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OTHER ASSESSMENTS

Purpose

To identify "other assessments" which a private certifier must await completion of prior to issuing a development permit for building work.

Background

Many development proposals will involve different types of assessable development (eg. change of use, building work, reconfiguration etc). Private certifiers only have jurisdiction to deal with assessment of building work for compliance with the Building Act. Section 5.3.5(4) of the IPA requires certifiers to not decide their component of the proposal ahead of the other assessable components (i.e. until the other assessments have been completed).

Building certifiers must be satisfied that the matters they are certifying are within their authority and competence, and must not issue a development permit for building works unless all other development approvals have been given. This ensures that the certifier's approval is consistent with the assessment manager's decisions on the other aspects of the proposal.

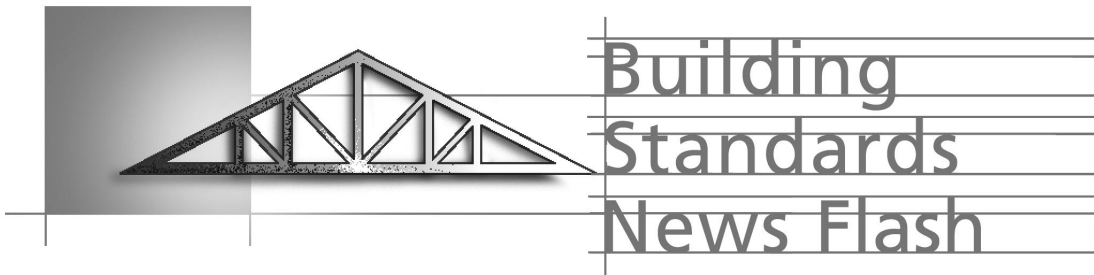
The basic presumption of the IPA is that all development is exempt development (i.e. no development permit is necessary and the development does not have to comply with any codes).

For development to be made assessable (i.e. development permit required) or self-assessable (i.e. no permit required but development must comply with applicable codes) it must be declared to be assessable or self-assessable development either under Schedule 8 of the IPA or under a local government planning scheme.

Assessable development under Schedule 8

The list of assessable development in schedule 8 covers development under key Acts that are to be integrated into IDAS. Commencement of the schedule will occur progressively as Acts are integrated. Development currently assessable under Schedule 8 includes:





- Carrying out building work that is not self-assessable development or exempt development. These are listed in Schedule 5 of the SBR;
- Carrying out operational work for the reconfiguration of the lot - if the reconfiguration of a lot is also assessable development;
- Reconfiguring a lot under the *Land Title Act 1994*, unless the plan of subdivision necessary for the reconfiguration -
 - (a) is a building format plan of subdivision that does not subdivide land on or below the surface of the land; or
 - (b) is for the amalgamation of 2 or more lots; or
 - (c) is for the acquisition of land for a purpose set out in the *Acquisition of Land Act 1967* and;
- Development prescribed under a regulation under the *Environmental Protection Act 1994* as an environmentally relevant activity.

A private certifier must not decide a development application for building work until the assessment manager has given the necessary approvals for development comprising these aspects.

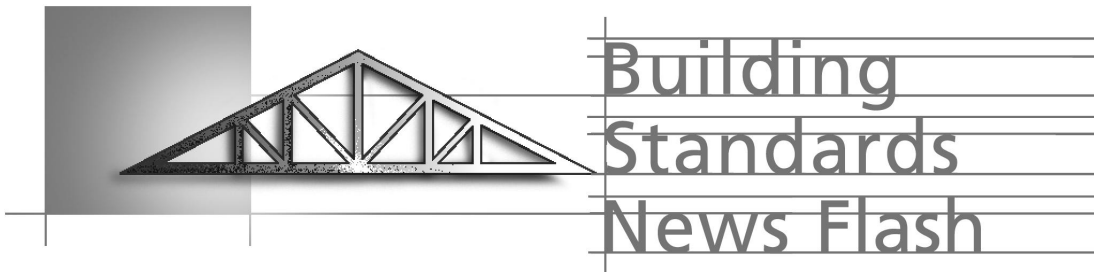
Assessable development under transitional planning schemes

Section 6.1.1 defines “assessable development” for transitional planning schemes as development that before the commencement of the IPA would have required an application to be made under the Local Government (Planning & Environment) (LG(P&E)) Act. Applications that would have been made under the LG (P&E) Act include:

- Development requiring amendment of the planning scheme;
- Town planning consent;
- Subdivision;
- Subdivision engineering plans;
- Staged subdivision approval;
- Subdivision applications incorporating a lake;
- Amalgamation of land;
- Access easement;
- Conditions (permitted use) or the issue of a certificate of compliance; and
- Any approvals by whatever name included in the planning scheme

However, development required to be carried out to the satisfaction of a nominated person under a planning scheme is not assessable development.

Recent amendments to section 6.1.1 and 6.1.23(1A) of the IPA have been inserted to clarify that a statement in a planning scheme requiring actions to be carried out to the satisfaction



of a nominated person (such as landscaping to the satisfaction of the shire engineer), are requirements of an applicable code for self-assessable development under a planning scheme (ie not an IDAS application). Such a requirement is binding on an applicant to undertake the required action (i.e. submit plans, undertake works), but not a private certifier.

However, private certifiers should be aware that this provision does not apply where a planning scheme requires plans to be approved by a nominated person or council. In this case an IDAS application may be required by council and applicants should be advised accordingly.

A useful guide is to determine whether the council required an application for approval prior to the IPA.

Also section 3.5.15(2) of the IPA requires that a decision notice must state any other development permits necessary to allow the development to be carried out. Therefore, in determining whether all other assessments are complete, private certifiers should refer to previous permits already issued for the project.

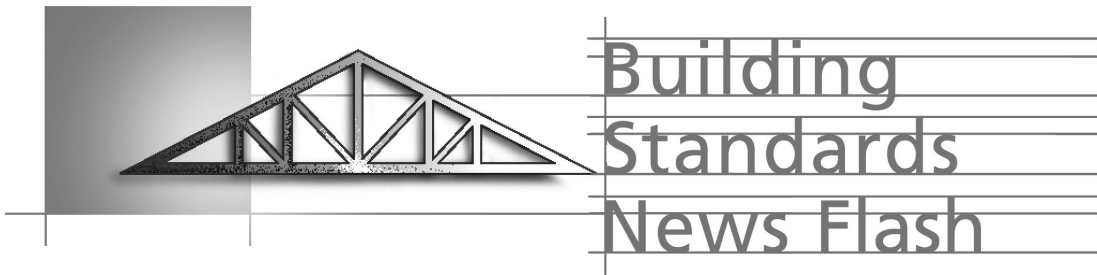
Private certifiers should also note that conditions on an approval which require the lodgement of further plans are not other assessments for which a private certifier should wait for before issuing a permit, unless the work is assessable development under the planning scheme.

Self-assessable development under transitional planning schemes

If an aspect of development is self assessable development under a planning scheme then a decision notice for the approval of any building work associated with the self assessable development must include details of any other code the applicant may need to comply with in relation to the self assessable development.

Section 6.1.1 defines “self assessable development” for transitional planning schemes as development that before the commencement of the IPA would not have required an application to be made but would have required the development to comply with applicable codes.

The effect of the definition is to pick up many of the “column 3” as-of-right uses in current planning schemes. This is because under many schemes now, column 3 uses are structured in such a way, that while an application is not required, the development still must comply with standards or requirements stated in the scheme. These often include items such as car parking standards, set backs and the like. Section 6.1.35 states that self-assessable development to which a transitional planning scheme or an interim development control provision applies must comply with applicable codes. The term “applicable codes” is



defined in section 6.1.1 to mean the standards or requirements applying to development under such a scheme or provision.