



BUILDING SERVICES

DOCUMENT TITLE

BUILDING CONTROL AND FUNCTION POLICY

ISSUE	DATE	CHANGE	APPROVED	REVIEW
A	6/7/2004	Initial Issue	6/7/2004	1/7/2007
B	26/6/2008	Review	28/7/2008	28/7/2011
C	10/2/2014	Review & Amend	24/2/2014	24/2/2017

**Produced by
Building Services for
Mitchell Shire Council**



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1 Introduction

1.1 Building Control Intervention Filter Criteria

- 1.1.1 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 include situations in which there is a real risk of danger to persons or property or may be regarding administrative matters or matters relating to the siting of buildings and/or structures.
- 1.1.2 The legislative framework clearly shows that responsibility for supervising private building surveyors rests with the Victorian Building Authority and the Building Practitioners Board. This responsibility includes those bodies taking appropriate action to resolve matters (and rectify any action/inaction taken by a private building surveyor that is/was contrary to the Regulations or the Act) where a private building surveyor has not carried out their work in a competent manner and to a professional standard.
- 1.1.3 The Building Control Intervention Filter Criteria ('the Filter Criteria'), utilising a risk assessment matrix, identifies standardised responses to complaints from the public where a private building surveyor has been appointed.
- 1.1.4 This Policy sets out the approach which Mitchell Shire Council will take in relation to intervention and enforcement where a private building surveyor is the relevant building surveyor for a building permit and project.

1.2 Council taking on private building surveyor functions

- 1.2.1 Since 1994, the building control system in Victoria has been administered by a combination of council, private building surveyors and the Building Authority.
- 1.2.2 There are various instances where private building surveyors are appointed and cannot complete their functions as the relevant building surveyor through cancellation/suspension of their registration, retirement, illness/death, insolvency, disappearance or lack of insurance.
- 1.2.3 These circumstances have serious implications for the property owner, the builder, other private building surveyors and councils as there is no longer a building surveyor obliged to check plans, carry out building inspections and issue occupancy permits or certificates of final inspection on completion of the building work.
- 1.2.4 When a private building surveyor is unable or unwilling to complete their functions, there is a question of how the project will be finalised, which typically requires another private building surveyor,

Council or the Victorian Building Authority to step in and take over the project.

- 1.2.5 Council insurers have raised concerns about future liability should councils take on the completion of a private building surveyor's functions in circumstances where a private building surveyor's professional practices failed to conduct work in a competent manner, to a professional standard and to keep appropriate documentation and records.
- 1.2.6 This Policy sets out the approach which Mitchell Shire Council will take in relation to taking on projects and the functions of private building surveyors who can no longer perform that role.

2 Policy

- 2.1 It is policy that Council will take the following approaches in relation to enforcement of private building surveyor projects and in relation to taking on the functions of private building surveyors who can longer perform that role.

2.2 Building Control Intervention Filter Criteria

Council will utilise the Building Control Intervention Filter Criteria when complaints are received or non-compliances with the Building Act and Regulations identified, where a private building surveyor is the relevant building surveyor for a building permit or project and will act accordingly based on the level of risk.

- 2.2.1 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

2.2.2 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

2.2.3 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				
	Insignifi- cant 1	Min- or 2	Moder- ate 3	Maj- or 4	Catastrop- hic 5
A (almost certain)	M	H	E	E	E
B (likely)	M	H	H	E	E
C (moderate)	L	M	H	H	E
D (unlikely)	L	L	M	H	E
E (rare)	L	L	M	H	H

2.2.4 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
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
L	Low risk, manage by referral	Refer complainant to PBS without delay	No other action by Council/MBS

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, will be referred to that Board for Inquiry.

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 will be referred to the Victorian Building Authority for investigation.

AND

If it is necessary to do so for the proper administration of the Act refer the matter of RBS to the Victorian Building Authority for the exercise of its directive powers under s198 of the Building Act 1993.

2.2.5 STEP 5 – Take the action as required by the matrix

2.3 Council taking on private building surveyor functions

2.3.1 Where a private building surveyor has had their registration cancelled or suspended due to poor professional standards, Council and its Municipal Building Surveyor will not take on the completion of the private building surveyor's functions.

2.3.2 For all other cases where a private building surveyor can no longer carry out functions or is unwilling to complete functions, the circumstances are to be reviewed on a case by case basis to determine if Council and its Municipal Building Surveyor should complete the functions.

In such cases where there is reasonable doubt about the quality of practices, including the record keeping of the private building surveyor, the Council and its Municipal Building Surveyor will not take on the completion of the private building surveyor's functions and the matter will be referred to the Victorian Building Authority.

2.3.3 Advice will be sought from Council's insurer in those situations where it is intended to take on completion of any private building surveyor's functions prior to accepting such functions.

3 Policy Implementation and Review

3.1 This Policy will be communicated to the Victorian Building Authority.

3.2 This Policy will be maintained and implemented by Council's Municipal Building Surveyor and the Building Department.

3.3 This Policy may be varied by the Council and shall be reviewed by 10 February 2017.

4 Reference Documents

- Building Act 1993
- Building Regulations 2006
- Building Code of Australia

(all as amended from time to time)