

POLICY REGARDING 'IN ALL MATERIAL RESPECTS'

INTRODUCTION

This policy provides an interpretation for Registered Building Practitioners – Building Certifiers (Restricted and Unrestricted) with regard to the following provisions of the Building Act and their operational effect:

- S.63 (5) & (6)(c)
- S.70
- S.72

In this policy the term 'in all material respects' is a reference to the aforementioned provisions of the *Building Act*.

BACKGROUND

Recent amendments to the *Building Act* (the 'Act') have clarified the way building certifiers are required to discharge their functions in accordance with the Act and *Building Regulations* ('Regulations').

The amendments include prescribed inspection stages, the issue of inspection certificates at certain stages of the building work, the issue of a final inspection certificate and the use of approved forms.

POLICY

The Act is quite specific in what the building certifier is responsible for. These are:

1. to issue a building permit for building work;
2. to carry out inspections during the course of the building work being constructed (some are prescribed inspection stages for certain classes of building work);
3. to issue inspection certificates for the inspections specified in the building permit; and
4. to issue an occupancy permit for the building work to which the building permit relates.

The builder has responsibility under the Act to ensure that the building work has been carried out in accordance with the building permit granted in respect of the building work. However, the process has been strengthened by having an independent third party check of the building work through the inspection process, referred to in the Act as inspection stages.

To further strengthen the process, the Act also requires that after each inspection stage the building certifier issues an inspection certificate and at the completion of the building work a final inspection certificate along with an occupancy permit. Before the certifier issues the certificates he/she must be satisfied that the building work described, completed or listed above complies '*in all material respects with the regulations*'.

The term "in all material respects" is taken to mean that the building certifier must be satisfied that all the important and essential aspects of the building work at the time of the inspection were in place and in accordance with the building permit and approved plans. For example:

- For a pre-pour inspection – all the reinforcement size and spacing, the depth of the footings or slab edge beams, the

bearing capacity of the soil, siting of the building etc is as indicated on the approved drawings;

- For a frame inspection – all the bracing, tie-downs, fixings, frame member sizes etc that can be readily seen are as indicated on the approved drawings or engineer's specifications;
- For a final inspection – all relevant structural requirements have been satisfied, all required inspections have been undertaken and what has been constructed matches the approved plans;
- For the occupancy permit – that the building as constructed reflects the approved plans and meets the requirements of the Building Code of Australia and that the compliance requirements under the Act have been satisfied;

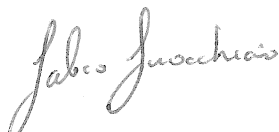
The term "in all material respects" is not, for example, a statement that the concrete is the right strength or slump; or every component of the frame has been checked; or that the plaster board has the right type of glue; or that the every block in a block work wall has been core filled; or that every window or door is positioned exactly as shown on the plans. If that was intended then the Act would have required certification 'in all respects'.

Guide for Inspections

It is understood that the building certifier is not a building site supervisor and cannot oversee all aspects of the building work during construction.

To underpin this, the branch has produced a document to assist building certifiers when inspecting building work to fulfil their statutory obligations and ensure compliance with the structural sufficiency, safety, health and amenity for each stage of building work.

The document is called 'Guideline for Inspections of Class 1 to 10 Buildings or Structures'. This document lists many but not all aspects of an inspection stage that a certifier should be looking for when undertaking an inspection.



DIRECTOR OF BUILDING CONTROL

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