



*Philip Chun and Associates*

BUILDING SURVEYING  
CONSULTANTS

PHILIP CHUN AND  
ASSOCIATES PTY. LTD.  
T/A PHILIP CHUN AND  
ASSOCIATES (VIC)

ACN 007 401 649  
ABN 59 454 005 592

LEVEL 2  
120 JOLIMONT ROAD  
JOLIMONT 3002

PHONE: (03) 9662 2200  
FAX: (03) 9662 2749

[www.philipchun.com.au](http://www.philipchun.com.au)

DIRECTORS:  
PHILIP CHUN  
GREG du CHATEAU  
ROBERT MARINELLI  
SHANE LEONARD  
MICHAEL MORAN  
PETER CZERKASKI  
RICHARD WELLS

ASSOCIATES:  
PHILIP SMILLIE  
VIVIANA FLOREANCIG

# Review of Building Regulations Report Consent Process

Prepared for

---

**Building Commission  
Level 27, 2 Lonsdale Street  
MELBOURNE VIC 3000**

Prepared by	Signed	Date	Checked	Initial
Greg du Chateau		10/10/05		
Amendment	Details			Date
8	Issued Document			10/10/05

OFFICES IN  
MELBOURNE  
SYDNEY  
BRISBANE



## EXECUTIVE SUMMARY

1. The Building Act 1993 and the Building Regulations 1994 / Building (Interim) Regulations 2005 provide for a statutory administrative and enforcement regime for the approval of building work in Victoria. The Report and Consent process is a procedure carried out as part of the Building Permit process and involves the consideration and/or determination of a relevant reporting authority.
2. This study is a review of the report and consent process as outlined in the Building Act was carried out based on the Building Regulations 1994 however has been edited to include reference to the Building (Interim) Regulations 2005.
3. The first stage of the review is to conduct interviews, meetings and discussions with government, industry groups, and associations to gather information on particular aspects of the current system. These groups included reporting authorities, contractors and consultants, designers (architects, engineers), industry groups municipal councils (metropolitan and rural), and private building surveyors.
5. A questionnaire was formulated around the six key considerations of the study. Questions associated with each key consideration were broadly structured and worded to allow all industry, government and associations / groups to understand the aim of the study and with the flexibility to respond simply or in detail if so desired.
6. Concurrent with the continuing consultation phase a review of the current system was undertaken including a study into the background of the Report and Consent process in Victoria. A comparative review of similar processes in NSW and QLD was also undertaken.
7. Pursuant to the Building Act, a relevant building surveyor must not issue a building permit unless any consent of a reporting authority has been obtained or deemed to be obtained for prescribed matters. The regulations prescribe three (3) reporting authorities to be consulted, these authorities are:
  - a) The Chief Officer,
  - b) Council, and
  - c) Electricity Supply Authority
8. Time limits are prescribed for reporting authorities to respond to a report and consent application. However the effect of the expiry time and / or the consequence of the expiry time varies depending on the particular reporting authority.
9. There are no prescribed fees for application for report and consent, however fees are charged by each reporting authority in accordance with their respective local laws or other statute.
10. Most groups and individuals took the opportunity to allow Philip Chun and Associates to formally discuss, meet and review the aim and objectives of the study, whilst other groups chose to respond in writing only. Presentations were made to the Building Appeals Board, Building Regulations Advisory Committee, the Australian Institute of Building Surveyors, and the Society of Fire Safety, outlining the scope of the review and with the aim of obtaining immediate feedback. A meeting was also held with officers of the Building Commission.
11. The following recommendations were concluded from the study
  - a) Matters requiring relevant authority or service authority consideration pursuant to the building regulation should be referred to as a 'Reporting Authority Report'

- b) Time limits for all relevant and service authorities including Council to be fixed with the regulations to incorporate a mechanism to 'stop the clock' where further information or consultation is required.
- c) Fees for a 'Reporting Authority Report' should be fixed. Fees for a 'Reporting Authority Report' on a prescribed matter should be fixed and the appropriate fee rate calculated based on both the time and resources required by relevant authorities to consider and respond.

Fees for a report on 'deemed to satisfy variation' should comprise a further fee component and be considered in two parts, an Application fee and a Consultation / Consent fee. The application fee should be fixed and payable to the relevant authority on submission. The Consultation / Consent fee may be variable and payable to the relevant authority on decision or determination.

- d) A 'Reporting Authority Report' submission, application or referral should not be restricted to any individual person, practitioner or entity. Applicants for a 'Reporting Authority Report' may be the owner or agent or alternatively the relevant building surveyor may refer the matter.
- e) The current process outlining the requirement to obtain report and consent for alteration and demolition of a building to be re-written. Consent via 'Reporting Authority Report' to be made to the relevant authority only where a planning permit is not required.
- f) Conditions on 'Reporting Authority Reports' should be permitted. Recommendations are not considered appropriate as they may be inconclusive, subject to interpretation and hence likely to lead to disputes and or possible appeal processes. Conditions must be specific and related to the matter for which 'Reporting Authority Report' is made.
- g) Schedule 2 of the Act and regulation 2.2 / regulation 308 should be amended to reflect the new terminology.

# Contents

<b>EXECUTIVE SUMMARY</b> .....	2
<b>1. BACKGROUND</b> .....	5
<b>2. AIM AND SCOPE</b> .....	6
<b>3. KEY OBJECTIVE &amp; PROJECT DELIVERABLES</b> .....	7
<b>4. CONSULTANT TEAM AND RESPONDENTS</b> .....	8
<b>5. METHODOLOGY</b> .....	9
<b>6. LEGISLATION</b> .....	11
6.1 The Building Act and Regulations	11
6.2 Reporting Authorities – Regulation 2.2 / Regulation 308	11
6.3 Schedule 2	13
6.4 Section 29A	14
6.5 Building Legislation in New South Wales	15
6.6 Building Legislation in Queensland	15
<b>7. CONSULTATION DISCUSSION AND INDUSTRY RESPONSE</b> .....	17
7.1 General	17
7.2 Time Limits for Report and Consent	17
7.3 Fees for Report and Consent	19
7.4 Report and Consent Process availability	20
7.5 Report and Consent for Demolition	22
7.6 Conditions on Report and Consent matters	23
<b>8. RECOMMENDATIONS</b> .....	25
8.1 Recommendation A - General	25
8.2 Recommendation B - Time Limits for Report and Consent	25
8.3 Recommendation C - Fees for Report and Consent	25
8.4 Recommendation D - Report and Consent Process availability	26
8.5 Recommendation E - Report and Consent for Demolition	27
8.6 Recommendation F - Conditions on Report and Consent matters	27
<b>9. CONCLUSION</b> .....	27
<b>10. APPENDICES</b> .....	28
Appendix A Consultation List	28
Appendix B Sample of Presentation to BRAC, BAB, AIBS, CFA, MFB	28
Appendix C Final Questionnaire	28
Appendix D BC Demolition Procedure Flow Chart	28
Appendix E Summary of Various Fees payable for Report and Consent	28

## 1. BACKGROUND

- 1.1 The Building Act 1993<sup>1</sup> and the Building Regulations 1994 / Building (Interim) Regulations 2005<sup>2</sup> provide for a statutory administrative and enforcement regime for the approval of building work in Victoria. The Act was introduced in July 1994 and has since undergone various amending legislation to facilitate a more effective and efficient approval process.

The Building Commission is the statutory authority that oversees the system of building control in Victoria to ensure for a safe, reliable and sustainable built environment. The Building Commission also oversees building legislation, advises government and provides industry services to practitioners in the building industry and consumers.

- 1.2 In June 2004 the Building Commission undertook a review of the effectiveness and efficiencies of the Building and Occupancy Permit process<sup>3</sup>.

The review proposed some recommendations including minor changes to the Act and Regulations. One of the recommendations was to review the report and consent process.

- 1.3 The report and consent process is a procedure carried out as part of the building permit process and involves the consideration and/or determination of a relevant reporting authority.

- 1.4 A report and consent from a reporting authority is a process of obtaining specific information from authorities on particular matters or for approval of variations or dispensations on regulations or matters in which authorities have interest or jurisdiction over.

- 1.5 This study is a review of the report and consent process as outlined in the Building Act 1993 and the Building Regulations 1994 / Building (Interim) Regulations 2005.

- 1.6 This study was carried out based on the Building Regulations 1994 however has been edited to include reference to the Building (Interim) Regulations 2005.

---

<sup>1</sup> Building Act 1993, Victorian Government Printer, Melbourne, 1993

<sup>2</sup> Building Regulations 1994 / Building (Interim) Regulations 2005, Victorian Government Printer, Melbourne, 1994 / 2005

<sup>3</sup> Review of the Effectiveness and Efficiency of the Building and Occupancy Permit Process, Pitt & Sherry, WFRA, 2004

## 2. AIM AND SCOPE

- 2.1 The recommendations resulting from the review of the 'Effectiveness and Efficiency of the Building and Occupancy Permit process' included commentary on the current process for obtaining 'report and consent' from reporting authorities as prescribed in the Building Regulation 1994 / Building (Interim) Regulations 2005.

The aim of this study is to consider commentary and concerns raised specifically and as outlined in the Building Commission brief including:

- Reporting authorities and building surveyors often do not understand their obligations
- Substantial delays have been recorded in obtaining reporting authority reports and consents
- Reporting authorities should be required to adhere to legislated time frames
- Standard cost should apply
- Delete the requirement for demolition report and consent where a planning permit has already been issued
- Increase reporting authority time frames (reporting authorities)
- Reduce reporting authority time frames (industry)
- Reporting authorities should be restricted from providing conditions on the matters not related to the item specifically being considered
- Regulation 2.2 (regulation 308) provisions should also be available during and after construction process and as part of the Building Notice and Order System.

- 2.2 The scope of this review is to study the report and consent process through consultation and research and based on six (6) key questions to be posed to all participants in the consultation process. These six key considerations are:

- Consider whether reporting authorities are achieving time limits and whether changes to time limits are necessary;
- Consider whether fees for reports and consents are appropriate and should they be prescribed;
- Determine whether the process should be available where an application for a building permit has not been made (i.e. notices, orders, etc);
- Provide advice on whether the report and consent process should be required for demolishing a building, where a planning permit has already been obtained;
- Consider whether reporting authorities should be able to provide conditions outside of the matters that they are required to consider; and
- Advice on any other changes required to the report and consent legislation/process.

### **3. KEY OBJECTIVE & PROJECT DELIVERABLES**

- 3.1 The key objective of this research is to provide the Building Commission with sufficient information to allow the Commission to determine whether changes to legislation covering the report and consent process are necessary.
- 3.2 Project deliverables for the purposes of disseminating the research information to the Building Commission are:
- Advice on whether reporting authorities are achieving time limits and whether changes to time limits are necessary;
  - Advice on whether fees for reports and consents are appropriate and whether they should be prescribed;
  - Determine whether the report and consent process should be available where an application for a building permit has not been made (i.e. notices, orders, etc);
  - Advice on whether the report and consent should be required for demolishing a building, where a planning permit has already been obtained;
  - Consider whether reporting authorities should be able to provide conditions outside of the matters that are being considered; and
  - Advice on any other changes required to the report and consent legislation/process.

## 4. CONSULTANT TEAM AND RESPONDENTS

- 4.1 Philip Chun and Associates were engaged by the Building Commission to facilitate the review of the 'report and consent' process.

Philip Chun and Associates is a company of building surveyors, providing a consultancy service in all aspects of building code, fire safety engineering and building regulation control. This service includes building performance design assessment, building design certification, building permit, occupancy permit and BCA, fire safety consultancy.

- 4.2 Philip Chun and Associates personnel assigned to the report and consent review project are:

- Director Mr Greg du Chateau
- Building Surveyors and Consultants Mr Andrew Uri  
Mr David Martini
- Administrative Assistant Ms Sonia Evans

Representatives of the Building Commission have supervised this project:

- Manager, Technical and Research Services Mr Dennis Hogan
- Senior Adviser Mr Matthew Patterson

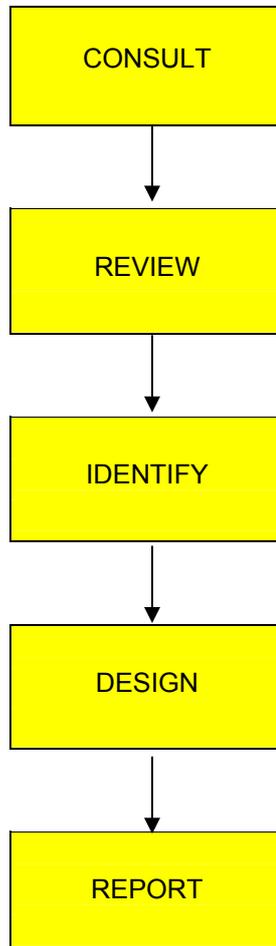
- 4.3 A number of consultations reporting meetings were held between the Building Commission and Philip Chun and Associates in order to facilitate the study.

- 4.4 The following is a list of abbreviations used throughout this report:

- ABCB Australian Building Codes Board
- AIBS Australian Institute of Building Surveyors
- BAB Building Appeals Board
- BCA Building Code of Australia
- BC Building Commission
- BRAC Building Regulation Advisory Committee
- CFA Country Fire Authority
- HIA Housing Industry Association
- MBA Master Builders Association
- MAV Municipal Association of Victoria
- SFS Society of Fire Safety
- VMBSG Victorian Municipal Building Surveyor Group

## 5. METHODOLOGY

The methodology adopted by to complete the report and consent review project within the time frame is as outlined below.



- 5.1 The first stage of the review is to conduct interviews, meetings and discussions with government, industry groups, and associations to gather information on particular aspects of the current system. These groups included reporting authorities (nominated pursuant to Schedule 2 of the Act), contractors and consultants, designers (architects, engineers), industry groups municipal councils (metropolitan and rural), and private building surveyors.
- 5.2 Included in 'Appendix A' are details of organisations and bodies consulted as part of this process.
- 5.3 A number of formal presentations were held with various organisations, reporting authorities and government bodies, included in 'Appendix B', is a sample of these presentations.

- 5.4 A questionnaire was formulated around the six key considerations of the study. Questions associated with each key consideration were broadly structured and worded to allow all industry, government and associations / groups to understand the aim of the study and with the flexibility to respond simply or in detail if so desired.
- 5.5 The questionnaire distributed to all groups is included in 'Appendix C'
- 5.6 Concurrent with the continuing consultation phase a review of the current system was undertaken including a study into the background of the Report and Consent process in Victoria.
- 5.7 A comparative review of similar processes in NSW and QLD was also undertaken.
- 5.8 Following a review of the existing systems and receipt of responses to the questionnaire, key issues were identified and collated with the aim of identifying options, alternatives and/or solutions to improve the current report and consent process.
- 5.9 The results of the consultation and identification phase will propose a number of considerations and recommendations to the current report and consent process.
- 5.10 Positive commentary and / or critique of the process and/or understanding of the process by industry will be considered in determining specific changes to the current legislation.
- 5.11 Design consideration will be reflected in the recommendation of this report.
- 5.12 The final report will include an executive summary and report findings with recommendations and/or consideration for the Building Commission to adopt in future Building Act or Regulation amendments.

## 6. LEGISLATION

### 6.1 The Building Act and Regulations

- 6.1.1 The Building Act and Regulations provide specifically for the process of obtaining the report or consent<sup>4</sup> of reporting authorities where determined necessary as part of the process of obtaining a building permit and subsequently an occupancy permit for building works.
- 6.1.2 Section 18 and 42 of the Building Act respectively, refer to Schedule 2 as the process for obtaining a report or consent. Regulation 2.2 (Table 2.2) / regulation 308 of the regulations respectively outline when a report and consent from the relevant reporting authority is required. Table 2.2 (Schedule 4) outlines the relevant regulations as applicable. eg: Schedule 4 Part 1 Column 2 - report and consent of the chief officer is required where a particular fire fighting facility or service does not meet the 'deemed to satisfy' provision of the Building Code of Australia (BCA)<sup>5</sup>.
- 6.1.3 Pursuant to Section 24(1)(b) of the Act, a relevant building surveyor (RBS)<sup>6</sup> must not issue a building permit unless any consent of a reporting authority has been obtained or deemed to be obtained.

### 6.2 Reporting Authorities – Regulation 2.2 / Regulation 308

- 6.2.1 The regulations prescribe three (3) reporting authorities listed in Table 2.2 / Schedule 4. These authorities are:
- a) The Chief Officer,
  - b) Council, and
  - c) Electricity Supply Authority
- 6.2.2 Each of the above authorities have specific regulations which require consideration where the 'deemed to satisfy' regulation is not met or a 'prescribed matter' requires reporting by the authority concerned.
- 6.2.3 For the purposes of clarification the following terms are used throughout this report to assist in understanding the circumstances where a report and consent is sought:
- a) 'Deemed to satisfy variation' – application to vary or modify (dispensation) to a reporting authority for a particular building or building work regulation. eg. Consent to increase wall height on boundary pursuant to regulation 4.15(5) of the Building Regulations.
  - b) 'Prescribed matter' – application to a reporting authority for information relating to a particular matter which requires consideration by the authority into the design of a building and or the effect of new building work on the authorities community responsibilities, assets and or other environmental, health and amenity considerations. eg. Consent for building over an easement regulation 2.4(1) / regulation 310.

---

<sup>4</sup> Schedule 2 specifies that a 'report OR consent' is required, however the process is commonly referred to as the 'Report and Consent' process. There is little consistency in the terminology throughout industry and government.

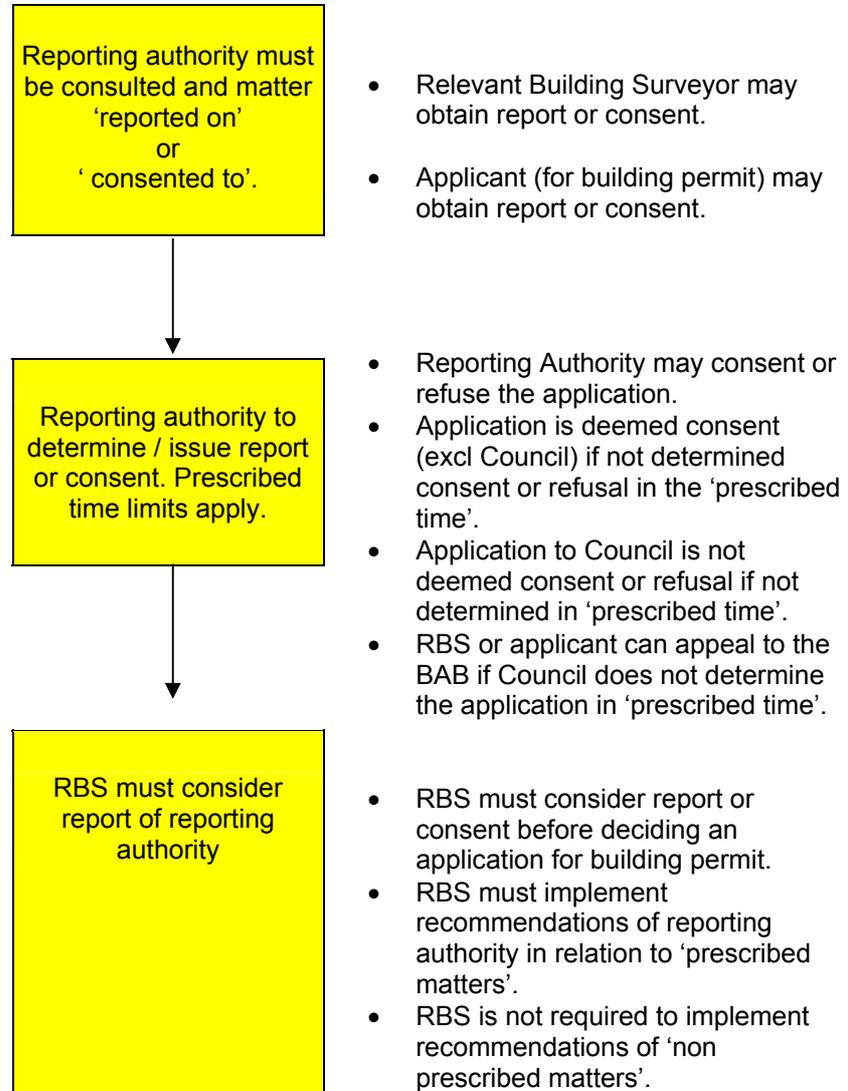
<sup>5</sup> Building Code of Australia (as amended), ABCB, Canberra

<sup>6</sup> Relevant Building Surveyor is the Building / Occupancy permit issuing authority pursuant to the Building Regulations

- 6.2.4 Time limits are prescribed for reporting authorities to respond to a report and consent application in Regulation 2.5 (Table 2.5) / Schedule 3. However the effect of the expiry time and / or the consequence of the expiry time varies depending on the particular reporting authority.
- 6.2.5 There are no prescribed fees for application for report and consent pursuant to regulation 2.2 / regulation 308, however fees are charged by each reporting authority in accordance with their respective local laws or other statute. eg. Chief Officer fees are charged at an hourly rate.
- 6.2.6 Regulation 2.2A / regulation 312 prescribe a fee of \$50 for a demolition report and consent application pursuant to Section 29A of the Act.
- 6.2.7 Essentially the report and consent process provides for a mechanism whereby :
- a) the design or part of a design, which does not meet the 'prescriptive' or 'deemed to satisfy' provision of the regulation and/or the BCA, can be varied or modified (as a concession) by a relevant reporting authority; or
  - b) is a matter that requires the consideration of the local or responsible authority prior to issue of a building permit.

### 6.3 Schedule 2

6.2.1 Where a report and consent is required the procedure is outlined in Schedule 2 of the Act. The following is a diagrammatic representation of the process.



6.3.2 Schedule 2(4) clearly outlines that an RBS must not decide on an application for building permit unless the report and consent of a reporting authority has been obtained.

6.3.3 The RBS must refer an application on a 'prescribed matter' to the reporting authority pursuant to Schedule 2(4). However an application may also be made by the applicant of a building permit (in lieu of the submission being referred by the RBS) pursuant to Schedule 2(5).

6.3.4 It is common practice for an RBS to make submissions (or copy submissions) to relevant authorities for report and consent notwithstanding that the design of a building and/or building works are prepared by building permit applicants. eg. Architect, Engineer, Builder.

- 6.3.5 It is considered the alternative process outlined in Schedule 2(4) and (5) provides a degree of flexibility however, it is clearly understood that an RBS must not decide on an application for building permit unless:
- a) he or she has 'referred' the matter to a reporting authority and received a report or consent; or
  - b) an applicant has made 'application' and received a report or consent from the relevant authority and has given the report to the RBS prior to the issue of a building permit.
- 6.3.6 In both circumstances prescribed time limits exist for authorities to consider the matters, however where a determination or report is not issued in the time period, the authority has:
- a) deemed consent where the chief officer or the electric supply authority is the authority; or
  - b) neither consented nor refused the application, where the Council is the authority, and as such the applicant may refer the matter to the Building Appeals Board (BAB) for consideration.

#### **6.4 Section 29A**

- 6.4.1 Section 29A of the Building Act was introduced into the building permit process in November 2001 in response to a need to further regulate the approval for demolition and/or of alteration to existing buildings.
- 6.4.2 An RBS, prior to deciding on an application for building permit, must determine whether a report and consent is required from the relevant authority, to demolish a building, or alter an existing building. The criteria to which a RBS must determine whether report and consent is required is outlined as follows:
- a) Volume Test – the proposed demolition, together with any other demolition completed or permitted within the period of 3 years immediately preceding the date of the application would together amount to the demolition of more than half the volume of the building as it existed at the date of the first building permit to be issued within that period for the demolition of any part of the building; or
  - b) Façade Test – the demolition is of any part of a façade of a building if that façade faces the street.
- 6.4.3 Included in 'Appendix D' is the 'Demolition Procedure Flow Chart' prepared by the Building Commission. It is deemed the responsibility of the RBS to seek report and consent from the authority. ie Council. Response or inaction from the authority can result in any of the following results.
- a) refusal if a planning permit is required but not obtained;
  - b) consent if a planning permit is issued or not required;
  - c) responsible authority applies to the Minister whereby the RBS suspends the building permit application;
  - d) no response in the prescribed period whereby either:
    - i) the application is deemed refused, or
    - ii) the application is deemed consent.

- 6.4.4 Practise Note 2002-43<sup>7</sup> includes standard forms (Form A, B and C) for use by the RBS and responsible authority. These forms are guidance proformas for use however it is not uncommon for the format to be varied or altered by authorities in the process of providing a determination.
- 6.4.5 Time limits for a relevant authority to respond to an application are 15 days as outlined in Regulation 2.5A / Schedule 3. The prescribed fee of \$ 50 applies.

## **6.5 Building Legislation in New South Wales**

- 6.5.1 The Department of Infrastructure and Natural Resources (DIPNR) administer Building Control in New South Wales as the statutory authority that over sees building and planning regulations.
- 6.5.2 The Environmental Planning and Assessment Act<sup>8</sup> (EPA Act) and Environmental Planning and Assessment Regulations 1997<sup>9</sup> outline the building approval process for obtaining Construction Certificates (CC) and Occupation Certificates (OC).
- 6.5.3 The EPA Act is a combined Building and Planning Act and hence matters requiring the consultation, advice or consent from relevant authorities or 'Consent Authority'<sup>10</sup> is obtained during the Development Application (DA) and Development Consent (DC) process, eg. matters related to siting, drainage, existing buildings etc.
- 6.5.4 The EPA Act does not have the equivalent process for report and consent as outlined in the Building Act 1993. However where alternative building solutions are to be approved by the building approval authority ie an Accredited Certifier and/or Principal Certifying Authority, approval from the consent authorities is required.
- 6.5.5 Typically approval of the New South Wales Fire Services must be obtained for approval of an alternative solution pursuant to BCA Clause A0.9, Section 144, 152 and 188 of the EPA Act outline the process in this regard.

## **6.6 Building Legislation in Queensland**

- 6.6.1 The Department of Communication, Information, Local Government and Planning administers Building Control in Queensland as the statutory authority that oversees building and planning regulations.
- 6.6.2 The Integrated Planning Act 1997<sup>11</sup>(IP Act), Building Act 1975<sup>12</sup> and Standard Building Regulation 1993<sup>13</sup> outline the building approval process for obtaining Building Permit and Occupancy (classification) Permits.
- 6.6.3 The IP Act is a combined Building and Planning Act and hence matters requiring consultations advice or consent from relevant authorities is obtained during the planning approval process. Planning approval can be in the form of a self-assessable consent or via formal planning approval through the relevant local authority ie Council.

---

<sup>7</sup> Practice Note 2002-43 Demolition of Buildings, Building Commission

<sup>8</sup> Environmental Planning and Assessment Act, NSW Government Printer, Sydney

<sup>9</sup> Environmental Planning and Assessment Regulations, NSW Government Printer, Sydney

<sup>10</sup> Consent Authorities are the responsible authority for issuing DA's.

<sup>11</sup> Integrated Planning Act 1997

<sup>12</sup> Building Act 1975

<sup>13</sup> Standard Building Regulation 1997

- 6.6.4 Typically consent and approval from relevant authorities during the planning approval process include the Fire Officer of the Queensland Fire and Rescue Services for special services and fire safety installations, plumbing and drainage and the Chief Executive administering Workplace Health and Safety.
- 6.6.5 The IP Act like the EPA Act in NSW does not have the equivalent process for report and consent as outlined in the Building Act 1993.
- 6.6.6 Typically matters as outlined in Table 2.2 such as 'prescribed matters' requiring Council or relevant authority consideration are obtained during the planning process in lieu of during the building permit application phase.
- 6.6.7 Matters such as 'deemed to satisfy variations' are obtained during the planning process for siting and the like, however typical fire service variation or alternative building solutions are obtained with consent and/or approval of the Fire Authority.

## 7. CONSULTATION DISCUSSION AND INDUSTRY RESPONSE

### 7.1 General

- 7.1.1 The key objectives and project deliverables identified for this study was the subject of consultation with the various organisations. All industry groups, authorities and associations were accommodating and through seminar, interviews and written correspondence responses were received in various formats.
- 7.1.2 Most groups and individuals took the opportunity to allow Philip Chun and Associates to formally discuss, meet and review the aim and objectives of the study, whilst other groups chose to respond in writing only.
- 7.1.3 The Victorian Municipal Building Surveying Group (VMBSG) chose to join with the Municipal Association of Victoria (MAV) with a written response and critique of the questionnaire.
- 7.1.4 A presentation was made to the Building Appeals Board (BAB) and the Building Regulations Advisory Committee (BRAC) outlining the scope of the review and with the aim of obtaining immediate feedback. A meeting was also held with officers of the Building Commission.
- 7.1.5 The BAB and Building Commission prepared a written response to the questionnaire reflecting background and historical information and/or statistics on the number of appeals brought before the BAB. Only verbal feedback was received from the BRAC who is the body that will ultimately review this report for future consideration.
- 7.1.6 A small number of respondents were unable to provide a response in the time allocated.

### 7.2 Time Limits for Report and Consent

- 7.2.1 The questions posed to respondents in regards to time limits were -  
  
**“Whether reporting authorities are achieving time limits and whether changes to limits are necessary.”**
- 7.2.2 The response on whether reporting authorities achieved prescribed time limits and whether the time limits were appropriate was generally positive from all groups and individuals.
- 7.2.3 Some individuals cited specific cases where prescribed time limits were not adhered to, however generally the consensus was that reporting authorities responded satisfactorily in the time period prescribed.
- 7.2.4 The VMBSG/MAV provided extensive critique to all the questions highlighting that time limits do technically apply to all reporting authorities including Councils, however the effect of a non-response from Council differed from other authorities. The group stated that:  
  
*“should council exceed the time limit the application has the right of appeal for failure within a reasonable time to decide the matter. The BAB can then decide on whether council has been reasonable in its process that caused the time limit be exceeded”.*

Industry indicated that referring matters to the BAB where a Council did not respond was time prohibitive and disruptive. Most respondents indicated that waiting for Council to formally respond, despite the time factor, resulted in the least disruptive outcome.

- 7.2.5 There were no cases cited where applicants referred cases to the Building Appeals Board (BAB)<sup>14</sup> and the City of Boroondara confirmed that:

*“there have been no appeals against the City of Boroondara against failure to determine a ‘Consent and Report’ matter”.*

- 7.2.6 Various Councils noted that the legislation currently did not make any provision to request further information in regards to an application. This had a negative impact on the ability to adequately consider a report and consent application.

- 7.2.7 It was outlined by various Councils that for certain prescribed matters, comment from various departments within Council was required. Typically for a matter relating to projection over the street, the application is referred to the Planning department, City Engineer or Shire Services / Traffic department. This in-house process proved to take time not allowed for the in prescribed time periods.

- 7.2.8 In addition, depending whom and if delegated authority was vested in the Municipal Building Surveyor (which was the most common scenario) impacted on whether the Council could logistically respond within the prescribed time period.

- 7.2.9 The VMBSG/MAV further stated that time limits, in some circumstances were reasonable and in others not. Two main factors contributed to concerns on prescribed times:

*“a) The distance of travel in super size municipalities such as East Gippsland Shire Council and Mildura Rural City Council the council officer can have to stay over night and make special schedule arrangements to bring about the best possible efficiency rate.*

*b) The quality of applications for consent and report from outer shires has been reported as very poor and in large numbers”.*

- 7.2.10 The MFB and CFA who are ‘deemed to consent’ to an application if report and consent determination is not issued within the prescribed time, believe there should be a mechanism to ‘stop the clock’ to allow proper consideration of the matter being reported on. In particular the complexity and impact of alternative solutions<sup>15</sup> require more time to review applications. The MFB state:

*“It is recommended that an increase in time to process the application be extended to 15 business days minimum and with a legal mechanism to stop the process when further information is requested. The legal mechanism requires a change to Schedule 2 of the Building Act 1993”.*

- 7.2.11 The HIA concurred with the concept of stopping the clock.

---

<sup>14</sup> Building Appeals Board is established pursuant to Section 166 of the Building Act 1993

<sup>15</sup> Alternative solutions are building solutions pursuant to A0.5 of the BCA, which may require the consideration of the Chief Officer.

- 7.2.12 It is considered given the complexity of certain matters, particularly matters where further referral or information is required, that a mechanism to stop the clock was a reasonable solution.
- 7.2.13 Whilst the suggestion of differing time limits for prescribed matters and deemed to satisfy variations was not discussed in detail, some groups and individuals considered the principle to have merit.

### 7.3 Fees for Report and Consent

- 7.3.1 The question posed to respondents in regards to fees was -
- “Whether fees for report and consents are appropriate and should they be prescribed?”**
- 7.3.2 The responses to whether fees for report and consent were appropriate and/or should be prescribed or not resulted in varying opinions.
- 7.3.3 Generally, industry were of the opinion that fees were reasonable however standardisation and prescribed / fixed fee amounts would benefit to assist in streamlining applications and the response sought from applications. Fees for report and consent applications varied between \$30 and \$600 depending on the nature of the application and the complexity of the matter requiring consideration.
- 7.3.4 Simmonds Homes stated:
- “Fees are a part of service, however the level of service and fees paid vary greatly across Councils. The format of information given also varies. These issues need to be prescribed”.*
- 7.3.5 Gardner Group stated that:
- “Reasonable fees are not an issue. They get on-charged to the client (applicants), but clients (applicants) do expect a responsive reaction if fees are charged.”*
- 7.3.6 A summary of the varying fees being charged by reporting authorities have been included ‘Appendix E’. Fee payable for similar report and consent in Victoria vary from \$ 30 to \$ 700.
- 7.3.7 It is accepted that prescriptive fees specified in the building regulations would standardise the cost. It is considered however that standardised fees may not alleviate concerns industry has in relation to the consistency, accuracy or otherwise of matter being reported. Moreover the fee rate might not be commensurate with the nature of the matter requiring response and/or the time to formulate that response.
- 7.3.8 The difficulty in setting one prescribed fee for a report and consent determination is reflected in all reporting authorities responses including the City of Shepparton, Casey, and Surf Coast Shire however were best reflected in comments from the City of Boroondara. The City stated that:
- “Each regulation has either different decision guidelines or internal referrals that have to be considered before a decision is made so flexibility of fees are necessary on a use pay basis...Therefore each Council should be able to set its own Consent and Report fee based on a user pay process.”*

- 7.3.9 Consideration of time, resources, travel for inspection, in particular rural areas seemed difficult to measure whilst it seemed reasonable that there be a level of consistency for similar application across Victoria.
- 7.3.10 It was suggested by various respondents that a fee charged per clause, regulation or matter ranging of between \$200 - \$300 was appropriate, further research into the value of the prescribed fee would need to be carried out.
- 7.3.11 The VMBSG/MAV suggested in conclusion that:
- “well advertised fee levels (eg by the web) could alleviate issues surrounding inconsistencies”.*

#### **7.4 Report and Consent Process availability**

- 7.4.1 The question posed to respondents in regards to the availability of the process was to question -
- “Whether the process should be available where an application for a Building Permit has not been made (ie. Notices orders etc).”**
- 7.4.2 There were varied opinions and interpretations between the groups and individuals as to whether an application for report and consent could be made at any time during the approval process or post the approval process, ie during construction.
- 7.4.3 Schedule 2 infers that an application can be made to a reporting authority prior to or on an application for building permit and therefore when a building permit has been issued, an application for report and consent is no longer possible.
- 7.4.4 Reporting Authorities indicated that they do respond to application report and consent at various stages of the approval process in different formats. Response in the form of:
- a) a ‘letter’ as opposed to a ‘consent’; or
  - b) referral to the BAB; or
  - c) resolution through the Building Notice process (issued by the RBS),
- have been examples cited by various respondent groups.
- 7.4.5 Each of these alternative methods resolved the matter and the statutory requirement to obtain report and consent, however it was acknowledged that there was little consistency in the process adopted by various authorities.
- 7.4.6 The MFB and CFA indicated that they had no objection to considering prescribed matters or deemed to satisfy variations at any time during the approval process, and if necessary the Building Notice process could instigate a new application. The Building Notice process however should not be a mechanism to substitute the need to consult with the reporting authorities.
- 7.4.7 The MFB stated that:
- “In the event that a building notice is issued by the RBS, the notice should not be able to override any previous Report and Consents/refusal issued by the Chief Officer. The RBS should refer the issue to the Chief Officer via the Regulation 2.2 process. The current legislation should be revised to accommodate this.”*

- 7.4.8 Industry and Councils supported this view on the basis that the importance of referring prescribed matters and/or deemed to satisfy variations to the authority was the underlying objective of the whole process, and consistency on the method of reporting would make the process, more credible.
- 7.4.9 The Building Regulations make provision for variation building permits. Consequently variation report and consent determinations was considered reasonable by most respondents.
- 7.4.10 In regards to who the 'applicant' of a report and consent application should be, there were broader views. History suggests that matters which require the consideration of reporting authorities should be 'referred' by the building permit issuing authority ie RBS, such that the RBS can consider the input of the authorities, in their area of jurisdiction, before deciding a building permit application.
- 7.4.11 Schedule 2 stipulates that an RBS must not determine an application for building permit until the reporting authority has been consulted and the matter 'reported on' or 'consented to'. The inference in Schedule 2(4) is that the RBS must refer or make application to the relevant reporting authority. Notwithstanding this Schedule 2 makes provision such that an applicant (for building permit) may also obtain the report and consent, Schedule 2(5).
- 7.4.12 Various groups and individuals made comment on an RBS as an applicant for a report and consent matter in light of any perceived conflict of interest in the approval process.
- 7.4.13 Councils, Private Building Surveyors and the industry generally were of the view that the RBS was often the most qualified applicant and that there was no conflict of interest in an RBS facilitating the process. This was supported by Andrew Lingard and Associates stating that:
- "All 2.2(2)'s relating to fire protection should be obtained by the Building Surveyor as services engineers may not be fully involved in all design aspects, ie. Passive versus active fire protection involving a Fire Engineer. Hence, one point of control."*
- 7.4.14 Aspinal Fire Service Testing however was of a contrary opinion stating that an application of report and consent should be made by:
- "The designer, as they know what should be the case and to design 'outside the rules' will be best known to the designer that has the job."*
- And in relation to the role of the RBS:
- "they should not be involved in either 2.2 or 9.3 as it could be seen as a conflict of interest"*
- 7.4.15 The CFA and MFB reflected similar views to AFST with CFA comment stating:
- "The preferred approach would be to change the legislation so that the RBS cannot be the applicant but must refer the application to CFA. This ensures that the RBS is aware of the issues and items requested for consent and Report. This would reduce the number of amended or secondary Consent and Reports. It also ensures that the information submitted on the application is accurate. And it further ensures that the RBS remains independent of the design process. The applicant must be the designer or the builder."*

- 7.4.16 The distinction between a matter being 'referred' and 'application' sought was also discussed at length at an AIBS seminar and an SFS seminar where various participants in the audience expressed differing opinions.
- 7.4.17 The RBS is also an authority (building and occupancy permit issuing authority) and despite being involved with applications report and consent from other reporting authorities, a perception of conflict of interest was not supported.
- 7.4.18 The concept of new terminology ie: 'referral' in lieu of 'application' by the RBS for report and consent received a positive response and was considered to have merit.
- 7.4.19 The views of the CFA and MFB reflected the nature of applications sought from the chief officer. Such applications or referrals are predominantly consent to variations or dispensations to the provisions of the minimum fire service requirements.
- 7.4.20 This was not the view of private building surveyors or Council where the nature of applications sought were both 'prescribed matters' and 'deemed to satisfy variation' applications. In particular Part 4 (rescode) siting variations were often submitted by the RBS as applicant.
- 7.4.21 Brian Sherwell in his comment expressed the need for the owner to be fully informed of issues for which report and consent matters were being applied for, and supported his comments by stating that:
- "Building Appeals Board' needs to be available for Appeals; in regards to where dispute matters may arise. "*
- 7.4.22 Section 79 of the Act outlines specifically circumstances where a 'private building surveyor may not act'. It is considered any breach of this section is adequately otherwise regulated and that applications pursuant to regulation 2.2 (9.3) / regulation 308 (1008) by a RBS to a reporting authority is not a breach of Section 79.

## 7.5 Report and Consent for Demolition

- 7.5.1 The question posed to respondents in regard to the demolition approval process was -

**"Whether the Report and Consent process should be required for demolishing a building where a planning permit has already been obtained."**

- 7.5.1 There was an overwhelming consensus from all groups and individuals that the current process and procedure for obtaining report and consent pursuant to Section 29A was a duplication of control resulting in unnecessary cost and time delay in an already over regulated planning approval process.
- 7.5.2 The HIA, private building surveyors, designers, builders and Councils reflected the sentiments of the City of Boroondara who stated that:

*"If a Planning Permit has been issued for a full demolition or a part demolition and such is stated on the Planning Permit, then it is a complete duplication for a 29A Consent and Report being required."*

And further;

*“Section 29A Consent and Reports were only going to be in existence for a short period, to enable Council’s Planning Departments to have appropriate planning controls in place to protect significant buildings.”*

- 7.5.3 The Section 29A demolition consent and report process is a duplication and highly complex process for what is considered to be a simple process which could be incorporated in the planning assessment process.
- 7.5.4 Where a planning permit has been issued for a development or re development on an allotment, there should be no requirement to submit a second application seeking approval to demolish any structure on the allotment which has a development permit.

## **7.6 Conditions on Report and Consent matters**

- 7.6.1 The question posed to respondents in regards to conditions consent and report matters was -

**“Whether reporting authorities should be able to provide conditions outside of the matters that they are required to consider.”**

- 7.6.2 Various groups and individuals acknowledged that ‘conditions’ or ‘recommendations’ on consent and report prescribed matters or variations to deemed to satisfy provisions was a grey area.
- 7.6.3 A reporting authority has the power to make recommendations in their process of reporting. Any recommendation must be considered by an RBS in consideration of issuing a Building Permit. Schedule 2(7) outlines the responsibility of an RBS in this regard.
- 7.6.4 The industry view was that recommendations were deemed appropriate where the recommendation is specifically in regards to the prescribed or specific matter for which a consent and report was being sought.
- 7.6.5 It was the view however that recommendations and conditions on consent and report determinations were inappropriate where the recommendation and / or condition were in regard to ‘non prescribed matters’.
- 7.6.6 The CFA commonly included the use of conditions on consent and report determinations, which as stated by the CFA:

*“allows the Chief Officer to ensure that the installations they deem to be necessary for a ‘satisfactory degree of fire safety to be achieved’ are provided.”*

The MFB, which also included conditions, stated that;

*“The typical conditions include system performance requirements for Example Aust Stds, provisions for Fire Brigade Intervention, standard operating procedures, MFB guidelines and conditions relative to any fire engineering analysis/alternative solution that has been undertaken as part of the design.”*

- 7.6.7 Notwithstanding that conditions are common on consent and report determination by all reporting authorities, both Inform Design and Gardner Group stated respectively that;

*“Conditions are better than a deferral or refusal”*

and

*“Conditions should be allowed provided they are related to the application being made, and that they can be appealed to the Building Appeals Board.”*

- 7.6.8 There was general consensus that any conditions and/or recommendations included on any consent and report should be enforced by the RBS.
- 7.6.9 It was also considered uncommon or unusual that any ‘prescribed matter’ or ‘deemed to satisfy variation’ application could be consented to without it affecting other issues. Hence conditions or recommendations could cover any shortfalls or implications in other areas relevant to the ‘prescribed matters’ being reported on.

## **8. RECOMMENDATIONS**

### **8.1 Recommendation A - General**

- 8.1.1 Matters requiring relevant authority or service authority consideration pursuant to regulation 2.2 / regulation 308 should be referred to as a 'Reporting Authority Report'. This is new terminology.
- 8.1.2 It was considered that the term 'report and consent' and/or 'report or consent' is confusing particularly in circumstances where one of the functions is not required to be carried out. ie. A 'report' only is required in relation to electricity supply authority submissions, and the council in regards to stormwater discharge location. Equally there are numerous circumstances where 'consent' is issued by the reporting authority and a 'report', as such, is not necessary.
- 8.1.3 Schedule 2 of the Act and regulation 2.2 / regulation 308 should be amended to reflect the new terminology.

### **8.2 Recommendation B - Time Limits for Report and Consent**

- 8.2.1 Time limits for all relevant and service authorities including Council to be fixed with the regulations to incorporate a mechanism to 'stop the clock' where further information or consultation is required.
- 8.2.2 Reporting Authorities to be allocated seven (7) days from receipt of a submission to either:
- a) Consent, or
  - b) Consent with conditions, or
  - c) Refuse with reasons, or
  - d) Stop the clock for seven (7) days where:
    - i. further information; or
    - ii. further consultation / referral is required.

In the case of d) the clock must re-start on receipt of further information and/or receipt of referral information however must re start no later than seven (7) days after the clock has stopped.

The reporting or service authority must then issue a 'Reporting Authority Report' within seven (7) days.

- 8.2.3 It is considered that such a revised system will put in place reasonable time frame with time limits and the flexibility to 'stop the clock' where circumstances are justified.

### **8.3 Recommendation C - Fees for Report and Consent**

- 8.3.1 Fees for a 'Reporting Authority Report' should be fixed. Fees are currently not fixed and vary considerably between relevant authorities including Councils.
- 8.3.2 Fees for a 'Reporting Authority Report' on a 'prescribed matter' should be fixed and the appropriate fee rate calculated based on both the time and resources required by relevant authorities to consider and respond.

It is considered the appropriate fee for a 'Reporting Authority Report' is in the order of \$150.00.

8.3.3 Fees for a report on 'deemed to satisfy variation' should comprise a further fee component and be considered in two parts:

- |    |                            |          |
|----|----------------------------|----------|
| a) | Application fee            | \$150.00 |
| b) | Consultation / Consent fee | \$ x     |

The application fee should be fixed and payable to the relevant authority on submission.

The Consultation / Consent fee (\$ x) may be variable and payable to the relevant authority on decision or determination. The fee may be calculated at an hourly rate or fixed as appropriate. The maximum Consent fee should be set at \$ 750.

8.3.4 Both the application and consultation / consent fees (where applicable) are to be displayed by each relevant authority on a web site and available at Council and/or relevant Authority offices.

8.3.5 It is considered a Regulatory Impact Statement (RIS) is appropriate in regards to the setting of fees. Based on anecdotal evidence and information concluded from this research it is considered that fixed fees prescribed by regulation will benefit the consumer relative to fees currently payable. (refer also Appendix E for survey of fees payable )

#### **8.4 Recommendation D - Report and Consent Process availability**

8.4.1 A 'Reporting Authority Report' submission, application or referral should not be restricted to any individual person, practitioner or entity. Applicants for a 'Reporting Authority Report' may be the owner or agent or alternatively the RBS may refer the matter.

8.4.2 A 'Reporting Authority Report' submission (application or referral) should be able to be submitted at any time in the design or construction process. An owner should be able to obtain a 'Reporting Authority Report' prior to lodging an application for building permit and equally a submission should be received by the authority during construction, subject to the appropriate process being followed.

8.4.3 The regulations should be amended in all circumstances where reference to a reporting authority is made, such that the submission is not bound or conditional on an 'application for building permit'.

Example

Regulation 308(1) – replace the words '*an application for a building permit*' with '*building work*' in the opening paragraph.

8.4.4 Notwithstanding the above recommendation, a 'Reporting Authority Report' must be obtained prior to an RBS determining an application for building permit.

8.4.5 Subsequent variation 'Reporting Authority Reports' should be available and a variation building permit issued by the RBS consistent with current provisions under the Act and Regulations.

- 8.4.6 It was considered that the current process of issuing letters, issuing Building Notices and/or applications to the BAB is inconsistent and confusing to owners, applicants, industry and the authorities. A clear revised process should allow for the flexibility, resulting in a more efficient and cost effective process.
- 8.4.7 Schedule 2 of the Act and regulation 2.2 / regulation 308 should be amended to reflect the new terminology.

## **8.5 Recommendation E - Report and Consent for Demolition**

- 8.5.1 The current process outlining the requirement to obtain report and consent pursuant to Section 29A to be re-written.
- 8.5.2 Consent for demolition or alterations to a building via 'Reporting Authority Report' to be made to the relevant authority only where a planning permit is not required.
- 8.5.3 Where a planning permit is issued for a new development and/or redevelopment alteration or change of use of an existing building or site, a subsequent 'Reporting Authority Report' should not be required.
- 8.5.4 Where a planning permit has been issued it is 'deemed consent' that any existing building or structure on the allotment which will be subject to demolition, removal or alterations is permitted.
- 8.5.5 Section 29A of the Act and Practice Note 43 should be amended accordingly.

## **8.6 Recommendation F - Conditions on Report and Consent matters**

- 8.6.1 Conditions on 'Reporting Authority Reports' should be permitted.
- Recommendations are not considered appropriate as they may be inconclusive, subject to interpretation and hence likely to lead to disputes and or possible appeal processes.
- 8.6.2 Conditions must be specific and related to the matter for which 'Reporting Authority Report' is made.
- Any conditions deemed not directly related or inconsistent with 'Reporting Authority Report' applications / referrals should be appealable to the BAB.
- 8.6.3 Schedule 2, Section 23 and 47 of the Act to be re-written accordingly.

## **9. CONCLUSION**

This study has been carried out on the report and consent process forming part of the Building Act and Regulation review. The recommendations in this report should be considered by the Building Regulations Advisory Committee for incorporation as amendments to the Building Act 1993 and Building (Interim) Regulations 2005 / Building Regulations 2006.

## **10. APPENDICES**

<b>Appendix A</b>	Consultation List
<b>Appendix B</b>	Sample of Presentation to BRAC, BAB, AIBS, CFA, MFB
<b>Appendix C</b>	Final Questionnaire
<b>Appendix D</b>	BC Demolition Procedure Flow Chart
<b>Appendix E</b>	Summary of Various Fees payable for Report and Consent

# **APPENDIX A**

**BUILDING COMMISSION – REPORT CONSENT PROCESS**  
**4/5/05**  
**CONSULTATION LIST**

<b>Organisation</b>	<b>Contact</b>
City of Casey	Brett Turner
City of Manningham	Maryanna Grzan
City of Boroondara	Geoff Goddard
City of Greater Shepparton	Robert Frame
Surf Coast Shire	Reg Wallace
MFB	Adam Dalrymple
CFA	Mark Potter
HIA	Glenn Evans
MBA	Geoff Woolcock
Boulderstone Hornibrook	Andrew Kloss
Inform Design	John Gaffney
Simonds Homes	Greg Poole
Summit Builders	David Law
Andrew Lingard & Associates	Andrew Lingard
Norman Disney Young	Ben Ferguson
Gardner Group	Andrew Gibson
Group IV	Michael Madera
Brian Sherwell & Assoc	Brian Sherwell
SFS	President
AIBS	Executive Officer
BAB	Anne Keddie
BRAC	Tony Arnel
VMBSG	Geoff Goddard
Interlandi Maitesso Architects	Robert Ficarra
Allom Lovell Architects	Anne Marie Treweeke
CLG Plumbing	Cleave Warring
Aspinal Fire Testing	Greg Aspinal

## **APPENDIX B**

## REPORT CONSENT PROCESS

### Presentation to the Building Regulations Advisory Committee

Greg du Chateau

David Martini

Philip Chun and Associates

## REPORT CONSENT PROCESS

### Scope of Review Project

- Review time limits for reporting authorities
- Consider fees payable for report consents
- Review scope of report consents
- Review reporting authorities and the planning / demolition approval process
- Explore / consider other factors in the report consent process

Philip Chun and Associates

## REPORT CONSENT PROCESS

### Report Consent Process - Regulation 2.2

- Report Consent process is the process of obtaining approval from a Reporting Authority for a prescribed matter or regulations
- Reporting Authorities include
  - Council
  - Chief Officer
  - Electricity Supply Authority (ESA)

Philip Chun and Associates

## REPORT CONSENT PROCESS

### Report Consent Process - Regulation 2.2

- Report Consent prescribed matters or regulations include
  - Part 2 - Fire fighting facilities - hydrants, hose reels
  - Part 3 - Projections - verandahs, awnings etc
  - Part 4 - Siting / ResCode - building height, setback
  - Part 6 - Flood / Termite / Bushfire / designated land / unsewered areas
- Note Part 5 - Protection of public is excluded from this review

Philip Chun and Associates

## REPORT CONSENT PROCESS

### Report Consent Fees

- Report Consent approvals involve paying fees to the Reporting Authority for information and / or consent / variation on a prescribed matter or regulations
- Some fees are prescribed including
  - Reg 2.10 Council Information - \$30.00
  - Reg 2.2A Council Sect 29A demolition consent - \$50.00
  - Reg 2.2 Melbourne Water referral - \$25.00 / \$50.00
- Other fees are de regulated
  - Reg 2.2 Chief Officer - \$121.00 / hour

Philip Chun and Associates

## REPORT CONSENT PROCESS

### Report Consent Time Limits

- Time limits for a Reporting Authority to respond are generally 5 - 15 days for information, consent and / or variation on a prescribed matter or regulations
- Time limits apply to the Chief Officer and ESA however not Council

Philip Chun and Associates

## REPORT CONSENT PROCESS

### Report Consent Applications

- A Reporting Authority may only consider a report consent “on an application for Building Permit” ie: prior to issue of Building Permit
- A report consent cannot be obtained after a Building Permit is issued
- A BAB determination or a Building Notice is a method to resolve matters which arise post issue of Building Permit

Philip Chun and Associates

## REPORT CONSENT PROCESS

### Building Regulations Advisory Committee Consideration

- As part of this review we would like to know the views of the BRAC in regards to matters related to Report/Consent Process.
  - matters related to fees and time limits
  - application circumstances, ie: by whom, pre / post BP
  - any other thoughts, views which may assist our review of the process.

Philip Chun and Associates

## REPORT CONSENT PROCESS

### Relevant Matters

#### Fees and Time Limits

- Has the BRAC had need to consider as part of the advisory process prescribed fees for Report/Consent Process before?
- Has the BRAC had need to considered as part of the advisory process time limits for Report/Consent Process before?

Philip Chun and Associates

## REPORT CONSENT PROCESS

### Relevant Matters

#### Technical Issues

- Has the BRAC had need to consider the following items before as part of their advisory process;
  - Flooding?
  - Bushfire?
  - Projections over street?
  - Siting/ ResCode?
  - Fire Services?
  - Other?

Philip Chun and Associates

## REPORT CONSENT PROCESS

### Relevant Matters

#### Retrospective Consents

- What is the view of the BRAC regarding retrospective consents?
- Should Report Consent applications be permitted before application for Building Permit?
- Should Report Consent applications be permitted after a Building Permit has been issued?

Philip Chun and Associates

## REPORT CONSENT PROCESS

### Relevant Matters

#### Reg 2.2 Applications

- Who should be the applicant for Reg 2.2 applications?
  - Owner?
  - Designers?
  - Relevant Building Surveyor?
  - Other?
- Is there a conflict if RBS is applicant and enforcer?

Philip Chun and Associates



# REPORT CONSENT PROCESS

## Relevant Matters

Other matters, issues, comments?

## **APPENDIX C**

**BUILDING COMMISSION – REPORT CONSENT PROCESS QUESTIONNAIRE****29/03/2005****A. Consider whether reporting authorities are achieving time limits and whether changes to time limits are necessary?****Regulation**

Reg 2.2, 2.5, 9.3 and 9.4  
Schedule 2(b)

**Requirement**

When there is a matter to be reported on, as listed in Reg 2.2 by a reporting authority, ie. the Chief Officer or the Electricity Supply Authority (ESA) but excluding Council, time limits apply to respond to an application. These time limits vary from 5 – 15 days

**Questions**

No	Question	Comment
1	Are the current time limits appropriate for an authority to respond to a report consent, which is required prior to issue of a Building Permit?	
2	Currently time limits apply to the Chief Officer (MFB and CFA) and ESA only. There are no time limits that apply to Councils. Should time limits apply to Council?	
	Councils act as a reporting authority for: <ul style="list-style-type: none"> <li>a) Projection beyond street and for construction below / above public facilities; eg. verandahs, sunblinds and bridges over the street</li> <li>b) Siting; eg building height, setback, screening</li> <li>c) Precautions over street; eg hoardings</li> </ul>	

	<p>d) Storm water discharge point;  e) Unsewered areas; and  f) Land liable to flooding / designated land.</p> <p>What are appropriate / realistic time limits for response to the above matters?</p>	
3	Who is the Council officer(s) with delegated authority for the above matters?	
4	Does the Council Building Surveyor or Town Planner deal with siting variations?	
5	Is a further report consent for the above matters considered necessary when a relevant planning permit already considers the above matters? eg. Projection beyond street?	
6	Have there been any appeals against a reporting authority for not responding within prescribed time limits?	
7	Other Comments	

**B. Consider whether fees for reports and consents are appropriate and should they be prescribed?**

**Regulation**

Reg 2.2A, Reg 2.11

**Requirement**

There are currently no prescribed fees for Reg 2.2 report consents, however fees are payable and determined by individual Councils and the Chief Officer. The fees vary considerably for various services and between metropolitan and regional Councils / Shires.

**Questions**

No	Question	Comment
1	Should the regulations prescribe the fee payable for reporting authority consent in all categories including the six (6) under Council jurisdiction, or should Council retain the authority to determine fees?	
2	Should the fees be consistent throughout Victoria for the same report consent?	
3	Fees currently payable include:  Reg 2.2A - \$ 50.00 for report consent on demolition;  Reg 2.11 – \$ 30.00 for property information  Reg 2.2 – MFB / CFA \$121 / hour  Reg 6.2 – Melbourne Water \$25.00 (fast track), \$50.00  Are these fees reasonable?	

4	<p>What fee is a reasonable amount for:</p> <ul style="list-style-type: none"> <li>a) Projection beyond street / below or above public facilities</li> <li>b) Siting / ResCode</li> <li>c) Storm water discharge</li> <li>d) Unsewered areas</li> <li>e) Land liable to flooding / designated land</li> </ul> <p>\$50.00, \$100.00, \$150.00, other</p>	
5	<p>If fees were consistent and Report Consent were permitted other than “on application for Building Permit”, should fees payable differ depending on when the submission is made to the reporting authority? ie.</p> <ul style="list-style-type: none"> <li>a) prior to application of Building Permit,</li> <li>b) during construction,</li> <li>c) post construction or on application for Occupancy Permit</li> </ul>	
6	<p>Are Reporting Authority fees subject to regular / annual increase, CPI?</p>	
7	<p>Do current fees cover administrative costs for the above services?</p>	
8	<p>Other Comments</p>	

**C. Determine whether the process should be available where an application for a building permit has not been made (ie. notices, orders, etc).**

**Regulation**

Reg 2.2, 9.3

**Requirement**

A report consent from a responsible authority can only be made on 'an application for Building Permit', ie: it cannot be made prior to an application being submitted or after a Building Permit has been issued.

eg: a Part 4 / ResCode siting design regulation cannot be varied until an application for Building Permit is submitted to a building surveyor

**Questions**

1	Should a report consent application be permitted: a) prior to formal submission for Building Permit? b) after a Building Permit has been issued ie: due to change in design circumstances or conditions? c) following issue of a Building Notice and/or in response to a building notice or order?	
2	Should the applicant for a report consent (Reg 2.2 / 9.3) be: a) the designer; b) the builder; c) the relevant building surveyor, d) other	
3	If c) above, considering the functions of the RBS pursuant to Section 76 of the Act, will the RBS be compromised in	

	carrying out these functions if required? ie due to enforcement responsibilities.	
4	Should a building notice / order be a mechanism to resolve a Reg 2.2 matter which arises post issue of Building Permit? ie, and avoid / by pass the formal report consent process?  Is this current industry practice?	
5	Is the BAB the appropriate forum for retrospective Reg 2.2 applications and / or appeals?	
6	Are there regular applications for modification and / or appeals for retrospective Reg 2.2 report consents to the Building Appeals Board?  Are there any frequent or re occurring circumstances? Eg Chief Officer / Council siting?	
7	Other Comments	

**D. Provide advice on whether the report and consent process should be required for demolishing a building, where a planning permit has already been obtained.**

**Regulation**

Reg 2.2A, Section 29A

**Requirement**

The report consent of the responsible authority under the Planning and Environment Act 1987 is required for a planning scheme related to land where alteration or demolition of a building is proposed which meets specified criteria ie; 50% alteration or alterations to the facade of a building.

This report and consent (Section 29A under the Building Act) is currently required irrespective of whether a Planning Permit has been issued for the demolition and / or alteration works pursuant to a relevant Planning Scheme.

**Questions**

1	Is the current process for report consent / further comment, (Section 29A) a duplication of control where a Planning Permit has been issued?	
2	Is it appropriate that if a Planning Permit has been issued for either:  a) demolition of a building; or b) demolition of a building and the construction of a new building, c) alteration to an existing building (involving removal of existing structure / floor area)  that a report consent still be obtained from the responsible authority?	
3	Is it appropriate that if a Planning Permit has been issued	

	for the construction of a new building, where it is obvious that an existing building must be demolished, that a report consent still be obtained from the responsible authority?	
4	Should the applicant for a report consent pursuant to Section 29A be:  a) the designer; b) the builder; c) the relevant building surveyor, d) other	
5	Do all Reporting Authorities complete the 'Form B' in the prescribed manner?	
6	Should a 'Form B' report consent be permitted to be issued with conditions? This is currently not permitted	
7	Should the report consent be 'deemed consent' or 'consent given' if the responsible authority does not respond within a prescribed time period?	
8	Is a 15-day response period a reasonable time frame for Section 29A response?	
9	Is the current Section 29A process causing delays to the approval process?	
10	Other Comments	

**E. Consider whether reporting authorities should be able to provide conditions outside of the matters that they are required to consider.**

**Regulation**

Reg 2.2  
Schedule 6

**Requirement**

A reporting authority (other than a Council) must on application for a report consent either:

- a) consent to the application; or
- b) refuse the application and provide reasons for that refusal.

The authority does not have the ability to include conditions as part of a 'consent'

Note: A Building Permit or Occupancy Permit pursuant to Section 19 and 43 respectively of the Act allows a relevant building surveyor to:

- a) issue a permit; or
- b) issue a permit with conditions; or
- c) refuse a permit.

**Questions**

1	Is it appropriate that a reporting authority issue a report consent with conditions? Who should enforce such conditions?	
2	Is it the responsibility of the RBS to enforce the conditions of the report consent and any conditions?	
3	What are the typical conditions included on a report consent application by Council / MFB / CFA / ESA?	

4	Other comments	
---	----------------	--

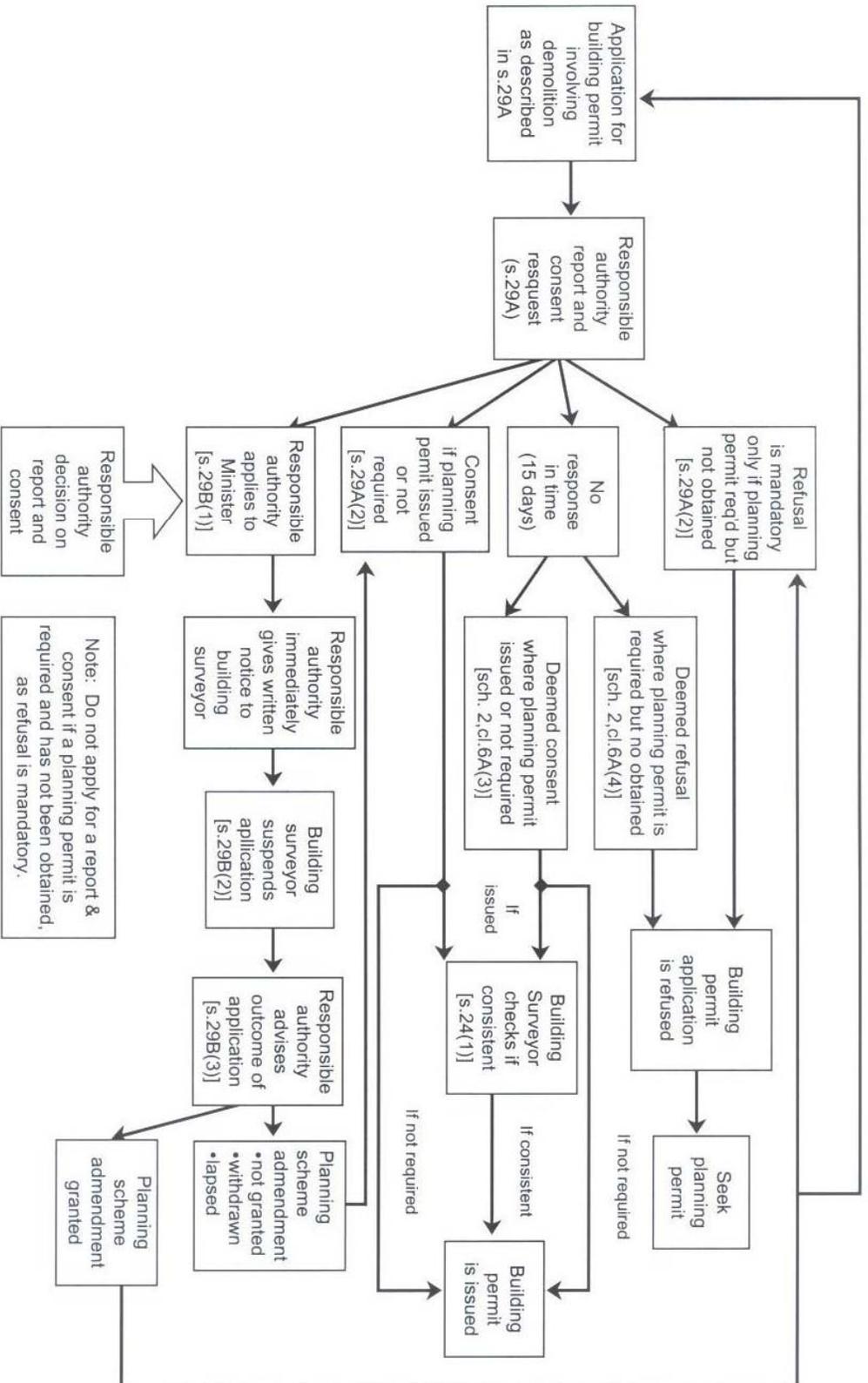
**F. Advice on any other changes required to the report and consent legislation / process.**

**Issues**

1	Should Council assess Part 4 of the Building Regulations (ResCode) as part of a Planning Permit application where a planning scheme is applicable?	
2	Should the report consent format / response from the Relevant Authority be in a regulated / standardised format?	
3	Other Issues	

## **APPENDIX D**

### Demolition procedures flow chart



# **APPENDIX E**

# Council Report Consent Fees

Council	Contact Name / Number	Authorised officer	Reg 2.4	Reg 2.10	Section 24	Part 4 - Various Regulations			Reg 3.12	Reg 3.15	Reg 5.3(4)		Reg 5.9	Section 29A	Reg 6.6 (2)	Reg 6.2 (3)
		Town Planner, Building Surveyor, Other	Building over easement vested in Council	Property Information ie termite area, bushfire area	Advice on whether a planning permit is required	Siting / Rescode Variation applications*	Notification to adjoining owner / owner for Part 4 variations	Other	Projection beyond street	Building above / below public facility	Precautions over street (hoarding / gantry)	Builder occupation of street	SWD discharge point	Demolition Consent	Building on designated land	Building on land liable to flooding
Alpine Shire		Phil Davern (MBS) Ph 5755 0564	\$150.00	\$30.00	Nil (If part of the Reg. 2.10 for building information; otherwise \$30)	\$100.00	Nil		\$120.00	\$120.00	\$150.00	\$150.00	\$50.00	\$50.00	\$120.00	\$120.00
Ballarat City	Peter Ph: 5320 5650 Fax: 5320 5825			\$30.00		\$130 (with adjoining owner consents) \$150 (without adjoining owner consents)								\$50.00		
Benalla Council	Neal Cartledge Ph: 5760 2636	Applications for reporting authority consents modifications applications building reports are calculated at \$80.00 per hour														
Banyule City			\$150.00	\$30.00	\$35.00	\$150.00	NIL				\$105.00	\$105.00	\$35.00	\$50.00	\$30.00	\$30.00
Bass Coast Shire			\$200.00	\$30.00		\$200.00	Nil							\$50.00		
Baw Baw Shire	Building Service Ph: 5624 2477			\$30.00		\$150.00	Nil		\$150.00	\$150.00	\$60 (\$150 from 1/7/05)	\$60 (\$150 from 1/7/05)	\$30.00	\$50.00	\$150.00	\$150.00
Bayside City			\$250.00	\$30.00		\$250.00					\$250.00	\$250.00		\$50.00		
Boroondara City			\$206.00	\$50.00	\$20.00	\$206.00	Nil		\$206 (\$50per month)	\$206 (\$50per month)	\$206 (\$50per month)	\$206 (\$50per month)	\$31.00	\$50.00	\$30.00	\$30.00
Brimbank City				\$30.00		250 (\$150 each additional clause)	\$60.00						\$36 (new/extension dwelling, garage, carport, verandah/ pergola, internal paving) \$88 (Dual occupancy, multi-units, flats, commercial, industrial)	\$50.00		\$36.00
Casey City			\$90.00	\$30.00	\$55.00	\$90.00	NIL		\$90.00	\$90.00	N/A	N/A	Nil	\$50.00	\$90.00	\$90.00
Central Goldfields Shire			Nil	\$30.00		\$50.00	N/A		Permit Required No Charge	Permit Required No Charge	Permit Required No Charge	Permit Required No Charge	\$30.00	\$50.00	\$30.00	\$30.00
Darebin City			\$80.00	\$30.00		\$250 (\$125 for each additional clause)	\$50.00				\$250 per 50m2 of roadway		\$30.00	\$50.00	\$30.00	\$30 for Property Info. \$250 for consent
East Gippsland Shire		Leigh Collings Municipal Building Surveyor (5153 9500)	\$80.00	\$30.00	\$30.00	\$80.00	Nil		\$80.00	\$80.00	\$80.00	\$70.00	\$30.00	\$50.00	\$80.00	\$80.00
Frankston City			\$50.00	\$30.00	\$120.00	\$190 (\$110 for each additional clause)	N/A		\$190.00	\$190.00	\$190.00	TBA	\$30.00	\$50.00	\$90.00	N/A
Gannawarra Shire			\$150.00	\$30.00	\$16.00	\$150.00	\$150/owner		\$150.00	NA	To be determined	To be determined	To be determined	\$50.00	\$150.00	\$150.00
Glen Eira City			\$105.00	\$30.00	\$53.00	\$200.00	\$55.00		\$200.00	\$200.00	\$200.00	\$1.80 /m2/month	N/A	\$50.00	\$200.00	\$200.00
Glenelg Shire			\$100.00	\$30.00	\$30 (Property info Request)	\$103/Item	Nil		\$103.00	\$103.00	\$103.00	Negotiated	\$30 (Property Information Request)	\$50.00	Planning Permit Required	Planning Permit Required
Golden Plains Shire			\$200.00	\$30.00	\$30.00	\$200.00	Nil		\$200.00	\$200.00	\$200.00	\$200.00	\$43.00	\$50.00	200 (if planning permit not required)	200 (if planning permit not required)
Greater Dandenong City			\$200.00	\$30.00	\$80.00	\$200.00	Nil		\$200.00	\$200.00	\$200.00	P.O.A.	\$90(Industrial /Commercial development/ multi-unit) \$35(Single Dwelling)	\$50.00	\$200.00	\$200.00
Greater Geelong City			\$220.00	\$30.00	Advice over phone is free Ph 9205 2325	\$220.00	Nil		\$220.00	\$280.00	\$220.00	P.O.A.	\$47 (through sub-division)	\$50.00	\$220.00	\$220.00
Greater Shepparton City			\$75.00	\$30.00	NA	\$100(Reg 4.8-4.26 &4.28) \$187(Reg. 4.27)	NIL		\$75.00	\$75.00	\$75.00	\$75.00	\$75.00	\$50.00	\$75.00	\$75.00
Hobsons Bay City		R. Hutcheon (MBS)	\$100 (no council drain) \$300 (council drain)	\$30.00	\$30.00	\$100 (up to 2 items) \$50 (additional items)	Nil		\$100.00	\$100.00	\$100.00	\$100.00	\$35.00	\$50.00	\$30.00	\$30.00
Horsham Rural City 05114-Council Fees		V Farrugia (BS)	\$125.00	\$30.00	Nil	\$130.00	\$130.00		\$130.00	\$130.00	Nil	Nil	\$30.00	\$50.00	\$30 (Property Info Request)	\$30 (Property Info Request)

# Council Report Consent Fees

Hume City	Lauren Wolny (building control services) 9205 2325		\$200.00	\$30.00	\$30.00	\$300.00	N/A		\$300.00	\$300.00	\$300.00	\$300.00	\$50.00	\$50.00	\$30.00	\$30.00
Knox City	Marilyn O'Reilly (Administration Officer- City Development)		\$150.00	\$30.00	\$30.00	\$250.00	Nil		\$250.00	\$250.00	\$275.00	\$275.00	\$30.00	\$50.00	\$150.00	\$150.00
La Trobe Shire			\$100.00	\$30.00	Part of Reg.2.1	\$100.00	Nil		\$100.00	\$100.00	\$100.00	\$120.00	Part of Reg. 2.10 enquiry	\$50.00	Part of Reg. 2.10 enquiry	Part of Reg. 2.10 enquiry
Maribyrnong City			\$450.00	\$30.00	\$110.00	\$450.00	\$450.00		\$450.00	\$450.00	\$3.50/m2/week or \$300 min	\$3.50/m2/week or \$300 min	\$41 (House- extension; new single dwelling) \$77 (Dual occupancy; multi-units) \$103(Commercial, retail; industrial)	\$50.00	\$450.00	\$450.00
Maroondah City	Nita Hunter		\$110.00	\$30.00	\$30.00	\$200 (\$150 for Each additional clause)	N/A	\$100 (Reg. 4.14 , 4.21, 4.24 & 4.27	\$200.00	\$200.00	\$200.00	\$200.00	N/A	\$50.00	\$66.00	\$66.00
Melton Shire				\$30.00		\$200.00					\$300.00			\$50.00		\$200.00
Mildura Rural City	Sharee 5018 8410		\$227.00	\$30.00	\$71.50	\$227.00	N/A	\$227.00	\$227.00	\$227.00	\$227.00	\$227.00	\$227.00	\$50.00	\$227.00	\$227.00
Mitchell Shire	Building Dept Ph: 5734 6200		\$126.00	\$30.00		\$126.00	N/A		\$126.00	\$126.00	\$126.00	\$126.00	\$126.00	\$50.00	\$126.00	\$126.00
Monash City	Jeff Mills Ph: 9518 3480/ Fax 9518 3411		From \$70 (minor) to \$350 (major)	\$30.00	\$60.00	\$150 (Fences) \$200 (Class 1& 10a)	Nil		\$200.00	200 (minor)	From \$75 + Security	From \$75 + Security	\$30.00	\$50.00	\$200.00	\$200.00
Moreland City			\$275 (\$66 additional clause)	\$30.00		\$350 (\$60 each additional clause)			300 (\$60 -additional clause)	350 (\$60 -additional clause)	275 (\$60 -additional clause)	275 (\$60 -additional clause)	\$40 (Domestic) \$80 (Residential/ Commercial/ Industrial/ Public Building)	\$50.00	N.A	\$275 (\$55 -each additional Clause)
Mornington Peninsula Shire	Lynn Nankens Ph: 5950 1060 Tom Burk (Project Manager) Ph: 5950 1299		\$50.00	\$30.00		\$190 (\$55 each additional clause)	N/A						\$50.00	\$50.00		\$80 + \$110 (Review Flood Level Set)
Nillumbik Shire			\$93.00	\$30.00	\$45.00	\$250.00	N/A		\$82.50	\$82.50	\$82.50	\$82.50	\$35.00	\$50.00	\$93.00	\$93.00
Northern Grampians Shire			\$125.00	\$30.00	\$16.00	\$130.00	Nil		\$80.00	\$80.00	\$125.00	\$125.00	\$125.00	\$50.00	\$125.00	\$125.00
Port Phillip City			\$250.00	\$30.00		\$350.00	NA		\$350.00	\$350.00	\$300.00	\$5 /m² /week	\$60.00	\$50.00	\$250.00	\$250.00
South Gippsland			N/A	\$30.00	\$30.00	\$175 (\$180 effects on 1-7-05)	N/A		N/A	N/A	N/A	N/A	\$30.00	\$50.00	\$30.00	\$30.00
Stonnington City			\$210.00	\$30.00		\$210.00	\$55.00		\$210.00	\$600.00	\$190.00		\$60.00	\$50.00	\$210.00	\$210.00
Strathbogie Shire			\$100.00	\$30.00	\$30.00	\$50.00	\$50.00		\$100.00	\$100.00	\$100 (min)	\$100 (min)	\$30.00	\$30.00	\$30.00	\$30.00
Surf Coast Shire	Brydon King		\$205.00	\$30.00	N/A	205 (\$100 each additional clause)	205 (\$100 each additional clause)		\$205.00	\$205.00	\$250.00	\$250.00	\$30.00	\$50.00	\$30.00	\$30.00
Wangaratta Rural City			\$165.00	\$30.00	Nil	\$165.00	\$165.00		\$165.00	No request to date	No request to date	\$50.00	Nil	\$50.00	No designated land in this municipality	Normally covered by Planning permit
Wellington Shire			\$155.00	\$30.00	\$30.00	\$155.00	N/A		N/A	N/A	\$155.00	N/A	\$30 (Property Information Request)	\$50.00	\$30 (Property Info Request)	\$30 (Property Info Request)
Whitehorse City			\$85.00	\$30.00	\$33.00	\$200.00	N/A		\$200.00	\$200.00	\$200.00	Depends on duration	\$35.00	\$50.00	Contact Engineering department	Contact Engineering department
Whittlesea City	Melissa (Building Services) 9217 2259		\$200.00	\$30.00	\$33.00	\$320.00	NIL		\$200.00	\$200.00	\$200.00	Engineering Dept Ph: 9217 2236	\$90.00	\$50.00	\$200.00	\$30.00
Wodonga Rural City	Angela Fax 02 6022 9322		\$110 for 1 referral (Stormwater OR sewer) \$150 for 2 referral	\$30.00	N/A	\$110 per regulation							Contact Council infrastructure Department	\$50.00		
Wyndham City			\$34 \$235 Permanent Structure (added to title)	\$30.00	\$73.00	\$200 + \$100 for each additional item	Nil		\$200.00	Nil			\$45.00	\$50.00	Nil	Nil

**NOTES**  
 \* includes setback, height, site coverage, carparking, overlooking, fence height etc