

The Building Permit System in Victoria

Who can issue a Building Permit?

Prior to 1 July 1994 building permits and approvals could only be obtained from the local council, which was then responsible for carrying out all building work inspections etc.

Since the introduction of the Building Act on 1 July 1994, property owners have had a choice as to who can carry out building permit services and functions - Council (through the municipal building surveyor) or any one of many private building surveyors.

Whereas a municipal building surveyor is an office required by, and answerable to, the council, a private building surveyor is a fully independent person not associated with or controlled by the Council.

An application for a building permit (and therefore the choice of building surveyor) can only be made by the owner of land or a person acting as an agent of the owner. This is often a professional such as the architect, draftsman or builder. A person acting as the owner's agent must, however, have the written authority of the owner to do so.

The building surveyor who issues the building permit (whether private or municipal) is generally responsible for ensuring that the building work complies with the requirements of the Building Act 1993 and the Building Regulations 1994. The Building Act contains provisions to promote that only one building surveyor carries out the required functions in regards to issuing permits and carrying out inspections. That building surveyor may, however, engage qualified and registered building inspectors to carry out the building inspections during the course of construction.

A municipal building surveyor or a private building surveyor appointed to issue a building permit in respect of particular building work has power to enforce compliance with the Building Act and Building Regulations through various methods including issuing building notices and orders.

A person who fails to comply with a building order can be prosecuted in the Magistrates Court. Where a private building surveyor issues a building order but it is not complied with, they are required to refer the matter to the Building Commission.

The Building Commission

The Building Commission is the peak statutory body in Victoria dealing with building work and has a number of statutory functions and powers including (but not limited to):

- Collecting the building permit levy (a levy payable for any building work valued in excess of \$10,000)
- Conducting reviews of the Building Act and the Building Regulations and advising the Minister for Planning on amendments to improve the Building Act and Building Regulations
- Promoting better building standards
- Providing information and training to assist people carrying out functions under the Building Act or the Building Regulations
- Prosecuting breaches of the Building Act or Building Regulations

- Issuing directions to building surveyors requiring them to carry out their functions in accordance with the Building Act
- In certain circumstances (including when a private building surveyor has referred a matter to it), exercising the powers of a municipal building surveyor which may, but does not necessarily, entail the carrying out of work required to bring about compliance with a building order.

The Building Commission carries out investigations into alleged breaches of the Building Act and Building Regulations in addition to investigating issues of conduct with respect to registered building practitioners (including building surveyors, building inspectors, engineers and builders). The Building Commission may refer such conduct issues to the Building Practitioners Board for a disciplinary inquiry if it believes there is sufficient evidence to do so.

The Building Practitioners Board

The Building Practitioners Board has three principal functions:

1. To administer the registration system for building practitioners being builders (including demolishers), building surveyors, building inspectors, engineers and draftspersons
2. To make recommendations to the Minister of Planning regarding the qualifications for registration
3. To supervise and monitor the conduct and ability to practice of registered building practitioners.

The supervision and monitoring of conduct is largely carried out through the holding of disciplinary hearings (Inquiries) into the conduct of building practitioners following either a direct complaint from a member of the public or a referral to the Building Practitioners Board by the Building Commission.

The Building Practitioners Board, on finding a building practitioner guilty of misconduct may (amongst other penalties), fine that practitioner or suspend or cancel that practitioner's registration.

Local Government

Council is responsible by section 212 of the Building Act to administer and enforce specified parts of that Act and the whole of the Building Regulations 1994 within its municipal district. As with many other responsibilities, Council has the ability to determine, through the adoption of policies, how it will carry out these functions having regard to competing obligations and limited resources. Policies have the benefit of establishing priority as to how to best serve and protect the public.

The Building Control Intervention Filter Criteria (BCIFC)

The BCIFC is a Council policy for dealing with complaints regarding building work where a private Building Surveyor has been appointed.

The BCIFC allows for a range of actions by Council depending on the nature of the complaint. This may include referring the complainant directly to the private building surveyor, taking direct intervention action or referring the matter to the Building Practitioners Board for inquiry or to the Building Commission for investigation.

Members of the public can also make complaints regarding a building practitioner direct to the Building Commission or the Building Practitioners Board.

For further information on building control functions, services, policies and the current system contact Councils Building Service unit on 8470 8899 or visit www.darebin.vic.gov.au/building.

Further information on the Building Commission and the Building Practitioners Board can be obtained from:

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9285 6400
www.buildingcommission.com.au