

Media Release

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FPA Australia response to VAGO report

Victorian Building Permit Compliance – Fire Safety Concerns

On 7 December 2011 the Victorian Auditor-General's Office (VAGO) released a report on compliance with the Building Act 1993 which identified a range of concerns and recommendations for improvement. Of particular consequence for the fire protection industry and community is the identified lack of evidence to demonstrate compliance with fire safety standards.

Legislative reforms in the early 1990s ushered in a competitive building permit system in Victoria with a clear objective to increase approval efficiency by reducing the time required to obtain a building permit. Central to the reforms was the introduction of the ability for private building surveyors to issue building permits in the public interest in addition to municipal building surveyors.

FPA Australia is anecdotally aware that while these reforms have indeed reduced permit approval times, they have also inadvertently allowed a culture of inconsistency to develop as building surveying skills shortages and commercial challenges impact on decision making. Coupled with a notable drop in documentation standards and quality of inspections, this situation results in an underperforming building control system in Victoria that erodes fire protection benchmarks and may not deliver on community expectations. VAGO has identified key concerns in this regard.

The introduction of the 1996 performance-based Building Code of Australia also increased expectations regarding the extent of documentation necessary to demonstrate building compliance and the skills necessary to determine if that compliance had been achieved. The approach to this aspect of the approval process remains inconsistent in Victoria, more so than other jurisdictions, as evident by presentations and discussions at the last three Fire Australia annual conference's hosted by FPA Australia.

FPA Australia members rely heavily on the independent role of a building surveyor to ensure that minimum regulatory requirements in relation to building works are documented and checked for compliance prior to issuing a building permit. When this does not occur, it creates significant problems that can be increasingly magnified at each of the subsequent building phases namely, installation, inspection, commissioning and maintenance. In many circumstances, issues not addressed at the initial approval stage remain a fire safety risk with the potential to impact on occupant and potentially fire fighter safety.

Ensuring that design requirements approved at building permit stage are implemented and commissioned appropriately is an additional concern of FPA Australia. It is noted that the VAGO report concentrated on desktop audits and excluded on-site inspections that would determine the extent of non-compliance that may or may not exist in the built form. Improvements and education in this aspect of the overall approval role administered by building surveyors is warranted also and where necessary should include the involvement of design fire safety engineers and independent system certifiers to increase consistency and quality assurance.

Retrospective rectification works for fire safety features are often costly and may only be realised as a result of enforcement action that building owners must respond to.

VAGO have identified that:

“Ninety-six per cent of permits examined did not comply with minimum statutory building and safety standards. Instead, our results have revealed a system marked by confusion and inadequate practice, including lack of transparency and accountability for decisions made. In consequence, there exists significant scope for collusion and conflicts of interest.”

There is also some indication from VAGO that the higher levels of non-compliance identified relate to commercial building permits. From a fire protection perspective, this is unsurprising as the majority of requirements for fire protection systems and associated complexities apply to commercial buildings.

Furthermore in relation to commercial projects, the VAGO report confirms that *“Advice from building surveyors during the audit indicated that the above issues mainly affected smaller commercial projects, where limited resources often meant technical specialist such as fire engineers with the expertise necessary to oversee fire safety requirements and identify suitable alternative solutions were not engaged.”* FPA Australia considers that there are suitable numbers of fire safety engineers in Victoria for the majority of fire safety alternative solutions associated with commercial buildings. There is a strong desire though amongst some building surveyors to participate in design aspects of alternative solutions rather than require a registered fire safety engineer to independently perform this task. Section 79 of the Act currently outlines expectations clearly regarding building surveyors being independent from design work, however the clarity afforded by the regulations relating to this issue could be improved.

The VAGO audit has also found *“..it is common industry practice for building surveyors to inappropriately abdicate some of their technical assessments to third parties, or to defer assessing the compliance of some proposed works until after construction has commenced, which is contrary to the building permit process as set out in the Act and regulations. These issues were most evident in relation to assessments against the fire safety provisions of the BCA,..”*

“Who checks the checkers?” is a question commonly asked of any approval system and in this instance VAGO have identified that more targeted and technically based surveillance of building surveyor activities is necessary to demonstrate that *“building surveyors are effectively discharging their role to uphold and enforce minimum building and safety standards.”*

FPA Australia welcomes this report by the Victorian Auditor-General’s Office and broadly supports the recommendations made to improve the building permit process. In particular FPA Australia supports:

1. A review of the building permit system’s effectiveness, particularly regarding the design, approval and commissioning of fire safety measures and associated alternative solutions.
2. Strengthening and enforcement of the regulations to clearly identify the difference between design, and determining compliance so that a building permit can be issued, in order to enforce the pecuniary interest provisions of section 79 of the Act and prevent building surveyors from issuing building permits for designs they have directly or indirectly been involved in developing.
3. Comprehensive risk-based auditing of building surveyor competency regarding critical safety and technical issues including approval of fire safety alternative solutions. Investigators undertaking this auditing having extensive building surveying experience.
4. Increased educational resources and programs to support best practice and the introduction of a mandatory requirement for continuing professional development (CPD) of building surveyors.

FPA Australia considers that all stakeholders have a responsibility to contribute to a better building control system in Victoria and the Association will work with the Victorian Government, the Australian Institute of Building Surveyors and the industry to increase the skills and respect associated with requirements for the design and approval of fire safety requirements.

To this end FPA Australia recommends that all stakeholders should convene and contribute to an industry forum or summit that specifically identifies current concerns and issues using the VAGO report as a basis to determine opportunities for improvement of the building control system in Victoria.

For more information contact technical@fpaa.com.au

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The Fire Protection Association Australia is the country's peak body for fire safety, providing information, services and training to the fire protection industry and broader community. For more information, please see www.fpaa.com.au or contact FPA Australia – (03) 9890 1544.