

# Regulatory impact statement

## Building Regulations 2017

Overview

May 2017

## Acknowledgements

The Department of Environment, Land, Water and Planning (the department) acknowledges its responsibility for this regulatory impact statement (RIS) that sets out the proposed Building Regulations 2017 and the supporting argument for those Regulations.

This RIS has been prepared for the express purpose of supporting the proposed Building Regulations 2017 and other potential uses of the information contained in the RIS has not been a consideration in its development. The information contained in this RIS has not been subjected to an audit or any form of independent verification.

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Acronym	Name
Act, the	<i>Building Act 1993</i>
BAB	Building Appeals Board
current Regulations	Building Regulations 2006
department, the	Department of Environment, Land, Water and Planning
ESM	Essential safety measure
NCC	National Construction Code
NPV	Net present value
PoPE	Place of public entertainment
proposed Regulations	Building Regulations 2017
RBS	Relevant building surveyor
RIS	Regulatory impact statement
VBA	Victorian Building Authority

#### *Abbreviations for Acts and Regulations*

Abbreviation	Name
Part(s)	Pt(s)
Regulation(s)	Reg(s)
Section(s)	S(s)

# Introduction

## How Victoria's building industry regulatory system works

Victoria's building industry is a major part of the state's economy. It employs 9% of the workforce and in 2015–16 generated \$31.496 billion in building work. It's vital to have a strong, performance-based legislative and regulatory framework that helps the industry stay strong and resilient, and keeps Victorians confident in the products and services it provides.

Sadly, in recent years, reports by the Victorian Auditor-General and the Victorian Ombudsman have found performance problems that have made domestic building consumers less confident about the industry. The reports also identify a range of poorer-quality outcomes for them.

Victoria's building industry is regulated by the *Building Act 1993* ('the Act'), the Building Regulations 2006 (the 'current Regulations') and the National Construction Code (NCC) 2016. The Act's objectives relating to buildings are to:

- protect the safety and health of people who use buildings and places of public entertainment (PoPEs)
- enhance the amenity of buildings
- facilitate the adoption and efficient application of national building standards
- facilitate the cost-effective construction and maintenance of buildings
- facilitate the construction of environmentally and energy-efficient buildings
- aid the achievement of an efficient and competitive building industry.

Information asymmetry – one party having greater information, knowledge and experience than the other – can be a big issue for consumers in the noncommercial building sector: they tend to be less able than building practitioners to make informed decisions about the advice builders provide, to assess the quality of their work and to make informed decisions about health and safety considerations, especially if they are a third party (such as someone renting a house or office). Moreover, defects in a building may only become apparent years after it is built. Consumers may get help from private agents (which represent consumers) and industry associations (which provide information and identify quality builders) but may not use, trust or be able to afford them. Addressing information asymmetry is a major reason for government regulation of the building industry.

## The government's building industry reform agenda

The Victorian Government is undertaking a sunset review of the Building Regulations 2006 in accordance with the *Subordinate Legislation Act 1994*. Regulations 'sunset' (that is, they expire) every 10 years so they need to be reviewed and remade.

In February 2016, the current Building Regulations 2006 were extended to apply till 5 June 2017. Interim Regulations are being prepared to extend these Regulations until 5 June 2018. This is to make sure we have enough time to consult widely with stakeholders on the Building Regulations 2017 ('the proposed Regulations') before finalising them. However, the government intends to make replacement Regulations well ahead of the June 2018 expiry of the interim Regulations.

This sunseting process is just one step in the government's broader building industry reform program. To address the problems identified and improve the industry's performance, the Victorian Government has been changing the industry's regulatory framework with new Acts, new and reviewed Regulations and many other actions.

Table 1 shows the main steps in this process so far and in the next few years.

**Table 1: Victorian Government's building industry reform agenda key steps**

When	Step
February 2016	The Subordinate Legislation (Building Regulations 2006) Extension Regulations 2016 made, to extend the current Regulations to 5 June 2017
April 2016	<i>Building Legislation Amendment (Consumer Protection) Act 2016</i> enacted: current Regulations amended
11 May 2017	Building Amendment (Enforcement and Other Measures) Bill 2016 passed by parliament and will commence after Royal Assent
18 May–18 July 2017	Public consultation on the proposed Regulations
4 June 2017	Interim Regulations are being prepared to take effect and replace the Building Regulations 2006
5 June 2017	Current Regulations (Building Regulations 2006) sunset
1 July 2017	Remaining changes under the <i>Building Legislation Amendment (Consumer Protection) Act 2016</i> and consequential Regulations will commence
Mid–2017	The department commences work with the assistance of the Victorian Building Authority (VBA) to develop an evaluation strategy, in consultation with stakeholders
2017–18	Evidence improvement project starts
2017–18	The department begins to produce at least two policy papers on priority topics a year for three years
2018–19	Review of council, VBA and Building Appeals Board (BAB) fees starts
5 June 2020	New fee Regulations in place
2022	Midterm evaluation of proposed Regulations

In April 2016, the *Building Legislation Amendment (Consumer Protection) Act 2016* introduced new processes for resolving domestic building disputes and aimed to make regulation of building practitioners stronger, by:

- improving dispute resolution processes, so issues are addressed early via mandatory conciliation and so dispute resolution, if it's needed, is simpler and costs consumers and builders less
- giving VBA power to make builders fix noncompliant or defective building work
- bringing together regulator functions in VBA so it can regulate, register and discipline building practitioners, and monitor and enforce compliance with the Act and Regulations
- putting a time limit and conditions on registration
- introducing improved and timely disciplinary processes and new disciplinary sanctions.

The current Regulations were also amended in 2016 to give effect to the new Act.

Some changes under the amending Act don't apply until 1 July 2017. The department is in the process of amending some Regulations and developing new ones to give effect to these changes, and it will test the amendments with the Building Regulations Advisory Committee and relevant stakeholders. Amendments consulted on will include updating the building practitioner categories and classes and qualifications. These amendments must be considered through a separate process, because regulation-making powers under the amending Act don't commence until after the current Regulations expire on 5 June 2017.

In December 2016, the government introduced further reforms into parliament in the Building Amendment (Enforcement and Other Measures) Bill 2016 to:

- make information for consumers better-quality and more-available
- reform practitioner registration including corporate registration and have personal and financial probity requirements
- make regulation of building surveyors more flexible
- make transfers of appointed building surveyors easier
- publish building practitioners' registration and disciplinary history information
- reform the building permit system and building permit levy
- make the builder named on the building permit responsible for compliance
- introduce new indictable offences
- better regulate building inspections so consumers can be confident the person who inspects the building work is qualified to do so
- give VBA and councils stronger entry and information-gathering powers
- clarify how councils administer and enforce the Act
- reform building notice and building order provisions.

Further amendments will be made to the building Regulations after this Bill receives Royal Assent and comes into operation.

The Regulations will also continue to be amended to respond to emerging issues: for example, the recent amendments to require sprinkler protection on balconies in response to concerns regarding fire risk in high-rise residential buildings. A discussion of the costs and benefits of extending sprinkler protection to small balconies in high-rise buildings is included in the regulatory impact statement (RIS) and the department will conduct further analysis as part of the midterm evaluation.<sup>1</sup>

## ***How we decided areas to focus on and options to assess***

### ***Consultations***

The *Victorian Guide to Regulation* says, 'in order to replace sunseting regulations, it is important to provide a strong and clear demonstration that any restriction imposed by the regulation is still required'.<sup>2</sup>

In 2014, in anticipation of the current Regulations sunseting and to find out what the industry thought should happen next, the department called for submissions from interested people and organisations about the Regulations they thought worked well and about what they thought could be improved or added or removed.

We received 374 submission points about the current Regulations from 44 stakeholders including peak industry bodies, fire authorities, councils and building practitioners. We did not get submissions from consumers or consumer groups but we did consult with the Building Regulations Advisory Committee,<sup>3</sup> a member of which represents the interests of users of building practitioners' services.

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<sup>1</sup> RIS Part B Appendix C discusses sprinklers on balconies.

<sup>2</sup> Victorian Guide to Regulation, Toolkit 3: Requirements and processes for making subordinate legislation (p. 25), Department of Treasury and Finance, December 2014 available at <http://www.dtf.vic.gov.au/publications/victoria-economy-publications/victorian-guide-to-regulation>.

<sup>3</sup> The committee's role is explained in RIS Part A Ch 1.2.1.

The industry told us it acknowledges the value of regulation and thinks it should continue, and that the current Regulations work well overall. There was, however, also feedback that some things need to be reviewed and refreshed, for instance concerning PoPEs, and that we need to consider a more risk-based approach to regulation.<sup>4</sup>

Submissions also pointed out opportunities to reduce some red tape. So, we have already amended the current Regulations to:

- align building permit timeframes for swimming pools or spas and their barriers or safety equipment with those of any other building work being done on the property<sup>5</sup>
- enable building owners to maintain fire-related essential safety measures (ESMs) in line with the most current technical standard<sup>6</sup>
- better align siting requirements across council planning schemes for irregular-shaped blocks.<sup>7</sup>

As well as the consultations, we reviewed 673 pieces of relevant ministerial correspondence. Table 2 shows the issues raised most commonly in submissions and ministerial correspondence.

**Table 2: Issues raised most commonly by interested parties**

Stage	Submissions	Ministerial correspondence
Design	<ul style="list-style-type: none"> <li>• building permits</li> <li>• report and consent</li> <li>• mandatory notifications for stages of building work</li> </ul>	<ul style="list-style-type: none"> <li>• report and consent</li> <li>• construction requirements associated with bushfires</li> <li>• stormwater drainage</li> </ul>
Construction	<ul style="list-style-type: none"> <li>• qualifications</li> <li>• protection work</li> </ul>	<ul style="list-style-type: none"> <li>• building work on adjoining property (particularly in relation to residential development and protection work)</li> <li>• prescribed qualifications</li> <li>• energy efficiency</li> <li>• owner-builder requirements</li> </ul>
Completion / use	<ul style="list-style-type: none"> <li>• ESMs</li> <li>• PoPEs</li> </ul>	<ul style="list-style-type: none"> <li>• swimming pool barriers</li> <li>• disputes about defective building work</li> </ul>

## ***Our process to develop the proposed Regulations***

Using the feedback from stakeholders and correspondence, we:

- developed and implemented a plan to identify and collect data about how the Regulations were working<sup>8</sup>
- conducted a risk and impact assessment to examine the problems the Regulations address to see if the problems still needed Regulations
- if they did, we identified and analysed options to determine the best way to address the cause of the problem and to see if regulation was justified
- prepared position papers to guide further consultation with stakeholders.

<sup>4</sup> RIS Part B looks at this.

<sup>5</sup> Building Amendment (Construction of Swimming Pools and Spas) regs Regulations 2016 S.R. No. 104/2016.

<sup>6</sup> Building Amendment Regulations 2016 S.R. No 33/2016.

<sup>7</sup> Building Amendment (Siting Requirements) Regulations 2016 S.R. No. 49/2016.

<sup>8</sup> Changes to the NCC (except for state-specific variations) need a national regulatory impact assessment, so the RIS only looks at state-specific variations that apply in Victoria since 2006.

Overall, the process showed there is a risk existing problems will continue and new problems arise without government intervention, and the department considers that the proposed Regulations are the best way to address those problems.

When assessing problems and options, we:

- carried over Regulations we considered low-impact or mechanical in nature<sup>9</sup>
- set aside for the midterm evaluation options for which there wasn't enough data to accept or reject option, but which could be worth investigating further
- did not assess options that would need changes to the Regulations affected by the *Building Legislation Amendment (Consumer Protection) Act 2016* and Building Amendment (Enforcement and Other Measures) Bill 2016, as these Regulations will be developed separately.

Consultants for the department conducted cost-benefit analyses of the proposed Regulations about siting and amenity controls and about swimming pool and spa safety barrier requirements.

These showed the proposed Regulations for siting requirements would result in net benefits of \$170.6 million NPV (net present value) over 10 years by removing the need to obtain a planning permit for single dwellings. The analysis for the proposed Regulations for swimming pool and spa safety barrier upgrade requirements resulted in net costs — between \$105.8 million and \$210.8 million NPV over 10 years — but the department proposes to introduce them because they respond to Coroners' recommendations, they respond to drownings and near drownings and there will be benefits moving from having three to one applicable standard.

We assessed options in other areas with a mix of break-even analysis and professional judgment. The RIS gives the calculated break-even points<sup>10</sup> and an explanation of why the department considers them achievable, and that it expects the Regulations to result in net benefits (although in some cases there isn't the data to confirm or contradict this expectation).

The major changes proposed to the Regulations that had a break-even analysis were to:

- require a maintenance schedule for ESMs in existing buildings in certain circumstances, estimated to cost \$301.8 million–\$441.9 million NPV over 10 years, which we propose as we anticipate a reduction in financial costs due to a reduction in the severity of fires and the avoidance of fatalities if buildings have ESMs that are tested regularly and well-maintained
- increase the number of mandatory notification stages, estimated to cost \$743.2 million–\$1,202.1 million NPV over 10 years, which we propose as we anticipate (based on emerging evidence gathered by VBA as part of its research into failures in the built environment) that building defects picked up by existing mandatory inspections will fall 7–28% and the extra stages will pick up another 6% of high-risk, high-cost defects. However, given uncertainties about the data, the department will work with owners' corporations and other stakeholders through the evidence improvement project to collect further evidence of the costs and benefits of the proposed changes.

Other Regulations assessed include building permit requirements, reporting authority approvals, protection work, occupancy permits and certificates of final inspection, and PoPEs. The estimated costs for these range from \$10.9 million NPV over 10 years for PoPEs to between \$175.4 million–\$182.4 million NPV over 10 years in relation to building permit requirements

We limited consideration of options about building practitioner registration to remaking the current Regulations with some minor variations (about prescribing application forms and other application documents and requirements). Our judgement was this change will not change costs or benefits but will make the process for seeking registration as a building practitioner more transparent. As noted above, further changes to registration are being considered as part of a separate process.

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<sup>9</sup> Marked as updated in Part A Appendix A.

<sup>10</sup> Part A Chapter 3.3.

# Navigating the regulatory impact statement

The RIS explains what the department found and what we propose to do. It has three parts, plus this Overview.

Use Part A for more information about:

- how Victoria's building industry regulatory system works
- how we decided areas to focus on and options to assess
- the main changes to the Regulations
- a summary of the cost-benefit and breakeven analyses
- how the Regulations affect competition and small business
- monitoring and evaluation of the proposed Regulations.

Part A Chapter 5 also compares the current and proposed Regulations regulation-by-regulation.<sup>11</sup>

Use Part B<sup>12</sup> for more information about:

- areas we decided to focus on, for the design, construction and completion / use phases, and for fees
- explanations of issues and problems in each area
- options we assessed for each area
- our assessment of the options and conclusions
- other topics that arose.

Use Part C<sup>13</sup> for more information about:

- explanations of issues and problems relating to building practitioner registration
- options we assessed
- our assessment of the options and conclusions
- other topics that arose.

The proposed Regulations are provided separate to and published with the RIS.

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<sup>11</sup> Part A Chapter 5 Regulation change summary.

<sup>12</sup> PricewaterhouseCoopers (PwC) prepared Part B.

<sup>13</sup> Regulatory Impact Solutions Pty Ltd prepared Part C.

# Main changes to the Regulations

Here, in summary, are the main changes proposed to the Building Regulations 2006.

## Design

- **Minimise the documentation required:** a RBS would make a professional judgment about what documents they need to assess each permit application.
- **Require fewer hard copies when documents are electronic:** the number of hard copies a RBS submits to a council and provides to an applicant would reduce from three to one.
- **Require more information to be reported to the VBA:** a RBS would provide more information about a building project to VBA.
- **Put more information on building permits:** a RBS would put more information about time limits, what happens when the permit lapses, performance solutions and other matters on the building permit.
- **Increase vertical clearances for some types of projections:** this would raise the minimum height clearance for a projection near or in the vicinity of pedestrian traffic (for instance, over a footpath) and for a projection near vehicle traffic (for instance, over a road).

## Construction

- **Tell owners and builders the building permit is about to lapse:** a RBS would send them each a notice the building permit was going to lapse in three months, if certain inspections hadn't happened. VBA and the council would also get a copy. The applicant could then ask the RBS for an extension to prevent their permit lapsing.
- **Provide more information with protection work notices:** so owners of adjoining property are better informed about the protection work process, how to resolve disputes, where the building work sits in relation to their property and how it will affect them.
- **Add three extra mandatory notification stages:** before covering walls, floors or ceilings (to check fire resistance and the structural integrity of the framework); before covering waterproofing in wet areas; and after completing any external / stormwater drainage system. This aims to reduce the high level of defects in some current building work.

## Completion / use

- **Make maintenance obligations and annual reporting requirements clearer:** by making requirements for pre- and post-1984 buildings the same, having standard forms for annual reports and maintenance determinations, and requiring a standalone maintenance schedule when an occupancy certificate is issued or changed or a maintenance determination issued.
- **Introduce new requirements for swimming pool and spa barriers:** all swimming pools and spas will be required to have a four-sided isolation barrier that complies with the most recent Australian standard (which may require owners of older pools and spas to bring them into compliance).

## Building practitioner registration

- **Remake the current Regulations with minor variations:** to introduce standard forms and to clarify documents to be provided with the application for registration.

- Other changes to practitioner registration arrangements that come into effect on 1 July 2017 are to prescribe and update building practitioner categories and classes, and update the qualifications required for registration.<sup>14</sup>

## Fees

- As there wasn't enough data on which to base new fee structures and levels, fees are being made for a three-year period only, during which time data will be collected about underlying costs, and fees will be reviewed in light of this information.<sup>15</sup> The changes below are proposed.
- **Keep fees for VBA and BAB services the same as they now are:** the department will review fees and the VBA will review how the government's building reform actions are changing its costs.
- **Move councils' fees closer toward full cost recovery, based on the information available:**<sup>16</sup> Table 3 shows councils' fees under the current and proposed Regulations.

**Table 3: Current and proposed council fees**

Type	Existing fee unit 2006 Regulations	Existing fees (\$2016–17)	Proposed fees (\$2016–17)	Proposed fee unit 2017 Regulations	Change %
Maximum fees for report and consent: <i>curr. reg 312</i>					
• demolitions: <i>prop. reg 44(1)</i>	4.60	\$64.12	\$80.29	5.75	25%
• siting, allotments and projections, building work in special areas: <i>prop. reg 44(2)</i>	18.43	\$256.91	\$273.45	19.61	6%
• protection of the public: <i>prop. reg (3)</i>	18.43	\$256.91	\$277.43	19.90	8%
Stormwater drainage: <i>curr. 610(2)), prop. reg 44(4)</i>	4.60	\$64.12	\$136.33	9.77	113%
Lodgement fee for works \$5,000 and above: <i>curr. reg 320, prop. reg 53(1)</i>	2.75	\$38.34	\$114.86	8.23	200%
Lodgement fee for works less than \$5,000	n/a	n/a	\$114.86	8.23	
Requests for information: <i>curr. reg 326, prop. reg 60</i>	3.67	\$51.16	\$44.54	3.19	-13%

Note: The actual fee level will be higher than the fees indicated in the table because the value of a fee unit for 2017–18 (\$14.22) will be 2% higher than the 2016–17 fees (\$13.94).

<sup>14</sup> Other changes to practitioner registration arrangements come into effect on 1 July 2017 as part of a separate process explained in RIS Part C.

<sup>15</sup> Part A Chapter 3.6.

<sup>16</sup> RIS Part B Chapter B4.4.

## *Retrofit requirements in the Regulations*

There are a number of regulatory changes in the proposed Regulations that may require owners of existing buildings to undertake building work to bring the building into compliance.

The proposed Regulations will require:

- owners of existing swimming pools and spas to upgrade their safety barrier constructed before 1 May 2010 to a four-sided isolation barrier that complies with the most recent Australian Standard: the cost of upgrading swimming pool barriers has been incorporated in the cost-benefit analysis
- owners of certain existing residential buildings who have failed to retrofit smoke alarms and sprinkler systems to their buildings will have to comply with the current requirements under the NCC.<sup>17</sup> This will only affect building owners who have not met the retrofit requirements since they were introduced in 2006.

Where an existing building is substantially renovated, the proposed Regulations will also require existing buildings to be brought into compliance with current building standards.<sup>18</sup> The current building standards that will need to be complied with in a building upgrade will include the proposed new vertical clearances for projections, designed to allow for vehicular traffic to pass.<sup>19</sup>

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<sup>17</sup> Part B Chapter B5.

<sup>18</sup> Part B Chapter B5.

<sup>19</sup> Part B Chapter 1.4.3.

# Monitoring and evaluation of the proposed Regulations

## *Your current and ongoing feedback*

The release of this RIS provides the opportunity for you to comment on the proposed Regulations, and the RIS includes a number of consultation questions to guide your feedback. The process of revising the current Regulations has also led us to identify other options for future consideration which appear throughout the RIS. These options may have merit but need more evidence to support them, so have not been included in the proposed Regulations. Instead, the department has included questions alongside these options and welcomes current and ongoing feedback. All consultation questions appear in parts B and C and are consolidated at the end of this Overview.

While the department is yet to decide the formal process for gathering responses to the questions relating to the options for future consideration, it flags them as important questions that the evidence improvement project and midterm evaluation will seek to answer and which will be raised in ongoing discussions with building industry stakeholders. As always, the department also welcomes feedback on any other aspects of the proposed Regulations.

## *Evaluation strategy*

In mid-2017, the department will commence work with the assistance of the VBA to develop an evaluation strategy, taking account of submissions by stakeholders as part of this RIS process. The strategy will form the basis for the midterm evaluation.

The strategy will set out:

- the best-practice approach to collect evidence about the effectiveness of the Regulations for the evidence improvement project
- priority actions for the first year after implementation of the proposed Regulations
- the intended outcomes for the first three years after implementation of the proposed Regulations
- the evaluation methodology for the five-year review of the Regulations.

## *Monitoring the proposed Regulations*

In 2017–19, the department will monitor implementation of the proposed Regulations, to identify emerging issues that need a regulatory response before the midterm evaluation. We will also look at whether implementation of the Building Amendment (Enforcement and Other Measures) Bill 2016 calls for changes to the Regulations.

## *Evidence improvement project*

The evidence improvement project starts in 2017–18 with the department, VBA, councils, Office of the Commissioner for Better Regulation and other stakeholders working together to identify the baseline qualitative and quantitative data needed to assess the effectiveness of the Regulations and to identify any required changes. The project will result in a central body of qualitative and quantitative data everyone can draw on to evaluate the Regulations in future.

The project aims to set key performance indicators for data and evidence, find better ways to identify and collect relevant data and evidence, determine data management responsibilities, identify data gaps, agree on data collection protocols and develop consistent reporting mechanisms.

The project arises because there wasn't the data with which to evaluate some aspects of the current Regulations or to assess some changes stakeholders asked for. It will help get the data to assess regulatory options explained in the RIS under 'Other changes for future consideration'

## Review of VBA, BAB, council and reporting authority fees

In 2018–19, the department will start reviewing council and reporting authority fees for building permits, reports and consents, lodgement of documents and information requests; and VBA and BAB fees for applications for product accreditation, duplicate building practitioner certificates, appeal and review applications and site inspections. During this time VBA will finish reviewing its fee structure to take account of the impact of the reforms on the cost of carrying out its statutory functions. The new fee Regulations will be in place by 5 June 2020.

### Midterm evaluation

In 2022, in line with *Victorian Guide to Regulations* requirements, the department will conduct a midterm evaluation of the Regulations to determine the extent to which their objectives have been achieved and to identify any changes needed. Table 4 shows the main issues the proposed Regulations address, and the desired outcomes the midterm evaluation will look to see have been achieved.

**Table 4: Midterm evaluation issues and objectives**

Issues proposed Regulations address	Outcomes to test
Information asymmetry between the building industry; consumers; building owners; people who live, work in and use buildings; and regulators	<ul style="list-style-type: none"> <li>Fewer complaints and disputes about building practitioners and defective and/or noncompliant building work and buildings</li> </ul>
Long-term risks to the health and safety of building occupants that arises when building owners or building practitioners are motivated to reduce costs in the short term	<ul style="list-style-type: none"> <li>Less building work found to be noncompliant or defective by relevant building surveyors, municipal building surveyors and other regulators</li> </ul>
Low levels of compliance with maintenance requirements for existing buildings	<ul style="list-style-type: none"> <li>Greater accountability for maintaining ESMs</li> <li>Improving building owners' compliance with requirements to maintain ESMs and swimming pool barriers</li> </ul>
Reducing regulatory burden	<ul style="list-style-type: none"> <li>More efficient administration of building permits</li> <li>Less regulatory red tape for PoPEs without increasing risks to public health and safety</li> <li>Less regulatory red tape in the commercial building sector where information asymmetry is not a major concern</li> <li>Fewer planning approvals needed for single dwellings by making siting Regulations more effective</li> </ul>

## Consultation questions

### Building permit requirements – RIS Part B Chapter B1.1

#### Electronic lodgement

Submissions from stakeholders have focussed on the inefficiency of providing multiple hard copy documents, particularly where documents are also provided electronically. Should any hard copy submissions be required when an application is lodged electronically? Why or why not?

Are avoided cost estimates associated with no longer requiring hardcopies to be printed and submitted reasonable?

Are there additional costs not captured above that can be readily quantified?

#### Minor building work

Is the range of time savings expected to be realised by applicants for minor building work considered to be reasonable?

#### Additional information to be provided to VBA (costs)

Is the estimated increase in time taken to record and forward information to VBA for RBSs that enter this information manually considered to be reasonable?

#### Provide additional information in building permit

Is the assumption that RBSs will have additional information readily available to include in the building permit considered reasonable?

#### Additional information to be provided to VBA (benefits)

The department understands that it may take time for the building industry to update reporting systems to adjust to the new proposed requirements and anticipates that six months provides an appropriate lead-in time between the making of the Regulations and the requirement for compliance. In your view, is six months adequate? Why or why not?

#### Minor changes - Building permit applications

By requiring this information at the application stage for a building permit, do you consider that this will reduce delay costs for processing a building permit and determining compliance with other regulatory requirements?

In your experience, how does the determination of ESMs occur in practice? Would enabling the RBS to require such information at the permit application stage be of assistance to applicants and building surveyors? Why or why not?

#### Minor changes – issuing building permits

Do you consider that a positive obligation in the Regulations is required in order to ensure compliance with relevant legislation, or could this be better achieved through other means (such as a practice note)?

### Siting – RIS Part B Chapter B1.3

#### Single sheds

Should an exemption be introduced to allow the construction of a single Class 10a building (such as a shed) on vacant land, provided it does not exceed 10 m<sup>2</sup> in floor area?

Are there any other exceptions that should be specifically recognised that will not undermine the objectives of the siting and amenity provisions?

### Allowable encroachments into front setbacks

Should balconies and carports be permitted as allowable encroachments into setbacks in the same ways as pergolas, porches and verandas? If so why?

For this amendment to be adopted at sunset, the department will require sufficient evidence from councils to determine:

- how many reports and consents relate to these matters that are approved as a matter of course
- that the granting of these reports and consents is not resulting in increased complaints, disputes or negative externalities.

### **Satisfactory completion of building works – RIS Part B Chapter B2.1**

#### Time limits for completion of building work

Are the current time limits for the completion of building work appropriate? Should they be extended? If yes, what would be the appropriate time limit and what costs would this impose? Note the recent changes to the NCC that result in an update cycle of three years rather than one year.

#### Permit lapse reminders

To what extent do building surveyors proactively address the issue of lapsed permits? In your experience, what is the most common cause of lapsed permits and when do lapsed permits cause a problem?

#### Bonds

How often have you been required to pay a bond under s 22 of the Act by a RBS?

How much does it generally cost to do rectification works, when they are required?

### **Protection work – RIS Part B Chapter B2.2**

What are your views in relation to pt 7 of the Act? Is the intent of pt 7 still valid? Does it still achieve its original policy objectives?

Do you agree that the protection work Regulations and clear powers reduce delay costs?

Do you think the Regulations lead to protection work being undertaken only when it is necessary or does it sometimes lead to unnecessary work being undertaken?

#### Better informing adjoining owners at the earliest possible stage

Would requirements associated with Option 5.1 in terms of providing additional information to adjoining owners impose significant costs on building project proponents?

### **Requirements for inspections, directions, notices and orders – RIS Part B Chapter B2.3**

#### Building orders

How often are building orders issued? At what mandatory inspection stages are building orders most commonly issued? Is it difficult to comply with, amend or cancel a building order?

#### Mandatory notification compliance and use of discretion

How motivated are builders or building surveyors to ensure that inspections are carried out? Why?

How often do building surveyors conduct inspections outside of the mandatory inspection stages? Why does this occur?

To what extent would a lack of Regulations prescribing mandatory inspection stages impact the behaviour of building practitioners and RBSs? Would building practitioners continue to request inspections by RBSs to the same extent that currently occurs?

#### Issues identified during inspections

When undertaking inspections, how often are issues identified and what are those issues?

Is there any difference in the number of inspections that are undertaken:

- by a municipal building surveyor or a PBS?
- in relation to a commercial building project and domestic building work, is building work generally inspected more often than is required under the mandatory notification stages of the current Regulations?

Are estimated costs associated with a building defect considered reasonable? If not, can you provide estimates (including sources where possible) as well as any insight into whether the cost of defects differs materially across project types (for example, domestic versus commercial)?

#### Commercial building projects

For commercial building projects, do you consider that alternative building instruments (such as contractual arrangements) are sufficient to ensure defects are identified and rectified throughout the course of the project, or are mandatory inspections required?

What is your perspective of the risks associated with removing or reducing the scope of mandatory notification stages in the Regulations?

### **Occupancy permits / certificates – places of public entertainment – RIS Part B Chapter B3.2**

#### Occupancy permits for minor building work or building work that does not compromise the suitability of the building for occupation

Can you provide any specific examples where the costs of undertaking the permit process was more than the costs of building work? Were the risks associated with this building low?

What safety problems, if any, are posed by building work which is currently exempt from the permit process? What are these problems and when do they occur? Should such building work be required to have an occupancy permit? Why or why not?

#### Forms required for occupancy permits

Are the current information requirements of the occupancy permit and occupancy permit forms sufficient? Why or why not?

In practice, does a building surveyor require the same information to be annexed to each application for an occupancy permit for similar classes of buildings? If so, what is this information and how is it used? Would a checklist of documents to be annexed to an application for an occupancy permit assist applicants to compile the application in one go?

#### Costs for places of public entertainment and temporary structures

Are the estimated costs to apply for and obtain an occupancy permit for a PoPE or a prescribed temporary structure reasonable? Are there additional costs that should be captured?

#### Minor amendments for future consideration in relation to places of public entertainment

The department invites stakeholders to make a submission on the proposed amendments under consideration by the department and outlined in Table 5 in RIS Part B Chapter B3.2.3.

### Safety officers

What is the average number of qualified safety officers usually required under an occupancy for a PoPE at an event? Is this usually based on the number of people, the type of entertainment or the layout of a building?

### Public events in open spaces

Should the scope of the Regulations be reduced to remove the requirement to obtain an occupancy permit for a public gathering or event in a place? What places other than a building are occupancy permits for PoPEs issued for?

### Other consultation questions in relation to places of public entertainment that require amendments to Part 11 of the *Building Act 1993*

The department has reviewed the pre-RIS submissions and prepared a list of consultation questions, which will influence the focus of the midterm evaluation of PoPE requirements in Victoria. These are outlined in a Table in Section 9 of Part B of this RIS.

## **ESMs – RIS Part B Chapter B3.3**

### Approved forms for an annual report and maintenance determination

Do stakeholders expect that the introduction of approved forms for completing annual reports and maintenance determinations will lead to administrative savings?

Are the estimated savings applied in the analysis considered reasonable?

### Building types and maintenance schedules

Should a requirement to produce a standalone maintenance schedule be focussed on particular types of buildings or particular uses that may have less-detailed records on ESMs? For example, should this option target buildings built before 1994 due to the assumption that these buildings will have poor documentation of ESM maintenance requirements?

### Uniform pool and spa fencing requirements

Is three years sufficient time to implement the uniform four-sided isolation barrier upgrade requirements?

## **Fees – RIS Part B Chapter B4**

Do the fee amounts in Table 11 (in relation to council services) seem reasonable, given the activities that are involved to provide the services?

Is the assessment process different across different types of report and consent applications?

Is the cost to councils of approving multiple reports and consents the same as the costs for providing only one or two in relation to a building permit application?

## **Bushfire – RIS Part B Chapter B5**

### Private bushfire shelters

Should people only be able to construct accredited private bushfire shelters?

What are the costs of maintaining a private bushfire shelter? Should the maintenance requirements be retained?

Where are private bushfires being built? Should the report and consent of a chief officer be required to build a private bushfire shelter?

## **Exemptions – RIS Part B Chapter B5**

### Shipping containers

Noting the planning laws in place, how are shipping containers used as freestanding buildings for storage currently treated by building surveyors and councils?

### Decks

If a building permit exemption were introduced for decks, what dimensions or restrictions would be appropriate, having regard to safety issues? Stakeholders suggested a range of dimensions, with suggested heights ranging from under 0.3 m to under 1 m and floor areas ranging from less than 20 m<sup>2</sup> to no floor area limit at all. What is appropriate and why?

### Retaining walls used as landscaping features

The current building permit exemption (item 15 sch 8) applies to retaining walls less than 1 m in height not associated with other building work or protection of adjoining property. How many permits annually are issued for standalone retaining walls greater than 1 m? How are such walls currently treated and have there been any issues in relation to them?

### Low-value building work

For some minor building work, the cost of administration (that is, building permit costs and the like) may form a large percentage of the cost of the building work. The department has received feedback from some stakeholders suggesting that permit exemptions be introduced for building work below a certain cost threshold.

The Building Regulations 1994 included a building permit exemption for building work less than \$5,000. This exemption was removed from the current Regulations due to the difficulties associated with its application, and the exemptions were reformulated to target types of building work which were low-risk.

What type of building work is commonly considered low-cost and low-risk and should therefore form the basis of an exemption from permit or other requirements? Is there any building work that should not be exempted despite the cost of that work? Why? If a cost threshold were to be re-introduced, to what scopes of work should it apply and why?

## **Termites – RIS Part B Chapter B5**

Do you have evidence that would support the designation of undeclared termite areas within Victoria?

## **Building practitioners – RIS Part C Chapter C1.2**

Is there an industry need for any categories or classes of registration which are not included in the current Regulations?

Why or why not? What are the potential costs and benefits of changing categories and classes of registration? For example, is there any merit to registering practitioners in the domestic builder (unlimited) class, according to building height?

