



Building Amendment Regulations 2019 for BCA 2019 and bush fire transitions

The Building Amendment Regulations 2019 (the Amendment Regulations) were published in the Government Gazette on 26 March 2019. The Amendment Regulations come into effect on 1 May 2019. The Amendment Regulations amend the Building Regulations 2012 (the Building Regulations) to address administrative matters around the introduction of the 2019 edition of the Building Code of Australia (BCA, Building Code) and expiry dates associated with the transitional dates for the bush fire reforms. This bulletin intends to outline to the key amendments as listed below.

Bush fire transitional provisions extended

The Amendment Regulations extend the expiry dates for transitional provisions associated with the implementation of the 2015 bush fire reforms.

Regulation 31BA of the Building Regulations includes transitional exemptions from the BCA bush fire construction requirements for certain alterations and extensions in designated bush fire prone areas. The Amendment Regulations extends the expiry date for this transition for a further two years, until 1 May 2021.

Regulation 31 of the Building Regulations streamlines the application process under section 39 of the Building Act 2011 for making an application to the Building Commissioner for a declaration to modify or not apply a bush fire building standard (known as a section 39 transitional bush fire application). The Amendment Regulations extends the expiry date for making a transitional bush fire application for a further two years, until 1 May 2021.

Amendments relating to the 2019 edition of the BCA

To support ongoing national building regulatory reform, the BCA 2019 will include improved language and introduce a new structure and format for the layout of the document. This includes:

- relocating the BCA definitions from Part A1 in the BCA Volume One to a new Schedule 3 in the BCA 2019; and
- renumbering many BCA performance requirements and deemed-to-satisfy solutions (including the requirements for swimming pool barriers and building in bush fire prone areas).

The Amendment Regulations update numerous references to BCA provisions within the Building Regulations so that the references align with the provisions in the BCA 2019.

The amendments include:

- updating BCA references in regulation 3 of the Building Regulations for the terms assessment method, performance requirement, performance solution, sole-occupancy unit and swimming pool;
- updating references to the BCA performance requirements in regulation 3 of the Building Regulations for the terms building code pool barrier requirements and bush fire performance requirement;
- updating references to the BCA performance requirements in the table of regulation 31D of the Building Regulations for the applicable building standards for relocated buildings;
- updating BCA references in regulation 31HA of the Building Regulations for the terms debris criteria, external wall and non-combustible external wall;
- updating language used in Schedule 3 of the Building Regulations for required tests and inspections to align with new language used in BCA 2019; and
- replacing references of 'Building Code Volume 1' in the Building Regulations with 'Building Code Volume One' for consistency.

A new regulation 3A has been inserted into the Building Regulations to address complexities around the Building Regulations referencing the BCA 2019 provisions in circumstances where the BCA 2016 Amendment 1 can still be used under the 'Building Code 12-month transition'.

For example, the Amendment Regulations updates regulation 3 of the Building Regulations so that the term 'assessment method' aligns with the definition as set out in Schedule 3 of the BCA 2019 Volume One. However, in circumstances where the BCA 2016 Amendment 1 is used before 1 May 2020, new regulation 3A provides that 'assessment method' continues to have the meaning given in the BCA 2016 Volume One Part A1.

From 1 May 2020, the BCA 2016 Amendment 1 can no longer be used under the 'Building Code 12-month transition' meaning that the transitional arrangements in new regulation 3A will cease to have effect from that date.

Disclaimer

The information contained in this bulletin is provided as general information only and should not be relied upon as legal advice or as an accurate statement of the relevant legislation provisions. If you are uncertain as to your legal obligations you should obtain independent legal advice.

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