

# Referral to Function Control Authorities Determination 2016

## *Building Act 2016*

DOC/16/79602 V1.0

I, Dale Edward Webster, in my capacity as Director of Building Control, and acting pursuant to section 20(1)(d) of the *Building Act 2016*, hereby make the following Determination.

### **1. Title**

This Determination may be cited as the Referral to Function Control Authorities Determination 2016

### **2. Commencement**

For the purposes of 20(3)(b) of the Act, this Determination applies from the date of its approval until its revocation

### **3. Description**

This Determination specifies the process for making of referrals to Function Control Authorities as required under the *Building Act 2016* and the *Building Regulations 2016*

### **4. Application**

This Determination is issued pursuant to the anticipatory powers provision of section 11(1) of the *Acts Interpretation Act 1931*



Dale Edward Webster

**Director of Building Control**

Date: 5 December 2016

## 5. Definitions

In this Determination:

**“Act”** means the *Building Act 2016*

**“Change of use”** is as defined in s.55 of the Act

**“Function Control Authority” (FCA)** is as defined in s.4 of the Act, and for the purposes of this Determination, means an authority that is required under an Act to –

- issue a certificate, licence, registration or permit for a function or operation within a building; or
- inspect or control a function or operation within a building; and
  - that the Director has Determined is a function control authority for the purpose of the Act;

**“Special use building”** is as defined in s.4 of the Act, and for the purposes of this Determination, means a building –

- in respect of which a function control authority exercises control; and
- to which Section H of the Tasmania Appendix to Volume One of the National Construction Code applies;

**“Specified Period”** means the period as determined by the Director in the Specified List Determination;

**“Specified Documents”** means the documents as determined by the Director in the Specified List Determination.

## 6. Special use buildings

It is determined that the types of buildings referred to in column two of Schedule 3 of the *Building Regulations 2016* are Special use buildings for the purposes of s.4 of the Act.

## 7. Application of the National Construction Code

Section H of the Tasmania Appendix to Volume One of the National Construction Code, applies to the design and performance of building work on any Special use building.

## 8. Provisions of the Act that may require a referral to a FCA

### Building work on a Special use building

- s.98(1)(e) (Notifiable building work)
- s.132(1)(d) (Permit building work)

### Demolition work on a Special use building

- s.121(1)(e) (Notifiable demolition work)
- s.183(1)(d) (Permit demolition work)

### Change of building use or building classification

- s.55

## **Application for new occupancy permit**

- Division I of Part 17

## **9. Process of referral to a Function Control Authority**

### **A. Consideration of application for a Certificate of Likely Compliance (building work or demolition work)**

- (1) If a person makes an application for a certificate of likely compliance to perform building work or demolition work on a Special use building, the building surveyor is to forward copies of the following documents to the relevant function control authority for its information within the specified period:
  - (a) the documents specified by the Director
  - (b) any document submitted with the application that the building surveyor considers relevant;
  - (c) a referral in the Approved Form.
- (2) If the function control authority considers that an alteration is to be made to building work in order to comply with its requirements under any other Act, the function control authority is to notify the building surveyor of that alteration within the specified period.

### **B. Granting of a Certificate of Likely Compliance for building or demolition work on a Special use building**

- (1) A building surveyor may grant an application for a certificate of likely compliance for work on a Special use building that does not comply with this Act if –
  - (a) a function control authority, in exercising a power under any Act, requires that work to be carried out; or
  - (b) the function control authority agrees to the work.

### **C. Consideration of an application for an Occupancy Permit for a Special use building**

- (1) A building surveyor is not to grant a new occupancy permit without the agreement of the relevant function control authority if –
  - (a) the permit is in respect of a Special use building; and
  - (b) the building does not conform with the requirements of Section H of the Tasmania Appendix to Volume One of the National Construction Code.
- (2) A building surveyor may issue an occupancy permit for a Special use building if the function control authority has given permission for the building to be used for a particular use.

#### **D. Change of use of a building**

- (1) The re-use of a building for which a new registration, licensing or approval is required by the relevant function control authority, is taken to be a change of use of the building for the purposes of section 55 of the Act.
- (2) The changed building is then required to comply with:
  - (a) any requirements of the relevant function control authority; and
  - (b) provisions of the National Construction Code relevant to the new use.

### **10. Approved Form for making a referral**

It is determined that a referral to a Function Control Authority is to be made on Approved Form No 10.

### **11. Explanatory information**

**Process for assessing a certificate of likely compliance (CLC) for new work on a Special use building:**

- (1) Before performing any Notifiable Work or applying for a building permit for new permit building work, the owner or their agent must obtain a CLC from an licensed building surveyor;
- (2) The CLC will certify that the design of the proposed building works is likely to comply with the provisions of the *Building Act 2016* and National Construction Code (NCC). If a building permit is required, the Permit Authority (local council) must receive the CLC from the building surveyor before it can issue a building permit for the proposed building works;
- (3) If the person making an application for a CLC intends to build or alter a special use building, the building surveyor is to send copies of any relevant documents and a copy of Approved Form No. 10 to the relevant function control authority within two working days of receiving the application for the CLC. "Special use buildings" include those that require a special statutory licence or approval for their use.
- (4) Once notified, a function control authority has a capacity to comment on the suitability of the design of buildings that will be used for the particular operation or function that it licenses or otherwise regulates. If it considers that an alteration should to be made to the building work in order to comply with requirements under any other Act, it is to notify the building surveyor of that alteration within 14 days of receiving the application. There is no specific form provided for this notification.
- (5) A building surveyor may grant an application for a CLC for work on a special use building that does not comply with the *Building Act 2016* if;
  - (a) The function control authority in exercising a power under any Act, requires that the work be carried out; or
  - (b) The function control authority agrees to the work proposed.

- (6) After the function control authority has discharged its obligations under the Building Act, the building surveyor will issue the CLC, subject to any notification given by a function control authority. The owner or their agent will then either: -
- (a) apply to the local council for a building permit; or
  - (b) if it is Notifiable building work, commence work when the building surveyor gives an authorisation.

## **12. Listing of Function Control Authorities**

- (1) A list of the prescribed Function Control Authorities is contained in Schedule 3 of the *Building Regulations 2016*.

### **Contact details**

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