



ADVISORY NOTICE BUILDING

05/03

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

March 2003

PROFESSIONAL PRACTICE :

Alternative Solutions

A number of instances of inappropriate use of alternative solutions have been brought to the attention of the Building Policy Branch and the following Notice has been prepared to provide guidance on the administrative procedures that should be followed by building surveyors when assessing such alternative solutions.

APPLICATION OF THE BUILDING CODE OF AUSTRALIA

An application for provisional building rules consent (PBRC) must be assessed against the deemed-to-satisfy provisions of the Building Code of Australia (BCA) unless the applicant identifies that an alternative solution has been used as a means of meeting the performance requirements.

OBLIGATIONS OF THE APPLICANT

If an applicant requires an assessment of an alternative solution then such a request should be in writing (or e-mail) together with the argued case and supporting evidence for such a solution.

Just because an application does not comply with the deemed-to-satisfy provisions does not mean that the building surveyor assessing the application is able to automatically assess the application as an alternative solution. Unless the applicant requests otherwise and provides suitable evidence of compliance with the performance requirements, the building surveyor has no alternative but to complete an assessment against the deemed-to-satisfy provisions. Of course, this does not prevent a building surveyor from providing helpful advice to an applicant on options (including the possibility of an alternative solution) for overcoming particular problems that become evident during the assessment. What the building surveyor is unable to do is become involved in the design process (Section 92 (1) (a)) to the extent that they are actively engaged in making design decisions and thereby compromising their independent assessment.

The applicant should be aware of the provisions of AO8 and AO9 in the BCA and should have discussed with the assessing building surveyor the appropriate evidence that needs to be submitted in order to substantiate an alternative solution through a recognised assessment method.

OBLIGATIONS OF THE ASSESSING BUILDING SURVEYOR

The building surveyor's task is to assess the information supplied by the applicant in support of an alternative solution.

Because alternative solutions are significant departures from established and accepted deemed-to-satisfy provisions for meeting the performance requirements of the BCA, the assessing building surveyor needs to carefully document the assessment of an alternative solution, the grounds for

accepting it and any conditions that are relevant in relation to it (such as specific maintenance requirements).

In particular, the assessing building surveyor needs to ensure that the views of any appropriate authorities (e.g. SAMFS) have been sought as may be necessary, prior to any decision being made on the granting of the PBRC. It would be reasonable to expect the applicant to provide reports from such bodies in support of their case for approval of an alternative solution.

All documentation concerning the grounds for agreeing to the solution should then be attached to the application for future reference. Also, assessing building surveyors need to be certain that they will be able to produce their reasons for agreeing to a particular alternative solution in any future legal action.

A suggested pro forma for this documentation is attached.

VERIFYING ALTERNATIVE SOLUTIONS

The appropriateness of a particular solution may be contentious, or, may be so significant that a degree of certainty that it is satisfactory is desirable. To provide this certainty, Building Rules Assessment Commission (BRAC) has been established to provide independent and expert advice on particular applications and proposed alternative solutions.

Applications can be made to BRAC in two circumstances:

Any alternative solution can be referred to BRAC for an opinion as to whether it meets the relevant performance requirements.

Where the performance requirement itself is to be varied then the alternative solution must be referred to BRAC for their concurrence before an approval can be granted.

While a BRAC opinion is not warranted for every alternative solution, it is a useful mechanism for substantiating the veracity of such a solution in situations such as:

Any projects where there is potential for significant loss of life.

Projects where particular interest groups may contest the outcome.

Highly innovative projects where technical boundaries are being stretched.

ALTERNATIVE SOLUTIONS AND THE DEVELOPMENT APPROVAL

Any documentation that supports an alternative solution should be part of the application that is subsequently granted PBRC and Development Approval.

Once the Development Approval is issued, that finalises the application.

If, for some reason, changes occur in the building during construction that indicate that the building will not be in accordance with the Development Approval (including any alternative solutions contained in it), and that a case for an alternative solution can be substantiated, then a number of steps need to be

followed:

- If the change is minor and compliance with the deemed-to-satisfy provisions is still achievable then it could be treated as a minor variation for the purposes of Regulation 83 (2) (a) (iv).
- If an alternative solution (or new alternative solution if the original alternative solution is substantially compromised by the variation) is the only means of dealing with the change then it is no longer a minor variation and is clearly outside of the original Development Approval. The only way of dealing with this situation is to follow the procedure for a new application for Development Approval. Accordingly the applicant needs to lodge a new application for the part of the building being altered, together with the case for consideration of an alternative solution.
- The building surveyor must then assess the alternative solution and if satisfied grant a PBRC. If the original provisional development plan consent is still valid (i.e. the change has not impacted on that consent), a new Development Approval can be issued for the alteration.
- If the building surveyor is not satisfied with the proposed solution the application should be refused. This will have the effect of requiring the alteration to be undone and the building brought into compliance with the original Development Approval.

Where a problem becomes apparent well after the substantial completion of a building, the use of alternative solutions to overcome an issue of non-compliance should be handled with extreme caution:

- There maybe a question regarding whether this is appropriate professional conduct depending on who stands to benefit from the outcome, and if it is in the community interest.
- The building surveyor can become involved in a legal dispute between other parties and can therefore expect to have their assessment examined in minute detail. In such a situation the option of getting an opinion from BRAC could be a useful means of substantiating the veracity of the decision.
- Any new application must be considered in accordance with any new provisions of the Building Rules that have become operative since the original Development Approval. This could compound an already difficult problem.
- The impact on life safety should be of prime importance rather than any financial considerations, or disruption to tenants/work practices, for rectifying the problem.

Further information

Department for Transport and Urban Planning

Planning SA

136 North Terrace Adelaide

GPO Box 1815 Adelaide SA 5001

Telephone: 8303 0600

www.planning.sa.gov.au/building_advisory_notices/

Contact:

Don Freeman, Manager

Building Policy Branch

Level 3, 136 North Terrace Adelaide SA

Telephone: 8303 0602

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ALTERNATIVE SOLUTION

PROJECT:

ADDRESS:

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APPLICANT:

REQUEST ATTACHED: YES/NO

SUMMARY OF REQUEST:

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BCA PERFORMANCE REQUIREMENT (S): Clauses

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ASSESSMENT: *(BCA compliant verification methods)*

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DECISION

Approved YES/NO

Special conditions:

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Building Surveyor

...../...../.....
Date