

## Building Practice Note BP 11 | Report and Consent

### Audience

The audience/s for this Practice Note include/s:

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Architects / Designers          | <input checked="" type="checkbox"/> Owner Builders                  |
| <input checked="" type="checkbox"/> Builders                        | <input type="checkbox"/> Plumbers                                   |
| <input checked="" type="checkbox"/> Building Surveyors / Inspectors | <input type="checkbox"/> Real Estate Management Agents              |
| <input type="checkbox"/> Engineers                                  | <input type="checkbox"/> Trades and Maintenance (inc. Electricians) |
| <input type="checkbox"/> Home Owners / Residential Tenants          | <b>Other</b>  |
|   | <input checked="" type="checkbox"/> Council Officers                |
|   | <input checked="" type="checkbox"/> Fire Brigade                    |

### Purpose

This Practice Note clarifies the requirements in obtaining a report and consent where building work may affect assets or infrastructure of service authorities, to comply with the Building Act 1993 and the Building Regulations 2018.

The content below provides guidance on:

- Report and Consent
- Who is defined as a reporting authority
- When is a report and consent required
- Building permit amendments and report and consent requirements
- Occupancy permits and report and consent requirements
- Fees and time limits
- Roles and responsibilities
- Decisions on applications
- Appeals

### Abbreviations & Definitions

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

- **Act** – Building Act 1993
- **BAB** – Building Appeals Board
- **CFA** – Country Fire Authority
- **NCC** – National Construction Code 2022
- **DtS** – Deemed-to-Satisfy Provision of the NCC
- **FDCIE** – Fire Detection Control and Indicating Equipment
- **FRV** – Fire Rescue Victoria



- **NCC** – National Construction Code 2022
- **Regulations** – Building Regulations 2018
- **RBS** – Relevant Building Surveyor

## Report and Consent

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

## Who is defined as a reporting authority

Clause 7(2) of Schedule 2 of the Building Act 1993 (Act) prescribes that the RBS must consider any report of a reporting authority supplied under this Schedule before deciding the relevant application for a building permit. The prescribed reporting authorities are listed under regulation 30 of the Building Regulations 2018 (Regulations) and they are:

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

## When is a report and consent required

Schedule 5 of the Regulations describes the prescribed matters, where a report and consent are required to be obtained from the prescribed reporting authorities.

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

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



## Building permit amendments and report and consent requirements

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

If a report and consent was not required for the original design at the initial building permit stage, and there is a proposal to amend the design that triggers the requirement to obtain a report and consent of a reporting authority, then a report and consent must be obtained prior to the amendment of a building permit and the proposed building work.

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

### Non-compliant building work

If the building work has already been carried out, an amended building permit cannot be issued as an application for a building permit can only be lodged for proposed building work. If the building work does not comply, the RBS must consider the non-compliance through the direction to fix, building notice and order process. A building permit and/or report and consent cannot be issued after the work is carried out. It is recommended that the RBS seeks comments from the relevant reporting authority when addressing a non-compliant issue under the building notice and order process.

## Occupancy permits and report and consent requirements

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

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

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

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

## Fees and time limits

The maximum fees payable for report and consent applications to the relevant council are prescribed in regulation 36.

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

There are no prescribed fees for applications made to service authorities. Both the FRV and the CFA charge an hourly rate. For further information, contact the relevant fire authority directly.



## Roles and responsibilities

### Building Surveyor

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

The RBS must consider the report and consent of a reporting authority before deciding the application for a building permit. The RBS must ensure all documentation associated with the report and consent provided to the reporting authority is consistent with the building permit documentation.

### Incorporating recommendations of a prescribed reporting authority

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

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

Section 23 and 47 of the Act states the RBS must notify the reporting authority, including a prescribed reporting authority, without delay if a building permit or occupancy permit is issued and it differs from or fails to implement any recommendations in a reporting authority's report. In addition, this notification must include a copy of the building permit.

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

### Chief Officer

Section 3 of the Act defines the chief officer as either the Fire Rescue Commissioner of Fire Rescue Victoria or the Country Fire Authority.

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

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

### Council

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

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

## Decisions on applications

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

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

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



## Appeals

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

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

Appeals must be made within the prescribed period outlined in regulation 271. This must be accompanied by the application form, supporting information and the relevant fee.

### Example: Fire safety matter

Under the DtS provisions of the NCC 2022 Volume One Part E2, Clause E2D5 and Specification 20, a multistorey Class 3 hotel building requiring a combined automatic smoke detection and alarm system has Fire Detection Control and Indicating Equipment (FDCIE).

In the event of a fire, fire-fighting personnel attending site may find that they must ascend a flight of stairs and walk approximately 15m to the proposed FDCIE location. Due to the FDCIE not being located at the main designated entry point of the building, it is not compliant with AS 1670.1-2018, therefore a report and consent of the chief officer must be obtained prior to the issue of the building permit and proposed installation of a FDCIE in that particular location.

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

### Example: Design change requiring a new report and consent to be obtained

At the building permit application stage, the chief officer provided a report and consent under regulation 129 for a building permit involving a fire hydrant performance solution. During construction, an amended building permit was issued to include changes to the fire hydrant performance solution. However, during this process, the chief officer was not informed and consent was not obtained for the change.

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

## Related Documentation

- AS 1670.1-2018 Fire detection, warning, control and intercom systems - System design, installation and commissioning - Fire
- Building Act 1993
- Building Appeals Board
- Building Regulations 2018
- Building Practice Note BP-02: Requirements for amending a building permit
- Building Practice Note NO-01: Building Notices and Building Orders
- Building Practice Note NO-02: Directions to fix building work
- Minister Guideline MG-03: Involvement of adjoining owners in siting appeals
- Minister Guideline MG-12: Siting and design of a single dwelling



- National Construction Code 2022

### List of Amendments

- Updated NCC references
- Minor amendments to improve readability
- Update format and content review

### Document history

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<b>Category</b>	Building permits and other exemptions
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