

# Construction Occupations (Licensing) Building Surveyors Code of Practice 2019

Disallowable instrument DI2019—174

made under the

Construction Occupations (Licensing) Act 2004, s 126A (Codes of practice)

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## 1 Name of instrument

This instrument is the *Construction Occupations (Licensing) Building Surveyors Code of Practice 2019*.

## 2 Commencement

This instrument commences on 1 September 2019.

## 3 Approval of code

I approve the building surveyors code of practice at schedule 1.

## 4 Disapplication of Legislation Act 2001, section 47(3)

The *Legislation Act 2001*, s47(3) does not apply to the Australian Standards or other instruments applied, adopted or incorporated into the code of practice.

Note: Section 126A(4) of the *Construction Occupations (Licensing) Act 2004* provides that sections 47(5) and 47(6) do not apply in relation to a law or instrument adopted, incorporated or applied in a Code of Practice.

## 5 Access to the code of practice

A copy of the Building and Construction Occupations (Licensing) Building Surveyors Code of Practice 2019 is available for inspection by members of the public between 8:30am and 4.30pm on business days at the ACT Environment, Planning and Sustainable Development Directorate shopfront, Dame Pattie Menzies House, 16 Challis Street, Dickson, ACT.

## 6 Access to Building Code of Australia

A copy of the Building Code of Australia is available for inspection by members of the public between 8:30am and 4.30pm on business days at the ACT Environment, Planning and Sustainable Development Directorate shopfront, Dame Pattie Menzies House, 16 Challis Street, Dickson, ACT, or can be accessed for free at <https://ncc.abcb.gov.au/ncc-online/NCC>.

## **7 Access to Australian Standards**

Australian Standards referenced in this document are available for inspection by members of the public between 8:30am and 4.30pm on business days at the ACT Environment, Planning and Sustainable Development Directorate shopfront, Dame Pattie Menzies House, 16 Challis Street, Dickson, ACT, or can be purchased at [www.standards.org.au](http://www.standards.org.au).

Gordon Ramsay MLA  
Minister for Building Quality Improvement  
27 June 2019

**Schedule 1**  
(see section 3)



Australian Capital Territory

# **Building surveyors code of practice**

June 2019

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## Part 1            Preliminary

### 1            Name of code

This code is the *Building surveyors code of practice*.

### 2            Dictionary

The dictionary at the end of this code is part of this code.

*Note 1*    The dictionary at the end of this code defines certain terms used in this code and may include references (*signpost definitions*) to other terms defined elsewhere in this code.

*Note 2*    A definition in the dictionary (including a signpost definition) applies to the entire code unless the definition, or another provision of the code, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

*Note 3*    A footnote, endnote, or other note, in or to an Act or statutory instrument is not part of the Act or instrument, see the Legislation Act, s 127 (1).

### 3            Offences and other consequences of contravening this code

The *Building Act 2004* and *Construction Occupations (Licensing) Act 2004* provide offence and other enforcement mechanisms that can result from a contravention of this code.

*Note*      A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see Legislation Act, s 104).

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## Part 2                      Important concepts

### 4                      Object of code

The object of this code is to set out minimum standards of practice for licensed building surveyors.

This code sets out specific requirements in relation to—

- (a) building certification services;
- (b) exemption assessment services; and
- (c) advice and other services that may be provided by a licensed building surveyor in relation to a service in (a) or (b).

This code does not include practice requirements for works assessments services that may be provided by a licensed building surveyor.

*Note*                      Codes of practice relating to works assessment services can be found at <https://www.legislation.act.gov.au/a/2004-12/> under the Regulations & Instruments tab.

This code also informs land owners engaging the services of a building surveyor, and the community, about the standards of practice expected from a building surveyor.

### 5                      Application to building surveyors

In this code a reference to a *building surveyor* is a reference to an entity who, under the *Construction Occupations (Licensing) Act 2004*, holds the appropriate class of building surveyor licence that authorises the holder to provide the relevant service, in circumstances where the service may only be done by a licence holder.

This code applies to corporation, partnership and individual building surveyor licence holders.

*Note 1*                      See the *Construction Occupations (Licensing) Regulation 2004*, schedule 1, Part 1.4 for classes of building surveyor licences.

*Note 2*                      Services that may be provided by a building surveyor are a building certification service, exemption assessment service and a works assessment service, see section 9 *Construction Occupations (Licensing) Act 2004*.

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**6 Application to work already started**

The provisions of this code apply to the extent reasonably practicable in relation to applications under consideration and building work in progress at the time the code commences.

This code does not apply to—

- (a) Decisions on building approval, commencement notice and exemption assessment applications that were made before the commencement of this code;
- (b) Stage inspections carried out before the commencement of this code.

Requirements for the form of records and documents in section 25 (2) (b) do not apply to images created before the commencement of the code.

**7 Meaning of certain terms—correlation with *Construction Occupations (Licensing) Act 2004* and *Building Act 2004***

A term used in this code has the same meaning as the term has in the *Construction Occupations (Licensing) Act 2004* or the *Building Act 2004*, unless this code provides a different meaning for the term.

*Note* A term used in this code has the same meaning as the term has in the *Construction (Occupations) Licensing Act 2004* or the *Building Act 2004* (see the Legislation Act, s 148).



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## Part 3                      General obligations

### 8                      Performance of services and functions

A building surveyor must—

- (a) Perform their services and functions, including exercising any discretionary powers—
  - i. in the public interest;
  - ii. impartially and honestly;
  - iii. with reasonable care and diligence;
  - iv. without applying improper influence, favouritism or patronage; and
  - v. in a way that does not undermine the integrity and reputation of the building regulatory system;
- (b) Not take improper advantage of the building surveyor’s role or information gained through acting as a building surveyor;
- (c) Not, without lawful authority, disclose confidential information gained through the building surveyor’s role;
- (d) If dealing with a member of the public, including a building or design practitioner—make all reasonable efforts to help the person to understand the person’s entitlements, and any requirement the person is obliged to meet, under a relevant territory law;
- (e) Ensure that their engagement or appointment to undertake services and functions is valid and in accordance with the relevant law;
- (f) Take all reasonable steps to obtain all relevant facts and information to perform a service or function, including seeking advice from other licensees or design and construction practitioners with relevant competency or expertise, where required to satisfactorily perform the service or function;
- (g) Ensure regulated inspections are carried out as required and appropriate to ensure building work complies with the *Building Act 2004*;
- (h) Take appropriate action as a building certifier in respect of building work that does not comply with legislative requirements that apply to the work;

#### **Examples – appropriate action**

1. Issue a stop notice in relation to all or part of the approved work.

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2. Give a building licensee a direction about safety precautions under section 46, Building Act.
  3. If the work includes a fundamental non-compliance, notify the registrar under section 50 of the *Building Act 2004*.
    - (i) Ensure that all decisions and actions are reasonable, fair and appropriate and supported by adequate documentation, including to document reasons for building certification decisions;
    - (j) Ensure that all documents relied on in the performance of a service or function, or given to the Construction Occupations Registrar, are clear and legible, and if the Construction Occupations Registrar has prescribed a format the document must be given in, is in the prescribed format;
    - (k) Create and keep records in accordance with relevant Acts and this code;
    - (l) Comply with any lawful and reasonable direction given by a person with the authority to give the direction;
    - (m) Be accountable for the supervision, competence and conduct of staff and contractors whom they employ or contract with to assist them in fulfilling their functions as a building surveyor.

*Note 1* A building surveyor must also comply with all relevant legislative requirements, including but not limited to, those outlined in the *Building Act 2004*, and act within the scope of their licence and in accordance with any conditions on the licence under the *Construction Occupations (Licensing) Act 2004*.

## 9 Notifications

A building surveyor must—

- (a) inform their client of any matters or changes that may affect the rights or authority of the building surveyor to carry out their statutory functions;
- (b) not provide any false or misleading information or statement (through act or omission) to clients;
- (c) not act, or immediately cease to act, where they have a conflict of interest that affects their ability to lawfully carry out a service or function of a building surveyor; and
- (d) inform the Construction Occupations Registrar of any matters or changes that may affect the rights or authority of the building surveyor to carry out any statutory duties.

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**Examples – matters or changes that may affect the rights or authority of the building surveyor**

1. A personal or medical matter.
2. A contract in relation to the building certification services that purports to limit the rights or duties of a building certifier.
3. A conflict of interest that the certifier became aware of only after the appointment was made.

**10 Action in relation to notifications about grounds for stop notices etc**

- (1) This section applies if a builder or other entity notifies a building surveyor of any of the following in relation to building work they are the appointed building certifier for—
- (a) The work may not be physically possible, or is not likely to be without amendment to the approved plans;
  - (b) Information in the building approval for the work is false or misleading; or
  - (c) If building work is carried out in accordance with the approved plans it is likely to contravene the Act or another Territory law.
- (2) If a building surveyor has been notified of any the circumstances in (1)(a)-(c), the building surveyor must immediately consider the matter and its effect on compliance with the *Building Act 2004* and take an appropriate action.

**Examples – appropriate action**

1. Issue a stop notice in relation to all or part of the approved work.
2. If the work includes a fundamental non-compliance, notify the registrar under section 50 of the *Building Act 2004*.

**11 Action in relation to unlawful occupation of a building**

If a building surveyor becomes aware that a person is, or may be, unlawfully occupying a building, or part of a building, they are providing building surveying services in relation to, the building surveyor must notify the Construction Occupations Registrar in writing as soon as reasonably practicable after becoming aware of the situation.

*Note 1* Undertaking building work lawfully on an alteration or addition to a building that does not have a certificate of occupancy is not unlawful occupation of the building.

**Applications – confirmation of agency**

If an application for an exemption assessment, building approval, or appointment as a building certifier is not made by the owner of the land where the building work is to be carried out, or has been carried out, the building surveyor must confirm the person making the application is legally authorised by the land owner to do so.

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## Part 4

# Building certification and related services

### 13 Appointments as a building certifier and additional agreements

Contracts and agreements for carrying out building certification services as an appointed building certifier for building work must be separate from any contract or arrangement with the land owner or another party for other services or service standards in relation to the work.

#### Examples – other services or service standard

1. An agreement with the land owner to provide inspections of building work on their new house in addition to the mandatory stage inspections.
2. An agreement with the builder for provision of stage inspections within a certain number of days after notification.
3. A contract with the land owner to provide advice on the compliance of a design with building laws as a consultant during the design phase of a building.
4. An agreement to provide an exemption assessment service as a licensed building surveyor in relation to building work.

*Note* Building surveyors cannot contract out of their obligations under Part 3 of the *Building Act 2004*. That Part prescribes requirements for, amongst other things, appointments of a building certifier, building approvals, commencement notices, stages inspections, completion of building work, and offences and notification requirements in relation to approvals, site work and building work in contravention of the *Building Act 2004*.

A provision in a contract or agreement is void if it limits or modifies, or purports to limit or modify, the operation of that part, in relation to a certifier or building work see the *Building Act 2004*, s 25.

### 14 Advice on building work

- (1) For any building work a licensed building surveyor is, or becomes, the building certifier for, the licensed building surveyor must keep a written record of any advice provided to a land owner or their representative on the design or compliance of the building work.
- (2) For (1), advice includes any advice provided before the appointment as a building certifier.
- (3) If the building surveyor provided advice before the appointment as the certifier and did not record the advice in writing, they must record the advice as soon as practicable after the appointment is made.

*Note* Section 23 (2) (b) of the *Building Act 2004* prevents a building surveyor from being appointed a building certifier in relation to work if they have prepared, or intend to prepare, drawings intended to be used in relation to the construction of the building work.

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**15 Building certifier appointment information**

A licensed building surveyor must keep a record of the details of—

- (a) any appointment as a building certifier the building surveyor did not accept on conflict of interest grounds;
- (b) any appointment as a building certifier the building surveyor did not accept because the building surveyor was not eligible for appointment;
- (c) any appointment as a building certifier that did not result in an application for a building approval, or in a withdrawn application only;
- (d) for (a)-(c), details must include—
  - i. The name of the applicant;
  - ii. The block, section and suburb of the land where the proposed building work was to be carried out;
  - iii. A description of the proposed building work, if known;
  - iv. For (a)—the conflict of interest; and
  - v. For (b)—the reason the building surveyor was not eligible for appointment.
  - vi. For (c) – the reason the applicant did not make an application, or withdrew the application, if known.

*Note* The functions of a building certifier include maintaining documents, records and information in relation to building approvals, amongst other things, in accordance with a code of practice under the *Building Act 2004* or *Construction Occupations (Licensing) Act 2004* – see, *Building Act 2004*, s 17A (i) (i). For further requirements in relation to recordkeeping, see Part 5 of this code.

**16 Building approval applications**

Prior to issuing a building approval, a building certifier for building work must ensure that—

- (a) all aspects of building design relating to the building and its compliance with the *Building Act 2004* and building code, are adequately documented and in accordance with any information requirements in that Act and any relevant guideline made under that Act; and

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**Examples – information requirements relating to the building and its compliance**

1. A site plan.
  2. Construction detail drawings showing the location and dimension of building elements.
  3. Information about required accessible sanitary facilities.
  4. Information about the compliance of a performance solution with a relevant performance requirement.
- (b) if a document must accompany the application, the document is included in the application.

*Note* The *Building Act 2004* and the *Building (General) Regulation 2008* outline a range of required documents and required information on plans. The Minister may also make guidelines under the *Building Act 2004* section 139BA *Approval of guidelines*. A guideline may set out standards and other matters about building approval applications, documentation, plans and specifications for building work.

**17 Commencement notice applications**

A building certifier for building work must ensure any application for a commencement notice, and the commencement notice, includes a clear description of the work the builder is making the application in relation to.

**18 Confirmation of receipt of approved plans prior to work**

- (1) A building certifier who issues a commencement notice to a licensed builder must ensure the builder has a copy of the approved plans for the building work.
- (2) A copy of the approved plans may be provided electronically.
- (3) An acknowledgement in writing from the builder, or a nominee for a licensed corporation or partnership, is sufficient for compliance with (1).

## **Division 4.1 Stage inspections**

**19 Stating stages of work – class 2-9 and class 10c buildings**

- (1) A building certifier for building work in relation to a class 2-9 or class 10c building must ensure that sufficient and adequate stages of work are stated in the building approval, appropriate to the work, and for the certifier to be reasonably satisfied that building work complies with the *Building Act 2004* and the approved plans.

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- Note* For a building other than a class 1, class 10a or class 10b building, the building certifier may state in the building approval a stage at—
- (i) completion of any structural framework before the placement of any internal lining; and
  - (ii) completion of the placement of formwork and steel reinforcing for any reinforced concrete member, before any concrete for the member is poured.

This gives the building certifier the ability to determine what is appropriate for the particular building.

- (2) In considering what is appropriate to the building work, the building certifier must consider—
- (a) The adverse risk to public or building occupant safety or health if an aspect or element of a building was to fail to perform as required;
  - (b) The importance level of the building, rise in storeys and size of fire compartments determined in accordance with building code;
  - (c) Whether the work is subject to a performance solution, particularly for building elements that are intended to protect life safety;
  - (d) Whether the work includes novel design solutions and materials that have not been tested in-situ;
  - (e) Whether the work relates to building aspects that are commonly subject to defects that could seriously affect the safety, health or amenity of building occupants;
  - (f) Whether the work subject to the building approval is intended to exceed minimum standards or requires a higher level of performance than required by the building code;
  - (g) Whether the area the building is in has known risks such as bushfire, flood, or other specific risks;
  - (h) The extent to which the practitioners designing and constructing the building have been involved with, and competently completed, buildings of the relevant classification, type or level of risk.
- (3) Subsection (2) does not limit what a building certifier may consider is appropriate to the nature and risk associated with the work.
- (4) If a building certifier states a stage of work, the stage need not include inspection of all instances of a particular building element, and may include a proportion or percentage of instances that the building certifier considers is sufficient to determine compliance.



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## 20 Conducting stage inspections – general

- (1) At each stage of building work prescribed in the *Building (General) Regulation 2008* or the building approval, the building certifier appointed for building work must personally carry out the stage inspection.
- (2) If a corporation or partnership is the appointed building certifier, a nominee or employee with the appropriate class of licence must carry out the stage inspection.
- (3) For (2), the corporation or partnership must keep a record of the licensed building surveyor who undertook each stage inspection in relation to a building approval.
- (4) A building certifier cannot delegate, or otherwise assign, the carrying out of the inspection to another party.

*Note* If an individual building surveyor is appointed for the work but is not available to carry out the inspection, the land owner will need to appoint another building certifier to conduct the inspection.

## 21 Stage inspections – scope

- (1) A building certifier must personally visually inspect and verify all relevant elements of the building to which reasonable access exists at prescribed stage inspections to be satisfied building work complies with the *Building Act 2004* and approved plans.
- (2) Where the properties of a building aspect or element cannot be verified after all reasonable attempts, the value or property representing the lowest performance in relation to the aspect or element must be assumed.
- (3) A building certifier undertaking inspections at stages of work mentioned in Appendix 1, must undertake the inspections in accordance with the inspection requirements for the stage in that Appendix.
- (4) A building certifier may seek assistance from other parties to conduct the inspection.
- (5) Notwithstanding (4), for elements that the building certifier can reasonably visually inspect or verify at the time of inspection to determine compliance, a building certifier cannot rely solely on information and certificates from other parties, or information provided by the builder, to be satisfied work complies with the *Building Act 2004* and approved plans.

*Note* If a building certifier cannot personally inspect or verify an aspect of compliance relating to a building element; for example, conditions when a product was installed, materials located within cavities, they may request certification from other parties involved in the related building work to help determine likely compliance.

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- (6) Nothing in this section requires a building certifier to inspect elements of the building work that do not relate to the particular stage inspection they are carrying out.

*Note* A building certifier must verify all information reasonable access allows.

The *Work Health and Safety Act 2011* outlines general requirements for protecting workers and other persons against harm to their health, safety and welfare through the elimination or minimisation of risks arising from work or from specified types of substances or plant. The *Work Health and Safety Act 2011* includes provisions for working in confined spaces, working in proximity to building services, such as electricity, and in spaces that may contain hazardous materials. Building surveyors must comply with any relevant work safety regulations and guidelines in carrying out their work including risk mitigation, training and the use of personal protective equipment.

However, a visual inspection of buildings under construction is an inherent component of a building surveyor's role. Other than where entering or remaining in a space would be a breach of legislation or an unreasonable safety risk, removing an inspection from the building surveying process or failing to undertake a physical inspection is not a valid reason for non-compliance with inspection requirements in this code.

## **22 Stage inspections – compliance with work out of scope**

Notwithstanding section 21 (5), if a building certifier becomes aware of a contravention of the *Building Act 2004* or approved plans during a stage inspection, the building certifier must give appropriate direction to the builder to address the contravention even if the contravention does not relate to the part of the work being inspected.

## **23 Advice in relation to completion of work**

The building certifier who conducts the final inspection of building work must include the following information in their advice to the Construction Occupations Registrar on whether the building work is fit for occupancy or use under section 48 of the *Building Act 2004*—

- (a) how the certifier was satisfied the work is complete;
- (b) any matters the certifier knows, or suspects, not to be in accordance with the *Building Act 2004* or building approval that do not affect the compliance of the work with the building code or approval; and
- (c) any outstanding issues in relation to the building or site work.

**Examples – things not in accordance with the Building Act that don't affect outstanding issues**

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1. A house is approved without a DA based on its expected compliance with the single dwelling housing code. That code requires certain landscaping and the installation of a driveway that are not complete at the time of final inspection. The certifier must note these outstanding issues in their advice to the Construction Occupations Registrar.
  2. The building work may not have been carried out under the supervision of the licensed builder named in the commencement notice, but is otherwise compliant with relevant technical standards.

*Note* This section relates to work that has passed final inspection.

## **Part 5 Record keeping**

### **24 Documentation of information**

- (1) A building surveyor must record all relevant information collected in undertaking a service not already documented in building plans or specifications, including—
  - (a) copies of independent evidence;
  - (b) notes from a visual inspection of the building or building work;
  - (c) notes detailing any limitations in collecting and verifying information; and
  - (d) justification for assumptions relied on in making a decision in relation to a service.
- (2) A building surveyor must also keep records and documents in accordance with Appendix 2.

### **25 Form of records and documents**

- (1) Records and documents may be kept in an electronic form.
- (2) Images of building work or site work must—
  - (a) clearly and accurately depict the work and the condition of the work, including any defects that can be seen on visual inspection; and
  - (b) include a geocode and date stamp.

### **26 Records to be kept for certain period**

- (1) A building surveyor must keep all required records for a period of 10 years starting—
  - (a) For an exemption assessment – on the day the application for the exemption assessment is made;

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- (b) For a building approval application if the building approval is refused – on the day the application for the building approval is refused;
  - (c) For any other document related to approved building work – ten years from the day the relevant building work was complete.
- (2) Subsection (1) does not apply to any document given to the Construction Occupations Registrar; however, the building surveyor must keep a record of the projects they have provided services in relation to and the nature of those services.
  - (3) The Construction Occupations Registrar may, in writing, exempt a building surveyor from complying, completely or partly, with anything mentioned in subsection (1).
  - (4) An individual building surveyor providing building surveying services as an employee or nominee of a licensed corporation or partnership need not comply with subsection (1) if the required records are kept by the corporation or partnership.

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## Part 6                      Complaints

### 27                      Handling complaints

- (1) A building surveyor must have, and comply with, a reasonable policy and associated procedures for accepting and managing complaints from clients and other entities in relation to building surveying services the licensee is carrying out, or has carried out.
- (2) The policy must—
  - (a) explain how a person can make a complaint;
  - (b) identify the steps the building surveyor will take in discussing, addressing and managing complaints;
  - (c) indicate some of the solutions the building surveyor offers to manage complaints; and
  - (d) apply to complaints made during, and up to 10 years after completion of, the relevant services.
- (3) The procedures must—
  - (a) include processes for responding to complaints in a reasonable time; and
  - (b) include processes for recording the details of complaints, including any action taken in relation to the complaint.
- (4) A building surveyor must make a copy of their complaints policy available to people they provide a building surveying service to on request.
- (5) An individual building surveyor need not have policies and procedures in accordance with this section if they provide building surveying services solely as an employee or nominee of another building surveyor.

### 28                      Direction in relation to a complaint

- (1) A building surveyor must comply with any reasonable request or direction by the Construction Occupations Registrar to take a stated action in relation to a complaint made to the Construction Occupations Registrar about the building surveyor's services under Part 11 of the *Construction Occupations (Licensing) Act*.

#### **Examples – stated action**

1. To contact the landowner of land where a building surveying service was carried out.
2. To provide documents verifying the results of a stage inspection.

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## Dictionary

(see s 2)

*Note* The Legislation Act, the *Building Act 2004*, the *Construction Occupations (Licensing) Act 2004* may contain definitions and other provisions relevant to this code.

***building certification service***—see section 9 of the *Construction Occupations (Licensing) Act 2004*

***building code***—see section 136 of the *Building Act 2004*

***building element***—includes a wall, ceiling, roof, window, shading device, subfloor, floor covering, light fitting, penetration etc

***exemption assessment service***—see section 9 of the *Construction Occupations (Licensing) Act 2004*

## Appendix 1 Requirements for stage inspections

### Introduction

- a) The building certifier conducting a stage inspection must inspect and verify all relevant building elements as described in the mandatory requirements for the stage in the table in this Appendix that corresponds to the inspection stage that can be reasonably inspected and verified at the time of inspection.
- b) Any departures from building laws or the building approval must be managed as required by the *Building Act 2004* and this code.
- c) The elements in this schedule are not exhaustive and other elements may need to be inspected to confirm compliance, including in relation to a condition of a development approval that relates to the work.
- d) The informative notes are intended to provide guidance to the building certifier and information to the community on why inspecting certain aspects and elements of a building is important, and other documents and verification that may be required.

**TABLE 1** *Stage - Completion of excavation, placement of formwork and placement of steel reinforcing for the footings before any concrete for the footings is poured (all building classes)*

<i>Element</i>	<i>Minimum requirements</i>	<i>Informative notes</i>
Foundation and excavation work	<p>Inspection to determine whether –</p> <ul style="list-style-type: none"> <li>• Foundation excavation work has been done in a way that complies with the development approval (if any) and building approval.</li> <li>• Where protection is required to excavations, such as structural support, retaining walls, shotcreting, batters, compaction and surface/subsoil drainage, that the works are in accordance with the approved building plans.</li> </ul>	<p>Protection to excavations are designed to protect adjoining areas of land on the same allotment or neighbouring properties, from collapsing from natural subsidence or from rain or storm activity due to exposure to the elements. The protection is designed based on the size of an excavation and the soil category on site. A variation to the excavation is a variation from the approved building plans and supporting structural details.</p> <p>Site cuts and excavations that exceed the parameters of the development and/or building approval require immediate action by the building certifier; for example, a stop notice, a notice to the Construction Occupations Registrar of possible or fundamentally non-compliant work.</p> <p>If works are not in accordance with development approval requirements, the building certifier must determine</p>

		<p>whether full amended details and potentially an amended development application are required.</p> <p>In the event of variations to specified protections or lack of protection, the building certifier should advise the builder and seek advice on the engineering implications of the changes as a matter of urgency.</p>
Piles and piers	<p>Inspections to determine whether the –</p> <ul style="list-style-type: none"> <li>• Piers and piles appear to be correctly located in relation to the footings and boundaries and in accordance with the building approval.</li> <li>• Pier and piles are clean and completely clear of free water, mud, offcuts of reinforcement and formwork and debris, including building debris and loose soil.</li> <li>• Piers and piles are on even-bearing founding material to the extent required by the structural designs.</li> <li>• Type and placement of steel reinforcement including the sizes, spacing and gauge, matches the structural design under the building approval.</li> </ul> <p>If the building certifier cannot reasonably verify the piers and piles are on even-bearing founding material by visual inspection, the certifier must obtain verification from a structural engineer.</p>	<p>Piers and piles are commonly associated with the excavation for, and the footings of, a building project. Steelwork being positioned within piers and piles must comply with the structural engineering designs, including connection methods to steel reinforced footings and steel reinforced concrete slabs.</p> <p>Piers and piles may be poured prior to the main footing structure or connected to the footing directly and poured at the same time. Irrespective of which method is applied in the structural design of the building, the building certifier must conduct inspections at appropriate times in the building work.</p> <p>The building certifier must ensure that the correct connection system is being applied and that the piers and piles are as per the building approval.</p>
Footings	<p>Inspection to determine whether–</p> <ul style="list-style-type: none"> <li>• The footing layout matches the dimensional and layout requirements of the footprint of the building and there are no variations outside of acceptable planning tolerances or those allowed in the building approval (if any).</li> <li>• The distance to boundaries and other buildings on site as identified in the building approval can be complied with.</li> <li>• The sizes of the footing excavations are in accordance with building approval and structural designs.</li> </ul>	<p>At this stage, both the building certifier and structural engineer may carry out their appropriate inspection of the footings. It is important to note that the building certifier is carrying out a statutory role.</p> <p>The building certifier cannot rely solely on a structural engineer’s certification as a certification of all aspects associated with the requirements of a footing inspection, as a building certifier must review aspects such as location,</p>



	<ul style="list-style-type: none"> <li>• Footings are on even-bearing founding material to the extent required by the structural designs.</li> <li>• All footings are clean and completely clear of free water, mud, offcuts of reinforcement and formwork and debris, including building debris and loose soil.</li> <li>• All steel reinforcement has been correctly installed within the footing trenches, with correct size and gauge of reinforcement, lapping, supports and, if part of a perimeter edge beam, provided with a compliant and adequate waterproofing membrane/vapour barrier, where required.</li> </ul> <p>If the building certifier cannot reasonably verify the footings are on even-bearing founding material by visual inspection, the certifier must obtain verification from a structural engineer.</p>	<p>size and layout in compliance with the current building approval.</p>
Formwork	<p>Inspection to determine whether –</p> <ul style="list-style-type: none"> <li>• Formwork elements appear to be correctly located on the site and are likely to produce concrete forms that comply with the building approval.</li> <li>• The layout and spacing of the formwork will ensure footings meet the footing design specifications in the building approval.</li> <li>• The formwork will adequately serve to retain soil during the footing pour.</li> </ul>	<p>All formwork for footings, piers and excavation supports must be completed in a way that ensures the concrete structure when poured can be of an acceptable form and standard and the finished structure will be in accordance with the building approval.</p> <p>Not all footings will be inspected by structural engineers prior to the pour of concrete for Class 1 and 10 buildings. The building certifier is inspecting the footings not only to ensure they are positioned in the correct location on site, but also they are of the correct structural design size, contain the correct steel reinforcement and have been installed as per the design requirements.</p>

**TABLE 2 Stage - Completion of any structural framework in the relevant building approval, before the placement of any internal lining**

<i>Aspect or element</i>	<i>Minimum requirements</i>	<i>Informative notes</i>
Steel framework	<p>Inspection against the approved structural designs, and any certification or additional specifications or design data provided at the stage to determine whether:</p> <ul style="list-style-type: none"> <li>• The frame is connected correctly to other building elements.</li> <li>• The correct type of framing is installed.</li> <li>• Correct bracing is installed in the locations specified in the building approval.</li> <li>• The framework meets the layout design for the approved building work.</li> <li>• The framework is not compromised by internal services and breaches or cuts to structural members.</li> </ul>	<p>Where the building certifier is inspecting a steel framework, they inspect to ensure that it meets the approved structural design details and specification requirements.</p> <p>For class 2-9 buildings, it is the building certifier’s decision as to what structural framework (loadbearing and non-loadbearing) is stated in the relevant building approval as requiring an inspection, based on the risks and nature of the building work.</p>
Timber framework	<p>Inspection against the approved structural designs, including any certification or additional specifications or design data provided at the stage to determine whether:</p> <ul style="list-style-type: none"> <li>• The frame is connected correctly to other building elements.</li> <li>• The correct type of framing is installed.</li> <li>• Correct bracing is installed in the locations specified in the building approval.</li> <li>• The framework meets the layout design for the approved building work.</li> <li>• The framework is not compromised by internal services and breaches or cuts to structural members.</li> <li>• Termite protection compliant with the building code is provided.</li> </ul>	<p>Where the building certifier is inspecting building approval stated timber framework, they are to ensure that it meets any structural design details, Australian Standard requirements, and specification requirements in the building approval.</p> <p>Timber framing may not be the subject of a structural engineer’s design or inspection. The building certifier is required in these classes where stated in the building approval to ensure that on inspection, the timber framework is installed strictly in accordance with the relevant Australian Standard, i.e. AS1684 and AS1720, or an approved performance solution for the building.</p>
Acoustic separation	<p>If the building certifier is inspecting an acoustic treatment or separation at a specified structural framework stage before the</p>	<p>Before the placement of any internal lining, the building certifier can inspect the acoustic separation elements of an internal wall separating two sole occupancy units, to</p>

	<p>placement of any internal lining, they must inspect to determine whether:</p> <ul style="list-style-type: none"> <li>• The material to be used in the treatment is compliant with the building code for both sound transmission and insulation, and the requirements of the selected wall type system.</li> <li>• The method and extent of installation is compliant with the design requirements for the building works.</li> <li>• Discontinuous construction, where required, is constructed correctly.</li> <li>• Any requirements of the development approval are met.</li> </ul>	<p>ensure that the method of construction and materials used comply with the building approval and any stated standards, including any requirements stated in the development approval for the work.</p> <p>An inspection of the acoustic separation should be supported by certifying documentation, product specifications or information sheets.</p>
Fire separation	<p>If the building certifier is inspecting the fire separation at a specified structural framework stage before the placement of any internal lining, they must inspect to determine whether:</p> <ul style="list-style-type: none"> <li>• That all the materials and fire penetrations in the fire separating construction as a whole will meet the minimum fire resistance level (FRL) requirements of the building approval and any tested system.</li> <li>• Any penetrations through fire rated elements must not reduce the required FRL of the element in accordance with the BCA and any tested system.</li> <li>• All material certification required is provided and is valid for the application in the particular building element.</li> <li>• The FRLs are being achieved in the correct locations and to the extent as required by the building approval.</li> <li>• Non-combustible materials are appropriately identified and approved.</li> </ul>	<p>Before the placement of any internal lining, the building certifier can inspect the fire separation elements of an internal wall to ensure that the method of construction and materials used comply with the building approval and any stated standards, including any requirements stated in the development approval for the work.</p> <p>Fire separation is imperative between sole occupancy units and different fire compartments, including fire stairs and corridors. Where the building certifier has stated in the building approval the need to inspect the fire separation associated with the structural framework, the building certifier should inspect not only in relation to framed walls, but penetrations through the walls and services within the walls.</p>

**TABLE 3 Stage - Completion of placement of formwork and steel reinforcing for any reinforced concrete member in the relevant building approval, before any concrete for the member is poured.**

<i>Element</i>	<i>Minimum requirements</i>	<i>Informative notes</i>
Steel reinforced slabs, roofs and wall members, including columns, beams, stairs and ramps.	<p>Inspection to determine whether the following comply with the building approval, including structural designs –</p> <ul style="list-style-type: none"> <li>• the steel reinforcement type and gauge, spacings and overlaps,</li> <li>• the dimensions of all structural elements,</li> <li>• the location and placement of any waterproof membranes or vapour barriers,</li> <li>• the location and dimensions of any step ups and set downs,</li> <li>• the location and dimensions of stair risers and goings,</li> <li>• the connections of reinforcement between different elements of construction,</li> <li>• the expansion joint locations and installation, and</li> <li>• installation of fire collars and fire dampers for services.</li> </ul> <p>The building certifier must also determine whether the internal heights and layout dimensions are in accordance with the building approval.</p>	<p>For class 2 – 9 buildings it is the building certifier’s decision as to what extent of the placement of formwork and steel reinforcing for any reinforced concrete member is to be inspected for these buildings. The building certifier will state in the building approval where they require an inspection prior to any concrete for the member being poured. Whether a building certifier requires an inspection can relate to the potential risk of the work (see section 19 of this code).</p>

**TABLE 4** *Stage - Completion of the building work approved in the relevant building approval.*

<i>Element</i>	<i>Minimum requirements</i>	<i>Informative notes</i>
Final	<p>Inspection of all reasonably accessible and visible structural elements and fabric of the building to determine whether the building works comply with the relevant volume of the building code and the current building approval, and can operate as required including –</p> <ul style="list-style-type: none"> <li>• All building elements with FRLs, including walls, floors, doors, windows, columns and other structural supports, and roofs.</li> <li>• All materials requiring fire hazard properties and FRLs, including fabrics, fixed panels, fire curtains and floor finishes (that are required to be installed).</li> <li>• Penetrations in walls requiring an FRL in accordance with the building code, e.g. fire collars, including sealing.</li> <li>• External wall materials such as cladding.</li> <li>• Access and egress provisions throughout the building, including provisions for access for people with a disability.</li> <li>• Handrails and balustrades.</li> <li>• The location and heights (where relevant) of fire-safety systems e.g. fire hose reels, hydrants, fire detection systems, sprinklers, and smoke exhaust etc</li> <li>• Window restrictors and maximum window openings to meet safety standards in the building code.</li> <li>• All amenities to be provided to meet amenity standards, including toilet facilities and facilities for people with disabilities.</li> <li>• Plant and equipment required to meet energy efficiency and ventilation requirements.</li> <li>• Carpark head clearances and circulation height clearances to all spaces, including accessible carparking spaces.</li> </ul>	<p>The completion, or final inspections by a building certifier are carried out when the building work identified in the building approval (or a stage as nominated by building approval) has been completed in accordance with the Act, the building approval and the building code. At this stage, the building certifier is inspecting the completed works and is expected to be checking the building work in accordance with the Act both internally and externally where possible, against the approved building plans.</p> <p>Installation of building elements may be supported by installation certificates and material information.</p> <p>Test and inspection certificates including for building services, structural elements, stormwater drainage, and building elements with FRLs should be requested, where applicable.</p> <p>A survey report by a registered surveyor identifying the building’s relevant setbacks from boundaries and other buildings on the site, heights (RLs) and easements on site is also recommended, if not required.</p> <p>Any performance solution included in the building approval may need to be reviewed by the appropriate professional (e.g. project fire engineer) as being installed or implemented in accordance with the performance solution design and accurately certified.</p> <p>Under the Act, the building certifier must also confirm that relevant approvals are given including:</p>

	<p>For Class 1 dwellings, in addition to any of the above aspects where applicable, the building certifier is to confirm whether:</p> <ul style="list-style-type: none"> <li>• the site work for any exempt development complies with any exemption requirements or conditions;</li> <li>• if applicable, a durable notice, detailing the termite management system, is permanently fixed to the building in a prominent location, such as the meter box;</li> <li>• any required rainwater tank connections have been completed;</li> <li>• metre boxes in walls within 900mm of boundary or fire source feature are correctly assessed in relation to fire separation requirements or relocated.</li> <li>• ceiling insulation is installed.</li> </ul> <p>Test, inspection and commissioning certificates including for building services, structural elements, and building elements with FRLs should be requested, where applicable.</p> <p>Any structural certification from an engineer must detail the extent of works being certified and standards it is being certified to.</p>	<ul style="list-style-type: none"> <li>• Approval by the planning and land authority in relation to any building-related development approval conditions - S.35(a) <i>Building Act 2004</i>.</li> <li>• Approval by the emergency services commissioner of the installation of any fire appliance in the new building or part of the building.</li> <li>• Approval under S.21 of the <i>Scaffolding and Lifts Regulation 1950</i>.</li> </ul>
Swimming pools	<p>Final inspection of the pool structure to ensure the swimming pool is correctly located and a compliant safety barrier is in place before use to determine whether:</p> <ul style="list-style-type: none"> <li>• All components of the required swimming pool safety barrier meet the requirements of the relevant standard, including required testing.</li> <li>• The completed swimming pool safety barrier and its components i.e. fences, gates, surrounds, gaps and climbable surfaces etc are located in accordance with the requirements of the relevant standard.</li> <li>• A required water recirculation system is in place as required by the relevant standard.</li> </ul>	<p>Swimming pool fencing and barriers required by the <i>Building Act 2004</i> to restrict access of young children to the pool area and immediate pool surrounds must be in place before the pool is able to hold water.</p> <p>Under Schedule 1, Part 1.3 Item 13 of the <i>Building (General) Regulation 2008</i>, in order to prevent access to water, pool fencing and barriers must;</p> <ul style="list-style-type: none"> <li>• Comply with the BCA;</li> <li>• Be constructed in a proper and skilful way; and</li> <li>• Be inspected and certified as compliant with the <i>Building Act 2004</i> by the building certifier.</li> </ul>

		Photographs are strongly recommended for pool fencing inspections, as site conditions including landscaping, dividing fences and garden furniture have potential to change impact on pool fencing and gate in the future.
Partial or staged final	<p>In addition to the other requirements in this table, for a final inspection for part of a building the building owner will be seeking a certificate of occupancy for before all the work is complete, the building certifier must ensure that:</p> <ul style="list-style-type: none"> <li>• All certification specifically identifies the correct portion of the building the partial occupancy is being sought for.</li> <li>• The extent of the area of the partial occupancy in relation to the current building approval is accurately identified.</li> <li>• All relevant performance requirements of the building code will not be compromised by the partial occupancy.</li> </ul>	<p>A building may be constructed in stages, or the owner of the building may wish to occupy part of a building before the whole building is complete.</p> <p>For a certificate of occupancy to be issued for a part of a building it must be safe to occupy not only in general, but while the remaining building work is carried out. Therefore, the building certifier needs to be particularly careful in relation to inspecting and certifying areas which may be deemed as occupiable and fit for purpose/use, are not exposed to hazards during construction work and all relevant requirements for the health, safety and amenity of occupants are provided.</p>

## Appendix 2 Recordkeeping

### 2.1 Records relating to exemption assessments

- (1) A building surveyor must keep a record of the following in relation to each application made to the building surveyor for an exemption assessment under section 14 of the *Building Act 2004*—
  - (a) The date of the application;
  - (b) The name of the applicant;
  - (c) If the applicant is not the land owner, evidence the applicant is legally authorised to make the application;
  - (d) The block, section and suburb to which the application relates;
  - (e) The building work to which the application relates;
  - (f) Whether the building surveyor agreed to provide the assessment;
  - (g) If the building surveyor did not agree to provide the assessment;
    - i. the reason why they did not agree to provide the assessment; and
    - ii. the notification to the applicant;
  - (h) If the assessment was undertaken:
    - i. the details of any requests to provide further information under section 14C of the *Building Act 2004*;
    - ii. the details of any refusal to issue the notice under section 14B of the *Building Act 2004*, including the reason for the refusal;
    - iii. the date of issue of the notice; and
    - iv. the date the notice and accompanying documents were provided to the Construction Occupations Registrar.
  - (i) If the building surveyor engaged to provide the assessment is a corporation or partnership – the name of the individual licensed building surveyor who undertook the assessment and whether they were a nominee.



## 2.2

### Records relating to building approval applications

- (1) A building surveyor appointed as building certifier for building work must keep a record of the following in relation to each application made to the building surveyor for a building approval for the work under section 26 of the *Building Act 2004*—
  - (a) The date of the application;
  - (b) The name of the applicant;
  - (c) If the applicant is not the land owner, evidence the applicant is legally authorised to make the application;
  - (d) The block, section and suburb to which the application relates;
  - (e) The building work to which the application relates;
  - (f) Whether the application is in relation to proposed building work for which a previous application was refused;
  - (g) Whether the application is in relation to proposed building work for which no previous approval applies, or for—
    - i. building work already begun;
    - ii. amending an existing approval;
    - iii. a new approval for proposed changes to previously approved building work that would result in a building significantly different to the proposed building;
    - iv. a stage of building work in a project for which there will be approvals for more than one stage;
  - (h) The details of—
    - i. any referrals and consultations under the *Building Act 2004*, including any advice received from a referral or consultation entity; and
    - ii. any requests the applicant made to delay consideration of the application.
  - (i) The decision on the application, including—
    - i. whether the approval was issued or refused;
    - ii. the details of decision not to issue an approval under sections 26C, 27 30 or 30A of the *Building Act 2004*, including the reason the approval was not issued; and
    - iii. for class 2-9 buildings, the stage inspections included by the certifier in the approval, if any;
  - (j) The date the decision on whether to issue the approval was made, and the date the applicant was notified of the decision;
  - (k) For a building approval:
    - i. The date the approval was granted;
    - ii. The date the applicant was notified; and

- iii. The date the approval and relevant documents were given to the Construction Occupations Registrar.
- (l) If the building surveyor appointed as the building certifier is a corporation or partnership – the name of the individual licensed building surveyor who undertook the assessment and whether they were a nominee.

### 2.3 Records relating to commencement notice applications

- (1) A building certifier for building work must keep a record of the following in relation to each application made to the building certifier for a commencement notice for the work under section 37 of the *Building Act 2004*—
  - (a) The date of the application;
  - (b) The name, licence number and licence class including any conditions, of the applicant;
  - (c) Evidence the builder is appointed by the land owner;
  - (d) The block, section and suburb to which the application relates;
  - (e) The building approval to which the application relates;
  - (f) The building work in relation to the building approval the applicant is responsible for;
  - (g) Confirmation —
    - i. from the builder that any building site sign required by the *Building Act 2004* is in place, and has been in place for any required period;
    - ii. the applicant held a licence that authorises the building work;
    - iii. if the work is insurable residential building work — of evidence there is a residential building policy for the work or fidelity certificate for the work;
  - (h) The decision on the application, including—
    - i. whether the notice was issued or refused;
    - ii. the details of any refusal to issue the notice, including the reason for the refusal;
  - (i) If a commencement notice is refused, the date the decision on whether to issue the notice was made, and the date the applicant was notified of the decision;
  - (j) For a commencement notice:
    - i. The date the notice was granted;
    - ii. The date the applicant was notified; and
    - iii. The date the notice and relevant documents were given to the Construction Occupations Registrar.
  - (k) If the building surveyor appointed as the building certifier is a corporation or partnership — the name and licence number of the individual licensed building surveyor who undertook the assessment and whether they were a nominee.

## 2.4 Records relating to stage inspections

- (1) A building certifier for building work must keep a record of the following in relation to each stage inspection the building certifier undertakes—
- (a) The notification the builder has reached the stage;
  - (b) If there is more than one licensed builder for the project, the name and licence number of the builder;
  - (c) If the notification was made by a person other than the licensed builder, or their nominee, evidence the person was authorised to make the notification;
  - (d) The building approval to which the notification relates;
  - (e) The stage of work to which the notification relates;
  - (f) The date and time the inspection was conducted;
  - (g) The outcomes of the inspection including any directions to achieve compliance given to the builder in relation to the building work under section 44 of the *Building Act 2004* and details of whether the builder achieved compliance, and when;
  - (h) The details of any associated—
    - i. requests and receipt of tests and certificates, including any structural engineers certificates;
    - ii. safety precautions directions, and actions taken by the builder to comply with the direction;
    - iii. fundamental non-compliances;
    - iv. stop notices;
    - v. notifications made under sections 50, 50A, 50B, or 50C of the *Building Act 2004* in relation to the inspection;
    - vi. documents, including images, recording the building work.
  - (i) Any information provided to the certifier at the stage indicating changes to the design, including exempt changes and changes requiring approval.

*Note* Exempt changes are changes that do not require a building approval

- (j) If the building surveyor appointed as the building certifier is a corporation or partnership – the name of the individual licensed building surveyor who undertook the assessment and whether they were a nominee.