



Improving the
Efficiency & Effectiveness of the
Building & Occupancy Permit Process
under the
Building Act 1993

Research and Survey Outcomes Report

prepared for

Mr Dennis Hogan, Manager Technical & Research Services
Building Commission - Victoria

June 2004

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1. Scope and Background

The *Building Act 1993* (“the Act”) and the *Building Regulations 1994* (“the Regulations”) came into operation on the 1st July 1994 and introduced a new regime for building and occupancy permits. One of the main drivers in relation to the introduction of the legislation at the time was a desire of industry and government to improve the efficiency and effectiveness of the previous building approval system. For example, at the time of the introduction of the new system in July 1994 it was not uncommon for Council building departments to have approval turnaround times of up to 8-12 weeks. The introduction of the “Competitive Building Permit System” dramatically reduced the approval times by allowing competition into the market and de-regulating approval (permit) fees.

Previous research had been undertaken on behalf of the Building Commission (then the Building Control Commission) by a CSIRO research team in 1998 on the effectiveness of the building and occupancy permit process. The findings of this research gave a positive view on how the competitive building permit system had dramatically reduced building permit approval times.

This new regulatory regime principally introduced the new functions and role of the private permit issuing authority, or private building surveyor (PBS). It created a competitive business environment in the area of issuing building and occupancy permits. The creation of the business environment meant that local councils were no longer the sole bastions of approvals within the municipality. Councils were also now able to carry out building and occupancy permit functions outside their municipality and each council was still required to engage a municipal building surveyor (MBS). Upon appointment to undertake permit functions under the Act the municipal or private surveyor then becomes the relevant building surveyor (RBS).

The building and occupancy permit system introduced by the Act and Regulations will have been in operation for more than 10 years in July of 2004. During this time there have been improvements in technology and building techniques and practices which were not envisaged at the time of writing the legislation. Coupled with changes in community expectation (for example which has driven substantial changes to the Part 4 Siting Provisions in the Regulations) it is now timely that a review of the overall implementation and acceptance of the efficiency and effectiveness of the current system be undertaken. Additionally, Section 5 of the *Subordinate Legislation Act 1994* provides for automatic revocation of Regulations after 10 years of operation and therefore the Regulations will need to be remade and re-assessed.

It is therefore not only prudent, but a regulatory requirement, that the relevance and currency of the system be reviewed to determine what, if any, improvements are necessary for the purposes of setting regulatory policy and direction for the next 10 years.

2. Project Team

This project was undertaken as a Joint Venture between Pitt & Sherry and Warrington Fire Research (Aust.) (the 'Project Team') who were the successful tenderers to the Building Commission.

The purpose of the joint venture was to bring together the skills and knowledge of two different organisations in order to provide the client with a broader experience and capability base. Specific details of each organisation are included in Appendix 1.

The Project Team also included a reference group from the Building Commission, being Mr Peter Nassau and Mr Dennis Hogan. Their technical advice and guidance in relation to establishing the initial brief, reviewing the current legislation and reviewing draft documents is hereby acknowledged.

3. Project Delivery and Tasks

In order to appropriately deliver the project as described in the Project Brief provided by the Building Commission, the Project Team broke the project down into the following stages.

Stage	Description
Stage 1	Development of a flowchart outlining the key Act and Regulation provisions which relate to the building and occupancy permit process.
Stage 2	WFRA and Pitt & Sherry Project Team to develop an issues list based on review of the legislation and identification of some of the inefficiencies readily apparent based on a verbal interview with key industry practitioners and the Project Team.
Stage 3	Undertake consultation with selected Commission Staff on some of the issues they have identified which they believe are inefficiencies in the current building and occupancy permit framework. Obtain comment and direction from Commission Staff and on issues identified by the Project Team in Stage 2 and obtain clear direction from the Commission on which specific areas to concentrate the research.
Stage 4	Prepare a list of key stakeholders for approval by the Commission and undertake industry forums presenting to organisations, consumer interest groups and government authorities who have a direct interest in the building and occupancy permit process.
Stage 5	Prepare a targeted industry survey following a forum with these groups based on the information collected in the previous 4 stages.
Stage 6	Collect information from Stages 1-5 and include them in a Draft Research Outcomes Report.
Stage 7	Upon receipt of comments from the Commission on Stage 6 prepare a recommendations section to the Research Outcomes Report.
Stage 8	Presentation of the Research Outcomes Report to the Regulations Advisory Committee, the Building Appeals Board and the Building Commission Corporate Management Team (CMT)

The specific stage details and outcomes are further described below.

3.1 Stage 1 (Permit process flowchart)

A flow chart of the building and occupancy permit process under the Act was developed for use in internal discussions, the public forums and the survey. The purpose of the flowchart was primarily to describe a simplified view of the building and occupancy permit process so that persons involved in the forums and surveys could have as easy entry point to any detailed discussion or analysis. A copy of the flowchart is included in Appendix 2.

3.2 Stages 2 – 4 (Review of legislation, preparation of issues list and presentation to focus and industry groups)

The Project Team worked with Commission staff to establish the key issues for inclusion in the survey and the key groups to be involved in the forums. These focus groups were identified as;

- The Regulations Advisory Committee (BRAC) established under the Act.
- The Building Appeals Board (BAB) established under the Act.
- The Building Advisory Council (BAC) established under the Act.
- The Building Practitioners Board (BPB) established under the Act.
- The Australian Institute of Building Surveyors (Victorian Chapter).
- The Victorian Municipal Building Surveyors Group.
- The Plumbing Industry Commission established under the Act.

The focus groups identified above include members appointed from key industry, government and community groups and by presenting to these groups directly¹ the appropriate connection into these other organisations could be established.

The groups or individuals represented within the focus groups include²;

- Individual technical experts appointed to the BAB by the Relevant Minister.
- Legal practitioners.
- Persons who, in the Minister of Planning's opinion, are able to represent the interests of users of the services of building practitioners.
- The Commissioner of the Building Commission.
- The Commissioner of the Plumbing Industry Commission.
- Representatives of the Royal Australian Institute of Architects, Victorian Chapter.
- Representatives of the Master Builders Association of Victoria.
- Representatives of the Housing Industry Association, Victorian/Tasmanian Division.
- Representatives of the Property Council of Australia, Victoria Division.
- Representatives of the Australian Institute of Building Surveyors, Victorian Chapter.
- Representatives of Engineers Australia, Victoria Division.
- A person who in the Minister for Planning's opinion, has experience in the building industry or in matters related to that industry.
- A person nominated by the Minister administering Part 4 of the Project Development and Construction Management Act 1994.

¹ The Building Practitioners Board declined the invitation for the Project Team to present the project aims and objectives and the Board did not provide a submission or survey response.

² Taken from Sections 166, 184, 207, 210 and 221ZZXB of the Act.

- A person nominated by the Minister administering the Country Fire Authority Act 1958 and the Minister administering the Metropolitan Fire Brigades Act 1958.
- A person nominated by the Melbourne City Council and who has experience in matters provided for by the Act or the Regulations.
- A representative of the Municipal Association of Victoria.
- A person who, has substantial knowledge of, and experience in, the plumbing industry.
- A person nominated by the Minister administering the Water Act 1989.
- A person nominated by the Minister administering the Gas Safety Act 1997.
- A person nominated by the Minister administering the Vocational Education and Training Act 1990.
- A person nominated by a body that, in the opinion of the Minister for Planning, represents Victorian employers in relation to all classes of plumbing work.
- A person nominated by a body that, in the opinion of the Minister for Planning, represents air-conditioning contractors in Victoria.
- A person nominated by a body that, in the opinion of the Minister for Planning, represents fire protection contractors in Victoria.
- Persons nominated by any body or bodies that, in the opinion of the Minister for Planning, represents the industrial interests of employee plumbers.
- A person chosen by the Minister to represent the interests of consumers.

The draft Industry survey was presented to the focus groups during October 2003 and feedback was incorporated into the final survey form. The key stakeholder group was determined to be building surveyors, whose responsibility it is to understand, apply, interpret and enforce the Act and Regulations.

A special forum was held on the 29th October 2003 to over 100 building surveyors at the Darebin Performing Arts Centre, in Melbourne. This forum was to provide direct explanation and discussion of the proposed research and survey. Additionally, the Victorian Municipal Building Surveyors Group was given a briefing at their October meeting.

3.3 Stage 5 (Industry survey)

The Industry survey form was prepared after consultation with the focus groups described above. The survey was sent electronically to all registered building surveyors and building inspectors and was also available on the Commission website during the survey response period (October- November 2003). Additionally surveys were offered to the; Royal Australia Institute of Architects, Building Designers Association of Victoria, Property Council of Australia, Municipal Association of Victoria, Consumer and Business Affairs Victoria, Institution of Engineers (Australia), Plumbing Industry Commission, Department of Human Services and the Department of Employment, Education and Training. A copy of the Survey Form is included in Appendix 3 and a replication of all survey responses is included in Appendix 4. A total of 39 responses were received, of which 37 indicated the details of the author. Some responses did not include a response to all questions or parts of the survey, but these returns were still useful and are included within the analysis.

The responses were predominantly from private or municipal building surveyors and this is an expected result given the pivotal role the building surveyor has within the permit system. Other responses were from an Architect, Engineer, two Builders and one Reporting Authority. A summary of responses by grouping is included as follows.

Municipal Building Surveyor Responses			Private Building Surveyor Responses		
Question	Regulations OK	Not OK	Question	Regulations OK	Not OK
1	6	7	1	6	5
2	5	7	2	5	6
3	1	11	3	8	1
4	3	9	4	5	6
5	3	8	5	5	7
6	5	7	6	6	4
7	5	6	7	6	7
8		12	8	6	5
9	8	6	9	10	
10	7	6	10	6	4
11	8	5	11	8	2
12	3	10	12	4	5
13	8	4	13	5	5
14	3	9	14	3	6
15	2	9	15	4	8
16	5	7	16	4	7
17	3	9	17	6	4
18	5	7	18	6	3
Other Responses			Reporting Authority Responses		
Question	Regulations OK	Not OK	Question	Regulations OK	Not OK
1	3	1	1		1
2	3	1	2		1
3	3	1	3		1
4	2	2	4		1
5	2	2	5		1
6	3	1	6		1
7	2	1	7		1
8	4		8		1
9	1	3	9		1
10		3	10		1
11	2	2	11		
12	1	2	12		1
13	2	2	13		1
14	2	2	14		1
15	2	2	15		1
16	2	2	16		1
17	3	1	17		1
18	2	1	18		1

From these results the following observations can be drawn.

Responses to Question 3 relating to issuing of Staged Building Permits showed a ratio of 11:1 of MBS's suggested improvement was necessary, whilst an 8:1 ratio of PBS's suggested that the provisions were satisfactory. This might relate to the advantages that staged permits have to the construction on site, whilst also highlighting the disadvantages this creates for the storage of records and other administrative functions required by Councils. This can also be seen in the results for Lapsed Building Permits which presumably have similar issues for councils.

Responses to Question 8 showed strong agreement from both surveying groups that the exemptions for building permits need review, however all of the four non building surveyor respondents suggested these provisions were acceptable. Again this possibly highlights the advantages that the exemptions provide for the designer and builder, whilst also suggesting that the application of these provisions by building surveyors was problematic.

Responses to Question 12 in relation to the ResCode provisions highlights that these significant new provisions are still taking some time to be easily applied and understood by both PBS's (as the design checking body) and MBS's (as the body having some discretion to vary the prescriptive provisions).

Another significant correlation is in relation to responses to Question 15, retrospective building permits. This question was asking if it is necessary to have a mechanism to allow building work done without, or prior, to the issue of a building permit to be able to be legitimised or approved. There was strong agreement by the majority of respondents that such a provision needs to be considered.

Overall the results indicate general agreement that the provisions operate acceptably in most situations but that some minor and major 'fine-tuning' of the provisions is necessary to improve the understanding, application, enforcement and administration of the building and occupancy permit system.

3.4 Stage 6 (Review of survey and forum results and comments)

The Draft Research Outcomes Report was prepared based on the analysis of survey responses and the collated verbal inputs from the focus group forums and industry and Statutory Boards, Councils and Committee presentations. A copy of the Draft Research Outcomes Report is included in Appendix 5.

The written responses were predominantly from building surveyors although two responses were received from builders.

An important first point to make is that overwhelmingly the respondents, interviewees and forum attendees agreed that the structure of the current legislation is necessary and robust. The majority of criticisms raised relate to either what can be considered as 'fine tuning' matters that are inevitable after a period of operation of legislation or matters that relate to changes or advances in technology.

Items identified or raised throughout the consultation process included;

- Peer review is a necessary role of the building surveyor particularly in relation to dispensations and performance based determinations. Should a system for reviewing the decision of the building surveyor be considered?
- It should be possible for electronic lodgement of building and occupancy permit documentation with building surveyors and councils.
- The Commission could become an electronic lodgement and information centre for all building and occupancy permit documentation. Possibly a web based application that can be password coded and restricted for use by Councils and Private Building Surveyors.
- Dispensations issued by councils and regulatory authorities have varying timeframes, costs and levels of accountability.
- There is poor application and understanding of the Regulation 9.3 report and consent process.
- Plumbing and Electrical Certificates should be required to be listed on Occupancy Permits and Certificates of Final Inspection.
- Part 11 determinations (maintenance of Essential Services) should also be listed on Certificates of Final Inspection.
- Clear guidance is needed as to when self certification of Engineer's designs is acceptable and when they should be independently peer reviewed or proof engineered (potentially the building surveyor should be required to also engage the review engineer).
- Review the Category's and Classes of Practitioners for the purposes of reducing the current list.
- Review (and expand) the type of people who can provide a Form 13 and Form 14 to a RBS.
- Review the process of building permits for stages of building work.
- There is confusion over where a building surveyors responsibility starts and ends when there are numerous building surveyors on a project e.g. such as 'shell and core' developments.
- Confusion about the provision of report and consents from relevant authorities after building permits have been issued or where a Notice or Order has been served.
- Compliance with Essential Services legislation should be able to be passed onto the tenant, especially where there are lease agreements in place.
- Additional inspections are necessary, such as for 5 star energy rating conformance, stormwater drains within an allotment or wet areas (flashings).
- Confusion over the current exemption from permits or parts of the Regulations for building work under \$5,000 in value.

- How does a Relevant Building Surveyor deal with lapsed building permits and what are their responsibilities.
- Building practitioner registration requirements are sometimes difficult to apply (for example, requiring a registered builder for mechanical and electrical fit out work).
- When does a Relevant Building Surveyor's responsibility cease on a project.

The following represents a summary of the collected outcomes of industry consultation, discussion with Commission staff, review and research of relevant documentation and survey responses. The headings reflect the headings used in the survey response form.

3.4.1 General administrative procedures

There was strong comment that the building and occupancy permit process is still either not well understood by some members of the public and some building practitioners, or that practitioners are now choosing to disregard the system. Some comments were that the introduction of the competitive approval process had significantly undermined the authority and power of the approval authority and that the industry and the public were still confused about the options available to them and the difference between a PBS, RBS and MBS.

Additionally compliance with administrative processes seems to vary significantly, for example, PBS's commented that reporting authorities do not comply with the statutory requirements (although one Council commented that the statutory time frame was too short) and MBS's and Councils commented that the standard and quality of applications for reports and consents varied significantly, thereby increasing processing time. Some comments suggested to extend the 'deemed consent' provision for lack of action on an application for a report and consent to include Councils, whilst the CFA suggested that this provision was unduly onerous on their resources, particularly in regional areas where officers undertake these roles on a part time basis.

Significant comment was received in relation to the variation of fees between different Councils or other reporting authorities for undertaking essentially the same assessment.

An example of the lack of acceptance of some legislation was that two councils commented that the requirement to display a building permit on demolition sites was simply not acceptable to the industry and was not done. Conversely, two different Councils suggested that this provision be extended to all building permits.

A specific matter raised in several forums was the issue of whether a formal written application form for an occupancy permit is really necessary (this was considered by some to be an unnecessary administrative burden).

3.4.2 Lodgement of documents with Councils and other authorities

A significant number of PBS's, either via the survey or by verbal comments at the presentations, commented that the obtaining of the required information from Councils was tedious and slow and that Councils appear to be unanswerable to any one when time delays or poor quality of response occurred.

Conversely, PBS's also commented that documents lodged with Councils were re-checked to pick faults and that Council's were exceeding their 'document lodgement' role and using the information to gain a commercial advantage. Similarly, one PBS commented that the documents required to be lodged were not clearly set out. There was also general comment that the requirements for obtaining a report and consent (and when a report and consent is required) was not clearly understood.

The competition between approval authorities also seemed to have increased the responsibility for the RBS to obtain all the necessary information themselves prior to issuing a building or occupancy permit. For example two PBS's indicated that the property information available under Regulation 2.10 should be required to be lodged with an application for a building permit, whilst the HIA suggested that Councils should provide clearer guidance of what is required to be lodged with a building and occupancy permit.

One PBS and one MBS suggested that the building permit and occupancy permit process should make better use of new technology, with a PBS suggesting that the Commission develop a web based central records store for issuing of permits, obtaining information etc, with RBS's and Councils having password access.

3.4.3 Permits for stages of work on a single project building

This matter was particularly contentious at the industry forums and significant comment was received on the survey responses. There was some comment that permits for stages of the work are necessary, for example, where a builder is engaged to undertake construction of a dwelling only to 'lock-up' stage, or where it is necessary to undertake part of the work (typically footings) when final documents are still being developed. The majority of the comments suggested that the duplication of processes and requirements was extremely inefficient where all parties to a series of permits remained the same (for example on a significant commercial building). Of particular note was the difficulty in payment of fees and charges for each permit for a stage of work (for example, payment of the building permit levy).

3.4.4 Appointment and termination of appointment of a RBS

There was strong comment that confusion occurs regarding when a RBS is appointed, and who can appoint the RBS. Some Council's commented that the receipt of a Section 80, and then a building permit, caused some administrative inefficiencies. Others commented that owners did not understand the importance of appointing an RBS until after appointment and that the process of termination of appointment of a RBS was difficult and time consuming.

It was suggested that only the owner be allowed to appoint a RBS and that a Commission information sheet be given to the owner explaining the role of the RBS, MBS and Council.

3.4.5 Protection of adjoining property

There was general agreement that the current provisions are generally too complicated, not well understood, often misapplied and misused. The 'dual Form 13' process was specifically commented on as being misused and that this provision should also include the insurance provisions. Difficulty in obtaining insurance for twelve months after construction was also raised as typically builders policies do not extend beyond completion of construction.

A point raised at several forums was the RBS also preparing the Forms 6 & 7 and then issuing them to the adjoining owner. Some comment from RBS's was that adjoining owners were often confused about the role and independence of the RBS when the RBS was not the MBS.

3.4.6 Precautions for protection of the public

Comment from one RBS indicated that designers have a responsibility to take a more active role in consideration of protection for the public. Several MBS's commented that RBS's do not give enough consideration of this issue, whilst RBS's indicated that the significantly different approaches by Councils, including whether or not a hoarding permit is required or a local law exists, made application and compliance difficult.

3.4.7 Building enforcement

Several MBS's provided comment that the number of Notices and Orders issued by RBS's was significantly less than should be expected. This was suggested to be partly because of RBS's not wanting to upset their clients. One RBS suggested that the process needs to be clearer and simpler and that pro-forma Notices and Orders should be issued by the Commission. The AIBS commented that it should also be possible to be able to issue enforcement and compliance documents to the builder, not just the owner.

3.4.8 General exemptions from the requirement to obtain building and occupancy permits

There was strong comment from RBS's and MBS's that some exemptions (most notably the \$5,000 exemption) were poorly understood and applied and required too much interpretation. Additionally it was commented that exemptions should be based on size and/or complexity or public risk, not simplistic measures such as cost.

The CFA suggested that an additional exemption be provided to allow isolation of fire alarm monitoring systems.

3.4.9 Use of the Building Code of Australia 1996

This matter provided a great deal of discussion at the forums and significant survey responses. Issues raised included the overlap between Regulations 3.2, 3.3, 5.7 and 9.9 (RBS discretions for existing buildings, change of use etc.), the limited number of registered fire safety engineers to consider Alternative Solutions³, the over reliance on a Form 13 rather than making inquiry or reviewing the Alternative Solutions, the inconsistency in documentation of Alternative Solutions and RBS determinations and that independent peer review ought to be an important part of the alternative solution approval process.

3.4.10 Reporting Authorities

Two builders commented that reports and consents were causing unnecessary delays in the building permit process and could delay issue of an occupancy permit. Several MBS's commented that some RBS's were not clear on when a report and consent was required,

³ Alternative Solution is defined in the BCA'96 as a Building Solution, which complies with the Performance Requirements other than by reason of satisfying the DtS Provisions.

whilst the HIA commented that inconsistency of fees and time frames was causing significant industry disruption. The AIBS suggested that the process be expanded to include post construction matters such as those resulting from notices and orders.

3.4.11 Discretionary powers provided to a RBS

All respondents agreed that the discretions were necessary but several commented that the application and understanding of those discretions could be improved. Of particular note was the agreement that capturing these decisions in written form was essential to the building or occupancy permit documentation and ongoing use of the building.

3.4.12 Siting provisions in Part 4

Comments provided included that the provisions were unduly complex and poorly understood by designers and builders, that provisions for fences were still not effective and that a simpler appeal and variation process was needed. It is noted that the Building Commission and the Department of Sustainability and Environment currently have a review process in place for ResCode⁴.

3.4.13 Building works in special areas

Several RBS's commented that obtaining the information from Councils was difficult expensive, inconsistent and caused considerable time delays. The HIA suggested that this information should be available via the internet for the whole of Victoria and others commented that the provisions sometimes were inconsistent with planning scheme overlays.

3.4.14 Maintenance of Essential Services

Maintenance of Essential Services was raised at several forums and survey responses were consistent with the points raised. These included; ignorance of owners in relation to ongoing obligations, lack of enforcement thereby not encouraging compliance, RBS's not completing occupancy permits correctly, confusion between pre and post 1994 buildings and the general lack of knowledge and education of practitioners as to the statutory requirements. It is noted that the Building Commission currently have a review process in place for Essential Services.

3.4.15 Retrospective building permits

This issue is a cornerstone of the Act and received strong discussion at the forums and within the survey responses. Some believe that poor understanding of the legislation promotes owners and builders 'innocently' commencing work without a permit and that a simple process ought to be in place to rectify this situation. Others put forward the view that any dilution of these provisions undermines the objects of the Act and will undermine the whole point of obtaining a permit in the first instance.

⁴ ResCode is a set of residential siting provisions that applies to residential developments across Victoria. ResCode brings all the objectives and standards for housing together into two documents - the planning scheme and the building regulations.

3.4.16 Forms 13 and 14

The issue of 'certification' of design or construction is a topical issue throughout Australia. Several comments suggested that 'self-certification' was not effective and that the recent insurance issues had created more concern with issuing of certificates. Also a recent Supreme Court case was raised as having significant implications on this matter⁵. It was also suggested that Form 14's should be available for all types of building work and that other similar forms should be included (such as Electrical and Plumbing Certificates).

3.4.17 Lapsed building permits

This matter was raised by RBS's and MBS's as a significant concern in relation to the confusion created once a permit had lapsed and the uncertainty as to who, and how, the work can be completed. The existing legislation would require a new permit to be issued to complete any outstanding building work.

Of further concern was that lapsed building permits were not followed up by RBS's and that this created uncertainty as to who is responsible to ensure enforcement or completion of the work.

3.4.18 Places of Public Entertainment

This issue was not widely discussed or commented on although the comments received all agreed that the existing process is too confusing for all parties and is therefore subject to poor compliance levels.

3.4.19 Other matters not currently regulated

Additional matters raised included providing further clarity of the inter-relationship between planning and building permits, discretionary powers for reporting authorities to charge fees for requests outside of the statutory scheme, introduction of a lodgement fee for building notices, de-regulation of swimming pool fencing and increasing the mandatory inspections to include storm water drainage.

3.5 Stage 7 (Recommendations and outcomes)

It can be broadly stated that the overall results of the survey, focus groups and industry consultation is that the existing building and occupancy permit process is operating at a significantly efficient and effective level. At the macro view the principles of a 'command and control' legislative approach (i.e. requiring a building and occupancy permit) is considered necessary, effective and relatively well understood.

At the micro view a number of improvements and changes have been suggested. These matters have been further reviewed by the Project Team and advanced, or dismissed, based on a review of the technical merit and any policy implications. For example, the specific suggestion to de-regulate swimming pool fencing currently sits outside of clear State and

⁵ Toomey v Scolaro's Concrete Constructions Pty Ltd (in liquidation) (No 5) Australia; Supreme Court of Victoria, Eames J: (2002) 12 ANZ Ins Cas 61-519: 7 March 2002.

National government policy and was therefore not pursued further. The majority of suggestions have been developed further into the recommendations that follow.

3.5.1 Recommendations by survey headings

The following recommendations are numbered based on the specific headings from the survey form and Section 3.4 above.

3.5.1.1 General administrative procedures

Recommendation 1a: That administrative procedures be reviewed to streamline the processes and that matters considered necessary to remain be strengthened and assistance given to RBS's, MBS's and Councils to enforce the provisions. Additionally standardised forms, fees and processes for the interaction between RBS's, PBS's, Councils and Reporting Authorities should be considered.

Recommendation 1b: That the application for an occupancy permit process be reviewed to consider whether the process can be completed orally.

3.5.1.2 Lodgement of documents with Councils and other authorities

Recommendation 2: That the Commission consider use of internet technology to create a central database and information centre for all building and occupancy permit documents and information. Councils could be encouraged to include all details required for permits, including fees, forms and processes, whilst PBS's could also use it for registration of appointment as a RBS, thereby significantly reducing confusion about appointment and jurisdiction.

3.5.1.3 Permits for stages of work on a single project building

Recommendation 3: That consideration is given to introduction of a single building permit process, which can be issued in stages, subject to the discretion and determination of the RBS and limited to projects where the RBS, Owner and Builder remain the same. In these circumstances a 'starting stage permit' would be issued which establishes the criteria for approval of progressive stages of the work. Matters such as payment of the building permit levy, whether an Occupancy Permit or Certificate of Final Inspection is required at the end of construction and details of the total extent of the work, when reporting authority report and consents will be obtained etc, would be required to be set out in that permit.

3.5.1.4 Appointment and termination of appointment of a RBS

Recommendation 4a: That a central database of appointments be considered, perhaps using the Titles Office cadastral database system and linked to the matters in Recommendation 2, so that appointment of a RBS is linked to the title allotment.

Recommendation 4b: That consideration is given to requiring the owner to appoint a RBS without allowing the owner to appoint an agent to act of their behalf, particularly in relation to domestic building work. Additional consideration would be required for major building owners (especially Governments) where delegated officers may need authority to appoint a RBS without referral to the owner in every case (Office of Housing construction, for example).

3.5.1.5 Protection of adjoining property

Recommendation 5: That the protection of adjoining property system is reviewed, particularly in relation to Regulation 5.2(5) (dual Form 13) and that the following be implemented:

Step 1; provide a guidance document on the appropriate use of the existing provisions including specific examples of common construction such as garages or dwellings on the boundary, multi-storey construction on the boundary and construction where the depth of excavation exceeds the distance to the boundary. The information sheet should be consistent with and expand upon the provisions in Part 3.1.1 of Volume Two of the Building Code of Australia 1996 (BCA'96).

Step2; the Commission to produce an information sheet for adjoining owners which explains the process and the roles of all parties. This sheet could then be issued to adjoining owners with the Form 6.

Step 3; undertake a review process within twelve months of the publication of the information sheet to seek industry and public comment of the provisions.

Step 4; undertake selected audits of building permits to ensure consistent application of the provisions, or recommend amendments to the process or re-training of selected practitioners.

3.5.1.6 Precautions for protection of the public

Recommendation 6: That the 'precautions for the protection of the public' system is reviewed, particularly in relation to when a consent and report is required and which local laws have been made and that the following be implemented:

Step 1; provide a guidance document on the appropriate use of the existing provisions including specific examples of common construction such as construction to the street alignment and typical fencing requirements for excavations.

Step2; the Commission to produce an information sheet for RBS's, MBS's and Builders which explains the process and the roles of all parties. The sheet should try to provide details of all Council requirements including local laws. It is noted that this information could form part of the IT database in Recommendation 2.

Step 3; undertake a review process within twelve months of the publication of the information sheet to seek industry and public comment of the provisions.

Step 4; undertake selected audits of building permits to ensure consistent application of the provisions, or recommend amendments to the process or re-training of selected practitioners.

3.5.1.7 Building enforcement

Recommendation 7a: That the Commission consider issuing pro-forma Notices and Orders so that enforcement provisions are consistent across the State. Consideration could be given to use of the Commission logo on such documents to reinforce the seriousness and importance of the documents and that the RBS has the statutory support behind them to follow through.

Recommendation 7b: That the Commission and BRAC consider regulatory and/or Act amendments to allow for enforcement proceedings to be instigated against a builder, as well as an owner.

3.5.1.8 General exemptions from the requirement to obtain building and occupancy permits

Recommendation 8: That the 'exemptions from the requirement to obtain a building or occupancy permit' regulation is reviewed, particularly in relation to when a permit is required and what are acceptable reasons or measures to allow exemptions. The existing measure of cost should be removed.

3.5.1.9 Use of the Building Code of Australia 1996

Recommendation 9: That details of alternative solutions, reports and consents and decisions of the Building Appeals Board be required to be listed on a building and occupancy permit and that independent peer review (by an appropriately qualified RBS, or other independent practitioner acting on behalf of the RBS) of alternative solutions be required.

3.5.1.10 Reporting Authorities

Recommendation 10: That the report and consent process is reviewed, particularly in relation to consistency of applications, fees and approvals and that the following be implemented:

Step 1; provide a guidance document on when a report and consent is required, how to present an application and how to present a consent and include common or specific examples such as ResCode or fire-fighting equipment. Ask each reporting authority to consider a standard fee schedule so that this can form part of the document.

Step2; undertake a review process within twelve months of the publication of the guidance document to seek industry and public comment of the provisions.

Step 3; Undertake selected audits of building permits to ensure consistent application of the provisions, or recommend amendments to the process or re-training of selected practitioners.

3.5.1.11 Discretionary powers provided to a RBS

Recommendation 11a: That details of RBS discretions exercised under Regulations 3.2, 3.3 5.7 and 9.9 be required to be listed on building and occupancy permits.

Recommendation 11b: That the Commission produce a guidance document for use of these discretions and that standardised formats for documentation of those decisions are suggested.

3.5.1.12 Siting provisions in Part 4

Recommendation 12: That all comments be forwarded to the review committee for consideration.

3.5.1.13 Building works in special areas

Recommendation 13a: That the Building Commission collates all maps of designated special areas and provide for access to the information in electronic form. It is noted that this information could form part of the IT database in Recommendation 2.

Recommendation 13b: That information relating to whether an allotment is in a designated special area be required to be obtained by the owner, designer or builder and be submitted as part of the application for a building or occupancy permit.

3.5.1.14 Maintenance of Essential Services

Recommendation 14a: That the current Regulations in Part 11 be reviewed in line with the comments received.

Recommendation 14b: That the Commission, Local Government and fire brigades consider a public awareness campaign and increased enforcement.

3.5.1.15 Retrospective building permits

Recommendation 15: That the Commission and/or the BRAC consider legislative amendment to allow issue of a building permit after completion of the building, in certain circumstances. This process could be required to be referred to the Commission or the Building Appeals Board for approval to reduce liability concerns. Any such proposed legislation needs to also consider the potential insurance (both building and practitioner) and liability issues.

3.5.1.16 Forms 13 and 14

Recommendation 16: That the certification forms and issuing process be reviewed and that the outcomes of recent court cases and insurance concerns are incorporated into a revised certification process. This process to include advice to practitioners as to how to complete a certificate and when it is appropriate to issue a certificate. Contact should also be made with the Plumbing Industry Commission and the Office of the chief Electrical Inspector to determine if consistency of forms and processes may be possible.

3.5.1.17 Lapsed building permits

Recommendation 17a: That the existing regulation is amended to include a provision to allow the RBS or the MBS to extend a permit after it has lapsed in circumstances where it is not detrimental to the public interest and the legislation applicable to the original permit has not substantially altered.

Recommendation 17b: That the Commission investigate an automatic notification process (perhaps based on the levy collection system) to notify RBS's as to outstanding permits and to ask that follow-up action occur. It is noted that this information or process could form part of the IT database in Recommendation 2.

3.5.1.18 Places of Public Entertainment

Recommendation 18: That the places of public entertainment provisions are reviewed, and that the following be implemented:

Step 1; provide a guidance document on the appropriate use and application of the existing provisions including specific examples of common buildings and places such as nightclubs, circuses and outdoor gatherings

Step2; the Commission to produce an information sheet for the public which explains the process and the roles of all parties. This could be used by MBS's to raise compliance via increased awareness.

Step 3; undertake a review process within twelve months of the publication of the information sheet to seek industry and public comment of the provisions.

Step 4; undertake selected audits of buildings or places to ensure consistent application of the provisions, or recommend amendments to the process or re-training of selected practitioners.

3.5.1.19 Other matters not currently regulated

Recommendation 19: That the following matters be considered for possible legislation introduction;

- Standardised format and process for determining compliance and consistency with a planning permit,
- Allowance of electronic lodgement of documents for building or occupancy permit applications,
- Introduction of limits and specified levels of durability of materials (to be consistent with liability and insurance requirements), and
- Introduction of mandatory inspections for wet areas and storm water drainage.

3.5.2 Recommendations by key task areas

Suggested recommendations and changes will usually require a specific process to be undertaken and the results and outcomes from the survey responses, focus group forums and industry presentations were also analysed and grouped into three key task areas as follows;

- 1) A proposed regulatory amendment or review,
- 2) A proposed Act amendment or review (after policy review by the Commission),
- 3) A quasi-regulatory approach (i.e. issuing of a Practice Note or Ministers Guideline) or an information and educative approach (i.e. issuing of a News Bulletin, holding of a seminar series, production of an information sheet etc).

3.5.3 Recommended regulation amendments or review

The list of proposed regulation amendments resulting from the outcomes of the survey, focus groups and industry consultation are included below. Most are machinery changes or revocations which should not require any significant Regulatory Impact Statement research or analysis. Items 1, 6, 14 and 24 relate to other Commission projects already underway. Items 2, 3, 7, 15 and 16 may require some additional research and justification.

Regulation	Issue	Regulation Amendment/New Regulation
1. Regulation 1.6, Exemptions (Clauses 1a and 1b of Table 1.6)	\$5,000 provision too confusing and misleading	Suggest re-wording to delete reference to cost and include criteria based on risk and safety. Further, the exemptions from obtaining a building or occupancy permit, but requirements to still comply with any technical provisions needs to be made clearer within the Regulation.
2. Regulation 1.6, Exemptions	Connection, disconnection or alteration of a fire brigade alarm connection	Suggest an exemption be drafted subject to certain technical issues being met, after consultation with the relevant fire brigades.
3. Regulation 1.8, Use of Performance BCA	Sub-Regulation (2)(a) does not reflect the subsequent amendment to BP1.1 and insertion of BP1.2	Add BP1.2 to sub-regulation (a).
4. Regulation 1.8, Use of Performance BCA	Sub-regulation (2)(b) does not reflect the intent of the original RIS which stated 'It is therefore proposed to limit use of the <u>fire-related performance clauses</u> to practitioners who are appropriately qualified and experienced'. The subsequent amendment did not include EP2.1, EP2.2, EP3.2, EP3.3, EP4.1, EP4.2 and EP4.3	Add EP2.1, EP2.2, EP3.2, EP3.3, EP4.1, EP4.2 and EP4.3 to sub-regulation (b).
5. Regulation 2.1, Information to accompany applications	Prescribed ⁶ forms to be removed from Regulations and issued by the Commission as approved ⁷ forms.	Delete sub-regulation (1)(a).
6. Regulation 2.1, Information to accompany applications		Insert new sub-regulation (3)(h) requiring details of information on whether the allotment is in an area which is— (i) liable to flooding within the meaning of regulation 6.2; or (ii) designated under regulation 6.3 as an area in which buildings are likely to be subject to infestation by termites; or (iii) a designated

⁶ "Prescribed" means prescribed by the Act in which the word is used or by a subordinate instrument made under or pursuant to that Act (Section 38 of the Interpretation of Legislation Act 1984). The prescribed forms are currently contained in Schedule 2 of the Regulations.

⁷ Approved forms would be issued by the Building Commission in an advisory capacity and therefore more easily changed and improved as necessary without legislative amendment.

Regulation	Issue	Regulation Amendment/New Regulation
		bush fire prone area determined under regulation 6.4; or (iv) an area determined under regulation 6.5 to be likely to be subject to significant snowfalls; or (v) designated land within the meaning of regulation 6.6.
7. Regulation 2.2, Reporting Authorities	Uniform fees should apply for applications for report and consent.	Consider adoption of standard fees for each reporting authority.
8. Regulation 2.2, Reporting Authorities and Regulation 2.6A	Confusion amongst practitioners as to whether sprinklers should be included as a prescribed reporting authority matter or if Regulation 2.6A applies to an Alternative Solution which does not require sprinklers (i.e. does 'not providing sprinklers' mean 'the installation does not meet the deemed-to-satisfy provisions of the BCA').	Consider inclusion of sprinklers in Table 2.2 or re-word Regulation 2.6A to include when no sprinklers are provided but the DtS provisions would have required them.
9. Regulation 2.6, issue of building permit	Prescribed forms to be removed from Regulations and issued by the Commission as approved forms.	Delete sub-regulation (1).
10.Regulation 2.6, issue of building permit	Critical permit details often not included on the permit.	Insert a new sub-regulation requiring the following information to be included on a building permit; (a) a notice given to the RBS under section 24(4) of the Act; (b) a notice given to the RBS under section 24(4A) of the Act; (c) a notice served on the RBS under section 84 of the Act; (d) a notice given to the RBS under section 85 of the Act; (e) a determination of the RBS under section 87 of the Act; (f) a determination of the Building Appeals Board; (g) a determination of the RBS under the BCA that an alternative solution complies with a performance requirement of the BCA; (h) a report and consent of a reporting authority referred to in regulation 2.2; (i) a determination of the RBS under regulation 3.2; (j) an exemption

Regulation	Issue	Regulation Amendment/New Regulation
		given by the MBS or a PBS under regulation 3.3; (k) a document setting out any requirement of the RBS under regulation 5.3 to take precautions to protect the safety of the public; (l) a consent of the RBS under regulation 5.7; (m) a consent of the RBS under regulation 5.8; (n) an exemption given by the RBS under regulation 9.9; (o) any document required by the RBS under clause 2 of Schedule 2 of the Act or regulation 2.1(3).
11.Regulation 2.15, Documents to be lodged with Council	Some critical supporting documents not being lodged with Council.	Amend 2.15(1) to include after <i>'the following documents'</i> , 'and any supporting documentation either lodged with the application for a building permit or considered by the RBS'.
12.Regulation 2.17, Building Administration Fund	Prescribed forms to be removed from Regulations and issued by the Commission as approved forms.	Amend sub-regulation (1)(b).
13.Regulation 2.18, Permit and Approval Details	Prescribed forms to be removed from Regulations and issued by the Commission as approved forms.	Amend sub-regulation (1).
14.Regulation 5.2, Protection of Adjoining Property	Prescribed forms to be removed from Regulations and issued by the Commission as approved forms.	Amend sub-Regulations (2) and (3).
15.Regulation 5.2 Protection of adjoining property	Confusion and lack of clarity commented on by practitioners. Consideration should be given to revoking dual Form 13 certification by engineer as it is poorly applied and can remove the building surveyor from the process	Delete sub-regulation (5) or amend to be consistent with Part 3.1.1 of Volume Two of the BCA..
16.Regulation 6.2 and 6.6 Uncontrolled drainage and land liable to flooding	Regulations should be combined or otherwise dealt with a planning permit stage	Re-word to combine, or delete.
17.Regulation 7.1, Inspection of building work	Flashing and storm water drainage inspections should be required	Insert after sub-regulation (1)(d); '(e) prior to covering any below ground storm water drainage pipe work, (f) prior to installation of the final tiling,

Regulation	Issue	Regulation Amendment/New Regulation
		cladding or sealing surrounding a bath, shower or hand basin.
18.Regulation 7.3, Certificate of Final Inspection.	Prescribed forms to be removed from Regulations and issued by the Commission as approved forms.	Delete regulation 7.3.
19.Regulation 8.3, Infringement notices	Prescribed forms to be removed from Regulations and issued by the Commission as approved forms.	Amend regulation 8.3.
20.Regulation 9.2, Application for Occupancy Permit	Prescribed forms to be removed from Regulations and issued by the Commission as approved forms.	Delete regulation 9.2.
21.Regulation 9.3 Reporting Authorities	Where a reporting authority consent (the chief officer) is required for a building permit that does not require an occupancy permit there is no authority consent required at completion of the project.	Add new Regulation requiring where a reporting authority (the chief officer) issues a consent in relation to a building permit the authority must be also give consent prior to the issue of an occupancy permit <u>and</u> a certificate of final inspection.
22.Regulation 9.5, Form of Occupancy Permit	Prescribed forms to be removed from Regulations and issued by the Commission as approved forms.	Amend regulation 9.5 to delete reference to Form 11 and add a new sub-regulation requiring the following information to be included on an occupancy permit; (a) a determination of the Building Appeals Board; (b) a determination of the RBS under the BCA that an alternative solution complies with a performance requirement of the BCA; (c) a determination of the RBS under regulation 3.2; (d) an exemption given by the MBS or a PBS under regulation 3.3; (e) a consent of the RBS under regulation 5.7; (f) a consent of the RBS under regulation 5.8; (g) an exemption given by the RBS under regulation 9.9;
23.Regulation 9.10, Documents to be lodged with Council	Some critical supporting documents not being lodged with Council.	Amend 9.10(1) to include after ' <i>the following documents</i> ', 'and any supporting documentation either lodged with the application for a building permit or considered by the RBS'.

Regulation	Issue	Regulation Amendment/New Regulation
24.Regulation 11.6, Contents and form of annual essential services report	Prescribed forms to be removed from Regulations and issued by the Commission as approved forms.	Delete sub-regulation (a).
25.Part 11, Maintenance	Remove different requirements of Division 1 and 2 buildings Allow for the consolidation of Occupancy Permits and Certificate of Final Inspections in order to have one annual essential service date	Amend Part 11
26.Regulation 15.7, Certificates of Compliance	Prescribed forms to be removed from Regulations and issued by the Commission as approved forms.	Delete sub-regulation (2).
27.Generally	The Act describes 'reports' or 'consents' in relation to permits. This is consistent with authorities or bodies being required to give information (reports) or make a decision on a particular matter (consent)	The Regulations include reference to 'report and consent'. This should be reviewed to be consistent with the Act.

3.5.4 Recommended Act amendments or review

The following is a list of proposed Act review items or amendments resulting from the outcomes of the survey, focus groups and industry consultation. These matters reside within the Act and are therefore matters of government policy which should be subject to a detailed review process before any consideration of amendment.

Act Provision or Part	Issue	Act Amendment or review
1. Section 3, Definitions of Places of Public Entertainment	Places of Public Entertainment provisions are poorly understood, applied and enforced.	That the places of public entertainment provisions are reviewed.
2. Section 17, Application for building permit	Applications can be made by, or on behalf of, the owner.	That consideration is given to requiring the owner to appoint a RBS without allowing the owner to appoint an agent to act of their behalf, particularly in relation to domestic building work. Additional consideration would be required for major building owners (especially Governments) where delegated officers may need authority to appoint a RBS without referral to the owner in every case (Office of Housing construction, for example).

Act Provision or Part	Issue	Act Amendment or review
3. Section 20, Permits for stages of work.	Permits for stages of the same building work require significant administrative duplication.	That consideration is given to introduction of a single building permit process, which can be issued in stages, subject to the discretion and determination of the RBS and limited to projects where the RBS, Owner and Builder remain the same. In these circumstances a 'starting stage permit' would be issued which establishes the criteria for approval of progressive stages of the work. Matters such as payment of the building permit levy, whether an Occupancy Permit of Certificate of Final Inspection is required at the end of construction and details of the total extent of the work, when reporting authority report and consents will be obtained etc. would be required to be set out in that permit.
4. Section 93, Protection of adjoining property	Insurance provisions require 12 months cover after completion. Builder's policies do not cover and owners unable to obtain cover.	Review provision and discuss with insurers. If cover unavailable review and consider amendment.
5. Section 106, Building Notices	Notices and orders can only be served on the owner	That the Commission consider regulatory and/or Act amendments to allow for enforcement proceedings to be instigated against a builder, as well as an owner.

3.5.5 Recommended Quasi-regulatory or informative/educative solutions

Issue	Proposed solution
1. Administrative procedures for building and occupancy permits are unduly onerous.	That administrative procedures be reviewed to streamline the processes and that matters considered necessary to remain be strengthened and assistance given to RBS's, MBS's and Councils to enforce the provisions. Additionally standardised forms, fees and processes for the interaction between RBS's, PBS's, Councils and Reporting Authorities should be considered.
2. Application for occupancy permit process is unduly onerous and suggested to be allowable as verbal application.	That the application for an occupancy permit process be reviewed to consider whether the process can be completed orally.

Issue	Proposed solution
3. Processes for lodging of documents, requests for information and notifications are not co-ordinated or efficient.	That the Commission consider use of internet technology to create a central database and information centre for all building and occupancy permit documents and information. Councils could be encouraged to include all details required for permits, including fees, forms and processes, whilst PBS's could also use it for registration of appointment as a RBS, thereby significantly reducing confusion about appointment and jurisdiction.
4. Designated special areas maps not created across all municipalities.	That the Building Commission collates all maps of designated special areas and provide for access to the information in electronic form for the whole State. It is noted that this information could form part of the IT database recommended above.
5. Multiple appointments of Relevant Building Surveyors causing confusion.	That a central database of appointments be considered, perhaps using the Titles Office cadastral database system and linked to the matters in item 3, so that appointment of a RBS is linked to the title allotment.
6. Protection of adjoining property provisions not well understood or consistently applied.	<p>That the protection of adjoining property system is reviewed, particularly in relation to Regulation 5.2(5) (dual Form 13) and that the following be implemented:</p> <p>Step 1; provide a guidance document on the appropriate use of the existing provisions including specific examples of common construction such as garages or dwellings on the boundary, multi-storey construction on the boundary and construction where the depth of excavation exceeds the distance to the boundary. The information sheet should be consistent with and expand upon the provisions in Part 3.1.1 of Volume Two of the Building Code of Australia 1996 (BCA'96).</p> <p>Step2; the Commission to produce an information sheet for adjoining owners which explains the process and the roles of all parties. This sheet could then be issued to adjoining owners with the Form 6.</p> <p>Step 3; undertake a review process within twelve months of the publication of the information sheet to seek industry and public comment of the provisions.</p> <p>Step 4; Undertake selected audits of building permits to ensure consistent application of the provisions, or recommend amendments to the process or re-training of selected practitioners.</p>
7. That planning and building permits are continuing to <i>'not be consistent'</i> across documents, approvals and processes.	That the Commission consider a standardised format, process and documentation for determining compliance and consistency with a planning permit,
8. Precautions for the public provisions not well understood or consistently applied.	<p>That the 'precautions for the protection of the public' system is reviewed, particularly in relation to when a consent and report is required and which local laws have been made and that the following be implemented:</p> <p>Step 1; provide a guidance document on the appropriate use of the existing provisions including specific examples of common construction such as construction to the street alignment and typical fencing requirements for excavations.</p>

Issue	Proposed solution
	<p>Step2; the Commission to produce an information sheet for RBS's, MBS's and Builders which explains the process and the roles of all parties. The sheet should try to provide details of all Council requirements including local laws. It is noted that this information could form part of the IT database in item 3.</p> <p>Step 3; undertake a review process within twelve months of the publication of the information sheet to seek industry and public comment of the provisions.</p> <p>Step 4; Undertake selected audits of building permits to ensure consistent application of the provisions, or recommend amendments to the process or re-training of selected practitioners.</p>
<p>9. Notices and Orders not well understood, not often issued or complied with.</p>	<p>That the Commission consider issuing pro-forma Notices and Orders so that enforcement provisions are consistent across the State. Consideration could be given to use of the Commission logo of such documents to reinforce the seriousness and importance of the documents and that the RBS has the statutory support behind them to follow through.</p>
<p>10. Standard forms do not include all relevant details (particularly building and occupancy permits)</p>	<p>That details of alternative solutions, reports and consents and decisions of the Building Appeals Board be required to be listed on a building and occupancy permit.</p> <p>That details of RBS discretions exercised under Regulations 3.2, 3.3 5.7 and 9.9 be required to be listed on building and occupancy permits.</p> <p>That details of licensed or registered plumbers and electricians be required to be submitted with an application for a building or occupancy permit.</p> <p>That details of Plumbing and Electrical certificates be required to be listed on an occupancy permit and certificate of final inspection.</p>
<p>11. Discretions available to RBS's are not well understood, applied or documented.</p>	<p>That the Commission produce a guidance document for use of these discretions and that standardised formats for documentation of those decisions are suggested.</p>
<p>12. Alternative Solutions are not always adequately and independently reviewed prior to building permit issue.</p>	<p>That independent peer review (by an appropriately qualified RBS, or other independent practitioner acting on behalf of the RBS) of alternative solutions be required via a Ministers Guideline.</p>
<p>13. Report and Consent process varies across the State and is inconsistently applied and enforced.</p>	<p>That the report and consent process is reviewed, particularly in relation to consistency of applications, fees and approvals and that the following be implemented:</p> <p>Step 1; provide a guidance document on when a report and consent is required, how to present an application and how to present a consent and include common or specific examples such as ResCode or fire-fighting equipment. Ask each reporting authority to consider a standard fee schedule so that this can form part of the document.</p> <p>Step2; undertake a review process within twelve months of the publication of the guidance document to seek industry and public comment of the provisions.</p>

Issue	Proposed solution
	<p>Step 3; Undertake selected audits of building permits to ensure consistent application of the provisions, or recommend amendments to the process or re-training of selected practitioners.</p>
<p>14. Essential Services requirements are not well understood, complied with or enforced.</p>	<p>That the Commission, Local Government and fire brigades consider a public awareness campaign and increased enforcement.</p>
<p>15. Certification forms are not well understood or complied with.</p>	<p>That the certification forms and issuing process be reviewed and that the outcomes of recent court cases and insurance concerns are incorporated into a revised certification process. This process to include advice to practitioners as to how to complete a certificate and when it is appropriate to issue a certificate. Contact should also be made with the Plumbing Industry Commission and the Office of the chief Electrical Inspector to determine if consistency of forms and processes may be possible.</p>
<p>16. Lapsed building permits not being followed up or enforced.</p>	<p>That the Commission investigate an automatic notification process (perhaps based on the levy collection system) to notify RBS's as to outstanding permits and ask that follow action occur. It is noted that this information or process could form part of the IT database in Item 3.</p>
<p>17. Places of Public Entertainment provisions are not well understood, complied with or enforced.</p>	<p>That the places of public entertainment provisions are reviewed, and that the following be implemented:</p> <p>Step 1; provide a guidance document on the appropriate use and application of the existing provisions including specific examples of common buildings and places such as nightclubs, circuses and outdoor gatherings</p> <p>Step2; the Commission to produce an information sheet for the public which explains the process and the roles of all parties. This could be used by MBS's to raise compliance via increased awareness.</p> <p>Step 3; undertake a review process within twelve months of the publication of the information sheet to seek industry and public comment of the provisions.</p> <p>Step 4; Undertake selected audits of buildings or places to ensure consistent application of the provisions, or recommend amendments to the process or re-training of selected practitioners.</p>

3.6 Stage 8 (Presentation of outcomes)

The Draft Research Outcomes Report was presented to the following groups;

- The Building Regulations Advisory Committee (21st January 2004).
- The Building Appeals Board (4th March 2004).
- The Corporate Management Team of the Building Commission (9th March 2004)

As a result of further feedback and comment the final report was then completed.

Appendix 1

Joint Venture Organisations and details

Warrington Fire Research (Australia) Pty Ltd

WFRA is part of the Warrington Fire Research Group, which is an international organisation providing professional, independent, impartial and confidential building industry consultancy and testing services. The Group has operations in Australia (Sydney and Melbourne), the United Kingdom, Singapore and China and employs over 100 people. It can therefore bring an understanding of international approaches to building Regulations. The Group originated approximately 30 years ago in Warrington U.K.

WFRA was established in Australia 1991 and is a NATA accredited registered fire test authority in addition to providing extensive consultancy services. Its employees have experience and training covering the many facets of the Building Control Industry. Further details are available at www.wfra.com.au.

Pitt and Sherry

Pitt & Sherry is an Australian building surveying, engineering, scientific and management services company (ABN 77 009 586 083) established in 1963. The company, which currently employs approximately 120 staff, operates from five (5) offices in Victoria (South Melbourne), Tasmania (Hobart, Launceston & Devonport) and East Timor (Dili).

Pitt & Sherry's core operations encompass the provision of technical and management services covering:

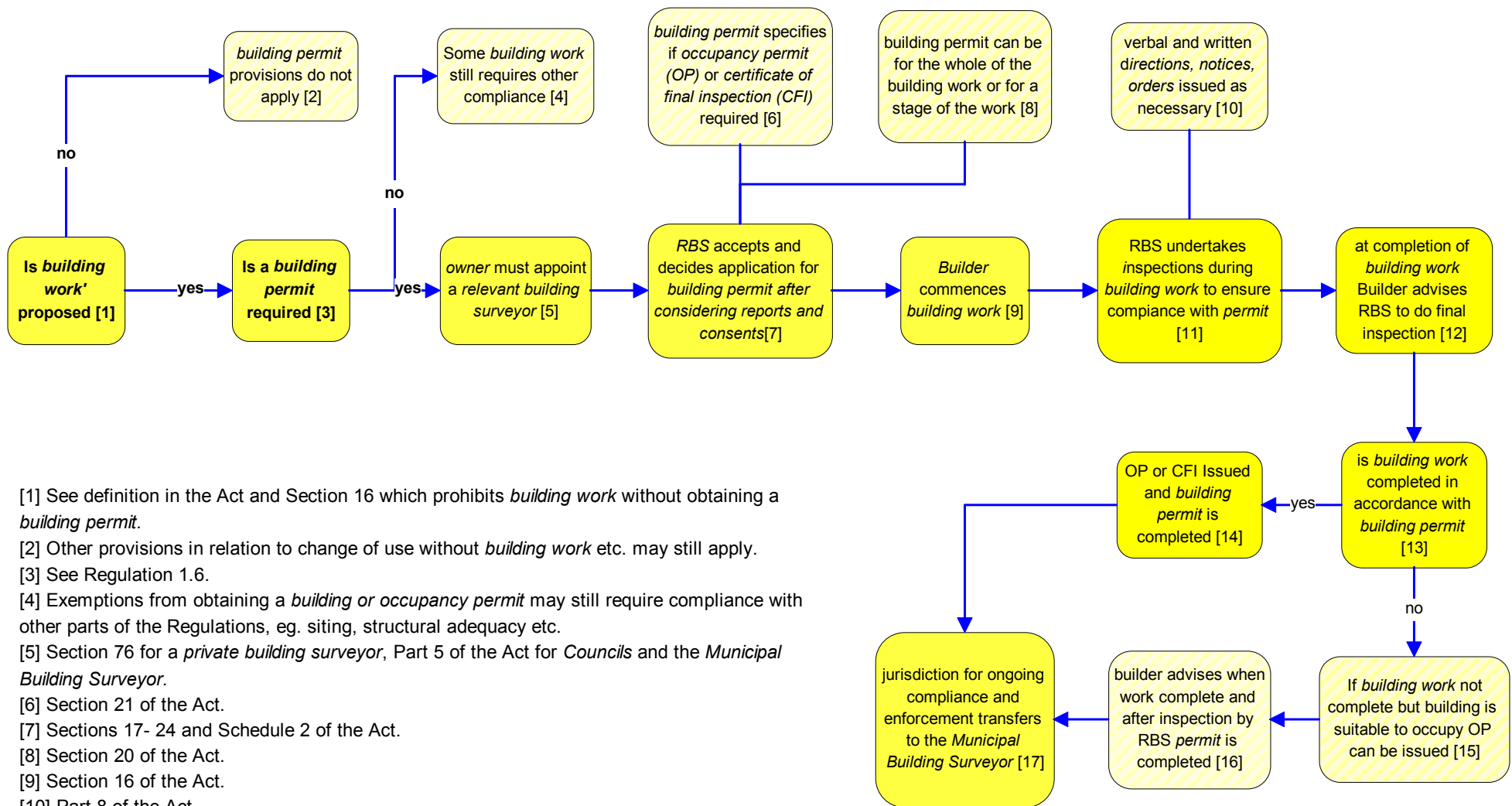
- Building design and surveying
- Transport infrastructure - road, rail, maritime
- Asset and integrated risk management services
- Water supply, sanitation and drainage infrastructure
- Environment and earth science
- Industrial infrastructure
- Information technology products and services

Pitt & Sherry offers a broad range of services which cover the full life cycle of building and infrastructure projects, from initial project identification through development and operation to eventual decommissioning and site rehabilitation, as well as a range of investigatory, planning & management services.

Pitt & Sherry service clients from public and private sectors with regular commissions from the three spheres of government, industrial, mining, manufacturing and commercial enterprises. Further details are available at www.pittsh.com.au.

Appendix 2

Building and Occupancy Permit Simplified Flow chart



- [1] See definition in the Act and Section 16 which prohibits *building work* without obtaining a *building permit*.
- [2] Other provisions in relation to change of use without *building work* etc. may still apply.
- [3] See Regulation 1.6.
- [4] Exemptions from obtaining a *building or occupancy permit* may still require compliance with other parts of the Regulations, eg. siting, structural adequacy etc.
- [5] Section 76 for a *private building surveyor*, Part 5 of the Act for *Councils* and the *Municipal Building Surveyor*.
- [6] Section 21 of the Act.
- [7] Sections 17- 24 and Schedule 2 of the Act.
- [8] Section 20 of the Act.
- [9] Section 16 of the Act.
- [10] Part 8 of the Act.
- [11] Part 4 of the Act.
- [12] Section 33 of the Act & Regulation 7.1.
- [13] Sections 38 & 44 of the Act.
- [14] Sections 38 & 43 of the Act.
- [15] Section 44(a) of the Act.
- [16] Section 33 of the Act & Regulation 7.1.
- [17] Section 212 of the Act.

Simplified Building and Occupancy Permit Process

Appendix 3

Survey Form

Industry Survey

Improving the Efficiency of the Building and Occupancy Permit Process

Name (optional)

Company (optional) -----

e-mail address

(if you include email details a copy of the final outcome report will be sent to you) (optional) -----

The survey has been broken down into 3 distinct parts. Part 1 is the issues summary sheet and provides initial feedback on certain parts of the building and occupancy permit system as far as its efficiency and effectiveness is concerned.

If you are satisfied with your answers and the level of detail provided in Part 1 you need only complete that part.

Part 2 of the survey allows for additional information to be provided and includes further detail on the issues identified in Part 1, should you wish to answer further. The prompt in Part 1 of the survey will lead you directly to the more detailed discussion and answer sections.

Part 3 allows you to add to or clarify any of the issues raised in Part 2 of the survey. It can also be used to raise issues not expressly identified in Part 2. You can attach additional pages to this survey if you need to provide more detail.

A flow chart providing a simplified description of the building and occupancy permit process is also included to assist in highlighting any issues you may need to consider.

Survey responses should be sent to Dennis Hogan: by fax on 92856464, email dhogan@buildingcommission.com.au or posted to P.O. Box 536E Melbourne 3001.

Thank you for taking the time to read and complete this important industry survey. Its findings will be used to formulate an issues report on the building and occupancy permits effectiveness and efficiency and will subsequently be used to shape future building regulation amendments in Victoria.

It is anticipated that the findings of the survey will be made available to the public in late 2003.



Tony Arnel
Building Commissioner

PART 1 MAJOR ISSUES HEADINGS

(You only need to complete this part, unless you want to provide further details)

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|------------|--|--|--|--|
| 1. | General Administrative procedures (see Schedule 2 of the <i>Building Act 1993</i>) | Operates satisfactorily <input type="checkbox"/> | Requires review, amendment or removal <input type="checkbox"/> | (go to Page 3) |
| 2. | Lodgement of documents with Councils and other authorities | Operates satisfactorily <input type="checkbox"/> | Requires review, amendment or removal <input type="checkbox"/> | (go to Page 4) |
| 3. | Building Permits for stages of work on a single project | Operates satisfactorily <input type="checkbox"/> | Requires review, amendment or removal <input type="checkbox"/> | (go to Page 5) |
| 4. | Appointment and termination of appointment of a Relevant Building Surveyor | Operates satisfactorily <input type="checkbox"/> | Requires review, amendment or removal <input type="checkbox"/> | (go to Page 6) |
| 5. | Protection of adjoining property | Operates satisfactorily <input type="checkbox"/> | Requires review, amendment or removal <input type="checkbox"/> | (go to Page 7) |
| 6. | Precautions for protection of the public | Operates satisfactorily <input type="checkbox"/> | Requires review, amendment or removal <input type="checkbox"/> | (go to Page 8) |
| 7. | Building enforcement (i.e. Notices and Orders) | Operates satisfactorily <input type="checkbox"/> | Requires review, amendment or removal <input type="checkbox"/> | (go to Page 9) |
| 8. | General exemptions from the requirement to obtain building and occupancy permits | Operates satisfactorily <input type="checkbox"/> | Requires review, amendment or removal <input type="checkbox"/> | (go to Page 10) |
| 9. | Use of the <i>Building Code of Australia 1996</i> | Operates satisfactorily <input type="checkbox"/> | Requires review, amendment or removal <input type="checkbox"/> | (go to Page 11) |
| 10. | Reporting Authorities (requirements for consent and report prior to the issue of a permit) | Operates satisfactorily <input type="checkbox"/> | Requires review, amendment or removal <input type="checkbox"/> | (go to Page 12) |
| 11. | Discretionary powers provided to the Relevant Building Surveyor (existing buildings, consolidation of allotments, subdivision, change of use) | Operates satisfactorily <input type="checkbox"/> | Requires review, amendment or removal <input type="checkbox"/> | (go to Page 13) |
| 12. | Siting provisions in Part 4 (ResCode) | Operates satisfactorily <input type="checkbox"/> | Requires review, amendment or removal <input type="checkbox"/> | (go to Page 14) |
| 13. | Building works in special areas (termite, bushfire, alpine, flooding etc) | Operates satisfactorily <input type="checkbox"/> | Requires review, amendment or removal <input type="checkbox"/> | (go to Page 15) |
| 14. | Maintenance of essential services | Operates satisfactorily <input type="checkbox"/> | Requires review, amendment or removal <input type="checkbox"/> | (go to Page 16) |
| 15. | Retrospective building permits (allowing or finalizing work done prior to the issue of a permit) | Operates satisfactorily <input type="checkbox"/> | Requires review, amendment or removal <input type="checkbox"/> | (go to Page 17) |
| 16. | Forms 13 and 14 (certification by practitioners other than the RBS for design and inspection) | Operates satisfactorily <input type="checkbox"/> | Requires review, amendment or removal <input type="checkbox"/> | (go to Page 18) |
| 17. | Lapsed Building Permits (permits that are not completed within the prescribed time period) | Operates satisfactorily <input type="checkbox"/> | Requires review, amendment or removal <input type="checkbox"/> | (go to Page 19) |
| 18. | Places of Public Entertainment | Operates satisfactorily <input type="checkbox"/> | Requires review, amendment or removal <input type="checkbox"/> | (go to Page 20) |
| 19. | Other matters not currently regulated | No additional provisions required <input type="checkbox"/> | Additional provisions required are; | <input type="checkbox"/> (go to Page 21) |

PART 2 - GENERAL SURVEY QUESTIONS

1. General Administrative Procedures

General administrative procedures such as set out in Schedule 2, Forms, time limits etc.

This issue includes the general requirements in relation to information to assess a building permit. This includes items such as;

- Information to accompany building permits, Regulation 2.1.
- Requirement to obtain reporting authority consents and reports, Regulation 2.2.
- Time limits, Regulation 2.5.
- Information to form part of a permit, Regulation 2.6.
- Who obtains copies of documents, Regulation 2.6A.
- How long records are required to be retained, Regulation 2.7.
- Commencement and completion of work, Regulation 2.8.
- Display of permits, Regulation 2.19.

1. Do you believe the provisions are widely understood and accepted. [Yes/No]
(add further comments if necessary)

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2. Do you believe the provisions operate effectively and efficiently. [Yes/No]
(add further comments if necessary)

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3. Could the provisions be improved and if so how. [Yes/No]
(add further comments if necessary)

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4. Should the provisions be retained in their current format, amended or revoked.
[Yes/No] (add further comments if necessary)

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PART 2 - GENERAL SURVEY QUESTIONS

2. Lodgement of Documents with Councils and other Authorities

This topic looks at the suitability of information to be lodged at Council and other authorities and whether the current information and fees provided are suitable. This includes items such as;

- Referrals to the Chief Officer, Regulation 2.6A.
- Documents to be lodged with Council, Regulations 2.15 & 9.10.
- Lodgement Fees, Regulation 2.16.

1. Do you believe the provisions are widely understood and accepted. [Yes/No]
(add further comments if necessary)

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2. Do you believe the provisions operate effectively and efficiently. [Yes/No]
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3. Could the provisions be improved and if so how. [Yes/No]
(add further comments if necessary)

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4. Should the provisions be retained in their current format, amended or revoked.
[Yes/No] (add further comments if necessary)

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PART 2 - GENERAL SURVEY QUESTIONS

3. Building Permits for Stages of work on a single project

This topic looks at the suitability of building surveyors issuing building permits for stages of building work and whether this process is effective and efficient.

- Building Permits, Regulation 2.8 (inter-alia Section 20 of the *Building Act 1993*).

1. Do you believe the provisions are widely understood and accepted. [Yes/No]
(add further comments if necessary)

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2. Do you believe the provisions operate effectively and efficiently. [Yes/No]
(add further comments if necessary)

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3. Could the provisions be improved and if so how. [Yes/No]
(add further comments if necessary)

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4. Should the provisions be retained in their current format, amended or revoked.
[Yes/No] (add further comments if necessary)

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PART 2 - GENERAL SURVEY QUESTIONS

4. Appointment and termination of appointment of a Relevant Building Surveyor

This topic looks at the process of when a building surveyor is appointed and the notification process to Council.

- Notification of appointment, Section 80.
- Lodging of permit documents with Council, Section 30.

1. Do you believe the provisions are widely understood and accepted. [Yes/No]
(add further comments if necessary)

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2. Do you believe the provisions operate effectively and efficiently. [Yes/No]
(add further comments if necessary)

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3. Could the provisions be improved and if so how. [Yes/No]
(add further comments if necessary)

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4. Should the provisions be retained in their current format, amended or revoked.
[Yes/No] (add further comments if necessary)

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PART 2 - GENERAL SURVEY QUESTIONS

5. Protection of Adjoining Property

This topic deals with the issues of protecting adjoining property and the public from damage or injury during the carrying out of construction work. The regulations subject to this topic include;

- Regulation 5.2, Protection of adjoining property. (inter-alia Part 7 of the *Building Act 1993*).

1. Do you believe the provisions are widely understood and accepted. [Yes/No]
(add further comments if necessary)

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2. Do you believe the provisions operate effectively and efficiently. [Yes/No]
(add further comments if necessary)

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3. Could the provisions be improved and if so how. [Yes/No]
(add further comments if necessary)

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4. Should the provisions be retained in their current format, amended or revoked.
[Yes/No] (add further comments if necessary)

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PART 2 - GENERAL SURVEY QUESTIONS

6. Precautions for protection of the public

This topic deals with the issue of protecting the public during construction of a building. The regulations subject to this topic include;

- Regulation 5.3, Protection for the Public.

1. Do you believe the provisions are widely understood and accepted. [Yes/No]
(add further comments if necessary)

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2. Do you believe the provisions operate effectively and efficiently. [Yes/No]
(add further comments if necessary)

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3. Could the provisions be improved and if so how. [Yes/No]
(add further comments if necessary)

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4. Should the provisions be retained in their current format, amended or revoked.
[Yes/No] (add further comments if necessary)

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PART 2 - GENERAL SURVEY QUESTIONS

7. Building Enforcement (Notices & Orders)

This topic looks at the process of issuing Notices and Orders and its effectiveness and efficiency for dealing with non-compliances with the *Building Act 1993* and *Building Regulations 1994*. The regulations for this topic include;

- Part 8 of the Building Act 1993.
- Part 7 of the Building Regulations 1994.

1. Do you believe the provisions are widely understood and accepted. [Yes/No]
(add further comments if necessary)

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2. Do you believe the provisions operate effectively and efficiently. [Yes/No]
(add further comments if necessary)

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3. Could the provisions be improved and if so how. [Yes/No]
(add further comments if necessary)

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4. Should the provisions be retained in their current format, amended or revoked.
[Yes/No] (add further comments if necessary)

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PART 2 - GENERAL SURVEY QUESTIONS

8. Exemption from requiring a Building or Occupancy Permit

This topic looks at the effectiveness and efficiency of the items as obtaining exemptions under the Building Regulations 1994. In relation to this topic it should be considered whether the current list of exemptions to be increased, decreased or stay the same. The relevant regulations for this part are;

- Regulation 1.6, Exemptions – from requiring building permits.

1. Do you believe the provisions are widely understood and accepted. [Yes/No]
(add further comments if necessary)

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2. Do you believe the provisions operate effectively and efficiently. [Yes/No]
(add further comments if necessary)

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3. Could the provisions be improved and if so how. [Yes/No]
(add further comments if necessary)

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4. Should the provisions be retained in their current format, amended or revoked.
[Yes/No] (add further comments if necessary)

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PART 2 - GENERAL SURVEY QUESTIONS

9. Use and Documentation of Performance-based Decisions emanating from the Building Code of Australia 1996 (restrictions of the use of the Performance Requirements)

This topic looks at the effectiveness and efficient use and documentation of performance based determinations by building surveyors. Consideration should be given to the way performance based designs are developed, assessed and recorded and also the restrictions that apply to using performance for some building surveyors. The relevant regulation for this part is;

- Regulations 1.7, Building Code of Australia.
- Regulations 1.8, use of performance requirements.

1. Do you believe the provisions are widely understood and accepted. [Yes/No]
(add further comments if necessary)

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2. Do you believe the provisions operate effectively and efficiently. [Yes/No]
(add further comments if necessary)

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3. Could the provisions be improved and if so how. [Yes/No]
(add further comments if necessary)

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4. Should the provisions be retained in their current format, amended or revoked.
[Yes/No] (add further comments if necessary)

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PART 2 - GENERAL SURVEY QUESTIONS

10. Reporting Authorities

This topic looks at the effectiveness and efficiency of the process of obtaining reporting authority reports and consents at both the building permit and occupancy permit stages in a project. The relevant regulation for this part is;

- Regulation 2.2, report and consent process, prescribed reporting authorities.
- Regulation 2.2A, demolition report and consent fee.
- Regulation 2.5, time limits.
- Part 9 of the *Building Regulations* 1994, occupancy permits.
- Schedule 2 items in the Building Act 1993.
- Section 23, 47 and 60 of the *Building Act* 1993, reporting authority notification.

1. Do you believe the provisions are widely understood and accepted. [Yes/No]
(add further comments if necessary)

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2. Do you believe the provisions operate effectively and efficiently. [Yes/No]
(add further comments if necessary)

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3. Could the provisions be improved and if so how. [Yes/No]
(add further comments if necessary)

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4. Should the provisions be retained in their current format, amended or revoked.
[Yes/No] (add further comments if necessary)

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PART 2 - GENERAL SURVEY QUESTIONS

11. Discretionary Powers afforded to Building Surveyors

This topic looks at the effectiveness and efficient use of discretionary powers by building surveyors when deciding matters (note: some other discretionary powers afforded to building surveyors have been addressed elsewhere in this survey i.e. protection of adjoining property). The relevant regulation for this part is;

- Regulation 3.2, combined allotments.
- Regulation 3.3, subdivision of existing buildings.
- Regulation 5.7, alterations to existing buildings.
- Regulation 5.8, alterations to existing exits.
- Regulation 9.9, change of use of a building.
- Section 28 of the *Building Act 1993*, alterations to a heritage registered building.

1. Do you believe the provisions are widely understood and accepted. [Yes/No]
(add further comments if necessary)

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2. Do you believe the provisions operate effectively and efficiently. [Yes/No]
(add further comments if necessary)

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3. Could the provisions be improved and if so how. [Yes/No]
(add further comments if necessary)

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4. Should the provisions be retained in their current format, amended or revoked.
[Yes/No] (add further comments if necessary)

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PART 2 - GENERAL SURVEY QUESTIONS

12. Siting Provisions in Part 4 of the *Building Regulations 1994* (Rescode)

This topic looks at the effectiveness and efficient application of Part 4 of the *Building Regulations 1994*. The relevant regulation for this part is;

- Part 4 of the Building Regulations 1994

1. Do you believe the provisions are widely understood and accepted. [Yes/No]
(add further comments if necessary)

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2. Do you believe the provisions operate effectively and efficiently. [Yes/No]
(add further comments if necessary)

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3. Could the provisions be improved and if so how. [Yes/No]
(add further comments if necessary)

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4. Should the provisions be retained in their current format, amended or revoked.
[Yes/No] (add further comments if necessary)

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PART 2 - GENERAL SURVEY QUESTIONS

13. Building work in Special Areas

This topic looks at the effectiveness and efficient application of the requirements for buildings built in special areas (i.e. bushfire prone, termite prone, flood prone etc). The relevant regulation for this part is;

- Part 6 of the *Building Regulations 1994*, including designated maps.
- Unsewered areas, Regulation 6.1.
- Flood prone areas, Regulation 6.2.
- Termite areas, Regulation 6.3.
- Bushfire prone areas, Regulation 6.4.
- Alpine areas, Regulation 6.5.
- Uncontrolled overland drainage, Regulation 6.6.

1. Do you believe the provisions are widely understood and accepted. [Yes/No]
(add further comments if necessary)

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2. Do you believe the provisions operate effectively and efficiently. [Yes/No]
(add further comments if necessary)

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3. Could the provisions be improved and if so how. [Yes/No]
(add further comments if necessary)

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4. Should the provisions be retained in their current format, amended or revoked.
[Yes/No] (add further comments if necessary)

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PART 2 - GENERAL SURVEY QUESTIONS

14. Maintenance of Essential Services

This topic looks at the effectiveness and efficient application of maintenance of essential services and where possible improvements or changes could be introduced. The relevant regulation for this part is;

- Part 11 of the *Building Regulations 1994*.

1. Do you believe the provisions are widely understood and accepted. [Yes/No]

(add further comments if necessary)

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2. Do you believe the provisions operate effectively and efficiently. [Yes/No]

(add further comments if necessary)

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3. Could the provisions be improved and if so how. [Yes/No]

(add further comments if necessary)

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4. Should the provisions be retained in their current format, amended or revoked.

[Yes/No] (add further comments if necessary)

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PART 2 - GENERAL SURVEY QUESTIONS

15. Retrospective Building and Occupancy Permits

This topic looks at the effectiveness and efficient application of the building permit and occupancy permit process and whether it could, or should, be applied retrospectively to completed buildings or work commenced without a building permit. Other than powers afforded to the Municipal Building Surveyor under Part 5 of the *Building Act 1993*, no powers currently exist except to issue notices and orders and then accept the reasons and upgrade or rectification work without further enforcement action. This work does not then form part of the building permit.

1. Do you believe the provisions are widely understood and accepted. [Yes/No]
(add further comments if necessary)

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2. Do you believe the provisions operate effectively and efficiently. [Yes/No]
(add further comments if necessary)

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3. Could the provisions be improved and if so how. [Yes/No]
(add further comments if necessary)

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4. Should the provisions be retained in their current format, amended or revoked.
[Yes/No] (add further comments if necessary)

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PART 2 - GENERAL SURVEY QUESTIONS

16. The use of Form 13 and Form 14 in the Design and Inspection part of projects as well as other certificates such as Plumbing, electrical etc.

This topic looks at the effectiveness and efficient application of certificates used in the certification of designs and inspections which form part of the building and occupancy permit process. The relevant regulation for this part is;

- Regulation 15.7, certificates of compliance.
- Section 238 of the *Building Act 1993*, reliance on certificates by the relevant building surveyor.

1. Do you believe the provisions are widely understood and accepted. [Yes/No]
(add further comments if necessary)

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2. Do you believe the provisions operate effectively and efficiently. [Yes/No]
(add further comments if necessary)

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3. Could the provisions be improved and if so how. [Yes/No]
(add further comments if necessary)

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4. Should the provisions be retained in their current format, amended or revoked.
[Yes/No] (add further comments if necessary)

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PART 2 - GENERAL SURVEY QUESTIONS

17. Lapsed Building Permits

This topic looks at the effectiveness and efficiency of the process of dealing with lapsed buildings permits, where responsibility lies and what action should be taken to deal with this matter. The relevant regulation for this part is;

- Regulation 2.8, commencement and completion of building work forming a permit.

1. Do you believe the provisions are widely understood and accepted. [Yes/No]
(add further comments if necessary)

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2. Do you believe the provisions operate effectively and efficiently. [Yes/No]
(add further comments if necessary)

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3. Could the provisions be improved and if so how. [Yes/No].
(add further comments if necessary)

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4. Should the provisions be retained in their current format, amended or revoked.
[Yes/No] (add further comments if necessary)

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PART 2 - GENERAL SURVEY QUESTIONS

18. Places of Public Entertainment

The *Building Act 1993* and the *Building Regulations 1994* include provisions for places of public entertainment (as defined and prescribed). The relevant provisions for these matters include;

- Definition of Places of Public Entertainment, Section 3 of the Act.
- Part 5 of the Act.
- Part 10 of the Building Regulations 1994.

1. Do you believe the provisions are widely understood and accepted. [Yes/No]
(add further comments if necessary)

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2. Do you believe the provisions operate effectively and efficiently. [Yes/No]
(add further comments if necessary)

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3. Could the provisions be improved and if so how. [Yes/No].
(add further comments if necessary)

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4. Should the provisions be retained in their current format, amended or revoked.
[Yes/No] (add further comments if necessary)

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PART 2 - GENERAL SURVEY QUESTIONS

19. Other Matters Currently Not Regulated

The *Building Act 1993* gives the Building Regulations 1994 Head of Power to make regulations on a number of matters. The majority of these powers have been utilised by the Building Regulations 1994, however a number of these powers remain unused such as powers to;

- Specify explicit durability of buildings and materials.
- Retrospective application of the Building Act, Building Regulations 1994 and Building Code of Australia 1996 to existing buildings.
- Fees for lodgement of documents with Council (such as Occupancy Permits etc).

1. Do you believe that the extent of the Regulations should be increased to include additional matters? [Yes/No] (add further comments if necessary)

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2. How would this improve the effectiveness and efficiency of the building regulatory framework? [Yes/No] (add further comments if necessary)

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3. Are there any areas currently regulated that should not be?

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Appendix 4

Survey responses and discussion

The overall response to the survey was good with the level of information provided by those who took the time to respond being quite comprehensive.

Based on our estimates it could have taken the average respondent up to 90 minutes to complete the entire survey. Based on the current high levels of activity in the building industry we were pleased to receive such detailed and considered responses and were generally impressed by the responses provided and obviously the time people were prepared to spend on responding.

37 responses were received from the following individuals or organisations; J. Royce (PBS), R. Bethune (Rod Bethune & Associates, PBS), P. Luzinat (P. Luzinat and Partners, PBS), M Grzan (Manningham City Council, MBS), C. Watson (Latrobe City Council, MBS), D. Turner (City of Greater Bendigo, MBS), the Australian Institute of Building Surveyors (Victorian Chapter), Michael Fagan (the Housing Industry Association of Victoria, Builder), D. Thacker (Golden Plains Shire Council, MBS), Philip Chun & Associates Pty Ltd, C. Brown (City of Greater Geelong, MBS), B. Stockdale (Strathbogie Shire Council, MBS), R. Vincent (Melton Shire Council, MBS), P. Phillips (Country Fire Authority), McKenzie Group Consulting (PBS), L. Patison (Building industry Solutions, Consultant), A. Prince (Arnold Prince & Associates Pty Ltd, PBS), K. Weir (Ken Weir & Associates, PBS), C. Fletcher (Melton Shire Council, MBS), P. Davern (C. H. Group Pty Ltd, PBS), D. Robertson (JMP Consulting, Engineer), J. Berg (Brimbank City Council, MBS), G. Geary (Cardinia Shire Council, MBS), G. Gommers (City of Melbourne, MBS), D. Wadsworth (Pro-Act Building Consultants, PBS), S. Weir (PBS), R. Heath (Gannawarra Shire Council, MBS), J. Weekley (Swan Hill Rural City Council, MBS), G. Romeo (Swan Hill Rural City Council, MBS), R. Hutcheon (Hobsons Bay City Council, MBS), W. Sheffield, G. Dean (Reddo Pty Ltd, PBS), A. Brewer (Frankston City Council, MBS), G. Frameland (Framson Homes, Builder), M. Cooper (Combined Building Consultants, PBS), P. Jacobs (Jacobs Thomas & Associates Pty Ltd, Architect), P. Milner Metropolitan Essential Services, PBS).

4 other unnamed responses were also received and several verbal interviews were undertaken with building surveyors and the views collated.

Response to Part 1 – Major Issues Headings

The responses to the Major Issues Headings was mixed with a definite trend emerging between Municipal and Private Surveyors on topics such as report and consents, lodgement of documents and notification of appointments.

It was often the case that results between the two parties were completely contrasted and it would appear as though there is some work needed to overcome the current divide between these two parties as this would have a positive effect on the efficiency and effectiveness of the system.

Response to Part 2 – General Survey Questions

As stated in section 8 of the report the survey was essentially made up of 19 distinct headings or topics. The 19th topic related to any issues not covered by the survey questions that the person felt warranting discussing or review. The other 18 topics were subsequently broken into four question headings. Below is a summary of the responses received. The summary has been broken down

within each topic and then a summary of the response to each question has been provided. Additional comment has been provided from the authors of this report where appropriate and necessary so that the reader can better interpret the summary of results. This is provided in *italics* at the end of each statement.

1 General Administrative Procedures

Do you believe the provisions are widely understood and accepted?

- Not well understood by industry and community
- Well understood by building surveyors

Do you believe the provisions operate effectively and efficiently?

- Councils too slow with information to building surveyors and applicants
- Display of permits rarely happens
- Time limits to council too stringent for councils and PBS's

Could the provision be improved and if so how?

- Remove current time limits
- Applicant to lodge property information with permit
- Fixed fee for council information and consents (*PBS response*)
- Confusion of Reg 2.6A information to Fire Authorities
- PBS needs more support on site (*from system*)
- Reg 2.2 Consents should be available post commencement of project
- Remove the need for titles and rely on solicitors letters in new subdivision areas

Should the provisions be retained in their current format, amended or revoked?

- Councils should be deemed to consent after period in Regulations

2 Lodgement of documents with Councils and other authorities

Do you believe the provisions are widely understood and accepted?

- Lodgement of documents with CFA/MFB at stages in project not well understood

Do you believe the provisions operate effectively and efficiently?

- Lodgement fees too low (*council opinion*)
- Standardise document lodgement with council

- Documentation of performance provisions to council

Could the provision be improved and if so how?

- Make the Reg 2.6A (Sprinklers) a mandatory Reg 2.2 referral
- Lodgement fee for stage of works should be removed and have one fee only (*private opinion*)
- Allow electronic notification and lodgement of documents
- Creation of central web based building permit register where all documentation is lodged

Should the provisions be retained in their current format, amended or revoked?

- Lodgement fees should be increased (*council opinion*)
- Reg 2.10 information request should be mandatory

3 Building Permits for stage of work on a single project

Do you believe the provisions are widely understood and accepted?

- Multiple permits by multiple building surveyors on projects not well understood or controlled.
- Multiple building surveyors results in loss of information on projects

Do you believe the provisions operate effectively and efficiently?

- With building permits for stage of works, work often moves forward quicker than permit documentation
- Staged permits and where report and consents are required.
- Multiple levy payments for projects is not efficient.
- Difficult for council to manage and store stage permits.

Could the provision be improved and if so how?

- No stage permits for domestic works.
- Allow for stages of the building permit rather than a separate permit each time.
- For Stages of Building work have only one application for project and one CFI or OP.
- Subsequent BS does not currently consider previous determinations by other BS

Should the provisions be retained in their current format, amended or revoked?

- Final OP should include all essential services for each stage or otherwise combine them all (*anniversary date*).

4 Appointment and Termination of appointment of a Relevant Building Surveyor

Do you believe the provisions are widely understood and accepted?

- Uncertainty as when a BS is appointed.
- Community does not understand the implications in relation to appointment and termination of BS

Do you believe the provisions operate effectively and efficiently?

- Councils should inform PBS's if there has been a dual appointment (*PBS opinion*).
- Appointment and termination process for MBS & PBS should be the same.
- PBS take too long to issue Sect 30 and 80 notifications to council (*council opinion*).

Could the provision be improved and if so how?

- PBS should be required to check with Council as to whether another BS has been appointed at the commencement of a project (*council opinion*)

Should the provisions be retained in their current format, amended or revoked?

- Owner's consent should be required to appoint a building surveyor and the owner should fill out form.

5 Protection of adjoining property

Do you believe the provisions are widely understood and accepted?

- Not well understood by building surveyors and community and further training and clarity required.
- BS don't understand what should be protected under the above provision.
- No uniformity of approach between BS.
- The use of dual certification by an engineer is not well understood or properly implemented.

Do you believe the provisions operate effectively and efficiently?

- Don't operate efficiency often poorly handled and results in extended delays for the project.
- Commission fails to act in this area.
- Protection agreed to, often not followed through on site.

Could the provision be improved and if so how?

- Dual certification by engineers should also invoke survey and insurance requirement.
- Clarification required on when protection should apply and the process to be used to satisfy legislative requirements, education of BS on process required.

Should the provisions be retained in their current format, amended or revoked?

- Dual certification by engineers should be removed as this deletes the insurance and survey requirements and engineers are not aware or understand their obligations.
- Make process easier to administer enforce and appeal

6 Precautions for protection of the public

Do you believe the provisions are widely understood and accepted?

- No as councils have differing approaches.
- People do not understand hoarding permits requirements.

Do you believe the provisions operate effectively and efficiently?

- Clarification between protection and worksafe requirements required.
- BS need education on the area.

Could the provision be improved and if so how?

- Should have prescribed fees for hoarding permits.
- BS should issue permit like a building permit.
- Create a standard approach for all councils to follow.

Should the provisions be retained in their current format, amended or revoked?

- Provision should be revoked and dealt with as a local law.
- Provision to allow for someone to appeal a BS decision not to require protection is required

7 Building Enforcement (Notices and Orders)

Do you believe the provisions are widely understood and accepted?

- Needs to be standard forms (notices and orders) as part of the Regulations.
- Current wording of Notices difficult to understand and grasp.
- BS need further education

Do you believe the provisions operate effectively and efficiently?

- Overlap occurs between the responsibilities of the MBS and PBS.
- Anecdotal evidence suggests that Building Notices as not followed up on.
- Owners not likely to take Notice issued by PBS seriously.

Could the provision be improved and if so how?

- Standardisation of Notices and Orders.
- Increase potential fines.
- Allow PBS to issue Emergency Order.
- Commission to take greater responsibility in the enforcement of Notices and Orders.
- Should be able to be served on owner and person in charge of the site.

Should the provisions be retained in their current format, amended or revoked?

- In relation to safety issues enforcement and prosecution needs to be handled swiftly.
- Introduce on the spot fines for certain breaches e.g. starting work without a building permit.

8 General Exemptions from the requirement to obtain building and occupancy permits

Do you believe the provisions are widely understood and accepted?

- \$5,000 exemption is widely misinterpreted and used.
- Conflict between provision and Domestic Building Contracts Act as it requires OP/CFI to obtain final payment and not all work requires a permit.

Do you believe the provisions operate effectively and efficiently?

- No as people are unsure and too much is left to interpretation.

Could the provision be improved and if so how?

- By removing the exemption.

Should the provisions be retained in their current format, amended or revoked?

- Provision should be revoked.

9 Use of the Building Code of Australia 1996

Do you believe the provisions are widely understood and accepted?

- Documenting and reasoning of decision making not being clearly articulated into permit documentation.

Do you believe the provisions operate effectively and efficiently?

- More onus should be placed on person providing Form 13.

Could the provision be improved and if so how?

- All performance decisions or dispensations should be recorded on the building and occupancy permit.
- All performance based determinations should be independently certified.
- Minister's Guideline should be provided to outline practitioners where they should work within the area of expertise and peer review.

Should the provisions be retained in their current format, amended or revoked?

10 Reporting Authorities (requires for report and consent prior to the issue of a permit)

Do you believe the provisions are widely understood and accepted?

- Reporting authorities and building surveyors often do not understand their obligations.
- Substantial delays have been recorded in obtaining reporting authority reports and consents.

Do you believe the provisions operate effectively and efficiently?

- Reporting authorities should be required to adhere to legislated timeframes.
- Standard cost should apply.
- Reg 2.6A (sprinklers) should also be a referral to Chief Officer.

Could the provision be improved and if so how?

- Delete the requirement for demolition report and consent where a planning permit has already been issued.
- Increase reporting authority timeframes (reporting authorities).
- Reduce reporting authority timeframes (industry).
- Reporting authorities should be restricted from providing conditions on the matters not relating to the item specifically being considered.

Should the provisions be retained in their current format, amended or revoked?

- Reg 2.2 provisions should also be available during and after the construction process and as part of the Building Notice and Order system.
- Fees should be standardised.

11 Discretionary powers provided to the Relevant Building Surveyor (existing buildings, consolidation of allotments, subdivision, change of use)

Do you believe the provisions are widely understood and accepted?

- Reg 5.7 is not well understood.
- Council approach to subdivisions (reg 3.3) differs across state.

Do you believe the provisions operate effectively and efficiently?

- Clarification required on change of use provisions Regulation 9.9.
- Documentation and recording of dispensations is poor.
- Re 3.2 and 3.3 provisions should be made clearer.

Could the provision be improved and if so how?

- Reg 3.3 should be referred to in planning legislation and also in council process for subdivision of buildings and land.
- Floor area of Reg 5.7 should be increased to 2,000m².
- Reg 5.8 should be deleted as already provided for in Reg 5.7.

Should the provisions be retained in their current format, amended or revoked?

- Reg 5.8 should be deleted.

12 Sitting Provisions in Part 4 (ResCode)

Do you believe the provisions are widely understood and accepted?

- Understood by building surveyors but not well understood by the general community.
- Provisions are complex with numerous duplicating clauses.
- Regulations are too difficult and complex.

Do you believe the provisions operate effectively and efficiently?

- New estates have numerous cases of overlooking and overshadowing due to the first in occupancy permit provision.
- Inconsistent approach to fees and handling of applications by council are causing delays.
- Councils should be more accountable for decisions and time limits on making determinations.
- Developers are placing more onerous conditions on titles therefore making checking by building surveyor difficult.

Could the provision be improved and if so how?

- More concessions for additions to dwellings where the existing building doesn't comply.
- Part 4 needs a review.
- Simpler dispensation and appeals process required.

- Make clear the building surveyor's responsibility for assessing Section 173 agreements and conditions placed on titles by developers.
- Create a standard format for information to be provided to council to assess and application.

Should the provisions be retained in their current format, amended or revoked?

- Area needs total review.

13 Building works in Special Areas (termite, bushfire, alpine, flood etc)

Do you believe the provisions are widely understood and accepted?

- Part 9 report and consents at occupancy permit stage not well understood.
- Mapping by councils not properly addressed.
- Often bushfire prone and overland drainage not clearly designated.

Do you believe the provisions operate effectively and efficiently?

- Reg 6.2 and Reg 6.6 should be linked (flooding provisions).
- Councils should be required to produce current maps for each of the areas.
- Reports and consents in unsewered areas almost impossible to obtain.

Could the provision be improved and if so how?

- Councils should have a standard fee for all information to accompany a permit application.
- Councils should map relevant areas and make them available electronically in a central record held by the Commission.

Should the provisions be retained in their current format, amended or revoked?

- Combine Reg 6.2 and Reg 6.6.

14 Maintenance of Essential Services

Do you believe the provisions are widely understood and accepted?

- Building surveyors are incorrectly specifying maintenance on Occupancy Permits and Certificates of Final Inspection.
- Often differing interpretations on what items should be included on Occupancy Permits and with Certificate of Final Inspections.
- Majority of owners not aware of their obligations.
- Lack of enforcement by local government.

Do you believe the provisions operate effectively and efficiently?

- The Division 1 and Division 2 separation is confusing and causes inefficiencies where buildings have different parts under different Divisions.
- Councils are not adequately resourced to enforce compliance.
- Authority to sign a Form 15 should be restricted to a suitably qualified person.

Could the provision be improved and if so how?

- More onus on councils to carry out enforcement.
- Multiple CFI's and Occupancy Permits should be able to be consolidated by the RBS or council.
- Commission needs to advertise importance of compliance.
- Owners should be required to supply a copy of the Form 15 to local council.
- Training and qualifications of testers needs regulation.

Should the provisions be retained in their current format, amended or revoked?

- Amendment of maintenance periods needs review to make maintenance provisions workable.
- Combine pre and post 1994 buildings so there is only one Division to remove current confusion.

15 Retrospective building permits (allowing or finalising work done prior to the issue of a building permit)

Do you believe the provisions are widely understood and accepted?

- People are doing work without permits because they are sure when a permit is required.
- People think they can get a permit after they commence work.

Do you believe the provisions operate effectively and efficiently?

- Difficult to legitimise work done without a permit.
- Defeats purpose of system if you allow retrospective permits.
- Should be allowance for when hardship occurs.

Could the provision be improved and if so how?

- Powers to authorise demolition of illegal works should be swifter.
- With the necessary reports and assessment retrospective reports could be permitted.
- Allowance for report and consents from authorities after work commences.

- Commission and Practitioners Board should be automatically notified if practitioners are involved in work without permits.

Should the provisions be retained in their current format, amended or revoked?

- Allowance of retrospective permits would undermine the building control system.
- Should be allowed in certain circumstances following and appropriate review and investigation to confirm compliance with relevant codes and standards.

16 Forms 13 and 14 (certification by practitioners other than the RBS for design and inspection)

Do you believe the provisions are widely understood and accepted?

- The allowance of self certification of your own design is a nonsense.
- There are examples of different practitioners following different formats.

Do you believe the provisions operate effectively and efficiently?

- Current industry trend is away from issuing Form 13 and Form 14.
- Form 14's should be able to be used on commercial building works.
- The entire process needs to be standardised to provide consistency.

Could the provision be improved and if so how?

- Form 14 should be expanded and include more information.
- Form 14 should be available for commercial projects.
- Form 13 should be provided by an independent organisation.
- Standardisation of acceptable use of the Form 13/14 process especially on commercial projects.

Should the provisions be retained in their current format, amended or revoked?

- Remove self certification and require independent certification of designs.

17 Lapsed Building Permits (permits that are not completed within the prescribed time period)

Do you believe the provisions are widely understood and accepted?

- Not clear to building surveyor what action should be taken when permit expires.
- Who has jurisdiction over an un-completed project where the permit expires.

Do you believe the provisions operate effectively and efficiently?

- Building surveyors are failing to follow up on applications before they expire.
- Time of 6 months for completion of pools is impractical and not effective.

Could the provision be improved and if so how?

- Require a regulated fee for expired permits.
- Building surveyor's responsibility to finish at expiration of permit and then council take responsibility.
- Building surveyor should be required by legislation to inform applicant and owner that permit is about to expire at least one month previous.
- Permit should be able to be extended on request up to 30 days after it expires.

Should the provisions be retained in their current format, amended or revoked?

- Liability period to commence at expiration of building permit and not completion of work.
- Form to be introduced to allow owner/applicant to seek an extension to the existing permit.
- Develop a standard approach and procedure.

18 Places of Public Entertainment

Do you believe the provisions are widely understood and accepted?

- Poor level of understanding and compliance. Commission needs to provide information sheets.
- Differences between standard POPES and AFL Grounds is confusing.

Do you believe the provisions operate effectively and efficiently?

- Delays are caused in the process because the Commission takes too long handling permit applications.

Could the provision be improved and if so how?

- Commission responsibilities should be passed on to councils and PBS's.
- Remove reference to Waverley Park as it is no longer a AFL Grounds.

Should the provisions be retained in their current format, amended or revoked?

- Provisions need reviewing as they are difficult to understand and administer.

19 Response to Part 2 Question 19 & Part 3 – Additional Matters

The following items were highlighted in Part 2 Question 19 and Part 3 – Additional Matters;

- ❑ Regulation and/or guidance on the application of planning permits and planning permit conditions.
- ❑ Greater regulation on reporting authorities to respond only within their areas of responsibility and within the prescribed timeframes.
- ❑ Mandatory consultation with the Chief Officer on fire related alternative solutions.
- ❑ Prescribe fees for Council information and consents currently not regulated.
- ❑ Regulations on the durability of buildings and structures.
- ❑ Review and amend current list of prescribed forms.
- ❑ Remove Form 10 (request for Occupancy Permit) from Regulations.
- ❑ Owner or applicant to submit all relevant property information to support a building permit at the time of application.
- ❑ Bring in a Certificate of Final Inspection for when building work relating to the permit is not completed however the building is suitable for occupation.
- ❑ Essential Services to be included on the Occupancy Permit and Certificate of Final Inspection.
- ❑ Inspection of stormwater drains and flashings.
- ❑ Clarification on the Municipal Building Surveyors responsibilities where a PBS has been appointed.
- ❑ Building Permits and relevant information should be able to be lodged electronically.
- ❑ Peer review as part of the building surveying process on certain projects.
- ❑ Asbestos removal to form part of permit process.

Appendix 5

Interim Research Outcomes Report



**Development of a Survey and Outcomes Report
on improving the Efficiency of the Building and Occupancy
Permit process under the Building Act 1993**

INTERIM RESULTS AND OUTCOMES REPORT

Prepared by

**WARRINGTON FIRE RESEARCH AUST PTY LTD
&
PITT and SHERRY Holdings Pty Ltd**

for the

BUILDING COMMISSION

January 2004

1 INTRODUCTION

This report has been prepared as an interim outcomes report for reporting of the outcomes and interim recommendations of the survey responses and industry feedback in relation to improving the efficiency of the building and occupancy permit process under the *Building Act 1993*.

2 MAJOR STEPS AND METHODOLOGY CARRIED OUT

The following processes, consultation and research were undertaken. This report forms part of Stage 6 below.

	Description of Stage
Stage 1	Development of a flow chart outlining the relevant Act and Reg provisions which relate to the building and occupancy permit process. Research into the existing legislation including initial legislative documents such as Ministers Second Reading Notes etc.
Stage 2	Project Team developed an issues list based on review of the legislation and identification of some of the in-efficiencies from building practitioners working in the building industry and in the current regulatory framework.
Stage 3	Project team consulted with selected Commission Staff on some of the issues they have identified which they believe are inefficiencies in the current building and occupancy permit framework.
Stage 4	A list of key stakeholders prepared and industry forums undertaken to present to organisations and government authorities who have a direct interest in the building and occupancy permit process.
Stage 5	Preparation of a targeted industry survey following a forum with these groups based on the information collected in the previous 4 stages.
Stage 6	Information collected from Stages 1-5 and included in an Interim Results and Outcomes Report.
Stage 7	Upon receipt of comments from the Commission and BRAC prepare a recommendations section to the Research Outcomes Report.
Stage 8	Presentation of the final Research Outcomes Report to key stakeholders and public release.

3 SUMMARY OF OUTCOMES OF RESEARCH, INDUSTRY FORUMS AND SURVEY RESPONSES

The following represents a summary of the collected outcomes of industry consultation, discussion with Commission staff, review and research of relevant documentation and survey responses. The headings reflect the headings used in the survey response form.

1. General Administrative procedures

There was strong comment that the building and occupancy permit process is still either not well understood by the public and other building practitioners, or that practitioners are now choosing to disregard the system. Some comments were that the introduction of the competitive approval process had significantly undermined the authority and power of the approval authority and that the industry and the public were still confused about the options available to them and the difference between a private building surveyor (PBS), relevant building surveyor (RBS) and municipal building surveyor (MBS).

Additionally compliance with administrative processes seems to vary significantly, for example, PBS's commented that reporting authorities do not comply with the statutory requirements (although one Council commented that the statutory time frame was too short) and MBS's and Councils commented that the standard and quality of applications for reports and consents varied significantly, thereby increasing processing time. Some comment wanted to extend the 'deemed consent' provision for lack of action on an application for a report and consent to include Councils, whilst the CFA suggested that this provision was unduly onerous on their resources, particularly in regional areas where officers undertake these roles on a part time basis.

Significant comment was received in relation to the variation of fees between different Councils or other reporting authorities for undertaking the same assessment.

An example of the lack of acceptance of some legislation was that two councils commented that the requirement to display a building permit on demolition sites was simply not acceptable to the industry and was not done.

A specific matter raised in several forums was the issue of whether an application form for an occupancy permit is really necessary.

Recommendation 1a: That administrative procedures be reviewed to streamline the processes and that matters considered necessary to remain be strengthened and assistance given to RBS's, MBS's and Councils to enforce the provisions. Additionally standardised forms, fees and processes for the interaction between RBS's, PBS's, Councils and Reporting Authorities should be considered.

Recommendation 1b: That the application for an occupancy permit process be reviewed to consider whether the process can be completed orally.

2. Lodgement of documents with Councils and other authorities

A significant number of private building surveyors, either via the survey or by verbal comments at the presentations, commented that the obtaining of the required information from Councils was tedious and slow and that Councils appear to be unanswerable to any one.

Conversely, private building surveyors also commented that documents lodged with Councils were re-checked to pick fault and that Council's were exceeding their 'document lodgement' role and using the information to gain a commercial advantage. Similarly one PBS commented that the documents required to be lodged were not clearly set out. There was

also general comment that the requirements for obtaining a report and consent (and when a report and consent is required) was not clearly understood.

The competition between approval authorities also seemed to have increased the responsibility for the RBS to obtain all the necessary information themselves prior to issuing a building or occupancy permit. For example two PBS's indicated that the property information available under Regulation 2.10 should be required to be lodged with an application for a building permit, whilst the HIA suggested that Councils should provide clearer guidance of what is required to be lodged with a building and occupancy permit.

One PBS and one MBS suggested that the building permit and occupancy permit process should make better use of new technology, with a PBS suggesting that the Commission develop a web based central records store for issuing of permits, obtaining information etc, with RBS's and Councils having password access.

Recommendation 2: That the Commission consider use of internet technology to create a central database and information centre for all building and occupancy permit documents and information. Councils could be encouraged to include all details required for permits, including fees, forms and processes, whilst PBS's could also use it for registration of appointment as a RBS, thereby significantly reducing confusion about appointment and jurisdiction.

3. Building Permits for stages of work on a single project

This matter was particularly contentious at the industry forums and significant comment was received on the survey responses. There was some comment that permits for stages of the work are necessary, for example, where a builder is engaged to undertake construction of a dwelling only to 'lock-up' stage, or where it is necessary to undertake part of the work (typically footings) when final documents are still being developed. The majority of the comments suggested that the duplication of processes and requirements was extremely inefficient where all parties to a series of permits remained the same (for example on a significant commercial building). Of particular note was the difficulty in payment of fees and charges for each permit for a stage of work (for example, payment of the building permit levy).

Recommendation 3: That consideration is given to introduction of a single building permit process, which can be issued in stages, subject to the discretion and determination of the RBS and limited to projects where the RBS, Owner and Builder remain the same. In these circumstances a 'starting stage permit' would be issued which establishes the criteria for approval of progressive stages of the work. Matters such as payment of the building permit levy, whether an Occupancy Permit or Certificate of Final Inspection is required at the end of construction and details of the total extent of the work, when reporting authority report and consents will be obtained etc. would be required to be set out in that permit.

4. Appointment and termination of appointment of a Relevant Building Surveyor

There was strong comment that confusion occurs regarding when a RBS is appointed and who can appoint the RBS. Some Councils commented that the receipt of a Section 80, and then a building permit caused some administrative inefficiencies. Others commented that

owners did not understand the importance of appointing an RBS until after appointment and that the process of termination of appointment was difficult and time consuming.

It was suggested that only the owner be allowed to appoint a RBS and that a Commission information sheet be given to the owner explaining the role of the RBS, MBS and Council.

Recommendation 4a: That a central database of appointments be considered, perhaps using the Titles Office cadastral database system and linked to the matters in Recommendation 2, so that appointment of a RBS is linked to the title allotment.

Recommendation 4b: That consideration is given to requiring the owner to appoint a RBS without allowing the owner to appoint an agent to act of their behalf, particularly in relation to domestic building work. Additional consideration would be required for major building owners (especially Governments) where delegated officers may need authority to appoint a RBS without referral to the owner in every case (Office of Housing construction, for example).

5. Protection of adjoining property

There was general agreement that the current provisions are generally too complicated, not well understood, often misapplied and misused. The 'dual Form 13' process was specifically commented on as being misused and that this provision should also include the insurance provisions. Difficulty in obtaining insurance for twelve months after construction was also raised as typically builders policies do not extend beyond completion of construction.

A point raised at several forums was the RBS also preparing the Forms 6 & 7 and then issuing them to the adjoining owner. Some comment from RBS's was that adjoining owners were often confused about the independence of the RBS.

Recommendation 5: That the protection of adjoining property system is reviewed, particularly in relation to Regulation 5.2(5) (dual Form 13) and that the following be implemented:

Step 1; provide a guidance document on the appropriate use of the existing provisions including specific examples of common construction such as garages or dwellings on the boundary, multi-storey construction on the boundary and construction where the depth of excavation exceeds the distance to the boundary. The information sheet should be consistent with and expand upon the provisions in Part 3.1.1 of Volume Two of the Building Code of Australia 1996 (BCA'96).

Step2; the Commission to produce an information sheet for adjoining owners which explains the process and the roles of all parties. This sheet could then be issued to adjoining owners with the Form 6.

Step 3; undertake a review process within twelve months of the publication of the information sheet to seek industry and public comment of the provisions.

Step 4; Undertake selected audits of building permits to ensure consistent application of the provisions, or recommend amendments to the process or re-training of selected practitioners.

6. Precautions for protection of the public

Comment from one RBS indicated that designers have a responsibility to take a more active role in consideration of protection for the public. Several MBS's commented that RBS's do not give enough consideration of this issue, whilst RBS's indicated that the significantly

different approaches by Councils, including whether or not a hoarding permit is required or a local law exists, made application and compliance difficult.

Recommendation 6: That the 'precautions for the protection of the public' system is reviewed, particularly in relation to when a consent and report is required and which local laws have been made and that the following be implemented:

Step 1; provide a guidance document on the appropriate use of the existing provisions including specific examples of common construction such as construction to the street alignment and typical fencing requirements for excavations.

Step2; the Commission to produce an information sheet for RBS's, MBS's and Builders which explains the process and the roles of all parties. The sheet should try to provide details of all Council requirements including local laws. It is noted that this information could form part of the IT database in Recommendation 2.

Step 3; undertake a review process within twelve months of the publication of the information sheet to seek industry and public comment of the provisions.

Step 4; Undertake selected audits of building permits to ensure consistent application of the provisions, or recommend amendments to the process or re-training of selected practitioners.

7. Building enforcement

Several MBS's provided comment that the number of Notices and Orders issued by RBS's was significantly less than should be expected. This was suggested to be partly because of RBS's not wanting to upset their clients. One RBS suggested that the process needs to be clearer and simpler and that pro-forma Notices and Orders should be issued by the Commission. The AIBS commented that it should also be possible to be able to issue enforcement and compliance documents to the builder, not just the owner.

Recommendation 7a: That the Commission consider issuing pro-forma Notices and Orders so that enforcement provisions are consistent across the State. Consideration could be given to use of the Commission logo of such documents to reinforce the seriousness and importance of the documents and that the RBS has the statutory support behind them to follow through.

Recommendation 7b: That the Commission and BRAC consider regulatory and/or Act amendments to allow for enforcement proceedings to be instigated against a builder, as well as an owner.

8. General exemptions from the requirement to obtain building and occupancy permits

There was strong comment from RBS's and MBS's that some exemptions (most notably the \$5,000 exemption) were poorly understood and applied and required too much interpretation. Additionally it was commented that exemptions should be based on size and/or complexity or risk, not simplistic measures such as cost.

The CFA suggested that an additional exemption be provided to allow isolation of fire alarm monitoring systems.

Recommendation 8: That the 'exemptions from the requirement to obtain a building or occupancy permit' regulation is reviewed, particularly in relation to when a permit is required and what are acceptable reasons or measures to allow exemptions. The existing measure of cost should be removed.

9. Use of the Building Code of Australia 1996

This matter provided a great deal of discussion at the forums and significant survey responses. Issues raised included the overlap between Regulations 3.2, 3.3, 5.7 and 9.9 (RBS discretions for existing buildings, change of use etc.), the shortage of fire safety engineers to consider alternative solutions, the over reliance on a Form 13 rather than making inquiry or reviewing the alternative solutions, the inconsistency in documentation of alternative solutions and RBS determinations and that independent peer review ought to be an important part of the alternative solution approval process.

Recommendation 9: That details of alternative solutions, reports and consents and decisions of the Building Appeals Board be required to be listed on a building and occupancy permit and that independent peer review (by an appropriately qualified RBS, or other independent practitioner acting on behalf of the RBS) of alternative solutions be required.

10. Reporting Authorities

Two builders commented that reports and consents were causing unnecessary delays in the building permit process and could delay issue of an occupancy permit. Several MBS's commented that some RBS's were not clear on when a report and consent was required, whilst the HIA commented that inconsistency of fees and time frames was causing significant industry disruption. The AIBS suggested that the process be expanded to include post construction matters such as those resulting from notices and orders.

Recommendation 10: That the report and consent process is reviewed, particularly in relation to consistency of applications, fees and approvals and that the following be implemented:

Step 1; provide a guidance document on when a report and consent is required, how to present an application and how to present a consent and include common or specific examples such as ResCode or fire-fighting equipment. Ask each reporting authority to consider a standard fee schedule so that this can form part of the document.

Step2; undertake a review process within twelve months of the publication of the guidance document to seek industry and public comment of the provisions.

Step 3; Undertake selected audits of building permits to ensure consistent application of the provisions, or recommend amendments to the process or re-training of selected practitioners.

11. Discretionary powers provided to the Relevant Building Surveyor

All respondents agreed that the discretions were necessary but several commented that the application and understanding of those discretions could be improved. Of particular note was the agreement that capturing these decisions was essential to the building or occupancy permit documentation and ongoing use of the building.

Recommendation 11a: That details of RBS discretions exercised under Regulations 3.2, 3.3 5.7 and 9.9 be required to be listed on building and occupancy permits.

Recommendation 11b: That the Commission produce a guidance document for use of these discretions and that standardised formats for documentation of those decisions are suggested.

12. Siting provisions in Part 4

Comments provided included that the provisions were unduly complex and poorly understood by designers and builders, that provisions for fences were still not effective and that a simpler appeal and variation process was needed. It is noted that the Building Commission and the Department of Sustainability and Environment currently have a review process in place for ResCode

Recommendation 12: That all comments be forwarded to the review committee for consideration.

13. Building works in special areas

Several RBS's commented that obtaining the information from Councils was difficult expensive, inconsistent and caused considerable time delays. The HIA suggested that this information should be available via the internet for the whole state and others commented that the provisions sometimes were inconsistent with planning scheme overlays.

Recommendation 13a: That the Building Commission collates all maps of designated special areas and provide for access to the information in electronic form. It is noted that this information could form part of the IT database in Recommendation 2.

Recommendation 13b: That information relating to whether an allotment is in a designated special area be required to be obtained by the owner, designer or builder and be submitted as part of the application for a building or occupancy permit.

14. Maintenance of Essential Services

Maintenance of Essential Services was raised at several forums and survey responses were consistent with the points raised. These included; ignorance of owners in relation to ongoing obligations, lack of enforcement thereby not encouraging compliance, RBS's not completing occupancy permits correctly, confusion between pre and post 1994 buildings and the general lack of knowledge and education of practitioners as to the statutory requirements. It is noted that the Building Commission currently have a review process in place for Essential Services.

Recommendation 14a: That the current regulations in Part 11 be reviewed in line with the comments received.

Recommendation 14b: That the Commission, Local Government and fire brigades consider a public awareness campaign and increased enforcement.

15. Retrospective building permits

This issue is a cornerstone of the Building Act and received strong discussion at the forums and within the survey responses. Some believe that poor understanding of the legislation promotes owners and builders 'innocently' commencing work without a permit and that a simple process ought to be in place to rectify this situation. Others put forward the view that any dilution of these provisions undermines the objects of the Act and will undermine the whole point of obtaining a permit in the first instance.

Recommendation 15: That the Commission and/or the BRAC consider legislative amendment to allow issue of a building permit after completion of the building, in certain circumstances. This process could be required to be referred to the Commission or the Building Appeals Board for approval to reduce liability concerns. Any such proposed legislation needs to also consider the potential insurance (both building and practitioner) and liability issues.

16. Forms 13 and 14

The issue of 'certification' of design or construction is a topical issue throughout Australia. Several comments suggested that 'self-certification' was a non-sense and that the recent insurance issues had created more concern with issuing of certificates. Also a recent Supreme Court case was raised as having significant implications on this matter. It was also suggested that Form 14's should be available for all types of building work and that other similar forms should be included (such as Electrical and Plumbing Certificates).

Recommendation 16: That the certification forms and issuing process be reviewed and that the outcomes of recent court cases and insurance concerns are incorporated into a revised certification process. This process to include advice to practitioners as to how to complete a certificate and when it is appropriate to issue a certificate. Contact should also be made with the Plumbing Industry Commission and the Office of the chief Electrical Inspector to determine if consistency of forms and processes may be possible.

17. Lapsed Building Permits

This matter was raised by RBS's and MBS's as a significant concern in relation to the confusion created once a permit had lapsed and the uncertainty as to who, and how, the work can be completed. The existing legislation would require a new permit to be issued.

Of further concern were lapsed building permits not followed up by RBS's and the uncertainty as to who is responsible to ensure follow and enforcement or completion of the work.

Recommendation 17a: That the existing regulation is amended to include a provision to allow the RBS or the MBS to extend a permit after it has lapsed in circumstances where it is not detrimental to the public interest and the legislation applicable to the original permit has not substantially altered.

Recommendation 17b: That the Commission investigate an automatic notification process (perhaps based on the levy collection system) to notify RBS's as to outstanding permits and ask that follow action occur. It is noted that this information or process could form part of the IT database in Recommendation 2.

18. Places of Public Entertainment

This issue was not widely discussed or commented on although the comments received all agreed that the existing process is too confusing for all parties and is therefore subject to poor compliance levels.

Recommendation 18: That the places of public entertainment provisions are reviewed, and that the following be implemented:

Step 1; provide a guidance document on the appropriate use and application of the existing provisions including specific examples of common buildings and places such as nightclubs, circuses and outdoor gatherings

Step2; the Commission to produce an information sheet for the public which explains the process and the roles of all parties. This could be used by MBS's to raise compliance via increased awareness.

Step 3; undertake a review process within twelve months of the publication of the information sheet to seek industry and public comment of the provisions.

Step 4; Undertake selected audits of buildings or places to ensure consistent application of the provisions, or recommend amendments to the process or re-training of selected practitioners.

19. Other matters not currently regulated

Additional matters raised included providing further clarity of the inter-relationship between planning and building permits, discretionary powers for reporting authorities to charge fees for requests outside of the statutory scheme, introduction of a lodgement fee for building notices, de-regulation of swimming pool fencing and increasing the mandatory inspections to include storm water drainage.

Recommendation 19: That the following matters be considered for possible legislation introduction;

- Standardised format and process for determining compliance and consistency with a planning permit,
- Allowance of electronic lodgement of documents for building or occupancy permit applications,
- Introduction of limits and specified levels of durability of materials (to be consistent with liability and insurance requirements), and
- Introduction of mandatory inspections for wet areas and storm water drainage.