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**COMMERCE**

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CM301\*

Building Act 2011

**Building Amendment Regulations 2016**

Made by the Governor in Executive Council.

**1. Citation**

These regulations are the *Building Amendment Regulations 2016*.

**2. Commencement**

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on 8 April 2016.

**3. Regulations amended**

These regulations amend the *Building Regulations 2012*.

**4. Regulation 3 amended**

- (1) In regulation 3 insert in alphabetical order:

**AS 3959** means Australian Standard AS 3959 —  
Construction of buildings in bushfire-prone areas;

**building site**, in relation to a building or incidental structure, means that part of a lot on which the building or incidental structure stands or is to be constructed;

**bushfire attack level (BAL)**, in relation to a building or incidental structure, means the bushfire attack level for the building site for the building or structure determined in accordance with AS 3959;

**bush fire performance requirement** means —

- (a) in relation to a Class 2 or Class 3 building — the Building Code Volume 1 performance requirement GP5.1; and

- (b) in relation to a Class 1 or Class 10 building — the Building Code Volume 2 performance requirement P2.3.4;

*relevant edition of the Building Code*, in relation to a building, incidental structure, building work or application, means the edition of the Building Code referred to in Part 4 Division 1 as setting out the building standards that apply as applicable building standards to the building, incidental structure, building work or application;

- (2) In regulation 3 in the definition of *AS* delete “Standards Australia;” and insert:

Standards Australia as referenced in the relevant edition of the Building Code;

#### 5. **Regulation 6A inserted**

After regulation 5 insert:

#### 6A. **Building work (s. 3)**

For the purposes of paragraph (f) of the definition of *building work* in section 3, the installation of a roof mounted evaporative cooling unit on a building or incidental structure is prescribed work.

#### 6. **Regulation 18A amended**

- (1) In regulation 18A:
  - (a) delete “For” and insert:

(1) For

- (b) in paragraph (d)(ii) delete “regulation 15A(1).” and insert:

regulation 15A(1);

- (c) after paragraph (d) insert:

- (e) if the certificate of design compliance is in respect of a Class 1, Class 2 or Class 3 building or an associated Class 10a building or deck that is, or is proposed to be, located less than

6 metres from the Class 1, Class 2 or Class 3 building —

- (i) a statement about whether the building or deck is, or is proposed to be, located in a bush fire prone area; and
- (ii) if the building or deck is, or is proposed to be, located in an area that is a bush fire prone area and, in accordance with regulation 31BA(2), a bush fire performance requirement applies to the building or deck — the additional information referred to in subregulation (2).

(2) At the end of regulation 18A insert:

(2) For the purposes of subregulation (1)(e)(ii), the additional information is —

(a) in all cases —

- (i) the BAL for the building site; or
- (ii) if another measure has been used to assess compliance with a bush fire performance requirement — details of the measure used and the results of that assessment;

and

(b) in the case of a Class 1 building —

- (i) a statement about each alternative solution to the bush fire performance requirement that is proposed to be used; and
- (ii) details of the assessment method used to establish compliance with that requirement.

## 7. Regulation 31BA amended

(1) Before regulation 31BA(1) insert:

(1A) In this regulation —

*excluded building work* means building work that is the renovation, alteration, extension, improvement or repair of a relevant building if —

- (a) the estimated value of the building work is less than \$20 000; or

- (b) the renovation, alteration, extension, improvement or repair does not increase the risk of ignition from bushfire attack for the relevant building;

*renovation, alteration, extension, improvement or repair*, in respect of a building, does not include the installation of a roof mounted evaporative air conditioning unit on the building;

*relevant building* means a building that —

- (a) is a Class 1, Class 2 or Class 3 building or an associated Class 10a building or deck that is located less than 6 metres from the Class 1, Class 2 or Class 3 building; and
- (b) when constructed, was not required to comply with a bush fire performance requirement.

(2) Delete regulation 31BA(2) and insert:

- (2) For subregulation (1), the applicable building standards for a building or incidental structure are the requirements mentioned in regulation 31A(2) except that the bush fire performance requirements do not apply if —
  - (a) the building or incidental structure is located in an area that has been a bush fire prone area for a period of less than 4 months at the time an application for a building permit is made; or
  - (b) the building or incidental structure is a relevant building and an application for a building permit for excluded building work in respect of the building or incidental structure is made before 1 May 2018.

(3) Delete regulation 31BA(4) and insert:

- (4) For subregulation (3), the applicable building standards for a building or incidental structure are the requirements mentioned in regulation 31E(2) except that the bush fire performance requirements do not apply if —
  - (a) the building or incidental structure is located in an area that has been a bush fire prone area for a period of less than 4 months at the time construction commenced; or
  - (b) the building or incidental structure is a relevant building and excluded building work in respect

of the building or incidental structure  
commenced before 1 May 2018.

- (4) In regulation 31BA(6) delete “the requirements listed in the Table to this regulation” and insert:

the bush fire performance requirements

- (5) In regulation 31BA delete the Table.

## 8. Regulation 36 amended

In regulation 36(2):

- (a) after paragraph (a) insert:

- (aa) if the certificate of building compliance is to accompany an application mentioned in section 49(b) and the change of classification of the building is to a Class 2 or Class 3 building —

(i) a statement about whether the building is located in a bush fire prone area; and

- (ii) if the building has been located in a bush fire prone area for a period of 4 months or more at the time the application is made —

(I) the BAL for the building site;  
or

- (II) if another measure has been used to assess compliance with a bush fire performance requirement — details of the measure used and the results of that assessment;

- (b) after paragraph (b) insert:

- (ba) if the certificate of building compliance is to accompany an application mentioned in section 51(2) or (3) in respect of a Class 1, Class 2 or Class 3 building or an associated Class 10a building or deck located less than 6 metres from the Class 1, Class 2 or Class 3 building —

(i) a statement about whether the building or deck is located in a bush fire prone area; and

- (ii) if the building has been located in a bush fire prone area for a period of 4 months or more at the time the application is made —
  - (I) the BAL for the building site; or
  - (II) if another measure has been used to assess compliance with a bush fire performance requirement — details of the measure used and the results of that assessment;

**9. Regulation 47 amended**

- (1) Before regulation 47(1) insert:

- (1A) In this regulation —

*applicable technical aspects* means —

- (a) the technical aspects of the construction of the building or incidental structure set out in the edition of the Building Code that is in effect at the time a written notice is given under subregulation (1); but
- (b) does not include the bush fire performance requirements if —
  - (i) a building or incidental structure is located in a bush fire prone area; and
  - (ii) the area has been a bush fire prone area for a period of less than 4 months at the time the notice is given.

- (2) Delete regulation 47(2) and insert:

- (2) The written notice must include or be accompanied by —

- (a) evidence that the building or incidental structure complies with the applicable technical aspects of the construction of a building or incidental structure of that building or incidental structure's proposed classification; and
- (b) if the proposed classification of the building or incidental structure is Class I —
  - (i) a statement about whether the building or incidental structure is located in a bush fire prone area; and

- (ii) if the building or incidental structure has been located in a bush fire prone area for a period of 4 months or more at the time the notice is given —
  - (I) the BAL for the building site; or
  - (II) if another measure has been used to assess compliance with the relevant performance requirement — details of the measure used and the results of that assessment.

#### 10. Schedule 4 amended

In Schedule 4 clause 2 at the end of the Table insert:

13.	<p>The installation of a roof mounted evaporative cooling unit on a building or incidental structure if —</p> <ul style="list-style-type: none"> <li>(a) the building or incidental structure is not located in a bush fire prone area; or</li> <li>(b) the building is a Class 4 to Class 9 building; or</li> <li>(c) the building or incidental structure is located in a bush fire prone area and the BAL for the building site is BAL-Low; or</li> <li>(d) the building or incidental structure —           <ul style="list-style-type: none"> <li>(i) is located in a bush fire prone area; and</li> <li>(ii) the BAL for the building site is BAL-12.5, BAL-19 or BAL-29; and</li> <li>(iii) the installation of the evaporative cooling unit complies with the requirements for roof penetration in respect of the building or incidental structure set out in AS 3959.</li> </ul> </li> </ul>
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N. HAGLEY, Clerk of the Executive Council.

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