



Essential Safety Measures

Practical application of maintenance determinations and schedules

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Overview

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- Maintenance Schedule (MS)
- Stakeholder Roles and Responsibilities
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 - How to prepare or update a MS
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Maintenance Determinations (MD)



What is a Maintenance Determination?

Reg 215 describes a MD as - A document prepared by the Relevant Building Surveyor (RBS) to specify:

- The Essential Safety Measure (ESM) that is the subject of the determination
- The level of performance that the ESM is required to achieve
- The frequency and type of inspection, testing and maintenance required for the ESM.

Requirement to provide a Maintenance Determination

Regulation 215 requires a MD to be prepared if an ESM is required to be provided or ALTERED by:

- A Building Permit that does not require an Occupancy Permit
- An Emergency Order or Building Order under Part 8 of the Building Act (Enforcement).

Building/s or part of building or place (List name and address of buildings/parts below)	Description of use of the building or part of building or place	Classification under the National Construction Code (Note: the classification should be consistent with any current occupancy permit for the building).

This determination has been issued because the Essential Safety Measures (ESM) listed below have been required to be provided or altered in the above building or place by (delete whichever does not apply):

Building permit no.: (insert no.) dated: (insert date) for which there is a Certificate of Final Inspection no.: (insert no.) issued: (insert date)

Building Order dated: (insert date)
Emergency Order dated: (insert date)

Regulation 216 of the Building Regulations 2018 requires that the owner of the building or place must ensure that each ESM listed below:
(a) performs at the level to fulfil its purpose as specified below; and
(b) is inspected, tested and maintained in accordance with the requirements specified below.

Essential Safety Measures	The level of performance that each essential safety measure must achieve to fulfil its purpose	The frequency and type of maintenance required for each essential safety measure	The frequency and type of testing and inspections required for each essential safety measure

Signed: Date:
(Relevant Building Surveyor)

Print Name:

Definition of 'altered' for Regulation 215

An ESM is ALTERED when it:

- Is changed
- Is amended
- Is modified
- Becomes different

Maintenance Schedules (MS)



What is a Maintenance Schedule?

- A consolidated list of ESMs and their maintenance requirements which are specified in an Occupancy Permit (OP) or MD (R1206 of 2006 & 2017 Regulations); or
- Lists all ESMs specified in an OP or MD relating to a building or Place of Public Entertainment (Place) and the maintenance requirements for those ESMs [R222(1)]; or
- Lists all the above in addition to listing all ESMs required to be provided before 1 July 1994 [R222(2)].

Building/s and/ or place of public entertainment (place) <i>List name and address of building/s or place below</i>	Description of use of the building and/or place

Table 1 – Building/s or Place of Public Entertainment (place) Identification

This schedule has been issued:

- *a). at the request of the owner under regulation 220; OR
 - *b). because an essential safety measures (ESMs) is specified in relation to a building or place in –
 - *i) an occupancy permit under regulation 194 (complete table 2 below); OR
 - *ii) a maintenance determination under regulation 215 (include date/s below)
- [*delete either 'a' or 'b' above]*
*[*if 'a' is deleted, delete 'i' or 'ii' if either is not applicable]*

Occupancy permit number	Date of occupancy permit/s or maintenance determinations

Table 2 – Details of Occupancy Permit/s (where issued on or after 1 July 1994) and Maintenance Determination/s

The owner of the building and/or place must ensure that each ESM listed below:

- performs at the level to fulfil its purpose as specified; and
- is inspected, tested and maintained in accordance with the requirements specified below.

Essential Safety Measures <i>List all ESMs specified in an occupancy permit or maintenance determination in chronological order according to the date on which each ESM was required to be provided</i>	Date of occupancy permit or maintenance determination for which the ESM is specified in an occupancy permit or maintenance determination relating to the building and/or place. <i>Insert date that each ESM was required to be provided in chronological order</i>	Document or legislation which lists ESM and the maintenance requirements for those ESMs relating to a building and/or place. <i>Insert occupancy permit no., maintenance determination date</i>	The level of performance that each ESM is required to achieve to fulfil its purpose	The frequency and type of maintenance, testing and inspections required for each ESM

Who issues a Maintenance Schedule?

- Regulation 218 identifies circumstances when the **RBS** must issue a MS complying with reg 222.
- Regulation 222(1) describes the type of MS that the **RBS** must prepare or update
- Regulation 220 allows a **MBS** or **PBS** to prepare a MS
- Regulation 222(2) describes the type of MS that a **MBS** or **PBS** may prepare

What is an 'existing building'?

- Reg 218 - A building is an 'existing building' when the OP is issued.
- A MS must be prepared by the RBS when an OP is issued for a new building.

Stakeholder roles and responsibilities



Stakeholders - include

- Owner of the Building or Place
- Occupier
- Maintenance Contractor/s
- Relevant Building Surveyor (RBS)
- Private Building Surveyor
- Fire Rescue Victoria (Chief Officer)
- Municipal Building Surveyor (MBS)
- Victorian Building Authority (VBA)

Owners Responsibilities - include

- Ensure that ESMs are maintained (Reg 195, 216, 226).
- Prepare an AESMR (Reg 223)
- Keep AESMR for 10 years. (Reg 225)
- Keep ESM records (including repairs) (Reg 225)
- Make ESM records available to MBS or Chief Officer within 24 hours (Reg 225)
- Provide the BS documents to enable MS to be issued (Reg 218)
- Ensure ESMs are not removed except for maintenance (Reg 227).
- Provide maintenance contractor/s with OPs and MDs (and Performance Solutions, dispensations, Report and Consents, determinations, baseline data, etc).

Occupiers Responsibilities - include

Ensure:

- Exits
- Paths of travel to exits
- Paths of travel from exits to the road

are kept readily accessible, functional, and clear of obstructions so that egress is maintained (Reg 228).

Maintenance Contractor Responsibilities - include

- Inspect, test and maintain ESMs
- Provide the owner with ESM records identifying the condition of each ESM, deficiencies to be addressed and any rectification completed.

Relevant Building Surveyor Responsibilities - include

- OP specifies ESMs and maintenance requirements
- Issue Maintenance Determinations
- Specify maintenance requirements of performance solutions (or other specific documents) in OPs or MDs
- Issue Maintenance Schedules
- Request owner to provide ESM documents to enable the preparation of MS (Reg 218[3])
- Provide MS to owner

Private Building Surveyor Responsibilities - include

- May prepare a MS where the owner has applied for one.
- May be engaged to undertake some routine ESM inspection functions

Chief Officer Responsibilities - include

- Can inspect ESMs including records and reports.
- Must provide the MBS with a report of an ESM inspection where this occurs.
- Can issue infringement notices

Municipal Building Surveyor Responsibilities - include

- May prepare a MS upon owners' application.
- May inspect ESMs, records or reports.
- Provide inspection report to owner where ESMs have been inspected by MBS or Chief Officer.
- May amend an OP upon application by the owner OR if necessary, in the public interest
- Take enforcement action and issue infringement notices for offences relating to ESMs.

VBA Responsibilities - include

- Can issue infringement notices
- Can prosecute, issue fines and take disciplinary action
- Licensing and registration of building and plumbing practitioners.

Practical Solutions



Documents required when a CFI is issued for work including 'providing or altering' an ESM.

- A MD is required where an ESM is provided or altered and an OP is not required.
- MD to specify ESM/s provided or altered.
- Where a MD is issued, the RBS must prepare or update a MS.
- RBS to request the owner to provide OPs and MDs and all Maintenance Schedules.

MAINTENANCE DETERMINATION
Regulation 215

How to prepare a Maintenance Determination

Specify:

- ESM that is the subject of the determination
- Level of performance that the ESM must achieve
- Frequency and type of inspection, testing and maintenance.

Building/s or part of building or place (List name and address of buildings/parts below)	Description of use of the building or part of building or place	Classification under the National Construction Code (Note: the classification should be consistent with any current occupancy permit for the building).
999 Lonsdale St Melbourne	Office	Class 5

This determination has been issued because the Essential Safety Measures (ESM) listed below have been required to be provided or altered in the above building or place by (delete whichever does not apply):

Building permit no.: (insert no.) 999999999999 dated: (insert date) 9/9/2019 for which there is a Certificate of Final Inspection no.: (insert no.) 999999999999 issued: (insert date) 5 June 2021.
Building Order dated: (insert date) N/A
Emergency Order dated: (insert date) N/A

Regulation 216 of the *Building Regulations 2018* requires that the owner of the building or place must ensure that each ESM listed below:

- performs at the level to fulfil its purpose as specified below; and
- is inspected, tested and maintained in accordance with the requirements specified below.

Essential Safety Measures	The level of performance that each essential safety measure must achieve to fulfil its <u>purpose</u>	The frequency and type of maintenance required for each essential safety <u>measure</u>	The frequency and type of testing and inspections required for each essential safety measure
Paths of travel to exists	BCA 2019 - DP2 & DP6 – Deemed to Satisfy	N/A	3 monthly inspection to ensure that there are no obstructions and/or unauthorised alterations.

Signed: X
(Relevant Building Surveyor)

Date: 5/6/2021

Print Name: John Citizen

Referencing specific documents on a MD

The performance solution, report and consent or other specific approval document should be referenced on the MD which in turn gets copied onto the MS.

MAINTENANCE DETERMINATION
Regulation 215

Building/s or part of building or place (List name and address of buildings/parts below)	Description of use of the building or part of building or place	Classification under the National Construction Code (Note: the classification should be consistent with any current occupancy permit for the building).
999 Lonsdale St Melbourne	Office	Class 5

This determination has been issued because the Essential Safety Measures (ESM) listed below have been required to be provided or altered in the above building or place by (delete whichever does not apply):

Building permit no.: (insert no.) 99999999999999 dated: (insert date) 9/9/2019 for which there is a Certificate of Final Inspection no.: (insert no.) 99999999999999 issued: (insert date) 5 June 2021.
Building Order dated: (insert date) N/A
Emergency Order dated: (insert date) N/A

Regulation 216 of the *Building Regulations 2018* requires that the owner of the building or place must ensure that each ESM listed below:

- (a) performs at the level to fulfil its purpose as specified below; and
- (b) is inspected, tested and maintained in accordance with the requirements specified below.

Essential Safety Measures	The level of performance that each essential safety measure must achieve to fulfil its <u>purpose</u>	The frequency and type of maintenance required for each essential safety <u>measure</u>	The frequency and type of testing and inspections required for each essential safety measure
Paths of travel to exists	BCA 2019 - DP2 & DP6 – As specified in the Fire Engineering Report No. 1234, prepared by XYZ Fire Engineers, Dated 1 May 2020.	N/A	3 monthly inspection to ensure that there are no obstructions and/or unauthorised alterations.

Signed: X
(Relevant Building Surveyor)

Date: 5/6/2021

Print Name: John Citizen

How to update a Maintenance Schedule

Specify on the first page why the MS is issued.

Building/s and/ or place of public entertainment (place) <i>List name and address of building/s or place below</i>	Description of use of the building and/or place
999 Lonsdale St Melbourne	Office

Table 1 – Building/s or Place of Public Entertainment (place) Identification

This schedule has been issued:

- *a). ~~at the request of the owner under regulation 220; OR~~
 - *b). because an essential safety measure (ESM) is specified in relation to a building or place in –
 - *(i) ~~an occupancy permit under regulation 194 (complete table 2 below); OR~~
 - *(ii) a maintenance determination under regulation 215 (include date/s below)
- [*delete either 'a' or 'b' above]
[*if 'a' is deleted, delete 'i' or 'ii' if either is not applicable]

Occupancy permit number	Date of occupancy permit/s or maintenance determinations
1234/000001/0	1 May 1996
Maintenance Determination	2 March 2020
Maintenance Determination	5 June 2021

Table 2 – Details of Occupancy Permit/s (where issued on or after 1 July 1994) and Maintenance Determination/s

How to update a MS (cont)

Include the requirements of the new MD in Table 3 of the MS (if it is included in Table 2 of the MS).

The owner of the building and/or place must ensure that each ESM listed below:

- performs at the level to fulfil its purpose as specified; and
- is inspected, tested and maintained in accordance with the requirements specified below.

Essential Safety Measures <i>List all ESMs specified in an occupancy permit or maintenance determination in chronological order according to the date on which each ESM was required to be provided</i>	Date of occupancy permit or maintenance determination for which the ESM is specified in an occupancy permit or maintenance determination relating to the building and/or place. <i>Insert date that each ESM was required to be provided in chronological order</i>	Document or legislation which lists ESM and the maintenance requirements for those ESMs relating to a building and/or place. <i>Insert occupancy permit no., maintenance determination date</i>	The level of performance that each ESM is required to achieve to fulfil its <u>purpose</u>	The frequency and type of maintenance, testing and inspections required for each ESM
Exit signs (including direction signs)	2/3/2020	Maintenance Determination 2/3/2020	BCA 2019 - EP4.2 Deemed to Satisfy	6 monthly, yearly, 10 yearly as per Appendix A, Table A1 to A6 of AS 2293.2-2019
Paths of travel to exits	5/6/2021	Maintenance Determination 5/6/2020	BCA 2019 - DP2 & DP6 Deemed to Satisfy	3 monthly inspection to ensure that there are no obstructions and/or unauthorised alterations.

Table 3 – ESMs for buildings/places completed on or after 2 June 2018

Essential Safety Measure	BCA or other provision to which ESM has been installed and is to operate	Frequency and type of maintenance required
Exit doors	BCA Section D	3 monthly <u>inspection</u> to confirm exit doors are intact, operational and fitted with conforming hardware.
Fire extinguishers (portable)	BCA E1.6, AS 2444	6 monthly, yearly, five yearly and after usage to AS 1851 - 2005
Fire indices for materials	BCA C1.10, AS 1530.3	Annual inspection to confirm no materials with potentially non-conforming fire indices occur
Fire rated control joints	BCA Section C	Annual inspection
Fire resisting structures	BCA Section C	Annual inspection
Penetrations in fire resisting structures	BCA Part C3	Annual inspection

How to update a Maintenance Schedule (cont)

Sign and date the last page of the MS.

Essential Safety Measure <i>To be maintained in a state which enables the essential safety measure to fulfil its purpose</i>
N/A
N/A

Table 5 – ESMs for buildings/places completed before 1 July 1994 (applies to Regulation 220 maintenance schedules)

Signature: X

Building Surveyor Name (Print): John Citizen

Date: 5/6/2021

How to prepare a Regulation 222(1) Maintenance Schedule

The RBS requests the owner provide OPs and MDs issued from 1 July 1994.

The ESM information on the OPs and MDs is transferred onto the MS to create a single document noting all ESM conditions.

Regulation 222(1) is a MS that consolidates maintenance requirements that have been previously documented.

How to prepare a Regulation 222(2) Maintenance Schedule

A Regulation 222(2) MS is a voluntary MS

List pre 1 July 1994 ESMS in addition to ESMs from 1 July 1994

The last Table (Table 5) on the MS Form is required to list pre 1 July 1994 ESMs.

Can be issued by a Building Surveyor other than the RBS.

Essential Safety Measure <i>To be maintained in a state which enables the essential safety measure to fulfil its purpose</i>
Building elements required to satisfy prescribed fire-resistance levels
Fire-protection at service penetrations through elements required to be fire-resisting with respect to integrity or insulation, or to have a resistance to the incipient spread of fire
Fire hydrant system (including onsite pump set and fire service booster connection)
Fire hose reel system

Table 5 – ESMs for buildings/places completed before 1 July 1994 (applies to Regulation 220 maintenance schedules)

Signature:X.....

Building Surveyor Name (Print): ...John Citizen.....

Date: ...5/6/2021.....

How to prepare a MS for a post 1 July 1994 building where some ESMs are not listed on the OP

An approach could be to issue the MD and MS based on the information in the MD and OP (even if you know that the OP contains omissions).

Notify the owner of this discrepancy and ask them to have the building surveyor who issued the OP add the missing ESMs to the OP, in some instances this will also require the MS to be updated.

Follow up with the owner to ensure that the OP & MS have been amended and updated if required (*and if not refer the matter to the VBA if the building surveyor is still registered*)

Alternatively, the MBS has the ability to amend the OP under Section 70 for reasons of it being in the public interest.

How to capture building work without a Building Permit on a MS

Typically remedial work will be required to bring the work into compliance. The remedial work could be carried out under a Building Permit or Building Order (as determined by the MBS)

Remedial work to the ESM/s carried out under a Building Permit should result in the RBS issuing a MD for the ESM/s. This would also require a MS to be issued by the RBS.

For remedial work to an ESM/s carried out under a Building Order issued by the MBS, the MBS would be required to issue the MD and MS.

Maintenance Schedule requirements for building work carried out on 1 storey of a 50 storey building

(worked example)

Regulations 218(2) and 222 reference that MS's relate to a building.

A MS is required to be prepared or updated for the entire building.

ESM considerations when issuing a Building Permit to replace cladding on a Type A or B building

(worked example)

Item 3 in Part 1 of Schedule 8 (Regulations) identifies the following as an ESM:

- *Elements required to be non-combustible, provide fire protection, compartmentation or separation*

This includes required non-combustible cladding.

Your Questions Answered



Your Questions Answered

QUESTION ONE – MAINTENANCE SCHEDULES

Can a Certificate of Final Inspection (CFI) be issued with a Maintenance Determination (MD) but without a Maintenance Schedule (where the owner does not fulfil their obligations under regulation 218(3) by not providing the information required to enable the MS to be created)?

Considerations:

Reg 218(2) specifies that the RBS **must** prepare or update a Maintenance Schedule (MS) if an ESM is specified in a MD (or occupancy permit).

Reg 218(3) requires the owner to provide the RBS all documents referred to in Reg 225 that relate to ESMs. This is required within **7 days** after request by the RBS.

Reg 221 nominates that the building surveyor who prepares or updates a MS must give a copy of the MS to the owner **without delay**.

Your Questions Answered

QUESTION TWO – MAINTENANCE SCHEDULES

Our office will be issuing a building permit for a new 30 storey office building with 90 tenancies. Our permit will be for the base building only, each tenant would be responsible for obtaining a building permit to cover their fitout works.

Upon issue of the Occupancy Permit, the owner enters into lease agreements with 40 separate tenants who each obtain a building permit for their works. The building permits are issued by 15 separate building surveying firms. All of the fitout works are completed within a 3 month period.

- 1. Which of the 15 building surveyors are responsible for preparing or updating a maintenance schedule (noting there will likely be multiple CFIs issued within the same week and potentially on the same day)?*
- 2. Will the maintenance schedule be usable after 10 years once another 50 building permits have been issued due to tenants coming/going?*

Conclusion

- A MD is a document issued by the RBS that specifies:
 - ESMs that are the subject of the determination
 - Level of performance that the ESM must achieve
 - Frequency and type of inspection, testing and maintenance
- Alterations to ESMs now require a MD to be issued (where an OP is not issued) and a MS to be prepared or updated.
- A MS is a consolidated list of ESMs and their maintenance requirements which are specified in an OP or MD and it can also list pre 1 July 1994 ESMs.
- A MS can be created or updated by a Building Surveyor.
- A MS is a document of convenience that notes ESM conditions on a single document.
- The owner, occupant, maintenance contractors, building surveyor, Fire Rescue Victoria and the VBA have responsibilities with ESM requirements.

Questions & Answers



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