community garden—

- (a) means the use of land for the cultivation of produce primarily for personal use by the individuals undertaking the gardening; and
- (b) includes demonstration gardening or other activities to encourage the involvement of school groups, youth groups or others in gardening activities.

Example—par (b)

a garden in a school that is cultivated by students and grows produce for use in the school canteen

1.59 Community gardens—class 10a building

- (1) Designated development for building or installing a class 10a building in a community garden if—
- (a) the height of the building is—
 - (i) not more than 3m above natural ground level; or
 - (ii) if no part of the building is higher than a plane projecting at 30° above horizontal from a height of 3m above the natural ground level at a boundary—not more than 4m above natural ground level; and
 - (b) the plan area of the building is—
 - (i) if the community garden is less than 600m²—not more than 10m²; or
 - (ii) if the community garden is 600m² or more—not more than 50m²; and
 - (c) the height of the finished floor level of the building that has a floor is—
 - (i) if the building is within 1.5m of a boundary—not more than 0.4m above natural ground level; or
 - (ii) in any other case—not more than 1m above finished ground level; and
 - (d) the minimum setback between the building and any street frontage is—
 - (i) if the plan area of the building is not more than 10m²—6m; or
 - (ii) if the plan area of the building is more than 10m² but not more than 50m²—15m; and

- (e) if any part of the building is within 1.5m of a boundary that does not align with any street frontage—
 - (i) the building is the only class 10 building or structure (other than a boundary fence) that has any part of it within 1.5m of the boundary; or
 - (ii) section 1.61 (Community gardens—boundary clearance area) applies to the building.
- (2) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.

1.60 Community gardens—class 10b structures

- (1) Designated development for building or installing a garden bed in a community garden if—
 - (a) the bed has a plan area of not more than 50m²; and
 - (b) the bed is not more than 1m high.
- (2) Designated development for building or installing a fence in a community garden if—
 - (a) the fence is made of mesh; and
 - (b) the fence is not more than 2.3m high; and
 - (c) if the fence is a boundary fence—it does not divert or concentrate the flow of surface water in a way that causes the water to pond or be diverted onto other land.
- (3) Designated development for building or installing a class 10b structure (other than a garden bed or a fence) in a community garden if the structure—
 - (a) has a plan area of not more than 2m²; and
 - (b) is not wider than 2m; and
 - (c) is not higher than 1.85m above natural ground level; and

- (d) if the structure has a floor—the floor is not more than 0.4m above natural ground level; and
- (e) if any part of the structure is within 1.5m of a boundary—
 - (i) the structure is the only class 10 building or structure (other than a boundary fence) that has any part of it within 1.5m of the boundary; or
 - (ii) section 1.61 applies to the structure.
- (4) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.

1.61 Community gardens—boundary clearance area

- (1) Designated development for a class 10 building or structure (the **2nd thing**) in a boundary clearance area if—
 - (a) an existing class 10 building or structure (the **1st thing**) is partly or fully in a boundary clearance area; and
 - (b) the 2nd thing would be exempt under another section of this division if the 1st thing were not partly or fully in 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 partly or fully in the boundary clearance area; and
 - (ii) have a combined relevant cross-section area above natural ground level of not more than 30m².
- (2) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.

- (3) In this section:

boundary clearance area means the area between a boundary and a line drawn 1.5m inside and parallel to the boundary.

class 10 building or structure does not include a sign installed on a community garden.

relevant cross-section area, of a building or structure partly or fully in 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.

1.62 Community gardens—water tanks

- (1) Designated development for building or installing a water tank in a community garden if—
- (a) the capacity of the tank is not more than 20kL; and
 - (b) the height of the tank is not higher than 3m above natural ground level; and
 - (c) no part of the tank is within 1.5m of a boundary.
- (2) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.

1.63 Community gardens—ponds

- (1) Designated development for building or installing an external pond in a community garden if—
- (a) the pond is not for, or used for, swimming, wading or bathing; and
 - (b) the maximum depth of water the pond can hold is not more than 300mm; and
 - (c) no part of the pond is within 1.5m of a boundary.

- (2) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.

1.64 Community gardens—shade structures

- (1) Designated development for building or installing a shade structure (and carrying out any related earthworks or other construction work on or under the land) in a community garden if—
- (a) the height of the shade structure is not more than 4m above natural ground level; and
 - (b) the plan area of the shade structure is not more than 50m²; and
 - (c) the shade structure is unenclosed on at least 2 sides.
- (2) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.

Division 1.4.5 Outdoor eating or drinking places

1.65 Application—div 1.4.5

This division applies to an outdoor eating or drinking place if it is established on—

- (a) unleased territory land under a licence granted under the Act, part 10.13 (Licences for unleased land); or
- (b) public unleased land for which a permit has been issued under the *Public Unleased Land Act 2013*.

1.66 Definitions—div 1.4.5

In this division:

outdoor eating or drinking place—see the *Smoke-Free Public Places Act 2003*, section 9A.

public unleased land—see the *Public Unleased Land Act 2013*, section 8.

1.67 Outdoor eating or drinking places—removable objects

- (1) Designated development for building or installing an object in an outdoor eating or drinking place if the object (a ***removable object***) can, within 48 hours and with or without limited mechanical assistance, be removed from the outdoor eating or drinking place to return that place to the condition it was in immediately before the object was installed.

Examples—removable objects

- awnings
- glass screens
- portable barriers
- serving stations
- umbrellas attached to the ground

- (2) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.

- (3) In this section:

limited mechanical assistance includes the use of a crowbar, pallet jack or trolley, but does not include the use of an excavator, forklift or jackhammer.

removable object includes any of the following:

- (a) an object attached to the ground, a building or structure;
- (b) a socket, sleeve, bracket or similar device that attaches an object to the ground, a building or structure;
- (c) an object that, though not attached, remains in place when the outdoor eating or drinking place is not in use.

Division 1.4.6 Rural leases

1.68 Rural lease development generally

- (1) 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 216m²; and
 - (b) the development does not result in the clearing of more than 0.5ha of native vegetation in a native vegetation area; and
 - (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 EPBC Act.

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 EPBC Act, an approval may be required to take certain action, including an action that has a significant impact on a species.

- (2) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.

1.69 Consolidation of rural leases

The consolidation of rural leases.

Note For restrictions on the consolidation of rural leases, see the Act, div 10.8.2 and the *Planning (General) Regulation 2022*, pt 9.

Division 1.4.7 Territory development

1.70 Public works

- (1) Designated development for public works carried out by or for the Territory if—
 - (a) 1 of the following applies to the development:
 - (i) an authorisation has been granted under the *Environment Protection Act 1997*, section 49 in relation to the development;
 - (ii) the environment protection authority has entered into an environmental protection agreement under the *Environment Protection Act 1997*, section 38 in relation to the activity with the person who is conducting, or proposing to conduct, the activity;
 - (iii) the development does not require an environmental authorisation or environmental protection agreement under the *Environment Protection Act 1997*; and
 - (b) if the development is for minor public works carried out in a reserve—the development is carried out in accordance with a minor public works code approved by the conservator of flora

and fauna under the *Nature Conservation Act 2014*, section 318A.

Note Other territory laws must be complied with (see s 1.6).

(2) In this section:

ancillary sporting structure—

- (a) means a structure that is designed, or can be used, in relation to playing organised sport; but
- (b) does not include a grandstand.

Examples—par (a)

goal posts, sight screens, fencing

bicycle parking facility means a structure built for parking a bicycle with a height of not more than 2.4m.

kiosk means a structure in an open space that is used to provide food or drinks to people using the open space mainly for another purpose.

landscaping means work that affects the landscape of land if the work does not involve any of the following:

- (a) clearing more than 0.5ha of native vegetation in a native vegetation area;
- (b) clearing a tract of a forest or arboretum.

minor public works—see the *Planning (General) Regulation 2022*, schedule 1, section 1.1.

minor public works code—see the *Nature Conservation Act 2014*, section 318A.

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

Examples—playing fields

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

public amenities means toilets, showers and change rooms that are available for public use.

public works means—

- (a) installation or maintenance of street and park furniture; or
- (b) maintenance of a road or car park; or
- (c) construction or maintenance of a footpath, bicycle path, bicycle parking facility, walking track or other pedestrian area; or

Examples—construction or maintenance of other pedestrian area

tree planting and repaving, reconstruction of kerbs and gutters

- (d) maintenance of stormwater drainage or a flood mitigation structure; or

Examples

stormwater canals and drains, floodways, flood gates, bank protection, earth levees, reservoirs, detention basins

- (e) maintenance of a water quality treatment device; or

Examples

litter traps, bioretention systems, wetlands, wetponds, pollutant traps, swales, buffer strips, infiltration trenches

- (f) installation or maintenance of an ancillary sporting structure on or beside a playing field; or

- (g) maintenance of a playing field; or

Example

resurfacing oval with artificial grass

- (h) bushland regeneration, landscaping, gardening, tree planting, tree maintenance, tree removal or fire fuel reduction, construction or maintenance of a fire trail; or

- (i) construction, installation or maintenance of a water tank; or

- (j) installation or maintenance of a temporary structure for an event; or

- (k) installation or maintenance of public amenities; or
- (l) installation or maintenance of a kiosk.

Examples—par (l)

marquee, portable toilet, stage, tent, television screen, scaffolding

reserve—see the *Nature Conservation Act 2014*, section 169.

street and park furniture means the conventional equipment of urban streets and parks.

Examples

- 1 a seat, bench, table, rubbish bin, recycling bin, barbecue, playground equipment, gazebo, bridge, staircase, boardwalk, rotunda, stage, shade sail, water fountain, bus shelter
- 2 a bollard, planter box, street tree guard and root cover, guard rail, portico, awning, canopy, flagpole, pergola
- 3 a parking meter, parking ticket machine, street sign, parking control sign, traffic control device, telephone booth, streetlight, playing field light, variable messaging sign

1.71 Public artworks

- (1) Designated development for the installation of a public artwork if—
 - (a) the development is funded completely or partly by the Territory; and
 - (b) the public artwork will be located on territory land or land occupied by the Territory; and
 - (c) the director-general of the administrative unit responsible for municipal services has agreed, in writing, to the location of the public artwork; and
 - (d) the public artwork has a height of not more than—
 - (i) for an artwork located adjacent to an arterial road or proposed arterial road—12m above finished ground level; or

- (ii) in any other case—6m above finished ground level; and
 - (e) the development does not require an environmental authorisation or environmental protection agreement under the *Environment Protection Act 1997*; and
 - (f) the public artwork is not a habitable structure.
- (2) In this section:

arterial road means a road with a speed limit of at least 80km/h.

Examples

limited access road, parkway, freeway

public artwork means an artwork to be displayed in a place open to and accessible by the public.

Examples

sculpture, statue, structure, painting

1.72 Street art on buildings or structures

Designated development for altering the exterior of a building or structure by painting, marking or otherwise affixing street art on the building or structure, if—

- (a) the building or structure is not in a residential zone; and
- (b) the lessee or custodian of the land on which the building or structure is located has agreed, in writing, to the street art; and
- (c) the street art—
 - (i) does not project more than 30mm from a wall or other surface; and
 - (ii) does not include material that discriminates against or vilifies any person or group; and
 - (iii) does not include material that is offensive or sexually explicit; and

(iv) does not include advertising material; and

(v) is not a sign; and

Note A sign may be exempt under s 1.52.

(vi) is not illuminated or animated; and

(vii) does not incorporate a moving or changing display or message; and

(viii) does not use reflective paint or other reflective material; and

(ix) is not more than 6m in height.

Example—street art on a building or structure

mural painted on the external wall of a building

1.73 Plantation forestry

(1) The planting or harvesting of plantation trees by or for the Territory in a plantation forestry area.

(2) In this section:

plantation forestry area means an area identified on a precinct map in the territory plan as an area where plantation forestry is permitted subject to development assessment.

plantation tree—

(a) means a tree cultivated to produce a harvest; and

(b) includes a tree naturally generated by a plantation tree.

1.74 Waterway protection work

(1) Designated development carried out by or for the Territory for the protection of waterways if—

(a) the director-general of the administrative unit responsible for municipal services has agreed, in writing, to the work; and

- (b) the work does not result in the clearing of more than 0.5ha of native vegetation in a native vegetation area; and
- (c) the work is not contrary to a land management agreement; and
- (d) the work does not require any of the following:
 - (i) a licence under the *Water Resources Act 2007*;
 - (ii) an environmental authorisation or environmental protection agreement under the *Environment Protection Act 1997*;
 - (iii) an approval under the EPBC Act.

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 EPBC Act, an approval may be required to take certain action, including an action that has a significant impact on a species.

- (2) In this section:

waterway—see the *Water Resources Act 2007*, section 10.

1.75 Emergencies affecting public health or safety or property

- (1) Development carried out by or for the Territory if the development is carried out because of an emergency to protect—
- (a) public health or safety; or
 - (b) property.

Note Other territory laws must be complied with (see s 1.6).

(2) In this section:

emergency—see the *Emergencies Act 2004*, dictionary.

1.76 Temporary flood mitigation measures

Designated development carried out by or for the Territory if the development is carried out for temporary flood mitigation.

Note Other territory laws must be complied with (see s 1.6).

Division 1.4.8 Schools

Subdivision 1.4.8.1 Preliminary

1.77 Application—div 1.4.8

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

Note *Existing school campus*—see s 1.1.

1.78 Definitions—div 1.4.8

In this division:

existing ground level, in relation to an area, means—

- (a) for a school constructed on or before 24 March 2009—the ground level of the area on 24 March 2009; or
- (b) for a school constructed after 24 March 2009 with development approval—the ground level of the area at the time the approval is given.

existing school—see section 1.79.

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

1.79 Meaning of *existing school*—div 1.4.8

(1) In this division:

existing school means—

(a) 1 of the following constructed on or before 24 March 2009 or with development approval:

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

Examples—education of young children

preschool, early learning centre

(b) land that—

(i) either—

(A) has been a type of school mentioned in paragraph (a) (i) to (iii) constructed on or before 24 March 2009 or with development approval; or

(B) is adjacent to something mentioned in paragraph (a); and

(ii) is being developed or redeveloped to be, or be part of, a type of school mentioned in paragraph (a) (i) to (iii); and

(iii) is declared by the Minister to be an existing school.

Examples—land

- 1 land adjacent to a primary school that is being developed as part of a staged expansion of the school
- 2 a site that was a high school but is not currently operating while being redeveloped as a school

- (2) A declaration for subsection (1) (b) (iii) is a notifiable instrument.

1.80 Disapplication of criterion 7—div 1.4.8

Unless otherwise stated in a provision, section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to development to which this division applies.

Note Development must comply with the general exemption criteria, except any criterion that is expressly disappplied for a provision (see s 1.7).

1.81 Additional exemption criterion—bushfire prone areas

- (1) If any of the following development is in a bushfire prone area, the development must have written agreement from the emergency services commissioner under the strategic bushfire management plan:

- (a) section 1.83 (Schools—new buildings or alterations to buildings);
- (b) section 1.84 (Schools—entrances);
- (c) section 1.85 (Schools—verandahs etc);
- (d) section 1.89 (Schools—shade structures);
- (e) section 1.90 (Schools—covered external walkways);
- (f) section 1.93 (Schools—landscape gardening);
- (g) section 1.96 (Schools—toilet and change room facilities);
- (h) section 1.100 (Schools—demountable and transportable buildings).

- (2) In this section:

bushfire prone area means an area described in the strategic bushfire management plan as an area that is at high risk of being impacted by bushfires.

strategic bushfire management plan—see the *Emergencies Act 2004*, dictionary.

1.82 Activities not development

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

Subdivision 1.4.8.2 Exemptions—schools

1.83 Schools—new buildings or alterations to buildings

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 any of the following:
 - (i) a class 3 building;
 - (ii) a class 5 building that is ancillary to, and supports the functions of, an existing school;
 - (iii) a class 9b building; and

Example—class 3 building

dormitory

Example—class 5 building

office

Examples—class 9b building

hall, auditorium, gymnasium, library, classroom, environment learning centre

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

- (b) the building is not within 6m of the boundary of a block in a residential zone; and
- (c) the height of the building is not more than—
 - (i) if the building is within 30m of the boundary of a block in a residential zone—6m above existing ground level; or

- (ii) in any other case—12m above existing ground level.

1.84 Schools—entrances

- (1) 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.

- (2) 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

1.85 Schools—verandahs etc

- (1) Designated development for building or installing a verandah (and carrying out any related earthworks or other construction work on or under the land) if—

- (a) the height of the verandah is not more than—

- (i) if the verandah is within 30m of the boundary of a block in a residential zone—6m above existing ground level; or

- (ii) in any other case—12m above existing ground level; and

(b) the verandah is not within 6m of the boundary of a block in a residential zone; and

(c) the verandah is unenclosed on at least 1 side.

Note An external verandah may also be exempt under s 1.38.

(2) In this section:

verandah includes a balcony, awning, portico or landing.

1.86 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 A sign may also be exempt under div 1.4.3.

(2) In this section:

school information includes any of the following:

(a) the name of the school;

(b) the school motto;

(c) information about the school's facilities;

(d) directional information;

(e) information about upcoming events for the school;

(f) information about the school's achievements;

- (g) information about the source of funding for works carried out at the school.

1.87 Schools—playground and exercise equipment

- (1) 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).
- (2) In this section:
playground and exercise equipment includes swings, monkey bars, slippery dips, cubby houses, ropes and nets.

1.88 Schools—fences

- (1) 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.
- (2) 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

1.89 Schools—shade structures

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 shade structure is unenclosed on at least 2 sides; and
- (b) 1 of the following applies to the shade structure:
 - (i) if the shade structure is more than 30m from the boundary of a block in a residential zone—the shade structure has a height of not more than 12m above existing ground level;
 - (ii) if the shade structure is 30m or less from the boundary of a block in a residential zone—the shade structure has—
 - (A) a height of not more than 10m above existing ground level; and
 - (B) a plan area of not more than 200m².

1.90 Schools—covered external walkways

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

- (a) the height of the walkway is not more than—
 - (i) if the walkway is within 30m of the boundary of a block in a residential zone—6m above existing ground level; or
 - (ii) in any other case—12m above existing ground level; and

- (b) the walkway is unenclosed on at least 1 side.

1.91 Schools—flag poles

- (1) 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.

- (2) In this section:

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

1.92 Schools—water tanks

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 1.47.

1.93 Schools—landscape gardening

- (1) 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 1.42. (Other provisions, eg external decks (see s 1.37) and swimming pools (see s 1.43) may be relevant.)

Note 2 Work by the Territory that affects the landscape of land may also be exempt under s 1.70.

- (2) For subsection (1) (b), section 1.8 (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.

1.94 Schools—car parks

- (1) 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

1.95 Schools—bicycle enclosures

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

1.96 Schools—toilet and change room facilities

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

1.97 Schools—driveways

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.

1.98 Schools—security cameras

Installing a security camera.

1.99 Schools—external lighting

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

1.100 Schools—demountable and transportable buildings

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

1.101 Schools—class 10b structures

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

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

Examples—class 10b structures

retaining or freestanding wall, mast or antenna, swimming pool

Note 1 A class 10b structure may also be exempt under sdiv 1.4.2.3.

Note 2 A school fence may be exempt under s 1.88.

Division 1.4.9 Other exemptions

1.102 Compliant single dwellings

- (1) Building a single dwelling (the *dwelling*) or altering a single dwelling (the *alteration*) on a block in a residential zone if—
 - (a) the dwelling will be the only dwelling on the block; and
 - (b) if the block is a preliminary block—the dwelling is built by the lessee of the holding lease; and
 - (c) the dwelling or alteration, as built, complies with—
 - (i) the relevant provisions in any relevant district code that would apply if the dwelling or alteration were not exempt; and

- (ii) if they are not displaced by the relevant provisions in a relevant district code—the relevant provisions in the Residential Zones—Single Dwelling Housing Development Code that would apply if the dwelling or alteration were not exempt; and
- (d) section 1.15 (Information about certain development proposals) has been complied with in relation to building or altering the dwelling.

Note Other territory laws, including the *Heritage Act 2004*, must be complied with (see s 1.6 and s 1.10).

- (2) For subsection (1) (b), a dwelling is taken to be ***built*** by the lessee even if some or all of the building work is done by an employee or contractor of the lessee.
- (3) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to building or altering a single dwelling under this section.
- (4) In this section:

block includes a preliminary block.

holding lease—see the *Districts Act 2002*, section 7 (7).

preliminary block—land is taken to be a ***preliminary block*** if—

- (a) the land is part of a holding lease; and
- (b) a development application for the development of an estate has been approved in relation to the lease; and

Note A development application for the development of an estate must be accompanied by an estate development plan (see Act, s 162 (2) (d) and sch 2, pt 2.2, item 11).

- (c) the estate development plan accompanying the development application identifies the land as a block; and

- (d) information about the boundaries of, and the distinguishing name or number for the land is recorded in the database maintained by the territory planning authority under the *Districts Act 2002*, section 17 (Digital cadastral database); and
- (e) the land is not otherwise a block under the *Districts Act 2002*.

Note *Estate development plan*—see the Act, s 39 (1).

single dwelling does not include a dwelling that has a party wall.

1.103 Single dwellings where declaration authorises minor non-compliance

- (1) Building a single dwelling (the *dwelling*) or altering a single dwelling (the *alteration*) on a block if—
 - (a) the building of the dwelling or alteration would be exempt under section 1.102 (Compliant single dwellings), apart from the encroachment of the dwelling or alteration in 1 or more of the following ways:
 - (i) beyond the front, side or rear setback required under the defined provisions;
 - (ii) beyond the building envelope that applies, under the defined provisions, to the block where the dwelling or alteration is being built;
 - (iii) beyond any solar building envelope that applies, under the defined provisions, to the block where the dwelling or alteration is being built;
 - (iv) into the minimum private open space required under the defined provisions; and
 - (b) for an encroachment under paragraph (a) (iii)—the encroachment would not cause shadowing to any habitable room or principal private open space of another block; and

- (c) section 1.15 (Information about certain development proposals) has been complied with in relation to the building or altering of the dwelling; and
- (d) the territory planning authority declares (an ***exemption declaration***) that the dwelling or alteration continues to be an exempt development despite not complying with the defined provisions identified in the declaration; and

Note An exemption declaration must not authorise anything that is inconsistent with the territory plan (see Act, s 46).

- (e) a period of 3 years (or any further period allowed, in writing, by the territory planning authority) has not elapsed since the making of the exemption declaration.
- (2) An exemption declaration must state the distance of any encroachment by the dwelling or alteration that would otherwise be non-compliant with the defined provisions identified in the declaration.
 - (3) Not later than 10 working days after a person applies to the territory planning authority for an exemption declaration, the authority must—
 - (a) make the declaration; or
 - (b) refuse to make the declaration.

Note The requirement to make a decision under this subsection does not lapse if the 10-day time limit is not met (see Legislation Act, s 152).

- (4) However, the territory planning authority must not make an exemption declaration in relation to a non-compliant dwelling or alteration unless satisfied that—
 - (a) the non-compliance is minor; and
 - (b) the proponent has given the authority information showing that section 1.15 (Information about certain development proposals) has been complied with in relation to the building or altering of the dwelling; and

(c) building or altering the dwelling other than in accordance with the defined provisions—

- (i) will not adversely affect someone other than the proponent; and
- (ii) will not increase the environmental impact of the dwelling or alteration more than minimally.

(5) In this section:

adversely affect someone does not include having an impact on a view the person has from a block.

defined provisions means any quantitative requirement applicable under—

- (a) the relevant provisions in any relevant district code that would apply if the dwelling or alteration were not exempt; and
- (b) the relevant provisions in the Residential Zones—Single Dwelling Housing Development Code that would apply if the dwelling or alteration were not exempt.

1.104 Single dwellings—demolition

- (1) The demolition of a single dwelling, or part of a single dwelling.
- (2) However, if section 1.15 (Information about certain development proposals) applies in relation to the demolition, that section must be complied with in relation to the demolition.
- (3) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to a demolition under this section.

Note Other territory laws, including the *Building Act 2004*, must be complied with (see s 1.6).

(4) In this section:

single dwelling does not include a dwelling that has a party wall.

1.105 Buildings and structures—demolition

- (1) The demolition of a building or structure, or part of a building or structure, if—
 - (a) if the building or structure is a class 10 building or structure—the building or structure is on a block in a residential zone; or
 - (b) in any other case—were the building or structure, or the part of the building or structure, to be built, the building or structure would be an exempt development.

Note Other territory laws, including the *Building Act 2004* and *Heritage Act 2004*, must be complied with (see s 1.6 and s 1.10).

- (2) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to a demolition under this section.
- (3) In this section:
building does not include a single dwelling.

1.106 Temporary use of land for emergency services training etc

- (1) Designated development for the use of land for training or testing of things by an authorised entity, if—
 - (a) the training or testing includes a notifiable activity; and
 - (b) the training or testing is carried out on the land during ordinary business hours on not more than 2 consecutive days in any year; and
 - (c) at least 5 days before the day the training or testing is to be carried out, the authorised entity gives written notice of the following to the occupier of each place (other than unleased land) adjoining the land:
 - (i) when the training or testing will be carried out;

- (ii) the general nature of the training or testing.

Note *Use of land*—see the Act, s 12.

- (2) In this section:

authorised entity means—

- (a) the Australian Defence Force; or
- (b) the Australian Federal Police; or
- (c) an emergency service; or

Note ***Emergency service***—see the Legislation Act, dict, pt 1.

- (d) any other Territory, Commonwealth or State entity authorised in writing by the territory planning authority.

notifiable activity, in relation to a block of land, means—

- (a) damaging a building or structure on the land; or
- (b) simulating a violent incident in relation to the land; or
- (c) simulating an emergency response in relation to the land.

1.107 Utility and telecommunications services

- (1) Designated development if—

- (a) the development involves any of the following:

- (i) installing a connection of not more than 50m connecting a consumer's premises to a utility or telecommunications service;
- (ii) installing a utility or telecommunications service in accordance with an approved estate development plan;

Note ***Estate development plan***—see the Act, s 39 (1).

- (iii) maintenance carried out only to maintain a utility or telecommunications service; and

Examples—maintenance

- 1 replacing pipes with pipes that are the same or substantially the same
 - 2 digging trenches needed to replace pipes
- (b) the lessee or custodian of the land on which the development is carried out has agreed, in writing, to the development; and
 - (c) the development does not result in the clearing of more than 0.5ha of native vegetation in a native vegetation area.

(2) Designated development if—

(a) the development involves any of the following:

- (i) building or installing minor utility or telecommunications service infrastructure if the infrastructure has—

- (A) a plan area of not more than 15m²; and
- (B) a height of not more than 3m above natural ground level;

Examples

substation, electrical or telecommunications cabinet, survey platform, concrete pad

- (ii) building or installing a fence around, or partly around, utility or telecommunications service infrastructure if—

- (A) the height of the fence is not more than 3m above natural ground level; and
- (B) no part of the fence or wall diverts or concentrates the flow of surface water in a way that causes the water to pond or be diverted onto other land;

- (iii) building or installing a vent stack if—
 - (A) the height of the stack is not more than 6m above natural ground level; and
 - (B) the stack is not within 50m of the boundary of a block in a residential zone;
- (iv) installing a security camera, security lighting or other security infrastructure or fixings on, or within 25m of, existing utility or telecommunications service buildings or structures;

Examples—other security infrastructure or fixings

barbed wire, razor wire, security bars on windows, security alarm system

Note Other laws, including the *Environment Protection Act 1997*, apply in relation to the emission of electromagnetic radiation, including light.

- (v) modifying existing minor utility or telecommunications service infrastructure, or an existing utility or telecommunications service building, if the modification does not increase the existing dimensions of the infrastructure or building by 20% or more;

Examples—modifications

- 1 roof replacement with minor modification to angles
- 2 stairwell cover marginally increased to allow for safety standards

- (vi) installing a temporary building or structure on land leased by the utility or telecommunications entity if—
 - (A) the height of the building or structure is not more than 5m above natural ground level; and

- (B) the building or structure is removed from the land within 3 years after the building or structure is installed;

Examples—temporary buildings or structures

construction site shed, temporary water tank

- (vii) demolishing minor utility or telecommunications service infrastructure; and
- (b) the lessee or custodian of the land on which the development is carried out has agreed, in writing, to the development; and
- (c) the development does not result in the clearing of more than 0.5ha of native vegetation in a native vegetation area; and
- (d) at least 7 days before the development starts, the proponent gives written notice to the occupier of each block in a residential zone within 100m of the development.

Note Written notice is also required to be given to land-holders before any network operations begin (see *Utilities Act 2000*, div 7.3 and sdiv 14.2.2).

- (3) Designated development if the development involves carrying out any earthworks or other construction work on or under the land in relation to designated development mentioned in subsection (1) or (2).
- (4) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.
- (5) In this section:

fence includes—

- (a) a gate that forms part of, or functions as, a fence; and
- (b) a fence for an open space boundary.

premises includes land.

utility or telecommunications service means an electricity, water, sewerage, stormwater, gas or telecommunications service.

1.108 Tree damaging etc activity

- (1) Designated development if the development—
 - (a) is an activity that would or may—
 - (i) damage a protected tree; or
 - (ii) be prohibited groundwork in—
 - (A) the protection zone for a protected tree; or
 - (B) a declared site; and
 - (b) the activity is authorised by, and carried out in accordance with any conditions of, an approval under the *Tree Protection Act 2005*—
 - (i) section 25 (Decision on approval application); or
 - (ii) section 29 (Approval in urgent circumstances or for minor works).
- (2) In this section:

damage a protected tree—see the *Tree Protection Act 2005*, section 12.

Note **Damage** includes killing, destroying, felling or removing all or part of a protected tree (see *Tree Protection Act 2005*, s 12).

declared site—see the *Tree Protection Act 2005*, dictionary.

prohibited groundwork—see the *Tree Protection Act 2005*, section 14.

protection zone, for a protected tree—see the *Tree Protection Act 2005*, section 11.

1.109 Landscape gardening

- (1) Landscape gardening (other than the construction of a retaining wall) that affects the landscape of land if—
 - (a) the landscape gardening is—
 - (i) on land leased for residential use; or
 - (ii) prescribed landscaping (whether or not the land is leased for residential use); and
 - (b) if the landscape gardening is subject to a condition in a development approval in relation to the land—the condition has been complied with; and
 - (c) if the landscape gardening affects an existing public pedestrian access way, footpath or bicycle path—the landscape gardening maintains the existing public access to the access way, footpath or bicycle path.

Note 1 For retaining walls generally, see s 1.42. (Other provisions, eg external decks (see s 1.37) and swimming pools (see s 1.43) may be relevant.)

Note 2 If unleased land is affected by the landscape gardening, a licence under the Act or a public unleased land permit under the *Public Unleased Land Act 2013* may be required.

- (2) Section 1.8 (Criterion 1—easement and other access clearances) does not apply to development to which this section applies if the landscape gardening does not involve building or installing a structure.
- (3) In this section:

prescribed landscaping means landscaping in relation to any of the following:

- (a) a footpath;
- (b) a landing;

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

1.110 Works under Water Resources Act by non-territory entities

- (1) Designated development if the development is to give effect to a direction under any of the following provisions of the *Water Resources Act 2007*:
 - (a) section 72 (1) (Direction to modify or remove water structure);
 - (b) section 73 (2) (Direction to rectify effect of unauthorised activity etc);
 - (c) section 74 (2) (Direction to prevent or rectify damage to bed or bank of waterway).
- (2) To remove any doubt, this section does not apply to designated development in accordance with the *Water Resources Act 2007*, section 74 (1) (which places a duty on the owner or occupier to take reasonable steps to prevent damage to the bed or banks of the waterway).

1.111 Home businesses conducted from residential leases

- (1) The conduct of a home business from a residential lease if—

Note **Residential lease**—see the Act, s 248.

 - (a) not more than 2 people work on the lease at any time; and
 - (b) anyone who works on the lease in the business genuinely lives on the lease; and

- (c) all goods and materials relating to the business (other than goods or materials kept on another lease) must be kept—
 - (i) in buildings or structures that are lawfully on the lease; and
 - (ii) in a way that the goods and materials cannot be seen from outside the lease; and

Examples—building or structure lawfully on lease—subpar (i)

- 1 the building or structure is exempt development under the Act, is exempt from the *Building Act 2004*, or has been certified under that Act, s 48 and has development approval under the Act
- 2 an ex-government house that did not require building approval for its construction

Example—building not lawfully on lease—subpar (i)

A shed, when constructed, is exempt from the *Building Act 2004* and is an exempt development under the Act. It is therefore lawfully on the lease. However, the shed is subsequently altered in a way that makes it not exempt under 1 of the Acts. The shed is then not lawfully on the lease.

- (d) the area of the lease used for the business (including storage) is not more than 40m²; and
- (e) any vehicles at the lease for the purposes of the business are parked—
 - (i) on the lease in a driveway, garage, carport or location screened from any part of the road on which the lease is located; or
 - (ii) if the business is operated from a unit under the *Unit Titles Act 2001*—in parking for the unit; and
- (f) the conduct of the business complies with the *Environment Protection Act 1997*; and
- (g) averaged over a period of 7 days, the conduct of the business does not generate more than 5 vehicle arrivals each day at the lease; and

(h) any sign relating to the business is exempt from requiring development approval under this schedule, division 1.4.3 (Signs).

(2) In this section:

home business—see the Act, section 268 (3).

1.112 Designated areas—development not involving lease variations

(1) Development in a designated area if the development does not involve the variation of a lease.

(2) The following provisions of this schedule do not apply to development under this section:

(a) section 1.8 (Criterion 1—easement and other access clearances);

(b) section 1.9 (Criterion 2—plumbing and drainage clearances);

(c) section 1.10 (Criterion 3—heritage, tree, environment and conservation);

(d) section 1.11 (Criterion 4—compliance with lease and agreement collateral to lease);

(e) section 1.12 (Criterion 5—no multiple occupancy dwellings);

(f) section 1.14 (Criterion 7—compliance with other applicable exemption).

(3) To remove any doubt, section 1.13 (Criterion 6—affected residential premises) applies to development under this section.

(4) In this section:

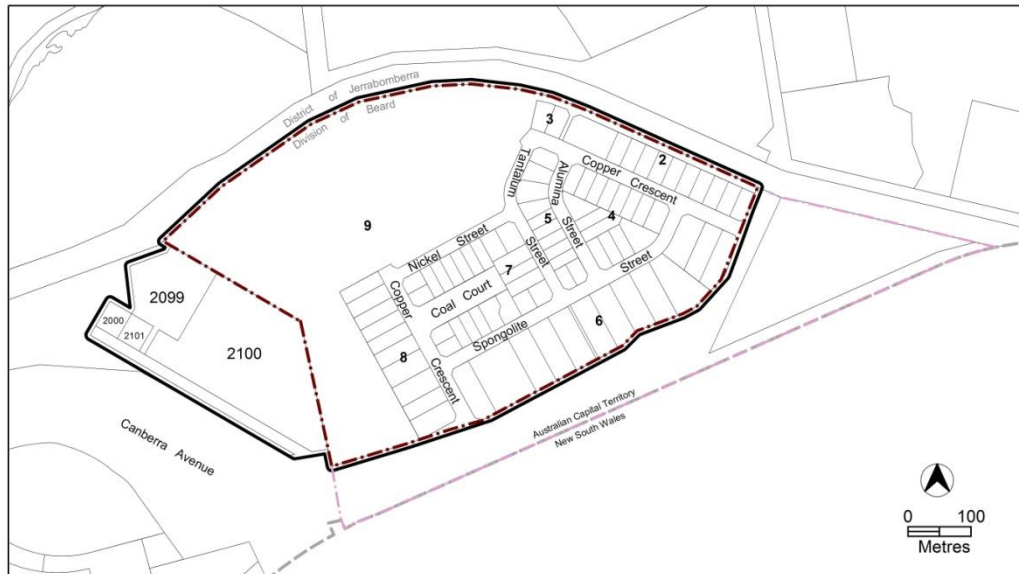
designated area—see the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cwlth), section 4.

1.113 Rebuilding damaged buildings and structures

- (1) Designated development to rebuild a damaged building or structure if—
 - (a) the development has been previously approved, whether or not any development in accordance with the approval has ever been carried out; and
 - (b) the development complies with section 1.13 (Criterion 6—affected residential premises); and
 - (c) the development would not result in any of the following:
 - (i) the height of any new or altered building or structure being more than the previously approved height of the damaged building or structure, both of which are measured from the natural ground level;
 - (ii) the gross floor area of any new or altered building or structure being more than—
 - (A) 15% greater than the previously approved gross floor area of the damaged building or structure; or
 - (B) the relevant gross floor area permitted under the relevant provisions;
 - (iii) any new or altered building or structure being used for more dwellings than were previously approved;
 - (iv) the setbacks for any new or altered building or structure not complying with the lesser of the following:
 - (A) the relevant setbacks under the relevant provisions;
 - (B) any setbacks that were previously approved for the building or structure that is replaced or altered; and

-
- (d) before the development starts, the lessee gives the following to the territory planning authority:
 - (i) written notice of when the development will start;
 - (ii) a plan of the development;
 - (iii) a written statement by a certifier that the development shown on the plan will not result in any of the matters mentioned in paragraph (c); and
 - (e) at the completion of the development, a certifier gives the territory planning authority a written statement that the development as constructed is in accordance with the plan given to the territory planning authority under paragraph (d).
- (2) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.
 - (3) This section does not apply to designated development to rebuild a damaged building or structure in—
 - (a) one of the following zones identified in the territory plan:
 - (i) IZ1 General Industrial Zone;
 - (ii) IZ2 Mixed Use Industrial Zone; or
 - (b) the area outlined in bold in plan 1.113.

Plan 1.113



(4) In this section:

certifier means a certifier, for building work, within the meaning of the *Building Act 2004*.

damage, in relation to a building or structure, means damage caused by an act or event, other than an act done by the lessee of the land with the intention of causing the damage.

Examples—act or event causing damage

natural disaster, electrical fire, vandalism

lessee, of land before the act or event that damaged the building or structure—

(a) means for land under a land sublease—the sublessee; and

- (b) includes a person who, before the act or event, had entered into an agreement with the lessee of the land giving the person a right to the transfer of the lease but to whom no transfer had been registered under the *Land Titles Act 1925* in accordance with the agreement.

plan, of development, means—

- (a) a plan that complies with AS 1100 (Technical drawing – Structural engineering drawing) as in force from time to time; or

Note AS 1100 does not need to be notified under the Legislation Act because s 47 (6) does not apply (see Act, s 524 (3) and Legislation Act, s 47 (7)). The standard may be purchased at www.standards.org.au.

- (b) unless the building or structure will differ from the previously approved development—the plan for the previously approved development.

previously approved—development has been ***previously approved*** if the development was approved under any of the following:

- (a) the *Buildings (Design and Siting) Act 1964*;
- (b) the *Land (Planning and Environment) Act 1991*;
- (c) the *Planning and Development Act 2007*;
- (d) the Act;
- (e) the Act, unless, immediately before the act or event that damaged the building or structure—
- (i) the period for applying to the ACAT for review of the decision to approve the development had not ended; or
- (ii) if an application to the ACAT for a review of the decision had been made—the application had not been finally disposed of by the ACAT.

1.114 Bores

- (1) Designated development in relation to a bore.

Note Other territory laws, including the *Water Resources Act 2007* and the *Environment Protection Act 1997*, must be complied with (see s 1.6 and s 1.10).

- (2) In this section:

bore—see the *Water Resources Act 2007*, dictionary.

1.115 Subdivisions—Unit Titles Act 2001

The subdivision of land under a unit title application under the *Unit Titles Act 2001* if the subdivision does not involve affected residential premises.

Note See the Act, s 180 and s 182 in relation to development approval for the subdivision of a units plan.

1.116 Electric-powered vehicle charging points

- (1) Designated development for an electric-powered vehicle charging point on a block if—
- (a) electricity services are already connected—
 - (i) to the block; or
 - (ii) up to the boundary of the block; and
 - (b) each electric-powered vehicle charging point has—
 - (i) a height of not more than 2.5m; and
 - (ii) a plan area of not more than 2m²; and

- (c) the development complies with Australian/New Zealand Standard AS/NZS 60079.10 (Explosive atmospheres) as in force from time to time; and

Note AS/NZS 60079.10 does not need to be notified under the Legislation Act because s 47 (6) does not apply (see Act, s 524 (3) and Legislation Act, s 47 (7)). The standard may be purchased at www.standards.org.au.

- (d) if the development is for 1 or more fast charging points or 3 or more regular charging points—the person undertaking the development complies with electricity distribution obligations; and

- (e) if the block already has 3 or more electric-powered vehicle charging points—the person undertaking the development complies with electricity distribution obligations.

- (2) Section 1.14 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.

- (3) In this section:

ActewAGL Distribution—see the *Planning (General) Regulation 2022*, section 28 (2).

electricity distribution obligations—a person complies with **electricity distribution obligations** if the person—

- (a) has obtained a statement of compliance with electricity network requirements from ActewAGL Distribution before undertaking any construction for the development; and

- (b) complies with any conditions imposed under the statement.

electricity services means the utility services described in the *Utilities Act 2000*, section 6.

electric-powered vehicle charging point means a structure and any ancillary infrastructure that allows for the charging of an electric-powered vehicle.

fast charging point means an electric-powered vehicle charging point with a capacity of 50kW or more.

regular charging point means an electric-powered vehicle charging point with a capacity of less than 50kW.

1.117 Affected residential premises—work essential for health, safety or reasonable living conditions

Designated development involving affected residential premises if the development is for work mentioned in section 1.13 (1) (b).

Part 1.5

Permitted open space boundary fence colours

(see s 1.41 (2) (c) (iii))

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)
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)

Schedule 1
Part 1.5

Exemptions from requirement for development approval
Permitted open space boundary fence colours

column 1 item	column 2 colour
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)
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)

column 1 item	column 2 colour
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)

Part 1.6 Tables of exempt signs

(see s 1.52 and s 1.54)

Table 1.6.1 Exempt signs: commercial and industrial zones

Type of sign	Commercial and industrial zones							
	CZ1	CZ2	CZ3	CZ4	CZ5	CZ6	IZ1	IZ2
Awning/fascia sign	A	A	A	A	A		A	A
Blind sign	A	A	A	A			A	A
Business plate sign	A	A	A	A	A	A	A	A
Canopy sign	A	A	A	A			A	A
Changeable message sign	A	A	A	A	A		A	A
Construction site fence sign	A	A	A	A	A	A	A	A
Display home/development site sales sign	T	T	T	T	T	T	T	T
Event sign	T	T	T	T	T	T	T	T
Fence sign								
Flag pole sign								
Ground sign	A	A	A	A	A		A	A
Hamper sign	A	A	A	A	A		A	A
High rise building sign								
Inflatable sign								
Information sign	A	A	A	A	A	A	A	A
Lantern sign	A	A	A	A	A	A	A	A
Mobile sign								
Pole sign	A	A	A	A	A			
Projecting sign								
Pylon/column sign								
Roof sign								

Type of sign	Commercial and industrial zones							
	CZ1	CZ2	CZ3	CZ4	CZ5	CZ6	IZ1	IZ2
Stallboard sign	A	A	A	A	A		A	A
Territory signs							A	A
Under awning sign	A	A	A	A	A		A	A
Vertical banner building sign							A	A
Vertical banner freestanding sign							A	A
Wall sign							A	A
Window sign	A	A	A	A	A		A	A

Table 1.6.2 Exempt signs: zones other than commercial and industrial zones

Type of sign	Zones other than commercial and industrial zones									
	RZ1	RZ2	RZ3	RZ4	RZ5	RZ6	CFZ	PRZ1	PRZ2	other
Awning/fascia sign										
Blind sign							A			
Business plate sign	A	A	A	A	A	A	A	A	A	A
Canopy sign										
Changeable message sign										
Construction site fence sign	A	A	A	A	A	A	A	A	A	A
Display home/development site sales sign										
Event sign							T		T	
Fence sign										
Flag pole sign										

Type of sign	Zones other than commercial and industrial zones									
	RZ1	RZ2	RZ3	RZ4	RZ5	RZ6	CFZ	PRZ1	PRZ2	other
Ground sign										
Hamper sign										
High rise building sign										
Inflatable sign										
Information sign	A	A	A	A	A	A	A		A	A
Lantern sign	A	A	A	A	A	A	A	A	A	A
Mobile sign										
Pole sign										
Projecting sign										
Pylon/column sign										
Roof sign										
Stallboard sign										

Schedule 1 Exemptions from requirement for development approval
Part 1.6 Tables of exempt signs

	Zones other than commercial and industrial zones									
Type of sign	RZ1	RZ2	RZ3	RZ4	RZ5	RZ6	CFZ	PRZ1	PRZ2	other
Territory signs										
Under awning sign										
Vertical banner building sign										
Vertical banner freestanding sign										
Wall sign										
Window sign										

Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions relevant to this regulation. For example:

- ACAT
- building code
- conservator of flora and fauna
- Corporations Act
- emergency services commissioner
- environment protection authority
- heritage council
- land titles register
- person (see s 160)
- the Territory
- working day.

Note 2 Terms used in this regulation have the same meaning that they have in the *Planning Act 2022*. For example, the following terms are defined in the *Planning Act 2022*, dict:

- authority website (see s 510 (1))
- custodian
- development (see s 11 (1))
- development application (see s 162 (1))
- development approval
- development proposal
- EPBC Act
- estate development plan (see s 39 (1))
- exempt development (see s 141)
- exemption assessment (see s 147 (1))
- exemption assessment D notice (see s 148 (2) (b))
- exemption assessor (see s 147 (1))
- future urban area
- land management agreement (see s 342 (2) (a))

- land sublease
- lease (see s 249)
- proponent
- residential lease (see s 248)
- rural lease (see s 248)
- structure
- territory plan (see s 41) (www.legislation.act.gov.au)
- territory planning authority
- use (see s 12)
- zone.

Note 3 Terms used in sch 1 of this regulation have the same meaning that they have in the territory plan (see s 5). For example, the following terms are defined in the territory plan:

- attic
- building line
- carport
- finished floor level
- finished ground level
- front boundary
- front zone
- gross floor area
- natural ground level
- residential use
- setback
- type.

affected residential premises, for schedule 1 (Exemptions from requirement for development approval)—see the *Dangerous Substances Act 2004*, section 47I.

block means—

- (a) a block under the *Districts Act 2002*; or
- (b) for land under a land sublease—the land identified in the registered sublease plan.

boundary, for schedule 1, division 1.4.4 (Community gardens)—see schedule 1, section 1.58.

class, for a building or structure, means the class of building or structure under the building code.

class 10a building—

- (a) for schedule 1, division 1.4.2 (Non-habitable buildings and structures)—see schedule 1, section 1.32; and
- (b) for schedule 1, division 1.4.4 (Community gardens)—see schedule 1, section 1.58.

class 10b structure, for schedule 1, division 1.4.4 (Community gardens)—see schedule 1, section 1.58.

clearing native vegetation, for schedule 1 (Exemptions from requirement for development approval)—see the *Nature Conservation Act 2014*, section 234.

community garden, for schedule 1, division 1.4.4 (Community gardens)—see schedule 1, section 1.58.

designated development, in relation to land—see schedule 1, section 1.2.

dwelling—see schedule 1, section 1.3.

existing ground level, in relation to an area, for schedule 1, division 1.4.8 (Schools)—see schedule 1, section 1.78.

existing school, for schedule 1, division 1.4.8 (Schools)—see schedule 1, section 1.79.

existing school campus—see schedule 1, section 1.1.

general exemption criteria, for development—see schedule 1, section 1.7.

height, for a thing (including a building or structure) means—

- (a) 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
- (b) 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
- (c) 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.

native vegetation, for an area, for schedule 1 (Exemptions from requirement for development approval)—see the *Nature Conservation Act 2014*, section 232.

native vegetation area, for schedule 1 (Exemptions from requirement for development approval)—see the *Nature Conservation Act 2014*, section 233.

open space boundary, for schedule 1 (Exemptions from requirement for development approval)—see the Act, section 517 (3).

outdoor eating or drinking place, for schedule 1, division 1.4.5 (Outdoor eating or drinking places)—see the *Smoke-Free Public Places Act 2003*, section 9A.

owner, of land, means, for land under a land sublease, the sublessee.

party wall, for schedule 1 (Exemptions from requirement for development approval)—see the *Common Boundaries Act 1981*, section 27.

plan area, of a building or structure, means the total horizontal area of the building or structure if viewed from above.

Examples

- 1 If viewed from above, the outer edge of a house's roof gutters, front patio and rear pergola are visible as the building's outermost perimeter. Therefore, the plan area of the house is the horizontal area bounded by the outer edges of the gutters, pergola and patio.
- 2 If viewed from above, an office building is a square ring shape with a large open courtyard in the centre. The courtyard does not contain structures that are related to the building. The plan area of the building excludes the area of the courtyard.

public unleased land, for schedule 1, division 1.4.5 (Outdoor eating or drinking places)—see the *Public Unleased Land Act 2013*, section 8.

rear boundary means a boundary that is not a front boundary and does not meet a front boundary.

relevant solar building envelope, in relation to an exempt development, means the solar building envelope that would apply under the relevant provisions of the territory plan if the development were not exempt.

side boundary means a boundary that meets a front boundary.

surface water, for schedule 1 (Exemptions from requirement for development approval)—see the *Water Resources Act 2007*, section 8.

young child, for schedule 1, division 1.4.8 (Schools)—see the *Children and Young People Act 2008*, section 733 (3).

Endnotes

1 Notification

Notified under the Legislation Act on 2022.

2 Republications of amended laws

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