

The following information is provided to assist you with completing and submitting a Report & Consent Application to Council for a request to vary this Building Regulation.

## **EXTRACT OF REGULATION**

### **154 Report and consent for construction on designated land or designated works**

- (1) The report and consent of the relevant council must be obtained for an application for a building permit for the construction of a building on designated land or designated works.
- (2) The report and consent of the relevant council under subregulation (1) may include recommendations controlling the location and construction of retaining walls and fences in relation to designated land or designated works.
- (3) Before giving its consent under subregulation (1), the relevant council must consult with the waterway management authority for the designated land or designated works.
- (4) The report and consent of the council need not be obtained to an application for a building permit referred to in subregulation (1) if the consent of the relevant waterway management authority has been obtained as a requirement of a planning permit for the construction of the building.
- (5) In this regulation—  
waterway management authority in relation to designated land or designated works means the Authority to which Division 2 of Part 10 of the **Water Act 1989** applies that has the waterway management district (within the meaning of that Act) which contains the designated land or designated works.

## **Extract of Water Act 1989 – Section 188**

### **Designated waterways and designated land or works**

- (1) An Authority, other than Melbourne Water Corporation, may –
  - (a) Declare a waterway within its district or any part of a waterway within its district to be a designated waterway; or
  - (b) Declare any of the following within its district to be designated land or works –
    - i. Any works or part of any works in or over which water occasionally flows, whether in a defined, naturally occurring channel or not;
    - ii. Any land which –
      - A. Abuts a waterway; or
      - B. Is within 20 metres of a waterway

and which is significant, whether because of its use or otherwise, for the stability, conservation or functioning of the waterway

## **DECISION GUIDELINES**

The following information should be outlined on your submission form as part of your application:

- Why you wish to construct the proposed works on the site

## **ASSESSMENT CRITERIA**

Regulation 154(3) requires Council to refer the application to the Corangamite Catchment Management Authority (CCMA) for their advice on your proposal.

## NOTES:

### WHAT IS A REPORT & CONSENT?

As set out in the **Building Act 1993** (the Act) and the Building Regulations 2018 (the Regulations), a report and consent is the process for consulting with and obtaining the approval of a reporting authority when building work may affect assets, infrastructure or amenity of the community. These include:

- Siting of a dwelling
- Building over an easement
- Building in a flood-prone area
- Fire safety matters
- Electricity sub-stations (only a report)
- Projections beyond street alignment
- Building above or below public facilities
- Precautions over street alignment (unclear)
- Installing or altering a septic tank system.

### WHEN IS A REPORT & CONSENT REQUIRED?

The Act and Regulations provide specific circumstances where a report and consent of reporting authorities is required. Division 3 of Part 4 of the Regulations prescribes the reporting authorities and the matters to be reported on. Regulation 31 refers to Schedule 5 Part 2 which lists the matters that each authority reports on. These regulations are listed on the application form.

### DO I NEED A REPORT & CONSENT IF I HAVE A PLANNING PERMIT?

Where a Planning Application has been assessed for siting, the Planning Scheme overrides the requirement to obtain a Report & Consent. The relevant Regulation will note if this is applicable. Please note not all Planning Permits will assess the siting as this depends on what triggered the need for the Permit. Where a Planning Permit has been issued and siting was not assessed the Siting Regulations must be complied with or a Report & Consent obtained.

### CONSENTING TO AN APPLICATION

A reporting authority may consent to an application as presented or place recommendations on the consent. When placing recommendations on a report and consent the prescribed reporting authority should consider the relevance to the matter being sought the recommendation and whether the RBS can reasonably enforce the recommendation.

The Report & Consent is valid for 12 months after the date of issue. If works have not commenced within this time, Report & Consent must be reapplied for. Where works have commenced within the 12 months, the Report & Consent remains valid for those works

### REFUSAL OF AN APPLICATION

A reporting authority must provide reasons for refusing an application. When a report and consent is refused, an applicant has the right to appeal the reporting authority's decision to the Building Appeals Board (BAB).

Section 144 of the Act allows an appeal to be made against a reporting authorities:

- refusal to consent to an application
- conditions imposed
- failure within a reasonable time to decide an application.

Appeals must be made within 30 days of the date the refusal was issued. An appeal can be lodged with the BAB. An application form and supporting information is to be lodged with the relevant fee. A copy of the application form can be downloaded from the Victorian Building Authority website [www.vba.vic.gov.au](http://www.vba.vic.gov.au) or contact the BAB on (03) 9285 6400.

## REPORT & CONSENT PROCESS

