

Building and Other Legislation (Queensland Development Code Update) Amendment Regulation 2023

Explanatory notes for Subordinate Legislation 2023 No. 178

made under the

Sections 13 and 261 of the *Building Act 1975*

General Outline

Short title

Building and Other Legislation (Queensland Development Code Update) Amendment Regulation 2023

Authorising law

Sections 13 and 261 of the Building Act 1975
Section 284 of the Planning Act 2016

Policy objectives and the reasons for them

The policy objective of the *Building and Other Legislation (Queensland Development Code Update) Amendment Regulation 2023* (Amendment Regulation) is to amend Queensland Development Code Mandatory Part 3.7 – Farm (QDC MP 3.7) to better align with the National Construction Code (NCC) requirements for farm buildings and farm sheds.

The policy objectives of QDC MP 3.7 are to:

- decrease the regulatory burden for Queensland, while maintaining a high fire safety standard
- meet obligations under the Australian Building Codes Board (ABCB) Intergovernmental Agreement (IGA), which commits jurisdictions to minimising variations to the NCC.
- deliver cost effective alternative compliance options that assist Queensland’s regional agricultural sector to remain competitive.

Achievement of policy objectives

The policy objectives are achieved by the Amendment Regulation giving effect to the amended QDC 3.7

QDC 3.7 will achieve the policy objectives through:

- providing additional compliance options that enable on-site firefighting water supply for farm buildings to be sourced from dams, rivers, creeks and the like, to meet on-site firefighting water supply requirements
- the introduction of a new term “vehicle storage farm shed”, which enables these very low fire risk buildings (e.g. no walls, infrequent occupancy) to be constructed without dedicated on-site firefighting water storage or supply equipment
- a new requirement for on-site water used for firefighting purposes to meet water quality standards to ensure the safety of Queensland firefighters
- updating definitions, using contemporary language and adopting a modernised structure in line with the NCC.

The changes to QDC MP 3.7 will satisfy Queensland’s obligations under the ABCB’s IGA to minimise its variations to the NCC.

A consequential amendment has been made to section 88(1)(c) of the *Building Regulation 2021* to ensure that Queensland Fire and Emergency Services (QFES) are notified of approved buildings using the new, additional water supply options, for QFES’s ongoing inspection and auditing activities.

A consequential amendment has been made to Schedule 9, part 3, division 3, table 3, item 1, column 2, paragraph (b)(i) of the *Planning Regulation 2017* (PR) to capture the new additional acceptable water supply options before the referral requirements to QFES are triggered.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the *Building Act 1975* and its objectives to regulate the carrying out of building work to ensure proper standards in the building industry and protect public safety. It is also consistent with the *Planning Act 2016* and its objectives to establish an efficient, effective, transparent, integrated, coordinated, and accountable system of planning, development assessment and related matters that facilitates the achievement of ecological sustainability.

Inconsistency with policy objectives of other legislation

No inconsistencies with the policy objectives of other legislation have been identified.

Alternative ways of achieving policy objectives

The Amendment Regulation will give effect to amendments to the QDC 3.7, which implements Queensland specific standards for farm buildings and farm vehicle storage sheds to meet local needs.

The QDC parts are the only mechanism to enable Queensland to vary the NCC requirements and therefore there is no other way of achieving the policy objectives.

Benefits and costs of implementation

The proposed amendments provide Queensland farmers with similar options for the provision of dedicated firefighting water supply to those provided in the NCC for farm buildings, while retaining adequate protections for Queensland firefighters and residents in line with QFES policies.

The Amendment Regulation will provide the following range of benefits to industry and the community through the amended QDC MP 3.7:

- A construction cost saving of up to \$100,000, where farmers opt to use additional on-site water supply options (such as dams or bores) rather than constructing a water storage tank.
- A construction cost saving, where a structure falls in the definition of a 'vehicle storage farm shed' as the structure does not require an on-site water storage or supply.
- A cost saving in regulatory fees for referral applications as these will no longer be required where additional on-site water supply options, as prescribed in QDC MP 3.7, are used.

The Amendment Regulation and QDC MP 3.7 impose no implementation costs.

No additional costs are expected to be imposed by the additional siting requirements for water supply options in the amendments.

A potential cost will be imposed to ensure water storage or supply options meet water quality standards. However, the impact is unlikely to be significant, and the costs are expected to be negated by the savings realised through the use of alternative water sources (options that do not require the construction, purchase or maintenance of a water storage tank).

Consistency with fundamental legislative principles

The Amendment Regulation and QDC MP 3.7 are consistent with the fundamental legislative principles as outlined in the *Legislative Standards Act 1992*.

These legislative instruments have sufficient regard to the rights and liberties of individuals, and to the institution of Parliament. It is made in accordance with the power and policy objectives of the *Building Act 1975* and *Planning Act 2016*, only amends a statutory instrument and contains matters appropriate to subordinate legislation.

Consultation

Extensive consultation on the draft amended QDC MP 3.7 and the proposed subsequent regulatory amendments was undertaken between April and October 2023. Consultation has been targeted to relevant stakeholders as these changes only apply to the farming communities.

Stakeholder engagement included agricultural and farming organisations, the Queensland Fire and Emergency Services, the Queensland Building and Construction Commission, Department of Agriculture and Fisheries, Local Government Association of Queensland,

technical experts and industry associations involved in building and construction, building certification and fire protection through the Ministerial Construction Council.

Generally, stakeholders are supportive of the technical provisions contained in QDC MP 3.7.

In accordance with the Queensland Government Better Regulation Policy, the Office of Best Practice Regulation was consulted in relation to the proposals and considered that a summary Impact Analysis Statement (IAS) should be prepared by the Department of Energy and Public Works (DEPW).

The summary IAS for QDC MP 3.7 outlines that the amendments will not add to the burden of regulation and are unlikely to result in significant adverse impacts.