

Private Building Surveyor Intervention Policy

Version: 1

Date adopted: Adopted 6 September 2016

Responsible Department: Building Services

Related policies: Nil

Purpose

To set policy as to (1) how and when Council and its Municipal Building Surveyor will respond to building control matters where a private building surveyor has been appointed and is responsible to carry out functions under the Act and (2) when matters will be referred to the Victorian Building Authority and/or Building Practitioners Board for their administration and enforcement of the Building Act 1993.

This policy has adopted Municipal Building Control Intervention Filter Criteria Guidelines 2015, developed by Victorian Municipal Building Surveyors Group.

1. Definitions

Council	means Casey City Council, being a body corporate constituted as a municipal Council under the Local Government Act 1989
Councillors	means the individuals holding the office of a member of Casey City Council
Council officer	means the Chief Executive Officer and staff of Council appointed by the Chief Executive Officer.

2. Scope

- To direct matters/complaints to appropriate bodies;
- To manage risk and provide accountability in building control;
- To stem unnecessary Council liability;
- To provide consistency and transparency of Council's approach in the administration and enforcement of the Building Act;
- To deter wayward practitioners by threat of referral to the Building Practitioners Board and/or Victorian Building Authority for disciplinary or directive actions.

Council policy documents change from time to time and it is recommended that you consult the electronic reference copy at www.casey.vic.gov.au/policiesstrategies to ensure that you have the current version. Alternatively you may contact Customer Service on 9705 5200.

3. Context

Council has the responsibility of enforcement and administration of specified parts of the Building Act and the whole Building Regulations however it does not have the necessary powers to require private building surveyors to carry out their duties under the Building Act.

The Victorian Building Authority is a state statutory authority which has various powers under the Act to intervene in circumstances where a private building surveyor is appointed. Some of these powers include the ability to issue directions to the private building surveyor, enforce orders made by the private building surveyor, prosecute persons for noncompliance with orders issued by the private building surveyor in addition to being able to utilise all the powers that a municipal building surveyor has in certain circumstances. The Act states that monitoring and enforcing compliance with the Act and Regulations is a function of the Victorian Building Authority.

Council frequently receives complaints from members of the public regarding building work that is being or has been carried out, for which a private building surveyor has been appointed. The complaints may vary from concerns over real risk of danger to persons or property to matters relating to the sitting of buildings and/or structures and administrative errors.

The handling of these complaints can be complex and represent a significant expenditure of Council resources. In this regard this policy has been prepared in dealing with complaints relating to building work where a private building surveyor has accepted responsibilities under the act to issue a building permit for the building work.

4. Policy

This policy incorporates as a guideline the Municipal Building Control Intervention Filter Criteria Guidelines (latest adopted version), prepared by the Victorian Municipal Building Surveyors Group and attached to this document as Appendix A.

5. Administrative Updates

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively. Examples include a change to the name of a Council department, a change to the name of a Federal or State Government department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be by resolution of Council.

6. Review

The next biennial review of this document is scheduled for completion by 30 September 2018, or earlier as required.

Building Control Intervention Filter Criteria

Attachment A – Private Building Surveyor Intervention Policy

Prepared by the Victorian Municipal Building Surveyors Group 2015

STEP 1 – Determine the possible consequences of the matter being complained of:

Table E1 Qualitative measures of consequence or impact

Level	Descriptor	Example detail description
1	Insignificant	No injuries, low financial loss, no detriment to health, no damage to property, siting
2	Minor	Injury (self-treatable e.g. minor cuts or abrasions), medium financial loss, minimal detriment to health, minor damage to property.
3	Moderate	Injury (medical treatment required by other), high financial loss, moderate detriment to health, moderate damage to property.
4	Major	Serious non-permanent injury, major financial loss, major detriment to health, major damage to property.
5	Catastrophic	Permanent injury or death, huge financial loss, irreparable damage to property.

Building Control Intervention Filter Criteria (Con't)

STEP 2 – Determine the likelihood of the event in Step 1 occurring

Table E2 Qualitative measures of likelihood

Level	Descriptor	Description
A	Almost certain	Is expected to occur in most circumstances
B	Likely	Will probably occur in most circumstances
C	Possible	Might occur some time
D	Unlikely	Could occur at some time
E	Rare	May occur only in exceptional circumstances

STEP 3 – Locate the issue on the risk matrix by comparing the likelihood to the consequence

Table E3 Qualitative risk analysis matrix – level of risk

Likelihood	Consequences				
	Insignificant 1	Minor 2	Moderate 3	Major 4	Catastrophic 5
A (almost certain)	M	M	E	E	E
B (likely)	M	M	H	E	E
C (Possible)	L	M	H	H	E
D (unlikely)	L	L	M	H	E
E (rare)	L	L	M	H	H

Building Control Intervention Filter Criteria (Con't)

STEP 4 – Identify action to be taken

Table E4 Legend for Risk Analysis Matrix and Treatment

E	Extreme risk: immediate action required	Refer to PBS without delay*	Council/MBS takes immediate action to suitably reduce risk**	If there is evidence of conduct by any building practitioner such that a finding under section 179(1) of the Building Act 1993 could be made by the Building Practitioners Board the matter, with supporting evidence, may be referred to that Board for Inquiry.
H	High risk, attention needed in reasonable time	Refer to PBS without delay*	Council/MBS takes action if PBS is not taking action to suitably reduce the risk within reasonable time	
M	Moderate risk, treatment by PBS	Refer to PBS without delay*	No other action by Council/MBS	If there is a suspicion that any practitioner has engaged in conduct that may amount to illegal conduct or conduct as set out in section 179(1) of the Act the matter may be referred to the Victorian Building Authority for investigation;
L	Low risk, manage by referral	Refer to PBS without delay*; or, Refer complainant to PBS without delay	No other action by Council/MBS	AND if it is necessary to do so for the proper administration of the Act, may refer the matter of RBS to the Victorian Building Authority for the exercise of its directive powers under s205M of the Building Act 1993.

When the MBS forms an opinion that an emergency order is required then these matters are automatically 'Extreme Risk' (see notes on emergency orders on next page)

*Consider the privacy of the complainant when referring the matter to the PBS.

** s89(1) The Victorian Building Authority, on the application of an owner or adjoining owner may declare that emergency protection work is required in respect of a particular adjoining property.

STEP 5 – Take the action as required by the matrix

Emergency Orders

An emergency order may be issued pursuant to section 102, Division 1, Part 8 of the Building Act. Section 102 provides an MBS with the power to deal with urgent safety matters in a timely and efficient manner.

An emergency is not an essential condition for the issuing of an emergency order. However, the heading of Division 1, Part 8, “Emergencies”, does give some guidance as to the context in which the words in that Division are to be interpreted.

An emergency order should be used where, in the circumstances described in section 102, the MBS forms the view that there is a danger to life or property. Typically, an emergency order should be issued where there is a sense of urgency in the situation and immediate action is warranted. It should be noted that a building notice under section 106 cannot compel the owner or occupier to take immediate action.