

Building Practice Note PW-03: Protection of the Public

This Practice Note provides guidance to building practitioners on public protection requirements under the Building Act 1993 (the Act) and the Building Regulations 2018 (the Regulations).

The context below provides guidance for:

- Protection of the public
- When are precautions required?
- Relevant building surveyor's responsibilities
- What documentation should be provided to the RBS
- Report and consent of council
- Precautions where the building work is in an existing building
- When do precautions need to be inspected
- Administrative requirements for RBS



For information on the Protection Work Process, please refer to Building Practice Note PW-02: Protection Work Process.

Abbreviations & Definitions

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

- **Act** – Building Act 1993
- **ESM** – Essential safety measure
- **RBS** – Relevant Building Surveyor
- **Regulations** – Building Regulations 2018

Protection of the public

Building work is generally carried out within an allotment. However, the construction process may require materials and equipment to be brought into the site to conduct the proposed building work. Additionally, during construction there may also be materials or equipment that could potentially fall from the site to neighbouring property or public spaces.

Where there is a risk to the safety of the public, public property or public space, regulation 116 of the Regulations provides that precautions must be taken before and during construction. In relation to an application for a building permit, the regulation 29 allows the RBS to request the applicant to provide sufficient details of measures for the protection of the public.

If the RBS determines that precautions to protect the safety of the public are required, the precautions must be approved by the RBS before building work is commenced.

Precautions must be appropriate for the type of building work proposed and its potential impact on the public safety. Examples of precautions include parra webbing, chain mesh fencing, solid hoardings, scaffold, gantries and partial or full road closures.

When are precautions required?

When assessing an application for a building permit, the RBS must consider possible risks to public safety arising from the proposed building work.

The following situations are examples of works when the RBS may determine that precautions must be taken before and during building work to protect the public safety:

- Building façade works - new openings, erection of signage
- Verandah and balcony construction
- Excavation for footings along a boundary adjoining a footpath, road, or public space
- Excavation for a basement or for multi- storey construction
- Retaining walls above and/or below ground
- Tilt panel construction
- Front fence construction
- Dwelling or garage construction near a street alignment/boundary
- Multi-storey construction near a boundary; and
- Demolition of part or whole building.

In addition to the above examples, regulation 116(3) requires all excavation works to be fenced off (or otherwise guarded) against being a danger to life or property, before and during the carrying out of building work.

Relevant building surveyor's responsibilities

The RBS must assess the documentation in the building permit application and consider the extent of proposed building work and the risk to safety, the public may be exposed to, as a result of that building work.

Once the RBS determines that precautions are required, the applicant will need to provide details of the type and method of precautions proposed. The RBS must assess the proposed precautions and if satisfied, approve the precautions.

If the proposed precautions involve projection beyond the street alignment, the regulation 116(4) requires the RBS to obtain a report and consent from the relevant council prior to the building permit being issued. This may not be required if a local law is in place and the precautions comply with the local law.

What documentation should be provided to the RBS

The minimum documentation provided to the RBS should cover all of the following:

- site plan - showing subject allotment, adjoining properties, public space (footpath, road, lane, park area etc)
- elevations - building, hoarding, fencing etc (fully dimensioned)
- sections - building, hoarding, show access for pedestrians, street furniture etc (fully dimensioned)
- hoarding plan - location of the hoarding, width of street, footpath, street furniture, pedestrian access etc; work method statement - breakdown of work stages and precautions to be used. This statement can include timings for the precautions, the period for which the hoardings will be in place
- council guidelines - some councils produce guidelines setting out their minimum requirements
- certification of structural details including computations
- services plans - location of underground pipes, electricity power lines, gas mains etc

- works program, indicating proposed precautions schedule and staged occupation of the building; and
- protection of pedestrians (traffic management plan).

Report and consent of council

Council Local Law

Councils may already have a local law outlining requirements for precautions to protect the public involving the erection of precautions over the street alignment. If the precautions comply with such a law, there is no need to apply for a report and consent, however the RBS must still assess and approve the precautions as part of the building permit process.

If the RBS is unsure or has concerns about the proposed precautions, they should consult with the relevant council.

Some councils may require that a permit be taken out for the occupation of public land. Each council will differ in what local laws they have and how they are administered.

The RBS should advise the applicant that any required council permits may need to be obtained and associated fees paid, prior to any occupation of public land.

Absence of Council Local Law

In the absence of a local law, where the proposed precautions project over the street alignment, a report and consent from the relevant council must be obtained before the building permit is issued.

Each council will have a process for assessing applications for precautions over the street alignment. In some councils, the department responsible for issuing the report and consent may also have guidelines setting out specific requirements to be followed within that municipality.

Who is responsible for approving the type of precautions when a report and consent is required?

When a report and consent is applied for, the type and method of precautions are assessed by council to determine their appropriateness.

When the precautions to protect the public include taking precautions over a street alignment, the precautions are approved not only by the RBS, but also by the council as part of a report and consent process or pursuant to a local law.

In the process of approving the protection method, the RBS may require the precautions to be assessed by a structural engineer for their structural stability.

Precautions where the building work is in an existing building

In some instances, building work is proposed to an existing building and the work will take place while parts of the building remain occupied by the public. This might be due to partial hand over of a building or where work is carried out on an existing building.

Such circumstances require the RBS to consider the need to require precautions to protect the public before the commencement of building work and also during the building process if unforeseen issues arise.

It is especially important that the RBS considers the adequacy of precautions throughout the construction process where partial occupation of the building by the public is proposed.

The occupants could be at risk from the building work but also if any essential safety measures (ESMs) in the occupied part of the building are likely to be disrupted during the work. In such circumstances, the RBS needs to consider the occupants' safety and mitigate risks through precautions.

When precautions need to be inspected

During the assessment of the building permit application

When assessing proposed precautions, the RBS can determine whether a site inspection needs to be carried out as part of the assessment, as well as whether the building permit will contain inspections relating to the precautions.

The RBS may choose to carry out a site inspection as part of the assessment process, allowing them to become familiar with the building site, ensure that the details provided are correct and that the precautions proposed are appropriate for the type of building work, its location and uses.

After the precautions are in place

Regulations 116(2) requires precautions to be approved by the RBS before the building work is commenced.

For building work involving the demolition or removal of a building, regulation 168 provides that the completion of any precautions required to be taken under regulation 116 is a mandatory notification stage.

For swimming pool and spa construction, regulation 169 provides that the completion of any precautions required to be taken under regulation 116 is a mandatory notification stage.

Where a mandatory notification stage is not prescribed, the RBS may wish to conduct a site visit to inspect the precautions prior to commencement of the building work. If the RBS wants to do this, they will need to require notification for an inspection as a condition on the building permit.

During the building works

Where the public land, building or space is being occupied, or where potential risks to the public are changing as the building work progresses, regular attendance at the site may be necessary to monitor the precautions.

A risk-based approach will identify changing circumstances that may require alterations to the precautions.

Any variation to the precautions approved under report and consent will need to be resubmitted to the relevant council, for either an amendment to the original report and consent, or a new application.

Administrative requirements for RBS

Regulation 44(1)(l) requires a document setting out any requirement of the RBS under regulation 116 to take precautions to protect the safety of the public, to be lodged with the building permit documents pursuant to section 30(1A) of the Act.

Regulation 203(l) requires a document setting out any requirement of the RBS under regulation 116 to take precautions to protect the safety of the public to be lodged with the occupancy permit documents pursuant to section 73(1A) of the Act.

Related Documentation

- Building Act 1993 (VIC)
- Building Regulations 2018 (VIC)

Version History

- Version 2.0, published 28 June 2021, supersedes Practice Note 58: Protection of public

Contact Us

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

Victorian Building Authority

Goods Shed North
733 Bourke Street
Docklands VIC 3008

www.vba.vic.gov.au

Copyright

© June 2021 Victorian Building Authority (VBA).

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