

“Building” defined

This updates the previous *Practice Note 2005-11* issued June 2006.

1. Summary

This Practice Note clarifies the types of structures that should be regarded as “buildings” for the purposes of the *Building Act 1993* (the Act) and the *Building Regulations 2006* (the Regulations).

2. Relevant definition

Section 3 of the Act states:

“Building” includes structure, temporary building, temporary structure and any part of a building or structure.

This definition of building has the potential to incorporate under the building control legislation a wide variety of structures not traditionally regarded as buildings.

3. What is the scope of buildings (Structures) to which the Act & Regulations apply?

A literal reading of the Act would indicate that any buildings (structures) not specifically exempted by Part 18 of the Regulations would require building and occupancy permits pursuant to the building control legislation.

The structures to which the legislation would apply under this interpretation could be virtually unlimited.

It was not intended that the Act change the scope of structures falling within the building control legislation, as can be partly evidenced by the following extract from the clause notes from the explanatory memorandum to the Building Bill:

“clause 3 provides for the definitions of certain words used in the Act such as “building”. The definition of building is not intended to include structures which are not in the nature of buildings such as railway viaducts and roads”.

This is also evident by the structures included in Schedule 8 of the Regulations. This Table closely reflects traditionally controlled structures and would have been totally revised if other structures such as tanks, silos, bridges, industrial equipment, etc were intended to be incorporated into the legislation.

4. Conclusion

It is recommended that unless contrary to the express wishes of the owner of the property concerned, only a structure which can be classified according to use (pursuant to clause A3.2 of the *Building Code of Australia – Volume 1* and clause 1.3.2 of the *Building Code of Australia – Volume 2*) should be regarded as a “building” to which the Act and the Regulations apply.

Temporary structures have their own specific controls under the Act and the Regulations.