

Australian Capital Territory

Subordinate Law

The Australian Capital Territory Executive makes the following regulation under the [Planning and Development Act 2007](http://www.legislation.act.gov.au/a/2007-24).

Dated 30 June 2020.

Mick Gentleman

Minister

Yvette Berry

Minister



Australian Capital Territory

Planning and Development Amendment Regulation 2020 (No 1)

Subordinate Law

made under the

[Planning and Development Act 2007](http://www.legislation.act.gov.au/a/2007-24" \o "A2007-24)

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1 Name of regulation

This regulation is the *Planning and Development Amendment Regulation 2020 (No 1)*.

2 Commencement

This regulation commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](http://www.legislation.act.gov.au/a/2001-14), s 75 (1)).

3 Legislation amended

This regulation amends the [Planning and Development Regulation 2008](http://www.legislation.act.gov.au/sl/2008-2).

4 Section 400

substitute

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

The [Legislation Act](http://www.legislation.act.gov.au/a/2001-14), section 47 (6) does not apply to the All Groups Consumer Price Index.

Note 1 The text of an applied, adopted or incorporated instrument, whether applied as in force from time to time or at a particular time, is taken to be a notifiable instrument if the operation of the [Legislation Act](http://www.legislation.act.gov.au/a/2001-14), s 47 (5) or (6) is not disapplied (see s 47 (7)).

Note 2 The All Groups Consumer Price Index may be accessed at [www.abs.gov.au](http://www.abs.gov.au).

5 Schedule 1, section 1.90 (1), except notes

substitute

(1) A designated development for public works carried out by or for the Territory if—

(a) the development complies with the general exemption criteria that are applicable to the development; and

(b) 1 of the following applies to the development:

(i) an authorisation has been granted under the [Environment Protection Act 1997](http://www.legislation.act.gov.au/a/1997-92), 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](http://www.legislation.act.gov.au/a/1997-92), 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](http://www.legislation.act.gov.au/a/1997-92); and

(c) 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](https://www.legislation.act.gov.au/a/2014-59), section 318A.

6 Schedule 1, section 1.96, definition of existing ground level

substitute

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

(a) for a school constructed on or before the commencement day—the ground level of the area on the commencement day; or

(b) for a school constructed after the commencement day with development approval—the ground level of the area at the time the approval is given.

7 Schedule 1, section 1.96A (1), definition of existing school, paragraph (a)

omit

that exists on the commencement day

substitute

constructed on or before the commencement day or with development approval

8 Schedule 1, section 1.96A (1), definition of existing school, paragraph (b) (i) (A)

omit

that existed before the commencement day

substitute

constructed on or before the commencement day or with development approval

9 Schedule 1, section 1.97, definition of existing school campus

omit

on the commencement day

10 Schedule 1, new section 1.99AA

before section 1.99A, insert

1.99AA Additional exemption criterion—bushfire prone areas

(1) If any of the following developments 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 1.99C (Schools—new buildings or alterations to buildings);

(b) section 1.99E (Schools—entrances);

(c) section 1.99F (Schools—verandahs etc);

(d) section 1.99J (Schools—shade structures);

(e) section 1.99K (Schools—covered external walkways);

(f) section 1.99N (Schools—landscape gardening);

(g) section 1.99Q (Schools—toilet and changeroom facilities);

(h) section 1.99U (Schools—demountable and transportable buildings).

(2) In this section:

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

strategic bushfire management plan—see the [Emergencies Act 2004](http://www.legislation.act.gov.au/a/2004-28), dictionary.

11 Schedule 1, section 1.99C (a) and examples and note

substitute

(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).

12 Schedule 1, section 1.99J

substitute

1.99J Schools—shade structures

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

(a) the 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.

13 Schedule 1, section 1.113

substitute

1.113 Electric vehicle charging points

(1) A designated development for an electric vehicle charging point on a block if—

(a) the development complies with the general exemption criteria, other than section 1.18 (Criterion 8—compliance with other applicable exemption criteria), that are applicable to the development; and

(b) electricity services are already connected—

(i) to the block; or

(ii) up to the boundary of the block; and

(c) each electric vehicle charging point has—

(i) a height of not more than 2.5m; and

(ii) a plan area of not more than 2m2; and

(d) 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](http://www.legislation.act.gov.au/a/2001-14) because s 47 (6) does not apply (see [Planning and Development Act 2007](http://www.legislation.act.gov.au/a/2007-24), s 426 (4) and [Legislation Act](http://www.legislation.act.gov.au/a/2001-14), s 47 (7)). The standard may be purchased at [www.standards.org.au](http://www.standards.org.au).

(e) 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

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

(2) In this section:

ActewAGL Distribution—see section 26 (5).

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 services described in the [Utilities Act 2000](http://www.legislation.act.gov.au/a/2000-65), section 6.

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

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

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

14 Dictionary, note 2

insert

 emergency services commissioner

15 Dictionary, note 3

insert

 development approval

Endnotes

1 Notification

Notified under the [Legislation Act](http://www.legislation.act.gov.au/a/2001-14) on 16 July 2020.

2 Republications of amended laws

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au/).

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