



Advisory Notice Building 02/24

MBS 007 Modifications to the Building Code of Australia (Amendment 3)

This Advisory Notice provides information about an amendment made to the *Ministerial Building Standard MBS 007 Modifications to the Building Code of Australia*. The changes address the Class 9 bushfire protection requirements in Volume One of the National Construction Code (NCC) 2022.

Background

The Building Code of Australia (Building Code) comprises Volume One and Two of the National Construction Code (NCC) series that is published from time to time by the Australian Building Codes Board (ABCB). Under the Planning, Development and Infrastructure Act 2016 (PDI Act), the Minister may publish, vary or revoke Standards.

The Standards are [published on the PlanSA portal](#) and may relate to:

- any aspect of building work (including the regulation, control, restriction or prohibition of building work)
- any aspect of the design, construction, quality, safety, health, amenity, sustainability, adaptive re-use or maintenance of buildings
- the modification of the Building Code as it applies under the PDI Act.

MBS007 was last updated and published on 26 September 2024 to introduce the modern homes provisions.

Discussion

NCC 2022 included new bushfire protection requirements for Class 9 buildings (schools, hospitals, child-care centres and aged care facilities) with the view to providing improved safety for occupants who are unable to readily evacuate in the event of a bushfire. These were adopted nationally on 1 May 2023.

Significant feedback has been received from building professionals and developers that the new requirements are proving challenging to achieve.

The requirements of concern include:

- the separation from hazards requirements,
- internal tenability,
- separation from classified vegetation requirements; and
- separation from allotment boundaries.

Several other jurisdictions have also encountered similar challenges and have made similar variations.

Variation to Ministerial Building Standard MBS 007 Modifications to the Building Code of Australia (Amendment 3)

MBS 007 was varied on 12 December 2024 to remove the Class 9 bushfire protection requirements until the broader bushfire-related initiative, including the Bushfire Code Amendment, associated mapping and *Ministerial Building Standard MBS 008* (which addresses water supply requirements), has been completed.

This MBS 007 amendment means that the previous bushfire protection requirements from NCC 2019 apply. These do not apply to Class 9 buildings. Accordingly, for Planning Consent purposes, buildings located in a high bushfire area will require referral to the Country Fire Service. For Building Rules purposes, apartments, hotels and motels must comply with the NCC and Australian Standard AS 3959 *Construction in bushfire areas*.

Additional information

Further information about the National Construction Code can be found on the [Australian Building Codes Board](#) website. Ministerial Building Standards can be downloaded from the [PlanSA portal](#).

For more information:

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Advisory Notices are issued to assist in the interpretation of the *Planning, Development and Infrastructure Act 2016*. They provide general information only and should not be relied upon as legal advice or an accurate statement of the relevant legislation provisions. If you are uncertain as to your legal obligations you should obtain independent legal advice.