



## **PROFESSIONAL PRACTICE: Consents, Inspections and Complaints**

The Building Policy Branch of Planning SA has been receiving numerous enquiries on various issues relating to privately certified building work, consents generally and council responsibilities at different stages in the process. This Advisory Notice outlines some of the more frequently queried responsibilities, processes and practices required by the *Development Act and Regulations 1993* and should be read in conjunction with Advisory Notice 27/03 on *Provisional Building Rules Consents and Responsibilities*.

### **Development Approvals and Mandatory Notifications**

#### **ADVISING OF MANDATORY NOTIFICATIONS**

When issuing a development approval the council is required under Regulation 74 to advise the applicant of any other mandatory notifications that it considers necessary in addition to those for commencement and completion.

#### **USE OF MANDATORY NOTIFICATIONS**

Items for notification could include any reserved matters relating to the PDPC.

Other items for notification should include any critical items that have been identified by the building surveyor who undertook the assessment. Such notifications could include those where further information is required to be submitted as a condition of the PBRC (such as confirmation of the soil conditions). This can act as a trigger to enquire from the building surveyor for the assessment (i.e council or private certifier) whether the information has been submitted and approved, before inspecting the work.

### **Inspections and Consents**

#### **INSPECTIONS AGAINST CERTIFIED/APPROVED DOCUMENTS**

Any inspection of building work must be against the documents (plans, specifications etc) certified in the PBRC and consequently the development approval. Any such inspection should not be undertaken in such a manner as to constitute a new assessment of the work against the Building Rules. By undertaking any form of secondary assessment the inspecting officer could be setting up an expectation that all the work has been examined in a similar manner and any serious assessment faults detected.

It is suggested that inspections against the development approval should be for compliance with both the planning and building consents.

#### CLARITY OF CERTIFIED DOCUMENTS

The council or private certifier undertaking the assessment has an obligation to make sure the PBRC is clear in its format and its intentions for anyone who will subsequently rely on it. This also applies to conditions placed on the consent.

If the certified and approved documentation does not clearly indicate how a building is to be constructed for compliance with the Building Rules, that is, the council's inspecting officer (and presumably the builder) can not understand what is intended, then the matter must be referred back to the building surveyor who undertook the assessment (council or private certifier) for explanation or clarification. In order to keep the Development Approval documentation current, the assessing building surveyor should respond in writing within a reasonable timeframe.

#### CONDITIONS REQUIRING AN ASSESSMENT AGAINST THE BUILDING RULES

Where such conditions are encountered by council inspecting officers it is suggested that they do not inspect these elements of the work as **it is not their role to undertake an assessment of the work against the Building Rules** (other elements could still be inspected including compliance with planning conditions). It is suggested that the following actions be taken:

- Advise the building surveyor who undertook the assessment (either council or private certifier) that there is insufficient information on the approved documents to undertake an inspection of the element in relation to the building consent, and
- also advise if the work has been constructed, and
- record these actions to file.

Any assessments of work by the assessing building surveyor and subsequent approval should be copied to the council for inclusion with the PBRC records so that all relevant information is available for subsequent inspections by council.

#### CONDITIONS REQUIRING THE SUBMISSION OF FURTHER DETAILS FOR APPROVAL

Where there are conditions on a PBRC that require the submission of further details, the council officer inspecting the work should first check with the building surveyor who undertook the assessment (council or private certifier) to see if the details have been received and approved. If any such details are received by the council they should be referred to the building surveyor who undertook the assessment (council or private certifier) as all aspects of the assessment are the responsibility of that person. Any details that have subsequently been approved by the building surveyor undertaking the assessment (council or private certifier) should be endorsed and forwarded to the council inspecting officers for inclusion with the PBRC records so that all relevant information is available for inspections.

Where it is confirmed that no details have been received, the inspecting officer will need to determine the impact of allowing work on that element to continue. If the work is allowed to continue then it is

proceeding without a valid approval. It would therefore be reasonable to issue an enforcement notice under Section 84 of the Act which could require no further work be undertaken on that particular element until it has been confirmed that all aspects of the design details for the element have been approved by the building surveyor undertaking the assessment (council or private certifier).

#### WORK NOT IN ACCORDANCE WITH THE BUILDING RULES

If, during an inspection, it appears that the work is not in accordance with the Building Rules, but is in accordance with the certified/approved plans, then the inspection must continue on the basis of verifying construction against those plans. Subsequently, the matter should be brought, in writing, to the attention of the building surveyor who undertook the assessment (council or private certifier). There may be good reasons for the difference and the assessing building surveyor (council or private certifier) may have considered the matter as an alternative solution. It is the responsibility of whoever undertook the assessment to resolve any such matters with the applicant/owner.

#### Complaints

Under Regulation 99B a complaint can be made to the Minister regarding either a private certifier or a council. Complaints enable the particular circumstances to be properly investigated by an independent party. After considering the results of an investigation the Minister is responsible for determining the nature of any action to be taken, if necessary.

Unless a complaint is formally lodged there is little that can be done by the Building Policy Branch to resolve disputes or remedy inappropriate behaviour.

### Further information

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