

No Planning Approval Required Certificates

Background

In June and December 2020, the Tasmanian Government passed two Building and Construction (Regulatory Reform Amendments) Bills. The first Bill introduced a range of regulatory reforms to tighten the permit and approval processes within local government, TasWater and TasNetworks. The second Bill introduced similar reforms focused on accountability of State Government agencies in the permit and approval processes.

In addition to legislative changes, some non-legislative reforms were identified that would streamline permit and approval processes. These changes could be made by Determination or policy changes rather than by introducing new laws.

One such non-legislative reform was for 'No Permit Required Certificates'.

This reform was proposed in the Premier's Economic and Social Recovery Advisory Council (PESRAC) Interim Report in July 2020. The Interim Report provided an overview of the economic and social impacts of COVID-19 and outlined the Council's recommendations concerning the recovery journey and its immediate priorities.

In January 2021, Consumer, Building and Occupational Services (CBOS), released an Options Paper seeking the views of the public and relevant stakeholders on the options available to potentially facilitate 'no planning approval required certificates' to be issued and then relied upon under the *Building Act 2016*.

Following the public consultation in early 2021, the Tasmanian Government is proposing to proceed with Option 2. Option 2 included making an amendment to the Director's Determination – Certificates by Qualified Persons for an Assessable Item to include certificates of 'No Planning Approval Required'. Option 2 also included the licensing of persons who may issue such certificates, which would be achieved via an amendment to the Administrator's Determination – Occupational Licensing (Building Services Work).

Next Steps

CBOS has drafted amendments to two determinations to allow for the no planning approval required certificates to be issued.

Director’s Determination – Certificates by Qualified Persons for an Assessable Item

Under the *Building Act 2016*, the Director of Building Control can issue a Determination that specifies the expertise and qualifications required for a person to provide a certificate for an ‘assessable item’. A certificate issued by that person can then be relied on by an authorised person as evidence that the assessable item complies with the Act.

The authorised person can then give independent advice or an assessment on a requirement under the *Building Act 2016* that another party, such as a Permit Authority or Building Surveyor, can rely upon. Current examples include soil testing reports, bushfire-prone area assessments, energy efficiency ratings, or assessing a plumbing system component.

The proposed amendment to this Determination would establish ‘No Planning Approval Required’ as a certificate type that may be provided and relied upon under the *Building Act 2016*.

To provide this certificate, the person would need to be licensed as a Building Services Provider in the new ‘Planning Consultant’ category.

An excerpt of the amendment is below, and the full draft amendment is available at the [Community Consultation ‘Have Your Say’](#) webpage.

Excerpt from amendment to Director’s Determination

Certificate type	Given by	Qualifications	Speciality area
Planning – No Planning Approval Required	Planning consultant	Licensed as a Building Services Provider in the category of Planning Consultant.	Assessment and certification of proposed building or demolition work against relevant planning scheme requirements.

Administrator’s Determination – Occupational Licensing (Building Services Work)

As described in the preceding section, a planning consultant will need to be licensed to issue a ‘No Planning Approval Required’ certificate.

To achieve this licensing requirement, the Administrator of Occupational Licensing has provided a draft amendment to the Administrator’s Determination – Occupational Licensing (Building Services Work). This Determination sets out the requirements for licencing of building services providers, including the scope of licensees and insurance requirements.

This draft amendment would establish a new category of building services provider licence in the ‘Planning Consultant’ category.

An excerpt of the amendment is below, and the full draft amendment is available at the [Community Consultation ‘Have Your Say’](#) webpage.

Excerpt from amendment to Administrator's Determination

Category	Planning Consultant
Classes	N/A
Scope of work: (Standard requirements)	<p>The licence allows the holder to assess and certify the proposed building or demolition work against relevant planning legislation and provide, if appropriate to do so, a statement of 'No Planning Approval Required'.</p> <ul style="list-style-type: none"> The relevant building surveyor and/or permit authority may then rely on this certification from the Planning Consultant when considering consents or permits required under the <i>Land Use Planning Approvals Act 1993</i>.
Licence restrictions/ conditions applicable	<p>Planning Consultants, licensed as building services providers under the <i>Occupational Licensing Act 2005</i>, are restricted to provide solely the statement of No Planning Approval Required and are not permitted to perform the Planning Authority functions under the <i>Land Use Planning and Approvals Act 1993</i>.</p>
Minimum requirements for new application requirements for this Class	
Minimum qualifications completed (all new applicants)	<ul style="list-style-type: none"> An appropriate qualification (AQF 7 or higher) in Planning, submitted to the satisfaction of the Administrator <p>NOTE: Appropriate minimum qualifications include, but are not limited to Bachelor of Planning & Design, Bachelor of Urban Planning & Development, Bachelor of Arts (Planning & Design), Bachelor of Applied Science (Planning)</p>
Experience (all new applicants)	<ul style="list-style-type: none"> Five years' experience as a town planner at local government or in a private planning consultancy
Insurance	<ul style="list-style-type: none"> Professional Indemnity as per Part 9 of the Determination <p><i>The Professional Indemnity details are provided at p. 74 of the current Determination.</i></p> <p><i>The minimum amount of cover to be \$1 million</i></p>

What now?

The Tasmanian Government is seeking feedback regarding the potential regulatory impact that may be associated with implementing the proposed amendments. Below are some brief points to focus the discussion.

Discussion Points

Are the minimum qualifications required of AQF 7 an appropriate level?

Is the minimum experience requirement of five years' experience as a town planner at a local government or private planning consultancy appropriate experience?

Is the scope of work and licence restrictions/conditions sufficiently clear?

If you are a planning consultant in private practice, is your existing insurance policy likely to provide the necessary professional indemnity insurance to satisfy Part 9 of the Administrator's Determination?

How do I submit feedback?

This information sheet and associated material are provided on the Department of Justice [Community Consultations](#) website.

All written submissions on this consultation must be received by 5:00 pm on 22 October 2021.

You can make your submission either online, by email or by post.

Email: haveyoursay@justice.tas.gov.au

Mail: Department of Justice, Office of the Secretary, GPO Box 825, Hobart Tasmania, 7001

Other than indicated below, submissions will be treated as **public information** and published on our website at www.justice.tas.gov.au/community-consultation. Submissions will be published after the consultation period.

No personal information other than an individual's name or the organisation making a submission will be published.

Please contact CBOS.info@justice.tas.gov.au and include 'Attention: Policy & Projects – No Planning Approval Required' in the email subject.

Accessibility of Submissions

The Government recognises that not all individuals or groups are equally placed to access and understand information. We are therefore committed to ensuring Government information is accessible and easily understood by people with diverse communication needs

Where possible, please consider typing your submission in plain English and providing it in a format such as Microsoft Word or equivalent.

The Government cannot, however, take responsibility for the accessibility of documents provided by third parties.

Important Information to Note

Your name (or the name of the organisation) will be published unless you request otherwise.

In the absence of a clear indication that a submission (or parts of the submission) are intended to be confidential, the Department will treat all submissions as public.

If you would like your submission treated as confidential, whether in whole or in part, please indicate this in writing when making your submission, clearly identifying the parts of your submission you want to remain confidential and why. In this case, your submission will not be published to the extent of that request.

Copyright in submissions remains with the author(s), not with the Tasmanian Government.

The Department will not publish, in whole or in part, submissions containing defamatory or offensive material. If your submission includes information that could enable the identification of other individuals, then either all or parts of the submission will not be published.

The Right to Information Act 2009 and confidentiality

Information provided to the Government may be provided to an applicant under *the Right to Information Act 2009* (RTI) provisions. If you have indicated that you wish all or part of your submission to be treated as confidential, your statement detailing the reasons may be taken into account in determining whether or not to release the information in the event of an RTI application. You may also be contacted to provide any further comments.

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