

15th June 2017

Richard Wynne MP
Minister for Planning
Level 16, 8 Nicholson Street
East Melbourne Victoria, 3002

Dear Minister,

**RE: SYSTEM IMPROVEMENTS
ESSENTIAL SAFETY MEASURES SAFETY & COMPLIANCE
(BUILDING FIRE SAFETY SYSTEMS)**

In line with the purpose of the VMBSG being to:

- In the public interest promote the necessary standards, key actions and functions of municipal building surveyors and councils with relation the role of local government in building control.
- Ensure that councils and municipal building surveyors benefit and develop from the existence of the group.
- To advocate in the interests of local government, municipal building surveying and building control.
- Cultivate high professional standards with training, education and an appropriate level of consistency.
- Work effectively with other organisations for the betterment of building control.

I write this letter to suggest efficient and cost effective improvements to the legislative framework that applies to the safety, compliance and maintenance of Essential Safety Measures (ESM) in buildings.

Municipal Council's across Victoria have ESM maintenance compliance inspection programs of varying levels of activity. Some do nothing; some are solely reactive; and others have proactive programs of varying degrees.

Our surveys of our members that do have programs in place (reactive & proactive) informs that the levels of ESM maintenance compliance in Victoria is extremely low. Our Municipal Building Surveyor members estimate the average levels of non-compliance with ESM maintenance provisions is in excess of 85-90%. Their experience is that the 10-15% of building owners that are found to comply with regulations are generally very large multi-national corporations with strong OHS regimes in place.

They also inform that they find very low levels of awareness or understanding by Building Owners and Property Managers of the regulations, the system, its requirements and how it is expected to operate.

The current system, which was introduced in 2008, was a response to identified low levels of ESM maintenance and compliance. The design of this system is predicated on the expectation that Owners will voluntarily comply and proactively maintain their fire safety systems and certify annual reports. Unfortunately, this is clearly not the case. In addition, Councils do not have robust records and do not know where to start if they contemplate proactive auditing. It probably comes as no surprise that there are many older buildings, particularly pre-1994 buildings, discovered by Municipal Building Surveyors around Victoria that do not have any ESM maintenance programs in place.

As Municipal Building Surveyors, more than any other group, our members are at the coal face in terms encountering and enforcing the compliance requirements that relate to ESM and building safety and compliance. We all know the catastrophic consequences that can arise from fires in buildings. The repercussions are substantially amplified if fire safety systems do not operate properly or effectively due to neglect of maintenance of these ESM. Neglect is often more a product of complacency and lack of awareness on the part of owners rather than any malicious intent. Clearly, the current honour system is not operating as it should; and ESM systems, including sprinklers and exits cannot be relied upon unless properly maintained and serviced.

It is our experience that any regulatory response should involve a pro-active regulated and managed system that acknowledges that many owners are poorly informed and extremely complacent about the risks associated with poorly maintained ESM. The system should be based on robust registers held by each Council, structured easy to follow procedures, incentives for voluntary compliance, infringement penalties for non-compliance; and also be cost effective.

We have discussed this matter with the Planning department and the VBA, and their predecessors for many years. In the interests of the development of an improved and more structured regulatory system, our group suggest the following systems improvements for your consideration as regulatory amendment;

- All owners of buildings with ESM requirements must register their buildings with Council.
- It would be an offence for owners not to put themselves on the Council register – infringeable offence of 10 penalty units.
- Strengthen the existing requirement of Building Owners requirement to certify an Annual ESM Report (AESMR) certifying compliance and maintenance of their ESM.
- Create an offence for an Owner to make a false annual report (s.246 BA93)

- Owners required to lodge AESMR with Council on an annual basis e.g. 1 July each year.
- Lodgement fee payable to Council to maintain the register.
- Council sends warning letters to owners who do not lodge AESMR by due date.
- Infringements issued to Owners who do not lodge AESMR with Council after receiving warning letter – 10 penalty units.
- Council have a regime to inspect building/s for compliance and enforcement for those who do not lodge AESMR.
- In addition, when properties are sold, vendors be required to provide expert BS/BI certification report of AESMR to the new purchasing owners stating compliance and any occupancy conditions.

In our view, the proposed changes to the regulatory framework set out above will realise a significant improvement to the safety and compliance of buildings with ESM requirements in Victoria. It will also cause much improved levels of awareness and understanding by building owners which will provide improved levels of occupant safety. Council existing rates database computer systems provide the most reliable method for recording and reporting ESM building register and compliance management.

We look forward to an opportunity to discuss this matter further with you. Should you wish to discuss further, please do not hesitate to contact me.

Yours sincerely



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Copy: Chief Officers MFB & CFA