



ADVISORY NOTICE BUILDING

11/05

Advisory Notices are issued to assist in the interpretation of the Development Act 1993

December 2005

PROFESSIONAL PRACTICE:

Independent Technical Experts

BACKGROUND:

Regulation 88 of the *Development Regulations 1993* allows certain aspects of a Building Rules assessment to be certified by an independent technical expert. Where such a certificate is received, the building surveyor undertaking the assessment is able to rely on the certificate without the need for further assessment. Although regulation 85 defines who can act as an independent technical expert, a number of questions have been raised about the application of this provision in certain circumstances.

DISCUSSION:

Independent technical experts are particularly useful for building systems and standard designs which will be used on multiple projects. In these situations the independent expert is engaged to verify that the system or design meets the relevant Australian Standards so that it does not have to be checked on every project that uses it. Examples include standard carport or verandah designs.

The other occasion where such experts are used, is where there are specialist areas of expertise required that are outside the competence of the building surveyor to undertake a proper assessment. **In this instance it is strongly recommended that the agreement of all parties be obtained very early in the process regarding the suitability of the person who will be providing the certificate.** Preferably this agreement is obtained even before the application for Building Rules assessment is lodged as this avoids arguments late in the process when the certificate is received.

Even though the council or private certifier is able to rely on a certificate from an independent technical expert, there is still a responsibility to verify that such a certificate is valid. In particular, whether:

- The person issuing the certificate is appropriately qualified and experienced?
- The person is sufficiently independent of the proposed work?
- The certificate is in an acceptable format?

Qualifications and Experience

The person who is to issue the certificate must have appropriate qualifications and experience. For instance, it would not be appropriate for a young graduate engineer to issue a certificate unless the person had undertaken well recognised research work on the aspect of work needing to be certified and they are recognised by peers as being 'expert'.

It is also not appropriate for a person to certify something outside their field of expertise. For instance, some structural engineers may not be appropriate to certify a geotechnical solution or a complex



earthquake analysis. Similarly, a person trained only in FirstRate energy efficiency assessments and certification should not issue a certificate for NatHERS ratings. Before a relevant authority accepts a certificate, evidence of the person's expertise should be sought, and it is advisable that the qualifications and experience be recorded in some form.

Independence

With regards to certificates issued on building systems and designs that will be used on multiple projects, legal advice obtained by Planning SA is that the issuing of the certificate is sufficiently remote from a specific future and unforeseen project for that person to undertake design work on such a project that uses the system. This is because the degree of independence can only be determined at the time the certification is given. To apply later events retrospectively would be to introduce uncertainty and would undermine such certificates.

Where building systems are certified by in-house people (engineers etc) the legal advice is that they cannot be regarded as independent for the purposes of regulations 85 & 88.

The building surveyor can not **rely** on a certificate (pursuant to regulation 88) unless it meets the test for an independent technical expert. If it does not meet that test then there is a greater onus on the building surveyor to determine the extent of reliance to be placed on the certificate.

Certificate Format

Regulation 88 is specific about the nature of the certification. In particular it should clearly state:

- What it is for – *Is it a specific design or a set of tables or a complete system?*
- The documentation provided – *Test results, calculations, fabrication details, specifications*
- Any relevant publications relied on – *Australian Standards, scientific research papers etc*
- Any qualifications or conditions - *Must be clearly articulated and should not render the certificate meaningless.*
- Who is issuing the certificate and when – *signature and date signed.*

Preferably the certificate will contain the words *'I hereby certify that'*, if this is not the case, then it must be clear that person is verifying the suitability of the building system or design to meet the particular regulatory requirements. (Advisory Notices 16A/04 and 27/03 may also be relevant and can be found on the Planning SA website at www.planning.sa.gov.au).

Further information

Primary Industries and Resources SA

Planning SA

136 North Terrace Adelaide
GPO Box 1815 Adelaide SA 5001
Telephone: 8303 0600
www.planning.sa.gov.au/building_policy/

Contact:

Don Freeman, Manager
Building Policy Branch
Level 4, 136 North Terrace Adelaide SA
Telephone: 8303 0602

ISSN: 1443-8038