

Building Amendment Regulation (No. 1) 2015

Explanatory notes for SL 2015 No. 19

made under the

Building Act 1975

General Outline

Short title

Building Amendment Regulation (No. 1) 2015

Authorising law

Sections 13 and 261 of the *Building Act 1975*

Policy objectives and the reasons for them

The policy objective of the amendment regulation is to introduce a new Queensland Development Code (QDC) part to reference the National Association of Steel-framed Housing (NASH) Standard for Steel-Framed Construction in Bushfire Areas (the NASH Standard) as an acceptable solution in Queensland. This will address an unintended consequence of a current Queensland variation under the Building Code of Australia (BCA) which was not updated as part of the 2015 amendments to the BCA to reference the NASH Standard.

Houses and associated structures such as decks and carports are often built in areas of Queensland exposed to bushfire risk. Since 1993, Queensland's building legislation has included reference to Australian Standard 3959 – *Construction of buildings in bushfire prone areas* (AS 3959). AS 3959 provides a methodology for establishing the level of bushfire risk and general construction requirements for buildings, particularly those using timber frames. However, over the years there have been no specific acceptable solutions referenced within the BCA for steel-framed construction of buildings in bushfire prone areas.

To support the Australian steel industry and enable greater choice in construction materials, the NASH developed a building standard that provides specific, quantified solutions for the construction of steel-framed buildings in areas of bushfire risk. After extensive development and consultation with relevant government and non-government building industry stakeholders, the NASH Standard was subsequently included in the 2015 edition of the BCA, which will commence in Queensland on 1 May 2015.

As part of meeting the BCA requirements in bushfire prone areas, establishing the level of bushfire risk requires the classification of vegetation types under AS 3959. Some classes of vegetation set out in AS 3959 are not considered to present a bushfire risk in Queensland. In response to this, Queensland has an existing variation in the BCA which recognises that some vegetation types need not be considered as part of an assessment under AS 3959.

During the 2015 amendments to the BCA, this Queensland variation under Volume Two of the BCA (i.e. for houses and associated buildings and structures) was not updated to include a reference to the NASH Standard. An unintended consequence is that the NASH Standard would not have been referenced for use in Queensland from 1 May 2015. Because the 2015 amendments to the BCA were already published, this problem could not be remedied under the BCA before the commencement of the 2015 edition on 1 May 2015.

The amendment regulation will enable the NASH Standard to be used as an acceptable solution in Queensland, and avoid the need for applicants to seek approval of steel-framed buildings in areas of bushfire risk under the alternative solutions pathway of the BCA. While the alternative solution pathway is a legitimate and viable method of approval, it would likely impose additional unnecessary time and cost burdens on an applicant in these circumstances.

Achievement of policy objectives

Because the *Building Act 1975* states that the QDC prevails over the BCA in the event of any inconsistency, the introduction of a new part to the QDC (Mandatory Part 2.4 – Construction in Bushfire Prone areas (MP 2.4)) will enable the NASH Standard to be used as an acceptable solution for houses and associated buildings and structures in Queensland. This is an interim measure until the Queensland variation can be amended for the 2016 edition of the BCA which is proposed to commence on 1 May 2016.

Under the *Building Act 1975*, a part of the QDC is introduced or replaced only when a regulation approves the introduction or replacement. The amendment regulation will achieve its policy objective by amending the *Building Regulation 2006* to approve the introduction of the new MP 2.4.

Consistency with policy objectives of authorising law

The amendments of the *Building Regulation 2006* are consistent with the objectives of the *Building Act 1975*.

Inconsistency with policy objectives of other legislation

The amendment regulation is consistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

The amendment regulation is the only means of enabling the NASH Standard to be referenced as an acceptable solution in Queensland.

Benefits and costs of implementation

The amendment regulation will benefit the community by ensuring the NASH Standard can be used as an acceptable solution by those proposing to build houses and associated buildings or structures using steel-framed construction. Immediate benefits will be derived through the amendment regulation by removing the need for applicants to use the potentially more costly and time-consuming alternative solution pathway.

No appreciable costs will be associated with implementing the amendment regulation.

Consistency with fundamental legislative principles

The amendment regulation has been drafted with regard to fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*. The amendment regulation is consistent with fundamental legislative principles.

Consultation

National consultation was undertaken as part of the development and adoption of the NASH Standard into the BCA. Queensland stakeholders were afforded the opportunity to contribute as part of this process.

The Standard was also subject to the Australian Building Codes Board's Protocol for Referenced Documents and national regulation impact requirements, including a Preliminary Impact Assessment. However, it was identified that a national Regulation Impact Statement was not required.

The Department of the Premier and Cabinet, Queensland Treasury and the Queensland Competition Authority were consulted and support the proposal.