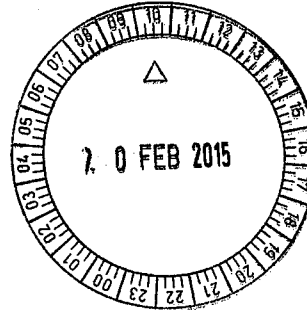




Department of Environment, Land, Water and Planning

ASA ①

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Mr David Driscoll
Parliamentary Officer (Committees)
Standing Committee on Delegated Legislation
Legislative Council
Parliament of Western Australia
PERTH WA 6000

PUBLIC
25/2/15

13 FEB 2015

Dear Mr Driscoll

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION - INQUIRY INTO ACCESS TO AUSTRALIAN STANDARDS ADOPTED IN DELEGATED LEGISLATION

Thank you for your letter of 16 January 2015 requesting information on public access to Australian Standards relevant to the Joint Standing Committee on Delegated Legislation's inquiry into access to Australian Standards.

Access to Australian Standards Generally

The Governor makes Regulations on the recommendation of the responsible minister. When preparing Regulations the department and the minister may consider the availability of any adopted or incorporated documents, such as Australian Standards. Section 32(3) of Victoria's Interpretation of Legislation Act 1984 (ILA) requires that where a subordinate instrument is required to be laid before parliament, the relevant minister must lodge any adopted or incorporated documents with the Clerk of the Parliaments as soon as practicable after the instrument is made, and publish a notice in the Government Gazette. Depending on the type of instrument made, either the minister's department, or the principal office of the body which made the instrument, must make a copy of the adopted or incorporated document available to the public for inspection, free of charge, during normal office hours.

In addition to the requirement under the ILA, other Acts in the department's portfolio contain similar requirements. For example, the *Planning and Environment Act 1987 (Vic.)* requires any document applied or incorporated into the Victoria Planning Provisions, a planning scheme, or a planning scheme amendment, to be made available to the public for inspection, free of charge, during normal office hours at the office of the minister, the minister's

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department, and the relevant responsible authority and local council. These requirements may be variously found at sections 4G to 4I and section 40-42.

In relation to the standards used to underpin building regulations, it is worth noting that in May 2014, the Building Minister's Forum (BMF) agreed in principle to make the 2015 National Construction Code (NCC), and future editions, freely available including on line.

The Australian Standards used in the NCC are published by SAI Global and will continue to be available for a fee. Any future, open access to the Australian Standards referenced in a freely available NCC would be a matter for consideration by the BMF, Commonwealth Government, the Australian Building Codes Board (ABCB), Standards Australia, and SAI Global Ltd.

Access to Australian Standards and Building Codes for Bushfire Prone Areas

In relation to the committee's query regarding access to bushfire-related standards and building codes available to people living in bushfire prone areas, I can advise that Victoria's bushfire planning provisions and building regulations are part of an integrated regulatory framework that is consistent with the recommendations of the Victorian Bushfires Royal Commission (VBRC) Final Report of 2010.

In the planning system, Australian Standard 3959 Construction of buildings in bushfire-prone areas (AS3959) is a document referenced at Clause 44.06 (Bushfire Management Overlay) of the Victoria Planning Provisions and applies in planning schemes where an extreme bushfire hazard exists. As such, AS3959 is made available for inspection.

As you may know, the VBRC recommended that the Australian Building Codes Board negotiate with Standards Australia and SAI Global Ltd for free online access to AS 3959, the other Australian standards referred to in AS3959, and any other bushfire-related Australian standards referred to in the Building Code of Australia (VBRC recommendation 48). Progress towards making these standards available is a matter to be addressed in the context of the broader discussion about open access to standards used in the NCC.

Victoria's Building Regulations require landowners, who wish to build a dwelling in a designated bushfire prone area, to assess the bushfire attack level (BAL) for the site. In support of this requirement the Victorian Building Authority (VBA) publishes information on-line to assist with understanding how to do a BAL assessment consistent with AS3959. The VBA also published a guide for existing home owners who wish to voluntarily retrofit their home to meet AS3959 up to the BAL-29 standard. Retrofitting homes is not a requirement of Victorian regulation, however. This information may be viewed on the VBA's website at www.vba.vic.gov.au.

Should you have any further queries about these matters, please contact Angela Jurevic, Director Building, on (03) 9223 1836, or John Phillips, Director Planning, (03) 9223 5344, in the Department of Environment, Land, Water and Planning. The relevant contact at the Victorian Building Authority is Jarrod Edwards, Director of Technical Information, who may be reached on (03) 9618 9302.

Thank you for the opportunity to contribute to the committee's work.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Adam Fennessy', written in a cursive style.

Adam Fennessy
Secretary