

Practice Note 57-2020

Report and consent are required where building work may affect assets or infrastructure of service authorities.

This Practice Note provides guidance on:

- Who is a reporting authority?
- When is report and consent required?
- Report and consent requirements of amended building permits
- Non-compliant building work
- Fees and time limits
- Roles and responsibilities
- Appeals

Introduction

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 a reporting authority?

Reporting authorities are either prescribed reporting authorities or service authorities. Prescribed reporting authorities are the chief officer, a relevant council, a relevant service authority and a relevant electricity supply authority.

A service authority is a council, drainage authority, electricity supply authority, gas supply authority, sewerage authority and water supply authority.

When is report and consent required?

The circumstances where report and consent are required, and the relating reporting authority is outlined in Schedule 5 of the *Building Regulations 2018* (the Regulations).

Regulation 129 requires the report and consent of the chief officer when certain fire safety matters do not comply with the Deemed-to-Satisfy (DtS) requirements of the Building Code of Australia (BCA), or where bushfire safety matters do not comply with Regulations 160 or 161.

Regulation 130 requires the report and consent of a service authority to construct a building over an easement that is vested in the service authority.

Regulation 131 identifies that the relevant building surveyor (RBS) may require a report from the relevant electricity supply authority detailing whether a substation is necessary, however this is only for Class 2 – 9 buildings.

Regulation 132 requires a report and consent of the relevant council to be obtained to an application for a building permit if the proposed building work would require the installation or alteration of a septic tank system or the

construction of a building over an existing septic tank system. It is recommended to contact the environmental health department of the relevant council for advice on whether there is a requirement due to proposed building work.

Part 5 of the Regulations requires a report and consent to be obtained where a design does not comply with a regulation. Refer to practice note PN-02-2018: Building Envelopes and Part 5 of the Building Regulations for circumstances where report and consent is not required due to a planning permit being in effect.

What happens when an amended building permit requires a report and consent?

Situations can arise where the design of building work is varied during the construction process and when this occurs, an amended building permit must be obtained before the work can be completed.

If a report and consent has not been obtained and aspects of the proposed design would trigger the report and consent of a reporting authority, then report and consent must be obtained.

Where a report and consent has been obtained and the variation might impact the original report and consent, a new report and consent must be obtained.

What happens when building work has already been carried out or is non-compliant?

If the building work has already been carried out, an amended building permit and/or report and consent cannot be issued.

If the building work does not comply, the RBS will need to consider the non-compliances through the building notice and building order process. It is recommended that the RBS seek comments from relevant reporting authorities to address non-compliance issues.

Fees and time limits

The maximum fees payable for each matter are prescribed in the Regulations.

There are no prescribed fees for applications made to service authorities. The chief officer charges an hourly rate and for further information contact Fire Rescue Victoria or the Country Fire Authority.

The time limits that report and consents must be provided by reporting authorities are outlined in the specific Regulations.

Building Surveyor: roles and responsibilities

The RBS must not issue a building permit unless the report and consent of a reporting authority is obtained. They must consider the report of a reporting authority before deciding the building permit. The RBS must give a copy of an application to each reporting authority within the prescribed time after they receive the application.

The RBS or applicant may obtain the report and consent. Where the applicant obtains the report and consent, they must forward a copy to the RBS, who should ensure all documentation provided to the reporting authority is consistent with the building permit documentation.

The RBS must implement the recommendations of a prescribed reporting authority in relation to prescribed matters.

The RBS is not required to implement the recommendations for non-prescribed matters; however, they must notify the reporting authority without delay if they issue a building permit which fails to do so. In these circumstances, a prescribed reporting authority has a right of appeal to the Building Appeals Board (BAB).

Chief officer: roles and responsibilities

In determining whether a satisfactory degree of fire safety has been achieved, the chief officer will not only consider the hydraulic aspects of the design that pertain to the prescribed matters, but also the proposed building characteristics, fire safety measures and any fire hazards prior to issuing a report. In most cases these designs are presented within a fire engineering report as a performance solution.

If the chief officer provides a report and consent at building permit stage under regulation 129, the report and consent must also be obtained at the occupancy permit stage under regulation 187. Where the construction differs in a way that impacts the design consented to at the building permit stage, the chief officer will not issue a report and consent at occupancy permit stage.

Council: roles and responsibilities

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.

Council may be required to consult with other authorities, such as in areas subject to flood, and it is not the applicant's role to consult on behalf of council.

The council must have regard to Minister's Guideline MG-03: Involvement of adjoining owners in siting appeals, which requires a council to seek the views of the adjoining property owner when an application is lodged for a reduction in setback requirements of Part 5 of the Regulations.

Councils should carry out the process of obtaining adjoining owner's comments as identified in MG-03 to ensure the process is transparent. When seeking comments, the council must be mindful of the time limits they have to consider the application and it is recommended this is clear in the correspondence from council to adjoining property owners.

Deciding an application

A reporting authority may offer a report that consents to an application, place recommendations on the consent, or refuse the consent.

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 recommendation.

Where a reporting authority refuses an application for consent, they must provide reasons for the refusal. An applicant has the right to appeal the decision to the BAB.

What if a reporting authority fails to supply a report or consent?

If a reporting authority, other than a council, does not inform the RBS or applicant of its consent or refusal within the prescribed period, it is considered to have consented to the proposal. The RBS may then proceed to decide an application without it being obtained.

If council does not inform the RBS or applicant of its consent or refusal of an application, it is deemed refused and an applicant may appeal to the BAB against council's failure to determine the application.

Appeals

Appeals can be made against a reporting authority for refusal of an application, conditions imposed, or failure to decide the application with a reasonable time.

Appeals must be made within the prescribed period to the BAB. This must be accompanied by the application form, supporting information and the relevant fee. For further information, visit www.buildingappeals.vic.gov.au or contact 1300 421 082.

Example: Fire safety matter

A fire indication panel (FIP) is not located in a position that it is clearly visible to fire-fighters and it is not readily accessible from the main building entry point.

Under the DtS provisions of Clause E2.2, a proposed Class 3 hotel building is required to have an automatic smoke detection and alarm system complying with Specification E2.2a of the BCA, which necessitates the installation of a FIP. Due to the raised level of the reception area of the building, when fire-fighters enter the building at street level, they cannot determine the location of the FIP at the main building entry point. They must ascend a flight of stairs and walk approximately 15m to the FIP location, next to proposed hotel reception desk location. As the proposal does not comply with the DtS Provisions, the report and consent of the chief officer must be obtained.

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

Example: Building over an easement

An application for a building permit has been lodged for a warehouse development. The title shows an easement running along the side boundary of the allotment. The office section of the warehouse is proposed to be built over the easement.

The title shows the easement is vested in the interest of council for drainage and sewerage. Before a building permit can be issued, a report and consent must be obtained from council and the relevant water authority.

Related Documentation

- Building Act 1993 (VIC), Version no 124: Part 3- Building Permits
- Building Regulations 2018 (VIC), Version no 010: Part 4- Builder Permits & Schedule 3

Contact Us

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