



17<sup>th</sup> March 2022

## **Guidance Note Practices and Processes related to S.L.623.06**

In view of the recent enquiries, the following guidance notes are hereby circulated for clarity purposes:

### **Regulation 4 Declarations**

The BCA shall issue a written determination on the acceptance or otherwise of declarations that works do not fall under the scope of S.L. 623.06 (LN 136 of 2019 as amended) under Regulation 4. No works should start before clearance from the BCA is issued.

Good to note that, if there exists a third-party property within the development site's affected zone, even if such property consists of an undeveloped site, Regulation 4 Declarations will NOT be accepted if any excavation works are envisaged.

Regulation 4 Declarations for restoration works that do not involve the replacement of structural elements may be favourably considered.

The submission of such declarations is NOT required by the BCA where no construction works, as defined in the regulations<sup>1</sup>, are envisaged, including for development permits granting approval for sanctioning, regularisation and/or change of use.

### **Regulation 25 Waivers**

BCA shall continue to consider applications for partial waivers in accordance with regulation 25 from the provisions of S.L. 623.06 (LN 136 of 2019, as amended), specifically regulations 5 and 7 as outlined below.

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<sup>1</sup> S.L. 623.06 regulation 3:

"construction work" means that it includes all construction works carried out on the structure of the fabric of a building or on a civil engineering structure, including alterations on existing buildings, demolition or excavation activities taking place on a development site, streets, open spaces and shall also include tunnelling works



The BCA shall issue a written determination on the acceptance or otherwise of the waiver request after having perused the Risk Assessment and detailed justification. No works should start before clearance from the BCA is issued.

### **Waiver of regulation 5**

A request for the waiving of the requirement to appoint a Site Technical Officer for demolition, excavation or building may be filed by the contractor undertaking the works for which that waiver is being requested. In such case, the contractor shall provide a detailed justification, that should include the presence of professionals within their setup that can assist with the implementation of the works, and/or evidence of specific training and experience in such works by equivalent competent persons employed by the contractor. No works should start before clearance is issued by the BCA.

Nevertheless, a waiver for the appointment of an STO for excavation exceeding 50cm from existing site levels shall not be accepted.

### **Waiver of regulation 6**

No waivers shall be entertained.

### **Waiver of regulation 7**

#### *Method Statements:*

The contractor may submit a request for a full or partial waiver for the preparation of a method statement in accordance with the Schedules in the Legal Notice, provided that such a request contains a detailed justification on the basis of a risk assessment drawn up by the perit-in-charge. The submission shall be filed by the contractor's perit on his behalf.

No waivers shall be accepted for the preparation of method statements for demolition of structures that are supported by shared party walls, or in cases where the demolition works may give rise to water ingress into third-party property.



No waivers shall be accepted for the preparation of method statements for excavation works deeper than 50cm from existing site levels.

*Condition Reports:*

The developer may submit a request for a full or partial waiver for the preparation of condition reports for all the contiguous properties in accordance with the Schedules in the Legal Notice, provided that in such a request detailed justification is provided on the basis of a risk assessment drawn up by the perit-in-charge jointly with the perit/i responsible for drawing up the method statement/s. The Risk Assessment shall include a determination of which third-party properties require the preparation of a Condition Report.

No waivers shall be accepted for the preparation of condition reports of those third-party properties which share supporting structural elements with those structures to be demolished, or where third-party properties may be affected by water ingress as a result of the demolition works.

No waivers shall be accepted for the preparation of condition reports of third-party properties within the excavation affected zone for excavation works deeper than 50cm from existing site levels.

## **Regulation 26 Declarations**

The BCA shall issue a written determination on the acceptance or otherwise of declarations under regulation 26. No works should start before clearance from the BCA is issued.

The BCA encourages industry stakeholders to request regulation 25 waivers rather than submit regulation 26 declarations when reasonable and proportionate.



## **Change in Method Statements and review processes**

Emphasis is hereby made with respect to the importance of the method statement/s. Once a method statement is approved and a clearance by the Authority is issued, this same method statement is the basis that the Authority uses with respect to its monitoring remit. Therefore, it is important to note;

- a. BCA acknowledges the fact that, within the dynamics of a construction project, certain technical changes are inevitable owing to multiple causes. Therefore, the spirit of continuous risk assessment is hereby promoted, and the Authority expects stakeholders including professionals and contractors to embrace this notion and work diligently within a self-discipline and ethical context.
- b. It is strongly recommended to plan ahead and determine as soon as possible scenarios that may require revisions to the works methodology that affect third-party property which necessitate a change to the committed method statement. In such cases, the changes to the method statement are to be notified to the BCA in a timely manner; i.e., prior to the implementation of such changes. This will enable the Authority the necessary time to review and hence process the relative clearance or clearances. Failure to abide by such a process, may lead to a stop-works notice until such time that the revised method statement is processed and cleared by the BCA.
- c. In addition, the Authority notes that going forward, with respect to the review of method statements, when following the submission of the 'original' method statement, the review outcome suggests revision are required, the revisions to the method statement shall ideally be prepared and be submitted as a separate document (Annex) to the original method statement, rather than reproducing the method statement in full. This within the context that of supporting the Authority to expedite the reviews in a timely manner.

**BCA**