

Australian Capital Territory

Planning (Exempt Development) Regulation 2023

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made under the

Planning Act 2023

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About this republication

The republished law

This is a republication of the *Planning (Exempt Development) Regulation 2023*, made under the *Planning Act 2023* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 22 May 2026. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 22 May 2026.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

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- authorised republications to which the *Legislation Act 2001* applies
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The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is $160 for an individual and $810 for a corporation (see *Legislation Act 2001*, s 133).



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Part 1 Preliminary

1 Name of regulation

This regulation is the *Planning (Exempt Development) Regulation 2023*.

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***—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 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.

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6 Meaning of *dwelling*

(1) In this regulation:

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:

(A) at least 1 but not more than 2 kitchens;

(B) at least 1 bath or shower;

(C) at least 1 toilet pan; and

(ii) 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.

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Part 2 Exempt development

7 Exempt development—Act, s 145 (1), def *exempt development*, par (a) (ii)

(1) The following development is exempt from requiring development approval:

(a) development that complies with schedule 1 (Exemptions from requirement for development approval);

(b) development that would comply with schedule 1 apart from a permitted construction tolerance;

(c) development that changes development that is exempt under this subsection if—

(i) the development has not been completed; and

(ii) the change would not need development approval if it were made after completion of the development;

(d) development that changes development that is exempt under this subsection if—

(i) the development has not been completed; and

(ii) the change consists of adding exempt development to the development;

(e) development that can be notionally separated into components, each of which is exempt development (***composite 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 exempt development, the composite development is exempt development.

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

(a) it changes development covered by an existing development approval; and

(b) the change—

(i) is a permitted construction tolerance; or

(ii) would not need development approval if it were made after completion of the development; or

(iii) consists of adding exempt development to the development.

Example—s (1) (c) and s (2) (b) (ii)

Construction of a dwelling that is exempt development is in progress. The developer wishes to change the slope of the roof by less than 5° (see sch 1, s 1.26). The developer may construct the dwelling with the changed roof slope without seeking approval for the change.

Example—s (1) (d) and s (2) (b) (iii)

Construction of a dwelling that is exempt development is in progress. The developer wishes to incorporate a skylight that complies with the conditions in sch 1, s 1.28, and so is exempt development. The developer may construct the dwelling with the skylight without seeking approval for the skylight.

(3) However, subsection (1) (c), (d) and (e) and subsection (2) (b) (ii) and (iii) do not apply in relation to development if the change or composite development results in non-compliance with 1 or more of the following:

(a) schedule 1, section 1.15 (Criterion 5—no multiple occupancy dwellings);

(b) the requirement under schedule 1, section 1.41 (Class 10 buildings and other structures—2nd exempt building or other 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 1.17 (Criterion 7—compliance with other applicable exemption);

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(c) the requirement under schedule 1, section 1.130 (Compliant single dwellings) that there be not more than 1 dwelling on a block.

(4) In this section:

designated development, in relation to land—see schedule 1, section 1.3.

permitted construction tolerance means development—

(a) that consists only of a matter to which schedule 2 (Permitted construction tolerances) applies; and

(b) that complies with the criteria for the matter in schedule 2; and

(c) if the development is designated development—complies with the general exemption criteria that are applicable to the development (except to the extent that a development approval allows the development to not comply with the criteria).

Note 1 For other exemptions, see the Act, s 147 (Exempt development—authorised use).

Note 2 Development that is significant development cannot be exempt development (see Act, s 145 (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 145 (2) (b), ***exempt development*** does not include development that is inconsistent with an essential design element identified in a development approval.

Note 4 The development may still need building approval, or further building approval, under the *Building Act 2004*.

Note 5 The development must also comply with the lease for the land on which it is carried out.

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Part 3 Exemption assessment matters

8 Approval of exemption assessment application—Act, s 151 (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.

9 Information for exemption assessment application—Act, s 151 (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;

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(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.

10 Plans for exemption assessment application—Act, s 151 (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.

11 Documents for exemption assessment application—Act, s 151 (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 1.18 (Information about certain development proposals) applies.

(2) The following documents are prescribed:

(a) a written notice that schedule 1, section 1.18 has been complied with;

(b) a copy of the written information given under schedule 1, section 1.18.

Example—written notice

a copy of any form prepared for sch 1, s 1.18 and a statement about how and when it was given

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12 Content of exemption assessment D notice—Act, s 152 (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 7 or the Act, section 147 (Exempt development—authorised use); and

(ii) for development exempt from requiring development approval under section 7—

(A) any other provision of this regulation relied on by the exemption assessor to conclude that the development is an exempt development; and

(B) if any provision of this regulation applies a provision of the territory plan in relation to the development—information identifying the relevant territory plan provision; and

(C) a statement that the provision is 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.

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13 Documents for exemption assessment D notice—Act, s 152 (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 1.130 (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

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(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'.

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Part 4 Miscellaneous

14 Territory planning authority may declare development controls

(1) The territory planning authority may declare, for this regulation, a control (a ***development control***) for the following:

(a) the development of single dwelling housing in residential zones (***residential zones—single dwelling housing development control***);

(b) the design, content and positioning of signs (***signs development control***);

(c) fire safety requirements in relation to designated development for electric-powered vehicle charging points (***EV charging points—fire safety development control***).

(2) A declaration is a notifiable instrument.

(3) In this section:

designated development, in relation to land—see schedule 1, section 1.3.

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Schedule 1 Exemptions from requirement for development approval

(see s 7)

Part 1.1 Preliminary

1.1 Definitions—sch 1

In this schedule:

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

built-up urban area—see the *Urban Forest Act 2023*, section 8.

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

designated development, in relation to land—see section 1.3.

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

native vegetation, for an area,—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 516 (3).

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

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

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1.3 Meaning of *designated development*—sch 1

In this schedule:

designated development, in relation to land, means—

(a) building, altering or demolishing a building or other 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.

1.4 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.

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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 1.13 (Criterion 3—heritage, tree, environment and conservation);

(b) section 1.14 (Criterion 4—compliance with lease and agreement collateral to lease).

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Part 1.2 General exemption criteria

1.10 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 1.11 (Criterion 1—easement and other access clearances);

(b) section 1.12 (Criterion 2—plumbing and drainage clearances);

(c) section 1.13 (Criterion 3—heritage, tree, environment and conservation);

(d) section 1.14 (Criterion 4—compliance with lease and agreement collateral to lease);

(e) section 1.15 (Criterion 5—no multiple occupancy dwellings);

(f) section 1.16 (Criterion 6—affected residential premises);

(g) section 1.17 (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—s (2)

Section 1.20 (2) disapplies the criterion in s 1.17. Therefore, designated development mentioned in s 1.20 (1) need not meet criterion 7 to be exempt from requiring development approval.

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1.11 Criterion 1—easement and other access clearances

(1) Development must not cause any part of a building or other 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 other 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 other 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.

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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.

1.12 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 523 (4) and Legislation Act, s 47 (7)). The standard may be purchased at www.standards.org.au.

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1.13 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 *Urban Forest Act 2023*.

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

(2) Development 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 other structure 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.

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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.

1.14 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 350 (2) (a))

1.15 Criterion 5—no multiple occupancy dwellings

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

1.16 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.

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(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.

1.17 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 1.23) must also comply with s 1.26 (Roof slope changes)

2 the replacement of a roof flue for a building (see s 1.23) must also comply with s 1.27 (Chimneys, flues and vents)

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Part 1.3 Certain development proposals

1.18 Information about certain development proposals

(1) This section applies—

(a) in relation to a development proposal for—

(i) development mentioned in section 1.130 (Compliant single dwellings) or section 1.131 (Single dwellings where declaration authorises minor non-compliance); or

(ii) development mentioned in section 1.132 (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 other 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.

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(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 11 (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)).

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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 1.10 (General exemption criteria)).

Division 1.4.1 Minor building works

1.20 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 1.17 (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.

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1.21 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 datum 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).

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(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 other structure may be subject to other laws, including heritage laws and energy efficiency provisions of building laws.

1.22 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 datum ground level; and

Note See the example to s 1.21 (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;

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(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 other structure may be subject to other laws, including heritage laws and energy efficiency provisions of building laws.

1.23 Exterior refinishing of buildings and other structures

(1) Designated development for altering the exterior material or finish of a building or other structure if the alteration involves—

(a) painting the exterior of the building or other structure to change its appearance, other than—

(i) painting a design, sign or street art on the exterior of the building or structure; or

Note For signs, see s 1.61 and for street art, see s 1.24.

(ii) painting the building for maintenance; or

Note For maintenance, see s 1.25.

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(b) replacing or covering an exterior item (other than an excluded item) of the building or other 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 other structure:

(a) a wall, sill or fascia or an eave lining;

(b) a downpipe or flashing or guttering;

(c) trim;

(d) roofing or a roof duct, flue, gutter or vent;

(e) a vent pipe;

(f) a step or landing;

(g) a handrail or balustrade or other barrier that functions as a balustrade;

(h) a pole or post.

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

Note 1 For external doors and windows, see s 1.21 and s 1.22 and for skylights, see s 1.28.

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

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1.24 Street art on buildings and other structures

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

(a) the building or other structure is not in a residential zone; and

(b) the lessee or custodian of the land on which the building or other 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 1.61.

(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 other structure
mural painted on the external wall of a building

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(2) Section 1.17 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.

Note 1 A public artwork may also be exempt under s 1.91.

Note 2 An artwork on a building or other structure in an existing school campus may also be exempt under s 1.110 (Schools—artwork on buildings or other structures).

1.25 Maintenance of buildings and other structures

(1) Designated development (other than development to which section 1.23 applies) for the maintenance of a building or other structure if the maintenance does not involve changing the kind of material used for the part of the building or other 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 other 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 1.13 (Criterion 3—heritage, tree, environment and conservation) does not apply to the designated development.

1.26 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°;

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(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.

1.27 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 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.

1.28 Skylights

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

(a) the external area of the skylight is not more than $2m^2$; 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 other structure may be subject to other laws, including heritage laws and energy efficiency provisions of building laws.

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1.29 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—

(a) means a device used to shade a window or door externally; and

(b) includes a pole, post or any other item associated with an external shade; but

(c) does not include an eave.

Examples—external shades

awning, blind, louvre, shutter

1.30 External cooling and water heating services

(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 things, including external cooling and water heating services, is regulated under the *Environment Protection Regulation 2005*.

(2) Section 1.17 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.

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(3) In this section:

service—

(a) means an air conditioner, evaporative cooler or solar water heater; and

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

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

1.31 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 1.17 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.

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(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 datum 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 datum 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.

1.32 External batteries

(1) Designated development for an externally mounted battery on a block if—

(a) no part of the battery is—

(i) between a front boundary and a building line for the block; or

(ii) within 1.5m of a side boundary or rear boundary of the block; and

(b) if the battery is mounted on a wall or on the ground adjacent to a wall—the battery is not higher than the wall; and

(c) the total capacity of the battery is not more than 50kW; and

(d) the cumulative volume of the battery, excluding the charge controller and inverter, is not more than $0.4m^3$; and

(e) no component of the battery is more than—

(i) a height of 2.5m; or

(ii) a width of 2m; or

(iii) a depth of 1m; and

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(f) the battery is not installed in a way that deviates from the specifications for its design and use.

Note Noise emitted from things, including batteries, is regulated under the *Environment Protection Regulation 2005*.

(2) Section 1.17 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.

(3) In this section:

battery includes the support structures (if any) for the battery.

1.33 External switchboards

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

1.34 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.

1.35 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

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(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.

1.36 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 1.121 (Schools—driveways).

1.37 Temporary buildings and other structures

(1) Designated development for a temporary, portable or demountable building or other structure if—

Note For shipping containers, see s 1.59.

(a) the building or other structure is for use at the site of another development or an event; and

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(b) if the building or other structure is for use at the site of another development—the building or other structure is associated with carrying out the other development; and

(c) the building or other 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 other structure begins;

(ii) if the territory planning authority extends, in writing, the 1-year period—the period as extended.

(2) Section 1.17 (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.

1.38 Single dwellings—step-free access paths

(1) Designated development for a step-free access path to a single dwelling if the path complies with the Livable Housing Design Standard published by the Australian Building Codes Board, as in force from time to time.

Note The Livable Housing Design Standard does not need to be notified under the Legislation Act because s 47 (6) does not apply (see Act, s 523 (4) and Legislation Act, s 47 (7)). The standard is accessible at ncc.abcb.gov.au.

(2) Section 1.17 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.

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Division 1.4.2 Non-habitable buildings and other structures

Subdivision 1.4.2.1 Preliminary

1.40 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).

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

(1) Designated development for a class 10 building or other structure (the ***2nd thing***) in a boundary clearance area of a block if—

(a) an existing class 10 building or other 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

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(d) the 1st thing and 2nd thing—

(i) are the only class 10 buildings or other 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 datum 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 other structure does not include a sign installed on land.

relevant cross-section area, of a building or other 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 1.41.

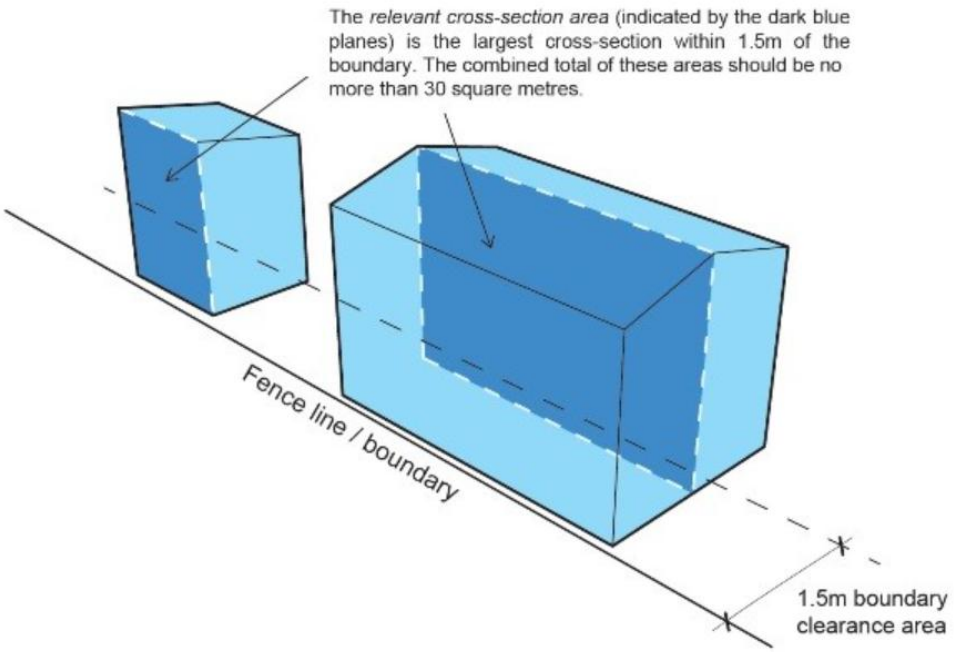
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Examples—relevant cross-section area

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 $6m^2$.

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 $0.6m^2$ and the crossbeam has a total area facing the boundary of $0.9m^2$. The relevant cross-section area of the pergola is $1.5m^2$.

Diagram 1.41 Relevant cross-section area



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Subdivision 1.4.2.2 Class 10a buildings

1.42 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 1.45 and for external verandahs, see s 1.46.

(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 datum ground level; or

(ii) in any other case—3m above datum 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 other structure (other than a boundary fence) that has any part of it that is within 1.5m of the boundary; or

(ii) section 1.41 (Class 10 buildings and other structures—2nd exempt building or other structure in boundary clearance area) applies to the building.

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(2) This subsection applies to a building that—

(a) is more than 3m above datum ground level; but

(b) has no part higher than a plane projecting at 30° above the horizontal from a height 3m above datum 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 $10m^2$—the building is behind the building line for the block; or

(b) if the building has a plan area of more than $10m^2$—the building is behind the building line for the block and at least 15m from the block's front boundary

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

(a) if the size of the block is less than $500m^2$—the building has a plan area of not more than $10m^2$; or

(b) if the size of the block is $500m^2$ or more but less than $600m^2$—the building has a plan area of not more than $25m^2$; or

(c) if the size of the block is $600m^2$ or more—the building has a plan area of not more than $50m^2$.

1.43 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 1.45 and for external verandahs, see s 1.46.

(b) the height of the building is not more than—

(i) if subsection (2) applies—4m above datum ground level; or

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(ii) in any other case—3m above datum 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 $50m^2$; 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 datum 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 other structure (other than a boundary fence) that has any part of it that is within 1.5m of the boundary; or

(ii) section 1.41 (Class 10 buildings and other structures—2nd exempt building or other structure in boundary clearance area) applies to the building.

(2) This subsection applies to a building that—

(a) is more than 3m above datum ground level; but

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

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1.44 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 1.45 and for external verandahs, see s 1.46.

(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 datum ground level; or

(ii) in any other case—3m above datum 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 datum 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 other structure (other than a boundary fence) that has any part of it that is within 1.5m of the boundary; or

(ii) section 1.41 (Class 10 buildings and other structures—2nd exempt building or other structure in boundary clearance area) applies to the building.

(2) This subsection applies to a building that—

(a) is more than 3m above datum ground level; but

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

1.45 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 datum 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 datum 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 other structure (other than a boundary fence) that has any part of it that is within 1.5m of the boundary; or

(ii) section 1.41 (Class 10 buildings and other structures—2nd exempt building or other structure in boundary clearance area) applies to the deck.

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(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.

1.46 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 $10m^2$; and

(c) no part of the verandah is—

(i) higher than 3m above datum 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.

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Subdivision 1.4.2.3 Class 10b structures

1.47 Class 10b structures—plan area not more than 2m^2

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 2m^2; and

(b) the structure is not—

(i) wider than 2m; or

(ii) higher than 1.85m above datum ground level; and

(c) if the structure has a floor—the height of the finished floor level is not more than 0.4m above datum 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 datum 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 other structure (other than a boundary fence) that has any part of it that is within 1.5m of the boundary; or

(ii) section 1.41 (Class 10 buildings and other structures—2nd exempt building or other structure in boundary clearance area) applies to the structure.

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1.48 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 datum ground level; or

(ii) in any other case—

(A) for a panel of a fence or wall—2.3m above datum ground level; or

(B) for the support post or column of a fence or wall—2.5m above datum 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 1.17 (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 1.17, 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 1.41, that would apply to the development.

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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.

1.49 Basic open space boundary fences

Note The Act, s 516 (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 datum 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

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(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 523 (4) 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 516 (3).

development requirement, in relation to a block—see the Act, section 516 (3).

1.50 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 datum ground level on the lowest side of the wall; and

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(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 datum ground level on the lowest side of the wall; and

(B) for any other part of the wall—1.2m above datum 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 datum ground level on the lowest side of the wall; and

(B) for any other part of the wall—1m above datum 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 datum ground level on the lowest side of the wall; and

(B) for any other part of the wall—1.2m above datum ground level on the lowest side of the wall; and

(c) if any part of the retaining wall is higher than 0.4m above datum 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 other structure (other than a boundary fence) that has any part of it that is within 1.5m of the boundary; or

(ii) section 1.41 (Class 10 buildings and other structures—2nd exempt building or other structure in boundary clearance area) applies to the retaining wall.

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(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 datum ground level.

fill retaining wall means a wall, or that part of a wall, retaining earth above datum ground level.

1.51 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 datum 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.

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swimming pool—

(a) means an excavation, structure or vessel that—

(i) can be filled with water to a depth of more than 300mm; and

(ii) is principally used for swimming, wading, paddling or any other human aquatic activity; and

(b) includes a bathing or wading pool and a spa; but

(c) does not include a bath or spa bath in a bathroom.

1.52 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 datum 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

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(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 other structure (other than a boundary fence) that has any part of it that is within 1.5m of the boundary; or

(ii) section 1.41 (Class 10 buildings and other structures—2nd exempt building or other 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.

1.53 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 datum ground level; or

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(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 datum 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 other structure (other than a boundary fence) that has any part of it that is within 1.5m of the boundary; or

(ii) section 1.41 (Class 10 buildings and other structures—2nd exempt building or other structure in boundary clearance area) applies to the antenna.

(2) The excluded criteria do not apply to the designated development.

(3) Section 1.17 (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 1.17, 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 1.41, that would apply to the development.

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

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1.54 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 1.115 (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

1.55 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 datum ground level; and

(c) in any other case—the height of the tank is not more than 3m above datum ground level.

1.56 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

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

1.57 Animal enclosures

(1) Designated development for an animal enclosure on a block if—

(a) the enclosure's plan area is not more than $10m^2$; and

(b) the enclosure's height is not more than 3m above datum 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 1.17 (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 1.17, 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 1.41, that would apply to the development.

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

1.58 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 datum 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

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(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 1.17 (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 1.17, 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 1.41, that would apply to the development.

1.59 Shipping containers

(1) Placing a shipping container on a block if the container—

(a) is being used for a temporary, non-habitable purpose; and

Examples

1 loading or unloading furniture, equipment or goods transported to or from the block

2 storage of construction tools or materials being used for development on the block

Note For temporary buildings or other structures, see s 1.37.

(b) is in good repair and structurally sound; and

(c) is placed, removed and kept on the block in a way that does not create a risk to the safety of any person or property; and

(d) does not impede access to the block, another block or public access to a place (including public unleased land); and

(e) is not placed within the boundary clearance area of a side boundary or rear boundary of the block; and

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(f) is removed before the end of the longer of the following periods:

(i) 1 year after the day it is placed on the block;

(ii) if the territory planning authority extends, in writing, the 1-year period—the period as extended.

(2) The excluded criteria do not apply to the development.

(3) Section 1.17 (Criterion 7—compliance with other applicable exemption) does not apply to the development to the extent that the section would apply to the excluded criteria.

Note The general exemption criteria include s 1.17, which provides that development must comply with any other provisions in this part that apply to the development.

(4) 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.

excluded criteria means any other criteria in this division, other than section 1.41, that would apply to the development.

Division 1.4.3 Signs

1.60 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 1.90.

1.61 Signs attached etc to buildings, other structures and land

(1) Putting up, attaching or displaying a sign (whether permanent or temporary) on land, or to a building or other structure on land, if—

(a) the sign is put up, attached or displayed in such a way that the sign cannot be removed without—

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(i) for a sign attached to or displayed on a building or other 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 a relevant signs development control declared under section 14 (1) (b).

(2) Section 1.17 (Criterion 7—compliance with other applicable exemption) does not apply to development to which this section applies.

(3) In this section:

type, for a sign, means the sign type for the sign in a relevant signs development control declared under section 14 (1) (b).

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.

1.62 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 $1.5m^2$; 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.

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(2) Section 1.17 (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 other structure.

1.63 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

(b) the sign complies with a relevant signs development control declared under section 14 (1) (b); and

(c) the sign is put up, attached or displayed for not more than 2 weeks in any calendar year.

(2) Section 1.17 (Criterion 7—compliance with other applicable exemption) does not apply to development to which this section applies.

(3) In this section:

type, for a sign—see section 1.61 (3).

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.

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1.64 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 1.17 (Criterion 7—compliance with other applicable exemption) does not apply to development to which this section applies.

1.65 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.

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Division 1.4.4 Community gardens

1.70 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 1.41 (Class 10 buildings and other structures—2nd exempt building or other structure in boundary clearance area);

(b) section 1.42 (Roofed class 10a buildings—enclosed or open on 1 side);

(c) section 1.43 (Roofed class 10a buildings—unenclosed or partly open);

(d) section 1.44 (Class 10a buildings—unroofed and unenclosed);

(e) section 1.47 (Class 10b structures—plan area not more than $2m^2$);

(f) section 1.48 (Fences and freestanding walls generally);

(g) section 1.49 (Basic open space boundary fences);

(h) section 1.55 (Water tanks);

(i) section 1.56 (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.

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1.71 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 other 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.

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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

1.72 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 datum 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 datum ground level at a boundary—not more than 4m above datum ground level; and

(b) the plan area of the building is—

(i) if the community garden is less than 600m^2—not more than 10m^2; or

(ii) if the community garden is 600m^2 or more—not more than 50m^2; 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 datum ground level; or

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(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 $10m^2$—6m; or

(ii) if the plan area of the building is more than $10m^2$ but not more than $50m^2$—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 other structure (other than a boundary fence) that has any part of it within 1.5m of the boundary; or

(ii) section 1.74 (Community gardens—boundary clearance area) applies to the building.

(2) Section 1.17 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.

1.73 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 $50m^2$; 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

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(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 fence) in a community garden if the structure—

(a) has a plan area of not more than $2m^2$; and

(b) is not wider than 2m; and

(c) is not higher than 1.85m above datum ground level; and

(d) if the structure has a floor—the floor is not more than 0.4m above datum 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 other structure (other than a boundary fence) that has any part of it within 1.5m of the boundary; or

(ii) section 1.74 applies to the structure.

(4) Section 1.17 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.

1.74 Community gardens—boundary clearance area

(1) Designated development for a class 10 building or other structure (the ***2nd thing***) in a boundary clearance area if—

(a) an existing class 10 building or other 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

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(d) the 1st thing and 2nd thing—

(i) are the only class 10 buildings or other 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 datum ground level of not more than $30m^2$.

(2) Section 1.17 (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 other structure does not include a sign installed on a community garden.

relevant cross-section area, of a building or other 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.

1.75 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 datum ground level; and

(c) no part of the tank is within 1.5m of a boundary.

(2) Section 1.17 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.

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1.76 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 1.17 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.

1.77 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 datum ground level; and

(b) the plan area of the shade structure is not more than $50m^2$; and

(c) the shade structure is unenclosed on at least 2 sides.

(2) Section 1.17 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.

Division 1.4.5 Outdoor eating or drinking places

1.80 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

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(b) public unleased land for which a permit has been issued under the *Public Unleased Land Act 2013*.

1.81 Meaning of *outdoor eating or drinking place*—div 1.4.5

In this division:

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

1.82 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 1.17 (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 other structure;

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(b) a socket, sleeve, bracket or similar device that attaches an object to the ground, a building or other 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

1.85 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 other structure—the development has a plan area of not more than 216m^2; 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.

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

1.86 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 2023*, pt 13.

Division 1.4.7 Territory development

1.90 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

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(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 2023*, schedule 1, section 1.1.

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

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

Examples

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

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

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(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.

Example—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

1.91 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

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(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) Section 1.17 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.

(3) 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

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1.92 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 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.

1.93 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*;

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(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.

1.94 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.

1.95 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).

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Division 1.4.8 Schools

Subdivision 1.4.8.1 Preliminary

1.100 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.

1.101 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 1.102.

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

Examples

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

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

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1.102 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 or education and care service premises 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

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

(3) In this section:

childcare centre means a childcare centre licensed under the *Children and Young People Act 2008*, section 747.

Note A childcare centre is a childcare service (see *Children and Young People Act 2008*, s 732).

education and care service premises means education and care service premises under the *Education and Care Services National Law (ACT)* (other than in relation to a family day care service).

Note The *Education and Care Services National Law (ACT) Act 2011*, s 6 applies the Education and Care Services National Law set out in the *Education and Care Services National Law Act 2010* (Vic), schedule as if it were an ACT law called the *Education and Care Services National Law (ACT)*.

1.103 Disapplication of criterion 7—div 1.4.8

Unless otherwise stated in a provision, section 1.17 (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 disapplied for a provision (see s 1.10).

1.104 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 1.106 (Schools—new buildings or alterations to buildings);

(b) section 1.107 (Schools—entrances);

(c) section 1.108 (Schools—verandahs etc);

(d) section 1.113 (Schools—shade structures);

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(e) section 1.114 (Schools—covered external walkways);

(f) section 1.117 (Schools—landscape gardening);

(g) section 1.120 (Schools—toilet and change room facilities);

(h) section 1.124 (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.

1.105 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

1.106 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;

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(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 other 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.

1.107 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.

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(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

1.108 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 1.46.

(2) In this section:

verandah includes a balcony, awning, portico or landing.

1.109 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

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(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;

(h) information about future development or works at the school;

(i) information about new facilities or services at the school.

1.110 Schools—artwork on buildings or other structures

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

(a) does not project more than 30mm from a wall or other surface; and

(b) does not include material that discriminates against or vilifies any person or group; and

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(c) does not include material that is offensive or sexually explicit; and

(d) does not include advertising material; and

(e) is not a sign; and

Note A sign may be exempt under s 1.109.

(f) is not illuminated or animated; and

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

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

(i) is not more than 12m in height.

Example—artwork on a building or other structure

mural painted on the external wall of a building

1.111 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.

1.112 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

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(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.

1.113 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 any part of the shade structure is more than 6m but not more than 30m 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 $700m^2$;

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(iii) if any part of the shade structure is within 6m 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 200m^2.

1.114 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.

1.115 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.

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1.116 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 not more than 8m.

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

1.117 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 1.50. (Other provisions, eg external decks (see s 1.45) and swimming pools (see s 1.51) may be relevant.)

Note 2 Work by the Territory that affects the landscape of land may also be exempt under s 1.90.

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

(3) In this section:

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

(a) a footpath;

(b) a landing;

(c) artificial grass;

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(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.

1.118 Schools—car parks

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

(a) the vertical distance from the top of the car park to existing ground level is not more than—

(i) if the top of the car park is above existing ground level—2m; or

(ii) if the top of the car park is below finished ground level—2m; and

(b) the car park does not reduce the area of a playing field.

1.119 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).

1.120 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.

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1.121 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.

1.122 Schools—security cameras

Installing a security camera.

1.123 Schools—external lighting

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

1.124 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.

1.125 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

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(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 1.112.

Division 1.4.9 Other exemptions

1.130 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 a relevant residential zones—single dwelling housing development control; and

(d) section 1.18 (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 1.13).

(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 1.17 (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.

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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 subdivision design application has been approved in relation to the lease; and

Note A subdivision design application must identify the boundaries of the subdivision and individual blocks within the subdivision (see Act, s 43 (1) (b) (i)).

(c) the 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 ***Subdivision design application***—see the Act, s 43 (1).

residential zones—single dwelling housing development control—see section 14 (1) (a).

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

1.131 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 1.130 (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 a defined provision;

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(ii) beyond the building envelope that applies, under a defined provision, to the block where the dwelling or alteration is being built;

(iii) beyond any relevant solar building envelope that applies to the block where the dwelling or alteration is being built;

(iv) into the minimum private open space required under a defined provision; and

(b) for an encroachment under paragraph (a) (iii)—the encroachment would not cause shadowing for more than 3 hours to more than 50% of any habitable room or principal private open space of another block between 9 am and 3 pm on the winter solstice; and

(c) section 1.18 (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 exempt development despite not complying with a defined provision identified in the declaration; and

Note An exemption declaration must not authorise anything that is inconsistent with the territory plan (see Act, s 52).

(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 a defined provision identified in the declaration.

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(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 1.18 (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 a defined provision—

(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 provision means any quantitative requirement applicable under a relevant residential zones—single dwelling housing development control.

residential zones—single dwelling housing development control—see section 14 (1) (a).

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1.132 Single dwellings—demolition

(1) The demolition of a single dwelling, or part of a single dwelling.

(2) However, if section 1.18 (Information about certain development proposals) applies in relation to the demolition, that section must be complied with in relation to the demolition.

(3) Section 1.17 (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.

1.133 Buildings and other structures—demolition

(1) The demolition of a building or other structure, or part of a building or other structure, if—

(a) if the building or other structure is on a block in a residential zone—the building or structure is a class 10 building or other structure; or

(b) if the building or other structure is on a block in a commercial zone—

(i) a precondition mentioned in the *Building Act 2004*, section 61 (i) (ii), (iv), (vi) or (vii) (Preconditions for s 62 notice) exists in relation to building work involving the building or structure; and

(ii) the construction occupations registrar has given the owner of the block a notice under that Act, section 62 (Notice to carry out building work) directing the owner to demolish the building or structure, or part of the building or structure; or

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(c) in any other case—were the building or other structure, or the part of the building or other structure, to be built, the building or structure would be 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 1.13).

(2) Section 1.17 (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.

1.134 Rebuilding damaged buildings and other structures

(1) Designated development to rebuild a damaged building or other 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 1.16 (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 other structure being more than the previously approved height of the damaged building or other structure, both of which are measured from datum ground level;

(ii) the gross floor area of any new or altered building or other 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 a defined provision;

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(iii) any new or altered building or other structure being used for more dwellings than were previously approved;

(iv) a setback for any new or altered building or other structure not complying with the lesser of the following:

(A) a relevant setback under a defined provision;

(B) any setback that was 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 1.17 (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 other structure in—

(a) one of the following zones identified in the territory plan:

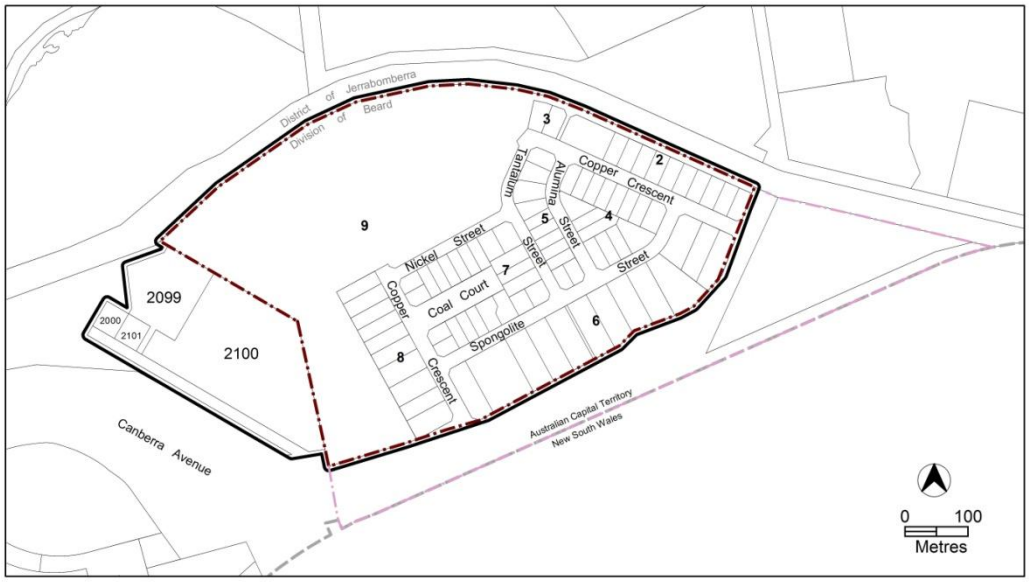
(i) IZ1 General Industrial Zone;

(ii) IZ2 Mixed Use Industrial Zone; or

(b) the area outlined in bold in plan 1.134.

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Plan 1.134



(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 other 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

defined provision means any quantitative requirement applicable under—

(a) a relevant provision in any relevant district policy that would apply if the new or altered building or other structure were not exempt; and

(b) a relevant residential zones—single dwelling housing development control.

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lessee, of land before the act or event that damaged the building or other 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 523 (4) and Legislation Act, s 47 (7)). The standard may be purchased at www.standards.org.au.

(b) unless the building or other 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* (repealed);

(b) the *Land (Planning and Environment) Act 1991* (repealed);

(c) the *Planning and Development Act 2007* (repealed);

(d) the Act, unless, immediately before the act or event that damaged the building or other structure—

(i) the period for applying to the ACAT for review of the decision to approve the development had not ended; or

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(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.

residential zones—single dwelling housing development control—see section 14 (1) (a).

1.135 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 1.16 (1) (b).

1.136 Home businesses conducted from residential leases

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

(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 other 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 other structure lawfully on lease—par (c) (i)

1 the building or other 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

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Example—building not lawfully on lease—par (c) (i)

A shed, when constructed, is exempt from the *Building Act 2004* and is exempt development under the Act. It is therefore lawfully on the lease. However, the shed is subsequentially 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 $40m^2$; 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, in relation to a residential lease of land—see the Act, section 276 (3).

1.137 Tree damaging etc activity

(1) Designated development if the development—

(a) is an activity that would or may—

(i) damage a protected tree; or

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(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 *Urban Forest Act 2023*—

(i) section 28 (Approval application—decision); or

(ii) section 32 (Approval in urgent circumstances or for minor works).

(2) In this section:

damage a protected tree—see the *Urban Forest Act 2023*, section 14.

Note ***Damage*** includes killing, destroying, felling or removing all or part of a protected tree (see *Urban Forest Act 2023*, s 14).

prohibited groundwork—see the *Urban Forest Act 2023*, section 15.

Note ***Prohibited groundwork*** includes contaminating, compacting or excavating soil in a protected tree's protection zone or damaging the protected tree's root system (see *Urban Forest Act 2023*, s 15).

protection zone, for a protected tree—see the *Urban Forest Act 2023*, section 13.

1.138 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 described in a residential lease; or

(ii) prescribed landscaping (whether or not the land is land described in a residential lease); and

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(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 1.50. (Other provisions, eg external decks (see s 1.45) and swimming pools (see s 1.51) 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 1.11 (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 datum ground level is not more than—

(i) if the top of the structure or earthworks is above datum ground level—0.4m; or

(ii) if the top of the structure or earthworks is below finished ground level—1.2m.

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1.139 Utility and telecommunications services

(1) Designated development if—

(a) the development involves—

(i) installing a connection (other than a connection mentioned in subparagraph (ii) (A)) of not more than 100m between a consumer's premises and a network facility for a utility service or telecommunications service; or

(ii) if the development is carried out by Evoenergy in relation to an electricity network or gas network—any of the following:

(A) installing a connection of not more than 500m between a consumer's premises and a network facility;

(B) installing a connection of not more than 500m between network facilities;

(C) for an electricity network—building or installing network facilities to increase the capacity of the network to not more than 8MVA;

(D) for a gas network—building or installing network facilities to increase the capacity of the network to not more than 210kPa; or

(iii) installing a utility service or telecommunications service in accordance with an approved subdivision design application; or

Note ***Subdivision design application***—see the Act, s 43 (1).

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(iv) maintenance carried out only to maintain a utility service 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, electrical conduits or cables

3 replacing aerial lines with new aerial lines

(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 (other than development in relation to building or installing network facilities mentioned in subsection (1) (a) (ii) (C) or (D)) if—

(a) the development involves any of the following:

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

(A) a plan area of not more than $15m^2$; and

(B) a height of not more than 3m above datum ground level;

Examples—minor infrastructure

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

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

(A) the height of the fence is not more than 3m above datum ground level; and

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(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 datum 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 service or telecommunications service buildings or other 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 service or telecommunications service infrastructure, or an existing utility service 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 other structure on land leased by a utility service or telecommunications service entity if—

(A) the height of the building or structure is not more than 5m above datum ground level; and

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

Examples—temporary buildings or other structures

construction site shed, temporary water tank

(vii) demolishing minor utility service 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 1.17 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.

(5) In this section:

electricity network means either of the following under the *Utilities Act 2000*, section 7:

(a) an electricity transmission network;

(b) an electricity distribution network.

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Evoenergy means Icon Distribution Investments Limited ACN 073 025 224 and Jemena Networks (ACT) Pty Ltd ACN 008 552 663 working in partnership as Evoenergy ABN 76 670 568 688.

fence includes—

(a) a gate that forms part of, or functions as, a fence; and

(b) a fence for an open space boundary.

gas network means either of the following under the *Utilities Act 2000*, section 10:

(a) a gas transmission network;

(b) a gas distribution network.

network facility—see the *Utilities Act 2000*, dictionary.

premises includes land.

telecommunications service—see the *Telecommunications (Interception and Access) Act 1979* (Cwlth), section 5 (1).

utility service means an electricity, water, sewerage, stormwater or gas service under the *Utilities Act 2000*.

1.140 Electric-powered vehicle charging points

(1) Designated development for an electric-powered vehicle charging point on land, in a building or other structure, or on the exterior of a building or other structure, in a built-up urban area if—

(a) electricity services are already connected within 500m of the charging point; and

(b) each electric-powered vehicle charging point has—

(i) a height of not more than 2.5m above datum ground level; and

(ii) a plan area of not more than $2m^2$; and

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(c) the development complies with 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 523 (4) and Legislation Act, s 47 (7)). The standard may be purchased at www.standards.org.au.

(d) the development complies with a relevant EV charging points—fire safety development control declared under section 14 (1) (c); and

(e) the person undertaking the development complies with electricity distribution obligations.

(2) Section 1.17 (Criterion 7—compliance with other applicable exemption) does not apply to the designated development.

(3) In this section:

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 Evoenergy 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.

Evoenergy—see section 1.139 (5).

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1.141 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 1.13).

(2) In this section:

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

1.142 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).

1.143 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

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(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 15.

(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 land, means—

(a) damaging a building or other 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.

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1.144 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 185 and s 187 in relation to development approval for the subdivision of a units plan.

1.145 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 1.11 (Criterion 1—easement and other access clearances);

(b) section 1.12 (Criterion 2—plumbing and drainage clearances);

(c) section 1.13 (Criterion 3—heritage, tree, environment and conservation);

(d) section 1.14 (Criterion 4—compliance with lease and agreement collateral to lease);

(e) section 1.15 (Criterion 5—no multiple occupancy dwellings);

(f) section 1.17 (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.

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Part 1.5 Permitted open space boundary fence colours

(see s 1.49 (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)

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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)

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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)

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Part 1.6 Tables of exempt signs

(see s 1.61 and s 1.63)

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								

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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

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

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

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	Zones other than commercial and industrial zones								
Type of sign	**RZ1**	**RZ2**	**RZ3**	**RZ4**	**RZ5**	**CFZ**	**PRZ1**	**PRZ2**	**Other**
Ground sign									
Hamper sign									
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	A
Mobile sign									
Pole sign									
Projecting sign									
Pylon/column sign									
Roof sign									
Stallboard sign									

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

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Schedule 2 Permitted construction tolerances

(see s 7)

Part 2.1 Interpretation—sch 2

2.1 Definitions—sch 2

In this schedule:

approved development means development covered by a development approval.

exempt development means development exempt from requiring development approval under this regulation.

Part 2.2 Permitted construction tolerances

2.2 Horizontal siting tolerances for buildings and other structures

(1) This section applies to the horizontal siting on a block of a building or other structure that does not comply with the applicable siting criteria.

(2) This section does not apply if—

(a) a relevant solar building envelope applies to the block; and

(b) any point of the building or structure extends beyond the relevant solar building envelope (an ***encroachment***); and

(c) the encroachment is not permitted by a development approval or exemption declaration.

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(3) The building or structure must be horizontally sited so that—

(a) for any point of the building or structure that the applicable siting criteria allows or requires to be sited on, or not more than 900mm horizontally from, a boundary of the block—

(i) for a boundary fence—the point is sited so that the centre of the fence's panelling is not more than 50mm horizontally from the boundary; and

(ii) in any other case—the point is sited wholly on the block and not more than 50mm horizontally from where the applicable siting criteria allow or require it to be sited; and

(b) for any point of the building or structure that the applicable siting criteria allows or requires to be sited more than 900mm horizontally from a boundary of the block—the point is sited wholly on the block and not more than 340mm horizontally from where the applicable siting criteria allow or require it to be sited; and

(c) compared to the approved development or exempt development, the building or structure does not do either or both of the following:

(i) increase the diversion or concentration of the flow of surface water—

(A) in a way that causes ponding; or

(B) onto other land;

(ii) change the number of stories in the building or structure.

Example—s (3)

An exemption for the construction of a house requires a wall to be sited not closer than 900mm horizontally from the western boundary of the block. The house is constructed so that its western wall is 850mm horizontally from the boundary (50mm less than required). The siting of the house is within the allowed tolerance under par (a) (ii) because it breaches the siting requirement under the exemption by not more than 50mm.

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Note 1 The development, as changed in accordance with this section, must also comply with the general exemption criteria.

Note 2 A change to the height of the finished floor level of the level immediately above a basement may mean that the space is counted as a storey and may also affect the calculation of gross floor area.

(4) If the territory planning authority makes an exemption declaration that extends the permitted horizontal dimension of a dwelling, the distance of 340mm mentioned in subsection (3) (b) is reduced—

(a) if the dimension is extended by not more than 290mm—by the extended distance stated in relation to the dimension in the exemption declaration; or

(b) if the dimension is extended by more than 290mm—by 290mm.

(5) In this section:

applicable siting criteria, in relation to a point of a building or other structure on a block, means the criteria about the horizontal siting of the point on the block under—

(a) if the building or structure would be covered by a development approval other than for its horizontal siting on the block—the approval; or

(b) if the building or structure would be exempt development other than for its horizontal siting on the block—schedule 1, part 1.4 (Development exempt from development approval).

on, a block or a boundary of a block, includes above or below ground level for the block or boundary.

2.3 Height tolerances for buildings and other structures

(1) This section applies to the vertical siting on a block of a building or other structure that does not comply with the applicable height criteria.

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(2) This section does not apply if—

(a) a relevant solar building envelope applies to the block; and

(b) any point of the building or structure extends beyond the relevant solar building envelope (an ***encroachment***); and

(c) the encroachment is not permitted by a relevant development approval or exemption declaration.

(3) The building or structure must be vertically sited so that—

(a) for any point of the building or structure that the applicable height criteria allows or requires to be sited at a particular height—

(i) the point is sited wholly within the lease to which the point relates and is not more than 340mm above or below where the applicable height criteria allow or require the point to be sited; but

(ii) if the point is the sill of an exterior window—the sill is not more than 50mm closer to the finished floor level immediately adjacent to the window's sill; and

Example—par (a) (i)

A multistorey block of apartments is divided into separate units under the *Unit Titles Act 2001*. Each apartment must be within the spatial lease for the unit.

(b) compared to the approved development or exempt development, the building or structure does not do any of the following:

(i) increase the diversion or concentration of the flow of surface water—

(A) in a way that causes ponding; or

(B) onto other land;

(ii) reduce the accessibility of the building or structure for people with disabilities;

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(iii) change the number of stories in the building or structure.

Note 1 The development, as changed in accordance with this section, must also comply with the general exemption criteria.

Note 2 A change to the height of the finished floor level of the level immediately above a basement may mean that the space is counted as a storey and may also affect the calculation of gross floor area.

(4) If the territory planning authority makes an exemption declaration that extends a permitted height criterion of a dwelling, the distance of 340mm mentioned in subsection (3) (a) (i) is reduced—

(a) if the criterion is extended by not more than 290mm—by the extended distance stated in the exemption declaration for the criterion; or

(b) if the criterion is extended by more than 290mm—by 290mm.

(5) In this section:

applicable height criteria, in relation to a point of a building or structure, means the criteria about the height of the point under—

(a) if the building or structure would be covered by a development approval other than for the height of the point—the approval; or

(b) if the building or structure would be exempt development other than for the height of the point—schedule 1, part 1.4 (Development exempt from development approval).

lease includes a land sublease.

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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 2023*. For example, the following terms are defined in the Act, dict:

- authority website (see s 509)
- custodian
- development (see s 14 (1))
- development application (see s 166 (1))
- development approval
- development proposal
- district policy
- EPBC Act
- exempt development (see s 145)
- exemption assessment (see s 151 (1))
- exemption assessment D notice (see s 152 (2) (b))
- exemption assessor (see s 151 (1))
- future urban area
- land management agreement (see s 350 (2) (a))
- land sublease

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- lease
- proponent
- residential lease
- rural lease (see s 256)
- structure
- subdivision design application (see s 43 (1))
- territory plan (see s 45)
- territory planning authority
- use (see s 15)
- zone.

Note 3 Terms used in sch 1 and sch 2 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
- basement
- building line
- carport
- datum ground level
- finished floor level
- finished ground level
- front boundary
- front zone
- gross floor area
- setback
- storey.

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

approved development, for schedule 2 (Permitted construction tolerances)—see schedule 2, section 2.1.

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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 1.71.

built-up urban area, for schedule 1, (Exemptions from requirement for development approval)—see schedule 1, section 1.2.

class, for a building or other 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 other structures)—see schedule 1, section 1.40; and

(b) for schedule 1, division 1.4.4 (Community gardens)—see schedule 1, section 1.71.

class 10b structure, for schedule 1, division 1.4.4 (Community gardens)—see schedule 1, section 1.71.

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 1.71.

designated development, in relation to land, for schedule 1 (Exemptions from requirement for development approval)—see schedule 1, section 1.3.

dwelling—see section 6 (1).

exempt development, for schedule 2 (Permitted construction tolerances)—see schedule 2, section 2.1.

exemption declaration—see schedule 1, section 1.131 (1) (d).

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existing ground level, in relation to an area, for schedule 1, division 1.4.8 (Schools)—see schedule 1, section 1.101.

existing school, for schedule 1, division 1.4.8 (Schools)—see schedule 1, section 1.102.

existing school campus, for schedule 1 (Exemptions from requirement for development approval)—see schedule 1, section 1.1.

general exemption criteria, for development—see schedule 1, section 1.10.

height, for a thing (including a building or other 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 datum ground level—the largest of the vertical distances measured at all points for the thing between datum 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 516 (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.

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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 other 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.

playing field, for schedule 1, division 1.4.8 (Schools)—see schedule 1, section 1.101.

public unleased land, for schedule 1 (Exemptions from requirement for development approval)—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 exempt development, means the solar building envelope that would apply under a relevant provision of the territory plan if the development were not exempt.

side boundary means a boundary that meets a front boundary.

surface water—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).

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Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act
AF = Approved form
am = amended
amdt = amendment
AR = Assembly resolution
ch = chapter
CN = Commencement notice
def = definition
DI = Disallowable instrument
dict = dictionary
disallowed = disallowed by the Legislative Assembly
div = division
exp = expires/expired
Gaz = gazette
hdg = heading
IA = Interpretation Act 1967
ins = inserted/added
LA = Legislation Act 2001
LR = legislation register
LRA = Legislation (Republication) Act 1996
mod = modified/modification
NI = Notifiable instrument
o = order
om = omitted/repealed
ord = ordinance
orig = original
par = paragraph/subparagraph
pres = present
prev = previous
(prev...) = previously
pt = part
r = rule/subrule
reloc = relocated
renum = renumbered
R[X] = Republication No
RI = reissue
s = section/subsection
sch = schedule
sdiv = subdivision
SL = Subordinate law
sub = substituted
underlining = whole or part not commenced or to be expired

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3 Legislation history

Planning (Exempt Development) Regulation 2023 SL2023-21
notified LR 11 September 2023
s 1, s 2 commenced 11 September 2023 (LA s 75 (1))
remainder commenced 27 November 2023 (s 2 and see Planning Act 2023 A2023-18, s 2 (2) and CN2023-10)

as amended by

Urban Forest (Consequential Amendments) Act 2023 A2023-52 sch 1 pt 1.6
notified LR 11 December 2023
s 1, s 2 commenced 11 December 2023 (LA s 75 (1))
sch 1 pt 1.6 commenced 1 January 2024 (s 2 and see Urban Forest Act 2023 A2023-14, s 2)

Planning Legislation Amendment Act 2026 A2026-8 pt 3
notified LR 15 May 2026
s 1, s 2 commenced 15 May 2026 (LA s 75 (1))
pt 3 commenced 22 May 2026 (s 2)

4 Amendment history

Commencement
s 2 om LA s 89 (4)

Definitions—sch 1
sch 1 s 1.1 def ***built-up urban area*** sub A2023-52 amdt 1.39

Meaning of *built-up urban area*—sch 1
sch 1 s 1.2 om A2023-52 amdt 1.40

Criterion 3—heritage, tree, environment and conservation
sch 1 s 1.13 am A2023-52 amdt 1.41

Single dwellings—step-free access paths
sch 1 s 1.38 ins A2026-8 s 7

Swimming pools
sch 1 s 1.51 am A2026-8 s 8

Single dwellings where declaration authorises minor non-compliance
sch 1 s 1.131 am A2026-8 s 9

Tree damaging etc activity
sch 1 s 1.137 am A2023-52 amdt 1.42, amdt 1.43

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5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 27 Nov 2023	27 Nov 2023– 31 Dec 2023	not amended	new regulation
R2 1 Jan 2024	1 Jan 2024– 21 May 2026	A2023-52	amendments by A2023-52

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