



Australian Capital Territory

Planning and Development Amendment Regulation 2020 (No 1)

Subordinate Law SL2020-28

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

Dated 30 June 2020.

MICK GENTLEMAN
Minister

YVETTE BERRY
Minister



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[Planning and Development Act 2007](#)

Contents

		Page
1	Name of regulation	1
2	Commencement	1
3	Legislation amended	1
4	Section 400	1
5	Schedule 1, section 1.90 (1), except notes	2
6	Schedule 1, section 1.96, definition of <i>existing ground level</i>	3

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Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Contents

	Page
7	Schedule 1, section 1.96A (1), definition of <i>existing school</i> , paragraph (a) 3
8	Schedule 1, section 1.96A (1), definition of <i>existing school</i> , paragraph (b) (i) (A) 3
9	Schedule 1, section 1.97, definition of <i>existing school campus</i> 4
10	Schedule 1, new section 1.99AA 4
11	Schedule 1, section 1.99C (a) and examples and note 5
12	Schedule 1, section 1.99J 6
13	Schedule 1, section 1.113 6
14	Dictionary, note 2 8
15	Dictionary, note 3 8

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](#), s 75 (1)).

3 Legislation amended

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

4 Section 400

substitute

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

The [Legislation Act](#), 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](#), s 47 (5) or (6) is not disappplied (see s 47 (7)).

Note 2 The *All Groups Consumer Price Index* may be accessed at 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*, 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
 - (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*, 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](#), 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](#) because s 47 (6) does not apply (see [Planning and Development Act 2007](#), s 426 (4) and [Legislation Act](#), s 47 (7)). The standard may be purchased at 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](#), 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](#) on 16 July 2020.

2 Republications of amended laws

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

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