

Building Practice Note BP-11: Report and Consent

This Practice Note specifies the requirements for report and consent where building work may affect assets or infrastructure of service authorities, to comply with the Building Act 1993 (the Act) and the Building Regulations 2018 (the Regulations).

The context below provides guidance for:

- Who is a reporting authority?
- When is report and consent required?
- Building permit amendments and report and consent requirements
- Non-compliant building work
- Occupancy permits and report and consent requirements
- Fees and time limits
- Roles and responsibilities
- Decisions on applications
- Appeals

Abbreviations & Definitions

The abbreviations and definitions set out below are for guidance only. They are not intended to vary those set out in the Building Act 1993 (the Act), the Building Regulations 2018 (the Regulations) or the National Construction Code 2019 (NCC)

- **Act** – The Building Act 1993
- **BAB** – Building Appeals Board
- **BCA** – Building Code of Australia (Volume 1 & Volume 2)
- **DtS** – Deemed to Satisfy Provision of the BCA
- **FCDE** – Fire Indicator Panel
- **NCC** – National Construction Code 2019
- **RBS** – Relevant Building Surveyor
- **Regulations** – Building Regulations 2018

What is Report and Consent?

Report and consent is the process for consulting with and obtaining the approval of a reporting authority where building work may affect assets or infrastructure of service authorities, the operational requirements of emergency services, including the safety of attending fire service personnel, and the amenity of the community.

Who is defined as a reporting authority?

As per Clause 7(2) of Schedule 2 of the Act, the prescribed reporting authorities are listed under regulation 30 and they are:

- the chief officer of the Fire Rescue Victoria or Country Fire Authority
- a relevant council
- a relevant service authority (e.g., council, drainage, electricity, gas, sewerage); and
- a relevant electricity supply authority.

When is report and consent required?

Schedule 5 of the Regulations defines the prescribed matters, the circumstances where report and consent is required and the relating reporting authorities for these matters.

A report and consent of the relevant authority must be obtained to an application for a building permit if the proposed building work falls within the following categories:

- Part 5 of the Regulations requires a report and consent of the relevant council when a design for a single dwelling does not comply with the siting regulations under Part 5
- Regulation 129 requires the report and consent of the chief officer when fire safety matters as listed in the Regulations do not meet the DtS of the BCA
- Regulation 130 requires the report and consent of a service authority to construct a building over an easement that is vested in the service authority
- Regulation 131 identifies the RBS may require a report from the relevant electricity supply authority detailing whether a substation is necessary. This is only required for the construction of Class 2 - 9 buildings
- Regulation 132 requires a report and consent of the relevant council if the proposed building work requires the installation or alteration of a septic tank system or the construction of a building over an existing septic tank system
- Regulation 134 requires a report and consent of the relevant council for the construction of a building above or below a street, railway, bus terminal or similar public facility regardless of whether the building is connected to other buildings; and
- Regulation 162 requires the report and consent of the chief officer when bushfire safety matters do not comply with the requirements of regulations 160 or 161.

Building permit amendments and report and consent requirements

Situations may arise where the design for the building work is varied during the construction process. When a design variation occurs, an amended building permit is required to avoid an offence under section 16 of the Act for failing to carry out building work in accordance with the building permit.

If a report and consent was not required for the original design at the initial building permit stage, and aspects of the proposed amended design would trigger the report and consent of a reporting authority, then a report and consent must be obtained.

If a report and consent has been obtained for the original design, the subsequent design variation must also be endorsed within a new report and consent.

Non-compliant building work

If the building work has already been carried out, an amended building permit cannot be issued as an application for a building permit can only be lodged for proposed building work.

If the building work does not comply, the RBS will need to consider the non-compliance through the direction to fix, building notice and order process. A building permit and/or report and consent cannot be issued after the work is carried out.

It is recommended that the RBS seeks comments from the relevant reporting authority when addressing a non-complying issue under the building notice and order process.

Occupancy permits and report and consent requirements

The report and consent of the chief officer under regulation 187 must be obtained in relation to an application for an occupancy permit if:

- at the building permit stage, the chief officer provided a report and consent under regulation 129; or
- the building or building work involves transmission signal of an alarm required to be connected to a fire station or other alarm monitoring service.

It is essential the building work and construction is consistent with the approved design that is subject to the report and consent. If the chief officer issued a report and consent under regulation 129 at the building permit application stage, the chief officer cannot issue a report and consent under regulation 187 at the occupancy permit stage if the construction is altered in a way that impacts the design that was initially consented to.

The report and consent of the relevant council must be obtained in relation to an application for an occupancy permit relating to the installation or alteration of a septic system or construction of a building over an existing septic tank system unless the building work is exempt under regulation 187(3).

Fees and time limits

Regulation 36 prescribes the maximum fees payable for report and consent applications to the relevant council. There are no prescribed fees for applications made to service authorities.

Both Fire Rescue Victoria (FRV) and the Country Fire Authority (CFA) charge an hourly rate. For further information, contact the relevant fire authority directly.

Time limits within which the RBS must give a copy of an application to reporting authorities and which reporting authorities must supply a report and consent are within regulation 32 and 34.

Building Surveyor: roles and responsibilities

Schedule 2 of the Act prescribes the process the RBS must undertake when a report and consent is required. The RBS must not issue a building permit unless satisfied that any consent of a reporting authority is obtained as outlined in section 24(1)(b) of the Act.

The RBS must consider the report and consent of a reporting authority before deciding the application for a building permit.

The RBS should also ensure all documentation associated with the report and consent provided to the reporting authority is consistent with the building permit documentation.

Incorporating recommendations of a prescribed reporting authority

Schedule 2 of the Act states that in deciding an application for a building permit, the RBS must implement the recommendations of a prescribed reporting authority in respect to prescribed matters.

The RBS is not required to implement any of the recommendations in the report provided by a prescribed reporting authority in respect of non-prescribed matters.

Section 23 and 47 of the Act states the RBS must notify the reporting authority, including a prescribed reporting authority, without delay if they issue a building permit or occupancy permit which differs from or fails to implement any recommendations in a reporting authority's report. This notification must also include a copy of the permit.

In such instances the prescribed reporting authority has a right of appeal under the Act to the Building Appeals Board (BAB).

Chief Officer: roles and responsibilities

The Act defines the chief officer as either the Fire Rescue Commissioner of Fire Rescue Victoria or the Country Fire Authority.

The chief officer is a prescribed reporting authority for prescribed fire safety matters under Part 1 of Schedule 5 of the regulations.

In considering an application for a report and consent, the chief officer will only give consent if the chief officer is satisfied that satisfactory degree of fire safety is achieved.

Council: roles and responsibilities

When assessing an application for report and consent relating to Part 5 of the Regulations, the council must have regard to Minister's Guideline MG-12: Siting and design of single dwellings and Minister's Guideline MG-03: Involvement of adjoining owners in siting appeals.

Deciding an application

A reporting authority may offer a report that consents to an application, with or without conditions, or refuse to give consent.

When placing recommendations on a report and consent, the prescribed reporting authority should directly relate to the matter being sought and consider the ability of the RBS to enforce the recommendations.

The RBS may proceed to decide an application for a building permit, if a copy of the report is not supplied by the reporting authority (other than a council) within the prescribed time.

If council does not inform the RBS or applicant of its consent or refusal of an application within the prescribed time, an applicant may appeal to the BAB.

Appeals

Appeals can be made to the BAB against a reporting authority's refusal, conditions imposed, or failure to decide the application within a reasonable time.

Appeals can also be made to the BAB against a decision to issue a permit that differs from or fails to implement a reporting authority's recommendations.

Appeals must be made within the prescribed period outlined in regulation 271. This must be accompanied by the application form, supporting information and the relevant fee. For further information, visit www.buildingappeals.vic.gov.au or contact 1300 421 082.

Example: Fire safety matter

Under the DtS provisions of Clause E2.2, a Class 3 hotel building is required to have an automatic smoke detection and alarm system complying with Specification E2.2a of the BCA, which necessitates the installation of a FIP. Due to the raised level of the reception area of the building, when fire-fighters enter the building at street level, they cannot determine the location of the FIP at the main entry point to the building. They must ascend a flight of stairs and walk approximately 15m to the FIP location, next to proposed hotel reception desk location. In this case the proposal does not comply with the DtS provisions, therefore a report and consent of the chief officer must be obtained.

In providing the report and consent, the chief officer may include recommendations in relation to the prescribed and non-prescribed matters. In this instance, the RBS must implement the recommendations in relation to the prescribed matters but does not have to implement the recommendations relating to the non-prescribed matters. The chief officer can appeal the decision of the RBS to issue a building permit that differs from or fails to implement recommendations in the report.

Example: Design change requiring a new report and consent

At the building permit application stage, the chief officer provided a report and consent under regulation 129 for a building permit involving a fire hydrant performance solution. During construction, an amended building permit was issued for changes to the fire hydrant performance solution without obtaining consent from the chief officer for the change.

At completion of the building work, a regulation 187 report and consent was sought from the chief officer as part of an application for an occupancy permit. In this case, the chief officer may refuse to provide consent as the building is not identical to the design to which the regulation 129 report and consent had been given.

Related Documentation

- Building Act 1993 (VIC)
- Building Regulations 2018 (VIC)
- National Construction Code 2019
- Building Practice Note BP-02: Requirements for amending a building permit
- Minister Guideline MG-03: Involvement of adjoining owners in siting appeals
- Minister Guideline MG-12: Siting and design of a single dwelling

Version History

- Version 2.0, published 28 June 2021, supersedes Practice Note 57: Report and Consent

Contact Us

If you have a technical enquiry, please email technicalenquiry@vba.vic.gov.au or call 1300 815 127.

Victorian Building Authority

Goods Shed North
733 Bourke Street
Docklands VIC 3008

www.vba.vic.gov.au

Copyright

© June 2021 Victorian Building Authority (VBA).

This Practice Note has been prepared and published by the VBA for general educational and information purposes only. This publication must not be copied, reproduced, published, adapted, or communicated by any person without the VBA's prior written consent or as permitted by the Copyright Act 1968 (Cth). The VBA makes no warranties or representations whatsoever about the accuracy, reliability, suitability, completeness or authenticity of any information or material contained in this resource. Any use or reliance on such information is at a person's own risk. The VBA accepts no liability whatsoever for any direct, indirect, or consequential loss or damage any person may suffer arising out of or in connection with the access or use of this resource (including any third-party material included in this resource).