



Building Amendment Regulations 2021 for bush fire

The Building Amendment Regulations 2021 (the Amendment Regulations) were published in the Government Gazette on 13 April 2021 and commence operation on 1 May 2021.

The Amendment Regulations address administrative matters around the conclusion of transitional arrangements for bush fire in the Building Regulations 2012 (the Building Regulations), and other related issues. In general, the Amendment Regulations provide ongoing concessions relating to compliance with the Building Code bush fire construction requirements.

The Amendment Regulations will make substantial changes to the wording and layout of regulations 31BA and 31D of the Building Regulations to improve the clarity and readability of the provisions. This includes the insertion of new Tables to outline the requirements.

Alterations and extensions concession for bush fire – retained

Regulation 31BA will be amended to remove the 1 May 2021 expiry date, providing an ongoing concession from the need to comply with the Building Code bush fire performance requirements where the renovation, alteration, extension, improvement or repair of a 'relevant building' in a designated bush fire prone area complies with one of the following 'excluded building work' options:

- **Option 1:** the estimated value of the renovation, alteration, extension, improvement or repair is less than \$20,000.
- **Option 2:** the renovation, alteration, extension, improvement or repair does not increase the risk of ignition from bush fire attack for the existing building.

The definition of 'relevant building' in regulation 31BA(1A) will be modified and a new definition added for 'bush fire standard'.

A new anti-avoidance clause will be inserted at regulation 31BA to prevent misuse of the alterations and extensions concession for bush fire.

Concession for unauthorised alterations or extensions – new

Regulation 31BA will be amended to provide a new concession for the unauthorised renovation, alteration, extension, improvement or repair of a 'relevant building' in a designated bush fire prone area where that work meets one of the 'excluded building work' options. This will align the applicable building standards for new and unauthorised alterations and extensions in bush fire prone areas.

Concession for Class 10a buildings or decks – new

Regulation 31BA will be amended to include a new concession for Class 10a buildings or decks, meaning a Class 10a building or deck does not need to comply with a Building Code bush fire performance requirement if it is associated with a building that is not required to comply with bush fire standards.

Four month transition for new bush fire prone areas – retained

Regulation 31BA retains the current four-month transition of the Building Code bush fire performance requirements for areas newly designated as a bush fire prone area by the Fire and Emergency Services (FES) Commissioner.

Regulation 31D will be amended to clarify that the four-month transition also applies to relocated buildings.

Concessions for relocated buildings – revised

Regulation 31D will be amended to include both the four-month concession and the Class 10a buildings or decks concession so that the applicable building standards for relocated buildings are located entirely within the one regulation. A number of amendments will also occur to the wording and layout of regulation 31D to improve the clarity and readability of the provision.

Section 39 transitional bush fire application – date extended

The process for making a section 39 transitional bush fire application to the Building Commissioner for a declaration to modify or not apply a bush fire building standard will be extended until 1 September 2023.

Minor amendments

A number of minor amendments to references and language will be made to reflect the changes made to regulations 31BA and 31D.

Transitional provisions

Transitional provisions ensure that building permit applications made, or building work commenced, prior to 1 May 2021 are unaffected by the amendments.

Disclaimer – The information contained in this fact sheet is provided as general information and a guide only. It 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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