

Advisory Notices are issued to assist in the interpretation of the Planning, Development and Infrastructure Act 2016

PROFESSIONAL PRACTICE: Certificates of Occupancy for Class 1a buildings

Background

This Advisory Notice provides guidance on Certificates of Occupancy requirements for Class 1a buildings under the *Planning, Development and Infrastructure Act 2016* (PDI Act).

Please note a Certificate of Occupancy is not required for houses or additions (Class 1a) that are completed between 16 December 2021 and 30 June 2022. This change has been put in place to alleviate pressure on industry due to the high number of housing completions anticipated during this time. Please note key health and safety occupancy requirements continue to apply as set out in the General Regulations and detailed below. Normal Certificate of Occupancy requirements will reapply from 1 July 2022.

Further advice on this deferral is provided within the associated Certificate of Occupancy Frequently Asked Questions provided on the [PlanSA Certificate of Occupancy page](#).

PDI Act Certificate of Occupancy requirements

Under the PDI Act, Class 1a buildings are now required to have a Certificate of Occupancy prior to occupancy. These requirements can be found in section 152 of the Act and regulation 103 of the Planning, Development and Infrastructure (General) Regulations 2017 (Regulations). Occupation of a Class 1a building without a Certificate of Occupancy will attract an expiation of \$750 and a penalty of up to \$10 000.

The purpose of the Certificate of Occupancy is to ensure that all new Class 1a buildings (homes and additions) in South Australia are built in a safe manner and are suitable for occupation. This requirement mirrors the requirement already in place for all other classes of buildings (excluding Class 10, which are defined as sheds, carports and the like), such as shops, apartment buildings, offices, warehouses, etcetera.

Importantly, the provision of a Statement of Compliance for a Class 1a building will no longer represent the completion of the building process for the parties involved (builder, owner, council and building certifier for the council, building certifier if present). A house will only be considered complete when a Certificate of Occupancy has been issued to state that the building is suitable for occupation.

Certificates of Occupancy are issued via the PlanSA system and once issued are available for download by the parties to an application. A pdf version of the Certificate is also maintained on the PlanSA website. This is only to be used when it is not possible to issue a Certificate in the system (i.e. when there is no development approval required but a Certificate is sought).

Discussion

Practitioners already familiar with the process for issuing Certificates of Occupancy will recognise the key steps below, with only minor changes under the PDI Act. For those working exclusively in the domestic building sector with a focus on Class 1a buildings, the following steps will be new.

Step 1: Determining who will be issuing the Certificate of Occupancy and issuing the Decision Notification Form

Where a Certificate of Occupancy is required, the PlanSA system requires the person undertaking the building consent (either building certifier or council) to nominate who will be issuing this Certificate of Occupancy. Under the PDI Act a Certificate of Occupancy may be issued by either council or a building certifier. Given the building relevant authority will be making this decision, it is important that the applicant is made aware of who will be issuing their Certificate of Occupancy, should they seek to select one party or another. Please note though council is always the default entity for issuing a Certificate should a building certifier elect not to issue the Certificate (under section 152 of the PDI Act).

The authority responsible for issuing the Certificate of Occupancy (building certifier or council) will appear on the Decision Notification Form (DNF) so that all parties are aware of who is responsible for this function prior to construction commencing.

The DNF will also state if any additional certificates, reports or other documents will need to be provided at the same time the Statement of Compliance is submitted. This information may be necessary for a Certificate of Occupancy to be issued.

Step 2: Receiving notifications to track construction

The DNF will also identify the notifications that must be made to the council. Commencement and completion notifications are mandatory (regulation 93) with others (e.g. footings, framing, pool fencing) at the discretion of the council. Mandatory notifications also apply for the use of a designated building product. Notifications may also be added by the building certifier to highlight items of building work recommended for inspection (regulation 57(7)).

While not strictly part of the Certificate of Occupancy process, receipt of notifications during construction allows the progress of construction to be tracked and for council to undertake inspections as required.

Step 3: Receiving the Statement of Compliance

The completion notification must be accompanied by the Statement of Compliance. Part A of the Statement must be completed by the licensed building work contractor engaged by the applicant. Part B must be completed by the owner or a person acting on the owner's behalf. These parts must be signed by different parties to ensure independent verification of completed building work.

The person who signs Part A of the Statement must provide the Statement, along with a copy of any other documentation requested on the DNF, to the council and the owner, within 5 days of its completion. This process can occur via the PlanSA platform.

The PDI Act Statement of Compliance also requires the builder to list the aspects of the approved building work that the builder has not been contracted to complete. These aspects may need to be completed by others (including the owner) before a Certificate of Occupancy can be issued.

Step 4: Issuing the Certificate of Occupancy

While a final inspection is not a mandatory precondition for issuing a Certificate of Occupancy, a council may decide to conduct a completion inspection. Scenario A covers where no final inspection takes place and B where an inspection does take place.

Scenario A: Issuing of the Certificate of Occupancy **without** a completion inspection

If council decide not to conduct a final inspection and the completed Statement of Compliance (including any required documentation) has been received, council or the building certifier have five business days in which to issue a Certificate of Occupancy.

If a building certifier issues the Certificate of Occupancy they are required to provide a copy to the council, together with a copy of any other relevant documentation, within five business days. The Certificate of Occupancy may be generated and issued via the PlanSA system.

Scenario B: Issuing of the Certificate of Occupancy with a completion inspection

The following applies when the council determines not to undertake a completion inspection, in accordance with **Practice Direction 9 – Council Inspections 2020**.

Two sub-scenarios may apply:

Scenario B.1 Building certifier issuing the Certificate of Occupancy and Council undertaking a completion inspection

Where the building certifier is issuing the Certificate and a council decides to undertake a completion inspection, the Certificate of Occupancy must not be granted until the inspection has been carried out and any additional building work has been undertaken (if necessary).

To avoid situations where the Class 1a is inadvertently issued with a Certificate of Occupancy and occupied prior to the final inspection, council must:

- a) advise the building certifier of council's intention to carry out a final inspection (prior to the inspection occurring); and
- b) advise the building certifier when the inspection and any subsequent actions have been completed.

This is required by regulation and is controlled by the PlanSA system.

The building certifier then has five days to issue the Certificate of Occupancy, noting this clock does not start until the inspection work and any additional building work has been completed. The final inspection must be undertaken within the timeframes set out within the Practice Direction.

Scenario B.2 Council issuing the Certificate of Occupancy and council undertaking a completion inspection

The process is simpler when the council is issuing the Certificate of Occupancy after undertaking a final inspection. Once the final inspection and any required actions have been undertaken, the council has five days to issue the Certificate of Occupancy. The final inspection must be undertaken within the timeframes set out within the relevant Practice Direction.

Additional Information

- [PDI Act Statement of Compliance](#)
- [PDI Act Certificate of Occupancy](#)
- [Practice Direction 8 – Council Swimming Pool Inspections 2020](#)
- [Practice Direction 9 – Council Inspections 2020](#)
- [Planning, Development and Infrastructure \(General Regulations\) 2017](#)

Further Information

Attorney-General's Department
Planning and Land Use Services
Building Policy and Compliance
Level 2, 101 Grenfell Street
ADELAIDE SA 5000
Telephone: 1800 752 664

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