



## **BUILDING NOTE**

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### **PROPOSED ENERGY EFFICIENCY MEASURES FOR THE BCA**

The Energy Efficiency Measures (EEM) will be activated in the Building Code of Australia (BCA) Volume Two from 1 July 2003. Although the EEM were incorporated into the Amendment 12 version of the BCA, they are only capable of being applied within WA at the commencement of Amendment 13 on 1 July 2003.

These measures have had overwhelming government and industry support and are seen as minimum standards aimed at the objective of reducing greenhouse gas emissions within the built environment.

Whilst not the aim of the EEM, its incorporation into the BCA will result in a more uniform set of construction standards that will apply across the State. The alternative would have been an eventual proliferation of local EEM policies within the planning schemes of individual local governments. Other positive consequences of these changes include a more comfortable internal environment and long-term savings to building occupants as a result of reduced energy consumption.

The proposed EEM will only affect Class 1 and 10a buildings.

Some guidance is provided below on a number of frequently asked questions:

- 1. Does an application lodged with a local government for a building licence prior to 1 July 2003, but where the licence is issued after 1 July 2003, need to comply with the Energy Efficiency provisions of the BCA?**

No, Regulation 6(1)(b) of the *Building Regulations 1989* states the following:

*“Where plans, drawings and specifications relating to the construction or alteration of a building on a site have been submitted to the local government for its approval and, before the local government has finally disposed of the matter an amendment to these regulations or the Building Code comes into operation in the district or in that part of the district in which the site is located, the local government shall deal with the matter in accordance with the local laws, regulations and the Building Code as in operation in the district or that part of the district at the time when the plans, drawings and specifications were submitted.”*

**2. Can a local government implement a transitional period for application of the Energy Efficiency provisions, on a case by case basis, where a building licence application is received after 1 July 2003?**

Yes, Regulation 6(2) of the *Building Regulations 1989* states the following:

*“Where plans, drawings and specifications relating to the construction or alteration of a building on a site are submitted to the local government for its approval then, notwithstanding that those plans, drawings and specifications do not comply with these regulations or the Building Code as in operation, at the time of their submission, in the district or in that part of the district in which the site is located, the local government may approve of those plans, drawings and specifications if the local government is satisfied that —*

- (a) if those same plans, drawings and specifications had been submitted to the local government at some time during the period of 6 months prior to the date of their actual submission they would have complied with the local laws, regulations and the Building Code as in operation in the district or that part of the district; and*
- (b) no undue delay has been occasioned in the submission of those plans, drawings and specifications to the local government.”*

In determining whether it should apply Regulation 6(2), local government should consider all factors that are relevant. These factors can include, but are not limited to, issues such as the lodgement date of the application, whether other approvals such as planning had already been obtained, the opinion of the owners, and the extent of amendments that need to be made to achieve compliance with the EEM. The building licence applicant should present a written submission, in support of this dispensation, to the relevant local government.

**3. Do the Energy Efficiency Measures have to be applied to minor works such as a small extension?**

Regulation 5(2) of the *Building Regulations 1989* provides local government with a considerable amount of flexibility in the application of various provisions of the BCA to minor works. It states:

*“Any alteration, addition, restoration or repair to a building shall conform with these regulations but where the local government is of the opinion that any such work consists only of minor work and does not adversely affect the safety of persons accommodated in or resorting to a building or property in or in the vicinity of a building the local government may determine that the Building Code does not apply in relation to such work and that the work shall conform to only such of the provisions of the Building Code as are specified by the local government.”*

Once again, a local government should consider all relevant factors before deciding on utilising the provision of Regulation 5(2). These factors can include, but are not limited to,

issues such as the difficulty of complying with the EEM, the practicality of the situation, and the opinion of the owners.

Furthermore, the BCA's Performance Requirements (P2.6.1) includes the expression '*to the degree necessary*'. This gives a local government the ability to use a practical approach to the application of the Energy Efficiency requirements with the ultimate capacity to exclude the application of certain Performance Requirements in a specific instance. The building licence applicant should present a written case, in support of his/her application, to a local government. The ultimate decision rests with the relevant local government.

**4. Do the Energy Efficiency provisions have to be applied to minor alterations, even if no additional floor area is added?**

The answer is '*it depends on the circumstances*'. Notwithstanding the provision of Regulation 5(2) of the *Building Regulations 1989*, the BCA's Performance Requirements include the statement '*to the degree necessary*'. This gives the local government the flexibility to assess each application on its merits. The building licence applicant needs to present a written submission, in support of his/her application, to the relevant local government.

It is considered desirable that the relevant parties, including owners, builders, designers, architects and local government officers promote the sharing of relevant information, and the maintenance of lines of communication, in order to ensure that applications reflect the technical requirements of the BCA and that technical interpretations are consistently applied.



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