

Building over or near relevant infrastructure

Information for service providers (non-local government)

From 1 November 2013, new laws took effect for building work proposed to be undertaken over or near relevant infrastructure. This includes sewers, water mains, stormwater drains or combined sanitary drains.

The new standard delivers a consistent state-wide approach, and will reduce duplication.

Service providers for this infrastructure remain an important part of the approval process.

This type of building work must now be assessed against Queensland Development Code Mandatory Part 1.4 (MP 1.4)—Building over or near relevant infrastructure. Consent from the relevant service provider is no longer required under section 192 of the *Water Supply (Safety and Reliability) Act 2008* (WS (S&R) Act) for building work regulated under MP 1.4.

Note: This information should be read with the general fact sheet about MP 1.4.

How MP 1.4 works

MP 1.4 is broken into a number of performance criteria and acceptable solutions. Where an application does not meet the acceptable solutions, an alternative solution may be used to meet the performance criteria.

Acceptable solutions have only been provided for class 1 and 10 buildings and structures. Applications involving class 2-9 buildings that are located less than five metres from relevant infrastructure will always require an alternative solution and concurrence agency response.

MP 1.4 does not apply to class 2-9 buildings that are located more than five metres from relevant infrastructure (or 10 metres where ground anchors or rock bolts are used) and whose zone of influence is sufficiently clear of infrastructure.

MP 1.4 includes two performance criteria:

- **P1** ensures the building work does not affect the building's integrity or adversely affect the operation of the infrastructure or place any load on it; and
- **P2** ensures that when completed, the building work does not impede access to the infrastructure by a relevant service provider for the purpose of inspecting, maintaining or replacing the infrastructure. It also helps to protect the safety of individuals in close proximity to a maintenance cover for the infrastructure.

Concurrence agency role

The new scheme recognises there will be cases where expert advice is required to ensure the

performance criteria are met. The *Sustainable Planning Regulation 2009* (SPR) has been amended to prescribe relevant service providers as a concurrence agency for the purposes of MP 1.4. Relevant service providers include sewerage service providers and water service providers under the WS (S&R) Act, and the owner of a stormwater drain.

The process

Applications must be referred to a concurrence agency where:

- the work does not comply with an acceptable solution of MP 1.4; or
- the work is for a class 2-9 building that is located less than five metres from the relevant infrastructure.

Concurrence agencies have 20 business days to assess the application and provide a response. A service provider is able to charge a concurrence agency fee that is not more than the reasonable cost of assessing the application and providing the response.

Assessing the application

The concurrence agency will need to consider the application based on their prescribed jurisdiction under the SPR—that is, whether the proposed building or structure complies with the applicable performance criteria of MP 1.4 in relation to their relevant infrastructure.

As MP 1.4 is a performance based code, there are a number of ways an applicant may satisfy the performance criteria. Concurrence agencies should not assess the application based on restrictive criteria or internal technical standards. If the applicant can demonstrate that the relevant performance criteria have been met, the concurrence agency should approve the application without any unnecessary conditions.

Approved Form 32

The new scheme also recognises that the change in approval process will mean service providers will not always receive the same information they once did.

As a result, private building certifiers must now give a notice (Form 32) to the sewerage service provider about the building work.

A Form 32 will only be required where the sewerage service provider would otherwise be unaware of the proposed building work, such as where they are not a concurrence agency or a local government that receives the building application/approval documents from the building certifier. The information will help service providers manage their inspection, maintenance and replacement work.

The private building certifier must provide a Form 32 to the sewerage service provider within five business days of approving the building development application. The information provided as part of a Form 32 is based on which of the acceptable solutions have been used to achieve compliance with MP 1.4.

Note: A copy of the Form 32 can be found on the department's [website](#).

Appeals

Appeals about decisions related to MP 1.4 can be made to the [Building and Development Dispute Resolution Committees](#). Under the *Sustainable Planning Act 2009*, a person may appeal a decision to impose conditions or a refusal to grant a building development approval.