

Supplementary
Submission
No 88a

**INQUIRY INTO REGULATION OF BUILDING
STANDARDS, BUILDING QUALITY AND BUILDING
DISPUTES**

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Parliamentary Inquiry into Building Standards - supplementary submission

- The concept of "innovation" with regard to building standards and guidelines encourages builders and developers to work outside these standards with "innovative" concepts which are often simply ways to reduce costs, not bring innovative ideas to the industry. The idea that a product or design is "deemed to satisfy" a regulation has become widespread. This has the potential to create an increasing number of "cladding disasters" in many sections of the construction industry.

For instance, this "deemed to satisfy" concept is increasingly used for developments that are proposed on bushfire prone lands. The Rural Fire Service produces a "Planning for Bushfire Protection" (PBP) document which contain guidelines only for how to build in bushfire prone lands. There are also provisions within the National Construction Code for the actual building construction requirements (based on what is referred to as the BAL rating - Bushfire Attack Level). However the RFS PBP guidelines are used to determine appropriate setbacks, road widths, fire vehicle turning requirements, hydrant spacing, vegetation classification, onsite water storage capacity, requirements for "Special Fire Protection Purpose Developments" such as schools, emergency management arrangements, among other bushfire protection measures.

The RFS uses this PBP document to assess compliance and thus provide General Terms of Approval (GTA) on developments ie whether the RFS agrees the design is acceptable. However the assessment is based on information that is often inaccurate, produced by the developer's consultants. Further exacerbating problems, the PBP document includes the concept of "deemed to satisfy", whereby the developer's bushfire consultant can provide non-compliant alternatives and sign off that they "satisfy" the objectives.

A recent example of "deemed to satisfy" occurred on a very large Seniors SEPP development on bushfire prone land. The external perimeter road needed to be 8 metre wide sealed road according to the PBP document. The applicant's documentation instead showed the roadway included the pedestrian footpath for elderly inhabitants being incorporated within the required 8m width of the road (terrific in thick smoke). The 8m "roadway" also include a garden bed containing *Strelitzia nicolai* - a 1.5m high dense thicket of a shrub that even a fire truck would have trouble getting through without damaging the truck. The actual road width was 4 metres, only half the width required in the Rural Fire Service Planning for Bushfire Protection document.

The road wasn't even sealed, it was grass-crete which is 50% grass. The council has said that "the use of grass-crete is unlikely to sustain a grass landscape" ie the roadway would likely end up being 50% dirt. The roadway was a deemed to satisfy measure.

Solution: If the RFS is required to give General Terms of Approval on a development, they must be allowed the time to be able to scrutinize the documents in detail to ascertain whether they are compliant with PFP, not simply provide a GTA that states the development must be compliant with certain sections of PBP. If the development does not comply with sections of PBP then the RFS must state the areas of non-compliance that must be rectified before their approval is given.

The "deemed to satisfy" clauses should be removed not only from PFP but from all regulations because the "innovations" proposed frequently do not satisfy the aims and objectives of the regulations.

- Council Development Control Plans (DCPs), while they are only guidelines, contain "Aims or Objectives" that are referenced for Council approvals, Local and District Planning Panel decisions, as well as in the Land and Environment Court. Similar to the concept of "deemed to satisfy", it is whether the Aims or Objectives of a DCP have been met rather than consideration of the Prescriptive Measures that is taken into consideration.

Some councils have substantial Aims and Objectives that ensure good building design and construction. Other councils have such weak Aims and Objectives that a shipping container could pass for a waterfront house, as recently occurred on one of Sydney's major waterways. The DCP wording for those councils with weak DCP Aims allows virtually anything to be deemed as meeting the Aims. Examples include:

- For Medium Density Housing one council has as its sole aim: *Development that contributes to the desired future character of the area.*
- For Privacy: *Development designed to provide reasonable privacy to proposed and adjacent properties.* The word "reasonable" is too subjective
- For Height: *A built form not exceeding 5 storeys in height and comprising residential flat buildings.* A square monolithic box would comply.
- For Extractive Industries: *Extractive industries that implement progressive rehabilitation strategies that minimise long-term impacts on surrounding landuses and optimise sustainable future land use.* "Progressive" rehabilitation strategies could be applied to virtually anything.

Each of these aims is so vague that virtually any building can get approved, and does, if it is "deemed to satisfy" these aims or objectives.

Solution: When the draft model DCP is released by the State Government, which is planned to occur by 2020, it must contain best practice Aims and Objectives, not written down to the lowest common denominator. Otherwise we'll have yet another building industry catastrophe, this time with each and every building being the cheapest and plainest (ugly) building possible, finally ruining the character and liveability of whole suburbs.

An even better solution would be to once again raise DCPs to the status of a planning instrument thereby ensuring right from the start that buildings are compliant with design and construction best practices, not built down to the lowest possible tender price.

- A project foreman is often only onsite for a few hours each week on smaller projects. The builders usually have the foreman supervising many projects at once and they go from building site to building site. Sub-contractors onsite are not provided with copies of either the plans or the Conditions of Consent, they simply do as they're verbally told. It is possible that sub-contractors may not even be able to understand plans or conditions.

A recent example saw plumbing and stormwater drainage that was supposed to be routed alongside the building, routed instead directly underneath the building diagonally from front corner to rear corner underneath a slab because it was easier for the plumbing sub-contractor before the slab was poured. If there is a leak in the future it will be almost impossible to rectify or very costly, with the potential for long term damage to the building from undetected water buildup.

If they can't get something to work easily, subcontractors often make unknown, undocumented changes as they go. Council Conditions of Consent often only specify that works must be "supervised" by a particular professional, even for crucial works. It is not a requirement that the supervisor has to be onsite.

Solution: A full set of plans and conditions of consent must be held onsite at all times. Builders, via Conditions of Consent or Certification, must ensure that either a site foreman or the particular trade supervisor is onsite at all times to ensure works are carried out according to the approved plans. Any amendments must be approved before being done and fully documented.