

Building and Other Legislation Amendment Regulation (No. 1) 2015

Explanatory notes for SL 2015 No. 30

made under the

Building Act 1975
Sustainable Planning Act 2009

General Outline

Short title

Building and Other Legislation Amendment Regulation (No. 1) 2015

Authorising law

Sections 13 and 261 of the *Building Act 1975*.
Section 763 of the *Sustainable Planning Act 2009*.

Policy objectives and the reasons for them

The policy objective of the *Building and Other Legislation Amendment Regulation (No. 1) 2015* (amendment regulation) is to introduce a new mandatory part to the Queensland Development Code (QDC) for farm buildings (MP 3.7). This will enable specific provisions of the National Construction Code (NCC), which are considered inappropriate or impractical for some farm buildings, to be varied in Queensland.

Farm buildings can be used for a variety of purposes, including storing farm machinery, storing and packing of produce, and animal husbandry. Given some farm buildings have a large floor area, fire safety equipment and systems such as hydrants, hose reels and in some cases early warning systems, are often required by the NCC.

Industry feedback has suggested that the rural and remote location and limited human occupancy of these buildings may not always justify some of these NCC requirements. For example, a farm building used to rear large numbers of chickens may require a large floor area yet have minimal human occupation (e.g. one person for approximately one hour per day).

There is also a reported trend of applicants seeking to classify a wider range of farm buildings incorrectly as private garages or sheds, due to the reduced NCC requirements and associated cost savings. However, this means there is no requirement to consider active fire safety features.

Achievement of policy objectives

The amendment regulation will achieve the policy objectives by amending the *Building Regulation 2006* to adopt MP 3.7. MP 3.7 provides concessions to some NCC requirements relating to access and egress, artificial lighting, exit signs, emergency lighting, and fire-fighting equipment.

Under the *Building Act 1975*, a part of the QDC is introduced only when a regulation approves its introduction.

A further amendment to the *Building Regulation 2006* requires a building certifier to notify the Queensland Fire and Emergency Services (QFES) when an on-site water storage tank is installed under MP 3.7. This will assist the QFES in their ongoing inspection and auditing activities.

A consequential amendment to the *Sustainable Planning Regulation 2009* (SPR) provides jurisdiction to the QFES as an advice agency for any referrals made under MP 3.7 for alternative solutions for fire-fighting equipment. This is consistent with the approach taken for other QDC parts involving fire safety aspects.

Consistency with policy objectives of authorising law

The amendments to the BR 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, in particular the introduction of a new part to the Queensland Development Code, is the only means of achieving the policy objectives.

Benefits and costs of implementation

The amendment regulation will benefit the agricultural industry and the community by providing cost savings for the construction of new farm buildings in Queensland. As an example of the expected cost savings associated with MP 3.7, the construction of a chicken shed of just under 2000m² could be expected to achieve estimated savings of at least \$150 000.

MP 3.7 also balances the objective of cutting construction costs with the need to maintain appropriate levels of life and fire safety, health and amenity. Further, the introduction of MP 3.7 will provide certainty and consistency across the state in the assessment of new farm buildings.

No appreciable costs to industry, the community or government will be associated with implementation of MP 3.7.

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

Extensive consultation was undertaken during the development of MP 3.7. This included an industry working group with representatives from the agriculture and building sectors, building certifiers, local government, the Department of Agriculture and Fisheries and the QFES.

State-wide preliminary consultation sessions were held in mid-2014 at 13 locations across Queensland. A draft version of MP 3.7 was also released on the Department of Housing and Public Works' website for four weeks public consultation in September 2014.

The proposal was reviewed by the Building Industry Consultative Group at various stages throughout 2014 and 2015. This group includes membership of peak bodies throughout the building and construction industry, including the Housing Industry Association, Master Builders, Australian Institute of Building Surveyors, Royal Institution of Chartered Surveyors, QFES, Institute of Fire Engineers, Building Designers Association of Queensland, the Local Government Association of Queensland, Queensland Law Society, the Queensland Building and Construction Commission, Australian Institute of Architects, Engineers Australia, and the Society of Fire Safety. Additional consultation was also undertaken with other state and territory jurisdictions and the Australian Building Codes Board.

The Department of the Premier and Cabinet, Queensland Treasury, and the Queensland Competition Authority (QCA) were consulted about the proposal. The Deputy Premier, Minister for Transport, Minister for Infrastructure, Local Government and Planning and Minister for Trade was also consulted about the proposed consequential amendment to the SPR.

MP 3.7 was also subjected to an independent fire engineering analysis, which resulted in minor improvements being made.

All stakeholders supported the proposal. Various technical and policy changes were made to MP 3.7 throughout its development as a result of the consultation process.

The requirements for a building certifier to provide notice to the QFES if an on-site water tank is installed was included as a result of consultation with the QFES.