

Queensland



Subordinate Legislation 1998 No. 86

*Building Act 1975*

*Integrated Planning Act 1997*

**BUILDING LEGISLATION AMENDMENT  
REGULATION (No. 1) 1998**

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## **PART 1—PRELIMINARY**

### **Short title**

1. This regulation may be cited as the *Building Legislation Amendment Regulation (No. 1) 1998*.

### **Commencement**

2.(1) Section 13, to the extent it inserts sections 111, 112, 113, 114, 120 and 129, commences on the day of notification of this regulation.

(2) The remaining provisions commence on 30 April 1998.

## **PART 2—AMENDMENT OF STANDARD BUILDING LAW**

### **Regulation amended**

3. This part amends the *Standard Building Law*.

### **Insertion of new pt 1, div 1 hdg**

4. After heading ‘PART 1—PRELIMINARY’—

*insert—*

*‘Division 1—Introduction’.*

### **Amendment of s 1.1 (Short title)**

5. Section 1.1, ‘Standard Building Law’—

*omit, insert—*

*‘Standard Building Regulation 1993’.*

**Insertion of new ss 1.1A and 1.1B**

6. After section 1.1—

*insert—*

**‘Regulation a code for IDAS**

‘1.1A. This regulation is a code for IDAS.<sup>1</sup>

**‘No changes by local planning instruments or local laws**

‘1.1B. For IPA, section 3.1.3(4), this regulation (other than part 3) is a code that can not be changed under a local planning instrument or a local law.<sup>2</sup>’.

**Replacement of s 1.2 (Exclusion of certain building work)**

7. Section 1.2—

*omit, insert—*

**‘Most building work assessable against regulation**

‘1.2.(1) Subject to subsections (2) and (3), the carrying out of all building work is assessable against this regulation.

‘(2) For IPA, schedule 8, part 2, item 7, the development set out in schedule 5, part 1 of this regulation is self-assessable development unless the development is building work in—

- (a) the wet tropics area under the *Wet Tropics World Heritage Protection and Management Act 1993*; or
- (b) a designated landscape area under the *Cultural Record (Landscapes Queensland and Queensland Estate) Act 1987*; or
- (c) a registered place under the *Queensland Heritage Act 1992*.

‘(3) For IPA, schedule 8, part 3, item 11, the development set out in

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<sup>1</sup> See IPA, schedule 10 (definitions), definition of “code”.

<sup>2</sup> Under IPA, section 3.1.3(5), to the extent a local planning instrument or local law is inconsistent with the scope of this regulation, the instrument or local law is of no effect.

schedule 5, part 2 of this regulation is exempt development unless the development is building work in—

- (a) the wet tropics area under the *Wet Tropics World Heritage Protection and Management Act 1993*; or
- (b) a designated landscape area under the *Cultural Record (Landscapes Queensland and Queensland Estate) Act 1987*; or
- (c) a registered place under the *Queensland Heritage Act 1992*.

### Replacement of heading

8. Heading ‘Interpretation’ after section 1.2—

*omit, insert—*

*‘Division 2—Interpretation’.*

### Replacement of s 1.3 (Definitions)

9. Section 1.3—

*omit, insert—*

#### ‘Definitions

‘1.3. In this regulation—

“**allotment**” means a separate, distinct parcel of land on which a building is to be built, or is built.

“**approved**”, in relation to building work, means approved by the assessment manager, or a private certifier, under this regulation.

“**AS**” means Australian Standard published by Standards Australia.

“**assessment manager**”, for a development application to which this regulation applies, means the person who would have been the assessment manager if a private certifier had not been engaged for the development.

“**BCA**” means the Building Code of Australia.

“**BSAP**” means the Building Surveyors and Allied Professions

Accreditation Board Incorporated.

**“building certifier”**, except for parts 11 and 12, means—

- (a) if a private certifier approved building work—the private certifier for the building work; or
- (b) if the assessment manager approved building work—the assessment manager’s building certifier for the building work.

**“building certifying functions”** means the following functions or powers that under this regulation are to be performed or exercised by a building certifier—

- (a) assessing and deciding development applications;
- (b) inspecting or accepting certification on the building or demolishing of buildings and structures for compliance with the Act;
- (c) issuing certificates or statements of classification.

**“building referral agency”** means a referral agency under IPA for aspects of the building work assessed against this regulation.

**“certificate of classification”**, other than in sections 99 and 101, includes an interim certificate of classification prepared under section 99.

**“certified information”** means the technical details, particular plans, drawings or specifications given and certified by a competent person.

**“class”**, for a building, means its classification under BCA.

**“competent person”**, in relation to building work, means a person who—

- (a) in the opinion of the building certifier is competent to practise in the aspect of the design, building or inspection of the building work because of skill and experience in the aspect; and
- (b) if required by law to be registered or licensed under a law applying in Queensland to practise in the aspect, is registered or licensed.

**“CSIRO”** means the Commonwealth Scientific and Industrial Research Organization.

**“development application”** means the aspect of a development application

for building work under IPA requiring assessment against this regulation.<sup>3</sup>

**“development approval”** has the meaning given under IPA.<sup>4</sup>

**“exempt development”**, for building work specified in schedule 5, part 2, has the meaning given under IPA.<sup>5</sup>

**“fire authority”** means the chief commissioner of the Queensland Fire and Rescue Authority under the *Fire and Rescue Authority Act 1990*.

**“fire safety installation”**, for a building or structure, means any of the items mentioned in schedule 1.

**“floor area”**, for a single detached class 1 building, means the gross area of all floors in the building measured over the enclosing walls other than the area of a verandah, roofed terrace, patio, garage or carport in or attached to the building.

**“IDAS”** has the meaning given by IPA.<sup>6</sup>

**“IPA”** means the *Integrated Planning Act 1997*.

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<sup>3</sup> Under IPA, schedule 10 (dictionary)—

**“development application”** means an application for a development approval.

<sup>4</sup> Under IPA, schedule 10 (dictionary)—

**“development approval”** means a decision notice or a negotiated decision notice that—

(a) approves, wholly or partially, development applied for in a development application (whether or not the approval has conditions attached to it); and

(b) is in the form of a preliminary approval, a development permit or an approval combining both a preliminary approval and a development permit in the one approval.

<sup>5</sup> Under IPA, schedule 10 (dictionary)—

**“exempt development”** is development other than assessable or self-assessable development.

<sup>6</sup> Under IPA, section 3.1.1—

**“IDAS”** is the system detailed in IPA, chapter 3 for integrating State and local government assessment and approval processes for development.

**“local planning instrument”** has the meaning given under IPA.<sup>7</sup>

**“mean height”**, of a building or structure, means the height worked out by dividing—

- (a) the total elevational area of the building or structure facing the boundary; by
- (b) the horizontal length of the building or structure facing the boundary.

**“natural ground surface”**, for an allotment, means—

- (a) the ground level of the allotment on the day the first plan of survey showing the allotment was registered; or
- (b) if the ground level on the day mentioned in paragraph (a) is not known, the natural ground surface decided by the building certifier.

**“outermost projection”**, of a building or structure, means the outermost projection of a structural part of the building or structure including—

- (a) if the projection is a roof and there is a fascia—the outside face of the fascia; or
- (b) if the projection is a roof and there is no fascia—the roof structure;

but does not include rainwater fittings or ornamental or architectural attachments.

**“planning scheme”** has the meaning given under IPA.<sup>8</sup>

**“pool enclosure”** means the area around the pool within the fencing required under the Act.<sup>9</sup>

**“prescribed qualifications”**, for different levels of accreditation as a

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<sup>7</sup> Under IPA, schedule 10 (dictionary)—

**“local planning instrument”** means a planning scheme, temporary local planning instrument or planning scheme policy.

<sup>8</sup> Under IPA, section 2.1.1—

A **“planning scheme”** is an instrument made by a local government under division 3.

<sup>9</sup> See section 30H of the Act.



building certifier, means—

- (a) the current education and experience accreditation issued by BSAP for the following levels of building certifier accreditation—
  - (i) a building surveyor;
  - (ii) an assistant building surveyor;
  - (iii) a building surveying technician; or
- (b) any other education and experience accreditation that BSAP considers is equal to education and experience accreditation issued by BSAP.

**“Queensland Residential Design Guidelines”** means the document called the ‘Queensland Residential Design Guidelines’ published by the department.<sup>10</sup>

**“road”** means—

- (a) an area of land dedicated to public use as a road; or
- (b) an area open to, or used by, the public and developed for, or has, as 1 of its main uses, the driving or riding of motor vehicles;

but does not include a pedestrian or bicycle path.

**“road boundary clearance”**, for a building or structure on an allotment, means the shortest distance measured horizontally from the outermost projection of the building or structure to the vertical projection of the boundary of the allotment adjacent to a road.

**“self-assessable development”**, for building work specified in schedule 5, part 1, has the meaning given under IPA.<sup>11</sup>

**“side and rear boundary clearance”**, for a building or structure on an

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<sup>10</sup> Copies of the Queensland Residential Design Guidelines may be inspected at the State office of the Department of Local Government and Planning, level 11, 111 George Street, Brisbane.

<sup>11</sup> Under IPA, schedule 10 (dictionary)—  
**“self-assessable development”** means—

- (a) development specified in schedule 8, part 2; or
- (b) for a planning scheme area—development that is not specified in schedule 8, part 2 but is declared under the planning scheme for the area to be self-assessable development.

allotment, means the shortest distance measured horizontally from the outermost projection of the building or structure to the vertical projection of the boundary of the allotment but does not include a road boundary clearance.

**“special fire service”** means—

- (a) for a building—an item mentioned in schedule 2;<sup>12</sup> or
- (b) for matters the fire authority must assess—an item mentioned in schedule 3;<sup>13</sup> or
- (c) for matters the fire authority must inspect—an item mentioned in schedule 4.<sup>14</sup>

**“special structure”** means a structure that can not be classified under BCA, part A3.

### **‘Meaning of “available for inspection”**

**‘1.3A.(1)** A document mentioned in this regulation as being available for inspection is **“available for inspection”** if the document, or a certified copy of the document, is—

- (a) for a document the local government must keep available for inspection—held in an office of the local government and any other place decided by the local government; and
- (b) for a document the assessment manager must keep available for inspection—held in the assessment manager’s office and any other place decided by the assessment manager.

**‘(2)** The document may be kept in its original form or stored in some electronic or other form or in a retrieval system by which an accurate representation of the document may readily be accessed.

**‘(3)** If a person is authorised under this regulation to inspect the

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<sup>12</sup> Schedule 2 (Special fire services (generally))

<sup>13</sup> Schedule 3 (Special fire services (assessment by fire authority)). The fire authority is an advice agency for IPA, chapter 3 (Integrated Development Assessment Systems (IDAS)), part 3 (Information and referral stage). See the *Integrated Planning Regulation 1998*, schedule 2.

<sup>14</sup> Schedule 4 (Special fire services (inspection by fire authority))

document, the person may, at any time when the office in which the document is held is open for business—

- (a) inspect the document or, if the document is stored in a form other than its original form, the accurate representation of the document; and
- (b) make copies of, or take extracts from, the document or its representation.

‘(4) The following persons are authorised to inspect the document or its representation—

- (a) if this regulation specifies a description of person who may inspect the document—the person and the person’s agents;
- (b) if this regulation does not specify a description of person who may inspect the document—all persons.

‘(5) The local government or assessment manager may, if asked by a person authorised to inspect the document, give a copy of the document or part of it to the person.

‘(6) The local government or assessment manager may charge a reasonable fee for either or both of the following—

- (a) making the document available for inspection;
- (b) making and giving the person the copy.

### **‘References to proposed buildings or structures**

‘1.3B. In this regulation—

- (a) a reference to a building or structure includes a reference to a proposed building or structure; and
- (b) a reference to the owner of a building or structure is a reference to the person who, if the proposed building or structure were completed, would be its owner; and
- (c) a reference to a structural member of certain materials is a reference to a proposed structural member that, if erected as proposed, would be of the materials; and
- (d) a reference to the purpose of a building or structure is a reference

to the purpose for which the proposed building or structure is to be used on completion.’.

### **Replacement of heading (Building Code of Australia requirements)**

**10.** Heading after section 1.3B (as inserted by this regulation)—

*omit, insert—*

*‘Division 3—BCA’.*

### **Replacement of s 1.4 (Code part of Law)**

**11.** Section 1.4—

*omit, insert—*

#### **‘BCA forms part of regulation**

**‘1.4.** BCA forms part of and is to be read as one with this regulation.

#### **‘Proof of BCA**

**‘1.4A.(1)** The production in any proceedings of a document purporting to be a copy of BCA published by the Australian Building Codes Board is evidence of the code.

**‘(2)** The production in any proceedings of a certificate purporting to be signed by the chief executive of the department or by the mayor, chief executive officer or other duly authorised officer of an assessment manager or accrediting body and stating that a particular edition of BCA was the current edition at a specified time or during a specified period is evidence of the certificate’s contents.

#### **‘Relationship between BCA and Australian Standards**

**‘1.4B.** For any subject matter dealt with in BCA, any provision of an Australian Standard that also deals with the subject matter applies only so far as it is expressly adopted by BCA.’.

**Numbering and renumbering of regulation**

**12.** Sections 1.1, 1.1A, 1.1B, 1.2, 1.3, 1.3A, 1.3B, 1.4, 1.4A and 1.4B—*renumber* as sections 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10.

**Replacement of remaining provisions**

**13.** Section 1.5 to the end of the regulation—*omit, insert*—

**‘PART 2—ASSESSMENT OF DEVELOPMENT  
APPLICATIONS**

*‘Division 1—General*

**‘Building certifiers to assess applications**

**‘11.(1)** Each development application must be assessed by a building certifier for compliance with—

- (a) this regulation; and
- (b) to the extent a local law existing at the commencement of this section or a local planning instrument may change this regulation—the local law or local planning instrument.<sup>15</sup>

**‘(2)** If the application is made to the assessment manager, the assessment manager in deciding the application must base the decision on the building certifier’s assessment.<sup>16</sup>

**‘(3)** Subsection (1)(b) does not apply to the extent the application has already been assessed for compliance with the local law or local planning instrument.

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<sup>15</sup> See for example section 45.

<sup>16</sup> If a private certifier acting as an assessment manager decides the application, see the *Building Act 1975*, section 63F.

**‘Building certifier’s discretion**

**‘12.(1)** This section applies if—

- (a) BCA permits a discretionary decision (by, for example, using the word ‘suitable’ or ‘adequate’) about any material, system, method of building or other thing whatever; and
- (b) under a development application a person proposes to use the material, system, method of building or other thing whatever.

**‘(2)** If this section applies, the building certifier—

- (a) must, in assessing the application, decide whether the material, system, method of building or other thing complies with BCA, including whether—
  - (i) the parts of the building work, to which the performance provisions of BCA apply, comply with the provisions or the provisions as varied by the chief executive;<sup>17</sup> or
  - (ii) the parts of the building work, to which the deemed to satisfy provisions of BCA apply, comply with the provisions; and
- (b) must not decide the application against the objectives or functional statements of BCA; and
- (c) may refer to the objectives and functional statements of BCA to assist the building certifier in interpreting the performance requirements of BCA.

**‘Certificate of conformity**

**‘13.(1)** If there is a current recognised certificate about the properties and performance of a material, system, method of building or other thing whatever, the material, system, method of building or other thing fulfils the requirements of BCA to the extent specified in the certificate.

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<sup>17</sup> Under the *Building Act 1975*, sections 7 and 8, the chief executive may vary the application of the *Standard Building Regulation 1993*.

‘(2) In subsection (1)—

**“recognised certificate”** means a certificate of conformity or certificate of accreditation issued by the Australian Building Codes Board.

**‘Application to build swimming pool must include fencing**

**‘14.** A development application for an outdoor swimming pool must relate also to the swimming pool fencing.

*‘Division 2—Alterations to existing buildings or structures*

**‘Application of div 2**

**‘15.** This division applies—

- (a) if alterations are proposed for an existing building or structure; and
- (b) despite any other provision of this regulation applying to building work.

**‘Certain alterations not permissible**

**‘16.** If this division applies, the proposed alterations must not unduly reduce the following—

- (a) the existing level of fire protection for persons accommodated in, or using, the building or structure;
- (b) the existing level of resistance to fire of the building or structure;
- (c) the existing safeguards against spread of fire to adjoining buildings or structures;
- (d) the existing level of emergency egress from the building or structure.

**‘Development approval may require entire building or structure to conform**

**‘17.** If this division applies, a development approval may require that a

part of a building or structure, or the entire building or structure, conform with all or part of this regulation as though the building or structure were a new building or structure if—

- (a) the proposed alterations, together with any previous structural alterations completed or approved within the previous 3 years, represent more than half the total volume of the original building, measured over the roof and the external walls; or
- (b) the safety of persons accommodated in or using the building or structure, or the risk of the spread of fire to adjoining buildings or structures, warrants the requirement.

#### **‘Alterations associated with a change of classification**

**‘18.** If this division applies and the alterations relate to a change of classification from a class to another class, part 10<sup>18</sup> also applies.

#### ***‘Division 3—Advices from local government***

#### **‘Public access to development information**

**‘19.(1)** To assist in the making and assessing of development applications, a local government must keep available for inspection the original or a copy of all documents it has about—

- (a) the physical characteristics and location of infrastructure; and
- (b) local government easements, encumbrances or estates or interests in land likely to be relevant to development applications; and
- (c) site characteristic information likely to affect the assessment of a development application.

*Examples of information mentioned in subsection (1)(c)—*

1. Location of mine subsidence areas.
2. Location of land-slip areas.
3. Location of contaminated land.

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<sup>18</sup> Part 10 (Changes of classification)



4. Details of any heritage listed buildings.
5. Location of any erosion control districts.
6. Flood level information.
7. Design or location of vehicle crossings.
8. Design or location of stormwater connections.
9. Discharge of swimming pool backwash water.
10. Limitations on the capacity of sewerage, stormwater and water supply services.
11. Limitations on driveway gradients.
12. Design levels of proposed road or footway works.

(2) For the purposes of purchasing a copy of a document, subsection (1)(b) does not apply to a document that may be purchased from the registrar of titles.

#### **‘Local government must consider certain matters**

**‘20.(1)** This section applies if—

- (a) a development application involves a matter mentioned in schedule 6;<sup>19</sup> and
- (b) the local government is the assessment manager; and
- (c) the application is made to a private certifier.

**‘(2)** If the local government is asked to consider a matter mentioned in schedule 6, the local government must give written advice on the request to the private certifier and the applicant within—

- (a) for building work in relation to a single detached class 1 building or class 10 building or structure only—5 business days after receiving the request; or
- (b) for other building work—15 business days after receiving the request.

**‘(3)** The private certifier must not decide the application unless the local government has given written advice on the matter.

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<sup>19</sup> Schedule 6 (Building work that requires local government approval or decision)

‘(4) If the local government has not given the advice to the private certifier and the applicant within the time mentioned in subsection (2), the private certifier may act as if the local government had advised the application is unsatisfactory in relation to the matter.

‘(5) However, if the local government gives the advice after the time mentioned in subsection (2) but before the private certifier acts under subsection (4), the private certifier may not act as if the local government had advised the application is unsatisfactory in relation to the matter.

‘(6) Subject to section 21, the building certifier must accept the advice and act on it.

#### **‘Appeals from local government**

‘21.(1) This section applies to advice given under section 20.

‘(2) If the applicant is dissatisfied with the advice, the applicant (the “**appellant**”) may appeal to a tribunal.

‘(3) An appeal must be started within—

- (a) 20 business days after the advice is given to the applicant; or
- (b) 20 business days after the decision on the development application is made.

‘(4) If an appeal is started under subsection (3)(a), the appellant must advise the private certifier the appeal has been started.

‘(5) If a private certifier has received advice that an appeal has been started under subsection (3)(a), the private certifier must not decide the application until the appeal is decided or withdrawn.

#### ***‘Division 4—Drawings and certificates***

#### **‘Engineering drawings required for certain developments**

‘22.(1) This section applies if, in relation to a development application, engineer’s drawings or other engineering details are required.

‘(2) If the drawings or details are not included with the application, the application must not be approved unless the approval is subject to the

condition that—

- (a) work on the footings must not start until the drawings and details for the footings have been approved; and
- (b) a stage of the building work must not be started until the drawings and details for the stage have been approved.

#### **‘Optional acceptability of certificates**

‘**23.(1)** A competent person may certify that a material, system, method of building or other thing whatever to which certified information relates will, if installed or carried out in accordance with the certified information, comply with this regulation.

‘**(2)** Subject to compliance with section 86(5),<sup>20</sup> a competent person may certify that a component of building work has been built in accordance with a development approval and complies with this regulation.

‘**(3)** An assessment manager or building certifier may accept in good faith and, without further checking, rely on the certification given that the building work complies with this regulation to the extent compliance is certified.

‘**(4)** The competent person must set out in detail in the certification—

- (a) the basis for giving the certificate; and
- (b) the extent to which the person has relied on tests, specifications, rules, standards, codes of practice or other publications.

‘**(5)** If the certificate is given in the approved form, the form of the certificate must be accepted by a building certifier.

#### **‘Signature of competent persons on documents**

‘**24.(1)** This section applies to certified information given as part of a development application.

‘**(2)** The name and signature of the competent person giving the certified information must be on the certified information.

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<sup>20</sup> Section 86 (Carrying out of inspections)

‘(3) If the certified information is prepared on behalf of a corporation or firm, the name of the corporation or firm must also be on the certified information.

‘(4) The certificate supporting the certified information must be personally signed by the competent person.<sup>21</sup>

#### **‘Assessment manager must accept certificate of private certifier**

‘25.(1) This section applies to a certificate or notice a private certifier is authorised to give to an assessment manager under IPA or the *Building Act 1975* (including this regulation).

‘(2) If an assessment manager is given a certificate or notice by a private certifier, the assessment manager must—

- (a) accept the certificate or notice in good faith; and
- (b) without further checking, rely and act on the certificate or notice.

#### ***‘Division 5—Giving, accessing and keeping information***

#### **‘Information private certifier must give to assessment manager**

‘26.(1) The following documents are prescribed for IPA, section 5.3.5(6)(c)—<sup>22</sup>

- (a) a copy of the plans, drawings, specifications and other documents and information lodged by the applicant, stamped approved or otherwise endorsed by the building certifier;
- (b) a list of required fire safety installations and required special fire services applying to the building work;
- (c) copies of certified information given by competent persons and relied on by the private certifier;

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<sup>21</sup> That is, the signature on the certificate must not be in the form of a stamp or a copy of an original signature.

<sup>22</sup> IPA, section 5.3.5 also requires a copy of the application and decision notice to be given to the assessment manager.

- (d) a copy of the private certifier's accreditation as a private certifier;
- (e) if the approval is based on the performance provisions of BCA, section 13 or 14 of the Act or section 16 or 17 of this regulation—a list of the reasons for giving the approval sufficient to respond to a request for reasons for giving the approval under the *Judicial Review Act 1991*.

‘(2) If the assessment manager agrees, the documents to be given to the assessment manager under IPA, section 5.3.5(6) may be sent electronically.

‘(3) For IPA, section 5.3.17, a private certifier must keep a copy of all documents given to the assessment manager under IPA, section 5.3.5(6) for 2 years after completion of the building work.

#### ‘Applicant to be given a copy of any drawings

‘27. If a development application is approved, the person approving the application must return to the applicant a set of the approved drawings.

#### ‘Assessment manager must keep drawings and documents

‘28.(1) For development applications for class 2 to 9 buildings the assessment manager must keep the following documents until the building is demolished or removed—

- (a) if the assessment manager approved the application—
  - (i) a copy of the application;<sup>23</sup> and
  - (ii) a copy of the plans, drawings, specifications and other documents and information lodged by the applicant, stamped approved or otherwise endorsed by the assessment manager; and
  - (iii) a list of required fire safety installations and required special fire services applying to the building work; and
  - (iv) copies of certified information given by competent persons and relied on by the assessment manager; and

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<sup>23</sup> Under IPA, section 5.7.4 the assessment manager is required to also keep a copy of the development approval.

- (v) if the approval is based on the performance provisions of BCA, section 13 or 14 of the Act or section 16 or 17 of this regulation—a list of the reasons for giving the approval sufficient to respond to a request for reasons for giving the approval under the *Judicial Review Act 1991*;
- (b) if the application was approved by a private certifier—the documents given to the assessment manager under IPA, section 5.3.5(6).

‘(2) For development applications for a class 1 or class 10 building or structure, or for a special structure, the assessment manager must keep the documents mentioned in subsection (1)(a) and (b) for at least 10 years or until the building or structure is earlier demolished or removed.

‘(3) All documents kept by the assessment manager under subsections (1) and (2) must be available for inspection by—

- (a) the owner of the building or structure; and
- (b) a person authorised in writing by the owner; and
- (c) a person authorised by the fire authority; and
- (d) a private certifier engaged to carry out building certifying functions concerning the premises to which the documents relate; and
- (e) a member of a tribunal; and
- (f) a person performing audits of accreditations under the Act; and
- (g) with the consent of the local government, another person.

### *‘Division 6—Permit conditions*

#### **‘Requirement for survey certificates**

‘29.(1) A building certifier may, before assessing a development application, require an identification survey showing—

- (a) the boundaries of the allotment on which the building work is proposed; and
- (b) the location of any proposed or existing buildings or structures on

the allotment.

‘(2) A development approval may be subject to a condition that an identification survey be given to the building certifier showing—

- (a) the boundaries of the allotment; and
- (b) the actual situation of the building or structure on the allotment.

‘(3) A survey under subsection (2) must be given as soon as the actual location of the building or structure on the allotment can be established or at a later time the building certifier allows.

#### **‘When demolition, removal and rebuilding starts and finishes**

‘30.(1) This section applies only to a development application relating to—

- (a) the demolition of a building or structure; or
- (b) the removal of a building or structure; or
- (c) the rebuilding after removal, of a building or structure.

‘(2) The approval of the application must impose a condition that the building work be—

- (a) started within 2 months of the approval; and
- (b) completed within 6 months after the giving of the approval.

#### **‘Extension of period**

‘31.(1) If a private certifier, acting as an assessment manager, approves a development application, the private certifier may extend the period within which the building work is required to start or finish.<sup>24</sup>

‘(2) However, if subsection (1) has been applied to a development approval, the private certifier may further extend the period only after consulting the local government about the proposed extension.

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<sup>24</sup> In IPA, this period is called the “currency period”.

**‘Mandatory conditions for class 2–9 buildings**

‘32. The applicant for a development approval for a class 2 to 9 building must ensure that 1 legible set of the current drawings for the development is available for inspection on the building site while the building work is in progress.

***‘Division 7—Miscellaneous*****‘Information to be given by the State to local government**

‘33.(1) The information prescribed for section 64B of the Act is—

- (a) a 1:100 scale drawing of the building or structure showing floor plans and elevations; and
- (b) a site plan of a scale enabling the local government to provide water supply, sewerage and stormwater drainage for the land on which the building work is to be carried out.

‘(2) However, if the Minister responsible for the building work to which this section applies considers the giving of the information mentioned in subsection (1)(a) is not in the public interest, subsection (1)(a) does not apply.

**‘PART 3—SITING REQUIREMENTS*****‘Division 1—Application of part 3*****‘Application of pt 3**

‘34. Subject to division 4, this part applies to—

- (a) single detached class 1 buildings; and
- (b) class 10 buildings and structures located on the same allotment as a single detached class 1 building.



**‘Local government resolution**

‘35. A local government may, by resolution, require that the following buildings comply with some or all of the provisions of this part—

- (a) class 1 buildings (other than those specified in section 34(a));
- (b) class 2, 3 and 4 buildings;
- (c) class 10 buildings and structures located on the same allotment as a building specified in paragraph (a) or (b).

***‘Division 2—Boundary clearances*****‘Road boundary clearance**

‘36. All buildings and structures to which this part applies must have at least a 6 m road boundary clearance.

**‘Concession for open carport**

‘37. Despite section 36, an open carport may have less than a 6 m road boundary clearance if—

- (a) the total width of the open carport supports located within the 6 m clearance does not exceed 10% of the perimeter of the portion of the open carport located within the 6 m clearance; and
- (b) it is necessary or expedient to build the open carport in that location.

**‘Side and rear boundary clearances generally**

‘38. If the maximum height of the outermost projection above the natural ground surface is—

- (a) 4.5 m or less, the side and rear boundary clearances must be not less than 1.5 m; or
- (b) greater than 4.5 m but not exceeding 7.5 m, the side and rear boundary clearances must be not less than 2 m; or
- (c) greater than 7.5 m, the side and rear boundary clearances must be

not less than 2 m plus 0.5 m for every 3 m or part of 3 m by which the height exceeds 7.5 m.

### **‘Stepped design**

‘39. If a building is built so that its height is stepped, the side and rear boundary clearances, measured to the outermost projections of each step of the building must comply with section 38 as if each step of the building were a separate building.

### **‘Concession for narrow allotments**

‘40. If an allotment is rectangular or near rectangular in shape and has a frontage to a road of 15.5 m or less, the side and rear boundary clearances must be not less than—

- (a) for a building or structure more than 7.5 m high—in accordance with section 38(c); or
- (b) if paragraph (a) does not apply—in accordance with schedule 9.<sup>25</sup>

### **‘Concession for class 10a buildings**

‘41. A class 10a building may be built within the side and rear boundary clearances mentioned in sections 38 to 40 if—

- (a) adequate precautions have been taken to avoid the discharge of rainwater onto any adjoining allotment; and
- (b) the class 10a building has a height of not more than 4.5 m and a mean height of not more than 3.5 m, both measured above the natural ground surface; and
- (c) the total length of all elevations of all buildings facing and within the boundary clearance to any 1 boundary does not exceed 9 m; and
- (d) the class 10a building is at least 1.5 m from every required window of any habitable room in an existing building on an adjoining allotment.

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<sup>25</sup> Schedule 9 (Minimum side and rear boundary clearances for narrow allotments)

**‘Concession for fences, screens and ornamental or horticultural structures**

‘42. Subject to section 47, the following may be built within the boundary clearances mentioned in sections 36 to 40—

- (a) a screen or fence of not more than 2 m in height above the level of the natural ground surface;
- (b) a structure which is not part of a building and which is not more than 1 m above the level of the natural ground surface;
- (c) a pergola or other structure, if the pergola or other structure is—
  - (i) not enclosed or roofed; and
  - (ii) not higher than 2.4 m above the level of the natural ground surface measured at the boundary; and
  - (iii) primarily ornamental or for horticultural purposes; and
  - (iv) not located within the road boundary clearances mentioned in section 36.

**‘Allotment coverage**

‘43.(1) The maximum area covered by all buildings and roofed structures including garages and outbuildings must not exceed 50% of the total area of an allotment.

‘(2) Measurements must be taken—

- (a) for enclosed spaces—to the outside face of external walls; and
- (b) for unenclosed spaces—along a line 600 mm in from the external perimeter of the roof.

**‘Basic minimum floor area of a class 1 building**

‘44. A local law existing at the commencement of this section or local planning instrument may require a single detached class 1 building to have a minimum floor area of not less than 60 m<sup>2</sup> if the local government considers the circumstances warrant it.

***‘Division 3—Application of alternative siting requirements*****‘Local government may prescribe alternative siting requirements**

**‘45.(1)** This section applies if—

- (a) a local law existing at the commencement of this section or a local planning instrument or prescribes siting requirements (the **“alternative siting provisions”**) for single detached class 1 buildings or class 10 buildings or structures; or
- (b) a local government, by resolution, applies the provisions of the Queensland Residential Design Guidelines mentioned in schedule 7<sup>26</sup> (also **“alternative siting provisions”**) to any part of its area identified in the resolution.

**‘(2)** If the alternative siting provisions conflict with divisions 1 to 2 (the **“conflicting provisions”**), the alternative siting provisions apply in place of the conflicting provisions to the extent of the conflict.<sup>27</sup>

**‘(3)** The local government must keep available for inspection—

- (a) a map identifying the parts of its area to which resolutions mentioned in subsection (1)(b) apply; and
- (b) a register of the resolutions.

**‘Local government to assess compliance with performance provisions**

**‘46.(1)** This section applies if—

- (a) a development application to which section 45 applies is made to a private certifier; and
- (b) the application does not comply with—
  - (i) the prescriptive siting requirements of a local law existing at the commencement of this section or a local planning instrument; or

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<sup>26</sup> Schedule 7 (Elements of Queensland Residential Design Guidelines that local governments may apply)

<sup>27</sup> This section is a section to which section 3 applies.

- (ii) the acceptable solutions mentioned in the Queensland Residential Design Guidelines; and
- (c) the applicant applies for assessment of the building work against—
  - (i) any performance provisions in the local law existing at the commencement of this section or the local planning instrument; or
  - (ii) the performance criteria mentioned in the guidelines; and
- (d) the building work to be assessed has not already been assessed for compliance with the local law or local planning instrument.

‘(2) The private certifier must not approve the application unless advice has been obtained under section 20 about whether the application complies with—

- (a) any performance provisions in the local law existing at the commencement of this section or the local planning instrument; or
- (b) the performance criteria mentioned in the guidelines.

‘(3) Subject to section 21, the private certifier must accept the advice and act on it.

### ‘Special requirements for corner allotments

‘47.(1) Fences, screens, ornamental structures and similar things in any corner of an allotment that is bounded by 2 road boundaries and a 6 m x 6 m 3 equal chord truncation (as shown in schedule 10<sup>28</sup>) must not, without the approval of the local government, be higher than 1 m above the level of the natural ground surface.

‘(2) A building or structure on a corner allotment must be constructed in accordance with the distances stated in division 2.

‘(3) However—

- (a) if the average depth of the allotment measured at right angles to any alignment is not greater than 24 m, the distances may be

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<sup>28</sup> Schedule 10 (Boundary clearances for fences, screens etc. on corner allotments)

reduced, in accordance with the scale shown in schedule 11,<sup>29</sup> for 1 road frontage nominated by the local government; but

- (b) a building or structure higher than 2 m above the level of the natural ground surface must not be erected in the corner of the allotment bounded by 2 road boundaries and a 12 m x 12 m truncation (as shown in schedule 12<sup>30</sup>).

### **‘Local government may vary application of div 2**

**‘48.(1)** This section applies if—

- (a) a development application for an allotment does not comply with division 2; and
- (b) the applicant seeks to vary the application of division 2.

**‘(2)** After considering the matters mentioned in subsection (3) and being satisfied of the matters mentioned in subsection (4), the local government may vary how division 2 applies to the application.

**‘(3)** The local government must consider the following—

- (a) the levels, depth, shape or conditions of the allotment and adjoining allotments;
- (b) the nature of any proposed building or structure on the allotment;
- (c) the nature of any existing or proposed buildings or structures on adjoining allotments;
- (d) whether the allotment is a corner allotment;
- (e) whether the allotment has 2 road frontages;
- (f) any other matter it considers relevant.

**‘(4)** The local government must be satisfied that a building or structure, built on the allotment in the way proposed, would not unduly—

- (a) obstruct the natural light or ventilation of an adjoining allotment;
- or

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<sup>29</sup> Schedule 11 (Road boundary clearances for buildings and structures on corner allotments)

<sup>30</sup> Schedule 12 (Corner boundary clearances for corner allotments)

- (b) interfere with the privacy of an adjoining allotment; or
- (c) restrict the areas of the allotment suitable for landscaping; or
- (d) obstruct the outlook from adjoining allotments; or
- (e) overcrowd the allotment; or
- (f) restrict off-street parking for the allotment; or
- (g) obstruct access for normal building maintenance.

### **‘Request to local government to vary siting requirements under pt 3**

**‘49.(1)** This section applies if a development application made to a private certifier includes plans for—

- (a) fences, screens, ornamental structures or similar things on an allotment higher than the height permitted under section 47(1); or
- (b) a building or structure for which the distance from 1 road frontage is to be reduced in accordance with section 47(2); or
- (c) a building or structure that is not sited in accordance with division 2 and the applicant seeks to vary the application of division 2.

**‘(2)** The private certifier must not approve the application unless advice has been obtained under section 20—

- (a) approving the increased height; or
- (b) nominating a road frontage; or
- (c) approving the siting under section 48.

**‘(3)** Subject to section 21, the private certifier must accept the advice and act on it.

### ***‘Division 4—Amenity and aesthetics***

### **‘Local government declaration about amenity and aesthetics on methods of building and locality**

**‘50.(1)** A local government, by resolution, may declare, for single

detached class 1 buildings or class 10a buildings, forms of buildings and localities the local government considers may have an extremely adverse effect on the amenity or likely amenity of a locality or which may be in extreme conflict with the character of a locality.

‘(2) Development applications for forms of buildings or in localities mentioned in subsection (1) must be assessed by the local government for the amenity and aesthetic impact of the proposed building work.

‘(3) The local government may refuse an application to which subsection (2) applies only if—

- (a) the building, when built, will have an extremely adverse effect on the amenity or likely amenity of the building’s neighbourhood; or
- (b) the aesthetics of the building, when built, will be in extreme conflict with the character of the building’s neighbourhood.

#### **‘Request to local government about amenity and aesthetics**

‘51.(1) This section applies to a development application made to a private certifier that must be assessed under section 50.

‘(2) The private certifier must not approve the application unless advice has been given in accordance with section 20 regarding the amenity and aesthetic impact of the proposed building work.

‘(3) Despite section 20(4), if the advice was not given to the private certifier and the applicant within the time mentioned in section 20(2)(a), the advice is taken to have been that—

- (a) the building, when built, will not have an extremely adverse effect on the amenity or likely amenity of the building’s neighbourhood; and
- (b) the aesthetics of the building, when built, will not be in extreme conflict with the character of the building’s neighbourhood.

‘(4) Subject to section 21, the private certifier must accept the advice and act on it.



## **‘PART 4—SITE WORKS**

### **‘Earthworks and retaining walls**

‘52. If soil conditions, ground levels, excavation or filling make it necessary to protect land, buildings and structures in the neighbourhood of proposed building work—

- (a) retaining walls must be built or other suitable methods used for preventing the movement of the soil; and
- (b) drainage of the building or land must be provided.

### **‘Land liable to flooding**

‘53.(1) A local government, by resolution, may declare—

- (a) land to be liable to flooding (including by tidal surge or sewerage discharge); and
- (b) the level to which the floor levels of habitable rooms must be built.

‘(2) The local government must—

- (a) keep a register of the resolutions and the information supporting the resolution; and
- (b) keep the resolutions available for inspection.

### **‘Drainage of buildings or land**

‘54. If a building or land is to be drained provision must be made to protect land, buildings and structures in the neighbourhood.

### **‘Bush fire prone areas**

‘55.(1) A local government may, in a local planning instrument, designate all or part of its area as a designated bush fire prone area for BCA.

‘(2) The local government must ensure the local government’s planning scheme maps show the designated bush fire prone areas.

‘(3) A development approval for building work in a designated bush fire prone area must comply with the bushfire protection provisions of BCA.

‘(4) Subsections (5) and (6) apply if it is not practicable for the local government to show the designated bush fire prone areas in its planning scheme maps.

‘(5) The local government must—

- (a) prepare maps showing all designated bush fire prone areas in its area; and
- (b) keep the maps updated to show all its current designated bush fire prone areas; and
- (c) keep the maps available for inspection.

‘(6) The maps must state when each designation was made.

#### **‘Building work over sewer or water main**

‘56.(1) This section applies if a development application made to a private certifier proposes building work over or adjacent to a sewer or water main.

‘(2) The private certifier must not approve the application unless the local government has granted the necessary approvals under the Standard Sewerage Law or Standard Water Supply Law.

‘(3) For subsection (1), building work is over or adjacent to sewerage if the offset of the nearest point of the building work from the centre line of the sewerage is a distance less than the depth to the invert of the sewerage.

#### **‘Building work over existing sanitary drainage**

‘57. Building work over or adjacent to existing sanitary drainage must comply with AS/NZS 3500.2.2:1996 (National plumbing and drainage), part 2.2 (Sanitary plumbing and drainage—Acceptable solutions) to the extent the standard applies to buildings over sanitary drainage.

#### **‘Building work over easements**

‘58. A development application for building work over land in an

easement must not be approved unless the holders of registered interests in the easement consent to the building work.

## **‘PART 5—SWIMMING POOL FENCING**

### **‘Application of pt 5**

**‘59.** This part—

- (a) applies to outdoor swimming pools on, or proposed to be built or placed on, residential land; and
- (b) prescribes standards for section 30H of the Act.

### **‘Object of pt 5**

**‘60.** The object of this part is to safeguard young children from drowning or injury in outdoor swimming pools on residential land by inhibiting young children’s access to the pools from—

- (a) adjoining lands; and
- (b) watercourses wholly or partly on the boundary of residential land; and
- (c) buildings.

### **‘Pools built or approved before commencement of pt 5**

**‘61.(1)** For fencing around a swimming pool built or approved for building before the commencement of this part, the prescribed standard is the standard applying to the pool immediately before the commencement.

**‘(2)** However, if a local government or tribunal granted a variation to or an exemption from the standard before the commencement, the prescribed standard is the standard, as varied or exempted, applying to the pool before the commencement.

**‘Pools approved after the commencement of pt 5**

**‘62.** For fencing around a swimming pool approved for building on or after the commencement of this part, the prescribed standard is, subject to sections 63 to 66—

- (a) the standard for the design, building and performance of swimming pool fencing in AS 1926.1—1993, Swimming pool safety part 1: Fencing for swimming pools, other than clause 2.14 of the standard; and
- (b) the standard for the location of fencing contained in AS 1926.2—1995, Swimming pool safety part 2: Location of fencing for private swimming pools, other than clause 1.4.4 of the standard.

**‘Exemption for child resistant doors**

**‘63.(1)** A local government may grant an exemption under section 30N<sup>31</sup> of the Act, for an opening of a standard that does not comply with section 62 and gives access from a building to a swimming pool.

**‘(2)** The local government may give the exemption only if the local government is satisfied that—

- (a) without the exemption, it is not physically practicable to build fencing complying with the standard under section 62 to inhibit access from the building to the pool; and
- (b) except to the extent of the exemption, the standard under section 62 will be complied with.

**‘(3)** The exemption must be subject to the conditions that—

- (a) the opening is protected with a child-resistant doorset complying with AS 1926.1—1993, Swimming pool safety part 1: Fencing for swimming pools, clause 2.14; and
- (b) except in the case of a sliding door, the doorset opens away from the swimming pool, unless the local government is satisfied that it is not physically practicable to open the doorset away from the pool.

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<sup>31</sup> Section 30N (Application for exemption from fencing)

‘(4) On the granting of the exemption, the standard for the fencing is the standard under section 62 to the extent the exemption does not apply.

#### **‘Exemption for non-complying door or gate**

‘64.(1) A local government may grant an exemption under section 30N of the Act, for a door or gate forming part of the pool fencing that does not comply with the standards under section 62 because it is not self-closing or self-latching.

‘(2) The local government may only give the exemption if the local government is satisfied that—

- (a) without the exemption, it is not physically practicable to build fencing complying with the standard under section 62; and
- (b) except to the extent of the exemption, the standard under section 62 will be complied with; and
- (c) the gate is in addition to another gate complying with AS 1926.1—1993, Swimming pool safety part 1: Fencing for swimming pools, clause 2.11 and providing access to the pool enclosure; and
- (d) for the door in a building forming part of the fencing, it is additional to either a gate complying with AS 1926.1—1993, Swimming pool safety part 1: Fencing for swimming pools, clause 2.11 or another door, restricting access from the building to the pool enclosure, complying with AS 1926.1—1993, Swimming pool safety part 1: Fencing for swimming pools, clause 2.14.

‘(3) The exemption must be subject to the condition that—

- (a) the door or gate must—
  - (i) always be kept key locked in the closed position with the key removed and placed out of the reach of young children; or
  - (ii) be fixed in a way at least as effective as mentioned in subparagraph (i); and
- (b) the door or gate must be opened only if access through the gate or door is the only physically possible way to—

- (i) move an object, materials or a vehicle into or out of the pool enclosure; or
- (ii) gain access to the enclosure in an emergency; and
- (c) the door or gate must be re-locked, or refixed in the closed position, immediately after the purpose for which the gate or door was opened, is achieved.

‘(4) On the granting of the exemption, the standard for the fencing is the standard under section 62 to the extent the exemption does not apply.

#### ‘Exemption for double doors

‘65.(1) A local government may grant an exemption under section 30N of the Act, for double doors in a building forming part of the pool fencing that do not comply with the standards under section 62 because they are not self-closing or self-latching.

‘(2) The local government may only give the exemption if the local government is satisfied that—

- (a) without the exemption, it is not physically practicable to build fencing complying with the standard under section 62 to inhibit access from the building to the pool; and
- (b) except to the extent of the exemption, the standard under section 62 will be complied with; and
- (c) one door is self-closing and self-latching and complies with AS 1926.1—1993, clause 2.14; and
- (d) the other door can be fixed to meet the conditions mentioned in subsection (3).

‘(3) The exemption must be subject to the conditions that the door that is not self-closing and self-latching must—

- (a) always be—
  - (i) kept key locked in the closed position with the key removed and placed out of the reach of young children; or
  - (ii) fixed in a way at least as effective as mentioned in subparagraph (i); and

- (b) be opened only if access through the door is the only physically possible way to—
  - (i) move an object, materials or a vehicle into or out of the pool enclosure; or
  - (ii) gain access to the enclosure in an emergency; and
- (c) be re-locked, or refixed in the closed position, immediately after the purpose for which that door was opened, is achieved.

‘(4) On the granting of the exemption, the standard for the fencing is the standard under section 62 to the extent the exemption does not apply.

#### **‘Exemption for access for persons with disabilities**

‘66.(1) A local government may grant an exemption under section 30N of the Act, for an opening of a standard that does not comply with the standard under section 62 and giving access from a building to a swimming pool.

‘(2) The local government may only give the exemption if the local government is satisfied that it is not practicable to provide an opening through the fencing complying with the standard to inhibit access between a building and the swimming pool, because of a disability suffered by an occupant of the building.

‘(3) The local government may require the applicant to produce medical evidence to support the application for the exemption.

‘(4) The exemption ceases to apply when it is no longer necessary for the disabled person for whom the exemption was granted.

‘(5) On the granting of the exemption, the standard for the fencing is the standard under section 62 to the extent the exemption does not apply.

#### **‘Applications to private certifiers**

‘67.(1) This section applies if—

- (a) a development application is made to a private certifier; and
- (b) the application does not comply with section 62; and
- (c) the applicant is seeking exemption under section 30N of the Act.

‘(2) The private certifier must not approve the application unless an exemption has been granted by the local government under section 30N of the Act.

#### **‘Local government to keep record of exemptions**

‘68. The local government must—

- (a) keep the record of the exemptions; and
- (b) keep the record available for inspection.

## **‘PART 6—TEMPORARY AND SPECIAL STRUCTURES**

#### **‘Temporary buildings or structures**

‘69.(1) This section applies to a development application for a temporary building or structure that will not comply with the other provisions of this regulation.

‘(2) The application must not be approved unless the temporary building or structure—

- (a) will be structurally sound and capable of withstanding the loadings likely to arise from its use; and
- (b) will reasonably provide for—
  - (i) the safety of persons to be accommodated in the building or structure if there is a fire including means of egress; and
  - (ii) the prevention of fire; and
  - (iii) the suppression of fire; and
  - (iv) the prevention of the spread of fire; and
  - (v) the health and amenity of persons to be accommodated in the building or structure.

‘(3) Before assessing an application for a temporary building or structure



that has any of the special fire services mentioned in schedule 2, the building certifier must obtain from the fire authority a report on the suitability of the proposed fire services.

‘(4) The approval of the application must impose a condition that—

- (a) limits the time for which the temporary building or structure may remain in place; and
- (b) requires removal or demolition of the temporary building or structure at the end of the time.

### ‘Special structures

‘70. A development application for a special structure must not be approved, unless the special structure—

- (a) complies with this regulation; and
- (b) will reasonably provide for—
  - (i) the safety of persons using the structure if there is a fire (including means of egress); and
  - (ii) the prevention of fire; and
  - (iii) the suppression of fire; and
  - (iv) the prevention of the spread of fire; and
  - (v) the health and amenity of persons using the structure.

### ‘Additional conditions for hazardous buildings

‘71.(1) A development approval for a hazardous building may impose conditions a building certifier considers appropriate directed to restricting or combating the spread of fire in or from the building.

‘(2) A development approval must not impose conditions under subsection (1) unless the building certifier has consulted the fire authority on the appropriateness of the conditions.

‘(3) In this section—

‘**hazardous building**’ means a class 5, 6, 7 or 8 building—

- (a) with a total floor area greater than 36 000 m<sup>2</sup>; or

- (b) for which the building certifier considers special provision should be made to restrict or combat the spread of fire within or from the building because of the purpose or purposes for which the building is being or is to be used.

‘(4) Subsection (1) does not limit the other provisions of this regulation.

## ‘PART 7—FLOATING BUILDINGS

### ‘Definitions

‘72. In this part—

“**floating building**” means a permanently moored floating building built on a flotation system and not intended for, or useable in, navigation.

“**metacentre**”, in relation to a floating building, means the intersection of the verticals through the centre of buoyancy of the floating building when in equilibrium and when tilted.

“**metacentric height**”, in relation to a floating building, means the distance between the centre of gravity and the metacentre.

### ‘Application of pt 7

‘73. This part is in addition to, and not in substitution for, other provisions of this regulation which apply to floating buildings.

### ‘Access

‘74.(1) A floating building must have—

- (a) if more than 1 exit is required by this regulation—at least 1 permanent access for each required exit; or
- (b) if paragraph (a) does not apply—at least 1 permanent access.

‘(2) The permanent access must be a gangway, bridge or similar structure—

- (a) at least 1 m wide measured clear of all obstructions; and
- (b) giving access to—
  - (i) the shore; or
  - (ii) a pontoon, float or wharf or similar structure at least 1.5 m wide measured clear of handrails and giving permanent access to the shore.

‘(3) However, a development approval may require a greater width than the width mentioned in subsection (2) if, having regard to the number of persons likely to be accommodated in the floating building, it is necessary in the interests of safety.

#### **‘Flotation system**

‘75. A floating building must be provided with a flotation system which—

- (a) extends—
  - (i) over the total plan area of the superstructure disregarding projections such as roof overhangs, bay windows, enclosed decks and other architectural features; and
  - (ii) to within 2 m of such projections; and
- (b) is a solid structure of reinforced concrete; and
- (c) is a fully enclosed cellular construction with voids provided for buoyancy filled with expanded polystyrene or similar durable foam material; and
- (d) is watertight; and
- (e) is provided with a timber buffer or the like to protect it from minor accidental impact; and
- (f) is designed—
  - (i) to maintain positive stability with a minimum measurement of not less than 250 mm from the waterline to the top edge of the flotation system under the most adverse combination of loads to which the floating building is likely to be subject including dead loads, live loads and wind loads calculated in

accordance with this regulation and loads resulting from—

- (A) water turbulence; or
  - (B) flooding of the waterway; or
  - (C) tidal action; or
  - (D) water flooding associated with fire fighting or accidental cause; or
  - (E) accidental impact; and
- (ii) to maintain a minimum freeboard, being the measurement from the waterline to the top edge of the flotation system at the point where it has the least dimension under the action of dead and live loads only, of not less than 400 mm; and
  - (iii) so that the metacentre is always above the centre of gravity when the floating building is tilted and so that the metacentric height is not less than 300 mm; and
- (g) is provided with buoyancy tanks or other devices to enable a reasonably horizontal floor level to be provided when subject to various combinations of asymmetrical dead and live loads both before and after occupation; and
  - (h) is permanently restrained under the most adverse combination of loads to which it is likely to be subjected, by at least 4 mooring piles that allow it to freely float with the rise and fall of the water resulting from tides, flood, storm surge, wave action or other cause, but limit lateral movement relative to the mooring pile to 20 mm.

### **‘Mooring piles**

**‘76.** Mooring piles must be designed to adequately and safely resist all lateral loads resulting from the most adverse combination of loads which are likely to act on the flotation system and superstructure of the floating building and any vessel attached to the floating building or mooring piles.

**‘Materials (generally)**

‘77. All material used for decking, cladding, waterproofing, or structural purposes in a floating building or any mooring, gangway, bridge, pontoon, float, wharf or the like giving support or access to a floating building must be suitable for marine use.

**‘Materials (fastenings)**

‘78. All nails, bolts, brackets and other fastenings used for structural purposes must—

- (a) if easily visible and accessible for maintenance purposes—be hot dip galvanised steel or other material of equivalent durability; and
- (b) if not easily visible and accessible for maintenance purposes—be marine grade bronze, copper, stainless steel or other material of equivalent durability; and
- (c) if made of metal and used in combination with other metals—be designed to minimise the effect of electrolytic action.

**‘Location**

‘79. A floating building must be located so that the minimum distance between the outermost projection of the floating building to any other building or the location of any proposed building is 3 m plus 1 mm for every 3 mm in height in excess of 4.5 m.

**‘Safety equipment**

‘80. A floating building must—

- (a) be provided with at least 1 marine type life ring; and
- (b) unless otherwise approved after consultation with the fire authority—be located so that no point on the floor of the floating building is either—

- (i) beyond the reach of a fully extended hose reel that is connected to the water supply and situated in or in the vicinity of the floating building; or
- (ii) more than 90 m from a hydrant.

### **‘Minimum water depth**

‘81. The water depth under a floating building must be at least 1 m at all times.

### **‘Balustrades and handrails**

‘82.(1) Unless otherwise approved, the perimeter of every part of a floating building not wholly enclosed by walls must have a balustrade that complies with the following standards—

- (a) a continuous handrail or guardrail or the like must be fixed at a vertical height of not less than 1 000 mm above the floor surface and in the space between the handrail, guardrail or the like and the floor surface there must be no openings, or windows or panels which can be opened, which are either wider than 125 mm when measured horizontally, or if wider than 125 mm when measured horizontally, wider than 125 mm when measured vertically;
- (b) all members located more than 150 mm and up to and including 760 mm above the floor surface must be vertical or otherwise designed to eliminate any toe hold;
- (c) if access through the balustrade is required—a gate specifically designed to restrict access by young children must be provided.

‘(2) The perimeter of all gangways, pontoons, wharfs, stairways, ramps and the like which provide access to a floating building must have a balustrade that complies with the following standard—

a continuous handrail must be fixed at a vertical height of not less than 865 mm above the nosings of the treads and the floor surface of the access bridge or landing, and in the space between the handrail and stair treads or floor there must be no openings, or windows or panels which can be opened, which are either wider than 300 mm when measured horizontally or if wider than

300 mm when measured horizontally, wider than 420 mm when measured vertically.

### **‘Non-slip surfaces**

**‘83.** All external floor surfaces of a floating building and the floor surfaces of all gangways, pontoons, wharfs, stairways, ramps and the like which give access to a floating building must have an approved non-slip finish.

## **‘PART 8—INSPECTIONS**

### **‘Definition for pt 8**

**‘84.** In this part—

**“notice for inspection”** means a notice, whether in writing or by other means, given to the building certifier advising that building work has been carried out to a stage when inspection and, in some cases, testing must or may be carried out under this part.

### **‘Mandatory conditions for inspection**

**‘85.(1)** A development approval must impose the following conditions—

- (a) for a single detached class 1 building—a condition requiring a notice for inspection to be given by the person carrying out the building work at the following stages of building—
  - (i) the foundation and excavation stage—before the footings are laid;
  - (ii) the slab stage—before the concrete is placed;
  - (iii) the frame stage—before the cladding or lining is fixed;
  - (iv) the final stage—at the completion of all the building work

mentioned in schedule 8;<sup>32</sup>

- (b) for a class 10 building or structure (other than a fence, mast, antennae or the like)—a condition requiring a notice for inspection to be given by the person carrying out the building work on completion of all the items mentioned in schedule 8 that apply to class 10 buildings or structures;
- (c) for building of a swimming pool—a condition requiring a notice for inspection to be given by the person carrying out the building work on completion of the pool and fencing.

‘(2) The approval may also impose a condition requiring a notice for inspection to be given by the person carrying out the building work at another stage or other stages of building stated in the condition.

‘(3) The approval must state the time by which a notice for inspection must be given.

‘(4) The time must be not more than 48 hours before the completion of the stage of building concerned.

### ‘Carrying out of inspections

‘**86.(1)** On receiving a notice for inspection the building certifier—

- (a) for building work mentioned in section 85(1)—must inspect the work to which the notice relates; and
- (b) for other stages of the building work—may inspect the work to which the notice relates.

‘(2) For final stage inspection or inspection on completion of building work for single detached class 1 buildings and class 10 buildings or structures (other than a fence, mast, antennae or the like), the inspection must only be of the items mentioned in schedule 8.

‘(3) A building certifier may make an inspection—

- (a) personally; or
- (b) by accepting a certificate of inspection by a competent person.

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<sup>32</sup> Schedule 8 (Guidelines for final inspection of single detached class 1 buildings or class 10 buildings or structures)



‘(4) However, a building certifier may only accept a certificate under subsection (3)(b) if—

- (a) before the inspection, the certifier assessed the person as a competent person for the inspection; and
- (b) the building certifier receives the certificate not later than 5 business days after the person carried out the inspection.

‘(5) The purpose of an inspection is to decide if the particular stage of the building work is generally in accordance with this regulation.

‘(6) A person who is required to give notice for inspection, must not carry out placement of concrete or cladding of walls unless the building certifier, after being given notice for inspection, has—

- (a) inspected, or caused to be inspected, the building work; or
- (b) failed to have the building work inspected—
  - (i) by or at the time agreed between the person and the building certifier but within 48 hours after the giving of the notice for inspection; or
  - (ii) if a time is not agreed—within 48 hours after the giving of the notice for inspection.

‘(7) Subsection (6)(b) does not apply if the failure to inspect was caused by the person carrying out the building work.

‘(8) The occupier of premises and the person must allow the building certifier, at all reasonable times during business hours, to enter the premises to inspect the building work for compliance with the development approval and the Act (including this regulation).

### **‘Private certifier to give assessment manager copies of inspection documents**

‘87. If a private certifier has carried out the inspection of building work, the private certifier must give a copy of any inspection documentation (including inspection certificates from competent persons, or other documentation as required by schedule 8) to the assessment manager within 5 business days of the completion of the building work.

**‘Inspections by building referral agencies**

**‘88.(1)** This section applies if a development approval requires a person carrying out building work to give a building referral agency a notice to inspect the building work for compliance with this regulation.

**‘(2)** The person must—

- (a) give the building referral agency the notice to inspect when the building work is at a stage when it is to be inspected; and
- (b) give a copy of the notice to the building certifier at the same time.

**‘(3)** On receiving the notice to inspect, the building referral agency must—

- (a) within 5 business days after receiving the notice to inspect, give the building certifier and the person giving the notice to inspect written advice that the building referral agency does not propose to have the building work inspected; or
- (b) within 15 business days after receiving the notice to inspect—
  - (i) have the building work inspected; and
  - (ii) give the building certifier and the person giving the notice to inspect written advice—
    - (A) that the building work complies with this regulation; or
    - (B) that the building work does not comply with this regulation and the reasons why it does not comply.

**‘(4)** The building certifier must not, until receiving the advice from the building referral agency mentioned in subsection (3)—

- (a) issue a certificate of classification under section 98 for a building; or
- (b) approve a change of classification under section 107 of a building.

**‘(5)** If the building referral agency has not given the advice to the building certifier within 15 business days after receiving the notice to inspect, the building work is taken to comply with this regulation.

**‘(6)** The building referral agency and the building certifier may agree to a longer period for subsection (5).

**‘(7)** On receiving the advice, the building certifier must accept the advice

and act on it unless, within 5 business days after receiving the advice, the building certifier gives written notice to the building referral agency—

- (a) disagreeing with the advice; and
- (b) stating the reasons for disagreeing.

‘(8) The building referral agency may only inspect building work to check compliance with the provisions that, under this regulation, are specifically referred to the building referral agency.

**‘Building referral agency may appeal against advice.**

‘89.(1) A building referral agency may appeal to a tribunal within 20 business days after receiving the advice mentioned in section 88(3).

‘(2) A building certifier who gives a notice under section 88(3) must not issue a certificate of classification for the building or part of the building under section 98 or approve a change of classification under section 107 until—

- (a) if the building referral agency starts an appeal about the disagreement—the appeal is decided or withdrawn; or
- (b) if paragraph (a) does not apply—the end of the time in which the building referral agency may start an appeal to a tribunal about the disagreement.

‘(3) On receiving the decision of the tribunal, the building certifier must accept the decision and act on it.

**‘Fire authority to inspect special fire services**

‘90.(1) A development approval for a building served by special fire services mentioned in schedule 4, must impose on the approval a condition that the person carrying out the building work must give to the fire authority and the building certifier in accordance with section 88—<sup>33</sup>

- (a) while the installation is being carried out but before installation is completed—a notice to inspect the installation of the special fire services; and

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<sup>33</sup> The fire authority is a building referral agency mentioned in section 88.

- (b) after installation of the special fire services but before interior surface finishes are applied—a notice to test the special fire services.

‘(2) The person must also give a copy of the notice to the building certifier at the same time as the notice is given to the fire authority.

‘(3) The fire authority may only inspect the building work in relation to special fire services mentioned in schedule 4.

### **‘Appeal against decisions by building certifiers and referral agencies**

‘91.(1) An applicant for a development approval who is dissatisfied with the decision of a building certifier or a building referral agency about inspection of building work may appeal to a tribunal.

‘(2) An appeal must be started within 20 business days after the day the decision is given to the applicant.

## **‘PART 9—CERTIFICATES OF CLASSIFICATION**

### **‘Meaning of “substantially completed”**

‘92. In this part, a building is “**substantially completed**” when—

- (a) all wet areas are waterproof as required by this regulation; and
- (b) reticulated water is connected to and provided throughout the building; and
- (c) all sanitary installations are installed as required by this regulation and are operational; and
- (d) certificates have been issued by the local government that—
  - (i) the water plumbing work for the building has been completed under the Standard Water Supply Law; and
  - (ii) the sanitary plumbing and sanitary drainage work for the building has been completed under the Standard Sewerage Law; and

- (e) all fire safety installations are installed as required by this regulation and operational; and
- (f) all health and safety matters relating to the building comply with this regulation; and
- (g) electricity supply is connected to the building to the extent necessary for the building to be used in accordance with the classification sought; and
- (h) the building is weatherproof as required by this regulation; and
- (i) the building is structurally adequate as required by this regulation; and
- (j) all means of access and egress comply with this regulation; and
- (k) all building referral agency requirements relevant to this regulation have been satisfied.

#### **‘Classification as special structure**

**‘93.** A building or structure that can not be classified in accordance with BCA, part A3 must be classified as a special structure.

#### **‘Doubtful classifications**

**‘94.(1)** This section applies if there is a doubt as to the classification of a building.

**‘(2)** The classification must be either of the following classifications a building certifier considers appropriate—

- (a) a class mentioned in BCA, part A3;
- (b) a special structure.

#### **‘No occupation until certificate is issued**

**‘95.(1)** A person must not use or occupy any part of a building for which a certificate of classification is required to be issued unless the certificate has been issued and remains in force.

Maximum penalty—165 penalty units.

‘(2) Subsection (1) does not apply to occupation of a building under section 96.

### **‘Use of government buildings in emergency**

‘96.(1) This section applies if—

- (a) an emergency situation exists, or is likely to exist, justifying the use of a government building for a purpose (the “**emergency purpose**”) other than a purpose permitted by its classification; and
- (b) the building is structurally adequate and reasonably suitable for the emergency purpose.

‘(2) The government building may be used for the emergency purpose even though its classification may not relate to the emergency purpose.

‘(3) In this section—

“**government building**” means a building or part of a building owned or occupied by or on behalf of the State including by State instrumentalities and government owned corporations.

### **‘Occupation of a building for residential purposes**

‘97.(1) A person must not use a building (other than a class 1, 2, 3 or 4 building) for residential purposes unless the use is approved by the local government.

Maximum penalty—165 penalty units.

‘(2) If a development application is made to a private certifier and the application relates to the use of a building for residential purposes, the private certifier must not approve the application until the local government has given advice about the use of the building for residential purposes.

‘(3) Subject to section 21, the private certifier must accept the advice and act on it.

### **‘Preparation of certificate of classification**

‘98.(1) This section and section 99 apply to every building except a

single detached class 1 building and class 10 building or structure.

‘(2) The building certifier must prepare, in relation to the building or part of the building, a certificate of classification, in duplicate, in the approved form when either of the following happens—

- (a) the building is substantially completed;
- (b) the building certifier gives written consent to the occupation of part of the building before the whole building is substantially completed.

‘(3) If the building or the part contains fire safety installations, the certificate must be prepared in triplicate.

‘(4) This section and section 99 do not require a building certifier to prepare a certificate of classification before the certificate is requested, in writing, by or on behalf of the owner of the building.

‘(5) The certificate of classification must—

- (a) show the classification of the building, or parts of the building, having regard to the purpose for which the building was—
  - (i) designed; or
  - (ii) built; or
  - (iii) adapted to be used; and
- (b) if a part of the building is classified differently to another part—identify the part to which each classification relates; and
- (c) if the building work is assessed against the performance provisions of BCA, section 13 or 14 of the Act or section 16 or 17 of this regulation—state any necessary restriction on the use or occupation of the building.

‘(6) If the building contains any fire safety installations, the applicant must give the building certifier, at the time of making the request for a certificate of classification—

- (a) a list of all fire safety installations installed in the building; and
- (b) drawings showing the location of the fire safety installations.

**‘Interim certificate of classification of remote buildings**

‘**99.(1)** If, because of the remoteness of the location of a building it is not practicable to have it inspected by a building certifier within a reasonable time, a building certifier may issue an interim certificate of classification for the building.

‘**(2)** The interim certificate of classification remains in force until the earlier of the following—

- (a) it is revoked by the building certifier on the ground that the basis on which it was issued was false;
- (b) a certificate of classification under section 98 is issued for the building;
- (c) 6 months after its issue.

**‘Certificates for a building occupied in stages**

‘**100.(1)** This section applies if—

- (a) a certificate of classification has been issued for a part of an uncompleted building to which section 98 applies; and
- (b) the building certifier consents to the occupation of a further part of the building.

‘**(2)** The certifier must issue to the owner of the building a further certificate of classification under section 98, for the further part of the building for which consent to occupy has been given.

**‘Certificate of classification for certain buildings built before 1 April 1976 with no previously issued certificate**

‘**101.(1)** This section applies to buildings, other than a single detached class 1 building and class 10 building or structure, built before 1 April 1976.

‘**(2)** If the owner of the building makes a written application for the issue of a certificate of classification for the building, the assessment manager must issue a certificate of classification for the building to the owner in the approved form.



**‘Preparation of statement of classification**

**‘102.(1)** This section applies if an owner, or a person acting on behalf of an owner, makes written application to a building certifier for a statement of classification for—

- (a) a building the purpose of which is proposed to be changed; or
- (b) a proposed building.

**‘(2)** The building certifier must prepare a statement of classification in the approved form.

**‘(3)** The statement of classification must—

- (a) show the classification of the building having regard to the purpose for which it is proposed to be used; and
- (b) if a part of the building is classified differently to another part—identify the part to which each classification relates.

**‘Issue and inspection of certificates of classification**

**‘103.(1)** A building certifier who prepares a certificate of classification (the **“document”**) or, for an application mentioned in section 102, a statement of classification (also the **“document”**) must issue it to the owner of the building.

**‘(2)** If the document is issued by a building certifier who is a private certifier, the private certifier must give a copy of the document to the assessment manager.

**‘(3)** The private certifier must keep a copy of the document for 2 years after completion of the building work.

**‘(4)** The assessment manager must keep a copy of the document available for inspection.

**‘(5)** If a document is issued by a private certifier, the assessment manager must revoke any existing certificate for the building.

**‘When building referral agencies and fire authority to be advised**

**‘104.(1)** This section applies if—

- (a) under a development approval a building referral agency is to be

given a notice to inspect a building; and

- (b) a building certifier issues a certificate of classification for the building.

‘(2) The building certifier must, within 10 business days after issuing the certificate, give the building referral agency—

- (a) a copy of the certificate; and
- (b) if the agency is the fire authority—
  - (i) a list of all fire safety installations installed in the building; and
  - (ii) drawings showing the location of the fire safety installations.

### ‘**Appeal against decisions**

‘**105.(1)** This section applies to an applicant for a statement or certificate of classification or a change of the classification of an existing building or structure.

‘(2) The applicant may appeal to a tribunal under IPA if the applicant is dissatisfied with the decision on the application.

‘(3) The appeal must be started within 20 business days after the day the decision is given to the applicant.

‘(4) For subsection (2), a failure to decide an application within 20 business days is taken to be a refusal of the application.

## ‘**PART 10—CHANGES OF CLASSIFICATION**

### ‘**When changes of classification happen**

‘**106.** For this regulation, a change of classification of a building, or part of a building, happens when—

- (a) the purpose for which the building was designed, built or adapted to be used is changed to an extent that the change would alter the classification of the building under this regulation; or

- (b) if the current certificate of classification for the building has, under section 98(5)(c), restrictions on use or occupation of the building—any proposed use or occupation of the building exceeds the restrictions.

*Example of change of classification—*

A change in the nature or quantity of materials stored, displayed or used in a building that increases the risk to life or safety, requiring building work to be carried out to comply with BCA.

**‘Change of classification**

**‘107.(1)** The classification of a building must not be changed unless—

- (a) the building complies with this regulation for its change of classification and the owner of the building has obtained the approval of a building certifier to the change; or
- (b) the change has been approved by a building certifier under section 110.

Maximum penalty—165 penalty units.

**‘(2)** An application for a change of classification must be in the approved form.

**‘Buildings built on or after 1 April 1976**

**‘108.** A building built on or after 1 April 1976 must not be used for a purpose that does not conform with the classification of the building specified in the certificate of classification last issued in respect of the building.

Maximum penalty—165 penalty units.

**‘New certificate**

**‘109.(1)** On approving a change of classification, a building certifier must issue a certificate of classification under section 98.

**‘(2)** If a private certifier issues a certificate of classification under subsection (1)—

- (a) the private certifier must give a copy of the certificate to the assessment manager; and
- (b) the assessment manager must revoke any existing certificate for the building.

### **‘Concessional approval for some existing buildings**

**‘110.(1)** The classification for a building, in existence before 14 December 1993,<sup>34</sup> may be changed without the entire building, or part of the building, being made to comply with this regulation applicable to the new classification (other than BCA, parts E1 and E4).

**‘(2)** The classification may be changed only if the building, or part—

- (a) will be structurally sound and capable of withstanding the loadings likely to arise from its use under the new classification; and
- (b) will reasonably provide for—
  - (i) the safety of persons in the building or part if there is a fire (including means of egress); and
  - (ii) the prevention of fire; and
  - (iii) the suppression of fire; and
  - (iv) the prevention of the spread of fire.

**‘(3)** The building certifier must not approve the change of classification for the building or part containing any of the special fire services mentioned in schedule 2, without first receiving from the fire authority a report on the suitability of the fire services.

**‘(4)** An approval may impose the conditions the building certifier considers necessary about any of the matters mentioned in—

- (a) BCA, part E1 or E4; or
- (b) subsection (2)(a) or (b).

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<sup>34</sup> This is the day this regulation is taken to have been made. See section 68 of the Act.

## **‘PART 11—ACCREDITATION OF BUILDING CERTIFIERS**

### *‘Division 1—Accrediting body*

#### **‘Authorisation of accrediting bodies**

**‘111.** For section 63C of the Act, the Queensland Building Services Authority is authorised to be an accrediting body for accrediting building certifiers.

### *‘Division 2—Accreditation of building certifiers*

#### **‘Application for accreditation**

**‘112.(1)** An individual (the **“applicant”**) may apply to an accrediting body for accreditation as a building certifier.

**‘(2)** The application must—

- (a) be in the approved form; and
- (b) be accompanied by—
  - (i) evidence of the applicant’s identity; and
  - (ii) evidence that the applicant has successfully completed an IPA training course approved by the chief executive; and
  - (iii) evidence of compliance with the prescribed qualifications; and
  - (iv) the application fee and annual accreditation fee prescribed under the *Building Regulation 1991*.

**‘(3)** For subsection (2)(b)(ii), if an IPA training course approved by the chief executive is not available at the time the application is made, the applicant may give a written undertaking to complete the course within the time decided by the accrediting body.

**‘Accreditation of building certifiers**

**‘113.(1)** The applicant must be accredited as a building certifier for a particular level if the accrediting body is satisfied the applicant—

- (a) is a fit and proper person to be accredited as a building certifier for the level; and
- (b) has the prescribed qualifications for accreditation as a building certifier for the level.

**‘(2)** In deciding whether the applicant is a fit and proper person to be accredited as a building certifier for the level, the accrediting body may consider—

- (a) dealings in which the applicant has been involved and the standard of honesty and integrity demonstrated in the dealings; and
- (b) any failure by the applicant to carry out statutory obligations and the reasons for the failure, and
- (c) any other matter the body considers appropriate.

**‘(3)** The certificate of accreditation issued by the accrediting body must state that the term of the accreditation is, unless sooner cancelled or surrendered, for 1 year.

**‘(4)** If the accrediting body decides not to accredit the applicant as a building certifier for a particular level or to accredit the applicant but not at the level applied for, the accrediting body must give the applicant notice of the decision and the reasons for the decision.<sup>35</sup>

**‘Interim accreditation as building certifier**

**‘114.** Despite section 113(1)(b), the accrediting body may, on the recommendation of the Queensland State Assessment Committee of BSAP, give an applicant interim accreditation as a building certifier for a particular level even though the applicant does not have the prescribed qualifications mentioned in section 113(1)(b).

**‘(2)** The interim accreditation must be for a period not exceeding 3 years

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<sup>35</sup> The applicant may appeal against the decision under section 121.

and be subject to the terms and conditions the accrediting body directs.

‘(3) The accrediting body must only give interim accreditation under subsection (1) if the Queensland State Assessment Committee of BSAP is satisfied the person has qualifications, experience and knowledge of a standard such as will enable the person to satisfactorily perform the role of a building certifier at the level sought.

(4) In the other sections of this regulation, a reference to a building certifier includes a reference to an individual who has interim accreditation as a building certifier.

### *‘Division 3—Renewal of accreditation of building certifiers*

#### **‘Notice for annual renewal**

‘115.(1) At least 20 business days before a building certifier’s accreditation is due to expire, the accrediting body must give the building certifier a notice for renewal of the accreditation.

‘(2) The notice must—

- (a) state the day the current accreditation will expire; and
- (b) state that if the certifier wishes to renew the certification, the building certifier must, on or before the expiry—
  - (i) make application to renew the accreditation under section 116; and
  - (ii) pay the annual accreditation fee; and
- (c) outline the requirements for making an application to renew the accreditation under section 116.

#### **‘Application for annual renewal of accreditation**

‘116. An application to renew the accreditation must—

- (a) be in the approved form; and
- (b) be made before the current accreditation expires; and
- (c) be accompanied by—

- (i) evidence of the applicant's identity; and
- (ii) evidence of maintenance of compliance with the prescribed qualifications; and
- (iii) if the applicant's accreditation as a building certifier is endorsed as a private certifier and the applicant seeks to continue the endorsement—the insurance coverage mentioned in section 129; and
- (iv) the annual accreditation fee prescribed under the *Building Regulation 1991*.

#### **‘Renewal of accreditation of building certifiers**

**‘117.(1)** A building certifier who makes an application under section 116 (the **“applicant”**) must be accredited as a building certifier for the particular level applied for if the accrediting body is satisfied the applicant—

- (a) is a fit and proper person to be accredited as a building certifier for the level; and
- (b) has the prescribed qualifications for accreditation as a building certifier for the level.

**‘(2)** If the accrediting body decides not to accredit the applicant as a building certifier for the level applied for or to accredit the applicant but not at the level applied for, the accrediting body must give the applicant notice of the decision and the reasons for the decision.<sup>36</sup>

#### ***‘Division 4—Termination of accreditation of building certifiers***

#### **‘Automatic expiry on failure to apply for renewal**

**‘118.** If a building certifier fails to apply to renew the building certifier's accreditation on or before the day the accreditation expires, the accreditation expires at the end of the day.

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<sup>36</sup> The applicant may appeal against the decision under section 121.



**‘Cancellation, or change of level, of accreditation or endorsement**

**‘119.(1)** If an accrediting body is satisfied a building certifier has not maintained compliance with the prescribed qualifications for the level for which the certifier is accredited, the accrediting body may—

- (a) cancel the building certifier’s accreditation; or
- (b) change the building certifier’s level of accreditation.

**‘(2)** If the accrediting body is satisfied a building certifier has not complied with an undertaking given under section 108, the accrediting body may cancel the building certifier’s accreditation.

**‘(3)** If the accrediting body is satisfied a building certifier who has endorsement as a private certifier does not have, as a private certifier, the insurance coverage mentioned in section 129, the accrediting body must cancel the building certifier’s endorsement as a private certifier.

**‘(4)** The accrediting body must give the building certifier notice of the action the accrediting body has taken under subsection (1), (2) or (3) and the reasons for the action.<sup>37</sup>

***‘Division 5—Endorsement as private certifiers*****‘Private certifier accreditation to be endorsed**

**‘120.(1)** A building certifier may apply to an accrediting body for endorsement of accreditation as a private certifier.<sup>38</sup>

**‘(2)** The endorsement may only be made if the building certifier—

- (a) is covered by the insurance mentioned in section 129; and
- (b) holds accreditation, or interim accreditation, for the following levels of building certifier accreditation—
  - (i) a building surveyor;

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<sup>37</sup> The applicant may appeal against the decision under section 121.

<sup>38</sup> Under the *Integrated Planning Regulation 1998*, section 10, it is an offence for a building certifier to act as a private certifier without endorsement as a private certifier.

(ii) an assistant building surveyor.

‘(3) If the accrediting body decides not to endorse the building certifier’s accreditation, or interim accreditation, as a private certifier, the accrediting body must give the applicant notice of the decision and the reasons for the decision.<sup>39</sup>

### *‘Division 6—Appeals against accrediting body decisions*

#### **‘Appeal against accrediting body decisions**

‘121.(1) A building certifier who is dissatisfied with the decision or an action of an accrediting body under section 113, 117, 119 or 120 may appeal to the court against the decision.

‘(2) The appeal must be made within 20 business days after the day the building certifier receives notice of the decision or action being appealed against.

‘(3) The court may stay the decision or action of the accrediting body until the court decides the appeal.

‘(4) IPA, chapter 4 applies to the appeal as an appeal under section 4.1.2 of that Act.

### *‘Division 7—Performance of building certifying functions*

#### **‘Local government appointment of building certifiers to perform building certifying functions**

‘122. A local government must appoint building certifiers to perform building certifying functions under section 124, either on a full-time, part-time or consultancy basis.

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<sup>39</sup> The applicant may appeal against the decision under section 121.

**‘Employment of cadet building certifier to assist building certifying functions**

**‘123.** An individual may be appointed as a cadet building certifier to assist in the performance of the building certifying functions if the individual is currently undertaking a course of study, that, if successfully completed, is recognised by BSAP as qualifying the individual for accreditation as a building certifier.

**‘Role of building certifiers and cadet building certifiers**

**‘124.(1)** A building certifier accredited at the level of a building surveyor, may perform building certifying functions for all classes of buildings and structures.

**‘(2)** A building certifier accredited at the level of an assistant building surveyor, may only—

- (a) without the supervision of a building certifier accredited at the level of a building surveyor—perform building certifying functions on buildings and structures having a rise of not more than 3 storeys and a total floor area not more than 2000 m<sup>2</sup>; or
- (b) under the supervision of a building certifier accredited at the level of a building surveyor—assist in assessing and inspecting all classes of buildings and structures.

**‘(3)** A building certifier accredited at the level of a building surveying technician, may only—

- (a) when employed by a local government—perform building certifying functions on buildings having a rise of not more than 2 storeys and a total floor area not more than 500 m<sup>2</sup>; or
- (b) if paragraph (a) does not apply—under the supervision of a building certifier accredited at the level of a building surveyor or assistant building surveyor, assist in assessing and inspecting buildings having a rise of not more than 2 storeys and a total floor area not more than 500 m<sup>2</sup>.

**‘(4)** A cadet building certifier may only assist in assessing and inspecting buildings having a rise of not more than 2 storeys and a total floor area not

more than 500 m<sup>2</sup> while under the supervision of a building certifier accredited at the level of a building surveyor or assistant building surveyor.

*‘Division 8—Transitional provisions about local government officers*

**‘Automatic accreditation of local government building certifiers for 1 year**

**‘125.(1)** For 1 year from the commencement of this division, a person mentioned in section 126 is taken to be accredited by an accrediting body as a building certifier at the level mentioned in section 126 for the person.

**‘(2)** This section expires 1 year after the commencement of this section.

**‘Qualifications of local government building certifiers**

**‘126.(1)** This section applies only—

- (a) for 3 years from the commencement of this division; and
- (b) to an individual who, immediately before the commencement of this division, held a lawful appointment for a local government under the Standard Building Law, part 5;<sup>40</sup> and
- (c) to an individual who complete continuing professional development programs as required by the chief executive; and
- (d) to an individual who does not practise as a private certifier.

**‘(2)** If the lawful appointment was as principal building surveyor or deputy principal building surveyor, the individual is taken, while the individual continues to hold the appointment, to have the prescribed qualifications to be accredited at the level of a building surveyor.

**‘(3)** If the lawful appointment was as building surveyor, the individual is taken, while the individual continues to hold the appointment, to have the prescribed qualifications to be accredited at the level of an assistant building surveyor.

**‘(4)** If the lawful appointment was as a restricted building surveyor, the

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<sup>40</sup> Part 5 (Duties and inspections)

individual is taken, while the individual continues to hold the appointment, to have the prescribed qualifications to be accredited at the level of a building surveying technician.

### **‘Expiry of div 8**

‘127. This division (except section 125) expires 3 years after the commencement of this division.

## **‘PART 12—REGULATION OF CERTIFIERS**

### **‘Certifiers not to be engaged if there is a conflict of interest**

‘128.(1) A building certifier must not carry out building certifying functions if the certifier has a conflict of interest.

‘(2) For IPA, section 5.3.10 and for subsection (1), a private certifier or building certifier has a conflict of interest if the private certifier or building certifier—

- (a) for building work—
  - (i) carries out the building work; or
  - (ii) is employed by the owner or person who carries out the building work; or
  - (iii) is engaged to carry out functions (other than certifying functions or giving regulatory advice about any matter) by the owner or person who carries out the building work; or
  - (iv) has a direct or indirect pecuniary interest in the building work or in an entity carrying out the building work; and
- (b) for a building or structure—has a direct or indirect pecuniary interest in the building or structure.

‘(3) In this section—

“**building work**” includes—

- (a) the preparation of the design of the whole of part of a building or

structure; or

- (b) carrying out all or part of the building work.

### **‘Liability insurance and insurance bonds for private certifiers**

**‘129.(1)** For IPA, section 5.3.16, this section states the type and minimum limits of liability insurance, performance bond or similar type of security a private certifier must have or give.

**‘(2)** The private certifier must have professional indemnity insurance that provides for the following—

- (a) a minimum limit of indemnity of \$1 million for any 1 claim and in the aggregate during any 1 period of insurance that may arise from the conduct of the practice or business as a private certifier;
- (b) in addition to the limit of indemnity mentioned in paragraph (a)—indemnity for costs and expenses incurred with the consent of the insurer of defending or settling a claim;
- (c) indemnity for breaches of professional duty as a private certifier arising from an act, error or omission of the private certifier after the day the private certifier was first accredited as a private certifier;
- (d) at least 1 automatic reinstatement of indemnity;
- (e) indemnity for negligent building certifying work (other than for claims for fraudulent or illegal acts or omissions);
- (f) if the certifying work is being undertaken by an employee of a firm or corporation—indemnity to former principals, partners and directors of the firm or corporation who were, but no longer are, accredited private certifiers;
- (g) a run-off provision continuing the indemnity for 10 years after the private certifier ceases to be accredited as a private certifier.

**‘(3)** Subsection (2)(g) does not apply to a private certifier employed by—

- (a) an entity that represents the State; or
- (b) a local government.

**‘(4)** For subsection (2), a private certifier who is a member or employee

of a corporation or other entity has the required professional indemnity insurance if the corporation or other entity has the professional indemnity insurance mentioned in subsection (2).

‘(5) For subsection (2)(b), the indemnity may, for any 1 claim, be limited to 20% of the limit of indemnity the insurance provides under subsection (2) for the claim.

‘(6) The insurance may require the building certifier to bear an excess at the private certifier’s risk in relation to any 1 claim not greater than \$5 000.

‘(7) The run-off provision mentioned in subsection (2)(g) must not require the private certifier, at the time of cessation of accreditation—

- (a) to ask for the cover; or
- (b) pay an additional premium for the provision of the cover.

## ‘PART 13—LOCAL GOVERNMENT FEES

### ‘Fixing fees by local governments

‘130.(1) A local government may fix fees payable to it for services it provides under the Act (including this regulation).<sup>41</sup>

‘(2) Fees for providing a service, that can not be provided by a private certifier, must be reasonable and fixed by resolution of the local government.

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<sup>41</sup> Fees for making a document available for inspection and for making and giving a person a copy are authorised by section 7(6).

## **‘SCHEDULE 1**

### **‘FIRE SAFETY INSTALLATIONS**

section 5, def “fire safety installations”

#### **‘1. Structural features**

- access panels through fire-rated construction
- penetrations through fire-rated construction
- fire dampers
- fire shutters and fire doors
- fire windows
- fire curtains
- structural fire protection
- systems required to have a fire-resistance level
- fire control centres.

#### **‘2. Fire protection systems**

- sprinklers (including wall-wetting sprinklers)
- special automatic fire suppression systems (including foam, deluge and gas flooding systems)
- fire detection and alarm systems
- stairwell pressurisation systems
- air-handling systems
- smoke and heat venting systems
- smoke exhaust systems.



**‘3. Fire fighting equipment**

- fire mains
- fire hydrants (including hydrant boosters)
- fire hose reels
- fire extinguishers (portable).

**‘4. Occupant safety features**

- emergency warning and intercommunication systems
- exit door hardware
- emergency lighting
- exit signs
- emergency lifts
- emergency power supply
- fire doors
- solid core doors
- smoke proof doors.

**‘5. Other features**

- vehicular access for large isolated buildings
- services provided under conditions imposed under section 71
- services required under BCA, clause E1.10.

**‘SCHEDULE 2****‘SPECIAL FIRE SERVICES (GENERALLY)<sup>42</sup>**

section 5, def “special fire service”

Fire mains (other than fire mains that connect only fire hose reels)

Fire hydrants

Sprinklers (including wall-wetting sprinklers)

Special automatic fire suppression systems (including foam, deluge and gas flooding systems)

Fire detection and alarm systems (other than stand-alone smoke alarms not required to be interconnected or connected to a fire indicator panel)

Fire control centres

Stairwell pressurisation systems

Air-handling systems used for smoke control

Smoke and heat venting systems

Smoke exhaust systems

Emergency warning and intercommunication systems

Emergency lifts

Vehicular access for large isolated buildings

Services provided under conditions imposed under section 71

Services required under BCA, clause E1.10.

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<sup>42</sup> Development applications for buildings containing any of these special fire services must be referred to the Queensland Fire and Rescue Authority for referral agency advice. See *Integrated Planning Regulation 1998*, section 4 and schedule 2.

## **‘SCHEDULE 3**

### **‘SPECIAL FIRE SERVICES (ASSESSMENT BY FIRE AUTHORITY)**

section 5, def “special fire service”

#### **‘1. Large isolated buildings**

Suitability of site provisions for access by fire authority vehicles.

#### **‘2. Fire fighting equipment**

- provisions for connection of fire authority portable relay booster pump
- location and suitability of booster connections and enclosures
- location of fixed pump-set controls and status indication
- location and suitability of internal and roof hydrants and external hydrants including fire separation from adjacent buildings
- provisions for hard standing for fire appliances
- provision of additional hydrant services as mentioned in AS 2419.

#### **‘3. Sprinklers**

- the location of valve room, pump-sets, water alarm and booster point
- location of pump-set controls and status indications
- provision of direct fire service alarm and location of directional signs
- provision of suitable fire-protection for special hazards as mentioned in AS 2118.

**‘4. Wall-wetting sprinklers**

- location of isolating valves
- provision of suitable signs.

**‘5. Special automatic fire suppression systems**

- location of control valves
- provision of access for fire service vehicles
- suitability of extinguishment media
- provision of interface with other systems and direct fire authority alarm.

**‘6. Fire detection and alarm systems (other than stand-alone smoke alarms not required to be interconnected or connected to a fire indicator panel)**

- location of main fire indicator panel, sub-indicator panels, mimic panels, local alarm bells and directional signs
- suitability of weather protection, accessibility and lighting of equipment
- provision of direct fire service alarm
- suitability of nominated types of detection in all areas, and the location of manual call points.

**‘7. Fire control centres**

- location and size of control centre
- suitability of contents of control centre.

**‘8. Provisions for special hazards**

Suitability of special fire services for the protection of special hazards as mentioned in BCA, clause E1.10.

**‘9. Smoke and control systems**

- suitability of operational controls and indicators
- automatic detector operation of stairwell pressurisation systems, smoke-and-heat vents and smoke exhaust systems.

**‘10. Emergency lifts**

Provision of fire officer’s controls in lifts.

**‘11. Emergency warning and intercommunication systems**

- provision of suitable auxiliary warning devices, where AS 2220 systems are not specified
- suitability of interface of warning system with detection and alarm systems
- location of main emergency control panel and warden intercom points.

**‘12. Prescribed buildings**

Suitability of special fire services and site requirements for prescribed buildings mentioned in section 71.

## **‘SCHEDULE 4**

### **‘SPECIAL FIRE SERVICES (INSPECTION BY FIRE AUTHORITY)**

section 5, def “special fire service”

#### **‘1. Large isolated buildings**

Suitability of site provisions for access by fire authority vehicles.

#### **‘2. Fire fighting equipment**

- provisions for connection of fire authority portable relay booster pump
- location and suitability of booster connections and enclosures
- operation of fixed pump-set controls and status indication
- location and suitability of internal and roof hydrants and external hydrants including fire separation from adjacent buildings
- provisions for hard standing for fire appliances
- provision of additional hydrant services as mentioned in AS 2419
- achievement of specified performance.

#### **‘3. Sprinklers**

- the location of valve room, pump-sets, water alarm and booster point
- operation of pump-set controls and status indications
- operation of direct fire service alarm and location of directional signs
- provision of suitable fire-protection for special hazards as mentioned in AS 2118.

**‘4. Wall-wetting sprinklers**

- location of isolating valves
- provision of suitable signs.

**‘5. Special automatic fire suppression systems**

- location of control valves
- provision of access for fire service vehicles
- suitability of extinguishment media
- provision of interface with other systems and direct fire service alarm
- achievement of specified performance.

**‘6. Fire detection and alarm systems (other than stand-alone smoke alarms not required to be interconnected or connected to a fire indicator panel)**

- location and operation of main fire indicator panel, sub-indicator panels, mimic panels, local alarm bells and directional signs
- suitability of weather protection, accessibility and lighting of equipment
- operation of direct fire service alarm
- suitability of nominated types of detection in all areas, and the location of manual call points
- achievement of specified performance of detection and alarm systems.

**‘7. Fire control centres**

- location of control centre
- suitability of contents, ventilation, signage, lighting and sound levels of control centre.

**‘8. Provisions for special hazards**

Suitability of special fire services for the protection of special hazards as mentioned in BCA, clause E1.10.

**‘9. Smoke control systems**

- suitability of operational controls and indicators
- suitability of automatic detector operation of stairwell pressurisation systems, smoke-and-heat vents and smoke exhaust systems
- achievement of specified performance of systems.

**‘10. Emergency lifts**

Operation of fire officer’s controls in lifts.

**‘11. Emergency warning and intercommunication systems**

- operation of suitable auxiliary warning devices, where AS 2220 systems are not specified
- operation of interface of warning system with detection and alarm systems
- location of main emergency control panel and warden intercom points
- suitability of warning tone and sound pressure levels under test.

**‘12. Prescribed buildings**

Suitability of special fire services and site requirements for prescribed buildings mentioned in section 71.



**‘SCHEDULE 5****‘DEVELOPMENT**

section 4(2) and (3)

**‘PART 1—SELF-ASSESSABLE DEVELOPMENT**

**‘1.** Building work for a class 10 building or structure (other than building work mentioned in part 2) not within Wind Region C (tropical cyclone area) mentioned in AS 1170.2 SAA Wind Loading Code, either attached to or detached from a single detached class 1 building or class 10 building or structure if—

- (a) the building or structure is used exclusively as a greenhouse, unroofed pergola, unroofed deck not higher than 1 m above natural ground level, gazebo, conservatory, summerhouse, fuel shed, lawn locker, tool house, cycle shed, aviary, milking bail, hay shed, stable, fowl house, pigsty, barn or for a similar purpose; and
- (b) for a building or structure attached to another class 10 building or structure, the plan area (including overhangs and existing plan area) is not more than 10 m<sup>2</sup>; and
- (c) for a detached building or structure, the plan area (including overhangs and existing plan area) is not more than 10 m<sup>2</sup>; and
- (d) for a class 10 building or structure attached to, or detached from, a single detached class 1 building or class 10 building or structure, the building has above the natural ground surface—
  - (i) a height of not more than 2.4 m; and
  - (ii) a mean height of not more than 2.1 m; and
- (e) any side of the building or structure is no longer than 5 m.

**‘2.** Fences no higher than 2 m above natural ground surface, other than swimming pool fences to which part 4B of the Act applies.

‘3. A non-load bearing aerial, antennae, satellite dish with a maximum diameter of 600 mm, flagpole, mast or tower, outside areas covered by airport Obstacle Limitation Surfaces Standards (O.L.S.) of the Civil Aviation Safety Authority if it is—

- (a) detached from a building or structure and not more than 10 m above natural ground surface; or
- (b) attached to a building or structure, is not more than 3.5 m above the building or structure.

‘4. Retaining walls with no surcharge loadings if—

- (a) the total finished height of the wall, or the total height of the fill or cut retained is not more than 1 m above the adjoining ground level; and
- (b) the wall is no closer than 1.5 m to a building or another retaining wall.

‘5. Filling or excavation if—

- (a) the proposed cut or fill is no deeper than 1 m in relation to natural ground level; and
- (b) any cut embankment is no steeper than—
  - (i) for sand . . . . . 2 horizontal to 1 vertical; and
  - (ii) for silt . . . . . 4 horizontal to 1 vertical; and
  - (iii) for firm clay . . . . . 1 horizontal to 1 vertical; and
  - (iv) for soft clay . . . . . 3 horizontal to 2 vertical; and
- (c) any fill embankment is no steeper than 4.0 horizontal to 1.0 vertical; and
- (d) any compacted fill embankment is no steeper than—
  - (i) for sand . . . . . 3 horizontal to 2 vertical; and
  - (ii) for silt . . . . . 4 horizontal to 1 vertical; and
  - (iii) for firm clay . . . . . 2 horizontal to 1 vertical.

## **‘PART 2—EXEMPT DEVELOPMENT**

**‘6.** Building work for a class 10 building used exclusively as a greenhouse, conservatory, summerhouse, fuel shed, lawn locker, tool house, cycle shed, aviary, milking bail, hayshed, stable, fowlhouse, pigsty or barn or for a similar purpose, if—

- (a) on land used for agricultural, horticultural, floricultural or pastoral purposes; and
- (b) no part of the building is within 200 m of a road or a boundary of the land on which the building is situated.

**‘7.** Affixing minor attachments to an existing building, such as sun hoods projecting no more than 1 m from the building, sun blinds, roof ventilators, basketball hoops or similar attachments.

**‘8.** Building minor structures no higher than 3.0 m above natural ground level, such as playground and sporting equipment, garden furniture, temporary market stalls, minor plant and equipment covers, and similar structures.

**‘9.** Repairs and maintenance to an existing building or structure if—

- (a) the structural adequacy of the building or structure is not reduced; and
- (b) fire safety of the building or structure is not reduced.

## **‘SCHEDULE 6**

### **‘BUILDING WORK REQUIRING LOCAL GOVERNMENT APPROVAL OR DECISION**

section 20

**‘1.** Compliance with performance provisions in a local planning

instrument or a local law existing at the commencement of this schedule or performance criteria in the Queensland Residential Design Guidelines under section 46.

‘2. Approval, for an allotment, of the height of fences, screens, ornamental structures or similar things higher than the height permitted under section 47(1).

‘3. Nomination of the road frontage of a building or structure for which the road frontage is to be reduced under section 47(2).

‘4. Approval of the siting of a building or structure under section 48.

‘5. The amenity and aesthetic impact of building work for forms of building or localities the local government must assess under section 50.

‘6. Occupation of a building, other than a class 1, 2, 3 or 4 building, for residential purposes under section 97.

## ‘SCHEDULE 7

### ‘ELEMENTS OF QUEENSLAND RESIDENTIAL DESIGN GUIDELINES THAT LOCAL GOVERNMENTS MAY APPLY

section 45

#### ‘Section 1, Single Detached Housing—

1	Element A1	Street setbacks
2	Element A2	Building envelope and siting
3	Element A3	Storm drainage
4	Element A4	On-site carparking
5	Element A5	Private open space

**‘Section 2, Attached Housing—**

1	Element A1	Street setbacks
2	Element A2	Building envelope and siting
3	Element A3	Storm drainage
4	Element A4	On-site carparking and access
5	Element A5	Private open space.

**‘SCHEDULE 8****‘GUIDELINES FOR FINAL INSPECTION OF SINGLE  
DETACHED CLASS 1 BUILDINGS OR CLASS 10  
BUILDINGS OR STRUCTURES**

section 86(2)

**‘Finalise any outstanding items from previous inspection or that require re-inspection.****‘1. Evidence of suitability**

Collect certificates for the following specialist products and procedures—

- termite protection
- wet area waterproof membrane installation, where appropriate
- glazing compliance with AS 1288 and AS 2208
- engineered frame or roof certification
- engineer inspection certificates, where applicable.

## **‘Check reasonable compliance with approved documents, Building Act and Standard Building Regulation**

### **‘2. Site preparation**

- stormwater and overflow disposal to protect the building and other property from adverse effects
- finished floor level requirements
- provide retaining walls or stabilise cut and fill, where necessary to avoid potential damage to adjoining structures and property through soil collapsing or subsiding.

### **‘3. Weatherproofing of masonry**

Weatherproof coatings to single leaf masonry or, alternatively, wide overhangs or verandahs to ensure reasonable compliance.

### **‘4. Fire safety**

- fire protection—around fuel burning appliances
- smoke alarms, location as shown on approved drawings and check operation
- for building to boundary, correct fire separation
- special construction requirements in designated bushfire areas.

### **‘5. Health and amenity**

- for required facilities, mechanical ventilation, if applicable
- toilet door requirements
- vermin proofing, services penetrations.

### **‘6. High wind areas**

Sheet roof high wind requirements.

**‘7. Surface water drainage**

For elevated timber floors—sub floor ventilation, sub floor drainage and sub floor termite shields.

**‘8. Damp and weatherproofing**

Wall flashings, damp proof courses, weep holes.

**‘9. Termite risk management**

- termite notices, if applicable
- termite protection (exposed edges comply where relying on any termite activity becoming visible).

**‘10. Safe movement and access**

- check for safe movement and access on stair rises and goings; balustrades (in particular heights, openings and fixings)
- access to swimming pool enclosure properly protected.

**‘SCHEDULE 9****‘MINIMUM SIDE AND REAR BOUNDARY  
CLEARANCES FOR NARROW ALLOTMENTS**

section 40

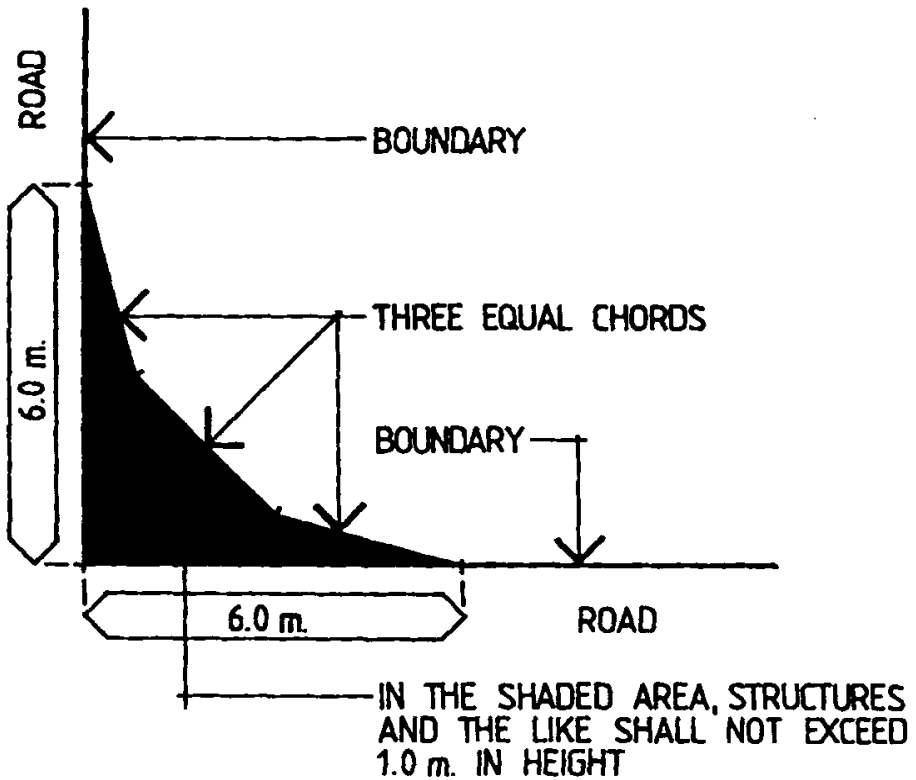
ROAD FRONTAGE in metres	Minimum side and rear boundary clearances if—	
	BUILDING HEIGHT 4.5 m OR LESS	BUILDING HEIGHT 4.5 m to 7.5 m
15.001—15.500	1.500	2.000
14.501—15.000	1.425	1.900
14.001—14.500	1.350	1.800
13.501—14.000	1.275	1.700
13.001—13.500	1.200	1.600
12.501—13.000	1.125	1.500
12.001—12.500	1.050	1.400
11.501—12.000	0.975	1.300
11.001—11.500	0.900	1.200
10.501—11.000	0.825	1.100
10.500 or less	0.750	1.000



**‘SCHEDULE 10**

**‘BOUNDARY CLEARANCES FOR FENCES,  
SCREENS ETC. ON CORNER ALLOTMENTS**

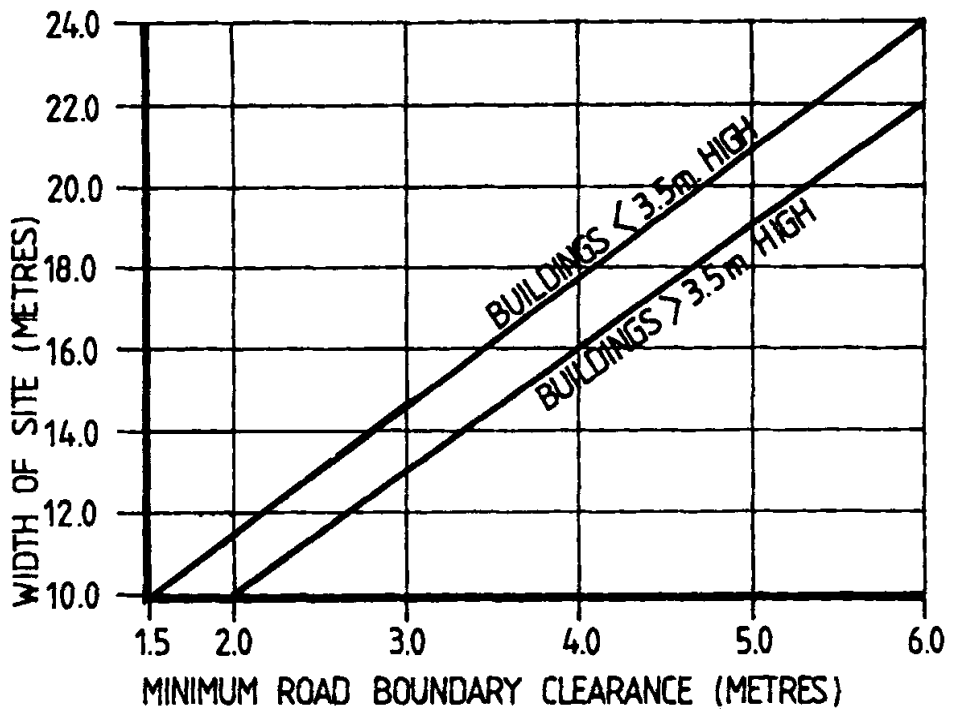
section 47(1)



**‘SCHEDULE 11**

**‘ROAD BOUNDARY CLEARANCES FOR BUILDINGS AND STRUCTURES ON CORNER ALLOTMENTS**

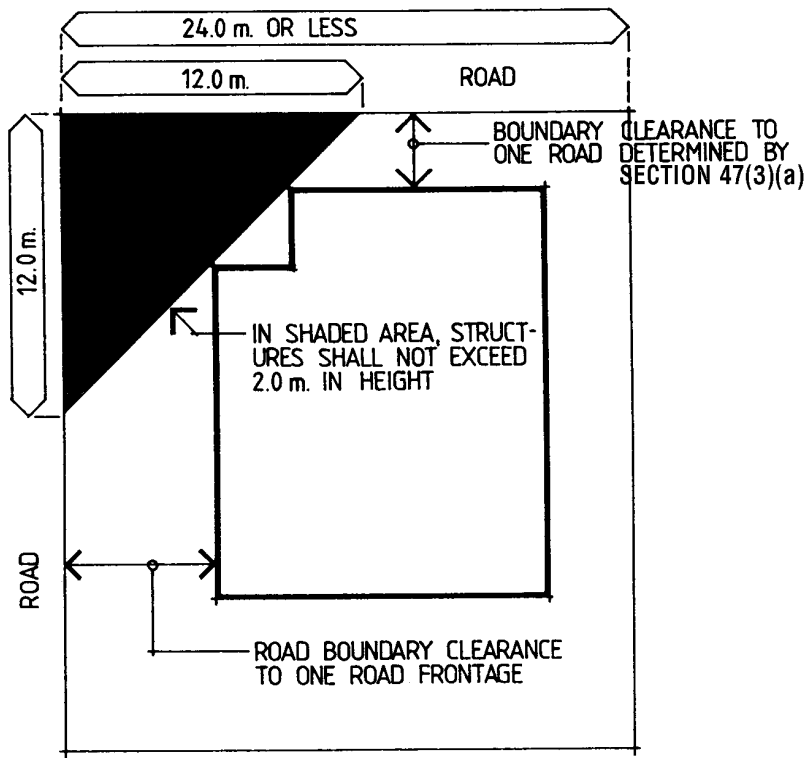
section 47(3)(a)



**‘SCHEDULE 12**

**‘CORNER BOUNDARY CLEARANCES FOR  
CORNER ALLOTMENTS**

section 47(3)(b)



## **PART 3—AMENDMENT OF BUILDING REGULATION 1991**

### **Regulation amended in pt 3**

**14.** This part amends the *Building Regulation 1991*.

### **Omission of pt 1 hdg**

**15.** Part 1 heading—

*omit.*

### **Replacement of ss 2 to 4**

**16.** Sections 2 to 4—

*omit, insert—*

### **‘Application for variation of the Standard Building Regulation 1993**

‘**(1)** This section prescribes the fee payable on lodging an application for variation of the *Standard Building Regulation 1993*, for section 7 of the Act.

‘**(2)** The fee payable if the matter is to be decided by the chief executive without a site inspection by the chief executive or the chief executive’s delegate is—

- (a) if the application is about a building with a floor area of 500 m<sup>2</sup> or less—\$350; or
- (b) if the application is about a building with a floor area greater than 500 m<sup>2</sup>—\$500.

‘**(3)** The fee payable if the matter is to be decided by the chief executive after a site inspection by the chief executive or the chief executive’s delegate is—

- (a) if the application is about a building with a floor area of 500 m<sup>2</sup> or less—\$500; or
- (b) if the application is about a building with a floor area greater than 500 m<sup>2</sup>—\$750.

**‘Application and annual fee for accreditation as a building certifier**

‘**3.(1)** The application fee for accreditation under the *Standard Building Regulation 1993* as a building certifier is \$100.

‘**(2)** The annual accreditation fee for accreditation under the *Standard Building Regulation 1993* as a building certifier is \$500.

**‘Fast track fee**

‘**4.(1)** This section prescribes the fee to accompany a request under section 9 of the Act to the chief executive to decide an application within 2 business days after the making of the application.

‘**(2)** The fee payable is 50% of, and is in addition to, the lodging fee payable on the application.

‘**(3)** However, if the chief executive refuses the request, the fee must be refunded.’.

**Omission of s 6 (Declared land—Act, s 4(5)(a)(i))**

**17.** Section 6—

*omit.*

**Amendment of schedule (Specified land)**

**18.** Schedule—

*insert—*

‘**20.** Lot 59 on SR 217, situated in the county of Solander, parish of Mowbray and known as the Thala Beach Lodge Resort.

‘**21.** Lot 108 on RP 712063, situated in the county of Nares, parish of Trinity and known as the Trinity Cove Resort.’.

**Omission of sch 2 (Declared land for QGC)**

**19.** Schedule 2—

*omit.*

## **PART 4—AMENDMENT OF INTEGRATED PLANNING REGULATION 1998**

### **Regulation amended in pt 4**

**20.** This part amends the *Integrated Planning Regulation 1998*.

### **Renumbering of s 3 (Requirements for placing public notices on land—Act, s 3.4.4)**

**21.** Section 3—

*renumber* as section 11.

### **Insertion of new ss 3–10**

**22.** After section 2—

*insert—*

### **‘Type of assessment for assessable development**

‘**3.** For section 3.1.3(1) of the Act, schedule 1, column 2 states the type of assessment required for the aspect of assessable development mentioned opposite the type of assessment in schedule 1, column 1.

### **‘Referral agencies and jurisdiction—Act, s 3.1.8**

‘**4.** For section 3.1.8 of the Act—

- (a) schedule 2, column 2 states the referral agency for the development application mentioned in schedule 2, column 1; and
- (b) schedule 2, column 3 states the type of referral agency for the referral agency mentioned opposite the type in schedule 2, column 3; and
- (c) schedule 2, column 4 states the jurisdiction of the referral agency mentioned opposite the jurisdiction in schedule 2, column 2.

**‘Referral agency assessment period—Act, s 3.3.14**

‘5. For section 3.3.14(1)(a) of the Act, schedule 3, column 2 states the number of business days for the referral agency mentioned opposite the number in schedule 3, column 1.

**‘Tribunal appeal fees—Act, s 4.2.15**

‘6.(1) This section prescribes the fee payable for an appeal to a tribunal mentioned in section 4.2.15(2) of the Act.

‘(2) The fee payable, if the appeal is to be decided by a tribunal without a site inspection by the tribunal or a member of the tribunal is—

- (a) if the decision is about a class 1 building or a class 10 building or structure—\$250; or
- (b) if the decision is about a class 2, 3, 4, 5, 6, 7, 8 or 9 building with a floor area of 500 m<sup>2</sup> or less—\$350; or
- (c) if the decision is about a class 2, 3, 4, 5, 6, 7, 8 or 9 building with a floor area greater than 500 m<sup>2</sup>—\$500.

‘(3) The fee payable, if the matter is to be decided by a tribunal after a site inspection by a tribunal or a member of the tribunal is—

- (a) if the decision is about a class 1 building or a class 10 building or structure—\$400; or
- (b) if the decision is about a class 2, 3, 4, 5, 6, 7, 8 or 9 building with a floor area of 500 m<sup>2</sup> or less—\$500; or
- (c) if the decision is about a class 2, 3, 4, 5, 6, 7, 8 or 9 building with a floor area greater than 500 m<sup>2</sup>—\$750.

**‘Fast track fee—Act, s 4.2.16**

‘7.(1) This section prescribes the fee to accompany a request under section 4.2.16 of the Act to the chief executive to appoint a tribunal to start hearing an appeal within 2 business days after starting the appeal.

‘(2) The fee payable under this section is 50% of, and is in addition to, the fee payable for the appeal under section 6.

‘(3) However, if the chief executive refuses the request, the fee must be refunded.

**‘Qualifications of referee—Act, s 4.2.37**

‘8. For section 4.2.37 of the Act, the qualifications or experience for a person to be a referee are—

- (a) registration as an architect under the *Architects Act 1985*; or
- (b) registration as a professional engineer under the *Professional Engineers Act 1988*; or
- (c) accreditation as a building certifier under the *Building Act 1975*; or
- (d) unconditional licence as a house builder and general builder and not less than 8 years’ experience in building construction after completion of the person’s apprenticeship; or
- (e) a knowledge of the *Building Act 1975*, or of matters relating to fire safety, the Minister considers to be sufficient to enable the person to adequately discharge the functions of a referee.

**‘General manager of Queensland Building Services Authority may prosecute certain offences**

‘9. For the *Queensland Building Services Authority Act 1991*, section 18(1)(c), the general manager of the Queensland Building Services Authority may bring a proceeding in a magistrates court on a complaint to prosecute a person for an offence under—

- (a) the *Integrated Planning Act 1997*, section 5.3.8 or 5.3.16; or
- (b) section 10 of this regulation.

**‘Offence about acting as private certifier**

‘10.(1) A person must not act as a private certifier for building work unless the person is a building certifier under the *Building Act 1975*.

Maximum penalty for subsection (1)—165 penalty units.

‘(2) A building certifier under the *Building Act 1975* must not act as a



private certifier for a particular level of certification unless the private certifier has accreditation for the level at the time the action was taken.

Maximum penalty for subsection (2)—165 penalty units.

‘(3) A building certifier under the *Building Act 1975* must not act as a private certifier unless the building certifier’s accreditation is endorsed at the time the action was taken with accreditation as a private certifier.

Maximum penalty for subsection (3)—165 penalty units.’.

### Insertion of new schs 1–3

23. After section 11 (as renumbered by this part)—

*insert—*

## ‘SCHEDULE 1

### ‘TYPE OF ASSESSMENT FOR ASSESSABLE DEVELOPMENT

section 3

Column 1	Column 2
<b>Aspect of assessable development</b>	<b>Type of assessment required</b>
Building work (to the extent it is assessable against the Standard Building Regulation)	Code assessment

**SCHEDULE 2****REFERRAL AGENCIES AND JURISDICTION**

section 4

Column 1	Column 2	Column 3	Column 4
<b>Application involving</b>	<b>Name of referral agency</b>	<b>Type of referral</b>	<b>Referral jurisdiction</b>
Building work other than temporary or special structures) which is required by the Standard Building Regulation to contain special fire services listed in schedule 2 of the Standard Building Regulation.	Queensland Fire and Rescue Authority	Advice	Fire safety
Assessment of an aspect of building work against the Standard Building Regulation, if the application involves a workplace area less than 2.3 m <sup>2</sup> (free of any encumbrance) for each employee	The chief executive administering the <i>Workplace Health and Safety Act 1995</i>	Advice	Workplace health and safety

**‘SCHEDULE 3****‘REFERRAL AGENCY ASSESSMENT PERIODS**

section 5

Column 1	Column 2
<b>Name of referral agency</b>	<b>Referral agency’s assessment period</b>
Queensland Fire and Rescue Authority	15

**PART 5—AMENDMENT OF QUEENSLAND  
BUILDING SERVICES AUTHORITY  
REGULATION 1992**

**Regulation amended in pt 5**

**24.** This part amends the *Queensland Building Services Authority Regulation 1992*.

**Amendment of s 3 (Definitions)**

**25.** Section 3(1)—

*insert—*

“**building certifier**” has the meaning given under the *Building Act 1975*.<sup>43</sup>’.

<sup>43</sup> *Building Act 1975*, section 5 (Definitions)—

“**building certifier**” means an individual accredited as a building certifier by an accreditation body.

**Amendment of s 3A (Work excluded from the ambit of the definition “building work”)**

**26.(1)** Section 3A(1)(y)(ii)—

*omit, insert—*

‘(ii) the work is exempt or self-assessable development under the *Standard Building Regulation 1993*.’.

**(2)** Section 3A(1)—

*insert—*

‘(z) certification work performed by a building certifier under the *Building Act 1975* in the certifier’s professional practice.’.

**Amendment of s 22 (Progress payments—Act, s 66)**

**27.** Section 22(4)(b), ‘local authority’—

*omit, insert—*

‘building certifier’.

**Amendment of s 23 (Insurance of building work—Act, s 68)**

**28.** Section 23(3), ‘local authority’—

*omit, insert—*

‘local government’.

**PART 6—AMENDMENT OF BUILDING FIRE  
SAFETY REGULATION 1991****Regulation amended in pt 6**

**29.** This part amends the *Building Fire Safety Regulation 1991*.

**Amendment of s 4 (Definitions)**

**30.(1)** Section 4, definition “Fire Service Act”, ‘*Fire Service Act 1990*’—

*omit, insert—*

“*Fire and Rescue Authority Act 1990*”.

**(2)** Section 4, definition “special fire service”, ‘*By-law 1991*’—

*omit, insert—*

‘*Regulation 1993*’.

**Amendment of s 23 (Applicants to pay fees)**

**31.(1)** Section 23(1), ‘*By-law 1991*’—

*omit, insert—*

‘*Regulation 1993*’.

**(2)** Section 23(1), ‘of the special fire service carried out under the by-law’—

*omit.*

**(3)** Section 23(2)—

*omit, insert—*

‘**(2)** The prescribed fee must be paid to the Queensland Fire and Rescue Authority.’.

**PART 7—CONSEQUENTIAL AMENDMENTS****Regulations amended**

**32.** The schedule amends the regulations mentioned in it.

**SCHEDULE****CONSEQUENTIAL AMENDMENTS**

section 32

**CHILD CARE (CHILD CARE CENTRES)  
REGULATION 1991****Amendment****Schedule, section 5(6), ‘Standard Building By-law 1991’—***omit, insert—**‘Building Act 1975’.***HEALTH (PRIVATE HOSPITALS) REGULATION  
1978****Amendments****Sections 5A(b), 7(3) and 35(2)(b), ‘Standard Building Law’—***omit, insert—**‘Standard Building Regulation 1993’.*

## ENDNOTES

1. Made by the Governor in Council on 16 April 1998.
2. Notified in the gazette on 17 April 1998.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Local Government and Planning.