



Building newsflash number – 453

Classifying domestic patios, verandahs, shade structures, decks and similar structures

Purpose

To provide clarification of the appropriate classification for domestic patios, verandahs, shade structures, decks and similar structures.

Background

Feedback received from stakeholders indicates that clarification is needed on the classification of domestic patios, verandahs, shade structures, decks and similar structures. Since newsflashes number 17 and 105 were issued in 1998 and 2002 respectively, there have been a number of changes made to mandatory parts (MP) 1.1, 1.2 and 1.3 of the Queensland Development Code (QDC) and the Building Act 1975 (BA). These changes assist building certifiers to classify domestic patios, verandahs, shade structures, decks and similar structures according to the purpose for which they are to be used. This newsflash provides updated advice to reflect these changes, and replaces newsflashes 17 and 105.

Interpretation

Acts Interpretation Act 1954

Section 14A of the Acts Interpretation Act 1954 states the interpretation of an Act provision that best achieves the purpose of the Act is to be preferred to any other interpretation. This applies to instruments in force under an Act, such as the QDC and the Building Code of Australia (BCA).

The BA and the BCA

Section 115 of the BA makes it an offence to occupy or use a building that does not comply with the BCA and QDC provisions applicable to the occupation or use. For example, it may be unlawful (refer to s119 of the BA) to use a class 10a building, such as a garage, for habitable purposes if it does not meet the BCA and QDC requirements for a habitable room.

The BCA classifies buildings and structures according to the purpose for which they are designed, constructed and adapted to be used. In determining the appropriate classification for a building or structure under the BCA, building certifiers must consider the purpose for which the building or structure is to be used and must apply the most appropriate classification on the basis of a 'best fit' approach.

In this context, classifying a building or part of a building as class 1a requires consideration of the BCA as a whole, along with the purposes of the classification system. The classification system determines the safety, health, amenity and sustainability requirements for the building. Class 1a buildings have habitable spaces and ancillary non-habitable rooms to support habitation. Class 10a buildings are non-habitable. The term 'non-habitable' is not defined by the BCA, although the term 'habitable room' is defined.

The term 'non-habitable' should be considered, for the purposes of the BCA, in the context of this distinction. 'Habitable rooms' are listed as including, among other things, a room used for normal domestic purposes, including a bedroom, living room, lounge room, and so on. Further, the BCA lists rooms and other specialised spaces that are excluded from being 'habitable rooms'. Open sided domestic patios, verandahs, decks, shade structures and similar structures are not usually 'rooms'.

Dictionary definitions and compliance considerations

Dictionary definitions¹ help to establish that open sided domestic patios, verandahs, shade structures, decks or similar structures should not qualify as 'rooms', nor do they generally meet the definition of 'habitable'.

Using domestic patios, verandahs, shade structures, decks and similar structures, whether detached or attached to another structure, intermittently for domestic recreational purposes does not change the classification of the building or part to a class 1a building. Where patios, verandahs, shade structures, decks and similar structures are used on an ongoing basis for a 'habitable' purpose, they will have changed classification and they must comply with the relevant BCA performance requirements for the new classification.

In practical terms, these structures typically do not meet the BCA requirements for class 1a buildings, such as damp and weatherproofing. Therefore, it is generally not appropriate to classify these structures as class 1a buildings under the BCA '10% rule'² as they would not normally meet the BCA requirements for a class 1a building.

Conclusion

Domestic patios, verandahs, shade structures, decks and similar structures should therefore be classified as class 10a buildings, provided they are not:

- fully enclosed, or
- provided with opening partitions or doors or windows or sashes or the like that can enclose the area.

Where they are fully enclosed and used as a habitable room, such as a sunroom, they should be classified as class 1a buildings and must meet all performance requirements for class 1a buildings, including, for example, damp and weatherproofing. Building certifiers may impose reasonable conditions on building development approvals restricting the occupation or use of a building.

¹ The Macquarie Concise Dictionary defines:

- a room as 'a portion of space within a building or other structure, separated by walls or partitions, from other parts'
- 'frequent' as 'constant, habitual or regular'
- 'habitable' as 'capable of being inhabited'
- 'inhabit' as 'to live or dwell in (a place), as persons or animals'
- 'dwell' as 'to abide as a permanent resident'
- 'live' as 'to dwell or reside'
- 'reside' as 'to dwell permanently or for considerable time; have one's abode for a time'.

² The '10% rule' allows different parts of a class 1a building, if they are not more than 10 per cent of the floor area, to be classified within the class 1a classification for the whole building.



As advised in newsflash number 420, acceptable solution A2 of QDC mandatory parts 1.1, 1.2 and 1.3 was amended in March 2010 to require domestic patios, pergolas, verandahs, shade structures, decks and similar structures to meet the same side and rear boundary clearance requirements as class 1a buildings. This requirement applies regardless of whether the structure is determined to be class 1a or class 10.

Legislation

Building Act 1975

Acts Interpretation Act 1954

Building Regulation 2006

Building Code of Australia

Queensland Development Code - MP1.1, MP1.2 and MP1.3

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