

# Building Amendment Regulation (No. 1) 2013

## Explanatory Notes for SL 2013 No. 205

made under the

*Building Act 1975*

## General Outline

### Short title

*Building Amendment Regulation (No. 1) 2013*

### Authorising law

Sections 32 and 261 of the *Building Act 1975*

### Policy objectives and the reasons for them

The policy objective of the *Building Amendment Regulation (No. 1) 2013* (the Regulation) is to enable local governments to designate flood hazard areas under an interim policy.

### Achievement of policy objectives

The *State Planning Policy 1/03: Mitigating the adverse impacts of flood, bushfire and landslide* (SPP 1/03) expired from 1 September 2013. A new State Planning Policy (SPP) is anticipated to be adopted by the Minister administering the *Sustainable Planning Act 2009* later in 2013.

Section 13(1)(a) of the *Building Regulation 2006* (BR) allows a local government to make a designation of a natural hazard management area (flood) under a planning scheme, temporary local planning instrument (TLPI) or by resolution (planning instrument). Section 13(2) of the BR currently requires a local government to comply with the SPP 1/03 when making a designation.

Designations made under section 13 of the BR trigger the building assessment provisions relating to flood hazards, including the Queensland Development Code (QDC) Mandatory Part 3.5 - *Construction of buildings in flood hazard areas* (MP 3.5).

The Regulation amends subsection 13(2) to remove the reference to compliance with the SPP 1/03 and replace it with reference to compliance with the "Interim policy for mitigating the adverse impacts of floods". This approach ensures consistency of a designation for a natural hazard management area (flood) with specific elements of MP 3.5.

The interim policy document is published on the Department of Housing and Public Works' website.

## **Consistency with policy objectives of authorising law**

The Regulation is consistent with the objectives of the *Building Act 1975*.

## **Inconsistency with policy objectives of other legislation**

The Regulation is consistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

The amendment benefits local governments and lot owners. For example, local governments will be able to continue to designate a natural hazard management area (flood) prior to the adoption of the new SPP. This will enable buildings in the area to be built to resist the effects of flooding.

The Queensland Competition Authority (QCA) has advised the proposed interim measure qualifies for an exclusion from the Regulatory Impact Statement process.

## **Consistency with fundamental legislative principles**

The Regulation has been drafted with regard to fundamental legislative principles (FLP) as defined in section 4 of *the Legislative Standards Act 1992*. The Regulation is consistent with the FLPs.

## **Consultation**

Consultation was undertaken with the QCA, the Department of the Premier and Cabinet and the Department of State Development, Infrastructure and Planning and no issues were raised.