

Capital Works Management Framework

Building Regulatory Requirements



The suite of *Capital Works Management Framework* documents is available online (www.hpw.qld.gov.au):

- The **Capital Works Management Framework policy document** describes the capital works management process and contains the policy requirements.
- **Guidelines** complement the policy document and expand on various aspects of the capital works management process, particularly in terms of best practice procedures. The Prequalification (PQC) System guidelines are also included in the *Capital Works Management Framework* suite of documents.
- **Policy advice notes** provide advice on particular policy issues and/or procurement processes relating to the planning and delivery of government building projects.
- The **Online Toolbox** provides online support to assist in the implementation of best practice planning and delivery of government building projects. It includes templates, flowcharts, guides, sample documents, and links to useful information.

Building Regulatory Requirements

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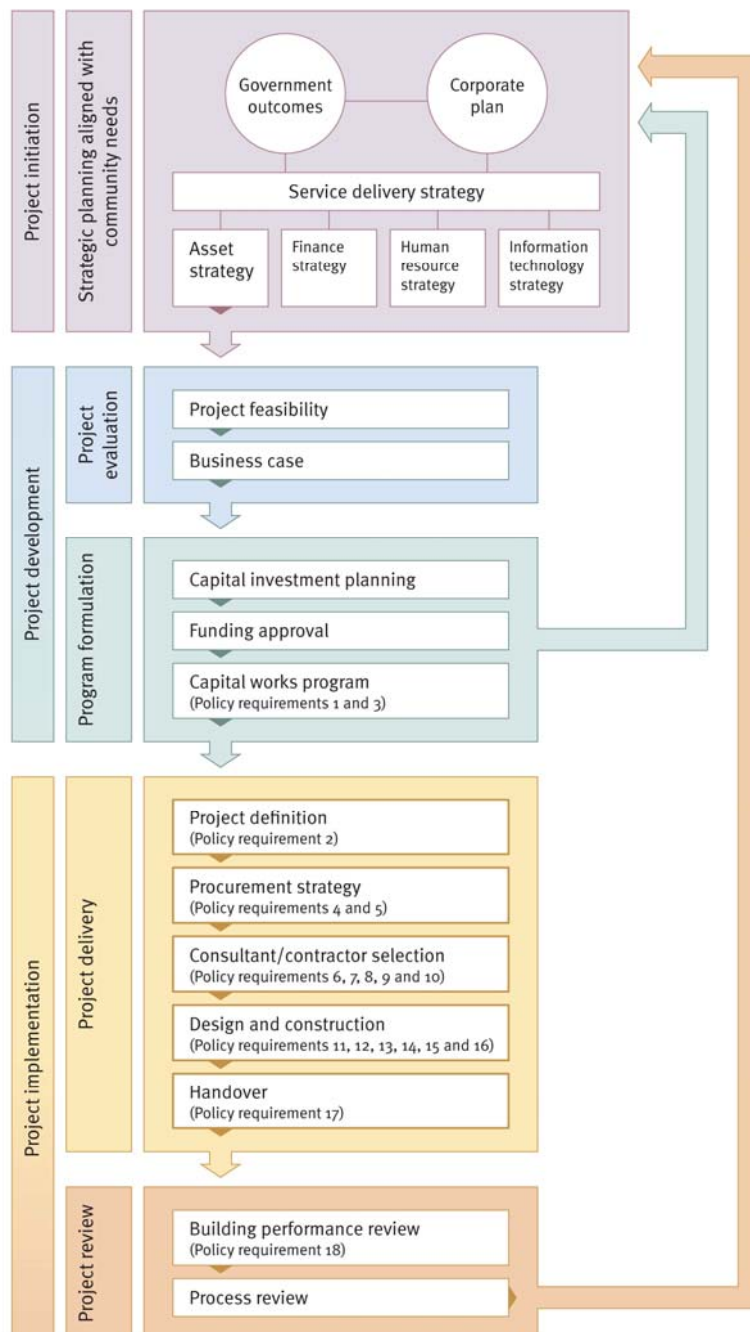
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1.0 Introduction

This guideline forms part of the *Capital Works Management Framework* (CWMF). The CWMF is the Queensland Government’s key policy for managing risks in the planning and delivery of building projects.

The guideline has implications for the project evaluation, program formulation and project review phases of the capital works management process, but most significantly for the project delivery phase. The capital works management process (illustrated in Diagram 1) is a generic process that assists departments in adopting a strategic asset management approach to building projects.

Diagram 1: Capital works management process



1.1 Objective

The objective of this guideline is to facilitate consistency in, and provide guidance to government departments regarding, their approach to managing the compliance of their building projects with the applicable building regulatory requirements.

1.2 Qualifications/competencies for ensuring regulatory compliance

In accordance with policy requirement 12.b of the *Capital Works Management Framework*, assessment of building work for compliance with building regulatory requirements must be undertaken by an 'appropriately qualified building surveyor' (i.e. by an individual who possesses building surveying qualifications and experience commensurate with the complexity of the project).

Particular competencies required for the identification of building regulatory requirements applicable to government building projects and the establishment of the appropriate processes to ensure compliance, include:

- knowledge of the provisions of the *Sustainable Planning Act 2009* (Qld), including an understanding of its provisions relating to local/state government planning instruments
- technical knowledge of the provisions of the *Building Act 1975* (Qld), the *Building Regulation 2006* (Qld), the *Building Code of Australia* and the *Queensland Development Code*
- technical knowledge of the provisions of the *Plumbing and Drainage Act 2002*
- an understanding of the key processes and activities that must be performed in delivering a government building project and their relationship with the building regulatory framework
- knowledge of information management/document control processes.

Where appropriate human resources (i.e. individuals with the qualifications/competencies as outlined above) are not available within a department, they will need to be outsourced. The Department of Housing and Public Works can provide assistance in this regard.

1.3 Scope

This guideline describes Queensland's building regulatory framework as it applies to Queensland Government building projects, and outlines the approach to be used by government departments in complying with the requirements of this framework.

This guideline applies to all government building projects, as that term is defined in the CWMF policy document.

1.4 Terminology

Much of the terminology associated with building regulatory requirements/ compliance is defined by legislation. Explanations of the key terms (those defined by legislation and those that are not) used in this guideline are provided in [Attachment 1](#).

2.0 Queensland's building regulatory framework and the State

The regulatory framework relating to building work in Queensland comprises inter-related legislation, codes and Australian Standards, all of which are binding upon the State.

The *Sustainable Planning Act 2009* (SPA) is the principal legislation governing development in Queensland. Development is defined in the SPA as including five activities, one of which is 'building work'. The SPA's subordinate legislation, the *Sustainable Planning Regulation 2009*, includes a schedule of 'referral agencies' (i.e. authorities which must be consulted with respect to certain types/aspects of development), and establishes their respective jurisdictions.

The Sustainable Planning Regulation classifies building work carried out by, or on behalf of, the State as self-assessable¹. Self-assessable development does not need a development permit in order to commence (i.e. it is not subject to the development approval process set out in the SPA), however it must comply with 'applicable codes'. For building work, the principal applicable codes are:

- *Building Act 1975*
- *Building Regulation 2006*
- *Building Code of Australia*
- *Queensland Development Code*
- Australian Standards referenced in any of the above.

The SPA also allows for state and local government planning instruments to vary the nature of assessment required for certain types of development (see [section 4.1](#)).

Diagram 2 (on the following page) depicts the relationship between the various components of Queensland's building regulatory framework.

The *Building Act 1975* governs all building work (as it defines that term) in Queensland and is primarily an administrative tool (i.e. it contains no technical regulations). The *Building Act* authorises the making of regulations about the erection of buildings and other structures, and provides for building certification and the accreditation and licensing of building certifiers.

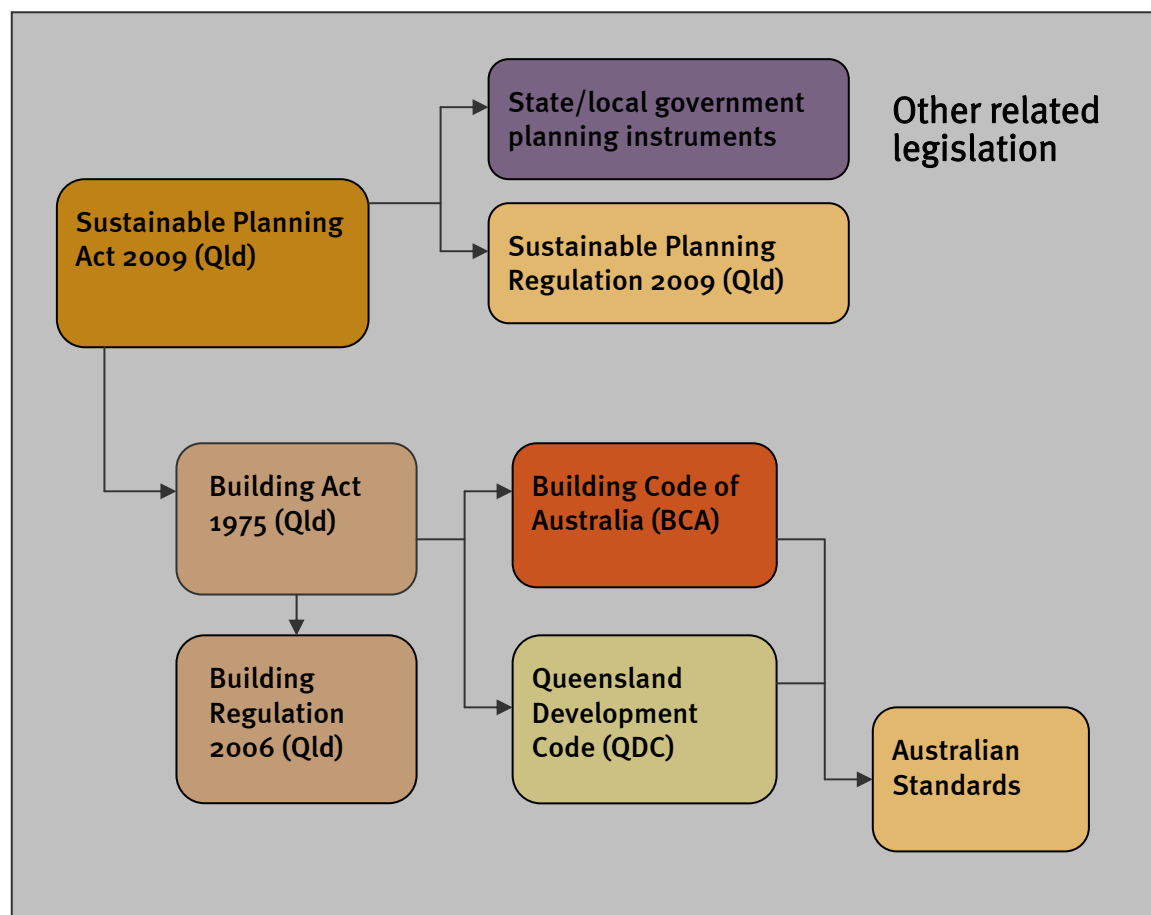
The *Building Regulation 2006* contains the detail that gives effect to the provisions of the *Building Act*. The *Building Regulation*, among other things, defines 'competent persons' and their functions, outlines the inspection regime for building work, includes general provisions about certificates, and prescribes fees payable under the *Building Act*.

The *Building Code of Australia* (BCA) is produced and maintained by the Australian Building Codes Board on behalf of the Australian Government and each state and territory government. The BCA is a set of technical provisions for the design and construction of buildings and other structures throughout Australia (and is called up as such by the *Building Act*).

¹ Responsibility for self-assessment of government building projects rests with the 'assessing authority', which the SPA defines as the chief executive of the department sponsoring the project.

The *Queensland Development Code* (QDC), administered by the Department of Infrastructure and Planning, is a consolidation of Queensland-specific building standards. The QDC covers Queensland matters outside the scope of, and in addition to, the BCA, such as requirements for private health facilities. Where a conflict arises, the QDC takes precedence over the BCA, to the extent of the inconsistency.

Diagram 2: The building regulatory framework in Queensland



2.1 Other related legislation

In addition to the principal applicable codes discussed in the previous section, there are various other Acts (refer to [Attachment 2](#) for a list) that may impact the planning and delivery of government building projects.

2.1.1 Legislation regarding building accessibility

Current Australian and Queensland legislation – in particular the *Disability Discrimination Act 1992* (Cwlth), the *Anti-Discrimination Act 1991* (Qld), and the *Disability Services Act 2006* (Qld) – places an onus on building owners, managers and occupiers to ensure that they treat people with a disability no less fairly than they treat others. With few exceptions, this legislation obliges the State to ensure that:

- new buildings are designed to be accessible for people with a disability

- existing buildings subject to capital works improvements (e.g. to major refurbishments or maintenance works) are upgraded to comply with access provisions for persons with disabilities.

Requirements regarding building accessibility are prescribed in the BCA, which states that new building work is to be designed to the *Australian Standard AS1428.1:2001: Design for Access and Mobility Part 1* and *Australian/New Zealand Standard AS/NZS 1428.4:2002: Design for Access and Mobility Part 4*. The BCA also requires that any associated carparking for people with disabilities is to be designed to the *Australian/New Zealand Standard AS/NZS 2890.1:2004: Parking Facilities Part 1*. These standards are not limited in their coverage to people with mobility impairment, but cover a wide range of disabilities, including sight and hearing impairment.

Changes to the Australian Standards for building accessibility are likely to occur in future. Departments are encouraged, therefore, to consider briefing their service providers to use the enhanced provisions of *Australian Standard AS1428.2:1992: Design for Access and Mobility Part 2* on the basis that any changes to the standards are likely to be largely equivalent to the current Part 2.

For further information, refer to the CWMF policy advice note, *Building Accessibility: Roles and Responsibilities of Queensland Government Departments*.

3.0 Roles and responsibilities

The roles and responsibilities of the various parties for ensuring that government building projects comply with building regulatory requirements are as follows.

Directors-General

As the assessing authority under the SPA, the chief executive (Director-General) of the department sponsoring the building project is responsible² for ensuring that:

- the building project complies with the relevant building regulatory requirements
- compliance can be demonstrated through adequate project documentation.

Departments (as project sponsors)

Queensland Government departments are responsible for ensuring their activities with regard to building regulatory compliance are conducted in accordance with prevailing legislation and this guideline.

Where departments outsource aspects of the planning and delivery of their building projects, the roles with regard to building regulatory compliance must be articulated in all agreements between the department and their service providers (whether private or public sector).

² Directors-General address these obligations through a delegation of authority to relevant officers within their departments or by written agreement with contracted service providers.

Referral (concurrence and advice) agencies

With respect to government building projects, referral agencies are responsible for assessing/providing advice regarding certain building work, as referred to them by appropriately qualified building surveyors (e.g. Queensland Fire and Rescue Service provides advice regarding special fire services).

Department of Housing and Public Works

Among other things, the Department of Housing and Public Works provides:

- advice to departments regarding development/implementation of legislative compliance strategies for their building projects
- land use/planning and building regulatory assessment services, and advice regarding compliance with applicable codes, for any building project which has government involvement
- a central repository for the storage of building regulatory compliance documents for government building projects.

4.0 Identifying relevant building regulatory requirements

The State must comply with the building regulatory framework throughout the building asset life cycle. Departments must consider relevant state and local government planning instruments, and construct and maintain their building assets to at least the minimum standards prescribed in applicable codes. Identification of the building regulatory requirements applicable to a government building project must be undertaken as part of the project evaluation phase of the capital works management process.

The building regulatory requirements applicable to the planning and delivery of government building projects can be separated into two main categories/groups:

- the requirements of state and local government planning instruments (mostly applicable to new building projects but can also impact major refurbishments)
- the requirements of the 'applicable codes' listed in [section 2.0](#) (applicable to new building projects and extensions to/refurbishments of existing buildings).

4.1 Identifying the requirements of state/local government planning instruments

The SPA allows for state and local government planning instruments to vary the nature of assessment required for certain types of development. Core matters that such instruments may address include:

- land use and development (e.g. location of an industrial precinct relative to a residential area; constraints on population growth in an area)
- provision of infrastructure (e.g. extent and location of proposed transport infrastructure)
- treatment of valuable resources (e.g. wildlife habitats; scenic vistas; places of cultural heritage significance; water, mineral or forestry resources).

In order to meet their obligations to comply with the building regulatory framework, departments must consider the applicable state/local government planning instruments and consult with the relevant government stakeholders early in the planning stages of a government building project (i.e. during the project evaluation phase of the capital works management process). Departments must also document this process, and its outcomes, and make this documentation available to relevant officers for inclusion in subsequent processes (i.e. in development of the building design and in the assessment of the building against applicable codes).

The Department of Housing and Public Works can assist departments with the resolution of issues associated with the compliance of government building projects with state/local government planning instruments.

4.1.1 Ministerial designations of land for community infrastructure

In accordance with the SPA, a State Government Minister (usually the Minister of the department sponsoring the building project) may designate a parcel of land to be used for the provision of community infrastructure.

The term 'community infrastructure' is defined in the Sustainable Planning Regulation schedule 2 and includes a broad range of facilities, from educational facilities, hospitals and correctional facilities, to aeronautical facilities, public jetties, wharves, and waste management plants. The term also includes facilities intended primarily to accommodate government functions.

A Ministerial designation of land may only occur if the Minister is satisfied the relevant infrastructure will do one of the following:

- facilitate environmental protection/ecological sustainability
- facilitate efficient allocation of resources
- satisfy Government commitments/obligations to supply community infrastructure
- satisfy community expectations.

The Minister must also be satisfied that there has been adequate environmental assessment with respect to the proposed development, adequate public consultation, and adequate account of issues raised in the public consultation. In order to meet these requirements for adequate environmental assessment and public consultation, departments should carry out their assessment of the proposed development in accordance with the *Guidelines about Environmental Assessment and Public Consultation Procedures for Designating Land for Community Infrastructure* (administered by the Department of State Development, Infrastructure and Planning and available on the department's website www.dlgp.qld.gov.au).

All Ministerial designations must be:

- published in the Queensland Government Gazette
- noted on the relevant local government planning instrument
- listed on the Community Infrastructure Designation Database administered by the Department of Infrastructure and Planning.

Building work on a site that is the subject of a Ministerial designation need not meet the requirements of the relevant local government planning scheme with respect to use of the land. However, the building work and plumbing/drainage work must comply with all applicable codes. Building work may be subject to State requirements if made assessable under the Sustainable Planning Regulation (Section 203 of the SPA only exempts the development from planning scheme and reconfiguration requirements).

4.1.2 Public housing

In accordance with the SPA, development for public housing is exempt development under a local planning scheme or a temporary local government planning instrument (i.e. it need not meet the requirements of the relevant local government planning instrument with respect to use of the land). However, departments are required to consult with the relevant local government regarding proposed public housing, and to keep records of such consultation. Public housing development may still be subject to State requirements if made assessable under the Sustainable Planning Regulation.

Although exempt from compliance with local government planning instruments, development for public housing must comply with relevant provisions of applicable codes, including the QDC siting provisions (i.e. requirements for the positioning of a structure on a lot) for detached housing called up by the *Building Act*. With respect to the siting provisions, the *Sustainable Planning Regulation* gives the relevant local government jurisdiction as a concurrence agency. During consultation with the relevant local government regarding proposed public housing, departments should therefore raise any issues regarding non-compliance with the QDC siting provisions.

4.2 Identifying the requirements of applicable codes

As noted in [section 2.0](#), building work carried out by, or on behalf of, the State is self-assessable. To achieve a satisfactory standard of self-assessment in accordance with all applicable codes (and thereby comply with the SPA), a department must:

- identify, at an early stage, which provisions of the building regulatory framework apply to their building project
- assess the building work for compliance with these provisions³
- appropriately document the assessment process
- deposit all records of the assessment process with the Department of Housing and Public Works.

For non-government building projects, a certificate of classification (issued by an appropriately qualified building certifier, in accordance with the *Building Act*) is evidence of the building work's compliance with the relevant provisions of applicable codes. However,

³ The assessment must be undertaken by an appropriately qualified building surveyor. The assessor must provide the department with appropriate documentation of his/her assessment and the reasoning behind his/her determination that the building work has complied with applicable codes.

the provisions of the *Building Act* regarding the issuance of certificates only apply to building work subject to a building development approval (i.e. to assessable development).

For government building projects (i.e. self-assessable development), the State's proof of compliance with applicable codes is its record of the assessment process (refer to [section 5.2.2](#) for an outline of the process of assessment against applicable codes). As such, it is essential that, at each stage of the capital works management process, all records of compliance assessment of building work (including 'evidence of suitability' documentation as described in [Attachment 1](#)) are retained and appropriately stored.

4.2.1 Requirements relating to existing buildings

Departments should be aware that the definition of 'building work' under the SPA includes repairs or alterations to existing buildings. As such, major refurbishments or maintenance of government buildings may be required to comply with applicable codes as currently in force.

As with new building projects, departments must, prior to the commencement of work on existing buildings, identify:

- which provisions of the building regulatory framework (if any) apply to the work to alter/maintain an existing building (and whether the entire building, or only the part of the building on which work is being undertaken, must comply with these provisions)
- assess the building work for compliance with these provisions⁴
- appropriately document the assessment process and deposit all such records with the Department of Housing and Public Works.

Alterations to existing buildings

In accordance with the *Building Act*, any alterations to existing buildings (from minor works through to complete refurbishment) must:

- be structurally sound and capable of withstanding likely loadings
- reasonably provide for the safety of persons in the building if there is a fire (e.g. provide suitable exits)
- reasonably provide for the prevention and suppression of fire
- reasonably provide for the prevention of the spread of fire.

A determination that a structure meets any/all of the above criteria is made at the discretion of an appropriately qualified building surveyor. Departments must therefore ensure that they retain adequate records of the building surveyor's determination and his/her reasons for the determination.

If the building surveyor is satisfied that the alterations meet the above criteria, the work may be undertaken on the basis of earlier building assessment provisions (i.e. provisions of applicable codes as in force when the building or section/component of the building was first

⁴ The assessment must be undertaken by an appropriately qualified building surveyor. The assessor must provide the department with appropriate documentation of his/her assessment and the reasoning behind his/her determination that the building work has complied with applicable codes.

constructed). Where the alterations represent more than half the total volume of the existing building, the work (or the entire building) may be required to comply with applicable codes as currently in force.

Maintenance of existing buildings

When undertaking maintenance activities, departments should investigate/consider requirements to upgrade existing components of a building to meet the latest standards (e.g. upgrading components to meet the latest energy efficiency standards of the BCA; upgrading to meet the latest building accessibility requirements).

Further, not all maintenance can be carried out without regard to applicable codes. Departments should check whether self assessment is required before carrying out maintenance activities. The *Building Regulation* refers to building work that includes 'repairs, maintenance or alterations' that:

- do not affect a structural component of the building
- do not affect the building's fire safety system
- do not change the building or structure's floor area or height
- only affect a minor structural component of the building, and do not affect more than 20% of structural components of the same type
- only affect a minor component of the building's fire safety system, and do not affect more than 20% of the system's components of the same type.

This type of maintenance is self assessable development. Maintenance-type work that falls within this definition must be assessed against applicable codes.

The following is an example of a situation where maintenance-type work (as defined above) would need to be assessed for compliance with applicable codes.

Scheduled maintenance of an existing school toilet block includes the replacement of cracked/old wash basins and the repainting or repair of the floor finish. In this instance, consideration must be given to:

- any changes in the number of students using the toilet block since it was constructed (additional toilets and/or basins may be required)
- requirements (of applicable codes) for impervious floor finishes (the new/repainted floor finish may need to be assessed against applicable codes)
- provision of equitable access (refer to [section 2.1.1](#) for information regarding building accessibility requirements)
- requirements (of applicable codes) for plumbing and drainage work.

5.0 Approach to be used by government departments

The risks associated with legislative compliance during the planning/delivery of government building projects are complex and arise from laws and other statutory instruments administered by the federal, state and local tiers of government. This section outlines the approach to be used by departments to ensure the compliance of their building projects with relevant regulatory requirements (and thus manage the associated risks involved).

Having implemented this approach, departments will:

- possess a systematic and well-documented process for ensuring the compliance of their buildings with relevant building regulatory requirements
- minimise potential risks associated with legal proceedings relating to their buildings
- establish, for each of their buildings, a portfolio (i.e. a structured set) of documents verifying the building's compliance with the building regulatory framework
- enable swift and accurate retrieval of all records of the compliance assessment process for audit purposes and for effective management-in-use of their buildings.

The State has a statutory obligation to undertake self-assessment of its building projects and associated works, and places the responsibility for compliance upon each department's Chief Executive Officer. In discharging this responsibility, it is important that departments demonstrate industry leadership and employ best practices when undertaking building assessment and compliance activities. Wherever possible, the building code assessment process used by departments should comply with both the spirit and intent of the building legislation. Examples of areas where the State can demonstrate leadership include, but are not limited to, environmental sustainability, accessibility, maintainability, wayfinding, building re-use, and structural design appropriate to providing safe shelter for the community in times of natural disasters.

5.1 Policy requirements

To ensure a consistent and effective approach to the compliance of government building projects with all relevant regulatory requirements, policy requirements 11 and 12 of the CWMF require, respectively:

- that departments develop and implement a legislative compliance strategy for each government building project commensurate with the level of risk and cost of the project
- that departments ensure that:
 - all government building projects are assessed for compliance against the applicable legislative instruments
 - assessments are carried out by appropriately qualified building surveyors
 - building regulation assessment records are stored with the Department of Housing and Public Works in a central location with access available to all departments.

5.2 Process for achieving compliance with regulatory requirements

In accordance with CWMF policy requirements 11 and 12, departments should use the following three-step process (as illustrated in [Diagram 3](#)) for ensuring the compliance of their buildings with regulatory requirements:

- develop a legislative compliance strategy for the project (must include identification of applicable state/local government planning instruments and consultation with relevant government stakeholders)
- assess the project against applicable codes (must be undertaken by an appropriately qualified building surveyor and include inspections of building work throughout construction)

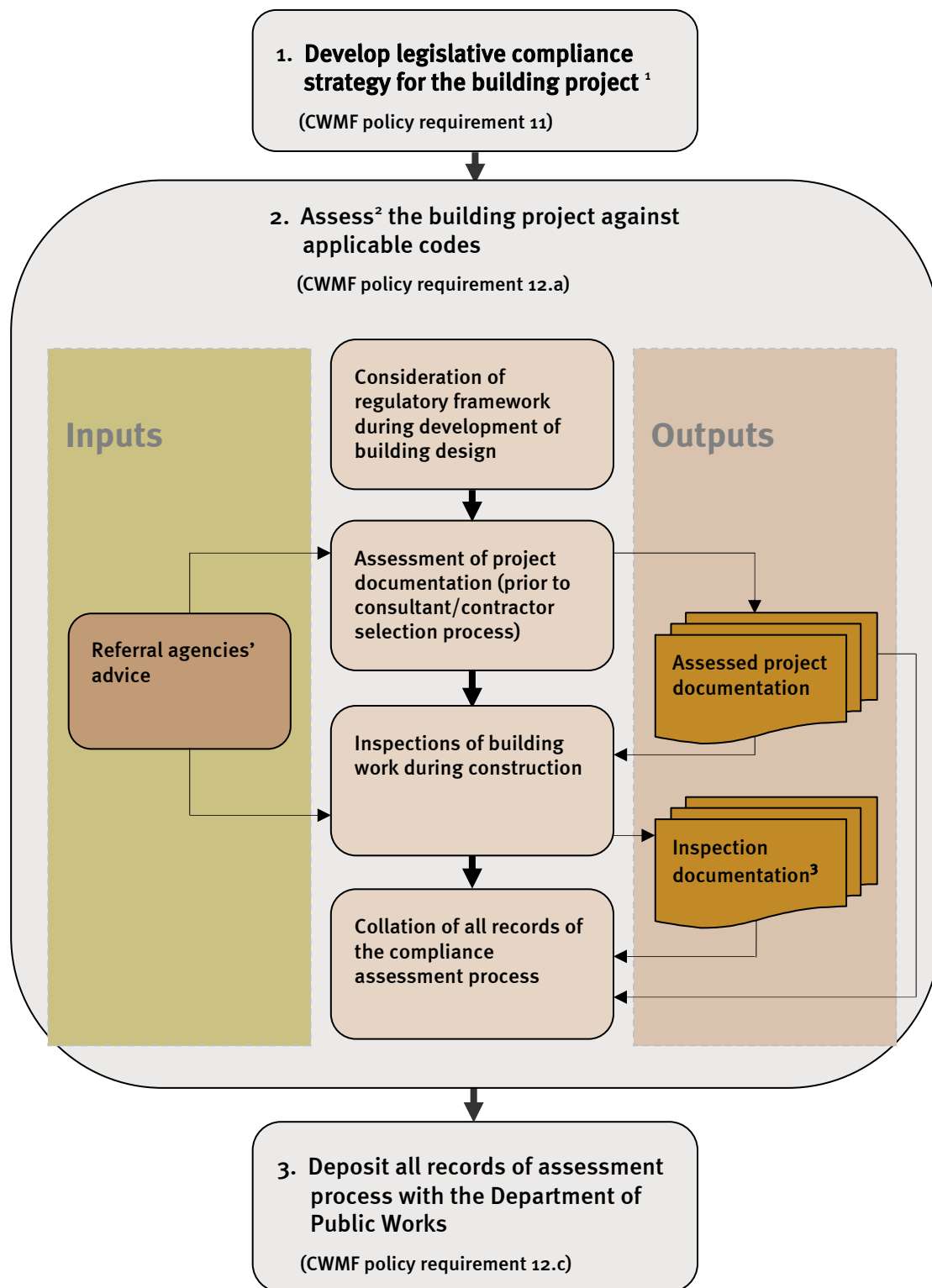
- deposit all records of the assessment process with the Department of Housing and Public Works.

5.2.1 Legislative compliance strategy

A 'legislative compliance strategy' is a document that identifies all building regulatory requirements that apply to a particular government building project, and outlines a process to ensure compliance with these requirements. The strategy must be developed during the project evaluation phase of the capital works management process, as an integral component of the project feasibility study.

It is particularly important that departments identify the requirements of state/local government planning instruments (and begin consultation with the relevant government stakeholders) early in the planning stages of a government building project. Ideally, consultation with stakeholders regarding the impact of planning instruments should be completed prior to development of the legislative compliance strategy, as the consultation outcomes will impact available compliance options.

Diagram 3: Process for achieving compliance with building regulatory requirements



¹ Includes identification of applicable state/local government planning instruments and consultation with relevant government stakeholders

² In accordance with CWMF policy requirement 12.b, assessments must be carried out by appropriately qualified building surveyors.

³ Includes all 'evidence of suitability', records of consultation with referral agencies and other government stakeholders, and formal written confirmation of the building's compliance with applicable codes.

A legislative compliance strategy should include the following:

- scope of the project
- background information to the project, including:
 - details/confirmation of land ownership/tenure and any encumbrances on the land (e.g. easements; statutory covenants; estates or interests)
 - physical properties of the site that could impact the positioning and design of the building (e.g. historical flood levels for the site; location of the site in a bushfire zone; potential for landslip or subsidence)⁵
 - confirmation of essential services to the site (e.g. sewerage, water, electricity)
- applicable provisions of the building regulatory framework (i.e. requirements of state/local government planning instruments and applicable codes)
- outcomes of consultation with government stakeholders regarding the impact of state/local government planning instruments
- options for compliance, including:
 - delegation of responsibility for implementing the compliance process (refer to [section 5.3](#) for available options)
 - level of qualifications/experience required of officer(s) implementing the compliance process
 - risk analysis (including risk mitigation strategies) for each option
- preferred compliance option (and justification for same).

5.2.2 Assessment against applicable codes

An assessment of building work against applicable codes will include:

- consideration of the building regulatory framework (including requirements of state/local government planning instruments) during development of the building design
- collection/collation of evidence of the building design's compliance with applicable codes (e.g. design certificates, drawings, specifications)
- assessment of all tender-stage project documentation against provisions of applicable codes (in line with sound risk-management practice, construction should not commence until this process is completed, although the building regulatory framework allows the State flexibility in this regard)
- coordination/compliance with the advice of referral agencies, as nominated in the *Sustainable Planning Regulation* coordination/compliance with the advice of other

⁵ Departments should investigate the physical properties of the proposed site in the project definition stage of the capital works management process (at the latest) to ensure the land is suitable for its intended purpose, and make the records/results of such investigations available to relevant officers for inclusion in subsequent processes (e.g. in design development and compliance assessment). As a guide, enquiries should be made of the relevant authorities in relation to: water tables and historical flood levels for the site; coastal erosion, the presence of disused mines, and other factors that may cause landslip/subsidence; the site's location in a cyclone or bushfire prone area; potential soil contamination; and the presence of unexploded ordnance.

authorities responsible for certifying various aspects of the building work and plumbing and drainage work (e.g. advice regarding drainage on the site from the relevant local government; advice regarding storage of radioactive waste from Queensland Health; advice regarding a helipad on top of a building from Air Services Australia)

- progressive inspections (including inspections by referral agencies and other relevant authorities), in accordance with the *Building Regulation 2006*, of the building work throughout construction
- collection/collation of all inspection records (including clearances from referral agencies and other relevant authorities)
- collection/collation of 'evidence of suitability' of the materials and processes used during construction
- formal written confirmation of the building's compliance with applicable codes.

Matters considered during assessment of project documentation

During an assessment of project documentation, the following matters should be addressed, in line with the requirements of the BCA and the QDC:

- **administrative and regulatory provisions of applicable codes**
Project documentation must conform with provisions of applicable codes regarding building classification/use, water supply, plumbing and drainage, health regulations etc.
- **structural adequacy**
The building must be able to withstand the combination of loads and other actions (e.g. wind action, earthquake action) to which it may be reasonably subjected.
- **fire resistance**
The building must incorporate appropriate fire resistant materials and be structurally sound, given its size, use and location.
- **access and egress**
The building must provide safe, equitable access for persons with disabilities, as well as adequate provision for escape in case of fire/emergency.
- **fire services**
The building must contain services for fire fighting/fire control that are suitable for its size, use and location (may require an assessment by the Queensland Fire and Rescue Service).
- **health and amenity**
The building must meet minimum requirements with respect to weatherproofing, sanitary facilities, light and ventilation.
- **energy efficiency**
The building, including its services, must be capable of using energy efficiently, thus contributing to a reduction in greenhouse gas generation (generally involves consideration of insulation, glazing, ventilation, lighting and air conditioning).
- **sustainability**
The building must comply with the water conservation and energy efficiency provisions of the QDC.

- **workplace health and safety**
Buildings to be used as workplaces must be designed to meet relevant workplace health and safety standards as set down in the QDC.
- **alternative building solutions**
Any alternative building solutions must meet the performance requirements set out in the BCA. Alternative building solutions (and any associated limitations on building functionality) should be noted in the formal written confirmation of the building's compliance with applicable codes.

Inspections of building work during construction

Inspections must be undertaken by an appropriately qualified building surveyor, or his/her nominee (i.e. by an individual that the building surveyor declares, in accordance with the *Building Regulation*, to be a 'competent person'). Inspection records and any other evidence of the suitability of the building work should be provided by the building industry contractor (i.e. the head contractor) and retained by the department for eventual deposit with the Department of Housing and Public Works.

Inspections must be conducted within the following parameters (which are equivalent to the provisions of the *Building Regulation* with respect to the inspection of assessable building work):

- At completion of each stage of the building work (as indicated in the assessed project documentation), the building industry contractor must notify the department's nominated officer (e.g. the superintendent under the building contract) that the work is ready for inspection.
- The department's nominated officer must ensure that, at a time agreed by the contractor, the stage is inspected by an appropriately qualified building surveyor or competent person.
- The contractor must notify referral agencies and other authorities that relevant aspects of the work (e.g. special fire services; plumbing and drainage) are ready for inspection.
- At completion of the building work, the contractor must provide all inspection records and 'evidence of suitability' to the department's nominated officer.

Departments must ensure that invitation/tender documents for building industry consultants/contractors clearly assign responsibility for each aspect of the inspection process⁶, from responsibility for conducting inspections through to provision of inspection records and 'evidence of suitability' documentation to the department sponsoring the project.

Inspections must be conducted in accordance with any guidelines that may be released, from time to time, by the Director-General of the Department of Infrastructure and Planning.

⁶ The invitation documents for a commission underpin the contract between the department and the successful building industry consultant. Equally, the tender documents for a project underpin the contract that will be established between the department and the successful building industry contractor.

5.2.3 Deposit of all records of assessment process with the Department of Housing and Public Works

For government building projects, the State's proof of compliance with applicable codes is its record of the compliance assessment process. All documentation regarding the compliance assessment (which includes inspections of the work throughout construction) of government building projects must be provided to the Department of Housing and Public Works for storage as a public record.

To ensure swift and accurate future retrieval of their records, departments should collate all documents relating to a single project before depositing these records, as a single portfolio (i.e. as a structured set of documents), with the Department of Housing and Public Works. Departments may also choose to keep a copy of this portfolio for their own records.

In addition to serving as evidence of the State's compliance with applicable codes, the deposit of all records of the assessment process ensures that this information is available for use in the ongoing management of the building. Historical records are often valuable as they can assist in the planning and compliance assessment of any later works (e.g. when planning to refurbish an existing building for which, at the time of its construction, an alternative building solution was adopted, compliance assessment records can be consulted regarding certain design and use arrangements).

Refer to [section 6.0](#) for further information regarding documentation of the compliance assessment process.

5.3 Implementing the process

As outlined in [section 5.2](#), the process for achieving compliance with building regulatory requirements comprises three stages:

- development of a legislative compliance strategy for the project
- assessment of the project against applicable codes
- deposit of all records of the assessment process with the Department of Housing and Public Works.

The first stage – development of a compliance strategy – should be undertaken by departmental staff with the competencies outlined in [section 1.2](#) as part of the project evaluation phase of the capital works management process.

Implementation of the second stage – assessment of the project against applicable codes – is addressed in [section 5.3.1](#).

The final stage of the process for achieving compliance with the building regulatory framework – deposit of all records with the Department of Housing and Public Works – should be undertaken by departmental staff with an appropriate level of knowledge of, and experience with, information management and document control processes.

5.3.1 Implementing the assessment component of the process

Departments may choose to implement the assessment of the project against applicable codes in one of three ways:

- by utilising the building surveying services of the Department of Housing and Public Works
- where the department employs appropriately qualified building surveyors, by utilising these employees to manage/execute the process
- by engaging an appropriately qualified building surveyor as a consultant⁷ (refer to [section 5.3.2](#) for matters departments should consider when assessing the suitability of this option).

Departments that opt to engage their own staff or a consultant to manage/execute the assessment process must ensure that these individuals possess building surveying qualifications and experience commensurate with the complexity of the project (this is, in essence, what is meant by ‘employing/engaging an appropriately qualified building surveyor’). In general terms, an individual qualified (by virtue of an accreditation by an accreditation standards body) as:

- a **building surveyor** may be engaged to assess all classes of buildings
- an **assistant building surveyor** may:
 - without the supervision of a building surveyor, assess buildings of no more than three storeys and a total floor area no more than 2,000m²
 - under the supervision of a building surveyor, help in assessing and inspecting all classes of buildings and structures
- a **building surveying technician** may, under the supervision of a building surveyor or assistant building surveyor, help in assessing and inspecting buildings of no more than 2 storeys and a total floor area no more than 500m².

5.3.2 Matters for consideration when engaging a building surveyor as a consultant

Contractual arrangements that could lead to conflicts of interest

It is preferable for departments to directly engage their preferred building surveying consultant. Engagement of this consultant by the head contractor (who is engaged by the State) can potentially impose conflicting obligations on the consultant. For example, a building surveyor who is contractually bound to the head contractor would be placed in a very difficult position if he/she needed to advise the State to take enforcement action against that contractor. If the department does not directly engage the consultant, the department

⁷ In accordance with policy requirement 6.a of the *Capital Works Management Framework*, building consultancies expected to exceed \$30,000 in value (or consultancies with a service risk rating of 3 or 4 where the fee is below \$30,000) must be drawn from the register of prequalified consultants (i.e. the Prequalification (PQC) System database) managed by the Department of Housing and Public Works.

should ensure the consultant's functions, under the contract with the head contractor, are limited to the building assessment process.

Professional indemnity and public liability insurance

Departments should ensure their preferred building surveying consultant possesses, as a contractual condition, adequate professional indemnity and public liability insurance. The requisite level of insurance should be identified as a risk mitigation strategy within the legislative compliance strategy. Departments should also ensure the requirement for this insurance is included as a contractual condition where the head contractor engages the consultant.

As the whole-of-Government Prequalification (PQC) System for building industry consultants includes a register of prequalified building surveyors/certifiers, it is expected that building surveying consultants for government building projects would generally be sourced through the PQC System. Prequalified building surveying consultants will already possess, as a condition of their prequalification, a minimum level of professional indemnity and public liability insurance, and may be required to purchase further professional indemnity insurance commensurate with the service risk rating of any commission they undertake. The CWMF policy advice note, *Professional Indemnity and Public Liability Insurances for Building Industry Consultants*, outlines departments' obligations with respect to the determination of an appropriate level of professional indemnity insurance.

Importance of ensuring consultants understand the compliance assessment process for government building projects

Departments should be aware that building surveyors that usually work in the private sector may not be familiar with the compliance assessment process as it applies to the State. If a department's preferred building surveying consultant was to approach the compliance assessment of a government building project as if the work was assessable development, there is a risk that elements of the assessment process would be duplicated, resulting in project delays and additional cost. For example, a consultant may, in accordance with the legislative requirements for assessable development, begin the process of obtaining approvals/clearances from the relevant local government without realising that the State has already come to an agreement with the local government on such issues.

It is therefore critical that departments provide building surveying consultants with a comprehensive brief regarding the services required of them and the way in which these services should be delivered. This need to provide clear instruction to non-government (i.e. consultant) building surveyors should be identified as a risk mitigation strategy within the legislative compliance strategy for the project.

Importance of obtaining records of discretionary decisions regarding compliance

Under the *Building Act*, an appropriately qualified building surveyor may make a discretionary decision regarding the compliance of building work with the BCA, where the BCA allows for such a decision. For example, the BCA requires that the height of a room/space must be 'suitable' for its intended use. In this case, an appropriately qualified building surveyor must use his/her discretion to determine whether the height of the room/space is 'suitable'.

Records of discretionary decisions made by the building surveying consultant form part of the State's record of the compliance assessment process. Departments must therefore ensure that they obtain adequate records of the consultant's determinations and his/her reasons for same.

5.4 Evidence of compliance

Compliance with the building regulatory framework is demonstrated when:

- certified documents show that:
 - the building work complies with all relevant legislation, planning instruments, regulations and codes
 - inspections of the building work during construction have been satisfactory
- post-construction documents of the final constructed form of the building work have been produced
- all other relevant project documentation has been produced (e.g. specifications, commissioning reports/certificates, 'evidence of suitability', clearances from referral agencies and other relevant authorities)
- all drawings and documents are appropriately stored and retained for the minimum period prescribed by the SPA (i.e. for a class 10 building, documents must be retained for 10 years; for all other classes of building, documents must be retained until the building is demolished or removed)
- management and use of the building is in accordance with its classification.

Upon satisfying each of the above criteria, departments should ensure they obtain (from their building surveyor) formal written confirmation of the building's compliance with applicable codes. As a minimum, this written confirmation should:

- state the building's classification (e.g. class 5 office building used for professional/commercial purposes), having regard to the use for which it was designed, built or adapted
- where the building has multiple classifications, specify the part of the building to which each classification relates
- list any restrictions on the use or occupation of the building
- if the development uses an alternative building solution, list all alternative solution requirements (i.e. requirements with respect to materials, building systems, methods of building, procedures, specifications)
- be signed by the building surveyor.

The original copy of this document remains the property of the Director-General of the department sponsoring the building work. For buildings that have been refurbished or extended, the formal written confirmation would apply only to that part of the building affected by these works.

5.5 Fees and charges

Fees and charges apply for most services involving assessment/inspection by referral agencies and other relevant authorities. For example, fees and charges are generally payable for:

- assessment of the building's fire services by the Queensland Fire and Rescue Service
- connection to the water supply by the local government
- inspection of the building's sanitary systems by the local government.

However, departments should be aware that the State is not always required to pay fees and charges. For example, public housing developments and developments under a Ministerial designation are exempted by the SPA from the payment of infrastructure charges. The Department of Housing and Public Works can provide advice regarding fees and charges payable by the State.

Schedules of standard fees and charges are available from the relevant local government/agency. Departments should make an appropriate allocation for fees and charges in their project budgets.

6.0 Documentation requirements

For government building projects (i.e. self-assessable development), the State's proof of compliance with the building regulatory framework is its record of the compliance process outlined in [section 5.2](#).

Departments should be aware that all documents created in relation to a government building project are subject to legislative provisions applicable to government documents more generally (e.g. provisions regarding the retention, storage and disposal of public documents under the *Public Records Act 2002* (Qld); provisions regarding public access to information under the *Right to Information Act 2009* (Qld)).

It is essential that all records of the compliance process are retained and appropriately stored, in accordance with policy requirement 12.c of the CWMF. In addition to meeting statutory and whole-of-Government policy requirements, appropriate storage of these documents will:

- facilitate prompt responses to audits and requests for information
- provide evidence of compliance with the building regulatory framework for any future legal actions (e.g. a claim for damages due to injury or death arising out of a building-related accident)
- complement leading-practice building asset management by providing building owners, building users and maintenance service providers with information relevant to building maintenance, future refurbishments, extensions and building asset disposal.

6.1 Documents to be provided to the Department of Housing and Public Works

To ensure that all documents associated with building regulation assessment are appropriately stored/easily accessible, the Department of Housing and Public Works has been authorised as the central repository for these records.

Records of the compliance assessment process are generated throughout the life of the building project. To ensure swift and accurate future retrieval of their records, departments should collate all documents relating to a single project before depositing these records with

the Department of Housing and Public Works, as a single portfolio (i.e. as a structured set of documents), prior to occupation of the building. Departments may also choose to keep a copy of this portfolio for their own records.

Documents generated prior to commencement of construction that must be lodged with the Department of Housing and Public Works include:

- design certificates
- plans and specifications
- documents supporting alternative building solutions (where applicable)
- approvals/advice from referral agencies (where applicable).

Documents generated during and post-construction that must be lodged with the Department of Housing and Public Works include:

- inspection certificates and any other records of the inspection process
- clearances from referral agencies, as nominated in the *Sustainable Planning Regulation* (if applicable)
- clearance (if applicable) from other authorities responsible for certifying various aspects of the building work and plumbing and drainage work (e.g. drainage clearance certificate from relevant local government; clearance for storage of radioactive waste from Queensland Health; clearance for a helipad on top of a building from Air Services Australia)
- ‘evidence of suitability’ of the materials and processes used during construction
- as-built plans and specifications
- commissioning certificates for building services
- formal written confirmation of the building’s compliance with applicable codes.

Safe storage of all assessment documentation is a critical risk-management action. Departments should ensure all compliance documentation is forwarded to the Department of Housing and Public Works as soon as practicable after completion of the assessment process. Ten (10) business days is the standard used in the SPA for similar actions, and is therefore a reasonable timeframe for a department to submit their documentation for storage.

The Department of Housing and Public Works can provide further information regarding the procedure for submitting building regulation assessment records (and other building records, such as those that are generated during commissioning and handover of a building) for storage.

6.2 Documents to be provided to local governments

The State’s obligation to provide documents to local government is different to the obligation of a building certifier under the *Building Act* to lodge documents with – and subsequently pay a fee to – the relevant local government. Departments should ensure that they brief their building surveying consultants accordingly.

In accordance with the *Building Act*, departments must provide the following documents to the relevant local government:

- a 1:100 scale drawing of the building, showing floor plans and elevations

- 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.

However, these documents may not need to be provided if the Minister responsible for the building work considers the provision of such information to be contrary to the public interest (e.g. providing drawings of the layout of a new prison building could pose a security risk if this information was made public).

6.3 Assessment records to be used for updating asset registers

Departments should use information gathered during the compliance assessment process to update all relevant departmental asset registers and/or systems for the storage of building information. For example, where major refurbishment of a building leads to the discovery of asbestos containing material, this information must be recorded in the registers of asbestos containing material maintained by the Department of Housing and Public Works (or by the Department of Communities in relation to public housing).

Attachment 1: Key terms

Advice agency

See 'referral agency'.

Alternative building solution

A building/building component design that meets the performance requirements of the *Building Code of Australia*, but is not one of the standard/deemed-to-satisfy solutions.

Applicable code

Defined in the *Sustainable Planning Act 2009* as a code, including a concurrence agency code, that can reasonably be identified as applying to the development in question.

For building work, the principal applicable codes are:

- *Building Act 1975*
- *Building Regulation 2006*
- *Building Code of Australia*
- *Queensland Development Code*
- Australian Standards referenced in any of the above.

Refer to [Attachment 2](#) for a list of legislation that may, depending on the type/scope of the project, also qualify as an applicable code.

Appropriately qualified building surveyor

An individual who, in accordance with policy requirement 12.b of the *Capital Works Management Framework*, possesses the necessary building surveying qualifications and experience (i.e. qualifications and experience commensurate with the complexity of the relevant project) to undertake the assessment of a government building project for compliance with applicable codes.

An appropriately qualified building surveyor will be accredited to a particular practice level, as per his/her current accreditation.

Although an appropriately qualified building surveyor may also hold a building certifier license, this is not a requirement when undertaking compliance assessment of building work by, or on behalf of, the State.

Refer to [section 5.3](#) for further information on appropriately qualified building surveyors in the context of implementing the compliance assessment process for government building projects.

Assessable development

See 'development'.

Assessment for compliance with applicable codes

Refers to the assessment of building work, including inspections during construction, to ascertain its compliance with applicable codes. Also referred to as 'the assessment process' and 'compliance assessment'.

Building certifier

An individual who is licensed under the *Building Act 1975* to perform building certifying functions (i.e. to assess building work for compliance with applicable codes and issue the relevant certificates). As a prerequisite to obtaining a building certifier licence, the applicant must hold a current accreditation as a building surveyor.

A reference to a building certifier includes a reference to a private building certifier.

Private building certifier

A building certifier whose licence has private certification endorsement. Private building certifiers may perform functions in addition to those of a building certifier, including (for those who have completed the prescribed course in issuing building development approvals) receiving and assessing building development applications. As a prerequisite to obtaining a private certification endorsement, the applicant must possess the prescribed professional indemnity insurance.

Building regulatory framework

Collective term encompassing all legislation, codes and Australian Standards that apply to/govern building work in Queensland.

Refer to [section 2.0](#) for further information.

Building regulatory requirements

Collective term referring to building owners' obligations as set out in the various Acts, codes and standards that comprise the building regulatory framework.

The building regulatory requirements applicable to the planning and delivery of government building projects can be separated into two main categories/groups:

- the requirements of state and local government planning instruments
- the requirements of applicable codes.

Refer to [section 4.0](#) for information on identifying relevant building regulatory requirements.

Building surveyor

See 'appropriately qualified building surveyor'.

Building work

Defined in the *Building Act 1975* as including:

- building, repairing, altering, underpinning (whether by vertical or lateral support), moving or demolishing a building or other structure
- excavating or filling
 - for, or incidental to, the activities mentioned above
 - that may adversely affect the stability of a building or other structure, whether on the land on which the building or other structure is situated or on adjoining land
- supporting, whether vertically or laterally, land for the activities mentioned above.

Certificate of classification

Issued by a building certifier, in accordance with the *Building Act 1975*, a certificate of classification:

- states the classification, under the *Building Code of Australia*, of a building or structure
- is evidence that the building to which it pertains complies with applicable codes.

Certificates of classification can only be issued with respect to assessable building work (i.e. generally they cannot be issued with respect to work carried out by, or on behalf of, the State).

Compliance assessment

See 'assessment for compliance with applicable codes'.

Compliance process

See 'process for achieving compliance with building regulatory requirements'.

Concurrence agency

See 'referral agency'.

Development

Defined in the *Sustainable Planning Act 2009* as:

- carrying out building work
- carrying out plumbing or drainage work
- carrying out operational work
- reconfiguring a lot
- making a material change of use to premises.

Under the *Sustainable Planning Act*, development is classified as 'exempt', 'assessable', or 'self-assessable', as follows.

Assessable development

Generally it is development that is listed in a particular schedule of the *Sustainable Planning Regulation 2009*. Assessable development must be assessed against applicable codes and assessed for its potential impact upon the environment.

A development permit is required to carry out assessable development.

Exempt development

Development other than assessable or self-assessable development, development requiring compliance assessment or prohibited development. Exempt development need not comply with applicable codes or planning instruments.

Self-assessable development

Generally it is development that is listed in a particular schedule of the *Sustainable Planning Regulation 2009*. Self-assessable development does not need a development permit in order to commence. However, it must be assessed in accordance with applicable codes.

Building work carried out by, or on behalf of, the State, a public sector entity or a local government (other than building work declared under the *Building Act 1975* to be exempt development) is self-assessable development.

Development permit

A development permit authorises, in accordance with the *Sustainable Planning Act 2009*, assessable development to occur, to the extent stated in, and subject to the conditions of, the permit.

Development application

Refers to an application, in accordance with the *Sustainable Planning Act 2009*, for development approval.

Development approval

Refers to a written notice under the *Sustainable Planning Act 2009* that approves, wholly or partially, the development applied for in a development application. A development approval may take the form of a development permit, a preliminary approval, or a combination of these two forms.

Evidence of suitability

The *Building Code of Australia* (BCA) requires that every part of a building must be constructed in an appropriate manner to achieve the requirements of the BCA, using materials that are fit for the purpose for which they are intended.

The term 'evidence of suitability' refers to a range of documents/certificates (as outlined in the BCA) that confirm that the use of a material, or the form of construction or design, meets

the requirements of BCA. Evidence of suitability of the materials and processes used during construction includes (but is not limited to) documents such as plumbing/drainage clearance certificates, engineering certification for structural inspections, termite protection system certificates, installers' statements for waterproofing of wet areas, fire door installation certificates, treated timber certificates, and glazing certificates.

Exempt development

See 'development'.

Formal written confirmation of the building's compliance with applicable codes

A formal document, provided to departments by an appropriately qualified building surveyor on completion of construction, that verifies a building's compliance with applicable codes.

At a minimum, this document should:

- state the building's classification
- where the building has multiple classifications, specify the part of the building to which each classification relates
- list any restrictions on the use or occupation of the building
- if the development uses an alternative building solution, list all alternative solution requirements
- be signed by the building surveyor.

Refer to [section 5.4](#) for further information.

Legislative compliance strategy

A document that identifies all building regulatory requirements that apply to a particular government building project, and outlines a process to ensure compliance with these requirements. The strategy must be prepared during the project evaluation phase of the capital works management process.

Refer to [section 5.2.1](#) for further information.

Prequalification (PQC) System

The whole-of-Government Prequalification (PQC) System supports the *Capital Works Management Framework* (CWMF) and the *Maintenance Management Framework* (MMF) by providing a central register of prequalified building consultants and contractors for government building projects.

Private building certifier

Refer to 'building certifier'.

Process for achieving compliance with building regulatory requirements

Mandated by the *Capital Works Management Framework*, a three-step process that departments must follow to ensure the compliance of their buildings with regulatory requirements. The process comprises:

- development of a legislative compliance strategy for the project
- assessment of the building work against applicable codes
- deposit of all records of the assessment process with the Department of Housing and Public Works.

Referral agency

Government departments or other authorities, as listed in the *Sustainable Planning Regulation 2009*, that must be consulted regarding certain types/aspects of development.

Referral agencies are required, under the *Sustainable Planning Act 2009* or other Acts, to assess certain types/aspects of development against relevant sections of applicable codes. The *Sustainable Planning Regulation 2009* establishes the jurisdictions under applicable codes of referral agencies, and further defines them as either 'advice' or 'concurrence' agencies.

Advice agency

The assessments (i.e. advice) provided by 'advice agencies' are non-binding. However, advice agencies have a right of appeal if their advice is not taken/acted upon.

The Queensland Fire and Rescue Service (QFRS) is one example of an advice agency. The QFRS has jurisdiction with respect to the fire safety management procedures under the *Fire and Rescue Service Act 1990*.

Concurrence agency

'Concurrence agencies' can, within their respective jurisdictions, require that a development meet certain conditions.

The Department of Environment and Resource Management is one example of a concurrence agency, with a jurisdiction encompassing development on a Queensland heritage place.

Self-assessable development

See 'development'.

Attachment 2: Key legislation

A list of key legislation applying to the planning and delivery of government building projects is provided below. This list is not exclusive. Refer to the Department of Housing and Public Works for periodic updates.

Aboriginal Cultural Heritage Act 2003 (Qld), and the Torres Strait Islander Cultural Heritage Act 2003 (Qld)

Establish requirements with regard to cultural heritage assessment surveys and collection of indigenous artefacts.

Anti-Discrimination Act 1991 (Qld)

Places an onus on building owners, managers and occupiers to ensure that they treat people with a disability no less fairly than they treat others.

Building Act 1975 (Qld)

Governs all building work (as it defines that term) in Queensland. The *Building Act* authorises the making of regulations about the erection of buildings and other structures, and provides for building certification and the accreditation and licensing of building certifiers.

Coastal Protection and Management Act 1995 (Qld)

Requires that coastal management plans be given consideration during the assessment of development applications.

Disability Discrimination Act 1992 (Cwlth)

Requires that building owners provide suitable access/egress for individuals with impaired sight, hearing and mobility. Technical provisions related to this obligation are reflected in the *Building Code of Australia*.

Disaster Management Act 2003 (Qld)

Establishes a framework for effective disaster management for the State. Guidelines under the Act require that suitable buildings in specified areas include facilities that allow them to serve as community shelters during natural disasters.

Environmental Protection Act 1994 (Qld)

Aims to protect Queensland's environment while allowing for ecologically sustainable development.

Fire and Rescue Service Act 1990 (Qld)

Establishes the role of Queensland Fire and Rescue Service to protect persons, property and the environment from fire and hazardous-material emergencies. In this context, the design of fire safety systems for buildings must facilitate safe and efficient intervention by the Fire and Rescue Service.

Plumbing and Drainage Act 2002 (Qld)

Regulates plumbing and drainage, the licensing of plumbers and drainers, and on-site sewerage facilities.

Queensland Building Services Authority Act 1991 (Qld)

Establishes the Queensland Building Services Authority (QBSA), regulates the building industry and provides remedies for defective building work.

Queensland Heritage Act 1992 (Qld)

Sets out the process for seeking approval for development on a Queensland heritage place.

State Development and Public Works Organisation Act 1971 (Qld)

Establishes a system (administered by the Coordinator-General) for the coordination of a comprehensive program of works for the development of the State.

Sustainable Planning Act 2009 (Qld)

The principal legislation governing development in Queensland. The *Sustainable Planning Act* seeks to achieve ecological sustainability by managing the development process and its effects on the environment.

Workplace Health and Safety Act 1995 (Qld)

Places particular obligations on clients, designers, project managers, and principal contractors to ensure that design and construction work meets prescribed standards with respect to workplace health and safety.