

# CERTIFIED BUILDING SOLUTIONS NEWSLETTER

July 2008

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## PROVISION OF SURVEY CERTIFICATES & COMPLIANCE WITH APPROVED PLANS

It has recently come to our attention that a builder operating in Canberra is the subject of possible litigation resulting from a disputed floor level. We understand that the matter is also being investigated by ACT Planning and Land Authority (ACTPLA) for possible action under the Construction Occupations (Licensing) Act.

As a consequence of this circumstance, we believe it is timely to remind our clients of their responsibilities under the *Building Act 2004* for the provision of Survey Certificates and for construction to comply with approved plans.

The relevant sections from the Building Act in relation to this matter are:

Section 42 – Requirements for carrying out building work.

Clause 42(1)(d) – building work for which an approved plan is required must be carried out in accordance with the approved plans.

And

Section 43 – Stages of building work.

Clause 43(2) – A building licensee in charge of building work must not do building work above dampcourse level (other than further building work

exempted under subsection (1)(b)) unless-

(a) the certifier has received-  
(i) a plan (a **survey plan**) signed by a registered surveyor stating the position of the building in relation to the boundaries of the parcel of land where the building is to be erected and stating the level that the floor or floors of the building will have in relation to a level stated in the approved plans;

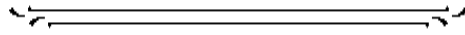
We have discussed the matter with ACTPLA who advise that building work approved under the *Building Act 2004* has to also comply with the *Land (Planning and Environment) Act 1991* or the new *Planning and Development Act 2007*, whichever is relevant to the approved work. They further advise that there is NO tolerance in finished floor levels under the *Land (Planning and Environment) Act 1991* or the new *Planning and Development Act 2007*.

To ensure our clients are not exposed to disciplinary action under Government legislation or possible civil action, we are recommending the following in relation to this matter:

1. If the finished floor level on a Survey Certificate does not match that on the approved plans, an amended plan is required. Please note that to comply with

Section 43, *Building Act 2004* the Survey Certificate has to be provided to the building certifier at damp proof course (DPC) level and prior to further work being undertaken.

2. If you need to submit an amended plan this must be done PRIOR to work commencing on that part of the work. The amended plan then becomes part of the overall approval.



## **ACT GOVERNMENT FEES TO INCREASE**

ACTPLA will announce the fees to be paid in relation to building in the ACT in financial year 2008/09 on Tuesday, 1 July 2008. Details of the new fees should be

available soon thereafter on the ACTPLA website and can be viewed at [www.actpla.act.gov.au/topics/design\\_build/finances/fees](http://www.actpla.act.gov.au/topics/design_build/finances/fees).